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Busi- ness

Law

Essentials

Instructor Answer Guide - Assessment Questions

Chapter 1

- 1) Which country does the United States legal system derive from?
 - a) Germany.
 - b) United Kingdom.
 - c) United States of America.
 - d) Canada.

Answer: b

- 2) What is the function of law in the United States?
 - a) Establish standards.
 - b) Promote consistency.
 - c) Promote, provide, and maintain order.
 - d) All of the above.

Answer: d

- 3) As a judge, Baxter applies common law rules. These rules develop from
 - a) decisions of the courts in legal disputes.
 - b) regulations issued by administrative agencies.
 - c) statutes enacted by Congress and the state legislatures.
 - d) uniform laws drafted by legal scholars.

Answer: a

- 4) What is the difference between state and federal law?

Answer: Federal law is created at the national level, and applies to the entire nation (all 50 states and the District of Columbia), and U.S. territories. The U.S. Constitution forms the basis for federal law; it establishes government, power and responsibility, as well as preservation of the basic rights of every citizen. State law is the law of each separate U.S. state and is applicable in that specific state. The state law applies to residents and visitors of the state, and also to business entities, corporations, or any organizations based or operating in that state.

- 5) The legislature of the state of Wyoming enacts a new statute that sets standards for the liability of businesses selling defective products. This statute applies in:
- a) Wyoming only.
 - b) only Wyoming and its bordering states.
 - c) all states.
 - d) all states but only to matters not covered by other states' laws.

Answer: a

- 6) Alex has been sued by Will for failure to pay rent for their apartment which source of law will govern this lawsuit?
- a) Administrative law.
 - b) The Constitution.
 - c) Civil Law.
 - d) Criminal Law.

Answer: c

- 7) Four sources of law in the U.S. legal system are:
- a) Constitutional law, criminal law, civil law, and maritime law.
 - b) Federal law, state law, international law, and maritime law.
 - c) Statutory law, case law, equity, and common law.
 - d) Constitutional law, judicial law, legislative law, and administrative law.

Answer: d

- 8) Where can you find a codification of federal laws?
- a) The library.
 - b) Federal Court.
 - c) United States Code.
 - d) U.S. Library of Congress.

Answer: c

- 9) What is the supreme law of the land? What are statutes? What are ordinances? What is an administrative rule?

Answer: What is the supreme law of the land? The federal constitution is the supreme law of the land. What are statutes? Laws enacted by Congress or a state legislative body. What are ordinances? Laws enacted by local legislative bodies. What are administrative rules? Laws issued by administrative agencies under the authority given to them in statutes.

- 10) Regulations are:
- a) Laws passed by Congress.

- b) Rules made by local governments.
- c) Derived from decisions made by judges.
- d) Rules adopted by administrative agencies.

Answer: d

11) What is an Unfair Trade Practice and which Administrative Agency regulates it?

Answer: The term “unfair trade practices” is broadly used and refers to any deceptive or fraudulent business practice or act that causes injury to a consumer. Some examples include, but are not limited to, false representations of a good or service including deceptive pricing, non-compliance with manufacturing standards, and false advertising. The FTC investigates allegations of unfair trade practices raised by consumers and businesses, pre-merger notification filings, congressional inquiries, or reports in the media and may seek voluntary compliance by offending businesses through a consent order, administrative complaints, or federal litigation.

12) Some of the rights in the Constitution’s Bill of Rights extends to Corporations.

- a) True.
- b) False.

Answer: a

13) Forms of Alternative Dispute Resolution (“ADR”) include all of the following except:

- a) Mediation.
- b) Settlement.
- c) Litigation.
- d) Arbitration.

Answer: c

14) Consequences of being convicted a crime include all of the following except:

- a) Prison.
- b) Fines.
- c) Community service.
- d) Damages.

Answer: d

15) Securities are only regulated by federal laws.

- a) True.
- b) False.

Answer: b

Chapter 2

- 1) A process in which a third party selected by the disputants helps the parties to voluntarily resolve their disagreement is known as:
 - a) Mediation.
 - b) Discovery.
 - c) Arbitration.
 - d) Settlement.

Answer: a

- 2) What's the first step in Alternative Dispute Resolution?
 - a) Conciliation.
 - b) Mediation.
 - c) Negotiation.
 - d) Arbitration.

Answer: c

- 3) What's the definition of negotiation?

Answer: The process by which parties with nonidentical preferences allocate resources through interpersonal activity and joint decision making.

- 4) How does the process of negotiation work?

Answer: In the process of negotiation, the parties come together informally, with or without attorneys to represent them. Within this informal setting the parties air their differences and try to reach a settlement or resolution without the involvement of independent third parties. Because no third parties are involved and because of the informal setting, negotiation is the simplest form of alternative dispute resolution.

- 5) Explain the Thomas-Kilmann Conflict Mode Instrument.

Answer: The Thomas-Kilmann Conflict Mode Instrument (TKI) is a questionnaire that provides a systematic framework for categorizing five broad negotiation styles. It is closely associated with work done by conflict resolution experts Dean Pruitt and Jeffrey Rubin. These styles are often considered in terms of the level of self-interest, instead of how other negotiators feel. These five general negotiation styles include:
Forcing. If a party has high concern for itself, and low concern for the other party, it may adopt a competitive approach that only takes into account the outcomes it desires. This

negotiation style is most prone to zero-sum thinking. For example, a car dealership that tries to give each customer as little as possible for his or her trade-in vehicle would be applying a forcing negotiation approach. While the party using the forcing approach is only considering its own self-interests, this negotiating style often undermines the party's long-term success. For example, in the car dealership example, if a customer feels she has not received a fair trade-in value after the sale, she may leave negative reviews and will not refer her friends and family to that dealership and will not return to it when the time comes to buy another car.

