
print name

INSTRUCTIONS:

1. The Comprehensive Final Exam must be completed within the allocated time
(*i.e.*, 7:00 PM - 8:40 PM).
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 the exam,
that student will exchange the students answer sheet for the answer key
and leave the exam room until after the end of the exam
(*i.e.*, 8:40, unless all students finish earlier).
4. Grades will be posted to BlackBoard
no later than 5:00 PM Thursday, December 16.
An email notice of the posting will be sent.
5. The Comprehensive Final Exam is worth 30% of the course grade.
This exam has 105 questions graded as if there are 100.
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 Memorization Exam questions. However,
only if a student successfully appeals the ambiguity of AT LEAST SIX
questions on this exam will *that* student's exam grade change
by the number of successful appeals in excess of FIVE 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 or to a CBA Dean's Office secretary in
RH 414 **no later than 11:00 AM Tuesday, December 21.**

QUESTIONS:

1. **T F** The law favors the objective over the subjective.
However,
if
an actor's subjective can be proved objectively,
then
that actor's legal liability tends to increase.

2. **T F** The Elements of Capitalism
*(i.e., private property, prices,
markets, competition,
and government)*
are the mere means to the desired ends of
the Functions of Capitalism
*(i.e., embody self interest, measure self interest,
coordinate self interest, regulate self interest,
and facilitate p.p., p., m., and c.).*
Capitalism
would much rather have a Function **without** its Element,
than
have an Element **without** its Function.

3. **T F** Of the **non**-price determinants of demand **and** of supply,
the following are the identical **non**-price determinants:
prices of related goods
(i.e., substitutes [A and B] and compliments [A or B]),
and
expectations.

4. **T F** The reasonable person is a legal fiction.
The reasonable person is a legal standard for judging behavior.
All behavior
that fails to satisfy the reasonable person standard
creates legal liability for the actor.

5. **T F** When referring to contracts,
express contracts
have all terms known by the parties' words *(i.e., written or oral)*;
while
implied contracts
have all terms known by the parties' acts words, **and/or** circumstances.

6. T F Separation of Powers, in order of importance **and** power, ranks the participants from top to bottom **and** from left to right: Government *versus* Individual; State *versus* federal; then within a government's three branches: judiciary *versus* executive *versus* legislature.
7. T F The power of judicial review is the power of the judiciary to declare **unconstitutional** an act of any branch of government that is contrary to the *Constitution*.
Judicial Review is an implied power in the USA *Constitution* **and** an express power in the *Constitution* of most States.
8. T F The law reacts to problems. The legislature tends to react when a transaction contains **unequal power**, a history of abuse, **and/or** disparate impact.
9. T F A State's Police Power is the power of the State to regulate to protect the People's health, safety, morals, **and** welfare.
10. T F All governments in the USA owe all legal persons in the USA the duty of procedural due process
(*i.e.*, notice **and** hearing, both proportional to the interest(s) involved);
but, private persons do **not** owe that duty. Commercial entities (*e.g.*, trade association) with control over entry into a market, might owe a lesser duty: commercial due process.
11. T F The USA Supreme Court's interpretation of the phrase "Commerce among the several States" has varied materially from a pre-1937 interpretation of direct effect on commerce between the several States, to a post-1937 interpretation of a close **and** substantial affect on commerce between the several States.

12. T F Federal preemption of a State's laws is **not** favored, **but** may be allowed if:
[A] clear intent of Congress **or**
national interests outweigh State interests;
and
[B] express intent of Congress **or**
need for uniformity.

13. T F Standing to sue
requires the plaintiff to have
an injury in fact **and** to claim protected interests.

14. T F In the USA,
civil trials
require proof at the level of the preponderance of the evidence;
while
criminal trials
require proof at the level of beyond all doubt.

15. T F A signature is any mark with the intent to create a document.

NOTE: *A "principal"*
*can be a principal of an agent, **or***
*a principal of an independent contractor, **or***
an employER of an employEE.
Similarly, an "agent"
*can be an agent, independent contractor, **or** an employEE.*

16. T F Legally,
the "principal" is vicariously liable
for all acts of an "agent"
when the "agent" acts within the scope of authority
because
an "agent" acts for **and** acts instead of the "principal".
Legally,
when the "agent" acts within the scope of authority
the "agent" is **not** acting personally;
but,
ethically,
the "agent" always acts personally.

