
print name on the line above as your signature

INSTRUCTIONS:

1. This Exam #2 must be completed within the allocated time (i.e., **20 minutes**). The start time and the end time will be written on the classroom writing surface. **Failure to end at the instant time is called will earn a student an exam grade of "F"**.
Audible time warnings of 2 minutes, 1 minute, and 30 seconds will be given.
2. It is an **open book** and open mind exam.
It is a closed mouth exam. All team work is academic dishonesty.
No electronic device of any kind for any purpose is allowed.
TRUST ME: answer all exam questions BEFORE you open your book or notes.
3. **Recall the material difference between i.e. (that is) versus e.g. (for example).**
4. Remain in your seat until time is called.
When you are done, STAY IN YOUR SEAT and turn over your exam papers.
5. This Exam #2 is worth 100 of the course total of 1,000 points.
This true/false exam has 15 questions graded.
You shall select 10 of the 15 questions to answer True (i.e., A) or False (i.e., B).
You shall select 5 of the 15 questions to not answer (i.e., E);
that is, to answer "I'm more confident on other questions".
Each correct answer on this Exam #1 is worth 10 course points.
6. If you answer more than 20 questions with an "A" or a "B", then for each such excessive question answered you shall earn the subtraction of one correctly answered question.
For example, if you answer 10 questions correctly, but also answered all 15 questions with an "A" (i.e., True) or with a "B" (i.e., False), then your earned score is not 100% of 100 course points, instead it is 50% of 100 course points
(i.e., [$\{10 \text{ correct}\} \text{ minus } \{5 \text{ correct}\}$] divide by 10 questions).
7. Since you personally select 5 questions of the exam's 15 questions (i.e., 33% of all questions) to be excluded from your personally designed graded exam (either because you see an excluded question as ambiguous, or as beyond your actual knowledge, or otherwise "bad") students shall **not** have the power to **appeal** the **content of exam questions**. You **may appeal** the exam, but must appeal some **other material item**. **Appeals must be in a signed writing, must be personally handed to the instructor in the classroom, and are due by the end of the class meeting following the exam.**

NOTES:

- A. Recall the material difference between i.e. (that is) versus e.g. (for example).**
- B. Use bubble A for TRUE and use bubble B for FALSE.**
- C. Use bubble E for the five questions you are excluding** from grading of your personally designed exam. All exam questions shall be answered with a bubble of A, or B, or E. Five shall be answered E.
- C.** 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.
- D.** 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*).
- E.** For clarity in distinguishing enforceable from **unenforceable** transactions, the word contract is **not** in quotes for an enforceable contract (e.g., a voidable contract elected to be enforced), whereas the word "contract" is in quotes for a transaction that is **not** an enforceable contract (e.g., a void "contract").
- F.** The quote marks described in D. and in E. may be the very essence of the question's truth or falsity. For example, it is true to say "An employEE is one of the three relationship in "agent"."; and it is false to say "An employEE is an agent.".

QUESTIONS:

1. T F Under the USA *Constitution* all legal persons (*e.g., illegal aliens*) are entitled to procedural due process (*i.e., notice and hearing, both proportional to the interests involved*).
But,
only USA citizens are entitled to substantive due process. (1:6)

2. T F The specific controls the general.
As a federal power, the Police Power is a general federal power whereas the Commerce Clause is a specific federal power.
When defining the ambiguous word "among" in the Commerce Clause The Law uses the phrase direct effect for between and uses the phrase close and substantial affect for within.
Thus, once again, the specific controls the general: between is the specific and within is the general. (1:14)

3. T F The Fourth Amendment both requires a warrant and requires that warrant to be based upon probable cause for all unreasonable searches and for all unreasonable seizures.
What is reasonable when done to a natural person also is reasonable when done to a mere legal person (*e.g., corporation*);
but,
what is unreasonable when done to a natural person is not necessarily unreasonable when done to a mere legal person. (1:22)

4. T F Comity can be international or can be domestic.
International comity is an implied tradition.
Domestic comity
is an express duty of each USA State owed to each other USA State.
Under international comity
the receiving nation unilaterally elects
whether to enforce or to refuse to enforce the sending nation's law.
Under domestic comity
the receiving USA State must enforce the sending USA State's law. (1:23)
5. T F As originally specified in Amendment XI of the USA *Constitution*,
if
a USA State government's action is protected by sovereign immunity,
then
that action is an Act of State; and
only if
a USA State government's action is an Act of State
is that action protected by sovereign immunity.
However,
in Amendment XIV
the USA States
both gave to the federal government and took away from the USA States
all USA States' sovereign immunity except for their core Acts of State.
(1:25)
6. T F A defendant is liable for the civil offense of
tort
if
the defendant breaches a duty of care owed to the plaintiff
and
that breach is both a close cause and a substantial cause
of the plaintiff's nominal damages.

7. T F Contributory negligence is paired with actual cause; and that contributory negligence by the plaintiff is a bar to suit by the plaintiff. That is, contributory negligence is a supervening cause which cuts off the defendant's liability. In contrast, comparative negligence is paired with proximate cause; and that comparative negligence by the plaintiff is an offset against the defendant's liability. Proximate cause exists if the plaintiff's injury would have been reasonably foreseeable to the Reasonable Person in the position of the defendant at the time of the defendant's wrongful act.
8. T F Assumption of the Risk is one defense against tort liability. Assumption of the Risk exists if the plaintiff knowingly and the plaintiff voluntarily exposed the plaintiff to the harm created by the defendant's wrongful act. The plaintiff's damages are the liability of the plaintiff and not the liability of the defendant if the defendant has the defense of Assumption of the Risk.
9. T F Material, as used by The Law, has many different meanings. Generally, it means big. Specifically, in the common law material means big enough it would change the mind of the Reasonable Person. There are three transaction terms, which if changed, are seen by the common law as material. Those three terms are parties, consideration, and subject matter.
10. T F The Law routinely uses core, penumbra, and emanation; for example, void for vagueness is substantive due process.

11. T F To commit a common law fraud requires the defendant, objectively, to tell a lie.
But, fraud does not have scienter as a requirement.
Accordingly, a defendant might be liable for a common law fraud when the defendant is, in fact, ignorant rather than lying.
12. T F Damages are the money measure of the harm suffered by the plaintiff. Both in equity and in law, both the plaintiff and the defendant have a duty to mitigate damages.
13. T F Many but not all civil torts have a parallel crime; and *visa versa*.
If a natural person has the capacity required to enter a contract, then that natural person has the capacity required to commit a tort and that natural person has the capacity required to commit a crime.
14. T F The Law routinely uses core, penumbra, and emanation. For example, the legislature may create a crime that either is a felony or is a misdemeanor. The executive only may create a crime that is a misdemeanor. The judiciary lacks the power to create a crime.
15. T F Because both the principle and its agent have the legal authority to exercise control over both what is to be done as well as how it is to be done; both the principal and its independent contractor have tort liability both for strict liability and negligence.
(RECALL: Note #F on page 2.)