Collaborating. If a party has high concern and care for both itself and the other party, it will often employ a collaborative negotiation that seeks to maximize the gain for both. In this negotiating style, parties recognize that acting in their mutual interests may create greater value and synergies.

Compromising. A compromising approach to negotiation will take place when parties share some concerns for both themselves and the other party. While it is not always possible to collaborate, parties can often find certain points that are more important to one versus the other, and in that way, find ways to isolate what is most important to each party.

- 6) A person trained in conflict resolution is considered:
- An arbitrator.
 - A mediator.
 - A negotiator.
 - A judge.

Answer: b

- 7) Mediation focuses on:
- Solutions.
 - Testimony.
 - Expert witnesses.
 - Discoveries.

Answer: a

- 8) Names the Steps in Mediation.

Answer: Mediator's Opening Statement: During the opening statement, the mediator introduces himself or herself and explains the goals of mediation.

- **Opening Statements of Plaintiff and Defendant:** Both parties are given the opportunity to speak, without interruption. During this opening statement, both parties are afforded the opportunity to describe the nature of the dispute and their desired solution.
- **Joint Discussion:** The mediator will try to get the two disagreeing parties to speak to one another and will guide the discussion toward a mutually amicable solution. This part of the mediation process usually identifies which issues need to be resolved and explores ways to address the issues.

- Private Caucus: During this stage, each party has the ability to meet and speak privately with the mediator. Typically, the mediator will use this time to learn more about what is most important to each party and to brainstorm ways to find a resolution. The mediator may ask the parties to try to put aside their emotional responses and resentments to work toward an agreement.
- Joint Negotiation: After the private caucuses, the parties are joined again in the same room, and the mediator presents any newly discovered insight to guide them toward an agreement.
- Closure: During this final stage, an agreement is reached, or it is determined that the parties cannot agree. Either way, the mediator will review the positions of each party and ask them if they would like to meet again or explore escalating options, such as moving the dispute to court.

9) What's the main benefit of e-mediation?

Answer: E-mediation can be useful in situations where the parties are geographically far apart, or the transaction in dispute took place online. eBay uses e-mediation to handle the sheer volume of misunderstandings between parties. Research has shown that one of the benefits of e-mediation is that it allows people the time needed to "cool down" when they have to explain their feelings in an email, as opposed to speaking to others in person. In addition to technological advancements, new findings in psychology are influencing how disputes are resolved, such as the rising interest in canine-assisted mediation (CAM), in which the presence of dogs is posited to have an impact on human emotional health. Since the presence of dogs has a positive impact on many of the neurophysiological stress markers in humans, researchers are beginning to explore the use of therapy animals to assist in dispute resolution.

10) Roger and Larry are having a dispute regarding their joint business. They want to have a binding resolution to their dispute, but they would prefer to have the dispute handled privately and by someone with special expertise. The best form of dispute resolution for their problem would be:

- Arbitration.
- Litigation.
- Mediation.
- Summary Jury Trial.

Answer: a

11) All of the following are methods to enforce an arbitrator's decision except:

- Writs of Execution.
- Garnishment.
- Fines.
- Liens.

Answer: c

12) Describe the typical steps in Arbitration.

Answer: When parties enter into arbitration, certain procedures are followed. First, the number of arbitrators is decided, along with how they will be chosen. Parties that enter into willing arbitration may have more control over this decision, while those that do so unwillingly may have a limited pool of arbitrators from which to choose. In the case of willing arbitration, parties may decide to have three arbitrators, one chosen by each of the disputants and the third chosen by the elected arbitrators. Next, a timeline is established, and evidence is presented by both parties. Since arbitration is less formal than court proceedings, the evidence phase typically goes faster than it would in a courtroom setting. Finally, the arbitrator will make a decision and usually makes one or more awards.

13) Explain the differences between binding and non-binding arbitration.

Answer: In binding arbitration, the decision of the arbitrator is final, and except in rare circumstances, neither party can appeal the decision through the court system. In non-binding arbitration, the arbitrator's award can be thought of as a recommendation: it is only finalized if both parties agree that it is an acceptable solution.

14) All of the following are the most common applications of arbitration in the business context except:

- a) Labor.
- b) Business Transactions.
- c) Property Disputes.
- d) Torts.

Answer: d

15) The following are the type of awards that may be issue by an arbitrator:

- a) Bare Bones.
- b) Reasoned.
- c) Both a and b.
- d) Neither a nor b.

Answer: c

Chapter 3

1) Define business ethics.

Answer: Acceptable levels of behavior for each individual who makes up the organization.

- 2) Who decides the business ethics for a company?
- a) The HR department.
 - b) The employees.
 - c) Leadership.
 - d) Consultants.

Answer: c

- 3) All of the following are examples of results of unethical business actions except:
- a) Recruitment and retention problems.
 - b) Lower employee salaries.
 - c) Negative employee relations.
 - d) Poor company reputation.

Answer: b

- 4) Ethical rules can be based on deep values of an organization which may include:
- a) Quality of products and services.
 - b) Commitment to customers.
 - c) How the organization gives back to the community.
 - d) All of the above.

Answer: d

- 5) According to Kimberlee Leonard of the Houston Chronicle the elements that belong in a Code of Conduct for a company include all of the following except:
- a) Office Hours.
 - b) Professional behaviors.
 - c) Regulatory ethics.
 - d) Legal considerations.

Answer: a

- 6) What's the definition of Corporate Responsibility?

Answer: Corporate Responsibility refers to the idea that a business is given the opportunity and privilege to make the world a better place. This process can happen through a variety of methods, including the donation of funds, volunteerism, and implementation of environmentally friendly policies. It is up to each organization to determine the best way to demonstrate social responsibility.

