

Business Law, 17e (Langvardt)
Chapter 1 The Nature of Law

1) The U.S. Constitution recognizes the states' power to make law in certain areas.

Answer: TRUE

Explanation: The U.S. Constitution structures the relationship between the federal government and the states around the system of federalism, which recognizes the states' power to make law in certain areas.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

2) Uniform acts are model statutes drafted by private bodies of lawyers and scholars; they become law only after a legislature enacts them.

Answer: TRUE

Explanation: Uniform acts are model statutes drafted by private bodies of lawyers and scholars and do not become law until a legislature enacts them.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

3) Common law exists only at the state level and only state courts can apply it.

Answer: FALSE

Explanation: Although common law generally exists only at the state level, both state courts and federal courts are involved in applying it.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

4) The Restatements are binding laws and are promulgated by the American Law Institute.

Answer: FALSE

Explanation: The Restatements are promulgated by the American Law Institute, not the courts; hence, they are not considered binding laws.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

5) According to the U.S. Constitution, treaties made by the president with foreign governments and approved by two-thirds of the U.S. Senate validate inconsistent state and federal laws.

Answer: FALSE

Explanation: According to the U.S. Constitution, treaties made by the president with foreign governments and approved by two-thirds of the U.S. Senate become "the supreme Law of the Land." Treaties invalidate inconsistent state and federal laws.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

6) The same behavior will sometimes violate both civil law and criminal law, and in such a case, a person may be held both civilly and criminally liable for the same act.

Answer: TRUE

Explanation: Even though the civil law and the criminal law are distinct bodies of law, the same behavior will sometimes violate both. For instance, if A commits an intentional act of physical violence on B, A may face both a criminal prosecution by the state and B's civil suit for damages.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

7) A state statute making murder a crime is an example of a substantive law, criminal law, and public law.

Answer: TRUE

Explanation: Substantive law sets the rights and duties of people as they act in society. Criminal law is the law under which the government prosecutes someone for committing a crime. Public law concerns the powers of government and private parties (which includes criminal law). Hence, a state's murder statute is an example of all three types of laws.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

8) Though a natural law defense is not recognized in court, judges may take natural law-oriented views into account when interpreting the law.

Answer: TRUE

Explanation: While interpreting the law, judges may take natural law-oriented views into account. Typically, when judges are influenced by natural law ideas, they may be more likely to read constitutional provisions more broadly in order to strike down positive laws they regard as unjust.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

Accessibility: Keyboard Navigation

9) American legal realists regard the law in the books as less important than the law in action and define law as the behavior of public officials (mainly judges) as they deal with matters before the legal system.

Answer: TRUE

Explanation: American legal realism defines law as the behavior of public officials (mainly judges) as they deal with matters before the legal system. Because the actions of such decision makers really affect people's lives, the realists believe, this behavior is what deserves to be called law.

Difficulty: 1 Easy

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

10) The critical legal studies movement regards law as the product of political calculation and longstanding class biases on the part of lawmakers.

Answer: TRUE

Explanation: The critical legal studies (CLS) movement regards law as inevitably the product of political calculation and longstanding class biases on the part of lawmakers, including judges. Articles published by CLS adherents provide controversial assessments and critiques of legal rules.

Difficulty: 1 Easy

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

11) The doctrine of *stare decisis* states that like cases should be decided alike.

Answer: TRUE

Explanation: The standard for choosing and applying prior cases to decide present cases is the doctrine of *stare decisis* which states that like cases should be decided alike.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (*stare decisis*) and distinguishing precedent in case law reasoning.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

12) Common law provides certainty because a court is bound to make the same decision in a case with a similar issue, despite any factual differences.

Answer: FALSE

Explanation: When an earlier case may seem similar enough to the present case to constitute a precedent but the court deciding the present case nevertheless identifies a meaningful difference between the cases, the court distinguishes the earlier decision and is not bound by it under these circumstances.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

13) It is unimportant for the court, whether the interpretation of a statute is consistent with its legislative purpose; it is the actual language (plain or ambiguous) of the statute that needs to be analyzed.

Answer: FALSE

Explanation: When the language of a statute is ambiguous, courts may go to its legislative history. In this, courts study whether the interpretation of the statute is consistent with its legislative purpose.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

14) The doctrine of standing to sue requires that, in order to be able to mount a civil suit, a plaintiff must have some direct and substantial stake in the outcome of the suit.

Answer: TRUE

Explanation: The doctrine of standing to sue requires that the plaintiff have some direct, tangible, and substantive stake in the outcome of the litigation.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

15) State and federal declaratory judgment statutes do not allow parties to determine their rights and duties when their controversy has not advanced to the point where harm has occurred and legal relief may be necessary.

