
print name on the line above as your signature

INSTRUCTIONS:

1. This Exam #1 must be completed within the allocated time
(*i.e., the 30 minutes between 10:45 AM and 11:15 AM*).
It is a OPEN BOOK exam.
The ***body of all questions*** come from the ***end of chapter questions***, while the ***alternative proposed answers in this document***.
- 2 As each student finishes this exam, that student shall
 - [2A] present to the instructor the student's photo ID;
 - [2B] present the student's completed answer sheet;
 - [2C] exchange the completed answer sheet for an answer key; and
 - [3D] then leave the exam room until after the end of the exam
(*e.g., all students finish in less than the 20 minutes*).

*For you to learn your individual exam grade
you must use your marked up exam.*
3. DUE TO YOUR PROFESSOR'S ILLNESS, **ALL STUDENT SHALL BE AWARDED ONE CORRECT ANSWER IN ADDITION TO THOSE CORRECTLY ANSWERED BY THAT STUDENT IF they ANSWER question #21.**
4. This Exam #1 is worth 200 of the course total of 1,000 points.
This objective exam has 21 questions graded as if there are 20.
Each correct answer on Exam #1 is worth 10 course points.
Based upon the instructor's statistical analysis of all students' answers, the instructor unilaterally may alter the grading of specific exam questions.
Any student may appeal the grading of any other exam questions.
However, only if a student successfully appeals the ambiguity of **AT LEAST TWO** questions on this exam will *that* student's exam grade change by the number of successful appeals in excess of ONE successful appeal.
Appeals only affect the exam grades of those students that appeal.
5. **All appeals** of this exam's questions must be:
 - [5A] typed;
 - [5B] signed by the student in three ways, typed name, handwritten signature, and typed university identification number;
 - [5C] immediately following the signature, list in sequence, *solely by number*, each of the questions being appealed;
 - [5D] after the [5C] list, argue each question, one at a time;
 - [5E] at the beginning of each question's [5D] appeal, identify two or more reasonable meanings that the question could have had;
 - [5F] argue why one or more of the [5E] identified reasonable meanings is as appropriate or is more appropriate than the meaning used for the answer key answer; and
 - [5G] personally handed to the instructor or the instructor's suite secretary in RH 502 no later than the 11:35 AM on Wednesday, September 23.

NOTE #1: On the blue computer graded answer sheet fill in your name (last, first) both in numeral and in bubble and provide your NU ID number both in numeral and in bubble.

NOTE #2: On the computer graded answer sheet, **use A to indicate that the statement is TRUE;** and use B to indicate that the statement is *false*.

QUESTIONS:

- 1. Chapter 1, page 28, question 1-5:**
 - A.** To create a statute the executive (*e.g., Mayor, Governor, or President*) issues an order that is binding as law.
 - B.** Judges make the common law by applying existing public policy (*e.g., Constitution; statute*) by analogy (*e.g., an airplane is like a ship*) to new questions of law in law suits.
 - C.** Statutes always have supremacy over judicial rulings.
 - D.** **A** and **C** are TRUE; and **B** is *false*.
 - E.** **A, B,** and **C** are TRUE; and **D** is *false*.

- 2. Chapter 1, page 28, question 1-7:**
 - A.** Statutes always have supremacy over judicial rulings.
 - B.** Judicial rulings always have supremacy over statutes.
 - C.** **A** and **B** are *false*; but, **A** is closer to TRUE than **B** is close to TRUE.

- 3. Chapter 2, page 50, question 2-1:**
 - A.** The federal government has preempted the USA State governments on all questions related to arbitration agreements.
 - B.** Arbitration contracts in interstate commerce that do not infringe substantive due process rights of either party and which satisfy that USA State's general laws for contracts are enforceable.
 - C.** **A** and **B** are TRUE.

- 4. Chapter 2, page 51, question 2-11(a):**
 - A.** All federal courts lack geographic jurisdiction and lack subject matter jurisdiction unless there is both a federal question (*e.g., constitutional question*) and diversity of citizenship.
 - B.** If a corporate defendant has purposefully availed itself of a geographic jurisdiction, then that jurisdiction's courts have geographic jurisdiction.
 - C.** **A** and **B** are TRUE.
 - D.** **A, B,** and **C** are *false*.

5. **Chapter 3, page 75, question 3-9(b):**
- A. The plaintiff has the duty of achieving notice of the hearing to the defendant.
 - B. The defendant has the duty of being on the look out for notice of a hearing.
 - C. **A and B** are TRUE.
6. **Chapter 3, page 74, question 3-2(c):**
- A. A motion for a summary judgment, often, is jointly made by both the plaintiff and the defendant because their law suit contains **no** material questions of fact and only contains questions of law.
 - B. A motion for a summary judgment requires the court to resolve all questions of fact in favor of the plaintiff as well as grant the plaintiff all reasonable inferences from that resolution of those questions of fact.
 - C. **A and B** are TRUE.
 - D. **A, B, and C** are *false*.
7. **Chapter 4, page 96, question 4-7:**
- A. All zoning is a taking that requires the government to pay just compensation.
 - B. Zoning never is a taking that requires the government to pay just compensation.
 - C. **A and B** are *false*.
8. **Chapter 4, page 97, question 4-8:**
- A. Adoption of every federal statute creates a presumption of federal preemption of all State statutes on similar topics.
 - B. Question 4-8's facts show a direct conflict between the federal statute and the State statute.
 - C. **A and B** are TRUE.
 - D. **A, B, and C** are *false*.
9. **Chapter 4, page 97, question 4-10(a):**
- A. Ordinarily, speech that is a tort (e.g., defamation) is not protected speech; however, such speech might be protected free speech (e.g., defamation of a public figure) in many but not all circumstance (e.g., liable for actual damages when speak with a reckless disregard for the truth).
 - B. Neighbors are privileged to say anything about each other because there is no objective truth in relationships between neighbors.
 - C. Subjective truth always is an absolute defense.
 - D. **A, B, and C** are TRUE.