- 7) Where did the term Corporate Responsibility originate?

Answer: The earliest published book about the topic is Corporate Responsibility of the Businessman, published in 1953. This book introduced the concept of companies giving back as a form of investment in the future. This idea came from a generation that had survived some of the hardest times in our world and wanted to make it a better place for generations to come.

- 8) The benefits of Corporate Responsibility for a business include:
- a) Talent attraction.
 - b) Consumer influence.
 - c) Improved perception by investors.
 - d) All of the above.

Answer: d

- 9) The three dimensions of the triple bottom line include all of the following except:
- a) Profits.
 - b) People.
 - c) Planet.
 - d) Promotion.

Answer: d

- 10) Distinguish between corporate social responsibility and social marketing.

Answer: Social marketing attempts to change the attitudes and behaviors of consumers by using a variety of marketing methods. However, corporate social responsibility is a sustainable effort that can be measured.

Chapter 4

- 1) Explain Police Power and the Dormant Commerce Clause.

Answer: The authority of the federal government to regulate interstate commerce has, at times, come into conflict with state authority over the same area of regulation. The courts have tried to resolve these conflicts with reference to the police power of the states.

Police power refers to the residual powers granted to each state to safeguard the welfare of their inhabitants. Examples of areas in which states tend to exercise their police power are zoning regulations, building codes, and sanitation standards for eating places. However, there are times when the states' use of police power impacts interstate commerce. If the exercise of the power interferes with, or discriminates against, interstate commerce, then

the action is generally deemed to be unconstitutional. The limitation on the authority of states to regulate in areas that impact interstate commerce is known as the dormant commerce clause.

In using the dormant commerce clause to resolve conflicts between state and federal authority, the courts consider the extent to which the state law has a legitimate purpose. If it is determined that the state law has a legitimate purpose, then the court tries to determine whether the impact on interstate commerce is in the interest of the citizens of the state, and will rule accordingly. For instance, an ordinance that banned spray paint, issued in the city of Chicago, was challenged by paint manufacturers under the dormant commerce clause, but was ultimately upheld by the U.S. Court of Appeals because the ban was intended to reduce graffiti and related crimes.

- 2) The Patient Protection and Affordable Care Act's (also known as Obamacare) provision that mandated that individuals not insured through employment obtain minimum essential health insurance or face a penalty was upheld as constitutional by the 11th Circuit.
- a) True.
 - b) False.

Answer: b

- 3) The _____ gives the federal government the authority to of the regulate interstate and international commerce
- a) Supremacy Clause.
 - b) 10th Amendment.
 - c) Bill of Rights.
 - d) Commerce Clause.

Answer: d

- 4) The doctrine aimed at dividing the governing powers between the federal governments and the states is:
- a) Judicial review.
 - b) Federalism.
 - c) Separation of powers.
 - d) Preemption.

Answer: b

- 5) Which clause of the U.S. Constitution provides that, within its own sphere, federal law is supreme and that state law must, in case of conflict, yield?
- a) Commerce Clause.
 - b) Superior Clause.
 - c) Supremacy Clause.

d) Necessary and Proper Clause.

Answer: c

6) Describe the 2 types of Due Process.

Answer: Substantive due process means that laws that will deprive an individual of his or her life, liberty, or property must be fair and not arbitrary. Laws passed should not affect fundamental rights, and regulations are required to meet the rational-basis test. In other words, the government must demonstrate that the law bears a rational relationship to a legitimate state interest. Many regulations affecting commercial activity, such as banking regulations, minimum wage laws, and regulations inhibiting unfair trade, have been tested against the rational-basis test.

Procedural due process means that governments must use fair procedures when depriving an individual of his or her life, liberty, or property. This status quo does not only apply to federal criminal proceedings. For example, if a government employer discharges an employee from his job, or if the government suspends the driver's license of a worker, the employer must follow procedural due process.

7) The _____ of the constitution offers the most extensive protection for businesses.

- a) Supremacy Clause.
- b) Equal Protection Clause.
- c) Due Process Clause.
- d) Freedom of Speech Clause.

Answer: c

8) The 14th Amendment is a part of the Bill of Rights.

- a) True.
- b) False.

Answer: b

9) Which of the following is correct with regards to the powers of state government in the United States?

- c) All powers not specifically enumerated to the federal government are reserved to the states.
- d) The power over crimes is reserved to the federal government.
- e) The power over the militia is reserved to the states.
- f) The powers over the federal government are superior to every state power.

Answer: a

- 10) All of the sections of the Bill of Rights apply to corporations and commercial activities.
- a) True.
 - b) False.

Answer: b

Chapter 5

- 1) Explain White Collar Crime.

Answer: White collar crimes are characterized by deceit, concealment, or violation of trust. They are committed by business professionals. They generally involve fraud, and the employees committing the crimes are motivated by the desire for financial gains or fear of losing business standing, money, or property. Fraud is the intentional misrepresentation of material facts for monetary gain. This type of crime is not dependent on threats or violence.

- 2) What is a pump-and-dump scheme?

Answer: A form of securities fraud that involves artificially inflating the price of an owned stock through false and misleading positive statements, in order to sell the cheaply purchased stock at a higher price

- 3) The crime of larceny includes:
- a) The nontresspassory taking and controlling of personal property.
 - b) The trespassory taking and carrying away of real or personal property.
 - c) Joyriding.
 - d) The trespassory taking and control of personal property.

Answer: d

- 4) Distinguish between larceny and embezzlement.