Answer: FALSE

Explanation: State and federal declaratory judgment statutes allow parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

16) Although not binding, the Restatements are persuasive and stimulate changes in the common law by suggesting new rules that courts later decide to follow.

Answer: TRUE

Explanation: The Restatement rules usually are the rules followed by a majority of the states. Occasionally, however, the Restatements stimulate changes in the common law by suggesting new rules that courts later decide to follow.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

17) A reformation occurs when a court rewrites the parties' contract terms to reflect the parties' real intentions.

Answer: TRUE

Explanation: Reformation is an equitable remedy in which a court effectively rewrites the terms of a contract to reflect the parties' real intentions.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

18) Courts often begin their interpretation of a statute by looking at the plain meaning of its language because it never fails to resolve the ambiguity at issue.

Answer: FALSE

Explanation: Although courts routinely begin their interpretation of a statute with the plain meaning of its actual language, this approach does not always settle the matter. Often, judges find the application of plain meaning unhelpful. It may lead to absurd or patently unjust results, or it might simply fail to resolve the ambiguity at issue.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

19) The House of Representatives and the Senate in the U.S. Congress is an example of a bicameral legislature.

Answer: TRUE

Explanation: A bicameral legislature is a legislative body made up of two branches or chambers, like the House of Representatives and the Senate in the U.S. Congress.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

20) The *ejusdem generis* rule is an example of a maxim.

Answer: TRUE

Explanation: Maxims are general rules of thumb employed in statutory interpretation. The *ejusdem generis* rule is an example of a maxim and says that when general words follow words of a specific, limited meaning, the general language should be limited to things of the same class as those specifically stated.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

21) What is a statute?

- A) Laws made and applied by judges
- B) Laws made by Congress or a state legislature
- C) Laws made by administrative agencies
- D) Laws made by the federal judiciary

Answer: B

Explanation: Statutes are laws created by elected representatives in Congress or a state legislature. They are stated in an authoritative form in statute books or codes.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

22) _____ are model statutes drafted by private bodies of lawyers and scholars.

- A) Precedents
- B) Uniform acts
- C) Ordinances
- D) Equitable remedies

Answer: B

Explanation: Uniform acts are model statutes drafted by private bodies of lawyers and scholars, which do not become law until a legislature enacts them.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

23) Which of the following is also called "judge-made law"?

- A) Common law
- B) Statutes
- C) Uniform acts
- D) Equity

Answer: A

Explanation: The common law (also called judge-made law or case law) is law made and applied by judges as they decide cases not governed by statutes or other types of law.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

24) Which of the following is true of the Restatements?

- A) They are promulgated by courts.
- B) They can be adopted as common law by the states.
- C) They include only statutory laws.
- D) They are law and binding on courts.

Answer: B

Explanation: The Restatements are collections of common law (and occasionally statutory) rules covering various areas of the law and usually are the rules followed by a majority of the states.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

25) A(n) _____ is a cancellation of a contract and a return of the parties to their precontractual position.

- A) injunction
- B) ordinance
- C) rescission
- D) reformation

Answer: C

Explanation: A rescission is the cancellation of a contract and a return of the parties to their precontractual position. It is one of the equitable remedies.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

26) Which of the following is the most important type of equitable remedy provided by the equity courts?

- A) Injunction
- B) Specific performance remedy
- C) Reformation
- D) Rescission

Answer: A

Explanation: Equity courts provide several remedies that are not available in the common law courts; the most important of these equitable remedies is the injunction—a court order forbidding or commanding a party to do something.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

27) Why were equitable remedies developed?

- A) Common law rules were too flexible to produce fair results.
- B) The remedies available in common law courts were too few.
- C) Equitable remedies were rigid rules of law and produced fair results.
- D) Common law rules were less technical and rigid.

Answer: B

Explanation: Equitable remedies developed due to the failure of common laws to provide justice in many cases.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

28) Which of the following is a characteristic of administrative agencies?

- A) They derive their power from the Supreme Court.
- B) They make ordinances and pass executive orders.
- C) They are normally created by statute.
- D) They are elected bodies.

Answer: C

Explanation: Administrative agencies normally are created by a statute that specifies the areas in which the agency can make law and the scope of its power in each area.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

29) Ordinances are created by:

- A) Congress.
- B) the Supreme Court.
- C) counties and municipalities.
- D) equity courts.

Answer: C

Explanation: State governments have subordinate units, such as counties and municipalities that are given limited powers to exercise various government functions. The enactments of counties and municipalities are called ordinances.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

30) The power of executive orders normally derives from a(n):

- A) legislative delegation.
- B) federal court.
- C) injunction.
- D) restatement.

