

## Solo Quiz #1 of 10: chapters 9

### Instructions for all Solo Quizzes:

- A. **Work alone.**
- B. On your IF-AT scoring sheet **identify the correct answer** for each question and **then scratch off** the gray covering to reveal whether you answer is right (i.e., star in box) or your answer is wrong (i.e., empty box).
- C. **If answer box is empty, then try again.**
- D. For each question you answer, if you answer correctly on **first try**, then you earn **5 course points**; on second try you earn 3 course points; and on third try you earn 1 course point; alas, both the fourth and fifth tries earn 0 course points.
- E. Pay attention to which pair of answer options are used for the true versus false questions: it is not always A and B.
- F. Pay attention to multiple choice question answer option "E". While "D" always means "all true"; **"E" either** will mean **"none** are TRUE" or **"E"** will mean **"two of the three** A, B, and C are TRUE".

## Solo Quiz #1 of 10: chapters 9

### MONDAY

1. **true = A**                      **false = B**

**The government always is the plaintiff in a criminal case.**

2. **Which of the following is/are TRUE?**

a. **In the USA a defendant is presumed innocent until proven guilty.**

b. **The government must prove the defendant guilty beyond a reasonable doubt.**

c. **The legislature has the power to define a bad deed coupled with a bad thought as a crime.**

d. **ALL is TRUE.**

e. **NONE are TRUE.**

3. true = A                      false = B

**The USA *Constitution* expressly allows the government to take you life with due process of law.**

4. true = A                      false = B

**All of the USA *Constitution* rights of defendants charged with a crime are implied rights.**

5. **true = D**                      **false = E**

**Double jeopardy exists if both the federal government and a USA State charges a defendant with a crime.**

**EXTRA CREDIT (i.e., all answers are correct):**

**USE QUESTION NUMBER 7.**

**T F** During this semester I have a loved one stationed overseas.

Given the time zone difference (e.g., 12 hours) between us,

**my loved one' schedule would be aided**

**if I my phone may ring during class**

**and I may exit the room and take that call.**

## Solo Quiz #1 of 10: chapters 9

### TUESDAY

1. true = A false = B

All of the USA *Constitution* rights of defendants charged with a crime are implied rights.

2. true = B false = C

Double jeopardy exists if both the federal government and a USA State charges a defendant with a crime.

3. Which of the following is/are TRUE?

- a. In the USA a defendant is presumed guilty until proven innocent.
- b. The defendant must prove the defendant is innocent beyond a reasonable doubt.
- c. The legislature, the executive, and the judiciary each has its own power to define a bad deed coupled with a bad thought as a crime.
- d. ALL is TRUE.
- e. NONE are TRUE.

4. true = C false = D

The USA *Constitution* expressly allows the government to take you life with due process of law.

5. true = B false = C

The government always is the plaintiff in a criminal case.

**EXTRA CREDIT (i.e., all answers are correct):**

**USE QUESTION NUMBER 7.**

T F During this semester I have a loved one stationed overseas. Given the time zone difference (e.g., 12 hours) between us, my loved one' schedule would be aided if I my phone may ring during class and I may exit the room and take that call.

## Solo Quiz #2 of 10: chapters 6 & 7

**WEDNESDAY**

true = D      false = E

**11. The compensatory damages available under USA tort law include punitive damages.**

true = C      false = D

**12. Under USA tort law negligence tort is a form of intentional tort.**

true = B      false = C

**13. The defendant has committed common law fraud if the defendant has knowingly and intentionally omitted a fact that induces the plaintiff's reliance and actually causes the plaintiff's damages.**

true = A      false = B

**14. Just like intentional torts and negligence torts, strict liability torts are based upon the fault of the defendant.**

**15. Which of the following is/are TRUE?**

- a. All sellers have a duty to warn all buyers of all material risks known to the seller.
- b. The "danger invites rescue" doctrine makes the defendant liable for damages suffered by all persons who come to the rescue of the plaintiff wrongfully harmed by the defendant.
- c. Even if the plaintiff knowingly and voluntarily assumes the risk of the defendant's wrongful negligent action, then the defendant still is liable for the plaintiff's damages.
- d. ALL are TRUE.
- e. NONE are TRUE.

## Solo Quiz #2 of 10: chapters 6 & 7

### THURSDAY

true = B      false = C

**11. The compensatory damages available under USA tort law do not include punitive damages.**

true = C      false = D

**12. Under USA tort law an intentional tort is a form of negligence tort.**

true = A      false = B

**13. A common law fraud exists if the defendant has knowingly and intentionally misrepresented a material fact that induces the plaintiff's justifiable reliance and proximately causes the plaintiff's damages.**

true = A      false = B

**14. Unlike intentional torts and negligence torts which are based upon the fault of the defendant, strict liability torts are based on social risk allocation.**

**15. Which of the following is/are TRUE?**

- a. All sellers have a duty to warn all buyers of all material risks known to the seller.
- b. The "danger invites rescue" doctrine makes the defendant liable for damages suffered by any person who comes to the rescue of the plaintiff wrongfully harmed by the defendant.
- c. If the plaintiff knowingly accepts the risk of the defendant's wrongful action, then the defendant is not liable for the plaintiff's damages because of the tort defense of "assumption of the risk".
- d. ALL are TRUE.
- e. NONE are TRUE.

## Solo Quiz #3 of 10: chapter 12

### MONDAY

true = D      false = E

**31. A bargained for exchange is consideration.**

true = D      false = E

**32. Consideration requires legally sufficient value.**

true = A      false = B

**33. Rarely do courts focus on whether consideration is fair and adequate.**

true = B      false = C

**34. Past consideration is good consideration because there is no doubt about whether it will be paid.**

**35. Which of the following is/are TRUE?**

- a. **Output contracts are illusory, thus not enforceable.**
- b. **Generally, promises are legally enforceable with or without consideration; but, a promise plus consideration is required for a contract.**
- c. **Promissory estoppel requires reliance that is either justifiable reliance or detrimental reliance.**
- d. **ALL are TRUE.**
- e. **NONE are TRUE.**

## Solo Quiz #3 of 10: chapter 12

### TUESDAY

true = C      false = D

**31. Consideration exists if the parties engage in a bargained for exchange.**

**32. Which of the following is/are TRUE?**

- a. Only promises supported by consideration (i.e., contracts) are legally enforceable.**
- b. All output contracts avoid being illusory, thus all are enforceable.**
- c. Promissory estoppel does not require reliance that is either justifiable or detrimental.**
- d. ALL are TRUE.**
- e. NONE are TRUE.**

true = C      false = D

**33. Consideration exists is a party gives legally sufficient value.**

true = C      false = D

**34. Courts always focus on whether consideration is fair and adequate.**

true = C      false = D

**35. Past consideration is not consideration.**

## Solo Quiz #4 of 10: chapter 13

**WEDNESDAY**

true = D      false = E

**41. Since no minor has capacity,  
all "contracts" with a minor are void.**

true = D      false = E

**42. Until a parent's child is emancipated,  
that parent is legally liable for all necessities  
purchased by that child regardless of whether the  
necessities purchased are goods or services.**

true = B      false = C

**43. Voluntary intoxication and adjudicated insane are  
treated the same by the common law of contract law.**

true = B      false = C

**44. Under the common law of contracts,  
gambling is not legal subject of contracts  
unless  
the legislative powers of that geographic jurisdiction  
have been used to legalize some form of gambling..**

true = B      false = C

**45. For a contract to be unconscionable  
that contract must suffer from both  
procedural unconscionability and  
substantive unconscionability.**

