
print name

INSTRUCTIONS:

1. The Midterm Exam must be completed within the allocated time (*i.e., start at 6:30 PM and end by 8:30 PM*). It is a closed book exam.
2. At the conclusion of the exam, students will exchange their answer sheets for answer keys.
3. Grades will be posted to O'Hara's web site before 5:00 PM Monday, June 3. An email notice of the posting will be sent.
4. The Midterm Exam is worth 30% of the course grade. The Midterm Exam has 52 true-false questions graded as if there are 50. Harmless errors are far more likely than non-harmless errors in this test design. Any student may appeal the grading of exams questions. However, only if a student **successfully appeals the ambiguity of AT LEAST THREE questions on the Midterm Exam** will that student's exam grade change. *Appeals only affect the exam grades of those students that appeal.* Based on a statistical analysis of all students' answers, the instructor may unilaterally alter the grading of specific exam questions for all similarly situated students.
5. **All appeals of Midterm Exam questions** must be:
 - [1] **typed**;
 - [2] **signed** by the student in three ways, typed name, handwritten signature, and typed social security number;
 - [3] **in sequence, list**, immediately following the signature, each of the questions, by number, being appealed;
 - [4] at the beginning of the appeal of each question appeal, **identify** two or more meanings that the question reasonably could have had;
 - [5] **argue** each question, one at a time, argue why one or more of the identified meanings is *as* appropriate or *more* appropriate than the meaning used for the answer key answer; and
 - [6] **submitted to the instructor's RH 502 mailbox prior to 4:00 PM on Friday, May 31.**

TRUE - FALSE QUESTIONS, use "A" for "true" and "B" for false.

1. **T F** A person who has subjective knowledge **also** has objective knowledge.
2. **T F** All written contracts are express.
3. **T F** The civil burden of proof (*i.e., beyond a reasonable doubt*) is a reflection of the separation of powers.
4. **T F** Preemption is **not** favored, **but** may be allowed if there is **either** a clear intent of Congress **and** national general welfare interest; **or** an express intent of Congress **and** a need for uniformity.
5. **T F** Judicial review can declare an Executive Order **un**constitutional.
6. **T F** Because the law seeks to satisfy the reasonable expectations of the People the law is reactive.
7. **T F** An appellate court will affirm the trial court **unless** the trial court makes a clear error of fact, procedure, **or** law.
8. **T F** A plaintiff has standing to sue if the plaintiff has a legally recognized objective injury **and** will make arguments consistent with public policy.
9. **T F** The Police Power is the power of the State to regulate for the People's health, safety, morals, **and** general welfare.
10. **T F** The Commerce Clause in the USA *Constitution* is a grant of power from the States to the federal Congress. The federal judiciary interprets the Commerce Clause power as including more power to regulate commerce than merely to regulate all commerce with a direct **effect** on commerce between the States.

11. T F Each USA government may reasonably regulate the time, place, **and** manner of political speech.
12. T F The USA *Constitution* protects privacy as a property right.
13. T F Procedural due process of law requires any person who seeks to infringe upon the life, liberty, **or** property of any citizen to provide both notice **and** hearing proportional to the interest that will be infringed.
14. T F If a State adopts a statute that treats males **and** females differently, then the Equal Protection Clause of the USA *Constitution's* 14th Amendment will require a court to declare that statute as **unconstitutional unless** that statute is substantially related to an important governmental interest.
15. T F All natural persons are legal persons, **but** are **not** necessarily persons within a particular jurisdiction.
16. T F Some of the Major Forces of Change from the year 1500 still are changing society today.
17. T F Government is the regulating mechanism in Capitalism.
18. T F A firm that uses the Shut Down Rule will avoid destructive competition.
19. T F The MES (*i.e., Minimum Efficient Size*) can be measured either in terms of total investment required **or** in terms of market share required to reach the end of the output range over which bigger is cheaper.
20. T F Of the **non**-price determinants of supply **and** demand, expectations are the most volatile.

21. T F If a group of businesspersons exclude a competitor from the market because that competitor's actions were objectively **un**ethical, then that action by that group of businesspersons is objectively ethical.
22. T F A fiduciary acts in bad faith if the fiduciary either has actual knowledge of the fiduciary's bad faith **or** does **not** act in a commercially reasonable fashion.
23. T F When the employee is acting within the scope of authority, the employer is liable for the negligence of the employee.
24. T F A court lacks the power to compel revelation of confidential information.
25. T F If two parties entered into a bailment contract, then those same two parties could enter into an agency agreement.
26. T F Each party to a contract must exchange consideration (*i.e., a fair price*).
27. T F Because it requires a greater ability to understand the future, the capacity required to enter into a will is greater than the capacity required to enter into a contract.
28. T F The defendant who knowingly **and** intentionally misrepresents a material fact to the plaintiff who justifiably relies **and** is injured has committed fraud.
29. T F A defendant who is subjectively honest still can be liable for creating a unilateral mistake.
30. T F Physical force is more likely than emotional force to be duress.

31. T F Both parties must sign
(*i.e., any mark with the current intent to authenticate the document*)
a contract covered by the Statute of Frauds
and all of the terms of the contract must be written.
32. T F A fully **undisclosed** principal is material.
33. T F Intentional torts, negligence torts, **and** strict liability torts impose liability on the defendant because of the defendant's fault.
34. T F If
a plaintiff has a contract with the defendant,
then
the plaintiff does **not** have standing to sue
the defendant for any torts.
35. T F A defendant commits a tort
when the defendant breaches a duty of care owed to the plaintiff
when the defendant did foresee the plaintiff's injury **and**
the defendant has **no** defenses.
36. T F The plaintiff relieves the defendant of tort liability
if
the plaintiff assumes the risk
(*i.e., plaintiff knowingly **and** voluntarily exposes the plaintiff to the risk of harm created by the defendant*).
37. T F A firm is legally required
to use the statistics of aggregate information
to reduce the risk of customer injury to zero.
38. T F A warranty is a contract.
39. T F A fixture
is personal property that was so firmly affixed,
as judged by the real property owner's subjective intent,
to the real property that the personal property
was transformed into real property.
40. T F Zoning
is a legislative definition of what would be a public nuisance.

41. T F A USA government may take all of your property if that government uses procedural due process while pursuing a public purpose.
42. T F Pollution is natural part of Earth's life process **and** human behaviors are collectively too small to be a problem.
43. T F In a criminal case the executive must, beyond a reasonable doubt, prove to the judiciary **and** the People that the defendant both did the prohibited act **and** did so with the requisite state of mind; while the defendant need only prove defenses to a reasonable doubt.
44. T F An instrument is signed either by a maker **or** a drawer.
45. T F Both a HDC (*Holder in Due Course*) **and** an HtHDC (*Holder through a HDC*) will defeat personal defenses **and** will lose to universal defenses.
46. T F A security agreement must be written **and** signed by both the creditor **and** the debtor.
47. T F A financing statement must be written **and** signed by both the creditor **and** the debtor.
48. T F Secured creditors become **unsecured** creditors on deficiency judgments.
49. T F Prior to filing a voluntary chapter 7 bankruptcy, the debtor may **not** prioritize creditors to receive preferential repayment.
50. T F Only the debtor may file a chapter 11 bankruptcy.
51. T F The bankruptcy court can cram down a chapter 13 repayment plan.
52. T F Typically, a bankruptcy automatic stay does **not** stop a perfected secured creditor with priority from foreclosing on the collateral.