17. T F The Elements of a Contract are:
agreement, consideration, capacity,
assent, form, **and** legal subject matter.

18. T F The power of Eminent Domain is the power of a USA government to take private property for a public purpose upon due process **and** upon payment of just compensation. Fair market value is the ordinary measure of just compensation. Fair market value places zero value on a person's emotional connection to place (*e.g., family farm*).
19. T F The defendant commits common law fraud when the defendant knowingly **misrepresents** **or** omits a material fact thereby inducing the plaintiff's reliance **and** causing the plaintiff's injury.
20. T F Mutual mistake, unilateral mistake, **and** common law fraud each use the word "material" with the same definition, **but** that definition (*i.e., big enough would have changed one's mind*) has three different meanings in those three different contexts. Security law fraud **also** uses the word "material", **but** in the context of security law fraud, the word "material" has a different definition **as well as** a materially different meaning. One source of that material difference is that common law fraud uses a reasonable person.
21. T F If the defendant interferes with the reasonable use **and** enjoyment of the plaintiff's personal property, then the defendant has created a nuisance. If the defendant does so to other similarly situated personal property owners, then the defendant has created a public nuisance.

22. T F The Statute of Frauds requires five types of contracts
(*i.e.*, sale of goods at or over \$5,000; sale of land; must take longer than one year; guarantee the debts of another; **and** in consideration of marriage)
to include a written memorandum of material terms
(*i.e.*, parties, time, consideration, subject matter)
with sufficient definiteness to support the court's enforcement.
Also, that writing must be signed by both parties.
23. T F Proximate cause focuses upon the reasonable foreseeability of the plaintiff's injury.
If
a defendant did foresee the plaintiff's injury,
then
the defendant did reasonably foresee the plaintiff's injury.
24. T F The government always is the plaintiff in a crime **and**
the government must satisfy its burden of proof for the bad deed **and** the bad thought.
To prove a defense
the defendant need only create a reasonable doubt.
25. T F The law uses three standards of good faith.
All three use the same subjective standard of honesty in fact.
Because
MBAs typically have knowledge beyond the objective knowledge of the reasonable merchant,
MBAs at work confront the ethical question of whether to, **without** legal liability, knowingly harm another.
26. T F The Rule of Reason allows any restraint of trade that is proportional
(*i.e.*, purpose, intent, effect, **and** power conferred)
to the parties' legitimate business interest(s).
There are four restraints of trade that experience teaches are always **disproportionate** to the parties' legitimate business interests, **and** thus are
Per Se Unreasonable:
price fixing, horizontal division of territories, group boycotts, **and** tying.

27. T F The defendant has the tort defense of Assumption of the Risk if the plaintiff knowingly **and** voluntarily exposes the plaintiff to harm **or** the risk of the harm created by the defendant's breach of the duty of care
28. T F **Unless** the general partners agree otherwise, all general partnerships divide equally general partnership management, income, **and** profit. Any general partnership agreement to divide **unequally** only binds the general partners **and** third parties with notice.
29. T F Government purchases the public domain by the use of eminent domain.
30. T F A negotiable instrument must be a signed writing; as must a financing statement, **but** the security agreement underlying the financing statement may be oral.
31. T F Upon appeal, the appellate court will affirm the trial court **unless** the appellate court finds:
[A] an error of fact by the trial court;
[B] an error of procedure by the trial court; **and/or**
[C] an error of law by the trial court.
32. T F To Pierce the Corporate Veil requires a suit in equity. The court will impose the remedy of **unlimited** personal liability on a shareholder if the court finds the shareholder used the corporate form (*e.g., thinly capitalized, commingled assets*) to achieve fraud, **illegality**, **or** an **injustice**.

33. **T F** The Business Judgment Rule (BRJ) immunizes both Directors **and** officers, **but** to different degrees. Directors **and** officers are **not** insurers: they have **no** liability for honest mistakes. The BJR requires the Directors **and** officers to use their best judgment to obtain corporation's best interests. Directors **and** officers must have **no** conflict of interests with the corporation. To avoid conflicts, the Directors must disclose **and** abstain; while the officers must disclose **and** obtain approval. The BJR requires the Directors **and** officers to make informed decisions, which means they must seek out information. The decisions made by Directors **and** officers must be made within the scope of authority **and** upon a reasonable basis using the care of ordinarily prudent person in a like position **and** circumstances. Accordingly, officers get less protection from the BJR because officers objectively know more than Directors.
34. **T F** A security is an investment in a common enterprise with a reasonable expectation of profit, that profit derived from the efforts of others.
35. **T F** Security law fraud is defined as the defendant **mis**representing a material fact **and** causes the plaintiffs injury.
36. **T F** Markets **never** accurately value to damage to an ecosystem.
37. **T F** Switching from the current focus of marketing a sale of goods to marketing of a cradle-to-cradle sale of services **and** flows from those goods would align every manufacturer's interests with the environment's interests.