Answer: Larceny and embezzlement are two forms of theft that can occur within a business. Larceny occurs when a person unlawfully takes the personal property of another person or a business. For example, if an employee takes another employee's computer with the intent of stealing it, he or she may be guilty of larceny. In contrast, embezzlement occurs when a person has been entrusted with an item of value and then refuses to return it or does not return the item. For example, if an employee is entrusted with the petty cash at his or her office and that person purposefully takes some of the money for himself or herself, this would be embezzlement.

5) What is the Foreign Corrupt Practices Act?

Answer: The Foreign Corrupt Practices Act prohibits bribery payments by U.S. companies to foreign government officials with an intent to influence foreign business results. One example of bribery would be a situation in which a pharmaceutical company offers special benefits to individuals who agree to prescribe their medications.

6) Businesses can be charged with crimes.

- a) True.
- b) False

Answer: a

7) The burden of proof in a criminal case is:

- a) Reasonable suspicion.
- b) Beyond a reasonable doubt.
- c) Preponderance of evidence.
- d) Clear and convincing evidence.

Answer: b

8) Which of the following is a goal of an arraignment?

- a) The defendant is informed of the charge and enters a plea.
- b) Requires the defendant to bear the burden of proof.
- c) Begins the inquisitorial system of adjudication.
- d) All of these are correct.

Answer: a

9) The criminal act necessary to commit a crime is known as:

- a) Malice aforethought.
- b) Mens rea.
- c) Subjective fault.
- d) Actus reus.

Answer: d

10) Distinguish between civil and criminal law.

Answer: Criminal law addresses behaviors that are offenses against the public, society, or state. Examples of criminal law offenses include assault, drunk driving, and theft. In contrast, civil laws address behavior that causes an injury to the private rights of individuals

in areas such as child support, divorce, contracts, property, and the person. Examples of civil law offenses include libel, slander, or contract breaches.

Criminal and civil cases differ in who initiates the case, how the case is decided, what punishments or penalties are issued, requirements of proof, and legal protections provided.

Chapter 6

1) Define Torts.

Answer: Torts are wrongs committed against others who suffer some form of damage as a result.

2) An example of an intentional tort is:

- a) Defamation.
- b) Assault.
- c) Malicious prosecution.
- d) All of the above.

Answer: d.

3) When an individual creates and promotes malicious falsehoods about another that individual may be liable for:

- a) Libel.
- b) Slander.
- c) Defamation.
- d) All of the above.

Answer: d

4) Describe Negligence.

Answer: Negligence is another type of tort that has two meanings. It is the name of a cause of action in a tort, and it is a form of conduct that does not meet the reasonable standard of care. The cause of action is the reason for the damage, and the standard of care is based on the care that a reasonable person would need in a given situation. Negligence is decided by determining the duty of the defendant, whether or not the defendant committed a breach of that duty, the cause of the injury, and the injury itself.

5) All of the following are elements of negligence except:

- a) A reasonable person.

- b) A duty by the defendant to either act or refrain from acting.
- c) A breach of a duty owed by defendant.
- d) Measurable harm.

Answer: a

- 6) Which of the following is a special relationship giving rise to a duty to act to aid or protect one in peril?
- a) Hotel and guest.
 - b) Cousin to cousin.
 - c) School principal and student.
 - d) Hotel and guest, and school principal and student.

Answer: d

- 7) If an activity causes a foreseeable and highly significant risk of physical harm even when reasonable care is exercised by all actors, and the activity is not one of common usage, it is:
- a) Proximate cause.
 - b) Abnormally dangerous.
 - c) Negligence.
 - d) None of these are correct.

Answer: b

- 8) What is an attractive nuisance?

Answer: When the trespasser is a child, and the dangerous activity is deemed as an attractive nuisance, or an attraction that a reasonable child would wish to view.

- 9) The elements of res ipsa loquitur that a plaintiff must establish in a product liability lawsuit include all of the following except:
- a) The defendant breached his or her duty of care.
 - b) The defendant had control over the product in question while it was being manufactured.
 - c) Under normal circumstances, the product would not cause damage or harm, but damage or harm has occurred in the case in question.
 - d) The behavior of the plaintiff did not significantly contribute to the harm caused.

Answer: a

- 10) Describe the differences between contributory and comparative negligence.

Answer: Contributory negligence. Contributory negligence, when determined by the court, prevents any recovery of damages by the plaintiff. So, if the court finds contributory

negligence, the plaintiff is unable to recover any damages for the injury. Two forms of contributory negligence are assumption of risk and misuse.

Assumption of risk is one defense. In some cases, the defendant can argue that the user assumed the risk of using the product if he or she used the product while knowing that the defect in the product created a risk. An individual who purchases a saw and sees that the guard is too small to cover the teeth, but decides to use it anyway, is assuming the risk of using the product. If the saw cuts the individual, then the manufacturer could argue that the person assumed the risk because he saw the defect, understood the risk, and used the saw anyway.

Another defense is product misuse. In some cases, an individual will use a product in ways that it is not meant to be used. The user might not be aware of a defect, and he or she proceeds to use the product incorrectly. Misuse by the individual would be to blame for any resulting harm.

Plaintiffs might also be responsible for comparative negligence. With comparative negligence, the plaintiff's own actions in the use of the product contributed to the harm caused by the product, but the plaintiff might still receive damages. The amount of negligence on behalf of each part (plaintiff and defendant) is compared to determine the damages to which the plaintiff is entitled. If a plaintiff is found to be 30% responsible, and the defendant 70% responsible, then the plaintiff would be entitled to 70% of the damages suffered.

Chapter 7

1) What is the definition of a contract?

Answer: A contract is defined as an agreement between two or more parties that is enforceable by law.

2) The elements of a contract include all but the following element:

- a) Offer and acceptance.
- b) Consideration.
- c) Capacity.
- d) Promissory Estoppel.

Answer: d

3) What are the ways an agreement can be invalidated?

