

**QUESTION 1**  
**(One hour)**

Misty, Sue, Paul, David, and Ed worked at Wiley E. Coyote's Acme Manufacturing Company. Misty had been the president and Sue supervised Paul, David, and Ed.

Paul was fired. A week later, David circulated the following e-mail to all the other employees:

"I just thought you should know that Paul was fired because he is a serial sexual harasser and assaulter. Sue caught him groping the new intern in the copy room after Paul's affair with Misty ended."

A month later, Misty died.

Paul sued David for defamation.

At trial, Paul testified that although it is true he was fired, the remaining contents of the e-mail were false. Paul called Ed, who testified that he had received the e-mail at work, that he had printed it, and that he had received hundreds of other unrelated e-mails from David. Paul introduced a copy of the e-mail through Ed.

In defense, David called Sue, who testified that she had caught Paul sticking his hand inside the blouse of Carol Doda, the young intern, and that, when Sue confronted Paul and accused him of sexual harassment and assault, Paul simply walked away. David himself testified that the contents of the e-mail were true. He also testified that he had overheard Paul and Misty yelling at each other in Misty's office a few weeks before Paul left; that he recognized both of their voices; and that he heard Paul cry, "Please don't leave me!" And Misty, in a measured tone, reply, "Our affair is over-you need to get on with your life."

Assume all appropriate objections were timely made.

Should the court have admitted:

1. The e-mail? Discuss.
2. Sue's testimony? Discuss.
3. David's testimony about
  - a. What Paul said to Misty. Discuss
  - b. What Misty said to Pam. Discuss

Answer according to the Federal Rules of Evidence.

**QUESTION 2**  
**(One hour)**

Doc is accused of robbing Vick of a ring. At trial Doc asked Vick these two questions on cross-examination, "Isn't it true that you made a false report to the police about Bob robbing you last year?" and "Isn't it true you broke and entered into Wally's house in the middle of the night with the intent to commit a felony therein 10 years ago and were convicted?"

The prosecution sought to call Nick, Vick's brother, to testify that Doc had robbed him the day before Doc robbed Vick. Nick's robbery had not been prosecuted.

Doc did not testify, but called his girlfriend Monica to testify on his behalf. Monica testified that in her opinion, Doc was an honest person and, on the day of the alleged crime Doc ran into their house, showed her a ring he thought she had lost and told her that he had just recovered it from a thief.

Doc then called Monica's neighbor, Bill, who testified that Monica's reputation in the neighborhood for peacefulness is good and that Monica's reputation in the neighborhood for truthfulness and veracity is good.

In rebuttal, the prosecution called policemen Paul to testify that Monica had tearfully told him the day before the incident, Vick had broken off an affair Monica had been having with him. The prosecution also called Larry, a co-worker of Monica. Larry testified that when Monica sold him her old car, she told him she had just replaced the brake pads, but she was lying. Larry said in his opinion, based on all his dealings with her, she is a liar.

On cross-examination of Larry, Doc's lawyer asked: 1) Isn't it true that you were expelled from college for trashing your dorm room in a drunken rage? And, 2) Didn't you lie on your law school application about whether you had any disciplinary offenses during college?

Assume all appropriate objections were timely made.

Should the court have admitted:

1. Vick's testimony regarding (a) the false report and (b) the 10 year old felony for burglary. Discuss.
2. Nick's testimony about the Doc robbery the day before. Discuss.
3. Monica's testimony about Doc being an honest person. Discuss.
4. Bill's testimony about Monica. Discuss
5. Monica's testimony about Doc's statements about the ring. Discuss.
6. Paul's testimony about Monica's affair. Discuss.

7. Larry's testimony about Monica, including the two questions on cross-examination. Discuss.

For purposes of this question, ignore the Constitutional privilege against self-incrimination. Answer according to California law.