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**print name**

**INSTRUCTIONS:**

1. This Exam #1 must be completed within the allocated time  
(*i.e., 60 minutes*).  
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 return both the student's exam and the answer sheet  
and then leave the exam room until after the end of the exam  
(*e.g., all students finish in less than 60 minutes*).
4. Grades will be posted to BlackBoard no later than 5:00 PM Friday, September 29.  
An email notice of the posting will be sent.
5. This Exam #1 is worth 20% of the course grade.  
The True-False form of 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 the True-False version of this exam's questions must be:  
**[6A]** typed; **[6B]** signed by the student in three ways,  
typed name, handwritten signature, and typed university identification 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 [6D] appeal,  
identify two or more reasonable meanings that the question could have had;  
**[6F]** argue why one or more of the [6E] 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 the start of class on Wednesday, October 4.**

**QUESTIONS:**

1. **T F** USA law favors the objective over the subjective.  
The objective can be express **or** can be implied.  
Express is in words: oral **or** written.  
Implied is in acts, words, **and/or** circumstances.
2. **T F** Knowing can take any of three forms:  
actual knowledge (*e.g., scienter*), receipt of notice, **or** reason to know.
3. **T F** Procedural due process requires  
notice **and** hearing,  
both proportional to the interests (*e.g., liberty*) involved.
4. **T F** The law seeks to satisfy  
the reasonable expectations of the Reasonable Person.
5. **T F** Because all three forms of the separation of powers  
are expressly stated in the Nebraska *Constitution*,  
**but** only implied in the USA *Constitution*,  
those separations are enforced more stringently in Nebraska.
6. **T F** A court requires the authority to act (*i.e., jurisdiction*).
7. **T F** A taking of private property is constitutional  
if  
the government uses procedural due process to implement the taking.
8. **T F** A defendant who has purposefully availed  
the defendant to the benefits of a geographic jurisdiction  
has satisfied the Long Arm Statute's  
requirement for substantial minimal contacts.
9. **T F** The USA is odd in the world in that the USA's citizens  
are free to choose the forum, the venue, the law, **and** the language  
that will govern their legal relationships,  
subject to the requirement of substantial minimal contacts.
10. **T F** To have standing to sue a plaintiff must have  
either an injury in fact **or** be within the zone of protected interests.
11. **T F** An appellate court will affirm a trial court **unless** the trial court has made  
a clear error of fact,  
a **non-harmless** error of procedure, **or**  
any error of law.

- 12. T F** All natural persons are legal persons.
- 13. T F** A fiduciary satisfies the requirement of objective good faith with commercial reasonableness.
- 14. T F** Federal law preempts the States on the question of enforceability of arbitration agreements in commerce.
- 15. T F** Both a Motion to Dismiss **and** a Summary Judgment require the trial court to resolve a question of fact.
- 16. T F** In a civil case the plaintiff has the burden of providing proof by a preponderance of the evidence.
- 17. T F** The federal Police Power is the power to regulate for the People's health, safety, morals, **and** general welfare.
- 18. T F** Post-1937 the Commerce Clause is interpreted as authorizing federal regulation of all commerce with a close **or** substantial **Effect** on commerce between the States.
- 19. T F** Preemption is **not** favored, **but** may be allowed if:  
[1] clear intent of Congress **and** national interests outweigh State interests;  
**or**  
[2] express intent of Congress **and** a need for uniformity.
- 20. T F** Any USA government may regulate any speech to the extent of reasonable regulations of the time, place, **and** manner of the speech.
- 21. T F** Only citizens have the same constitutional right against of self incrimination.
- 22. T F** A State's social **or** economic regulation is presumed valid.
- 23. T F** A USA State's discretion under domestic comity is far less than what ordinarily exists for a nation's discretion under international comity.
- 24. T F** If an action is an Act of State, then the State has sovereign immunity for that action.

- 25. T F** If an action is legal, then that action is ethical.
- 26. T F** Both the law **and** ethics require that a person have the power to act.
- 27. T F** Business ethics requires both profit maximization **and** cost minimization.
- 28. T F** Both intentional torts **and** negligence torts are fault based.
- 29. T F** The defendant has committed a tort if the plaintiff can prove by a preponderance of the evidence that the defendant owed **and** breached a duty of care to the plaintiff, **and** that breach was the proximate cause of the plaintiff's injury.
- 30. T F** The defendant is **not** liable for the injury a plaintiff suffers as a result of the plaintiff knowingly **and** voluntarily exposing the plaintiff to the risk of that injury.
- 31. T F** A defendant commits common law fraud if the defendant knowingly **and** intentionally **misrepresents** a material fact, thereby inducing the plaintiff's justifiable reliance **and** proximately causing the plaintiff's damages.
- 32. T F** Parody of a copyright **and** parody of a trademark both are Fair Use.
- 33. T F** Reverse engineering creates a new owner of a trade secret.
- 34. T F** The victim of a crime has standing to sue the defendant in criminal court.
- 35. T F** If the executive proves beyond a reasonable doubt to the Grand Jury that the criminal defendant did the legislatively defined bad deed (*i.e., actus reus*) with the legislatively defined bad thought (*i.e., mens rea*), **and** the defendant fails to prove to a level of a reasonable doubt a defense, then the defendant is guilty of the crime.