38. T F Because of the Shut Down Rule as applied to existing technology, paradoxically, sometimes Factor Four efficiency (*i.e., one-fourth the inputs = one output*) can be easier to achieve than Factor Two efficiency (*i.e., one-half the inputs = one output*).
39. T F The by-products of so many different industrial processes contribute to the Greenhouse Effect that it is impossible for humans today to reduce the Greenhouse Effect.
40. T F Oil is more likely to be **uncompetitive** at low prices before oil is **unavailable** at high prices.
41. T F Today, managers of industrial production systems tend to seek to jointly optimize all feedback loops related to an industrial production system.
42. T F Because of manager's substantial optimization efforts with industrial production systems, very little opportunity remains for reduction of waste both internal to **and** external to industrial production systems.
43. T F If both a process, **and** the measurement **and** control of that process are more local, then superior optimization of both that process **and** similarly locally measured **and** controlled related process in aggregate is more likely; **but** optimization of the part **and** the whole is **neither** a necessary **nor** a sufficient outcome.

44. T F Today,
most industrial production designs mimic nature **and** are cyclic.
Accordingly,
most industrial production designs use truly closed loops.
45. T F Biomimicry
can inform both the design of specific manufacturing processes
as well as
inform the structure **and** function of an entire economy.
But,
Society is likely to recoil at biomimicry
of the survival of the fittest biological process.
For example,
Society is likely to recoil
when market forces destroy a family with **no** health insurance **and**
a sudden "demand" for extraordinary health services.
46. T F A building's design
can both negatively **and** positively effect
human behavior in organizations.
47. T F The summation of the parts is the whole.
48. T F Efficiency can be capitalized,
but
the objective view of the world employed by various professions
tends to retard capitalization of efficiency.
49. T F Design is applied foresight.
Unfortunately,
all forecasts either are lucky **or** wrong.
50. T F Optimizing components
in isolation of the whole system is an ideal means of
pessimizing the whole system.

51. T F Downstream savings offer the greatest leverage when seeking efficiency for a whole system. However, downstream savings often deliberately are thwarted by profit seeking firms positioned upstream whose business plan is predicated upon existing downstream consumption patterns.
52. T F Today, nature generates more *muda* than do humans.
53. T F Lean thinking urges competition against absolute perfection.
54. T F Given the reasonably expected private sector failures **and** the reasonably expected public sector failures, as compared with direct management by government, price signals that do arrive in a synchronized fashion relative to a system's needs better organize complex system interactions **as well as** incite innovation.
55. T F Manufactured capital can be a true substitute for some natural capital. **But**, natural capital is a limiting variable: even if human experience prior to the Industrial Revolution has generated a collection of institutional biases towards perceiving natural capital as a slack variable.
56. T F All subsidies are perverse.
57. T F **Neither** natural fibers **nor** manufactured fibers can be produced in a sustainable manner.
58. T F Closing material loops can **unlock** opportunities both for reduction **and** recycling of inputs.
59. T F From the perspective of technology **and** sustainability, industrial agriculture has been very successful.

60. T F Farms, as natural systems, offer many opportunities to use the four forms of capital
(*i.e., human, financial, manufactured, **and** natural*) of Natural Capitalism **as well as** to use the four central strategies
(*i.e., radical resource productivity, biomimicry, service **and** flow economy, **and** investing in natural capital*) of Natural Capitalism.
61. T F Water is a limiting variable for life on Earth.
62. T F The current manufactured systems for delivery **and** recovery of water have maximized the value generation from *muda*.
63. T F Human behavior **neither** has altered **nor** can it alter the Earth's climate.
64. T F The presence **or** the absence of a stimuli (*e.g., price signal*) is less important than the stimulated system's ability to respond to the available stimuli **and** thus to generate a change desired in that system.
65. T F The current array of market price signals **and** market decisions reflect both explicit **and** implicit assumptions on the future value of **and** the necessity of the environment as an input. These explicit **and** implicit assumptions lack coherence.
66. T F Profitability for the adopting firm is **but** one variable influencing market acceptance of efficiency enhancing innovations. Other variables
(*e.g., institutional reticence springing from managerial bias preferring small revenue increases over large cost reductions*) often defeat market acceptance of **unquestionably** profitable efficiency enhancing innovations.