## Solo Quiz #4 of 10: chapter 13

### THURSDAY

true = D      false = E

**41. If a minor lacks contractual capacity, then all "contracts" with that minor are void.**

true = B      false = C

**42. A parent is legally liable for any services purchased by that parent's child, but that parent is legally liable for all food purchased by that parent's child.**

true = B      false = C

**43. Adjudicated insane and voluntary intoxication are treated the same by the common law of contract law.**

true = D      false = E

**44. Under the common law of contracts, gambling is legal subject of contracts unless the legislative powers of that geographic jurisdiction have been used to make illegal some form of gambling..**

true = B      false = C

**45. A contract can be unconscionable either because of procedural unconscionability or substantive unconscionability.**

## Solo Quiz #4 of 10: chapter 20

**WEDNESDAY**

true = D      false = E

**46. If  
the goods are designated by the seller  
for sale to the buyer,  
then  
those goods are identified.**

true = D      false = E

**47. The seller's risk of loss is identical  
whether the sale of good's transportation contract is  
for a shipment contract or  
for a destination contract.**

true = C      false = D

**48. The liability of the parties'  
under the common law depends upon who has title;  
in contrast,  
under the UCC liability depends on whether the  
goods have been identified.**

true = C      false = D

**49. Under the UCC a conditional sale still can be a sale.**

true = A      false = B

**50. Under special circumstances  
a UCC seller who has no title to the goods,  
can transfer good title to a buyer.**

## Solo Quiz #4 of 10: chapter 20

### THURSDAY

true = A      false = B

**46. If the goods are designated by the seller for sale to the buyer, then those goods are identified.**

true = D      false = E

**47. The seller's risk of loss is identical whether the sale of good's transportation contract is for a shipment contract or for a destination contract.**

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**48. The liability of the parties' under the common law depends upon who has title; in contrast, under the UCC liability depends on whether the goods have been identified.**

true = A      false = B

**49. Under the UCC a conditional sale still can be a sale.**

true = A      false = B

**50. Under special circumstances a UCC seller who has no title to the goods, can transfer good title to a buyer.**

## **Solo Quiz #5 of 10: chapter 21**

### **MONDAY**

**2.** true = C      false = D

**The UCC repeals the common law's perfect tender rule**

**(i.e., concurrent conditions of ready, willing, and able)**

**and replaces it with the UCC's less than perfect tender rule**

**(i.e., concurrent conditions of commercially reasonable performance).**

**3.** true = A      false = B

**Under the UCC the buyer has an absolute right to inspection**

**prior to the contract becoming executed.**

**4.** true = A      false = B

**Under both**

**the common law of contracts and under the UCC lost profits**

**are part of incidental damages,**

**and thus recoverable as compensatory damages.**

**5.** true = D      false = E

**As an extension of the common law duty to mitigate damages the UCC created the duty to cover.**

**6.** true = C      false = D

**To make dispute resolution**

**both more likely and more objective**

**the UCC repeals all common law remedies**

**and makes the UCC remedies the exclusive remedies.**

## **Solo Quiz #5 of 10: chapter 21**

### **TUESDAY**

- 2.** true = B      false = C  
**The UCC repeals the common law's perfect tender rule (i.e., concurrent conditions of ready, willing, and able) and replaces it with the UCC's less than perfect tender rule (i.e., concurrent conditions of commercially reasonable performance).**
- 3.** true = D      false = E  
**The UCC repeals the common law's rule of buyer's absolute right to inspection and replaces it with the UCC's commercially reasonable right to inspection.**
- 4.** true = B      false = C  
**Under both the common law of contracts and under the UCC lost profits are part of incidental damages, and thus recoverable as compensatory damages.**
- 5.** true = A      false = B  
**The UCC expands the common law duty to mitigate damages by creating and adding a duty to cover.**
- 6.** true = D      false = E  
**To make dispute resolution both more likely and more objective the UCC imposes on the parties remedies that are both specific and exclusive remedies.**

## **Solo Quiz #6 of 10: chapter 22**

### **WEDNESDAY**

- 11.** true = A     false = B  
**To be a warranty it must be a contract.  
But,  
UCC warranties do not require consideration;  
rather UCC warranties only require value.**
- 12.** true = D     false = E  
**The warranty to merchantability  
either may be implied or may be express.**
- 13.** true = A     false = B  
**The warranty of fitness of a particular purpose  
either may be implied or may be express.**
- 14.** true = A     false = B  
**If  
the UCC transaction of the parties creates the  
potential of multiple warranties,  
then  
the party seeking to enforce the warranties  
need not make an election of remedies.**
- 15.** true = C     false = D  
**Under the UCC  
if  
a disclaimer of a warranty is  
express, clear, and conspicuous,  
then  
a merchant may disclaim all warranties.**

## **Solo Quiz #6 of 10: chapter 22**

### **THURSDAY**

**11.** true = D      false = E

**To be a warranty it must be a contract.**

**But,**

**UCC warranties do not require consideration;  
rather UCC warranties only require value.**

**12.** true = D      false = E

**The warranty to merchantability  
either may be implied or may be express.**

**13.** true = C      false = D

**The warranty of fitness of a particular purpose  
either may be implied or may be express.**

**14.** true = A      false = B

**If**

**the UCC transaction of the parties creates the  
potential of multiple warranties,  
then**

**the party seeking to enforce the warranties  
must make an election of remedies.**

**15.** true = D      false = E

**Under the UCC**

**if**

**a disclaimer of a warranty is  
express, clear, and conspicuous,  
then**

**a merchant may disclaim all warranties.**

**Solo Quiz # 7 of 10: chapter 47**

**WEDNESDAY**

- 18.** true = C false = D  
**Congress has passed a general law and Congress has passed a specific law protecting competition from unlawful destruction.**
- 19.** true = A false = B  
**Some anticompetitive actions are *per se* unreasonable and are felonies.**
- 20.** true = D false = E  
**The legitimate business interests associated with horizontal restraints of trade are less frequent and smaller in size than the legitimate business interests associated with vertical restraints of trade.**
- 21.** true = A false = B  
**The relevant market is measure by both the product and the geographic area.**
- 22.** true = D false = E  
**The punitive damages for antitrust violations are treble damages.**

**Solo Quiz # 7 of 10: chapter 47**  
**TUESDAY**

- 18.** true = C false = D  
**Congress has passed a general law and Congress has passed a specific law protecting competition from unlawful destruction.**
- 19.** true = A false = B  
**So strong are the laws protecting competition that some actions which are proportional to a business' legitimate business interests are felonies.**
- 20.** true = C false = D  
**The legitimate business interests associated with horizontal restraints of trade are more frequent and larger in size than the legitimate business interests associated with vertical restraints of trade.**
- 21.** true = C false = D  
**The relevant market is measure by both the product and the geographic area.**
- 22.** true = D false = E  
**The punitive damages for antitrust violations are triple damages.**

**Solo Quiz # 8 of 10: chapter 44**  
**MONDAY**

- 25.** true = C false = D  
**The executive has direct control over all administrative agencies.**
- 26.** true = C false = D  
**Congress in the APA (Administrative Procedures Act) legislatively defines most due process for the exercise of legislative, executive, and/or judicial power by most federal administrative agencies.**
- 27.** true = A false = B  
**Judicial review of decisions of an administrative agency are similar to an appellate courts review of a trial court's decisions.**
- 28.** true = A false = B  
**Administrative agencies have the power of investigation. But, all searches or seizures by an administrative agency require a warrant.**
- 29.** true = D false = E  
**Both the separation of powers between the Individual and government as well as the Individual's right to privacy limit the power of an administrative agency to collect and to keep information about an individual.**