Answer: A

Explanation: The power of executive orders normally results from a legislative delegation.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

31) According to the principle of _____, the U.S. Constitution, federal laws enacted pursuant to it, and treaties are "the supreme Law of the Land."

- A) judicial activism
- B) separation of powers
- C) federalism
- D) federal supremacy

Answer: D

Explanation: According to the principle of federal supremacy, the U.S. Constitution, federal laws enacted pursuant to it, and treaties are "the supreme Law of the Land." This means that federal law defeats conflicting state law.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

32) Which of the following takes priority over a federal statute?

- A) A state statute
- B) A state constitution
- C) An equitable principle
- D) The U.S. Constitution

Answer: D

Explanation: The U.S. Constitution takes priority over any kind of inconsistent laws.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-02 Identify the type of law that takes precedence when two types of law conflict.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

33) Which of the following is applied in a lawsuit between two private parties?

- A) Criminal law
- B) Civil law
- C) Procedural law
- D) Public law

Answer: B

Explanation: Disputes between private parties are generally subject to civil law.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

34) What is substantive law?

- A) The laws that govern the rights and duties of people as they act in society.
- B) The code of conduct of government bodies.
- C) The procedures followed by Congress to make statutes.
- D) The procedures followed by municipalities in creating ordinances.

Answer: A

Explanation: Substantive law sets the rights and duties of people as they act in society.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

35) John is angry because Harry is now dating John's former girlfriend. One day, as John was driving his car, he saw Harry walking by the side of the road. John deliberately swerved and struck Harry with the car. John may be successfully sued under:

- A) criminal law only.
- B) civil law only.
- C) either criminal law or civil law but not both.
- D) both criminal law and civil law.

Answer: D

Explanation: Even though the civil law and the criminal law are distinct bodies of law, the same behavior will sometimes violate both. If a person commits an intentional act of physical violence, he may face both criminal prosecution by the state and the plaintiff's civil suit for damages.

Difficulty: 3 Hard

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Apply

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

36) Which of the following covers the rules of contract, property, and agency?

- A) Procedural law
- B) Private law
- C) Criminal law
- D) Ordinances

Answer: B

Explanation: Private law establishes a framework of legal rules that enables parties to set the rights and duties they owe each other.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Remember

AACSB: Ethics

Accessibility: Keyboard Navigation

37) Some legal positivists believe that:

- A) an unjust law is not law.
- B) the validity of enacted laws should be obeyed, just or not.
- C) the law should keep up with changing times.
- D) justice is what the judge ate for breakfast.

Answer: B

Explanation: Legal positivists believe that laws may be good, bad, or indifferent in moral terms. However, they have to be obeyed irrespective of their content.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

Accessibility: Keyboard Navigation

38) Why is sociological jurisprudence seen to resemble natural law?

- A) It advocates the separation of law and morality.
- B) It stresses on the superiority of lawmakers.
- C) It calls for a separation of the judiciary and legislature.
- D) Its definition of law includes social values.

Answer: D

Explanation: Since its definition of law includes social values, sociological jurisprudence seems to resemble natural law.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

39) The law and economics movement has influenced judicial opinions in what area of law?

- A) Antitrust law
- B) Criminal statutes
- C) Discrimination policies
- D) Education

Answer: A

Explanation: The law and economics movement examines legal rules through economic theory and analysis. This movement's influence has extended beyond academic literature, with law and economics-oriented considerations, factors, and tests sometimes appearing in judicial opinions dealing with such matters as contract, tort, or antitrust law.

Difficulty: 1 Easy

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

40) Which of the following characterizes natural law?

- A) It accepts the need for both good and bad laws.
- B) It reads constitutional law narrowly.
- C) It rejects the separation of law and morality.
- D) It opposes the view that law should be guided by a "higher reason."

Answer: C

Explanation: Natural law adherents usually contend that some higher law or set of universal moral rules binds all human beings in all times and places. It rejects the positivist separation of law and morality.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

Accessibility: Keyboard Navigation

- 41) Which of the following is a characteristic of legal realists?
- A) They define law as that which is codified in the books.
 - B) They believe in the use of discretionary standards.
 - C) They believe that the rules in the books—really affect people's lives.
 - D) They believe that "law is law, just or not."

