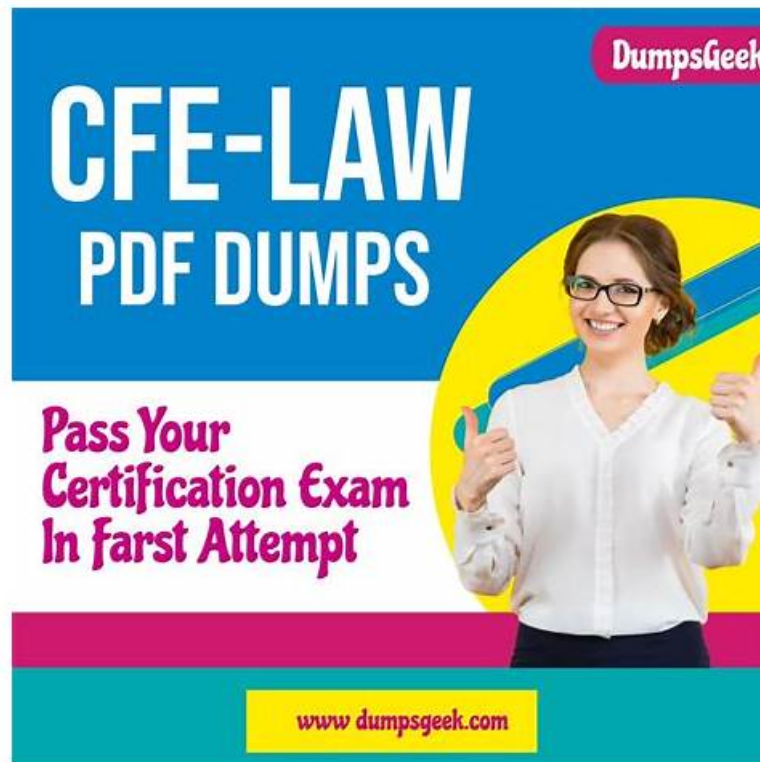


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ACFE Certified Fraud Examiner Sample Questions (Q38-Q43):

NEW QUESTION # 38

Luke filed a civil action against Brenda for embezzlement. He is worried that Brenda will spend the money she embezzled before the court issues a final judgment. Which type of order should Luke seek from the court if he wants to keep Brenda from spending the money?

- **A. Prejudgment attachment**
- B. Preservation order
- C. Declaratory relief
- D. Litigation hold

Answer: A

Explanation:

According to the ACFE Fraud Examiners Manual, Law Section, specifically under The Civil Justice System and Decisions and Remedies in Civil Cases, civil courts may grant provisional remedies to protect a plaintiff's interests before a final judgment is entered. One such remedy is prejudgment attachment.

Prejudgment attachment allows a plaintiff to request that the court seize or freeze a defendant's assets during the pendency of litigation. The purpose is to prevent the defendant from dissipating, transferring, or concealing assets that might otherwise be used to satisfy a future judgment. Courts typically require the plaintiff to demonstrate a likelihood of success on the merits and a risk that the defendant will dispose of the property before judgment. In many jurisdictions, the plaintiff may also be required to post a bond to protect the defendant against wrongful attachment.

A preservation order generally relates to safeguarding evidence, not freezing assets. Declaratory relief seeks a judicial declaration of rights without necessarily awarding damages or freezing property. A litigation hold is an internal directive to preserve documents and is not a court-issued remedy.

Therefore, to prevent Brenda from spending the embezzled funds before judgment, Luke should seek a prejudgment attachment.

NEW QUESTION # 39

A custodial arrest occurs when the suspect is questioned by a law enforcement officer.

- **A. False**
- B. True

Answer: A

Explanation:

A custodial arrest does not occur simply because a suspect is being questioned by a law enforcement officer.

Under the CFE Law topics, the controlling issue is whether the person is in custody, not whether questioning has started. The Manual distinguishes between ordinary questioning and custodial interrogation. It explains that custodial interrogation refers to guilt-seeking questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of freedom in a significant way. A person is considered in custody when the individual is under arrest or is not free to leave.

