
print name

INSTRUCTIONS:

1. The Unit One Exam must be completed within the allocated time (*i.e.*, 11:30 AM - 12:45 PM). It is a closed book, solo exam.
2. **Please read carefully.** Sentence structure influences the meanings of words. **Recall the material difference between e.g. (*for example*) and i.e. (*that is*).**
3. As each student finishes this exam, that student will exchange the student's answer sheet for a answer key and leave the exam room until after the end of the exam (*i.e.*, 12:45 PM, *unless all students finish earlier, which is likely*).
4. Grades will be posted to BlackBoard no later than 5:00 PM Wednesday, Feb. 9. An email notice of the posting will be sent.
Recall, there is an extra credit class on Thursday, February 10.
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. *An appeal only affects the exam grade of the student who has made 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 the argument 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 11:30 AM, Tuesday, February 15.

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, **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 cause of action requires an adequate remedy at law filed after latches.
3. **T F** "Person"
is a critical concept in the law.
There are various forms of "person".
Accordingly,
while all consumers **and** all citizens are natural persons;
fewer than all natural persons are legal persons.
4. **T F** Geographic jurisdiction
requires substantial minimal contacts.
Subject matter jurisdiction
requires a grant of power from
a relevant *Constitution*, relevant legislative act, **or**
inherent common law power of that court.
If,
however,
the federal court has diversity jurisdiction,
then
the federal court has exclusive jurisdiction.
5. **T F** The person suing on a cause of action (*e.g., the plaintiff*)
is required to have standing to sue
(*i.e., injury in fact **and** within the zone of protected interests*)
for that cause of action.
If
standing to sue is missing,
then
a motion to dismiss is the appropriate reply.

6. **T F** In the USA **and** its States,
the parties to a contract have the freedoms of
choice of law
(*i.e., subject to the limits of substantial minimal contacts*);
choice of forum
(*e.g., Nebraska federal District Court*);
choice of venue
(*e.g., federal courthouse in Omaha, rather than Lincoln*);
and
choice of the language governing their contract.
7. **T F** The appellate court will reverse the trial court if the trial court makes
an error of fact,
an error of procedure, **or**
an error of law.
8. **T F** Federal statute requires commercial arbitration be binding.
9. **T F** Interference with contractual relations that is predatory is a tort.
10. **T F** The power of Judicial Review is an implied power 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 a person's life, liberty, **or** property
to be done via due process of law.
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 a legal person's
fundamental right (*e.g., privacy as a fraction of liberty*).

12. T F In the USA *Constitution* the States granted to the federal Congress the power to regulate commerce among the foreign nations, among the several States, **and** among the Indian Tribes. Prior to the year 1937 the USA Supreme Court interpreted the meaning of the word "among" as granting power over a "direct **Effect**"; while after the year 1937 the USA Supreme Court interprets the meaning of the word "among" as granting power over all "close and substantial **Affects**".
13. T F The Police Power is the power of a USA State to regulate for the People's health, safety, morals, **and** general welfare. The federal government does **not** have *the* Police Power. The federal government only has the power to regulate health **and** safety (*e.g., OSHA*).
14. T F If Congress expressly states that there is a need for uniformity, then preemption will be allowed.
15. T F The Amendment XIV Equal Protection Clause expands the power of State legislatures with respect to social **and** economic regulation.
16. T F The Article IV Full Faith and Credit Clause is an express rejection of comity.
17. T F A transaction with commercial attributes that is completed by one government within the geographic jurisdiction of another government may **or** may **not** be an Act of State and may **or** may **not** be covered by sovereign immunity.

18. T F If strict liability is to attach to a defendant's actions, then fault must be established via intentional tort **or** negligence tort.
19. T F If the defendant owes the plaintiff a duty of care, **and** the defendant breaches that duty with an action that proximately causes (*i.e., reasonable foreseeability*) the plaintiff's injury then the defendant has committed a tort.
20. T F Assumption of the risk exists when the plaintiff knowingly **and** 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. T F A latent defect is a defect that a reasonable inspection can **not** reveal.
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 Statute of Limitations may be tolled; **but**, the longest tolling is cut off by the Statute of Repose. However, 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 Both patent law **and** copyright law allocate initial ownership of an employEE's creative effort to the employER.
28. T F Parody of a copyrighted work **or** of trademark is part of the constitutionally protected right to free speech.
29. T F The federal government's power to grant patents is narrow: only limited durations **and** only exclusive ownership. Accordingly, Congress lacks to the power to protect trade secrets because trade secrets are **not** for limited durations **and** are **not** exclusive.
30. T F In the USA *Constitution's* separation of powers expressly the powers of the federal government are to be read narrowly **and** expressly the powers of the People are to be read broadly.
31. T F If a person is the victim of a crime, then that person might have standing to sue for a tort: **but not** for that 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** that civil burden is much lower than the criminal burden of proof of beyond a reasonable doubt.
33. T F A defendant commits a crime by doing the bad deed with the bad thought when the defendant has **no** defenses.
34. T F The Exclusionary Rule is an application of substantive due process.
35. T F There is **no** Judicial Review of a treaty.