

10
Elkaf: Ahmed

A) X 18
B) 9
C) 20
~~38~~
47

Midterm Exam
BLAW 280: Professor Zucker
Fall 2014

Part A. Multiple Choice. (50 percent, two points each)

1. Which of the following is based on the idea that, when ruling on a case, judges consider more than just the law; they also weigh factors such as social and economic conditions?

- A. Cost-Benefit Analysis
- ☒ B. Legal Realism
- C. Historical School
- D. Legal Positivism
- E. Executive Positivism

2. According to the *Los Angeles Times*, Governor Brown signed a bill that would:

- A. Make it legal for people to post nude photos of their friends on the internet.
- ☒ B. Allow victims of "revenge porn" to seek damages in civil court and would also be able to seek a restraining order to get the offending photos taken down from the Internet.
- C. Make the tort of "defamation" no longer enforceable in California.
- D. All of the above.

3. According to the *Los Angeles Times*, an attorney was disciplined for:

- ☒ A. Posting doctored photos on her firm's website that implied she mingled with high-profile politicians and celebrities, including President Obama, George Clooney and Kim Kardashian.
- B. Assaulting clients in court.
- C. Defaming clients in court.
- D. All of the above.

4. According to the *Los Angeles Times*, *Brown v. Board of Education*:

- A. Was decided 60 years ago.
- B. Ruled that "separate but equal" is inherently unequal.
- C. Overturned prior decisions that sanctioned separating the races by a 9-0 vote of the U.S. Supreme Court.
- ☒ D. Both "A" and "B"
- ☒ E. All of the above.

5. According to the podcast *This American Life: The Economics of Bribing a Cop*, the podcast reporter would most likely agree with the following argument(s):

- A. that "semi-official corruption" is "semi-defensible."
- B. that any government related corruption, however minimal, hampers the economy.
- C. the only thing worse than a society with a rigid, over centralized, dishonest bureaucracy is one with a rigid, over centralized, and honest bureaucracy.
- ☒ D. Both "A" and "C".
- E. All of the above.

6. When courts rely on precedent, they are obeying _____.

- A. Common analysis
- B. Res judicata
- ☒ C. Stare decisis
- D. In rem process
- E. Federal law

The following fact pattern applies to questions 7, 8, 9, and 10.

Sam promised to sell Linda a Welsh Corgi puppy for \$300 but backed out of the deal. Linda sued Sam in state court for breach of contract. Linda asked for a jury in her complaint. During jury selection, one juror, Ann, said that they did not think they could be fair to Linda because Linda did not appear to be a dog lover. Linda asked that Ann not hear the case, and the judge excused Ann. Linda also decided that another juror, Sandy, looked at her in a grumpy manner so she asked the judge to excuse that juror from serving. The judge did so. After the jury was chosen, Linda made a statement to the jury as did Sam. Linda then called to the witness stand a friend of hers, Brenda, who heard the discussion held between Linda and Sam regarding the purchase of the puppy. Brenda testified under questioning by Linda that she heard Linda say that she would pay \$300 for the puppy and that she also heard Sam say that he would sell the dog for that amount. Unfortunately for Linda, Brenda also testified in response to questioning by Sam that Sam distinctly told Linda that he would only sell the puppy to her if Linda came with cash for the puppy within seven days. Linda did not show up with the money for ten days and Sam had already sold the dog to someone else. The judge ruled in favor of Sam.

7. In choosing the jury, Linda and Sam were engaged in _____.

- ☒ A. Voir dire
- B. Jury analysis
- C. Jury review
- D. Ven dere
- E. Shadowing

8. The challenge to the juror who said that they could not be fair is referred to as a[n]

- A. Peremptory challenge
- ☒ B. Challenge for cause
- C. Stipulated challenge
- D. Fairness challenge
- E. Approved challenge

9. The challenge to the juror who seemed grumpy is referred to as a[n]

- ☒ A. Peremptory challenge
- B. Challenge for cause
- C. Stipulated challenge
- D. Fairness challenge
- E. Approved challenge

10. The statements made to the jury by Linda and Sam immediately after the jury was chosen were _____.

- A. Direct statements
- B. Closing statements
- C. Jury statements
- D. Influential statements
- ☒ E. Opening statements

11. Which of the following is a document that notifies the defendant of the lawsuit and explains that if the defendant does not respond to the lawsuit within a certain period of time, a default judgment will be entered?

- A. Complaint
- B. Answer
- ☒ C. Summons
- D. Instructional guide
- E. Transactional analysis

12. A[n] _____ is a judgment in favor of the plaintiff that occurs when the defendant fails to answer the complaint and the plaintiff's complaint alleges facts that would support such a judgment.

