**Chapter 01 Legal Foundations**

# SHORT ANSWER QUESTIONS

1. Much of the origins of the law dealt with issues related to .
2. When the United States Supreme Court formally recognized its role in achieving equality for all Americans during the civil rights movement, it was following a philosophy.
3. Attorneys who work for a company and are part of the executive or midlevel management team are specifically referred to as counsel.
4. Attorneys, particularly in a business context, are also referred to as .
5. Measures of judicial action intended to compensate an injured party in a civil lawsuit are called

.

1. Equitable rules intended to be broad statements of rules that are based on notions of fairness and justice are referred to as equitable .
2. A judicial opinion is also referred to as the of the case.
3. A collection of uniform legal principles focused on a particular area of traditional state law is called *The of the Law*.
4. Trial lawyers from outside firms, often selected by general counsel when a particular field of expertise is needed, are referred to as .
5. are recognized as binding between two parties even though no specific statute or regulation provides for the rights of the parties.

# MULTIPLE CHOICE QUESTIONS

1. Jurisprudence is roughly defined as the science and philosophy of law.
   1. True
   2. False
2. Law today is crucial to business by creating some degree of reliability to be used in business planning and commercial transactions and promoting good faith dealing among merchants.
   1. True
   2. False
3. It is less common for States to amend their constitutions than it is for Congress to amend the U.S. Constitution.
   1. True
   2. False
4. A presidential veto may be overridden by a two-thirds majority vote of the Senate.
   1. True
   2. False
5. Most schools of jurisprudential thought center on the government's role in creating the law.
   1. True
   2. False
6. Courts routinely question and overturn administrative-agency decisions involving how and when an agency enforces a regulation.
   1. True
   2. False
7. The power of courts to establish law in matters not specifically addressed by statutes is very limited in common law countries.
   1. True
   2. False
8. Equitable remedies are available to compensate injured parties in both civil and criminal lawsuits.
   1. True
   2. False
9. Most states have combined courts of law and equity.
   1. True
   2. False
10. A statute of limitations determines the maximum and minimum amounts of monetary relief that may be granted in different types of civil lawsuits.
    1. True
    2. False
11. The purpose of secondary sources of law is to increase uniformity and fairness across courts in the 50 states.
    1. True
    2. False
12. A single wrongful act may violate civil law or criminal law but cannot violate both simultaneously.
    1. True
    2. False
13. A zoning law that regulates what a landowner may or may not do with his or her privately owned property is an example of a public law.
    1. True
    2. False
14. Laws requiring that the police show reasonable cause and obtain a search warrant before entering a place of business to search for evidence are examples of substantive laws.
    1. True
    2. False
15. Criminal law allows a party to be compensated for money lost as a result of another's unlawful conduct.
    1. True
    2. False
16. Statutes and ordinances are examples of private laws that provide for the rights of parties involved in private or business transactions, such as contracts for services.
    1. True
    2. False
17. Criminal law can be characterized as public law but can never be considered private law.
    1. True
    2. False
18. Freedom of speech, as defined in the Constitution, is an example of substantive law.
    1. True
    2. False
19. *Restatements of the Law* are written and revised by Congress and state legislatures as needed.
    1. True
    2. False
20. All statutes have both a statutory scheme and a legislative history.
    1. True
    2. False
21. The common law is the law that all states follow to avoid confusion and to promote consistency from state to state.
    1. True
    2. False
22. Civil law systems reject and prohibit the use of precedent, relying solely on strict interpretations of statutes.
    1. True
    2. False
23. When a Pennsylvania appellate court makes a decision, stare decisis requires that Delaware trial courts follow the case precedent when a case with a similar fact situation arises.
    1. True
    2. False
24. Aggressive litigation generally results in a high monetary cost for a corporation.
    1. True
    2. False
25. Although arbitration and mediation are legitimate dispute resolution methods, they may not always result in a satisfactory outcome for both sides of the dispute.
    1. True
    2. False
26. Ordinances will preempt state-level statutes.
    1. True
    2. False
27. Most companies employ in-house counsel for their legal needs.
    1. True
    2. False
28. Laws relating to contracts for the sale of goods are primarily found in the common law.
    1. True
    2. False
29. The U.S. system of common law is deep-seated in the French common law established by the Norman kings around 1066.
    1. True
    2. False
30. Enumerated powers are specific powers granted to the federal government by the Constitution.
    1. True
    2. False
31. *Black's Law Dictionary*, as cited in the textbook, defines the term "law" as including each of the following except
    1. a body of rules.
    2. conduct prescribed by a controlling authority.
    3. having the power to bind persons.
    4. a tool for regulating personal ethics.
32. Jurisprudence is defined as
    1. adjudication of lawsuits.
    2. the enactment of laws by a government body.
    3. the science and philosophy of law.
    4. the duties and obligations owed by a citizen.
33. Philip believes that certain behaviors are inherently wrong, and that moral values inherent in humankind should form the basis of law. To that end, he believes that these principles are a higher authority than human-made law. Philip is a proponent of
    1. natural law. B) legal realism.