- a) Fraud.

- b) Misrepresentation.
- c) Undue influence.
- d) All of the above.

Answer: d

- 4) Describe the concept of Promissory Estoppel.

Answer: The promissory estoppel doctrine is an exception to the requirement of consideration for contracts. Promissory estoppel is triggered when one party acts on the other party's promise. In cases where it is triggered, there is harm or severe injustice to the party who acted because they relied on the other party's broken promise.

The doctrine of promissory estoppel allows aggrieved parties to pursue justice or fairness for the performance of a contract in court, or other equitable remedies, even in the absence of any consideration. Its legal application may vary from state to state, but the basic elements include: A legal relationship existed between the parties. A promise was made. There was reliance on the promise that caused one party to act before any real consideration was exchanged. A substantial and measurable detriment occurred as a result of the failure to perform on the contract.

An unconscionable result, or gross injustice, resulted from the broken promise. If it is found that these elements are satisfied and that the doctrine of estoppel is applicable, then the court will issue the appropriate damages in the form of reliance damages to restore the aggrieved party to the position they were in prior to the broken promise. Expectation damages are not usually available if promissory estoppel is being claimed.

- 5) Consideration may include any of the following except:
- a) A promise.
 - b) A gift.
 - c) Property
 - d) Money.

Answer: b

- 6) What happens when a person lacks the legal capacity to enter into a contract?

Answer: If people meeting these criteria enter into a contract, the agreement is considered voidable. If a contract is voidable, then the person who lacked capacity has the choice to either end the contract or continue with it as agreed upon. This design is meant to protect the party lacking capacity.

- 7) Which of the following is most likely to be classified as a necessary for which a minor will be held liable on a contract?

- a) A television.
- b) School supplies.
- c) Education.
- d) Food.

Answer: d

- 8) A minor can avoid a contract to purchase a car if:
- a) The car has been destroyed.
 - b) The car has been damaged.
 - c) He or she grows tired of it.
 - d) All of the above.

Answer: d

- 9) When can a mentally incompetent person void a contract?

Answer: If a person lacks the mental capacity to enter a contract, then either he or she, or his or her legal guardian, may void it, except in cases where the contract involved necessities. In most states, mental capacity is measured against the “cognitive standard” of whether the party understood its meaning and effect.

- 10) Examples of illegal contracts include all but the following:
- a) Contracts for the sale or distribution of heroin.
 - b) Contracts for loansharking.
 - c) Contracts in consideration of marriage.
 - d) Employment contracts for the hiring of undocumented workers.

Answer: C

- 11) Define a material breach.

Answer: A material breach is when something substantially different from what was expected under the terms of the contract is delivered, the breach is considered material.

- 12) Typical remedies available for a breach of contract include:
- a) Money damages.
 - b) Rescission.
 - c) Specific Performance.
 - d) All of the above.

Answer: d

- 13) Distinguish between rescission and reformation.

Answer: Rescission terminates the duties of both parties under the contract, while reformation allows courts to equitably change the contracts substance.

- 14) Courts of equity will not grant specific performance of contracts:
- For a personal service contract.
 - For the sale of real estate.
 - For the sale of the original manuscript of a rare edition book.
 - All of these are correct.

Answer: a

- 15) Define restitution.

Answer: Restitution restores the injured party to status quo or the position they had prior to the formation of the contract, by returning the plaintiff any money or property give pursuant to the contract.

Chapter 8

- 1) What is a sales contract?

Answer: A sales contract is s specific type of contract is which one party is obligated to deliver to deliver and transfer ownership of a good to a second party, who in turn is obligated to pay for the good in money, or its equivalent.

- 2) All of the following are features of sales contracts except:
- Consensual.
 - Bilateral.
 - Cumulative.
 - Principal.

Answer: c

- 3) What source of law governs sales contracts?
- Common Law.
 - The Uniform Commercial Code.
 - Statutory Law.
 - Federal Law.

Answer: b

4) What is the definition of a good?

Answer: Anything that is movable at the time of identification to the contract for sale.

5) Distinguish a shipment contract from a destination contract.

Answer: A shipment contract occurs when it is the responsibility of the seller to make the shipping arrangements and to transfer the goods to the common carrier. Under this contract, title passes to the buyer at the time of shipment, so the buyer bears the risk of loss, even when he or she has not taken possession of the goods. A destination contract occurs when the seller is required to deliver the goods to a location that is stipulated in the contract. Under this contract, title transfers when the goods are delivered, but the seller bears the risk of loss until that time.

6) What is a warranty in a sales contract?

Answer: A warranty is a guarantee on the good that comes as part of the sales contract, but contract law treats warranties as an additional form of contract that binds the selling party to undertake a certain action.

7) Describe the difference between an express and implied warranty.

Answer: An express warranty is one in which the seller explicitly guarantees the quality of the good or service sold. Typically, the vendor provides a statement, or other binding document, as part of the sales contract. In certain circumstances where no express warranty was made, the law implies a warranty. This statement means that the warranty automatically arises from the fact that a sale was made.

8) Examples of a defect in a breach of the implied warranty of merchantability, include all of the following except:

- a) Design defect.
- b) Manufacturing defect.
- c) Inadequate instructions.
- d) Product defect.

Answer: d

9) The following are possible remedies to buyers under the UCC:

- a) Cancel the contract.
- b) Obtain Cover.
- c) Sue
- d) All of the above.

Answer: d

10) What is a breach of warranty?

Answer: A breach of the warranty occurs when the express warranty has been found to be false. In such circumstances, the warrantor is legally liable just as though the truth of the warranty had been guaranteed.

Chapter 9

1) What does At-Will Employment mean?

