

SENIOR SURROGATE'S COURT CLERK SAMPLE QUESTIONS

This test guide provides at least one sample question for each subject area listed. 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/s3/7157384/Surrogate-s-Court-Clerk-Sample-Test>

I. Knowledge of Surrogate's Court Procedures and Legal Terminology

1.

Unless the court directs otherwise, Surrogate's Court pleadings shall consist of a(n):

1. account
2. petition
3. citation and Order to Show Cause
4. answer or objection

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

2.

Arlene died testate survived by her two sisters, Elizabeth and Grace, and the 4 children of her pre-deceased brother, Lee. Arlene's estate consists of a brokerage account valued at \$750,000 and cash in a local bank in the amount of \$60,000.00. The will provides that the entire estate will go into a trust for the benefit of Lee's children. Arlene's will nominates Elizabeth as trustee, but is silent as to whether a bond is required. Which of the following statements is true?

- A. Elizabeth will not need to file any bond.
- B. Elizabeth will need to file a Trustee bond, only if she's the named executor.
- C. Elizabeth will need to file a bond as Trustee.
- D. Elizabeth will need to file a Trustee bond, only if she's a beneficiary.

3.

Pursuant to SCPA 1726, a petition for a standby guardian of an infant may be filed by the infant's:

1. mother
 2. attending physician
 3. legal custodian
 4. primary caretaker
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- A. 1, 2, 3 and 4
 - B. 1 and 2, but not 3 and 4
 - C. 1,2 and 3, but not 4
 - D. 1, 3 and 4, but not 2

4.

Which of the following statements concerning a statutory renunciation under EPTL 2-1.11 is **false**?

- A. The renunciation must be filed in court.
- B. The renouncing party can name the person or persons he or she wishes to receive the renounced interest.
- C. The renunciation shall be made within 9 months after the effective date of the disposition being renounced unless the time is extended in the court's discretion.
- D. The renunciation must be in writing, signed and acknowledged by the person renouncing.

5.

Michael died on January 1, 2016, and his will was admitted to probate and letters issued to his executor on March 1, 2016. Michael's wife wishes to renounce her interest in a portion of his estate pursuant to EPTL 2-1.11. Assuming no extension is granted, by what date must she file her renunciation with Surrogate's Court?

- A. July 1, 2016
- B. No earlier than July 1, 2016, but no later than January 1, 2018
- C. September 1, 2016
- D. October 1, 2016

6.

Pursuant to SCPA 1417, the proper way for a person named as an executor in a will to renounce his/her right to letters testamentary is by:

- A. appearing before the court
- B. an affidavit
- C. an acknowledged instrument
- D. failing to appear before the court within 20 days

7.

Pursuant to EPTL 5-3.1, which of the following items of property is **not** included among the assets to be set off for a surviving spouse or child(ren) under the age of 21 as an exemption for benefit of family:

- A. The family residence
- B. Money not exceeding in value \$25,000.00
- C. One motor vehicle not exceeding in value \$25,000.00
- D. Household furniture not exceeding in aggregate value \$20,000.00

8.

Which one of the following terms refers to a person to whom letters testamentary were issued by the Surrogate's Court?

- A. administrator
- B. trustee
- C. executor
- D. testamentary guardian

9.

The Surrogate's Court has admitted Janye Don's will to probate and a supplement to the will. The supplement is referred to as a:

- A. Power of Attorney
- B. Codicil
- C. Trust agreement
- D. Letter of intent

10.

For a person's estate to be properly classified as a "small estate" under New York State law, what is the largest amount that the gross value of the personal property may be if the person died on March 1, 2021?

- A. \$5,000
- B. \$10,000
- C. \$20,000
- D. \$50,000

II. Organizing and Interpreting Written Material

The following question is designed to assess your ability to present information clearly and accurately, and to organize written information logically and comprehensibly. You are presented with several sentences and must effectively organize them in a coherent and logical order.

Format A: For the following question, read the following sentences and decide which answer offers the best organization of these sentences into a complete paragraph.

11.

