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print name

**INSTRUCTIONS:**

1. The Unit One Exam must be completed within the allocated time  
(*i.e.*, 10:00 AM - 11:15 AM).  
It is a closed book exam.
2. **Recall the material difference between**  
**e.g. (for example) and i.e. (that is).**
3. As each student finishes this exam,  
that student will receive the exam's answer sheet  
and leave the exam room until after the end of the exam  
(*i.e.*, 11:15, unless all students finish earlier, which is likely).
4. Grades will be posted to BlackBoard  
no later than 5:00 PM Wednesday, September 22.  
An email notice of the posting will be sent.
5. The Unit One Exam is worth 20% of the course grade.  
This exam has 35 questions graded as if there are 33.  
Harmless errors are far more likely than non-harmless errors in this test design.  
Based on a statistical analysis of all students' answers,  
the instructor unilaterally may alter the grading of specific exam questions  
for all similarly situated students.  
Any student may appeal the grading of these exam questions. However,  
only if a student successfully appeals the ambiguity of AT LEAST THREE  
questions on this exam will *that* student's exam grade change  
by the number of successful appeals in excess of two questions.  
*Appeals only affect the exam grades of those students that appeal.*
6. **All appeals** of this exam's questions must be:  
[6A] typed; [6B] signed by the student in three ways, typed name,  
handwritten signature, and typed social security number; [6C] in sequence,  
list, immediately following the signature, each of the questions, by number,  
being appealed; [6D] after the [6C] list, argue each question, one at a time;  
[6E] at the beginning of each question's appeal, identify two or more  
reasonable meanings that the question could have had; [6F] argue why one or  
more of the identified reasonable meanings is *as* appropriate or is *more*  
appropriate than the meaning used for the answer key answer; and  
[6G] personally handed to the instructor  
**no later than 10:00 AM, Thursday, September 23.**

**QUESTIONS:**

1. **T F** The law favors the objective over the subjective.  
The objective can be either  
express (*i.e., words: oral **or** written*)  
**or**  
implied (*i.e., acts, words, **and/or** circumstances*).
2. **T F** Courts of law operate differently than courts of equity.  
For example,  
to have standing to sue in a court of equity  
the plaintiff must have **no** adequate remedy at law,  
**not** be barred by laches, **and**  
must seek the remedy of precedence.
3. "Person" is a critical concept in the law.  
There are various forms of "person".  
Which of the following is/are TRUE?
  - a. All legal persons are natural persons.
  - b. All natural persons are consumers.
  - c. All natural persons are citizens.
  - d. All reasonable persons are natural persons.
  - e. None of the above is TRUE.
4. A court must have jurisdiction (*i.e., authority to act*).  
Jurisdiction comes in different forms.  
Which of the following is/are TRUE?
  - a. Geographic jurisdiction requires substantial minimal contacts.
  - b. A State's court has exclusive jurisdiction  
for all torts committed within that State.
  - c. Diversity jurisdiction for the federal courts  
requires a diversity of the subject matter jurisdictions  
(*e.g., tort **and** probate*).
  - d. All of the above are TRUE.
  - e. None of the above is TRUE.
5. **T F** A defendant is required to have standing to sue  
(*i.e., injury in fact **or** within the zone of protected interests*)  
**or** the defendant lacks standing to answer the plaintiff's complaint  
**and** thus the defendant loses automatically.

6. In the USA, the parties to a contract have freedom to choose the law, the forum, the venue, **and** the language governing their contract.  
With respect to those choices, which of the following statements is/are TRUE?
- a. The parties may choose between the two official languages of the USA: English **and** Spanish.
  - b. The choice of forum identifies the city where the suit will be tried while the choice of venue identifies the court where suit will be filed.
  - c. The State whose law will govern their contract must have substantial minimal contacts with the contract.
  - d. All of the above are TRUE.
  - e. None of the above is TRUE.
7. **T F** The 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.
8. **T F** A Motion to Dismiss is similar to a Summary Judgment in that both avoid the need for a trial on the facts.
9. **T F** Wrongful interference with contractual relations **or** with business relations that amounts to a tort often is predatory. However, a defendant's interference might be privileged **and** thus **not** a tort.
10. **T F** The power of Judicial Review is a power implied in the USA *Constitution*.