**Solo Quiz # 8 of 10: chapter 44**  
**TUESDAY**

- 25.** true = A false = B  
**The executive has direct control over all administrative agencies.**
- 26.** true = A false = B  
**Congress in the APA (Administrative Procedures Act) legislatively defines most due process for the exercise of legislative, executive, and/or judicial power by most federal administrative agencies.**
- 27.** true = B false = C  
**Judicial review of decisions of an administrative agency are similar to an appellate courts review of a trial court's decisions.**
- 28.** true = D false = E  
**Administrative agencies have the power of investigation. But, all searches or seizures by an administrative agency require a warrant.**
- 29.** true = D false = E  
**When an administrative agency acts within the scope of authority the legislature delegates to it in its Enabling Act there is almost no limit on the agency's power to collect and to keep information about an individual.**

**Solo Quiz # 9 of 10: chapter 45**  
**MONDAY**

- 37.** true = D false = E  
**To be a deceptive advertisement requires the ad be a fraudulent advertisement.**
- 38.** true = B false = C  
**The common law requires some sellers to warn. Regulatory law requires all sellers to warn.**
- 39.** true = B false = C  
**The CPSC (Consumer Product Safety Commission) does not seek to identically protect all consumers.**
- 40.** true = B false = C  
**If a statute or a regulation prohibits discrimination or requires equal treatment, then all protected persons must be treated identically.**
- 41.** true = D false = E  
**The criminal law is the most used enforcement tool of regulators of consumer goods or services.**

**Solo Quiz # 9 of 10: chapter 45**  
**TUESDAY**

- 37.** true = D false = E  
**To be a deceptive advertisement requires less than to be a fraudulent advertisement.**
- 38.** true = D false = E  
**The common law requires some sellers to warn. Regulatory law might specify an exact warning.**
- 39.** true = D false = E  
**The CPSC (Consumer Product Safety Commission) seeks to identically protect all consumers.**
- 40.** true = A false = B  
**If a statute or a regulation prohibits discrimination or requires equal treatment, then all protected persons must NOT be treated identically.**
- 41.** true = D false = E  
**The criminal law is the most used enforcement tool of regulators of consumer goods or services.**

**Solo Quiz # 10 of 10: chapter 52**  
**WEDNESDAY**

- 46.** true = A false = B  
**A gift by will must be specific or it is not enforced.**
- 47.** true = D false = E  
**A valid will requires capacity**  
**both at the time of executive and at the time of death.**
- 48.** true = B false = C  
**To revoke a will requires execution of a codicil.**
- 49.** true = A false = B  
***Per stirpes***  
**is the intestate rule that**  
**objectively grandparents love equally their**  
**children rather than love equally their grandchildren.**
- 50.** true = A false = B  
**You can create a valid trust**  
**by your own actions**  
**(as contrasted with a constructive trust**  
**created by law or created by equity)**  
**via a will.**

**Solo Quiz # 10 of 10: chapter 52**  
**THURSDAY**

**46.** true = D false = E  
**A gift by will must be specific or it is not enforced.**

**47.** true = D false = E  
**A valid will requires capacity**  
**both at the time of execution and at the time of death.**

**48.** true = B false = C  
**To revoke a will requires execution of a codicil.**

**49.** true = B false = C  
***Per stirpes***  
**is the intestate rule that**  
**objectively grandparents love equally their**  
**children and grandchildren together**  
**rather than love equally their children.**

**50.** true = A false = B  
**You can create a valid trust**  
**by your own actions**  
***(as contrasted with a constructive trust***  
***created by law or created by equity)***  
**via a will.**

**MONDAY**

**GROUP #** \_\_\_\_\_

\_\_\_\_\_  
**PRINT last, first name**

\_\_\_\_\_  
**PRINT last, first name**

\_\_\_\_\_  
**PRINT last, first name**

\_\_\_\_\_  
**PRINT last, first name**

**INSTRUCTIONS:**

- A. This Mini-Exam-1 is a GROUP EXAM. You are authorized to and are encouraged to talk quietly within your group. No discussions between groups is permitted. **IT IS CLOSED BOOK.**
- B. Your signature on the IF-AT answer sheet is your group number.
- C. You and all of your group members must PRINT your names on this sheet.
- D. **Recall the material difference between i.e. (that is) versus e.g. (for example).**
- E. When your group finishes your mini-exam turn your papers over and end discussion until time is called at 30 minutes.
- F. Turn in this signed copy of your exam and your group's IF-AT answer sheet.
- G. As with all IF-AT answer sheets you earn 5 course points per question answered correctly on first try; 3 points for second try; and 1 point for third try. Zero points earned on fourth or fifth try.
- H. If a question contains a number (e.g., Amendment IX), then the truth or falsity of that question never depends upon that number.  
This is not a test of trivia recall.  
It is an objective demonstration of your subjective knowledge.
- I. For clarity in distinguishing a "principal" from a principal as well as distinguishing from an "agent" from an agent, quote marks will be used for the generic words "principal" and "agent" and no quote marks will be used for the specific words principal and agent. That is, "principal" **and** "agent" refer to all three relationships (*i.e., principal **and** agent; **and** principal **and** independent contractor; **and** employER **and** employEE*).
- J. All mini-exams test for actual knowledge of cumulative receipt of notice knowledge based upon all assigned readings to-date as well as all lectures to-date.

- K. ALL MINI-EXAMS HAVE TEN QUESTIONS AND YOU HAVE **30 MINUTES**.
- L. ON ALL MINI-EXAMS ALL QUESTIONS ALWAYS ARE IN THE FORMAT "**Which of the following is/are TRUE?**".
- M. FOR SIMPLICITY, **ON THIS MINI-EXAM,** BUT NOT ON ALL MINI-EXAMS, answer option **D** always is "**ALL** of the above are TRUE." and answer option **E** always is "**NONE** of the above are TRUE."

## **MONDAY**

### **QUESTIONS:**

1. **Which of the following is/are TRUE?**
  - a. The law favors the objective over the subjective.
  - b. Express is in written words.
  - c. In the law, all knowledge is objective knowledge.
2. **Which of the following is/are TRUE?**
  - a. In the law the term of art for a human is "natural person"; whereas if a person is a "legal person", then that person is a corporation.
  - b. If a person is within the zone of protected interests, then that person has standing to sue.
  - c. A court must have both geographic jurisdiction (*i.e., substantial minimal contacts established by the defendant having purposefully availed the defendant of the geographic jurisdiction*) and subject matter jurisdiction.
3. **Which of the following is/are TRUE?**
  - a. Not all arbitration is binding.
  - b. A trial court finds fact and applies the law.
  - c. In the USA there are three major separations of powers: Individual versus government, federal versus State, and legislative versus executive versus judicial.
4. **Which of the following is/are TRUE?**
  - a. The power of judicial review is the power of the courts to declare unconstitutional acts of the legislature; but, courts lack the power to declare unconstitutional acts of the executive.
  - b. Comity, both internationally and domestically, is an express surrender of sovereignty.
  - c. Those with privity are within the zone of protected interests.