Answer: B

Explanation: Legal realists feel that the modern judge should be a social engineer who weighs all relevant values and considers social science findings when deciding a case; this requires discretionary standards that allow judges to decide each case according to its unique facts.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

Accessibility: Keyboard Navigation

- 42) Which of the following statements is true of statutes and statutory interpretation?
- A) Statutes are easier to interpret than case law.
 - B) Courts begin their interpretation of statutes with legislative history.
 - C) There is often deliberate ambiguity in the language of statutes.
 - D) Courts rarely engage in statutory interpretation

Answer: C

Explanation: Statutes are often ambiguously worded because legislators are unwilling or unable to deal specifically with each situation that the statute was enacted to regulate, there is a need for legislative compromise, and/or legislators want to avoid taking any controversial positions.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

43) One strength of the instrumentalist attitude:

- A) is its willingness to adapt the law to further the social good.
- B) is that legal validity and moral validity always remain separate.
- C) is that the natural law always remains unworkable.
- D) is that it views the law as an unchanging rule that deserves obedience.

Answer: A

Explanation: An instrumentalist attitude denotes the willingness to adapt existing laws to current situations.

Difficulty: 2 Medium

Topic: The Functions of Law

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

Accessibility: Keyboard Navigation

44) In which of the following circumstances, under the doctrine of *stare decisis*, does the common law rule stated in an earlier judgment not apply to a present case?

- A) Only when the case concerns a government agency.
- B) Only when the court distinguishes the earlier decision.
- C) Only when the parties involved jointly appeal to the courts to do so.
- D) The doctrine of *stare decisis* does not allow this kind of a situation.

Answer: B

Explanation: When a precedent has been properly distinguished, the common law rule it stated does not control the present case. The court deciding the present case may then fashion a new common law rule to govern the case.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (*stare decisis*) and distinguishing precedent in case law reasoning.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

45) When a court identifies a meaningful difference between a present and past case, it _____ the earlier decision.

- A) interprets
- B) implements
- C) prioritizes
- D) distinguishes

Answer: D

Explanation: When an earlier case may seem similar enough to the present case to constitute a precedent but the court deciding the present case nevertheless identifies a meaningful difference between the cases, the court distinguishes the earlier decision.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (*stare decisis*) and distinguishing precedent in case law reasoning.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

46) What are legal rules in prior cases called?

- A) Statutes
- B) Precedents
- C) First impressions
- D) Uniform laws

Answer: B

Explanation: According to the doctrine of *stare decisis*, like cases must be decided alike. Appropriate legal rules from earlier cases are called precedents.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (*stare decisis*) and distinguishing precedent in case law reasoning.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

47) Which of the following is not required for a plaintiff to demonstrate standing to sue?

- A) Direct stake
- B) Tangible stake
- C) Monetary stake
- D) Substantial stake

Answer: C

Explanation: The doctrine of standing to sue normally requires that a plaintiff have some direct, tangible, and substantial stake in the outcome of the litigation.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

48) What are courts and administrative agencies expected to do when they encounter ambiguously worded statutes while deciding a case?

- A) Keep the particular statute aside
- B) Fill in the details on a case-to-case basis
- C) Refer to a different statute
- D) Initiate a debate in the legislature

Answer: B

Explanation: The natural ambiguity of language serves as one reason courts face difficulties when interpreting statutes. When this happens, the legislature expects courts and/or administrative agencies to fill in the details on a case-by-case basis.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

49) What do courts begin their interpretation of a clearly worded statute with?

- A) Its plain meaning
- B) Its legislative history
- C) Records of legislative debates
- D) Its different amendments

Answer: A

Explanation: Courts begin their interpretation of a statute with its actual language. If the statute's words have a clear, common, accepted meaning, courts often employ the plain meaning rule.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

50) Which of the following is a characteristic of the U.S. government that vests the executive, legislative, and judicial powers in separate bodies?

- A) Federalism
- B) Separation of powers
- C) Federal supremacy
- D) Judicial activism

Answer: B

Explanation: Through its separation of powers, the U.S. Constitution establishes the Congress and gives it power to make law in certain areas, provides for a chief executive (the president) whose function is to execute or enforce the laws, and helps create a federal judiciary to interpret the laws.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

51) The Supreme Court once denied tax-exempt status to a private university that discriminated on the basis of race. Which of the following is likely to have influenced or guided the interpretation of the statute relevant to this case?

- A) Maxims
- B) Precedents
- C) General public purposes
- D) Standing to sue

Answer: C

Explanation: Courts sometimes construe statutory language in the light of various general public purposes. These purposes are not the purposes underlying the statute in question; rather, they touch upon widely accepted general notions of public policy.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

52) Which of the following is false about the power of courts?

- A) Courts are not absolutely bound to favor one technique of statutory interpretation over another.
- B) Courts can distinguish prior decisions in common law cases.
- C) State supreme courts can overrule their own prior decisions.
- D) Courts can make or interpret law in the absence of a case.

Answer: D

Explanation: A fundamental limit on the power of courts is that they cannot make or interpret laws until parties present them with a case to decide.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

53) What is the main argument for avoiding a statute's plain meaning or legislative history and instead following a prior interpretation in a case?