Answer: Compared to other countries in the West, stringent and extensive employee protections came fairly late to the United States. Up until 1959, for example, employers had the right to fire a worker without giving any reason. This concept, which was known as at-will employment, was applicable in all states. The concept of at-will employment does, however, continue today, and all employees are considered to be at-will unless they are employed under a collective bargaining agreement, or under a contract for a set duration. Employers can still fire employees for any reason, but they cannot be fired for illegal reasons, as set out in the U.S. or state constitutions, federal law, state statutes, or public policy. In this section, some of the main employee rights and company responsibilities will be introduced.

2) Employers are required provide a work environment that is safe and healthy for their employees by which law?

- a) FLSA.
- b) WCA.
- c) OSHA.
- d) FMLA.

Answer: C

3) How many weeks of unpaid leave does the Family Medical Leave Act guarantee to eligible workers? a.

- a) 12.
- b) 16.
- c) 25.
- d) 40.

Answer: a

4) What regulation protects employees who are terminated from their employment?

- a) COBRA.

- b) ERISA.
- c) Unemployment Compensation.
- d) All of the above.

Answer: d

- 5) The Fair Labor Standards Act (FLSA) covers which category
- a) Child Labor.
 - b) Minimum wage.
 - c) Overtime pay.
 - d) All of the above.

Answer: d

- 6) Explain the term labor relations.

Answer: Labor relations is the general term used to describe the relationship between employers and employees, as well as governance of that relationship. It refers to the micro-level interactions that take place between workers and individual managers, as well as the macro-level relations that occur between the external institutions that are tasked with governing such relations. This understanding of labor relations acknowledges the fact that there is a plurality of interests that must be taken into account in the processes and procedures of negotiation, bargaining, and dispute settlement relating to the workplace. It also recognizes that employees and employers' representatives are fundamental to the process of industrial relations, and that the state plays a key role in the development of labor laws, the regulation of collective bargaining, and the administration of disputes.

- 7) What is a trade union?

Answer: A trade union, or labor union, is an organized group of workers who come together to lobby employers about conditions affecting their work.

- 8) What is the function of the National Labor Relations Board?
- a) To monitor the conduct of the unions and employers during union elections.
 - b) To remedy and prevent unfair labor practices by unions or employers.
 - c) To establish rules interpreting the NLRA.
 - d) All of the above.

Answer: d

- 9) _____ is a place of employment where the employee is required to join the union within a specified number of days after being hired.
- a) A closed shop.
 - b) A union shop.

- c) An agency shop.
- d) A secure shop.

Answer: b

10) Which of the following practices are illegal?

- a) Picketing.
- b) No strike clause.
- c) Sit-Down strike.
- d) Collective strike.

Answer: c

11) Explain Title VII of the Civil Rights Act of 1964.

Answer: The Civil Rights Act provides broad provisions pertaining to citizens' civil rights. Title VII of the Civil Rights Act deals with discrimination in employment. It bans employers from discriminating against employees in their hiring, firing, and promotion practices on the basis of sex, national origin, color, religion, or race. All employers who are engaged in commercial activity and who employ 15 or more employees for 20 consecutive weeks in a year are covered by the Act.

12) How do you prove a disparate impact case?

Answer: Disparate impact cases are difficult to prove. The burden of responsibility is on the employee-plaintiff to statistically establish that the action impacts the protected class. The defendant can avoid liability by demonstrating that the practice is a business responsibility. The burden of proof then shifts to the employee to prove that the alleged business necessity is a mere pretext.

13) The following is valid defense under Title VII:

- a) Quid Pro Quo.
- b) No Merit Defense.
- c) BFOQ
- d) All of the above.

Answer: c

14) To bring a successful claim under the Americans with Disability Act ("ADA"), the plaintiff must prove all of the following except:

- a) He or she suffered an adverse employment decision because of a disability.
- b) The disability was not a mental disability.
- c) He or she was qualified for a position.
- d) He or she has a disability.

Answer: b

- 15) The Age Discrimination Act only applies to employers with 20 or more employees.
- a) True.
 - b) False.

Answer: a

Chapter 10

- 1) What is administrative law?

Answer: Administrative law is also referred to as regulatory and public law. It is the law that is related to administrative agencies. Administrative agencies are established by statutes and governed by rules, regulations and orders, court decisions, judicial orders, and decisions.

- 2) Administrative agencies are created by:
- a) The president.
 - b) The judicial branch.
 - c) The Constitution.
 - d) Congress.

Answer: d

- 3) The FDA stands for:
- a) The First Drug Administration.
 - b) The Federal Drug Administration.
 - c) The Food and Drug Administration.
 - d) The Food and Diet Administration.

Answer: c

- 4) Explain the goal of the Federal Trade Commission.

Answer: The FTC was formed in 1914 when President Woodrow Wilson signed the Federal Trade Commission Act into law. The goal of the agency is to protect the consumer, encourage business competition, and further the interests of consumers by encouraging innovation. The FTC works within the United States as well as internationally to protect consumers and encourage competition. The agency fulfills this role by developing policies,

partnering with law enforcement to ensure consumer protection, and helping to ensure that markets are open and free.

5) How does the FDA fulfill its' role?

Answer: The FDA was created to protect the public's health. The agency's responsibilities are very broad. The agency fulfills its role by ensuring the safety and effectiveness of drugs consumed by people and animals, biological products, medical devices, food, and cosmetics.

6) Who appoints leaders to run administrative agencies?

- a) The President.
- b) Congress.
- c) The judges.
- d) None of these are correct.

Answer: a

7) The process of assigning authority to administrative agencies is called:

- a) An assignment.
- b) A directive.
- c) A passing.
- d) A delegation.

Answer: d

8) What's the role of an Administrative Law Judge (ALJ)?