- 5. Which of the following is/are TRUE?**
- a. An appellate court will affirm the trial court unless the trial court makes any error of fact, procedure, or law.
  - b. The Commerce Clause is a grant of power from the USA States to the federal government.
  - c. Under the USA *Constitution's* Bill of Rights' Amendment IX expressly recognizes that the Individual has implied constitutional rights; and Amendment X by implication defines the federal government as a government solely of express powers (*i.e., no implied powers*) while also expressly recognizing that the People and the USA States each have reserved powers (*i.e., implied powers*).
- 6. Which of the following is/are TRUE?**
- a. The Police Power is the power of every USA government to regulate for its own health, safety, morals, and general welfare.
  - b. Domestically, the federal government may regulate commerce with the Several States.
  - c. A statute creating a crime is void for vagueness only if the defendant did personally did read the statute and did not obtain actual knowledge of what was the prohibited bad act.
- 7. Which of the following is/are TRUE?**
- a. Political free speech is an emanation of the implied constitutional right of free speech.
  - b. Substantive due process is required for all constitutional rights.
  - c. Preemption implements the Supremacy Clause  
Preemption is not favored, but may be allowed, if:
    - [i] Congressional intent is clear and national interests outweigh State interests;or if
    - [ii] Congressional intent is express and there is a need for uniformity.

- 8. Which of the following is/are TRUE?**
- a. Because of USA *Constitution* Amendment XI, never may a USA State be sued in federal court.
  - b. Because of how cases of first impression are resolved, a civil law jurisdiction necessarily exemplifies a separation of powers with the Individual superior to government, whereas a common law jurisdiction necessarily exemplifies a separation of powers with the government superior to the Individual.
  - c. Common law fraud exists if the defendant knowingly and intentionally misrepresents a material fact, thereby inducing the plaintiff's justifiable reliance and proximately causing the plaintiff's damages.
- 9. Which of the following is/are TRUE?**
- a. In a criminal case the defendant is presumed innocent until the government proves the defendant guilty beyond a reasonable doubt.
  - b. All civil causes of action must be proved by clear and convincing evidence.
  - c. As part of the pre-trial procedure (*e.g., discovery*), depending upon the complaint filed by the plaintiff and depending upon the causes of action in the plaintiff's complaint, the trial judge decides whether the plaintiff or whether the defendant will have the burden of proof on the first day of trial.
- 10. Which of the following is/are TRUE?**
- a. Every level of government as well as every branch of government has the power to create a crime.
  - b. Two elements of every crime are bad deed (*i.e., actus rea*) and bad thought (*i.e., mens rea*).
  - c. Procedural due process requires either notice or hearing, with either being proportional to the interests involved.

**TUESDAY**

**GROUP #** \_\_\_\_\_

\_\_\_\_\_  
**PRINT last, first name**

\_\_\_\_\_  
**PRINT last, first name**

\_\_\_\_\_  
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## **TUESDAY**

### **QUESTIONS:**

1. **Which of the following is/are TRUE?**
  - a. The law favors the subjective over the objective.
  - b. Everything that is express is implied; but not everything implied is express.
  - c. In the law, all knowledge is subjective knowledge.
2. **Which of the following is/are TRUE?**
  - a. In the law the term of art for a human is "natural person"; whereas if a person is a "legal person", then that person is a corporation.
  - b. If a person is within the zone of protected interests, then that person has standing to sue.
  - c. A court must have both geographic jurisdiction (*i.e., substantial minimal contacts established by the defendant having purposefully availed the defendant of the geographic jurisdiction*) and subject matter jurisdiction.
3. **Which of the following is/are TRUE?**
  - a. All arbitration is binding.
  - b. A trial court finds fact and interprets the law.
  - c. In the USA there are three major separations of powers: Individual versus government, federal versus State, and legislative versus executive versus judicial.
4. **Which of the following is/are TRUE?**
  - a. The power of judicial review is the power of the courts to declare unconstitutional acts of the legislature; but, courts lack the power to declare unconstitutional acts of the executive.
  - b. Comity internationally is an implied surrender of sovereignty; whereas domestically in the USA between USA States it is an express surrender.
  - c. Only those with privity are within the zone of protected interests.

- 5. Which of the following is/are TRUE?**
- a.** An appellate court will affirm the trial court unless the trial court makes a clear error of fact, a non-harmless error of procedure, or any error of law.
  - b.** For all governments the power to regulate commerce is an inherent power of government: no grant of that power is needed for any government to have that power.
  - c.** Under the USA *Constitution's* Bill of Rights' Amendment IX expressly limits the Individual to expressly listed constitutional rights; and Amendment X by expressly defines the federal government as a government of inherent powers while also expressly recognizing that neither the People nor the USA States have any implied powers.
- 6. Which of the following is/are TRUE?**
- a.** The Police Power is the power of a USA State government to regulate for the People's health, safety, morals, and general welfare.
  - b.** Domestically, the federal government may regulate commerce with the Several States.
  - c.** A statute creating a crime is void for vagueness only if the defendant did personally did read the statute and did not obtain actual knowledge of what was the prohibited bad act.
- 7. Which of the following is/are TRUE?**
- a.** Political free speech is an emanation of the implied constitutional right of free speech.
  - b.** Substantive due process is required for all constitutional rights.
  - c.** Preemption implements the Supremacy Clause  
Preemption is not favored, but may be allowed, if:
    - [i] Congressional intent is clear and national interests outweigh State interests;or if
    - [ii] Congressional intent is express and there is a need for uniformity.

**8. Which of the following is/are TRUE?**

- a. Because of USA *Constitution* Amendment XI, a USA State may not be sued in federal court unless a subsequent amendment reduced the States' sovereign immunity.
- b. Because of how cases of first impression are resolved, a common law jurisdiction necessarily exemplifies a separation of powers with the Individual superior to government, whereas a civil law jurisdiction necessarily exemplifies a separation of powers with the government superior to the Individual.
- c. Common law fraud exists if the defendant knowingly and intentionally misrepresents a material fact, thereby inducing the plaintiff's justifiable reliance and proximately causing the plaintiff's damages.

**9. Which of the following is/are TRUE?**

- a. As part of the pre-trial procedure (*e.g., discovery*), depending upon the complaint filed by the plaintiff and the causes of action in the plaintiff's complaint, the trial judge decides whether the plaintiff or whether the defendant will have the burden of proof on the first day of trial.
- b. A civil cause of action must be proved by clear and convincing evidence.
- c. In a criminal case the defendant is presumed guilty until the defendant proves the defendant innocent beyond a reasonable doubt.

**10. Which of the following is/are TRUE?**

- a. Only the legislature has the power to create a crime.
- b. Two elements of every crime are bad deed (*i.e., actus rea*) and bad thought (*i.e., mens rea*).
- c. Procedural due process requires both notice and hearing, with both being proportional to the interests involved.

- 31.** Which of the following is/are TRUE?
- a. The Law favors the objective over the subjective
  - b. In USA law liability flows towards those whose actions are both knowing and voluntary.
  - c. An accord and satisfaction requires consideration in the form of a good faith dispute.  
A liquidated debt of liquidated damages is not consideration.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
- 32.** Which of the following is/are TRUE?
- a. Everything that is implied is express.
  - b. Only fundamental constitutional rights are protected with substantive due process.
  - c. The Mirror Image Rule allows an offerEE to accept the offer with a "Yes, but ... ." as long as the offerEE still objectively manifests an intent to be bound to a contract.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
- 33.** Which of the following is/are TRUE?
- a. The last question of legal analysis, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have a remedy at law?".
  - b. Procedural due process exists if the party receives any notice and any hearing.
  - c. Under the Mail Box Rule, an offerEE may reject an offer after that offer has been accepted by the offerEE; but, the offerOR can not revoke after the offerEE's acceptance.
  - d. ALL are TRUE.
  - e. NONE are TRUE.

