

PRINCIPAL SURROGATE'S COURT CLERK SAMPLE QUESTIONS

The questions shown below are for illustrative purposes only. They are examples of the different question types and formats that candidates may encounter on the multiple-choice examination. Questions that appear on the actual examination vary in difficulty and may be easier or more difficult than the questions illustrated below. This test guide provides the correct answer for each sample question presented. You should study these in order to understand how the correct or best answers were determined.

These sample questions can also be found online:

<https://survey.alchemer.com/s3/7233655/Principal-Surrogate-s-Court-Clerk-Sample-Test>

1.

The proper venue for proceedings relating to lifetime trusts would be:

1. the county where assets of the trust estate are located;
 2. the county where the grantor was domiciled at the time of the commencement of a proceeding concerning the trust;
 3. the county where any trust beneficiary resides at the time of the commencement of a proceeding concerning the trust;
 4. the court where a proceeding is first commenced with proper venue if venue lies in more than one county.
- A. 1 and 2, but not 3 or 4
B. 1, 2 and 3, but not 4
C. 1, 2 and 4, but not 3
D. 1, 2, 3 and 4

2.

A standby guardian, appointed pursuant to SCPA 1754, shall without further proceeding be empowered to assume the duties of his or her office immediately upon death, renunciation or adjudication for incompetency of the guardian, subject only to the confirmation of his or her appointment, pursuant to Section 1757 of the SCPA, by the court within ____ days following assumption of such office.

- A. 60
B. 90
C. 120
D. 180

3.

An absentee as defined under SCPA 901 is:

- A. a person domiciled outside of New York State
- B. a person who has failed to appear after having been personally cited and served with a citation
- C. a person having an interest in property in this state who has disappeared and has been missing from his or her place of abode without being heard of after diligent inquiry
- D. a non-resident alien living in Canada and owning property in the USA

4.

Letters of Temporary Administration on the estate of an absentee shall **not** confer upon the person named therein the:

- A. power and authority to marshal and collect assets
- B. power and authority to satisfy any testamentary disposition or intestate share
- C. power and authority to pay funeral bills and administrative expenses
- D. power to liquidate stocks and bonds

5.

Upon the death of an individual before attaining age 18 or 21, for whose benefit money or property was transferred under the Uniform Transfer to Minor's Act, said money or property shall be paid to the:

- A. person who established the custodial account
- B. named custodian of the account
- C. estate of the deceased beneficiary
- D. State of New York by escheatment

6.

The elective share of a spouse, pursuant to EPTL 5-1.1-A is the pecuniary amount equal to:

- A. Greater of \$50,000 or, if the capital value of the net estate is less than \$50,000, such capital value, or one third the net estate.
- B. One-third of the net estate if the decedent is survived by one or more issue, and in all other cases, one-half of such estate.
- C. A spouse and issue, \$50,000 dollars, and one-half of the residue to the spouse, and the balance thereof to the issue by representation.
- D. A spouse and issue, \$50,000 dollars, and one-third of the residue to the spouse, and the balance thereof to the issue by representation.

7.

Sandra died owning real property equally with her thirty-year-old son, Jim, as joint tenants. The real property is located in New York State, and is valued at \$100,000.00. The contents of the house, including furniture and personal items were owned by Sandra. The contents of the house have been appraised for \$9,000.00. Sandra also died owning a \$5,000.00 promissory note, with no interest payments, owed by her friend, Tom, which was payable on demand, or due on Sandra's death if not demanded earlier. Tom has not paid any part of the amount due on the note. Sandra also owned a \$2,500.00 bank account, which was her only other asset. Which of the following is/are true?

- 1. Jim may administer Sandra's estate as a small estate, with the authority as a voluntary administrator to maintain an action or proceeding to enforce the promissory note and recover the amount due under the note;
 - 2. Jim may administer Sandra's estate as a small estate, with the authority to sell the contents of the house for a reasonable value in cash;
 - 3. Jim may not administer Sandra's estate as a small estate, because the property exceeds the statutory amount;
 - 4. Jim may not administer Sandra's estate as a small estate, because she owned an interest in real property.
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- A. 1 only, but not 2, 3, or 4
 - B. 1 and 2, but not 3 or 4
 - C. 2 only, but not 1, 3, or 4
 - D. 3 and 4, but not 1 or 2

8.

Carlos Garcia is the executor named in Elena Garcia's will. Carlos would like to renounce his right to letters testamentary. Which of the following statements are true?

1. Carlos can renounce his right to letters testamentary by telling the successor executor he would like to renounce.
2. Once Carlos renounces his right to letters testamentary, he may not retract his renunciation.
3. Carlos can retract his renunciation after letters testamentary have been issued if the sole executor has died.
4. Carlos can retract his renunciation at any time before letters testamentary have been issued.

- A. 1 and 3, but not 2 or 4
- B. 1 and 4, but not 2 or 3
- C. 2 and 3, but not 1 or 4
- D. 3 and 4, but not 1 or 2

9.

Which of the following statements is/are true regarding the appointment of a guardian for personal needs or property management pursuant to Article 81 of the Mental Hygiene Law?