Answer: Administrative agencies also have responsibilities that mirror the responsibilities of the judicial branch of government. Administrative law judges (ALJ) have two primary duties. First, they oversee procedural aspects, like depositions of witnesses related to a case. They have the ability to review rules and statutes and review decisions related to their agencies. They also determine the facts and then make a judgment related to whether or not the agency's rules were broken. They act like a trial judge in a court, but their jurisdiction is limited to evaluating if rules established by certain government agencies were violated. They can award money, other benefits, and punish those found guilty of violating the rules.

9) The Bureau of Economics concentrates on all but the following:

- a) Consumer protection investigation.
- b) Rulemaking.
- c) Lower prices for consumers.
- d) Economic impact of government regulation. Answer: c

10) Explain the purpose of the Administrative Procedure Act ("APA").

Answer: In 1946, the Administrative Procedure Act (APA) was enacted. Under the APA, agencies must follow certain procedures to make their rules enforceable statutes. The Act set up a full system for the execution of administrative law by administrative agencies for the federal government. Although agencies have power, government agencies must still act within the structures in place, including the Constitution, span of authority, statutory limitations, and other restrictions. The APA outlines roles, powers, and procedures of agencies. It organizes administrative functions into rulemaking and adjudication.

Chapter 11

- 1) All of the following are forms of restraint of trade that company might use to reduce competition except:
 - a) Monopolies.
 - b) Oversupply.
 - c) Price-fixing.
 - d) Mergers.

Answer: b

- 2) What is a Business Trust?

Answer: A business trust is a trust agreement that allows businesses to maintain profits as beneficiaries, but legal ownership and management of the company's property is maintained through the power of trustees. These trusts allowed businesses that were members of the trust to grow larger, as they cooperated with one another and shut out other competitors.

- 3) Distinguish between naked restraint and ancillary restraint.

Answer: Naked restraint occurs as contracts promote a general restraint of competition. If the restraint was created with a goal of long-term impact without boundaries, it was considered to be a naked restraint. Ancillary restraint occurs as the restriction is limited in time and geography. With ancillary restraint, the restraint would be short-term and limited in scope. The courts tended to frown upon naked restraint, but were less consistent with ancillary restraint.

- 4) What was the first antitrust law enacted?
 - a) The Clayton Act.
 - b) The Federal Trade Commission Act.
 - c) The Antitrust Act.
 - d) The Sherman Act.

Answer: d

5) What was the original purpose of antitrust legislation?

Answer: The original purpose of antitrust legislation, i.e., to foster competition that results in lower prices, more products, and more equal distribution of wealth between producers, remains relevant today.

6) What recourse does the FTC have if an individual or company engages in an unfair trade practice?

- a) Consent order.
- b) Administrative complaint.
- c) Litigation.
- d) All of the above.

Answer: d

7) Each state has its own Antitrust law.

- a) True.
- b) False.

Answer: a

8) Which of the following is not prohibited by the Sherman Act?

- a) Temporary limited restraints.
- b) Temporary restraints.
- c) Naked restraints.
- d) Ancillary restraints.

Answer: a

9) Which of the following are possible penalties for violation of the Sherman Act?

- a) Up to \$100 million for corporations and individuals.
- b) Up to \$100 million for individuals.
- c) Up to \$100 millions for corporations.
- d) None of these are correct.

Answer: c

10) Which of the following are considered illegal by the Clayton Act?

- a) Price discrimination.
- b) Exclusive dealing contracts.
- c) Corporate mergers.
- d) All of the above.

Answer: d

- 11) The following is exempt from antitrust laws:
- a) Small businesses.
 - b) Coops.
 - c) Labor unions.
 - d) Agriculture groups even if they engage in restraint of trade.

Answer: c

- 12) When was the Federal Trade Commission established?
- a) 1912.
 - b) 1914.
 - c) 1916.
 - d) 1920.

Answer: b

- 13) The following are bureaus of the Federal Trade Commission except:
- a) Bureau of Unfair Trade Practices.
 - b) Bureau of Consumer Protection.
 - c) Bureau of Competition.
 - d) Bureau Economics.

Answer: a

- 14) What is the mission of the Bureau of Competition?

Answer: The Bureau of Competition's purpose is to eliminate and prevent "anticompetitive" business practices related to the enforcement of antitrust laws.

- 15) Explain the Wheeler-Lea Act.

Answer: The FTC did not formally have a consumer protection mission until the passage of the Wheeler-Lea Act in 1938. This act gave the FTC the power to combat false advertising for any foods, drugs, medical devices, or cosmetics. In addition to the Wheeler-Lea Act, subsequent amendments to the FTC Act, as well as judicial respect toward the agency, broadened the power and jurisdiction of the FTC.

Chapter 12

1) Define unfair trade practices.

Answer: The term “unfair trade practice” describes the use of deceptive, fraudulent, or unethical methods to gain business advantage or to cause injury to a consumer. Unfair trade practices are considered unlawful under the Consumer Protection Act. The purpose of the law is to ensure that consumers have the opportunity to make informed, rational decisions about the goods and services they purchase.

2) All of the following are considered unfair trade practices except:

- a) Targeting vulnerable populations.
- b) Charging extremely high prices.
- c) False advertising.
- d) False representation of a good or service.

Answer: b

3) What is a bait and switch?

Answer: Bait and switch is a form of false advertising whereby the company advertises a product or service and then sells another item in its place.

4) Describe the role of the Federal Trade Commission.

Answer: The Federal Trade Commission (FTC) is a federal agency that enforces consumer protection laws. Consumers may seek recourse for unfair trade practices by suing for compensatory or punitive damages. Plaintiffs do not have to prove intent. Showing that the practice itself was unfair or deceptive is sufficient.