C) legal positivism. D) social law.

1. Joshua is a highly accomplished soccer player and a successful coach. He is often hired by other coaches to run soccer clinics and soccer camps for their teams. If Joshua decides to incorporate and sell stock to finance the corporation, the area of law that he would need to be aware of with regard to the stock sales would be
   1. securities law. B) intellectual property law.

C) employment discrimination law. D) antitrust law.

1. Mega Corporation has developed a strategic plan that calls for an emphasis on appealing to a younger demographic. If it decided that such an appeal to a younger market would necessitate a change in the corporate logo and trademark, such changes would require an understanding of
   1. securities law. B) intellectual property law.

C) contract law. D) antitrust law.

1. The state of Delaware has passed a new law banning cell phone use while driving a motor vehicle within the state. This law would be defined as
   1. an ordinance. B) a regulation. C) a statute. D) a common law.
2. New York City has passed a law banning cigarette and cigar smoking in public bars and restaurants. This law would be defined as
   1. an ordinance. B) a regulation. C) a statute. D) a common law.
3. The official publication of federal statutory law is the
   1. *Federal Register.*
   2. *Consolidated Statutes of the United States.*
   3. Code of Congressional Statutes.
   4. United States Code.
4. Kathy, a fashion model, witnessed a motor vehicle accident but did not stop because she was late for her pedicure and simply didn't want to get involved. Had she stopped, she could have saved the life of Tom, who was thrown from the car and landed in a water-filled ditch, without danger to herself. When Tom's widow hears that Kathy could have easily saved Tom's life but chose to ignore the situation, she sues Kathy. The state has no "Good Samaritan" laws or duty-to-assist laws, but such cases have been brought in the past. Which of the following will the court apply when making a decision in this case?
   1. statutory law B) administrative law

C) common law D) equity law

1. Bradley collects historic memorabilia, and one of his prized possessions is the pistol used by Aaron Burr in his duel with Alexander Hamilton. After reading an article in a magazine, Bradley discovers that Sam owns the matching pistol, used by Hamilton in the duel. Bradley contacts Sam and offers him $500,000 for the pistol. Sam e-mails Bradley that he accepts his offer but that the transaction must be for cash and face to face. Bradley responds that he'll be at Sam's home at noon the next day with the money. When he arrives, Sam informs him that he's received an offer of

$600,000 for the pistol and states that Bradley must pay that amount or he'll sell to the other buyer. Bradley wants the weapon to complete the set. If he sues Sam, what course of action will best provide him the results he desires?

* 1. Sue for breach of contract and seek a legal remedy.
  2. Sue for an injunction.
  3. Bring a suit in equity and seek monetary damages.
  4. Sue for breach of contract and seek a decree of specific performance.