1. The Surrogate's Court has concurrent jurisdiction with Family Court regarding the appointment of an Article 81 guardian;
2. The Surrogate's Court has concurrent jurisdiction with Supreme Court over all matters pertaining to the appointment of an Article 81 guardian;
3. The Surrogate's Court can only appoint an Article 81 guardian if it is referred to by Supreme Court;
4. The Surrogate's Court can only appoint a guardian for personal needs or property management under the provisions of Article 81 when the person interested in an estate, in a proceeding in the Surrogate's Court, is entitled to money or property as a beneficiary of the estate.

- A. 1 only, but not 2, 3 or 4
- B. 4 only, but not 1, 2 or 3
- C. 2 and 3, but not 1 or 4
- D. None of the above

10.

Julie lives with her foster care parents in Columbia County. She was placed there by the Dutchess County Department of Social Services. Her birth mother lives in Orange County and her birth father lives in Ulster County. A Social Services 384-b petition may be filed in:

- A. Only Columbia County
- B. Columbia or Dutchess County
- C. Orange or Ulster County
- D. Dutchess, Orange or Ulster County

Answer Key

1. The correct response is C. SCPA 207 states, "The proper venue for proceedings relating to such lifetime trusts is the county where (a) assets of the trust estate are located, or (b) the grantor was domiciled at the time of the commencement of a proceeding concerning the trust, or (c) a trustee then acting resides, or, if other than a natural person, has its principal office."

2. The correct response is D. SCPA 1757(2) states, "Such standby guardian, or alternate in the event of such standby guardian's death, incapacity or renunciation, shall without further proceedings be empowered to assume the duties of his or her office immediately upon death, renunciation or adjudication of incompetency of the guardian or standby guardian appointed pursuant to this article, subject only to confirmation of his or her appointment by the court within one hundred eighty days following assumption of his or her duties of such office. Before confirming the appointment of the standby guardian or alternate guardian, the court may conduct a hearing pursuant to section seventeen hundred fifty-four of this article upon petition by anyone on behalf of the person who is intellectually disabled or person who is developmentally disabled or the person who is intellectually disabled or person who is developmentally disabled if such person is eighteen years of age or older, or upon its discretion."

3. The correct response is C. SCPA 901(2) states, "When a person having an interest in property in this state has disappeared and is absent from his or her place of abode without being heard of after diligent inquiry. Such person shall be referred to as an absentee."

4. The correct response is B. SCPA 903(1) states, “Letters of temporary administration shall confer upon the person named therein, subject to any limitation contained in an instrument offered for probate, all the powers and authority with respect to all real and personal property of a decedent, absentee or internee, and subject him or her to all the duties and liabilities of an administrator with respect thereto except that they do not confer any authority to pay or to satisfy any testamentary disposition or intestate share.”

5. The correct response is C. EPTL 7-6.20 states, “The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:...(c) the minor's death.”

6. The correct response is A. EPTL 5-1.1-A(a)(2) states, “The elective share, as used in this paragraph, is the pecuniary amount equal to the greater of (i) fifty thousand dollars or, if the capital value of the net estate is less than fifty thousand dollars, such capital value, or (ii) one third of the net estate.”

7. The correct response is B. The real property was owned in joint tenancy with Jim, and thus passes to Jim upon Sandra's death. With the remaining value of Sandra's belongings, her estate is under the statutory threshold and may be administered as a small estate (SCPA 1301). Jim, as child of Sandra, can act as a voluntary administrator to enforce the promissory note and sell contents of the house, as SCPA 1306 states, “the voluntary administrator may maintain an action or proceeding to recover or compel the delivery of the property, or to enforce a contractual or quasi contractual claim owned by decedent, provided the amount claimed, together with all other assets of the estate to be administered under this article, does not exceed the monetary amount defined as a small estate pursuant to subdivision one of section 1301 of this article” and, “A voluntary administrator may sell for its reasonable value in cash any personal property of the decedent coming into the voluntary administrator's possession.”

8. The correct response is D. SCPA 1417(2) states, “A renunciation may be retracted by an instrument executed in like manner as required for the execution of a renunciation at any time before letters testamentary or letters of administration with will annexed have been issued to any other person in his place or after they have been so issued, if such letters have been revoked or the person to whom they were issued has died or become an incompetent and there is no other acting executor or administrator.”

9. The correct response is D. MHL 81.04 states, “When it appears in any proceeding in the surrogate's court that a person interested in an estate is entitled to money or property as a beneficiary of the estate, or entitled to the proceeds of any action as provided in section 5-4.1 of the estates, powers and trusts law, or to the proceeds of a settlement of a cause of action brought on behalf of an infant for personal injuries, and that the interested person is a resident of, is physically present, or has any property in, the county in which the proceeding is pending and is allegedly incapacitated with respect to property management under the provisions of this article, and the surrogate's court is satisfied after a hearing or trial in accordance with the provisions of this article that the interested person is incapacitated with respect to property management, the surrogate's court shall have the power to order relief for that person with respect to property management in accordance with the provisions of this article.”

10. The correct response is C. SSL§384-b(3)(c) states, “In any other case, a proceeding under this section, including a proceeding brought in the surrogate's court, shall be originated in the county where either of the parents of the child reside at the time of the filing of the petition, if known, or, if such residence is not known, in the county in which the authorized agency has an office for the regular conduct of business or in which the child resides at the time of the initiation of the proceeding.”