1. People solve their own problems by looking to the future instead of finding fault or blame.
2. If you want one of the benefits of court procedure - enforceability - your mediation agreement can be written saying that it is intended to be legally binding and then be filed in court.
3. Mediation doesn't rely on specific points of law.
4. In contrast, the courts make judgments based upon the law, and rules limit what can be considered.
5. Courts may be unable to address the genuine issues or causes of a dispute and may not focus on individual circumstances.

- A. 3 - 5 - 4 - 2 - 1
- B. 5 - 4 - 1 - 2 - 3
- C. 3 - 1 - 4 - 5 - 2
- D. 5 - 2 - 1 - 3 - 4

Format B - Interpreting Written Material

The following question is designed to assess your ability to read and understand written material. You are presented with a brief reading selection followed by a question that requires the interpretation and/or application of the information in the reading selection. Using only the information provided in the passage, choose the alternative that best answers the stated question. Do not use any prior knowledge that you may have on the subject.

12.

Smartphones give users mobile access to email, the internet, GPS navigation, and many other applications. However, smartphone security has not kept pace with traditional computer security. Unfortunately, many smartphone users do not recognize these security shortcomings. Many users fail to enable the security software that comes with their phones, and they believe that surfing the internet on their phones is as safe as or safer than surfing on their computers. Meanwhile, mobile phones are becoming more and more valuable as targets for attack. Consequences of an attack can be severe, so it is important to take steps to protect your mobile phone from attack.

Which of the following statements best summarizes the above paragraph?

- A. Smartphone users believe that it is safer to use their mobile devices to surf the internet than their computers because there are less security shortcomings.
- B. Smartphone users should enable the security software on their devices and exercise caution when surfing the internet because smartphones are susceptible to attack.
- C. Smartphone users should be careful when linking their mobile devices with their computers because computer security has not kept pace with smartphone security.
- D. Smartphone users should feel safe checking their email or using GPS navigation on their mobile phones but should be cautious with the use of internet due to security shortcomings.

III. Knowledge of Surrogate's Court Procedures and Legal Terminology - Senior

13.

When an attorney-draftsperson of a will who is designated in the will to serve as an executor fails to comply with the requirements of SCPA 2307-a, the effect of such failure will result in which of the following:

- A. The attorney will be limited to one-half the statutory commissions to which he or she would otherwise be entitled.
- B. The attorney will be entitled to reasonable attorney fees, but will not be entitled to commissions.
- C. The attorney will not be permitted to serve as sole executor without a non-attorney co-fiduciary.
- D. The attorney will be entitled to full statutory commissions, but will not be entitled to attorney fees for legal services on behalf of the estate.

14.

Mr. Jones dies intestate in 2018 survived by one daughter, Mary, one grandson, Bill (the child of a predeceased son), and three granddaughters, Nancy, Nora, and June, (the children of a predeceased daughter). How will Mr. Jones' estate be divided?

- A. Mary, Bill, Nancy, Nora and June each get one-fifth of the estate.
- B. Mary gets the entire estate.
- C. Mary gets one-third, Bill gets one-third, and Nancy, Nora and June get the remaining one-third.
- D. Mary gets one-third, and Bill, Nancy, Nora and June have the rest in equal shares.

Answer Key

1. The correct response is D. SCPA 302(1)(a) states, "Unless otherwise provided in this act, (a) Pleadings shall consist of the petition, answer or objections and account."

2. The correct response is C. SCPA 806 states, "Whenever a testamentary trustee is appointed by will or order of the court or an executor is appointed who is required to hold, manage or invest real or personal property for the benefit of another, he shall unless the will provides otherwise, execute and file a bond." SCPA 710 further states, "A person named as executor or a testamentary guardian or trustee who is not required by the will to give a bond, shall be entitled to letters by giving a bond as prescribed by law..."

3. The correct response is D. SCPA 1726(3)(a) states, "A petition for the judicial appointment of a standby guardian of the person and/or property of an infant pursuant to this subdivision may be made only by a parent, a legal guardian of the infant or a legal custodian of the infant; or where the infant is not residing with a parent, legal guardian or legal custodian and, to the satisfaction of the court, such parent, legal guardian or legal custodian cannot be located with due diligence, the primary caretaker of such infant may petition for a judicial appointment of such standby guardian."