34. Which of the following is/are TRUE?
- In the USA separation of powers the federal government has the most power and the individual USA State governments have the least power.
  - Congress has preempted the USA States with respect to agreements to arbitrate disputes in commerce.
  - The elements of a contract are agreement, consideration, capacity, reality of assent, form, and legal subject matter.
  - ALL are TRUE.
  - NONE are TRUE.
35. Which of the following is/are TRUE?
- The power of judicial review is the power the courts to declare actions of government as unconstitutional.
  - The elements of a crime are a legislatively defined bad deed and bad thought.
  - Across the USA, but not in Nebraska, a fiduciary is presumed to engage in undue influence (*i.e., opportunity, inclination, and result*).
  - ALL are TRUE.
  - NONE are TRUE.
36. Which of the following is/are TRUE?
- Comity is an express duty under both international law between nations as well as under USA domestic law between USA States.
  - A statute creating a crime is void for vagueness if when a person did read the statute that person would not reasonably know which bad act was prohibited.
  - There are four contract terms that are material. The magnitude of "material" varies by context of use with material being largest for frauds and smallest for mistakes.
  - ALL are TRUE.
  - NONE are TRUE.

37. Which of the following is/are TRUE?
- a. The Police Power is the core power of all USA governments.
  - b. Both intentional torts and negligence torts are based upon fault. The strict liability torts are not based on fault.
  - c. Common law fraud exists when the defendant knowingly and intentionally misrepresents a material fact thereby inducing the plaintiff's reliance and causing the plaintiff's damages.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
38. Which of the following is/are TRUE?
- a. The word "among" in the Commerce Clause is ambiguous. "Among" always has been interpreted by the USA Supreme Court as meaning within  
*(i.e., a close and substantial affect [i.e., cause] on commerce between the USA States);*  
and never has been interpreted as meaning between  
*(i.e., a direct effect [i.e., result] of commerce moving between two or more USA States).*
  - b. Proximate cause exists if a consequence is reasonably foreseeable to the Reasonable Person in the position of the defendant at the time of the defendant's wrongful action.
  - c. All law suits require the plaintiff to prove the elements of the complaint by the preponderance of the evidence.
  - d. ALL are TRUE.
  - e. NONE are TRUE.

39. Which of the following is/are TRUE?
- a. The appellate court will affirm the trial court unless the trial court makes any error of fact, procedure, or law.
  - b. Consideration is a bargained for exchange of value.
  - c. The Statute of Frauds requires five types of contracts  
(*e.g., in consideration of marriage*)  
to have all of their terms in a writing signed  
(*i.e., any mark with the current intent to authenticate the record/document*)  
by both parties.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
40. Which of the following is/are TRUE?
- a. The USA separation of powers, in the Constitution's Article VI, paragraph 2, Supremacy Clause, expressly permits federal preemption of all laws by individual USA States.
  - b. Capacity is the ability to grasp the natural consequences of one's actions. The most capacity is required for crimes, then contracts, then torts, and the least capacity is required for wills.
  - c. If a contract is contrary to public policy  
(*e.g., unreasonable area and unreasonable time in a covenant not to compete*),  
then the court will not enforce that contract.  
A Nebraska court will sever all offensive terms that are not material to the contract in its entirety.
  - d. ALL are TRUE.
  - e. NONE are TRUE.

31. Which of the following is/are TRUE?
- a. "The Law" only uses the objective; only equity uses the subjective
  - b. In USA law liability flows towards those whose actions are both knowing and voluntary.
  - c. An accord and satisfaction requires consideration in the form of a good faith dispute.  
A liquidated debt of liquidated damages is such consideration.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
32. Which of the following is/are TRUE?
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  - c. The Mirror Image Rule allows an offerEE to accept the offer with a "Yes, but ... ." as long as the offerEE objectively manifests an intent to be bound to a contract.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
33. Which of the following is/are TRUE?
- a. The last question of legal analysis, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have an adequate remedy at law?".
  - b. Procedural due process exists if the party receives both notice and hearing, both proportional to the interests (*e.g., life*) involved.
  - c. Under the Mail Box Rule, an offerEE may reject an offer after that offer has been accepted by the offerEE; but, the offerOR can not revoke after the offerEE's acceptance.
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34. Which of the following is/are TRUE?
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  - Congress has preempted the USA States with respect to contracts to arbitrate disputes in commerce.
  - The elements of a contract are agreement, consideration, capacity, reality of assent, and form.
  - ALL are TRUE.
  - NONE are TRUE.
35. Which of the following is/are TRUE?
- The power of judicial review is an express power the courts to declare actions of government as unconstitutional.
  - The elements of a crime are a legislatively defined bad deed and bad thought.
  - In Nebraska a fiduciary is rebuttably presumed to have the opportunity to, to have the inclination to, and to proximately cause an abusive result (*i.e., undue influence*).
  - ALL are TRUE.
  - NONE are TRUE.
36. Which of the following is/are TRUE?
- Comity is an express duty under both international law between nations as well as under USA domestic law between USA States.
  - A statute creating a crime is void for vagueness if when the Reasonable Person reads the statute the Reasonable Person would not reasonably know which bad act was prohibited.
  - There are four contract terms that are material. The magnitude of "material" varies by context of use with material being largest for frauds and smallest for mistakes.
  - ALL are TRUE.
  - NONE are TRUE.

37. Which of the following is/are TRUE?
- a. The Police Power is the core of the power of the USA States. The USA federal government does not have the Police Power.
  - b. Intentional torts, negligence torts, and strict liability torts are based on fault.
  - c. Common law fraud exists when the defendant knowingly and intentionally misrepresents a material fact thereby inducing the plaintiff's reliance and causing the plaintiff's damages.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
38. Which of the following is/are TRUE?
- a. The word "among" in the Commerce Clause is ambiguous. "Among" always has been interpreted by the USA Supreme Court as meaning within  
*(i.e., a close and substantial affect [i.e., cause] on commerce between the USA States);*  
and never has been interpreted as meaning between  
*(i.e., a direct effect [i.e., result] of commerce moving between two or more USA States).*
  - b. Proximate cause exists if a consequence was foreseen by the defendant at the time of the defendant's wrongful action.
  - c. All law suits require the plaintiff to prove the elements of the complaint by the preponderance of the evidence.
  - d. ALL are TRUE.
  - e. NONE are TRUE.

39. Which of the following is/are TRUE?
- a. The appellate court will affirm the trial court unless the trial court makes any error of fact, procedure, or law.
  - b. Consideration is a bargained for exchange of value.
  - c. The Statute of Frauds requires five types of contracts  
(*e.g., in consideration of marriage*)  
to have all of their terms in a writing signed  
(*i.e., any mark with the current intent to authenticate the record/document*)  
by both parties.
  - d. ALL are TRUE.
  - e. NONE are TRUE.
40. Which of the following is/are TRUE?
- a. The USA separation of powers, in the Constitution's Article VI, paragraph 2, Supremacy Clause, by implication permits federal preemption of some laws of individual USA States; but, current powers are preferred.
  - b. Capacity is the ability to grasp the natural consequences of one's actions. The most capacity is required for crimes, then torts, then contracts, and the least capacity is required for wills.
  - c. If a contract is contrary to public policy  
(*e.g., unreasonable area and unreasonable time in a covenant not to compete*),  
then the court will not enforce that contract.  
Depending upon the jurisdiction, the court will either reform the offensive term, or sever the offensive term  
if it is not material to the contract in its entirety; or void the entire contract: Nebraska voids.
  - d. ALL are TRUE.
  - e. NONE are TRUE.