- A) Plain meaning is subject to debate
- B) Promoting stability and certainty
- C) Legislative history can be contentious
- D) Saving the court's valuable time

Answer: B

Explanation: Courts sometimes follow prior cases and administrative decisions interpreting a statute, regardless of the statute's plain meaning or legislative history. The main argument for following these prior interpretations is to promote stability and certainty.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

54) _____ are general rules of thumb employed in statutory interpretations.

- A) Idioms
- B) Phrases
- C) Quotations
- D) Maxims

Answer: D

Explanation: Maxims are general rules of thumb employed in statutory interpretation.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

55) Cases are said to be _____ when there no longer is a real dispute between the parties.

- A) ripe
- B) moot
- C) feigned
- D) intangible

Answer: B

Explanation: Courts may refuse to decide cases that are moot, i.e., there no longer is a real dispute between the parties.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

56) The doctrine of standing to sue implies that:

- A) the lawsuit must benefit the public in general.
- B) the plaintiff has a substantial stake in the litigation.
- C) cases must be genuine controversies.
- D) courts must not issue any advisory opinions in cases.

Answer: B

Explanation: The doctrine of standing to sue, requires that the plaintiff have some direct, tangible, and substantial stake in the outcome of the litigation.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

57) Which of the following allows courts to help parties determine their rights and duties even though neither may yet have been harmed, so long as there is a real case or controversy between them?

- A) No liability outside privity of contract rule
- B) *Ejusdem generis*
- C) A declaratory judgment statute
- D) Public law

Answer: C

Explanation: State and federal declaratory judgment statutes allow parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

58) Which of the following allows parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary?

- A) *Ejusdem generis*
- B) Standing to sue
- C) Declaratory judgment
- D) Precedents

Answer: C

Explanation: State and federal declaratory judgment statutes, allow parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary. This enables them to determine their legal position without taking action that could expose them to liability.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

59) Evan plans to open a company named "Maryland" for which her trademark is "M." This trademark in no way resembles the famous McDonald's trademark. However, she fears that the latter might think otherwise and sue her in the future. Evan wants to take no risk and hence seeks the court's judgment on the issue. Can she do it?

- A) Yes, she can do it because she wishes to seek the court's opinion.
- B) Yes, she can do it under state and federal declaratory judgment statutes.
- C) No, she cannot agitate an issue that has not yet arisen.
- D) No, she cannot agitate the issue as she knows that the two marks are not similar.

Answer: B

Explanation: State and federal declaratory judgment statutes allow parties to determine their rights and duties even though their controversy has not advanced to the point where harm has occurred and legal relief may be necessary.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Apply

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

60) Which method of statutory interpretation was most emphasized (and used) in the *James v. City of Costa Mesa* case in the text?

- A) The plain meaning rule.
- B) Interpreting a statute consistent with its purpose.
- C) Following prior interpretations of a statute.
- D) Maxims of statutory construction.

Answer: A

Explanation: In *James*, the plaintiffs filed a lawsuit against the cities of Costa Mesa and Lake Forest, California, for taking steps to close down or otherwise prohibit the operation of marijuana-dispensing facilities within their boundaries. The plaintiffs asserted this action pursuant to Title II of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the provision of public services. The case turned on the whether the plaintiffs' medical marijuana constituted an "illegal use of drugs." In reaching its decision in favor of the cities, the court looked to the plain meaning of the language.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

- 61) The Bill of Rights to the U.S. Constitution is an example of:
- A) a prohibition of government action that would restrict certain individual rights.
 - B) a structured government.
 - C) a form of power given to Congress to make law.
 - D) federalism.

Answer: A

Explanation: A function of constitutions is to prevent the government from taking certain actions or passing certain laws, sometimes even if those actions or laws would otherwise appear to fall within the authority granted to the government under the first function. Constitutions do so mainly by prohibiting government action that restricts certain individual rights. The Bill of Rights to the U.S. Constitution is an example.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

- 62) What is the goal of uniform acts?
- A) To demonstrate a logical approach on how to reconcile conflicting laws
 - B) To explain why current laws are illogical
 - C) To provide reference materials to aid decision makers
 - D) To produce state-by-state uniformity

Answer: D

Explanation: Uniform acts are model statutes drafted by private bodies of lawyers and scholars. They do not become law until a legislature enacts them. Their aim is to produce state-by-state uniformity on the subjects they address.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

63) Which area of law does not mainly consist of common law?

- A) Contracts
- B) Bankruptcy
- C) Torts
- D) Agency

Answer: B

Explanation: The rules of tort, contract, and agency are mainly common law rules. In contrast, bankruptcy is codified.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

64) Which of the following was the conclusion in the *Price v. High Pointe Oil Company, Inc.* case in the text?