- 11. T F** Both Amendment V (*i.e., governing the federal government*) **and** Amendment XIV (*i.e., governing the State governments*) require all governmental denials of person's life, liberty, **or** property to be done via due process of law.  
Due process of law has two components: procedural **and** substantive.  
Procedural due process requires a notice **and** a hearing, both proportional to the interest involved (*e.g., property*).  
Substantive due process, in contrast, provides judicial protection of the constitutional minimum of a person's fundamental right (*e.g., just compensation*).
- 12.** In the USA *Constitution* the States granted to the federal Congress the power to regulate commerce with the foreign nations, among the several States, **and** with the Indian Tribes. Which of the following is/are TRUE?  
**a.** Prior to the year 1937 the USA Supreme Court interpreted the meaning of the word "among" as granting power over a "direct **Effect**" on commerce between the States.  
**b.** After the year 1937 the USA Supreme Court interprets the meaning of the word "among" as granting power over all "close and substantial **Affects**" on commerce between the States.  
**c.** Both before **and** after 1937 the core of the Commerce Clause power is transportation.  
**d.** All of the above are TRUE.  
**e.** None of the above is TRUE.
- 13. T F** The Police Power is the power of a State to regulate for the State's health, safety, morals, **and** general welfare.
- 14. T F** Preemption is **not** favored, **but** will be allowed, if:  
there is an express intent of Congress **and** national interests outweigh State interests; **or** there is a clear intent of Congress **and** a need for uniformity.

15. T F The Amendment XIV Equal Protection Clause strips the State legislatures of power.  
With respect to social **and** economic regulation the States are stripped of very little power of their original power.  
But, with respect to regulation on the basis of race, alienage, **or** national origin the States are stripped of almost all of their original power.
16. T F The Article IV Full Faith and Credit Clause is an express commitment to comity,  
**and** thus significantly reduces the power of each State.
17. T F A commercial transaction can **not** be an Act of State,  
**and** thus can **not** be covered by sovereign immunity.
18. T F There are three types of torts:  
intentional torts, negligence torts, **and** strict liability torts.
19. T F If the defendant proximately causes the plaintiff's injury by breaching a duty of care owed to the plaintiff, then the defendant has committed a tort.
20. T F Assumption of the risk exists when the plaintiff knowing **or** voluntarily exposes the plaintiff to the harm **or** the risk of harm created by the defendant's act.
21. T F The old common law of torts used actual causation **and** comparative negligence while the new common law of torts uses proximate causation **and** contributory negligence.

22. T F Common law fraud exists when the defendant knowingly **and** intentionally misrepresents a material fact, thereby inducing the plaintiff's justifiable reliance **and** causing the plaintiff's injury.
23. With respect to defects in consumer goods, which of the following is/are TRUE?
- There must be a design defect before there can be a manufacturing defect.
  - A consumer product can have a warning defect even though the consumer product does **not** have a latent defect (*i.e., a defect that a reasonable inspection would **not** disclose*).
  - All of the above are TRUE.
  - None of the above is TRUE.
24. T F The USA *Constitution* does **not** contain an express protection of privacy, **but** the common law of tort has long protected a person's right to privacy.
25. T F The equitable concept of laches is rendered objective by a Statute of Limitations. The Statute of Limitations may be tolled, **but** the longest tolling is cut off by the Statute of Repose. Also, the legislature's discretion for adopting a Statute of Repose is limited by substantive due process.
26. T F Federal registration of a trademark preempts all State protection of any confusing similar trademark.
27. T F Respectively, under patent law **and** copyright law, the employER owns the respective patent **or** copyright, **unless** there is a prior, written, signed, contract identifying the employEE as the owner of the respective patent **or** copyright.

28. T F Parody of a copyrighted work is an implied constitutional right, while parody of a trademark is **unlawful**.
29. T F Reverse engineering of a patent does **not** alter the patent in any way; while reverse engineering of a trade secret creates a new, additional owner.
30. T F The separation of powers can be seen in the different burdens of proof as well as in the allocation of power over intellectual property as well as in procedural due process **and** substantive due process.
31. T F The victim of a crime has standing to sue for the crime.
32. T F In both civil **and** criminal suits, the plaintiff bears the burden of proof. The civil burden of proof is by a preponderance of the evidence, **and** is much lower than the criminal burden of proof of beyond a reasonable doubt.
33. T F If the jury in a criminal case finds that the State satisfies its burden of proof by having proved the defendant committed the legislatively defined bad deed **and** did so with the legislatively defined bad thought, then the defendant has committed a crime.
34. T F If the government obtains evidence in an **unconstitutional** manner then the evidence is admissible **only if** the evidence proves beyond a reasonable doubt the defendant committed the criminal bad deed with the criminal bad thought.
35. T F Judicial review of a treaty is the same as judicial review of a federal statute.