- 1.** Which of the following is/are TRUE?
  - a.** If a contract requires multiple, similar performances from one party, and if that party breaches on the first such performance, and if the non-breaching party expressly waives that breach, then the parties have not modified their contract by course of performance.
  - b.** For all purposes, a breach of contract exists at the time of receipt by the non-breaching party of the breaching party's anticipatory repudiation.
  - c.** A statute of repose is a legislatively specified maximum duration between a defendant's wrongful action and the plaintiff filing suit. However, a statute of repose may be tolled if the plaintiff proves laches.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
  
- 2.** Which of the following is/are TRUE?
  - a.** Tort law does not and contract law only rarely awards the plaintiff consequential damages. Consequential damages permit recovery of reasonably foreseen damages.
  - b.** Under the common law, to modify a contract requires a new contract. Accordingly, if the parties change the parties in their contract, then that is called a novation.
  - c.** If there is an ambiguity in an adhesion contract, then that ambiguity might be interpreted against the non-drafting party.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 3.** Which of the following is/are TRUE?
- a.** A unilateral mistake exists if the non-mistaking party objectively knew of the mistaking party's mistake of material fact.
  - b.** To be protected with substantive due process as opposed to protected only with procedural due process, a fundamental constitutional right must be expressly named in the USA *Constitution (e.g., privacy)*.
  - c.** In Nebraska a natural person is presumed to not have contractual capacity to waive a cause of action unless that natural person has standing to sue. This general rule of contracts significantly expands the scope of the federal preemption with respect to contracts to arbitrate disputes in commerce.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 4.** Which of the following is/are TRUE?
- a.** Comity is an implied duty under both international law between nations as well as under USA domestic law between USA States.
  - b.** A California Supreme Court decision in a Nebraska court might be authoritative precedence or might be persuasive precedence, but is not binding precedence.
  - c.** That Statute of Frauds governs surety contracts.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 5.** Which of the following is/are TRUE?
- a.** A judge will grant the defendant's Motion to Dismiss unless in the plaintiff's complaint or in the plaintiff's answer all material questions of facts and law are objectively proved by the preponderance of the evidence.
  - b.** A government's action that is an Act of State is protected from civil liability by sovereign immunity.
  - c.** Objectively, silence can not be acceptance.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

6. Which of the following is/are TRUE?
- a. In the USA separation of powers generally, the legislature has far more governmental power than the judiciary has; but specifically, the judiciary has greater power when enforcing fundamental constitutional rights of the individual.
  - b. The old common law was and the new common law is hostile towards efforts to delegate contractual duties.
  - c. The USA separation of powers, in the USA *Constitution's* Article VI, paragraph 2, Supremacy Clause, read in junction with the USA *Constitution's* Article IV, paragraph 1, Full Faith and Credit Clause's "effect thereof" subclause implicitly permits congressional preemption of some laws enacted by individual USA States.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
7. Which of the following is/are TRUE?
- a. Under the common law, if the parties have not objectively specified quantity, then their "contract" is illusory. The two more frequent examples of illusory "contracts" are transactions measuring quantity by the seller's output or by the buyer's requirements.
  - b. If a crime has been committed for which there is a parallel tort, then the punitive damages for that tort will match the fine for the crime.
  - c. In a contract unrelated to construction, breach of an express condition precedent is a material breach whereas breach of an express condition subsequent is not a material breach.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.

- 8.** Which of the following is/are TRUE?
- a.** In USA law liability flows towards those whose actions either are sufficiently knowing or are sufficiently voluntary.
  - b.** The good faith required of a fiduciary is greater than the good faith required of a common law consumer. For both a common law consumer and a fiduciary the subjective element of good faith is identical (*i.e., honesty in fact*). In contrast, there is no objective element of good faith for common law consumer, whereas the objective element of good faith for a fiduciary is the very high standard of commercial impracticability.
  - c.** Both tort law and contract law award the plaintiff compensatory damages. The compensatory damages of both tort law and contract law seek to make the plaintiff whole.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 9.** Which of the following is/are TRUE?
- a.** Promissory estoppel (*i.e., enforce the promise*) is an equitable remedy for transactions that fail to achieve the status of contract; that failure typically either due to want of capacity of the enforcing party or due to want of consideration even though there is detrimental reliance.
  - b.** A liquidated damages clause transforms what would otherwise be a liquidated debt into an executory contract.
  - c.** The last question of analysis in the law subset of The Law, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have a remedy at law?".
  - d.** ALL of the above are TRUE.
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**10.** Which of the following is/are TRUE?

- a.** An exculpatory clause is a special type of liquidated damages clause (*i.e., zero dollar damages owed*). If an exculpatory clause is in a contract between two merchants engaged in sophisticated risk management, then the court routinely will enforce their contract terms. However, if an exculpatory clause is in a contract between a merchant and a consumer, then the court routinely will declare that exculpatory clause unenforceable as it is unconscionable, and sever it.
- b.** Substantial performance is a breach of contract.
- c.** A word in a contract is first interpreted according to that word's plain meaning. If, however, a word in a contract is ambiguous, then, because the specific controls the general, that ambiguous word will be first interpreted using the parties' course of performance, then the parties' course of dealings, and finally the parties' terms of trade.
- d.** ALL of the above are TRUE.
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- 1.** Which of the following is/are TRUE?
  - a.** If a contract requires multiple, similar performances from one party, and if that party breaches on the first such performance, and if the non-breaching party expressly waives that breach, then by course of performance the parties have modified their contract.
  - b.** Upon receipt by the non-breaching party of the breaching party's anticipatory repudiation the non-breaching party may elect either [A] to treat that repudiation as a breach; or [B] to not treat it as a breach and to wait until the time for performance.
  - c.** A statute of repose is a legislatively specified maximum duration between a defendant's wrongful action and the plaintiff filing suit. However, a statute of repose may be tolled if the plaintiff proves laches.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
  
