

PRINT NAME to be eligible to earn a quiz grade above zero.
Name left blank and names in script earn a quiz grade of zero.

ON THE ANSWER SHEET PRINT YOUR ANSWERS.

Turn in both your question sheets and your answer sheet.

Only one word is required for each answer, unless answer sheet notes otherwise.

Present your student ID when turning in your exam materials.

NOTE: Some words appear on this exam in different forms of the root word.

For example, the same statement could be written in two different ways.

[i] An appellate court reverses a trial court for a clear error of fact.

[ii] The trial court is reversed when the appellate court finds that the trial court clearly has made an error of fact.

In the exam format below those two sentences could appear using in the following format.

[i] An appellate court reverses a trial court for a ___[a]___ error of fact.

[ii] The trial court is reversed when the appellate court finds that the trial court [a] has made an error of fact.

The root word will not be altered when reused;

unless its use is a negative (e.g., "unclear" would appear as "**un**[a]").

Any version of that word that is a correct answer at any use is acceptable.

QUIZ Sep. 17: Chap. 6

A. Defamation of character includes wrongfully hurting a person's good reputation.

If that defamation is oral, then that is ___[1]___.

If that defamation is written, then that is ___[2]___.

[2] ___[3]___ can be either [1] or [2], but must be defamation on a topic that creates a ___[4]___ of damages.

Topics that create a [4] of damages include communicable diseases,

[42] behavior, ___[5]___ misconduct, and/or serious sexual transgressions.

B. A defendant commits common law fraud of misrepresentation when the defendant ___[6]___ and ___[7]___ misrepresents a ___[8]___ fact thereby inducing the plaintiff's justifiable reliance and ___[9]___ causing the plaintiff's injury.

- C. The federal CAN-SPAM act ____ [10] ____ the SPAM laws of the individual USA States except for certain provisions related to ____ [11] ____ email practices.

QUIZ Sep. 19: Chap. 7

- D. A defendant commits a tort when the defendant breaches a duty of ____ [12] ____ owed to the plaintiff when that breach by the defendant is the [9] cause of the plaintiff's injury; and, when the defendant has no ____ [13] ____.
- E. Legal liability requires causation. That causation requires both ____ [14] ____ causation (i.e., chain of events) and [9] causation (i.e., ____ [15] ____ foreseeable consequences).
- F. A defendant has the tort [13] of assumption of the ____ [16] ____ when the plaintiff [6] and [7] exposes the plaintiff to the [16] of harm created by the defendant.

QUIZ Sep. 24: Chap. 9

- G. In a civil law suit the plaintiff bears the burden of proof to prove each element of the causes of action by the ____ [17] ____ of the evidence. In a criminal law suit the plaintiff always is the government, and the government bears the burden of proof to prove each element of the crime beyond a [15] ____ [18] ____.
- H. All crimes have three elements. Those three elements of every crime are performance of a ____ [19] ____ defined prohibited action (i.e., *actus rea*), doing that action with a wrongful state of mind (i.e., *mens rea*), and the defendant has no [13].

- I. The ____ [20] ____ rule is an example of the exercise of judicial review. The [20] rule is an ____ [21] ____ of the constitutional protections of the separation of powers between the Individual versus government. The USA *Constitution's* Amendment IV (e.g., warrants required if a search is **un**[15]), Amendment V (e.g., right against self incrimination), and Amendment VI (e.g., right to an attorney) identify some of these constitutional protections. The [20] rule excludes from a court any proof of an alleged crime that was collected in violation constitutional protections, including any fruit of that poisonous tree.

START OF NEW QUESTIONS:

- J. Broadly speaking, there are three types of torts: [7] torts, ____ [22] ____ torts, and ____ [54] ____ liability torts. With [7] torts the defendant creates a harm; with [22] torts the defendant creates a [16] of harm; and with strict liability torts there is social [16] allocation for ____ [23] ____ dangerous activities that create [16] of serious injury, when that [16] is great can not be guarded against, and that [16] is not customary in that activity or area.
- K. Good faith is measured by both ____ [24] ____ [6] and by ____ [25] ____ [6]. The [24] [6] is measured by honesty in fact. The [25] [6] is measured differently depending upon the person whose actions are being judged. For example, a common law consumer [25] [6] nothing whereas a UCC merchant [25] [6] that which is commercially [15].

- L. The business tort of wrongful interference with contractual relations is similar to but very different than the business tort of wrongful interference with business relations. Both of these torts differentiate between privileged behavior and ___[26]___ behavior. Both of these torts require the defendant's actions to be both [6] and [7]; but, both the [6] and the [7] need only satisfy the [25] standard rather than the [24] standard. Because of commercial free speech via the First Amendment to the USA *Constitution* as well as because of at-will employment via the Thirteenth Amendment to the USA *Constitution*, attracting applications from a competitor's employees via placing an advertisement in a newspaper is a form of *bona fide* competitive behavior rather than [26] behavior, even if the advertiser has [14] [6] of the competitor's business.
- M. [25], a plaintiff does not assume the [16] of a ___[27]___ defect. The ___[28]___ Rationality of the consumer coupled with the [25] [6] of the seller creates within the seller a duty to ___[29]___. Failure to [29] can expose the seller to legal liability for damages. Those damages might be ___[30]___ damages (i.e., \$1); or, might be ___[31]___ damages (i.e., monetary sum needed to make the plaintiff whole), potentially coupled with ___[32]___ damages (i.e., monetary sum calculated to punish this defendant and/or to deter this and/or future defendants).
- N. All causes of action require, at a minimum, [14] causation (i.e., chain of events); but, in the USA typically legal liability only extends as far as [9] causation (i.e., [15] foreseeable consequences [i.e., within the actor's [28] Rationality]). Because basing legal liability only upon [14] causation extends the defendant's liability in an unlimited fashion into the future USA tort law always has applied some method to cut off that liability once it starts. Prior to the switch from solely using [14] causation to the current practice of using [9] causation, liability was cut off by ___[33]___ cause and/or ___[34]___ [22], both of which acted as a bar to suit (i.e., complete [13]). With the switch to [9] causation, those bars to suit were not as appropriate as before, and the USA law also switched to comparative [22] in place of [34] [22].