- A) The longstanding common law rule applied and declined to extend the rule in the plaintiff's circumstances.
- B) The unambiguous language of the statute prevailed.
- C) The court declined to assume the role of the legislature.
- D) The court created a new rule and the plaintiff prevailed.

Answer: A

Explanation: In *Price*, the plaintiff recovered all economic losses resulting from High Pointe's error (negligent destruction of property) but sued for noneconomic losses—pain and suffering, humiliation, embarrassment, and emotional distress. A jury found in her favor and awarded her \$100,000 in damages. The Michigan Supreme Court looked at the common-law rule for damages in such circumstances and concluded no Michigan case has ever allowed a plaintiff to recover noneconomic damages resulting from negligent destruction of property. Therefore, the court declined to extend the common-law rule in the plaintiff's case.

Difficulty: 3 Hard

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

65) Which of the following is not an equitable remedy?

- A) Monetary damages
- B) Injunction
- C) Specific performance
- D) Reformation

Answer: A

Explanation: The most important equitable remedy is the injunction, which is a court order forbidding a party to do some act or commanding him to perform some act. Other equitable remedies include specific performance (whereby a party is ordered to perform according to the terms of her contract) and reformation (in which the court rewrites the contract's terms to reflect the parties' real intentions).

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

66) Which of the following remedies is described as a court order for a party to perform according to the terms of the parties' contract?

- A) Injunction
- B) Specific performance
- C) Reformation
- D) Rescission

Answer: B

Explanation: Specific performance is a contract remedy whereby the defendant is ordered to perform according to the terms of his or her contract.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

67) Administrative agencies obtain the ability to make law through a(n) _____ of power from the legislature.

- A) assignment
- B) delegation
- C) separation
- D) allocation

Answer: B

Explanation: Administrative agencies obtain the ability to make law through a delegation (or grant) of power from the legislature.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

68) What type of law do administrative agencies create?

- A) Statutes
- B) Uniform acts
- C) Common law
- D) Agency decisions

Answer: D

Explanation: The two types of law made by administrative agencies are administrative regulations and agency decisions.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

69) What is a formally negotiated and ratified agreement between countries called?

- A) Settlement
- B) Convention
- C) Treaty
- D) Covenant

Answer: C

Explanation: A treaty is a formally negotiated and ratified agreement between or among countries. According to the U.S. Constitution, treaties made by the president with foreign governments and approved by two-thirds of the U.S. Senate become "the supreme Law of the Land."

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

70) Although the president or a state's governor does not have typical law-making powers, these officials have limited power to issue laws called:

- A) uniform acts.
- B) advisory opinions.
- C) statutes.
- D) executive orders.

Answer: D

Explanation: In theory, the president or a state's governor is a chief executive who enforces the laws but has no law-making powers. However, these officials sometimes have limited power to issue laws called executive orders. This power normally results from a legislative delegation.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

71) When a treaty conflicts with a federal statute over a purely domestic matter, which prevails?

- A) The measure that is later in time
- B) The measure that is first in time
- C) The federal statute
- D) The treaty

Answer: A

Explanation: When a treaty conflicts with a federal statute over a purely domestic matter, the measure that is later in time usually prevails.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-02 Identify the type of law that takes precedence when two types of law conflict.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

72) When a conflicting common law rule is inconsistent with an administrative regulation, which prevails?

- A) The measure that is later in time
- B) The measure that is first in time
- C) The conflicting common law rule
- D) The administrative regulation

Answer: D

Explanation: Statutes and any laws derived from them by delegation defeat inconsistent common law rules. Accordingly, either a statute or an administrative regulation prevails over a conflicting common law rule

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-02 Identify the type of law that takes precedence when two types of law conflict.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

73) Which of the following was an issue the court considered in the *Advance Dental Care, Inc. v. SunTrust Bank* case in the text?

- A) Whether the statute involved offered a sufficient remedy to replace the common law rule.
- B) Whether the statute was ambiguous.
- C) Whether the plaintiff pleaded sufficient facts to recover under the common law rule.
- D) Whether the plaintiff pleaded sufficient facts to recover under the statute.

Answer: A

Explanation: In *Advance Dental Care*, the court considered whether the plaintiff's common-law negligence claim was displaced by the statutory Uniform Commercial Code conversion claim.

Difficulty: 3 Hard

Topic: Types and Classifications of Law

Learning Objective: 01-02 Identify the type of law that takes precedence when two types of law conflict.

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

74) Which of the following classifications of law does not describe contract law?