- ☒ A. Default judgment
- B. Automatic judgment
- C. Delineated response judgment
- D. Dismissal
- E. Pleading judgment

13. The _____ requirement ensures that courts do not render advisory opinions.

- A. Attachment
- B. Subject-matter jurisdiction
- ☒ C. Case or controversy
- D. In rem
- E. In personam

14. Jim, who is a bit eccentric, says that he is fed up with the way a certain employer in his town treats employees and that he is going to sue on behalf of all those employees. Jim also says that he is going to start his case at the appellate court level, skipping over all those "lesser" judges. Jim says that those justices will surely hear him out and that he will also seek a jury. Regardless of what court is involved, can Jim act as plaintiff for the employees?

- A. Yes, so long as he gets permission slips from them.
- B. Yes, so long as they file no objection.
- C. Yes, so long as he gives any money he receives to them.
- ☒ D. No, because he lacks standing.
- E. No, because venue is lacking.

15. Billy knows that he can bring his case against Bob in a state court in Tennessee. He is unsure, however, of which county in which to proceed. Which of the following address the proper county?

- A. In personam jurisdiction
- ☒ B. Venue
- C. Subject-matter jurisdiction
- D. Diversity jurisdiction
- E. Long-arm jurisdiction

16. Susan ran a traffic light and did significant damage to Paul's car. Susan has no insurance and no assets except for a farm. Which of the following is true?

- ☒ A. A court can try the case and following judgment for Paul, exercise quasi in rem jurisdiction over the farm and authorize its sale. Any excess over Paul's amount of damages would go to Susan to compensate her for the trouble she had trying the case.
- ☒ B. A court can try the case and following judgment for Paul, exercise quasi in rem jurisdiction over the farm and authorize its sale. Any excess over Paul's amount of damages would go to Paul.
- C. A court can try the case and following judgment for Paul, exercise quasi in rem jurisdiction over the farm and authorize its sale. Any excess over Paul's amount of damages would go to the court system for its trouble.
- D. A court can try the case and following judgment for Paul, exercise quasi in rem jurisdiction over the farm and authorize its sale. Any excess over Paul's amount of damages would be split between Susan and Paul.
- E. Assuming that Paul obtains a judgment in his favor, he has no rights to proceeds from the farm because it is real property, not subject to seizure.

17. Which of the following do appellate courts primarily handle?

- ☒ A. Questions of law
- B. Questions of fact
- C. Questions of law and fact
- D. Cases when they initially enter the legal system
- E. Questions of law and fact, and also cases when they initially enter the legal system

The following fact pattern applies to questions 18, 19, 20, and 21.

Maryann, a college student, went to see her hair stylist, Candy. Maryann who had black, curly hair, requested straight, blond hair. Candy told her that she could make that change, but there would be significant upkeep involved. Candy made the change, but Maryann did not do the upkeep required. She also falsely claimed that Candy did not do what Maryann asked her to do, that Candy lied to her, and that Candy was professionally incompetent. Maryann made the statements to friends of hers. She also wrote an editorial in her college newspaper to the effect that Candy's shop should be avoided at all costs because Candy was incompetent. In fact, Candy was a good hair stylist and enjoyed a good reputation up until the time that Maryann started her criticism. Candy threatened to sue Maryann for defamation, but Maryann told Candy that Candy could not prevail because Candy could not prove loss of income. Candy had to admit that while her reputation had been damaged somewhat, the damage was primarily among the college

population. Her income kept increasing from other segments of the community, and she had suffered no net loss. All her appointment times were booked.

18. The defamation printed in the school newspaper would be which of the following?

- A. Libel.
B. Slander.
C. Both libel and slander.
D. Neither libel nor slander because an editorial was involved.
E. Neither libel nor slander because the falsehood involved matters of appearance not business-related matters.

19. As far as the editorial is concerned, which of the following is true in regards to Maryann's statement that Candy cannot recover because she cannot show loss of income?

- A. Maryann is correct.
B. Maryann is correct only if she can establish that she did not intend to cause economic loss to Candy.
C. Maryann is incorrect because her actions would be considered liable per se.
D. Maryann is incorrect because general damages would be presumed.
E. Maryann is incorrect because Candy has proven special damages

20. Statements made by Maryann to her friends that were defamatory of Candy are what type of defamation?

- A. Libel.
B. Slander.
C. Both libel and slander.
D. Neither libel nor slander because an editorial was involved.
E. Neither libel nor slander because the falsehood involved matters of appearance not business-related matters.

21. As far as the statements made to her friends are concerned, which of the following is true in regards to Maryann's statement that Candy cannot recover because Candy has not suffered a loss of income?