4. The correct response is B. EPTL 2-1.11(c)(2) states, "Such renunciation shall be in writing, signed and acknowledged by the person renouncing, and shall be filed in the office of the clerk of the court having jurisdiction over the will or trust agreement governing the property of which the disposition would otherwise be made or the court which issued letters of administration, or if there is no probate or administration, then in a surrogate's court provided by law as the place of probate or administration of the decedent's estate, within nine months after the effective date of the disposition... The time to file and

serve such renunciation may be extended, in the discretion of the court, on a petition showing reasonable cause and on notice to such persons and in such manner as the court may direct

5. The correct response is D. EPTL 2-1.11(c)(2) states, “surrogate’s court provided by law as the place of probate or administration of the decedent’s estate, within nine months after the effective date of the disposition.”

6. The correct response is C. SCPA 1417 states, “A person named as executor in a will may renounce his right to letters testamentary by an acknowledged instrument.”

7. The correct response is A. EPTL 5-3.1 states, “If a person dies, leaving a spouse or children under the age of twenty-one years, the following items of property are not assets of the estate but vest in, and shall be set off...household furniture...not exceeding in aggregate value twenty thousand dollars...One motor vehicle not exceeding in value twenty-five thousand dollars;....Money including but limited to cash...not exceeding in value twenty-five thousand dollars..”

8. The correct response is C. SCPA 103 states, “Executor. Any person to whom letters testamentary have been issued.”

9. The correct response is B. EPTL 1-2.1 states, “A codicil is a supplement to a will, either adding to, taking from or altering its provisions or confirming it in whole or in part by republication, but not totally revoking such will.”

10. The correct response is D. SCPA 1301 states, “A small estate is the estate of a domiciliary or a non-domiciliary who dies leaving personal property having a gross value of \$50,000 or less...”

11. The correct response is C. Statement 3 introduces the topic of the paragraph, mediation. Statement 1 further describes mediation, then Statement 4 introduces a contrast to mediation, the courts. Statement 5 introduces a shortcoming of the courts, while Statement 2 integrates the unique strengths of both mediation and the courts into one solution. Choices A and B convey an incorrect impression because Statement 4 cannot logically follow Statement 5, as Statement 5 describes the courts, and Statement 4 begins with “In contrast, the courts...” Since Statement 4 begins with “In contrast,” it would need to introduce a new subject that contrasts with the subject presented in the previous sentence. Choice D conveys an incorrect impression because its order of the statements does not introduce the main topic of mediation, and there are a number of statements that do not naturally follow the preceding statement (such as placing Statement 1 after Statement 2).

12. The correct response is B because the passage focuses on the susceptibility of smartphones to attack, states that many users fail to enable the security software on their devices, and tells readers it is important to take steps to protect their mobile phones. Choice A conveys an incorrect impression because the passage states that smartphone users do not consider security shortcomings of their mobile devices. It does not state that smartphone users think there are less security shortcomings on their mobile devices than on their computers. Choice C conveys an incorrect impression because the paragraph does not consider the security implications of linking mobile devices with computers. Furthermore, the passage indicates that it is smartphone security that has not kept pace with computer security, while Choice C states the opposite. Choice D conveys an incorrect impression because the passage only introduces checking email and using GPS to illustrate the ways in which people use their mobile phones. It does not make any claims regarding the security of these features.

13. The correct response is A. SCPA 2307(a), “absent execution of a disclosure acknowledgment, the attorney who prepared the will, a then affiliated attorney, or an employee of such attorney or a then affiliated attorney, who serves as an executor shall be entitled to one-half the commissions he or she would otherwise be entitled to receive...”

14. The correct response is D. EPTL 4-1.1 states that, “(a) If a decedent is survived by: Issue and no spouse, the whole to the issue, by representation.” Mr. Jones is not survived by a spouse, and he had three children, Mary, a predeceased son and a predeceased daughter. Therefore Mary receives one-third by representation as issue of the deceased. Since Mr. Jones’s son predeceased his father, his son Bill receives the predeceased father’s share of one-third. The remaining one-third, which would have gone to Mr. Jones’s predeceased daughter, is shared among her issue, Nancy, Nora and June.