- 2.** Which of the following is/are TRUE?
  - a.** Both tort law and contract law rarely award the plaintiff consequential damages. The consequential damages of both tort law and contract law permit recovery of reasonably foreseeable damages.
  - b.** Under the common law, to modify a contract requires a new contract. Accordingly, if the parties modify the time of delivery in their contract, then that is called a novation.
  - c.** If there is an ambiguity in an adhesion contract, then that ambiguity might be interpreted against the non-drafting party.
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  - b.** To be protected with substantive due process as opposed to protected only with procedural due process, a fundamental constitutional right must be expressly named in the USA *Constitution* (e.g., *privacy*).
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  - b.** If a California Supreme Court decision in a Nebraska court is both authoritative precedence and persuasive precedence, then it also is binding precedence.
  - c.** That Statute of Frauds does not govern surety contracts.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
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  - b.** A government's action that is an Act of State might be, but is not necessarily, protected from civil liability by sovereign immunity.
  - c.** Objectively, silence can not be acceptance.
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- 6.** Which of the following is/are TRUE?
- a.** In the USA separation of powers the legislature has more governmental power than the judiciary, thus the legislature has the power to reverse any judicial ruling.
  - b.** The old common law was and the new common law is hostile towards efforts to assign contractual rights.
  - c.** The USA separation of powers, in the USA *Constitution's* Article VI, paragraph 2, Supremacy Clause, read in junction with the USA *Constitution's* Article IV, paragraph 1, Full Faith and Credit Clause's "effect thereof" subclause expressly permits congressional preemption of any and all laws enacted by individual USA States.
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  - b.** If a crime has been committed for which there is a parallel tort, then the punitive damages for that tort will match the fine for the crime.
  - c.** In a contract unrelated to construction, breach of an express condition precedent is a material breach whereas breach of an express condition subsequent is not a material breach.
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  - b.** The good faith required of a fiduciary is greater than the good faith required of a common law consumer. For both a common law consumer and a fiduciary the subjective element of good faith is identical (*i.e., honesty in fact*). In contrast, there is no objective element of good faith for common law consumer, whereas the objective element of good faith for a fiduciary is the very high standard of commercial impracticability.
  - c.** Both tort law and contract law award the plaintiff compensatory damages. The compensatory damages of tort law seek to make the plaintiff whole whereas the compensatory damages of contract law seek to provide the plaintiff with benefit of the bargain lost due to breach.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 9.** Which of the following is/are TRUE?
- a.** Promissory estoppel (*i.e., enforce the promise*) is the typical remedy for the typical breach of contract.
  - b.** A liquidated damages clause transforms what would otherwise be a liquidated debt into an executory contract.
  - c.** The last question of analysis in the law subset of The Law, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have an adequate remedy at law?".
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- b.** Substantial performance is a breach of contract.
- c.** A word in a contract is first interpreted according to that word's plain meaning. If, however, a word in a contract is ambiguous, then, because the specific controls the general, that ambiguous word will be first interpreted using the parties' course of performance, then the parties' course of dealings, and finally the parties' terms of trade.
- d.** ALL of the above are TRUE.
- e.** NONE of the above are true.

- 16.** Which of the following is/are TRUE?
- a. Comity is an implied tradition under international law between nations but is an express duty under USA domestic law between USA States.
  - b. A California Supreme Court decision in a Nebraska court is not binding precedence.
  - c. A contract governed by the Statute of Frauds requires the signature of one of the parties.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 17.** Which of the following is/are TRUE?
- a. A unilateral mistake exists if the non-mistaking party objectively knew of the mistaking party's mistake of material fact.
  - b. Substantive due process is an example of judicial activism.
  - c. In Nebraska a natural person upon reaching the age of majority is presumed to have contractual capacity for all contracts in commerce.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 18.** Which of the following is/are TRUE?
- a. Promissory estoppel (*i.e., enforce the promise*) is an equitable remedy for all transactions that fail to achieve the status of contract.
  - b. Liquidated damages are legally sufficient value for an accord and satisfaction.
  - c. The last question of analysis in the law subset of The Law, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have an adequate remedy at law?".
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.

- 19.** Which of the following is/are TRUE?
- a.** The common law of torts, the common law of contracts, and contracts governed by the UCC2 Sale of Goods all award compensatory damages.  
Only the common law of contracts awards consequential damages.
  - b.** Unlike a contract governed by the UCC2 Sale of Goods, the common law requires a new contract to modify an existing contract.
  - c.** An undiscovered ambiguity in an adhesion contract between a drafting merchant and a non-drafting consumer most likely will be interpreted in favor of the merchant.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 20.** Which of the following is/are TRUE?
- a.** A judge will grant a Motion to Dismiss or a Summary Judgment only if there is a no material question of fact for the trier of fact to resolve.
  - b.** Many governmental actions that are an Act of State are protected from civil liability by sovereign immunity.
  - c.** Silence can be acceptance.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

**21.** Which of the following is/are TRUE?

- a.** In the USA separation of powers generally, the legislature has far more governmental power than the judiciary has; but specifically, the judiciary has greater power when enforcing any constitutional rights of the individual.
- b.** Both the old common law and the new common law of assignment of contractual duties and of delegation of contractual rights permit that transaction if it is a transaction between two consumers, but not if one of the parties is a merchant.
- c.** If Congress expressly preempts the USA States and if Congress is using an expressly granted federal power, then Congress still might not be able to preempt USA State law.
- d.** ALL of the above are TRUE.
- e.** NONE of the above are true.

**22.** Which of the following is/are TRUE?

- a.** Under the common law, if the parties have not objectively specified quantity, then their "contract" is illusory.  
The UCC2 Sale of Goods permits open terms because all parties are bound by a duty of good faith. However, UCC2 parties still must specify quantity because a commercially reasonable quantity can not be implied.
- b.** If a crime has been committed for which there is a parallel tort, then the punitive damages for that tort will be similar to the fine for the crime.
- c.** If a contract condition that is breached is an implied condition concurrent, then that breach is a breach; but not necessarily a material breach.
- d.** ALL of the above are TRUE.
- e.** NONE of the above are true.

- 23.** Which of the following is/are TRUE?
- a.** An express waiver of a breach can modify a contract; but, an implied waiver can not modify a contract.
  - b.** The non-breaching party who receives an anticipatory repudiation has a right to cover before having a duty to mitigate damages.
  - c.** A statute of limitation stops the tolling of the statute of repose.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 24.** Which of the following is/are TRUE?
- a.** Actual knowledge is required for liability under USA law.
  - b.** The honesty in fact component of good faith that is required of a fiduciary is greater than that required of a common law consumer.
  - c.** The compensatory damages of both tort law and contract law must be reasonably foreseeable.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 25.** Which of the following is/are TRUE?
- a.** An exculpatory clause rarely is found in a contract between two merchants who are, in fact, engaged in sophisticated risk management.
  - b.** All breaches of a contract create both a breaching party's duty to pay damages as well as the non-breaching party's duty to mitigate damages; but, only a material breach fails to discharge the contract.
  - c.** A word in a contract is first interpreted according to that word's plain meaning. If, however, a word in a contract is ambiguous, then, because the specific controls the general, that ambiguous word will be first interpreted using the terms of trade.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 16.** Which of the following is/are TRUE?
- a.** It is not feasible for either an express waiver of a breach or an implied waiver of breach to supply the agreement necessary to modify a contract.
  - b.** The non-breaching party who receives an anticipatory repudiation has a right to cover before having a duty to mitigate damages.
  - c.** A statute of limitation stops the tolling of the statute of repose.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 17.** Which of the following is/are TRUE?
- a.** The common law of torts, the common law of contracts, and contracts governed by the UCC2 Sale of Goods all award compensatory damages. Only the UCC2 Sale of Goods awards lost profits as compensatory damages.
  - b.** To modify an existing contract, both for a contract under common law and UCC2 Sale of Goods, the parties need a new contract that both executes their old contract and replaces that executed contract with a new executory contract.
  - c.** An undiscovered ambiguity in an adhesion contract between a drafting consumer and a non-drafting merchant most likely will be interpreted in favor of the consumer.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 18.** Which of the following is/are TRUE?
- a.** A unilateral mistake exists if the non-mistaking party actually knows of the mistaking party's mistake of material fact.
  - b.** An example of judicial activism is a judge's providing an individual substantive due process for all constitutional rights.
  - c.** In Nebraska a natural person upon reaching the age of majority is presumed to lack contractual capacity for contracts of binding arbitration of disputes arising in commerce.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 19.** Which of the following is/are TRUE?
- a.** Comity is an implied tradition under international law between nations but is an express duty under USA domestic law between USA States.
  - b.** A California Supreme Court decision in a Nebraska court can be binding precedence.
  - c.** A contract governed by the Statute of Frauds requires the signature of both parties.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 20.** Which of the following is/are TRUE?
- a.** Only if there is no material question of fact for the trier of fact to resolve will a judge grant a Motion to Dismiss or a Summary Judgment.
  - b.** Many governmental actions that are an Act of State are protected from civil liability by sovereign immunity.
  - c.** Silence can be acceptance.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

**21.** Which of the following is/are TRUE?

- a.** In the USA separation of powers the judiciary has greater power than the legislature when the judiciary is enforcing fundamental constitutional rights of the individual.
- b.** Both the old common law and the new common law of assignment of contractual duties and of delegation of contractual rights always permit that transaction if it is a transaction between two consumers, but never if one of the parties is a merchant.
- c.** If Congress expressly preempts the USA States and if Congress is using an expressly granted federal power, then federal law is supreme and no USA State law is permitted.
- d.** ALL of the above are TRUE.
- e.** NONE of the above are true.