- A) Private
- B) Procedural
- C) Substantive
- D) Civil

Answer: B

Explanation: Civil law mainly concerns obligations that private parties owe to each other. Substantive law sets the rights and duties of people as they act in society. Private law establishes a framework of legal rules that enables parties to set the rights and duties they owe each other. As such, a rule of contract would be civil, substantive, and private.

Difficulty: 2 Medium

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

75) Which of the following is not an example of public law?

- A) Constitutional law
- B) Administrative law
- C) Contract law
- D) Criminal law

Answer: C

Explanation: Public law concerns the powers of government and the relations between government and private parties. Examples include constitutional law, administrative law, and criminal law.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-03 Explain the basic differences between the criminal law and civil law classifications.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

76) Which of the following terms stands for the philosophy of law?

- A) Canon
- B) Jurisprudence
- C) Equity
- D) Mandate

Answer: B

Explanation: Jurisprudence stands for the philosophy of law. It is also sometimes used to refer to the collected positive law of some jurisdiction.

Difficulty: 1 Easy

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

- 77) One weakness of the instrumentalist attitude:
- A) is its legal instability and uncertainty.
 - B) is its unwillingness to adapt the law to further social good.
 - C) is that it often conflicts with ethics.
 - D) is its constant evolution.

Answer: A

Explanation: An instrumentalist attitude denotes the willingness to adapt existing laws to current situations. A weakness, however, is the legal instability and uncertainty those adoptions often produce.

Difficulty: 2 Medium

Topic: The Functions of Law

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

- 78) Which of the following is not a function of the law discussed in the text?
- A) Peacekeeping
 - B) Protecting the environment
 - C) Checking government power and promoting personal freedom
 - D) Promoting societal norms

Answer: D

Explanation: Just as individual legal rules advance specific purposes, law as a whole serves many general social functions. Among the most important of those functions are: peacekeeping, checking government power and promoting personal freedom, facilitating planning and the realization of reasonable expectations, promoting economic growth through free competition, promoting social justice, and protecting the environment

Difficulty: 1 Easy

Topic: The Functions of Law

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

79) A distinction between cases is considered valid if it involves:

- A) a widely accepted ethical or policy reason.
- B) supporting legislative history.
- C) reasoning from the Restatements.
- D) a clear and obvious conclusion.

Answer: A

Explanation: A valid distinction involves a widely accepted ethical or policy reason for treating the present case differently from its predecessor. Because people disagree about moral ideas, public policies, and the degree to which they are accepted, and because all these factors change over time, judges may differ on the wisdom of distinguishing a prior case.

Difficulty: 2 Medium

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Understand

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

80) Which of the following was the court's holding in the *Coomer v. Kansas City Royals Baseball Corp.* case in the text?

- A) The risk of injury from the hotdog toss was not one of the risks inherent in watching the baseball game and the defendants owed the plaintiff a duty to use reasonable care.
- B) The risk of injury from the hotdog toss was foreseeable and the defendants were not liable.
- C) Risk, if any, could not be eliminated so the defendants were not liable.
- D) The plaintiff assumed the risk when he was hit with a hotdog.

Answer: A

Explanation: In *Coomer*, the court held that the risk of injury from Sluggerrr's hotdog toss was not one of the risks inherent in watching the Royals play baseball that Coomer assumed merely by attending a game at Kauffman Stadium. This risk can be increased, decreased or eliminated altogether with no impact on the game or the spectators' enjoyment of it. As a result, Sluggerrr (and, therefore, the Royals) owe the fans a duty to use reasonable care in conducting the Hotdog Launch and can be held liable for damages caused by a breach of that duty.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

81) The *Chicago Lawyers Committee for Civil Rights Under Law, Inc. v. Craigslist* case discussed in the text is an example of:

- A) indecent exposure penalties.
- B) how legislative history is persuasive.
- C) a plain meaning interpretation.
- D) a statute being applied to a situation the legislature may not have foreseen.

Answer: D

Explanation: The plaintiffs in the *Craigslist* case sued under the Communications Decency Act, which is a federal statute designed to protect minors against online exposure to indecent material. However, its broad language caused courts to apply it to contexts having nothing to do with indecent exposure.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

82) In the *O'Connor v. Oakhurst Dairy* case in the text, what was the largest deciding factor in determining whether the defendant might be liable for millions of dollars in unpaid overtime wages?