67. T F Often, the cause of a current problem is a prior, narrowly tailored, technological solution to a different problem, **and** that prior solution revealed previously **unknown or misunderstood** feed back loops.
68. T F Both natural systems **and** social systems provide both monetized resources **and** monetized services **as well as nonmonetized resources and nonmonetized services.**
69. T F Since, any sufficiently advanced technology will appear to be magic through the lens of the observer's paradigm; to reduce the tendency of a limited paradigm to see mere technology as magic, an observer of a complex system would be wise to adopt an interdisciplinary approach so as to improve the accuracy of perception.
70. T F Businesses will earn greater long-term profits by rejecting the current focus on narrowly defined subsystem revenue streams **and** adopting a whole system focus.
71. T F The Major Forces of Change *circa* 1500 (*i.e., new world, gun powder, printing press, labor shortage, and rural*) still provide a current **and** significant influence on the world, **and** the Major Forces of Change *circa* 2000 (*i.e., one world, weapons of mass destruction, computer, labor surplus, and urban*) are coming to dominate the world.
72. T F Private sector failures always are present **and** public sector failures always are present. Thus, just because the private sector is broke does **not** mean you can fix it.

73. T F Both the supply curve **and** the demand curve only graph the interests of market participants (*i.e., those that are both willing **and** able to participate in the market transactions*). Market price does **not** capture the value of all transactions. Spillover costs **and** spillover benefits are excluded from the market equilibrium. The tragedy of the commons tends to occur at the market equilibrium.
74. T F The Shut Down Rule (*i.e., set $[Q = 0]$ if $[TR < VC]$*) is a profit maximizing rule. Destructive competition results from a rational application of the Shut Down Rule.
75. T F The law uses the concept of "capacity" in materially different ways in different contexts. The following is the ranking of the required amount of capacity from most to least: crime, contract, tort, wills.
76. T F A tort exists if the defendant could reasonably foresee the plaintiff's injury at the time of the defendant's breach of a duty of care owed to the plaintiff, **and** the defendant has **no** defenses. An excessive covenant **not** to compete can be a tort. An excessive covenant **not** to compete can be a form of predatory economic duress; **but**, most often, an enforceable covenant **not** to compete is a form of privileged economic duress.
77. T F Reverse engineering is a lawful means of discovering a trade secret. The person who reverse engineers a trade secret can obtain a patent on that discovery in European Union, **but not** in the USA.
78. T F Parody of a copyright is protected free speech while parody of a trademark is **not** protected free speech.

79. T F The Amendment XIV Equal Protection Clause reduces the discretion of each State's legislature to identify groups of similarly situated persons **and** reduces the discretion of each State's legislature to specify similar treatment for those similarly situated persons. However, the State's discretion on how to regulate business is reduced very little.
80. T F The USA Supreme Court uses the concepts of core power, penumbra of a power, **and** emanations of a power solely to interpret the Commerce Clause.
81. T F If a third party lacks objective knowledge that a person is an agent of a principal, **and** if, the third party enters into a contract with that agent, then the third party can successfully sue the principal personally, **but** can **not** successfully sue the agent personally.
82. T F Economics views the world through an objective lens that primarily sees economic inputs (*i.e., land, labor, capital, **and** entrepreneurial ability*) **and** economic payments (*i.e., rent, wages, interest, **and** profit*). Those payments can be either fixed costs **or** variable costs.
83. T F The MES curve (*i.e., Minimum Efficient Size curve*) displays that the truth that "Bigger is cheaper.". The MES curve displays the long run average total costs declining with every increase in quantity.
84. T F Efficiency as ethics requires cost minimization **or** profit maximization.

