

QUESTION 1
(One hour)

Ace is accused of murdering Vic with a handgun. Policeman Pat became aware of the shooting when he saw Vic lying in a pool of blood at a convenience store parking lot. When Pat asked, Vic told Pat that Ace had shot him and Vic didn't know whether he would make it. Vic died two days later.

The day after the shooting, Ace was arrested on his way to Disneyland, driving Ace's girlfriend Gina's car. There were no passengers, but police found a handgun in the trunk; the parties stipulated that it was the weapon used to kill Vic.

At trial, the prosecution sought to introduce evidence from the above paragraphs as well as testimony that bullets recovered from two dead bodies killed in nearby counties were shot from the weapon recovered from Gina's car.

Additionally, expert Frank would testify that he had compared a latent fingerprint recovered by a police crime scene technician from the weapon in Gina's car with a known print, allegedly from Ace, allegedly taken at the Sonoma County Jail. His conclusion was that the same person supplied each print.

Ace called Wendy to testify that Gina had called her shortly after the killing and hysterically told Wendy that Ace had just told her "I didn't want to shoot Vic, but he got the drop on me and I was afraid!". During the same conversation, Gina told Wendy that she didn't completely believe Ace, but she loved him so was going to help him get out of town.

Ace also sought to call Rob, who witnessed Vic take a shot at Gina the month before he died. As he pulled the trigger, Vic shouted, "I'm going to get rid of every last one of you." The shot missed Gina.

Gina died before the trial.

As an advocate for each party, advance all appropriate theories to introduce the evidence and make all appropriate objections. As the trial judge, discuss the rulings you will make including limiting jury instructions, and briefly explain your reasons for them. Answer according to the general principles we've covered in class, and point out any significant differences between California and federal law. Don't discuss any issue about the validity of fingerprint identification.

QUESTION 2
(One hour)

Pat, driving his red car to the store to buy a quart of milk, stopped at a four way stop sign. When Pat started through the intersection Dan, driving on the cross street and having failed to stop at the sign, crashed into the side of Pat's car. Dan then drove off in his blue truck. Pat got a brief view of the other driver and, though injured, called 911 and reported the incident to the police.

He was upset when he began the call, but settled down as soon as the operator asked for details of the crash.

Dan parked his blue truck in the garage and attempted to fix the damage to its front end. After a couple of weeks, he decided that the coast was clear and drove the car down town. Officer Ollie noticed the blue truck and damage to the front end, and determined that the truck belonged to Dan. He prepared photographic lineups containing Dan and several other men who resembled him, as well as photos of Dan's truck and several similar models, and showed them to Pat. Pat cried out, "oh, it's number three!" and pointed to Dan's picture, and also correctly identified Dan's truck.

When Ollie confronted Dan and asked him if he was the owner of a certain blue truck, Dan responded by saying, "don't worry, my insurance will take care of it."

Pat sued Dan for negligence and, at trial, sought to offer a tape of his 911 call, testimony about Dan's effort to hide the damage to his truck, and Dan's statement to Ollie concerning his insurance. Pat also attempted to introduce evidence from Ned the neighbor that Dan had failed to stop at that particular stop sign four times within the preceding year. Dan testified and denied liability.

As an advocate for each party, advance all appropriate theories to introduce the evidence and make all appropriate objections. As the trial judge, explain the rulings you will make including limiting admissibility, and a brief statement of the reasons for them. Answer according to the general principles we've covered in class, and point out any significant differences between California and federal law. Skip any criminal constitutional or procedural issues.