10. Chapter 52, page 1080, question 52-2:

T F A culture that prefers the initial separation of powers to favor the Individual over government will prefer a common law system because the Individual will have the power to compel the government via the judiciary to answer legal questions charged with political overtones. A culture that prefers the initial separation of powers to favor the government over the individual will prefer a civil law system because the individual will lack the power to compel government to answer such questions since the judiciary will refer such questions to the legislature, and the legislature may or may not ever answer.

11. Chapter 52, page 1080, question 52-3:

T F If a foreign government "A" is authorized by nation "B" to act within the domestic geographic jurisdiction of nation "B", then that foreign government "A's" sovereign immunity extends to include all commercial enterprises of "A" which "A" considers to be Acts of State of "A" if such actions also are classified as Acts of State when taken by domestic government "B".

12. Chapter 52, page 1082, question 52-9(b):

- A.** In the international law between nations, typically, comity only is a tradition; but, rarely, comity is a legally binding treaty obligation.
- B.** A settlement approved by a court that discharges all lawsuits then before the court is an adequate basis for a defendant's motion to dismiss all claims rejected by that settlement.
- C.** **A** and **B** are TRUE.
- D.** **A**, **B**, and **C** are *false*.

13. Chapter 6, page 141, question 6-1:

- A.** Dun Construction has committed the tort of slander *per se* on its former employee Richard.
- B.** Dun Construction has committed the tort of intentional interference with business relations on its former employee Richard.
- C.** Dun Construction has committed the tort of intentional interference with contractual relations on its former employee Richard.
- D.** **A, B, and C** are TRUE.
- E.** Everything Dun published about Richard was privileged because Richard had been an employee of Dun; accordingly, **A, B, C, and D** are *false*.

14. Chapter 6, page 141, question 6-3(a):

- T F** Gerrit has breached Garrit's duty of care owed to ABC Auto, and at the time of Gerrit's breach a Reasonable Person in the position of Garrit would have reasonably foreseen ABC Auto's damages; and Garrit's does not have any defenses for Garrit's actions, therefore Garrit is liable to ABC Auto in tort.

15. Chapter 6, page 141, question 6-7:

- T F** The *Akron Beacon Journal* is not liable in tort to the Irvines because the *Akron Beacon Journal* has the defense of the Irvines' assumption of the risk based upon the Irvines purchase a phone line.

16. Chapter 7, page 155, question 7-3:

- A.** Pyrodyne Corporation objectively knows that fireworks are ultra hazardous and thus Pyrodyne is strictly liable, unless it has a defense.
- B.** If the court finds that the Kleins' own negligence contributed any amount to their injuries, then the Kleins' law suit is barred and a motion to dismiss by Pyrodyne Corporation will be granted.
- C.** All voluntary attendees at a fireworks display objectively know that fireworks are ultra hazardous, thus all voluntary attendees assume all risks related to that fireworks display.
- D.** **A, B, and C** are TRUE.
- E.** **A, B, C, and D** are *false*.

17. Chapter 7, page 155, question 7-4:

T F Standing to sue requires the plaintiff to both suffer an injury in fact (i.e., an objectively recognizable injury) and be within the zone of protected interests. Only the legislature has the power to define injuries in fact or to define the zone of protected interests. Accordingly, Baldwin's suit against GTE shall be dismissed.

18. Chapter 7, page 156, question 7-9(b):

T F Privity exists between persons who have a direct relationship. Often, but not necessarily, the law imposes liability on those who are in privity. Sometimes the law requires more than privity before imposing legal liability. For example, the law might require both privity and the pursuit of profit before imposing legal liability on a defendant.

19. Chapter 9, page 208, question 9-1(a):

T F If the "she" in 9-1(a) is Juanita, then there is no crime.

20. Chapter 9, page 209, question 9-8:

- A.** On these facts, Michels did not commit common law fraud on Formal.
- B.** All torts also are crimes.
- C.** All crimes also are torts.
- D.** **A, B, and C** are TRUE.

21. Your filled in answer to question earns you your automatic one correct answer. Which answer best describes your experience and thoughts?

- A.** I did NOT USE O'Hara's past exams as a study aide and I do NOT LIKE using the textbook's end of chapter questions for tests.
- B.** I did NOT USE O'Hara's past exams as a study aide and I DO LIKE using the textbook's end of chapter questions for tests.
- C.** I DID USE O'Hara's past exams as a study aide and I do NOT PREFER using the textbook's end of chapter questions for tests.
- D.** I DID USE O'Hara's past exams as a study aide and I DO PREFER using the textbook's end of chapter questions for tests.