| **David is charged with felony Driving Under The Influence in the state of Freemount. In Freemount, a person is guilty of Felony DUI if the person is convicted of DUI three times within 60 months. Evidence of David's prior DUI convictions is** |
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| |  |  | | --- | --- | | **A** | inadmissible, because evidence of prior convictions is more prejudicial than probative. | | **B** | inadmissible, because evidence of prior convictions does not establish motive or opportunity, intent or knowledge, absence of mistake, or common scheme, plan or preparation. | | **C** | admissible, because proof of prior convictions is necessary to prove an essential element of the crime. | | **D** | admissible, because evidence of the prior convictions is relevant to establish that the defendant has a propensity for driving under the influence.   | **Pauline brought a wrongful death and loss of consortium action against Save-A-Buck Bus Lines alleging that Save-A-Buck’s driver, Don, was driving under the influence of alcohol when the bus crashed and killed Pauline’s husband, who was a passenger. At trial, Pauline tried to introduce evidence that after the bus crash, Save-A-Buck established a policy that prior to each shift, all bus drivers were required to take a urine test to detect the presence of alcohol or drugs. If the judge sustains Save-A-Buck’s objection and rules that the evidence is not admissible, the most likely reason would be because** | | --- | | |  |  | | --- | --- | | **A** | it is not sufficient proof that Don was intoxicated while driving the bus that crashed. | | **B** | it is not sufficient proof that Save-A-Buck was aware that some of its drivers were driving under the influence. | | **C** | the evidence is irrelevant. | | **D** | the evidence is inadmissible for public policy reasons.   | **Dr. Dolotta, a dentist, is being sued for civil rape for having sexual relations with Veronica, his patient, while she was under anesthesia. Subsequently, Dr. Dolotta was arrested and charged for the rape. Veronica seeks to testify that prior to his criminal trial, Dr. Dolotta contacted her and offered to refund the cost of her root canal if she agreed to “forget” that she ever consulted Dr. Dolotta or came to his office for dental work. In the civil trial this testimony should be** | | --- | | |  |  | | --- | --- | | **A** | inadmissible, since public policy prevents admission of offers of compromise. | | **B** | inadmissible, since it is highly prejudicial. | | **C** | admissible since it is probative evidence of Dr. Dolotta’s liability and was made to stifle criminal prosecution. | | **D** | admissible as proof of Dr. Dolotta’s character. | | | | | |
| **Dan is arrested and charged with the rape of Valerie. At trial the prosecution seeks to have admitted into evidence several syringes containing methamphetamine residue which were found during an inventory search of Dan’s car. This evidence is** |
| |  |  | | --- | --- | | **A** | inadmissible because such evidence may be used only to rebut evidence of good character introduced by the defense. | | **B** | inadmissible because the probative value of the evidence offered is substantially outweighed by its prejudicial effect. | | **C** | admissible to establish Dan’s generally bad character. | | **D** | admissible to establish Dan’s propensity for criminal activity.   | **Angelique was one of the many excited consumers to purchase Cellophane-Rid-All, a new cellulite-reducing product, which works by applying a topical formula to the skin and wrapping the area with a cellophane material, treated with “activators”. Unfortunately, when Angelique applied the product, she suffered first degree burns and scarring when the product reacted negatively on her skin. She sued the manufacturer who denied liability, asserting that there was nothing in the product to cause her injuries. Angelique offered to have her dermatologist, Dr. Klear, testify that since the product came on the market, he had treated fifteen other women claiming the same results from the same product. The manufacturer sought to have the testimony excluded. The trial judge should find the testimony** | | --- | | |  |  | | --- | --- | | **A** | inadmissible, because the manufacturer's character is not in issue. | | **B** | inadmissible, unless the other patients have brought their own lawsuits independently. | | **C** | admissible, if Angelique can show there is a causal connection between the patients' injuries and the product. | | **D** | admissible, because it shows the habit of the manufacturer in producing harmful products. | | | |