- A) Unambiguous language
- B) Legislative history
- C) Use of the word "and"
- D) A "missing" comma

Answer: D

Explanation: The *O'Connor* case illustrates just how much can ride on a "missing" comma, namely millions of dollars in unpaid overtime wages.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

- 83) Which of the following is not an example of legislative history?
- A) Reports of investigative committees
 - B) Transcripts or summaries of hearings of legislative committees
 - C) A common law case that interpreted a previous version of the statute
 - D) Records of legislative debates

Answer: C

Explanation: A statute's legislative history includes the following sources: reports of investigative committees or law revision commissions that led to the legislation, transcripts or summaries of hearings of legislative committees that originally considered the legislation, reports issued by such committees, records of legislative debates, reports of conference committees reconciling the chambers' conflicting versions of the law in a bicameral legislature, amendments or defeated amendments to the legislation, other bills not passed by the legislature but proposing similar legislation, and discrepancies between a bill passed by one chamber of a bicameral legislature and the final version of the statute.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

- 84) A case is said to be _____ when it has matured into a genuine controversy.
- A) moot
 - B) ripe
 - C) substantial
 - D) feigned

Answer: B

Explanation: A court may not hear a case until it is ripe, meaning it has matured into a genuine controversy.

Difficulty: 1 Easy

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Remember

AACSB: Reflective Thinking

Accessibility: Keyboard Navigation

85) Which of the following was not a consideration when the U.S. Supreme Court decided the case in the text *Olympic Airways v. Husain*?

- A) The definition of "accident" in the Court's earlier precedent
- B) The language of the Warsaw Convention
- C) Public policy
- D) Legislative history

Answer: D

Explanation: The Court found that although the flight attendant's refusals were not the sole reason why Hanson died (the smoke itself being a key factor), the refusals were nonetheless a significant link in the causation chain that led to Hanson's death. Given the definition of "accident" in the Court's earlier precedent, the phrasing, the Warsaw Convention, and the underlying public policies supporting it, the Court concluded that the refusals to reseat Hanson constituted an "accident" covered by the Warsaw Convention.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Analyze

AACSB: Analytical Thinking

Accessibility: Keyboard Navigation

86) What do statutes and administrative regulations have in common?

Answer: Like statutes, administrative regulations appear in a precise form in one authoritative source.

Difficulty: 1 Easy

Topic: Types and Classifications of Law

Learning Objective: 01-01 Identify the respective makers of the different types of law (constitutions, statutes, common law, and administrative regulations and decisions).

Bloom's: Remember

AACSB: Reflective Thinking

87) Explain the position adopted by legal positivists regarding law.

Answer: Legal positivists define law as the command of a recognized political authority. The commands of recognized political authorities may be good, bad, or indifferent in moral terms. To legal positivists, such commands are valid law regardless of their "good" or "bad" content. In other words, positivists see legal validity and moral validity as entirely separate questions.

Difficulty: 2 Medium

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Understand

AACSB: Ethics; Analytical Thinking

88) Sociological jurisprudence has a tendency to say that, when interpreting and applying the law, courts should pay attention to changing social values and let the law reflect those new values. How is this different from the natural law approach, which also discusses values?

Answer: The difference is that this kind of sociological jurisprudence is indifferent to whether these new values are "good" or "bad." They examine law within its social context. Recall the "right or wrong" at the end of Holmes's statement on the subject. To make the contrast clear, imagine that Country X is becoming worse in a moral sense. Sociological jurisprudence at issue here might counsel that courts follow the new values (or anti-values) anyway—possibly because law that does not fit with a society's dominant values cannot be enforced or obeyed and will not last. But natural law would reject this stance, because it would mean the creation of unjust laws, which according to them, are not law at all.

Difficulty: 3 Hard

Topic: Jurisprudence

Learning Objective: 01-04 Describe key ways in which the major schools of jurisprudence differ from each other.

Bloom's: Analyze

AACSB: Ethics; Analytical Thinking

89) Why might legislators deliberately use ambiguous language in a statute?

Answer: In some instances, legislators may deliberately use ambiguous language when they are unwilling or unable to deal specifically with each situation the statute was enacted to regulate. When this happens, the legislature expects courts and/or administrative agencies to fill in the details on a case-by-case basis. Other reasons for deliberate ambiguity include the need for legislative compromise and legislators' desire to avoid taking controversial positions.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-05 Describe the respective roles of adhering to precedent (stare decisis) and distinguishing precedent in case law reasoning.

Bloom's: Apply

AACSB: Analytical Thinking

90) Explain the two ways courts use legislative history.

Answer: Courts use legislative history in two overlapping but distinguishable ways. They may use it to determine what the legislature thought about the specific meaning of statutory language. They may also use it to determine the overall aim, end, or goal of the legislation. In this second case, they then ask whether a particular interpretation of the statute is consistent with this legislative purpose.

Difficulty: 3 Hard

Topic: Legal Reasoning

Learning Objective: 01-06 Identify what courts focus on when applying the major statutory interpretation techniques (plain meaning, legislative purpose, legislative history, and general public purpose).

Bloom's: Analyze

AACSB: Analytical Thinking