1. Which of the following outcomes would not be available in a court of equity?
   1. an order for the payment of money damages for a breach of contract
   2. an order prohibiting the building of a 16-foot fence in a residential neighborhood
   3. an order requiring teachers to stop picketing in a particular area
   4. an order requiring a party to turn over goods after being found guilty of breach of contract
2. In *Kauffman-Harmon v. Kauffman*, when Mr. Kauffman sued his children to have all stock given to them transferred back to him, claiming their possession was only a temporary trust, the court found that
   1. a temporary trust had indeed been created and Mr. Kauffman was the equitable owner of the stock.
   2. Mr. Kauffman was the equitable owner of the stock because the children had participated in a fraud when accepting ownership of the stock.
   3. the children owned the stock because Mr. Kauffman's request for the return of the stock and the subsequent lawsuit came after the statute of limitations had run, so he was barred from recovery.
   4. the children owned the stock and Mr. Kauffman's claims were barred by the clean hands doctrine.
3. A state's appellate court has made a decision in a particular case. That decision becomes case precedent in all cases except the cases heard in
   1. the state's supreme or highest court.
   2. the state's special courts, such as family or probate court.
   3. the state's general trial court.
   4. the state's inferior or small-claims court.
4. In *Flagiello v. Pennsylvania Hospital*, the court had to balance the hospital's negligence against the charitable immunity doctrine to determine whether Flagiello could recover for injuries sustained on the hospital's property. In its holding, the court determined that
   1. the charitable immunity doctrine was specifically and clearly written; therefore, the court was bound to follow the clear intent of the statutory scheme and find for the hospital.
   2. the charitable immunity doctrine had been litigated in the past and stare decisis required that the court adhere to established case precedent and find for the hospital.
   3. current societal norms rendered the charitable immunity doctrine inapplicable to this case and fundamental fairness allowed the court to deviate from established case precedent and find for Flagiello.
   4. the charitable immunity doctrine can be repealed or overturned only by the state's legislature, and stare decisis required that case precedent be followed; however, due to the severity of Flagiello's injuries, the charitable immunity doctrine allowed for certain exceptions, permitting Flagiello to recover in this case.
5. Which of the following types of law is not primarily based on statutes?
   1. zoning laws B) contracts for services

C) contracts for the sale of goods D) employment discrimination

1. The clean hands doctrine is primarily applied to
   1. plaintiffs. B) defendants.

C) both plaintiffs and defendants equally. D) the judge and jury deciding the case.

1. Secondary sources of law
   1. are used as precedent when there is no primary source of law that applies to the facts of a case.
   2. are considered a legally binding and valid independent authority.
   3. apply to both federal and state legal issues.
   4. have no legally binding effect.
2. Under the American legal system, subject to some exceptions, costs of litigation regarding both the plaintiff and the defendant
   1. are all paid by the loser.
   2. are all paid by the winner.
   3. are paid for by each side, with the plaintiff and defendant paying for their own legal costs.
   4. are divided equally by the presiding judge between the plaintiff and the defendant.
3. Regulations created and enforced by federal regulatory agencies are examples of
   1. administrative laws. B) antitrust laws.

C) labor laws. D) securities laws.

1. Which of the following best represents the progression of preemption, from the highest level to lowest level of sources of law?
   1. federal common law; federal statutes; U.S. Constitution
   2. state statutory law; federal common law; federal administrative law
   3. state common law; state administrative law; state statutory law
   4. federal administrative law; federal common law; state statutory law
2. The National Conference of Commissioners on Uniform State Laws (NCCUSL) was formed by

for the purpose of establishing uniform standards in areas of law where national interests would be achieved through the use of uniform laws.