| **Avery loved to dine at his favorite restaurant, Chez Philippe. He always ordered the coq au vin, a chicken dish. While enjoying his meal, Avery cut into the chicken and the bone snapped, splintering into little pieces. One of the pieces became embedded in Avery’s face, requiring surgery to remove it and subsequent permanent scarring. In suing the restaurant for damages, Avery claimed that the restaurant was negligent in preparing and serving the chicken. The restaurant defended itself and offered evidence that since the restaurant has been in operation, they have served over a thousand dishes of coq au vin, and there has never been an accident such as this. Is this evidence admissible?** |
| |  |  | | --- | --- | | **A** | No, not as proof of the restaurant’s lack of negligence. | | **B** | No, because it is offered only to bolster the defendant’s case. | | **C** | Yes, because it proves that Avery was contributorily negligent. | | **D** | Yes, to show that the restaurant acted reasonably in preparing the dish. | |
| **Derek was arrested and charged for raping Vicki. Derek pleaded not guilty and claimed that he had been with friends at the time of the rape. At trial, Vicki testified that Derek had approached her when she was leaving O’Leary’s Pub and claimed he had car trouble. When Vicki offered to give Derek a ride, he forced her into her car and raped her at knifepoint. The prosecution then called Winifred to the stand. She testified that a week before, Derek had approached her when she was leaving Party Time, a bar two blocks from O’Leary’s and asked for a ride because his car would not start. When she agreed, he forced her into her car and attempted to rape her before she managed to get out and run away. Is Winifred’s testimony admissible over Derek’s objection?** |
| |  |  | | --- | --- | | **A** | Yes, because Winifred’s testimony is relevant to prove Derek is the person who raped Vicki. | | **B** | Yes, because Winifred’s testimony is relevant to the issue of Derek’s character, which he placed at issue. | | **C** | No, because it is character evidence to show Derek acted in conformity with the charged crime. | | **D** | No, because the probative value of the testimony does not substantially outweigh its unfair prejudice. | |
| **Avis was charged with killing her husband Charles, an act that occurred while they were watching a particularly knotty game of Jeopardy on the television. The defense called Phil, their neighbor, who testified that he was present in their living room and saw the fight and based on what he saw, Charles was the aggressor. Phil also testified that as long as he knew the couple who had lived next door to him, Avis was a quiet, peace-loving woman. The prosecutor then called Avis’ daughter, Emmy Lou, who would testify that Avis was a hot-tempered, violent person. The defense objects and Emmy Lou’s testimony should be** |
| |  |  | | --- | --- | | **A** | admissible, to rebut Phil’s testimony that Avis was a quiet, peace-loving woman. | | **B** | admissible, to rebut Avis’ claim of self-defense. | | **C** | inadmissible, because Avis has not specifically questioned Charles’ character. | | **D** | inadmissible, because Emmy Lou’s testimony is biased.   | **Barry was the town mayor. The town newspaper ran a column by the local gossip, Abilene. In one of the columns, Abilene wrote that Barry was taking bribes. The townspeople responded by mounting a recall effort and ousted Barry from office. Barry subsequently sued the newspaper for defamation, and the newspaper asserted truth as a defense. At trial, Barry contended he was an honest politician. In its defense, the newspaper brought Vera to the stand to testify that Barry took money to help ensure that a parcel of city property was sold to a particular developer. Barry’s lawyer objects. Should the testimony be admitted?** | | --- | | |  |  | | --- | --- | | **A** | Yes, it is relevant to show Barry was taking bribes. | | **B** | No, it is inadmissible specific act character evidence. | | **C** | Yes, it shows Barry was untruthful. | | **D** | No, because evidence of character is inadmissible unless Barry puts his character in issue.   | **Victor was robbed and beaten by a man wearing a rubber Richard Nixon mask. The man stopped Victor at the door of Victor’s home by pointing a nickel-plated, ivory handled .45 caliber pistol. Police officers arrested and charged Donald with armed robbery and aggravated assault of Victor. At trial, the prosecution called William to testify that two weeks before Victor was robbed and attacked, a man wearing a rubber Richard Nixon mask and carrying a nickel-plated, ivory-handled .45 caliber pistol beat him and attempted to rob him. William managed to get a look at the masked man’s face during the struggle and has positively identified him as Donald to the police. The court should find that William’s testimony is** | | --- | | |  |  | | --- | --- | | **A** | admissible, as establishing an identifying circumstance. | | **B** | admissible, as showing habit. | | **C** | inadmissible, because its probative value is substantially outweighed by the danger of unfair prejudice. | | **D** | inadmissible, as it is improper character evidence. | | | | | |