**22.** Which of the following is/are TRUE?

- a.** Under the common law, if the parties have not objectively specified quantity, then their "contract" is illusory.  
The UCC2 Sale of Goods permits open terms because all parties are bound by a duty of good faith. However, UCC2 parties still must specify quantity because a commercially reasonable quantity can not be implied.
- b.** If a crime has been committed for which there is a parallel tort, then the punitive damages for that tort will be similar to the fine for the crime.
- c.** If a contract condition that is breached is an express condition concurrent, then that breach might be a material breach.
- d.** ALL of the above are TRUE.
- e.** NONE of the above are true.

- 23.** Which of the following is/are TRUE?
- a. Actual knowledge is required for liability under USA law.
  - b. The honesty in fact component of good faith that is required of a fiduciary is greater than that required of a common law consumer.
  - c. The compensatory damages of both tort law and contract law must be both reasonably foreseeable.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 24.** Which of the following is/are TRUE?
- a. Promissory estoppel is an equitable remedy that requires justifiable detrimental reliance rather than consideration.
  - b. Liquidated damages can be legally sufficient value for an accord and satisfaction.
  - c. The last question of analysis in the law subset of The Law, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have a remedy at law?".
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 25.** Which of the following is/are TRUE?
- a. An exculpatory clause routinely is found in a contract between two merchants who are, in fact, engaged in sophisticated risk management.
  - b. All breaches of a contract create both a breaching party's duty to pay damages as well as the non-breaching party's duty to mitigate damages; but, only a material breach fails to discharge the contract.
  - c. A word in a contract is first interpreted according to that word's plain meaning. If, however, a word in a contract is ambiguous, then, because the specific controls the general, that ambiguous word might be interpreted using the terms of trade.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.

- 40.** Which of the following is/are TRUE?
- a. If either the number of or the size of buyers changes, then the market's equilibrium price changes.
  - b. Authoritative precedence is binding precedence.
  - c. In the USA privacy is an express constitutional right and is a fundamental constitutional right, thus receives both substantive due process and procedural due process.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 41.** Which of the following is/are TRUE?
- a. The federal power of judicial review extends only to administrative agency actions outside of the agency.
  - b. An adhesion contract between a drafting merchant and a non-drafting consumer is more likely to be upheld if done face-to-face than over the internet.
  - c. An administrative agency regulating a heavily regulated industry (e.g., alcohol) needs more warrants for searches of and seizures from a corporation than does an administrative agency regulating a lightly regulated industry (e.g., lawn mowing) need warrants for searches of and seizures from a sole proprietor.
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.
- 42.** Which of the following is/are TRUE?
- a. The Administrative Procedures Act (APA) is designed by Congress with the intent to provide sufficient procedural due process to protect all relevant substantive due process rights.
  - b. No market supply curve and no market demand curve every is accurate if any person either is not willing or is not able to participate in that market; but, does participate in that market.
  - c. The last question of analysis in the law subset of The Law, the question that must be answered "No." if one is to open the door to the court of equity, is: "Do you have an adequate remedy at law?".
  - d. ALL of the above are TRUE.
  - e. NONE of the above are true.

- 43.** Which of the following is/are TRUE?
- a.** The legislature's attempt to define a crime is void for vagueness if a natural person can not know what is prohibited by reading the statute.
  - b.** The Rule of Reason judicial interpretation of the federal Sherman Act rules unlawful most restraints of trade that are proportional to the restraining party's legitimate business interests.
  - c.** Privileged economic duress can be, but is less likely to be than is predatory economic duress, an antitrust violation.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 44.** Which of the following is/are TRUE?
- a.** A judge will grant a Motion to Dismiss or a Summary Judgment only if there is a no question of fact for the trier of fact to resolve.
  - b.** Treble damages for an antitrust violation are a legislatively specified punitive damages.
  - c.** Competition, as defined by Capitalism, is a "large" number of buyers for each seller so that each seller does reach MES.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 45.** Which of the following is/are TRUE?
- a.** For the purposes measuring the market that the defendant is alleged to have unlawfully monopolized, the government must prove either the relevant market product market or the relevant geographic market.
  - b.** The general controls the specific.
  - c.** If Congress expressly preempts the USA States and if Congress is using an expressly granted federal power, then Congress still might not be able to preempt a USA State's law.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 46.** Which of the following is/are TRUE?
- a.** Under the common law, if the parties have not objectively specified quantity, then their "contract" is illusory. The UCC2 Sale of Goods permits open terms because all parties are bound by a duty of good faith. Thus, a UCC2 contract never is illusory.
  - b.** The *Per Se* Unreasonable judicial interpretation of the Sherman Act applies to price fixing, vertical divisions of territories or customers; group boycotts, and tying arrangements.
  - c.** The Minimum Efficient Size (MES) curve is a long run average total cost curve. The MES curve clearly shows that bigger always is cheaper.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 47.** Which of the following is/are TRUE?
- a.** An independent administrative agency has the power to adopt both interpretive regulations and legislative regulations; but, due to the separations of powers, an executive agency only has the power to adopt interpretive regulations.
  - b.** The policy of the USA Department of Justice is that the array of legitimate business interests for a vertical business relationship (e.g., supply chain) typically both has fewer and smaller such interests than does a horizontal business relationship. The European Union (EU) has the opposite policy.
  - c.** The maximum tolling of the statute of repose is set by the statute of limitation.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.
- 48.** Which of the following is/are TRUE?
- a.** Actual knowledge never is required for liability under USA law.
  - b.** Expectations are a non-price determinant both of demand and of supply. Rational expectations are stable.
  - c.** Government is one of the five elements of Capitalism. Government is not the element that provides the regulatory function of Capitalism.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 49.** Which of the following is/are TRUE?
- a.** An exculpatory clause irrebuttably proves abuse of market power as well as irrebuttably proves the parties were not, in fact, engaged in sophisticated risk management.
  - b.** Technology is a non-price determinant of supply. Technology is volatile, but is not dynamic.
  - c.** Privacy law in the USA primarily is opt out. Privacy law in the EU primarily is opt in.
  - d.** ALL of the above are TRUE.
  - e.** NONE of the above are true.

- 40.** Which of the following is/are TRUE?
- a. Because of the assumption of *ceteris paribus*, the market's equilibrium price is stable if either the number of or the size of buyers changes.
  - b. Authoritative precedence is binding precedence.
  - c. In the USA privacy is an implied constitutional right and is a fundamental constitutional right, thus receives both substantive due process and procedural due process.
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  - b.** The *Per Se* Unreasonable judicial interpretation of the Sherman Act applies to price fixing, horizontal divisions of territories or customers; group boycotts, and tying arrangements. But for the Clayton Act exemption classifying "labor" as not an article of commerce, all union strikes would be felonies.
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