This means that questioning alone does not automatically create a custodial arrest. For example, if officers ask questions during a noncustodial interview and the person is free to end the encounter, that situation is generally not treated as custodial arrest. In fraud examinations, this distinction is important because constitutional safeguards associated with custody apply only when the legal threshold for custody has been met. Therefore, the statement is false because it incorrectly equates being questioned with being in custody or under arrest, which are not the same under CFE Law principles.

NEW QUESTION # 40

Which of the following examples of judicial systems would BEST be described as a civil law system?

- **A. The courts are bound by codified principles or statutes but are not bound by previous court decisions**
- B. The courts are bound by both previous court decisions and codified principles or statutes
- C. The courts are allowed to consider both codified statutes and previous court decisions but are bound by neither
- D. The courts are bound primarily by previous court decisions to reserve legal issues

Answer: A

NEW QUESTION # 41

Lana is a Certified Fraud Examiner (CFE) who works for Penn National, a private company. Lana suspects that Payne, an employee for Penn National, has stolen numerous products from the company. Lana plans to conduct an internal investigation into

the missing products. Based on these facts, which of the following is the most accurate statement?

- A. Payne likely has a duty to cooperate with the investigation as part of the employer-employee relationship.
- B. Payne can refuse to cooperate with the investigation because he has the right to remain silent.
- C. Payne has a duty to cooperate with the investigation even if what is requested from him is not reasonable.
- D. Payne can refuse to cooperate with the investigation because he has a legal right to privacy.

Answer: A

Explanation:

The correct answer is C. The CFE Manual states that in most jurisdictions, a duty to cooperate exists in every employer-employee relationship, although the precise scope of that duty can vary. In a private-company internal investigation, an employee who is asked to participate will therefore likely have a duty to cooperate as part of the employment relationship.

Option D is incorrect because the Manual specifically explains that the right to remain silent generally applies when a person is being questioned by government authorities or someone acting on the government's behalf, not when the questioning is conducted by a private employer acting on its own. As a result, the right to remain silent generally does not apply in internal investigations by private companies, and employers can often discipline or even terminate employees who refuse to cooperate. Option B is too broad because, although employees may have some privacy rights, those rights do not generally allow them to categorically refuse all cooperation in a private internal investigation. Option A is also inaccurate because employee duties are not unlimited; requests still must be evaluated in context and can vary by jurisdiction. Therefore, the most accurate statement is that Payne likely has a duty to cooperate as part of the employer-employee relationship.

NEW QUESTION # 42

Which of the following statements concerning judgments involving parties that are in multiple jurisdictions is most accurate?

- A. Whether a foreign judgment is enforceable is not affected by the law where the judgment is enforced.
- B. Whether a foreign judgment is enforceable always depends on where the defendant's assets are located.
- C. If a party obtains a judgment against a defendant in one jurisdiction, then that judgment is effective automatically and recognized in all jurisdictions throughout the world.
- D. If a party obtains a judgment against a defendant in one jurisdiction, then that judgment might not be effective in other jurisdictions where the defendant resides.

Answer: D

Explanation:

The correct answer is D. The CFE Manual explains that when parties or assets are spread across multiple jurisdictions, a judgment obtained in one country is not automatically effective everywhere else. In fact, a domestic judgment against a foreign defendant may be useful for recovering assets located in the domestic country, but it might be worthless for reaching assets located in a foreign country. The Manual also states that some countries enforce foreign judgments, but others do not, and enforceability often depends on the internal laws of the enforcing jurisdiction and whether there is an enforcement treaty between the relevant countries.

This is why options A and C are incorrect. Enforceability is absolutely affected by the law of the place where enforcement is sought, and foreign judgments are not universally or automatically recognized worldwide.

Option B is also too absolute because asset location can matter practically, but the Manual makes clear that enforceability does not always depend solely on where assets are located. The better statement is that a judgment secured in one jurisdiction might not be effective in another jurisdiction where the defendant resides or holds assets. That is the cross-border enforcement problem fraud examiners must understand when asset recovery is involved.

NEW QUESTION # 43

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