- O. The contours of the duty of [12] for a tort might be specified by statute (e.g., speed limit). When the duty of [12] is specified by a statute, then to violate the statute also is to breach that duty of [12]. Breaching a statutorily defined duty of [12] is [22] [3]. In contrast, *res ipsa loquitur* is a method of proving the breach of a duty of [12]. When the facts speak for themselves, breach of the duty of [12] will be [4].
- P. Typically, the [6] element of every crime only requires [25] [6]. When the criminal law requires [24] [6], then the law uses the word ___[35]___. Because of the [6] element of every crime and because businesses have successfully lobbied [19] to make [35] an element of nearly all business crimes, it is very difficult to hold criminally liable a legal person in the form of a ___[36]___. For the [36] to be criminally liable the legally recognized level of [6] of the [36] must reach the level of [35], but also must do so as a result of ___[37]___ [6] from the [36]'s agents (e.g., officers, directors). In contrast to the [36] itself, the natural persons serving as the [36]'s officers or serving as the [36]'s directors typically do not have the [13] of [37] [6].
- Q. The ability to [6] is referred to a ___[38]___. If a natural person or a legal person lacks [38], then that is a [13] to every crime. [25], all natural persons who reach the age of ___[39]___ (i.e., no longer have the [13] of infancy) and are [4] to have [38]. That [4] [38] can be ___[40]___ (i.e., disproved) by the defendant by a [17] of the evidence. For example, if a natural person is **in**[7] intoxicated or is ___[41]___ insane, then [38] is [25] lost.
- R. The seriousness of crimes, broadly, is divided into two classes of crimes: ___[42]___ (i.e., potential of prison time of one year or more) and ___[43]___ (i.e., potential of jail time of less than one year). Because of ___[44]___ due process, the procedural due process (i.e., ___[45]___ and ___[46]___, both ___[47]___ to the interests involved) is much greater for [42] than for [43].

- S. Both torts and crimes are about [25] injuries; but they have different means of [25] defining no [25] injury due to the passage of time. The equitable [13] of ____ [48] ____ (i.e., the plaintiff engages in **un**[15] delay) requires the defendant to be able to [6] that after some passage of time no cause of action will be legally recognized. The [19] have created a [13] for use in courts of law that parallels this equitable [13]. The [19] have adopted statutes of ____ [49] ____ and statutes of ____ [50] _____. A statute of [49] defines the [25] duration within an injury must be claimed by the plaintiff filing a ____ [51] ____ (i.e., cause of action, ____ [52] ____, and remedy), or as a matter of law the plaintiff was not [25] injured or has waived that injury. Because a statute of [49] may be ____ [53] ____ by the trial court (reminiscent of [48]'s origins in equity) to accommodate a plaintiff's [25] verifiable justifications for that delay, the statute of [49] necessarily is for a shorter duration than its companion statute of [50]. A statute of [50] can not be [53]; accordingly a statute of [50] raises questions of [44] due process.
- T. Question #55 has no incorrect answer *if it is answered fully*. Question #55 asks about your preferences with respect to the daily quizzes. Currently, the course Syllabus calls for daily quizzes, each worth 1% of the course grade. Rank your preferences for options "A", "B", and "C". Indicate your highest preference with a 3 and your lowest preference with a 1.
- A. Increase the worth of daily quizzes and decrease the worth of the final.
 - B. Continue the daily quizzes each worth 1% of the course grade.
 - C. End daily quizzes and increase the worth of the final.

PRINT NAME to be eligible to earn an exam grade above zero.

Name left blank and names in script earn an exam grade of zero.

UNIT EXAM TWO ANSWER SHEET:

ONLY PRINTED ANSWERS will earn full credit, *even if script is legible.*

- | | |
|----------------------------|--------------------------|
| 1. _____ | 28. _____ |
| 2. _____ | 29. _____ |
| 3. _____ (two short words) | 30. _____ |
| 4. _____ | 31. _____ |
| 5. _____ | 32. _____ |
| 6. _____ | 33. _____ |
| 7. _____ | 34. _____ |
| 8. _____ | 35. _____ |
| 9. _____ | 36. _____ |
| 10. _____ | 37. _____ |
| 11. _____ | 38. _____ |
| 12. _____ | 39. _____ |
| 13. _____ | 40. _____ |
| 14. _____ | 41. _____ |
| 15. _____ | 42. _____ |
| 16. _____ | 43. _____ |
| 17. _____ | 44. _____ |
| 18. _____ | 45. _____ |
| 19. _____ | 46. _____ |
| 20. _____ | 47. _____ |
| 21. _____ | 48. _____ |
| 22. _____ | 49. _____ |
| 23. _____ | 50. _____ |
| 24. _____ | 51. _____ |
| 25. _____ | 52. _____ |
| 26. _____ | 53. _____ |
| 27. _____ | 54. _____ |
| | 55. A=____ B=____ C=____ |