85. T F Because the plaintiff's complaint must claim a cause of action, assert the court's jurisdiction (*i.e., geographic **and** subject matter*), **and** demand a remedy the court can provide, to have standing to sue in a court of equity the plaintiff must have an adequate remedy at law
86. T F A trade fixture is a fixture.
87. T F Zoning is a legislative attempt to avoid the difficult judicial decisions of public nuisance. Like a judicial finding of liability for a public nuisance, zoning runs the risk of being a taking that requires the government to pay just compensation.
88. T F CERCLA (*i.e., Comprehensive Environmental Response, Compensation, **and** Liability Act*) imposes legal liability on every owner **or** a manager (*e.g., bank foreclosing on a mortgage*) of real property for all pollution added to the property after that person ended its ownership **or** management of the real property.
89. T F A mutual mistake is more likely to occur **and** more likely to void a contract than a unilateral mistake.
90. T F A warranty, bailment, **or** an agency can be a contract, **but** often is **not**.
91. T F All contracts for insurance require the insured to have an insurable interest. The insurable interest must exist at the time of contract; otherwise, the attempt to contract for insurance resembles a gambling agreement.

92. T F If Corporation X sells Corporation Z all **or** substantially all of the assets of Corporation X, then the shareholders of Corporation X **and** of Corporation Z **as well as** the Board of Directors of Corporation X **and** of Corporation Z must approve, respectively, of the sale **and** of the purchase.
93. T F The cram down provision of a bankruptcy (*i.e.*, Chapter 7, 11, **or** 13) empowers the bankruptcy trustee to unilaterally impose the repayment plan proposed by the debtor on those classes of creditors that do **not** reach an agreement, as a class of creditors, with the debtor.
94. T F For those employERs covered by OSHA, the OSHA General Duty Clause creates an absolute duty for the employER to remove all known risks of serious physical injury if the risk is preventable.
95. T F Both the law **and** economics agree, if $P_a > P_b$, then that is **not** price discrimination if $P_a/MC_a = P_b/MC_b$.
96. T F The federal anti-discrimination laws governing employment use the concept of "protected class". Sex is one of the protected classes. If a member of that protected class (*i.e.*, *female*) applies for a job, then the law imposes a quota **and** requires that female be hired.

97. T F RICO (*i.e.*, *Racketeering Influenced **and** Corrupt Organizations*) creates a private cause of action for a pattern of criminal behavior, allows the plaintiff to prove that criminal behavior using the preponderance of the evidence standard, **and** allows the plaintiff to recover treble damages.
98. T F Hate speech can be criminalized, **but** to do so is difficult. To criminalize hate speech tends to create an **unconstitutional** chilling of protected free speech **and** tends to act as an **unconstitutional** prior restraint of free speech.
99. T F By federal statute, unions are **not** a *Per Se* **Unreasonable** violation of the antitrust laws. EmployERS **and** the bargaining unit representative are mandated by law to engage in good faith bargaining over the wages, hours, **and** terms **and** conditions of employment. Good faith bargaining means they are required to reach an agreement.
- 100.T F **Not** all securities are registered with the SEC (*i.e.*, *Securities and Exchange Commission*). Some transactions are exempt. Because of the limits of the Commerce Clause, intrAstate issues **and** small issues are exempt. Private issues **also** are exempt.
- 101.T F Substantive due process can be seen in the Incorporation Doctrine (*or Absorption Doctrine*) used to interpret the Due Process Clause of Amendment XIV. Substantive due process thus picks up the expansive definition of the constitution rights of the Individual in Amendment IX (*e.g.*, *not disparage*) **and** Amendment X (*e.g.*, *reserved*). Importantly, Amendment XIV amends Amendment XI, thus reducing a State's protection from suit in federal court.

- 102.T F** Both the law **and** economics use monetized metrics (*e.g., just compensation*) **and** thus exclude from analysis sources of value that are **not** objective in that manner.
- 103.T F** Both the law **and** economics focus on an individual decision maker. Globalization, however, increasingly makes it **unlikely** that the individual is *the* decision maker. Accordingly, the adage "Think global, act local." offers guidance to the individual for making decisions as an individual even though the decisions are embedded in a social structure (*e.g., corporation*).
- 104.T F** The Veil of Ignorance is a technique of analysis for ethical choices that is designed to counter act Bounded Rationality. **Unintended** consequences often reveal where **and** how Bounded Rationality was bounded.
- 105.T F** CATNAP (i.e., cheapest available technology narrowly avoiding prosecution) often is a mere straw man for an implicit Rule of 72 assumption.

BE SURE TO COMPLETE
YOUR COMPUTER GRADED ANSWER SHEET.
ANSWERS 101 THROUGH 105
ARE ENTERED **ON THE BACK** OF THE SHEET.

MAKE SURE YOU HAVE MARKED YOUR ANSWER FOR EVERY QUESTION.
(Both on your answer sheet AND on your copy of the exam so you can calculate your grade.)

REMOVE ALL STRAY MARKS.