5) The following are examples of a company giving misleading price information except:

- a) Advertising “Limited Time Offer” when the offer is available forever.
- b) Advertising “Going Out of Business” when the company plans to stay in business.
- c) Advertising the product as “New” when the product is more than 6 months old.
- d) Advertising “Buy One, Get One” without informing consumers that they must buy another product or service to get the deal.

Answer: c

Chapter 13

1) What is International law?

Answer: International law relates to the policies and procedures that govern relationships among nations Reference: Section 13.1

- 2) The following are clauses in the U.S. Constitution that relate to international law.
- a) Treaty Clause.
 - b) Foreign Commerce Clause.
 - c) Both a and b.
 - d) Neither a nor b.

Answer: c

- 3) Explain the European Union.

Answer: The European Union (EU) is a regional international organization that includes many countries in Europe. It was established to create peace across the region and promote economic, social, and cultural development.

- 4) What is the Doctrine of Sovereign Immunity?

Answer: A doctrine of sovereign immunity states that countries are granted immunity from lawsuits in courts of other countries.

- 5) The UN Security Council is made up of:
- a) 5 members and 10 countries.
 - b) 10 members and 5 countries.
 - c) 10 members and 10 countries.
 - d) 5 members and 5 countries.

Answer: a

- 6) Sources of international law include:
- a) Customs, treaties, and laws.
 - b) Customs, treaties, and edict.
 - c) Treaties, laws, and edicts.
 - d) Customs, treaties, and organizations.

Answer: d

- 7) Explain the principle of comity?

Answer: The Principle of Comity states that nations will defer to the laws and decrees of other nations when those laws are consistent with their own, essentially upholding reciprocity between nations with similar laws.

8) Compare and contrast common law systems vs. civil law systems.

Answer: Most countries have either common law or civil law systems. Common law systems operate independently by developing their own rules that govern areas of business law, such as torts and contracts. The United States has a common law system. One-third of all people in the world live in nations in which common law is practiced. Civil law systems base their legislation on Roman civil law, which utilizes statutory codes as the primary source of law

9) How many countries have adopted the United Nations Convention on Contracts for the International Sale of Goods (CISG)?

- a) 74.
- b) 84.
- c) 94.
- d) 104.

Answer: b

10) All of the following are international law enforcement methods except:

- a) Collective action.
- b) Reciprocity.
- c) Shaming.
- d) All of the above.

Answer: d

Chapter 14

1) Explain a laissez-faire economic policy.

Answer: Laissez faire, as popularized by Scottish economist Adam Smith and British philosopher Herbert Spencer, describes an economic philosophy that markets function best when left to their own devices, i.e., without, or with minimal, government involvement or regulations.

2) The following are examples of self-regulatory organizations that the SEC oversees:

- a) The New York Stock Exchange.
- b) The National Association of Securities Dealers.
- c) The Chicago Board of Options.
- d) All of the above.

Answer: d

- 3) Which types of companies must register with the SEC?
- a) Companies with over 500 or more owners.
 - b) Companies with total assets of \$10 million.
 - c) Companies with total assets exceeding \$10 million and with 500 or more owners.
 - d) None of the above.

Answer: c

- 4) Explain Blue Sky laws.

Answer: In 1911, Kansas bank commissioner J.N. Dolley became concerned about what he called "swindles," in which investors at the time lost money by investing in "fake mines" or "a Central American plantation that was nine parts imagination." Therefore, he lobbied for the first "comprehensive" securities law in the United States because, as he phrased it, these investments were backed by nothing except the blue skies of Kansas. So, state-level securities laws aimed to combat fraud are called blue sky laws. The SEC does not have jurisdiction over activities within states and does not enforce blue sky laws.

- 5) Distinguish between primary markets and secondary markets.

Answer: The Securities Exchange Act of 1934 governs secondary markets, or what is typically referred to as the "stock market." In contrast to the primary market, which involves the initial sale of a security, such as through an initial public offering (IPO), secondary markets involve subsequent buyers and sellers of securities. One key difference is that primary market prices are set in advance, while secondary market prices are subject to constantly changing market valuations, as determined by supply and demand and investor expectations.

- 6) Define insider trading.

Answer: Insider trading can be understood by what the SEC defines as the "buying or selling a security, in breach of a fiduciary duty or other relationship of trust and confidence, on the basis of material, nonpublic information about the security."

- 7) All of the following are considered reports required by the Securities Exchange Act of 1934 except:
- a) Form 8k
 - b) Form 10 k
 - c) Form 10Q
 - d) All of the above.

Answer: d

- 8) Corporate insiders include officers, directors, and beneficial owners who own _____ % of a class of securities registered under Section 12 of the Securities Exchange Act of 1934.
- a) 5.
 - b) 10.
 - c) 15.
 - d) 20.

Answer: b

- 9) Explain Schedule 13D.

Answer: In 1968, the Williams Act amended the Securities Exchange Act of 1934 so that investors could have advance warning of possible corporate takeovers. If someone (individual/corporation) becomes the beneficial owner of more than 5% of a company's stock, that entity must file a Schedule 13D with the SEC within 10 days of purchase. A beneficial owner is anyone with "voting and investment power over their shares." There are a few exceptions that apply, such as qualified institutional investors—large investors who are deemed to have sophisticated knowledge of securities such that they do not need the same level of protection as general investors. Insurance companies, state employee benefits plans, and investment companies are examples of qualified institutional investors who are allowed to report their holdings at the end of the calendar year.

- 10) What's the purpose of Proxy Statements?

Answer: Proxy statements are documents that the SEC requires that shareholders of companies with securities registered under Section 12 of the Securities Exchange Act of 1934 receive to allow them to vote on issues that will be decided at a stockholder meeting.