* 1. Congress B) the American Bar Association

C) the American Legal Institute D) the National Conference of Governors

1. Which of the following is not a primary source of law?
   1. uniform model law B) administrative law

C) federal common law D) state common law

1. The U.S. system of common law
   1. is derived from the French common law.
   2. is derived from the British common law.
   3. was established primarily by the U.S. Constitution.
   4. is a secondary source of law established in various *Restatements of the Law.*
2. Statutes of limitations fall under which of the following equitable maxims?
   1. The clean hands doctrine.
   2. Substance over form.
   3. Remedies at law are preferred over remedies in equity.
   4. Equity aids the vigilant.
3. The Uniform Commercial Code has been adopted in every state except
   1. California. B) Mississippi. C) Louisiana. D) Iowa.
4. The source of bankruptcy law is a combination of
   1. statutory and common law. B) constitutional and common law.

C) statutory and administrative law. D) administrative and common law.

1. Once stare decisis and case precedent is established
   1. it may be disregarded and overturned by a court if it deems such action appropriate.
   2. it may not be disregarded by a court but may be overturned by state statute.
   3. it may not be disregarded by a court or be overturned by state statute but may only be changed by amendment to the state's constitution.
   4. it may not be disregarded or overturned once established and must be followed without exception.
2. Iowa has just passed a law mandating a 30-day jail sentence for those convicted of harassing a bicyclist on any Iowa road. This law would be best described as
   1. an ordinance. B) a public law. C) a common law. D) a private law.
3. The authoritative source for legal terms is
   1. The U.S. Constitution. B) The Uniform Model Law.

C) Black's Law Dictionary. D) Google Scholar.

1. A state statute mandates that the statute of limitations for a negligence lawsuit is two years and the plaintiff is barred from filing the suit if he or she files after that time. This statute is an example of a
   1. private law. B) procedural law. C) criminal law. D) substantive law.

# ESSAY QUESTIONS

1. A case of first impression comes before a state court in Illinois. While the issue has not been heard in Illinois courts, appellate courts in the states of Wisconsin, Iowa, and Indiana have definitively ruled on the issue, although the outcomes of the various cases were slightly different in each case. Further, the case heard by the Indiana court was definitively ruled upon by the U.S. Supreme Court. Explain whether the court in Illinois is bound by the decision of any of the other courts, and why.
2. Mike is a high school dropout employed as a counter worker at Bob's Roasted Chicken (BRC), a local fast food franchise in Georgia. Mike is voted Employee of the Month and awarded a trip to visit the home office of BRC in Knoxville, Tennessee. While on a tour of the offices at BRC's headquarters, Mike notices an open wall safe, and when he looks inside, he discovers the original, handwritten copy of the secret family chicken recipe. He quickly makes a copy and returns the original to the safe. Once he arrives home, he contacts a number of local fried-chicken restaurants and offers to sell them the recipe. When BRC's president, Bob, discovers what Mike is doing, BRC immediately sues Mike. However, it quickly discovers that there are no applicable trade secret statutes. What effect does the lack of an applicable statute have on BRC's claim, and what, if anything, can BRC rely upon to maintain its claim? What relief should BRC seek against Mike?
3. Name the three essential functions of the U.S. Constitution.
4. Define and explain the concepts of permanence and preemption as they apply regarding the U.S. Constitution.
5. Congratulations! You have just been named as a judge in your state's general trial court. Your first case involves a complicated environmental statute. What resources might you use to interpret and apply the statute to your case?
6. Describe the similarities and differences among statutes, ordinances, and regulations.
7. Discuss the differences between the common law and civil law with regard to precedent and the court's right to establish new law.
8. Tom has attacked Kathy in the parking lot of a bar. He knocked her to the ground and stole her wallet, breaking her arm in the process. Kathy works as a data input specialist at a bank and missed eight weeks of work due to her injury. Discuss how her case could be handled under both the criminal law and civil law systems, including possible remedies available under each system.
9. Identify and discuss the various types of secondary law. How does secondary law affect the American legal system?
10. In 2010, the state of Arizona passed an immigration law that allowed law enforcement officers to check the immigration status of individuals charged with a crime. Which legal philosophy best fits the theory of jurisprudence used by Arizona lawmakers to justify this law?