- A. Maryann is correct.
B. Maryann is correct only if she can show that she did not intend to cause Candy loss of income.
C. Maryann is incorrect because her statements constituted slander per se.
D. Maryann is incorrect because general damages will be presumed.
E. Maryann is incorrect but only because Candy cannot establish liable per se.

The following fact pattern applies to questions 22, 23, 24, and 25.

Millie breeds German Shepherd dogs. Bernard, who lives down the street, took in a stray dog loosely identified as a Corgi-plus. The dog, Casanova, would definitely be classified as a mixed breed. Bernard allowed Casanova to roam freely. Unfortunately, Casanova went to visit Millie's pure-bred German Shepherd. Puppies resulted which were Shepherd and Corgi-plus puppies. Millie was incensed. She started a campaign to round up all of the stray dogs, including Casanova, and haul them off to the animal shelter. She picked up a few cats as well. She posted signs all over the neighborhood saying that no animal, neither dog, cat nor fowl, should come into her yard and that she was going to begin shooting the next time, period. Understandably, Bernard and some of the other neighbors took offense. Bernard comes to Millie's house while she is working in the yard. He walks behind her and shoves her. Millie did not see him coming. Millie turned around and proceeded to have a heated conversation with Bernard. Millie drew her fist back and told Bernard that she was going to punch him in the nose. Millie started to punch Bernard but he stepped back, and all she managed to do was jab him in the shoulder, causing no actual pain. Sally, who was going by on the street, saw Millie attempting to hit Bernard. Sally came over and grabbed Millie's hands, pinning Millie's hands behind her back.

22. Millie's threat to punch Bernard in the nose and her action in support constitute a[n]

_____:

- A. Assault and battery
- B. Battery
- ☒ C. Assault
- D. Justified retribution
- E. Negligence

23. Millie's action in jabbing Bernard after she missed his nose, constitutes which of the following?

- ☒ A. Battery.
- B. Nothing because the conduct would not be deemed offensive.
- C. Nothing because she missed the nose, and Bernard was not actually hurt.
- D. Nothing because by entering Millie's yard, Bernard consented to any offensive touching.
- E. Nothing because Bernard deserved what he got.

24. Which of the following is true regarding Sally's actions toward Millie?

- A. Sally committed an assault.
- B. Sally committed a battery.
- C. Sally committed both an assault and a battery.
- D. Sally did not commit any offense because she did not actually hurt Millie.
- ☒ E. Sally did not commit any offense because she was acting in the defense of Bernard.

25. Which of the following is true regarding a storekeeper who detains a suspected shoplifter?

- A. There is no special rule for shopkeepers. Shopkeepers commit the tort of false imprisonment if they detain anyone even if that person is suspected of shoplifting. Instead, the police should be called.
- B. When a retailer has a reason to believe that a person is guilty of shoplifting, the store may question the person about said shoplifting in a reasonable manner and for a reasonable length of time.
- C. Whenever a retailer has a reason to believe that a person is guilty of shoplifting, the store may detain the person for any length of time but may not ask any questions prior to the arrival of the police.
- D. The shopkeeper may detain the shoplifter only for a reasonable length of time but may not ask any questions prior to the arrival of the police.
- E. None of the above.

Part B. Fill in the Blank. (15%, one point each)

1. California is located in the 9th Circuit Court of Appeals, United States.
2. Federal trial courts are referred to as district court.
3. negligent torts occur when the defendant is careless and acts in a way that subjects other people to an unreasonable risk of harm.
4. Laws which enable the court to serve a defendant outside the state as long as the defendant has sufficient minimum contacts within the state and it seems fair to assert jurisdiction is called long arm jurisdiction.
5. Free point.
6. In order to bring a lawsuit, a person must file a X in the proper court.

7 - 15: List the nine (9) justices currently sitting on the U.S. Supreme Court.

John Roberts : Chief Justice

Antonin Scalia

Anthony Kennedy

Clerence Thomas

Ruth Bader Ginsburg

Stephen Breyer

Samuel Anthony Alito Jr.

Sonia Sotomayor

Elena Kagan

The following is a report written by Jimmy Lee, Loss Prevention Officer for Barron's Art Mart.

At 2:20 p.m. today, I observed a customer, Susan Kim, who was standing next to calligraphy sets in the store, make a sudden move to her pocket. She then proceeded at an accelerated pace toward the exit. I noticed that her side pocket was stuffed. I then proceeded directly to where the customer had been standing and noticed that a calligraphy pen set was missing. It so happened that I noticed earlier that day that the calligraphy pen sets were fully stocked up. I assumed that the customer, who I had previously observed, had shoplifted the set. As the customer was about to leave the store by then, I began chasing after her and reached her at the store's entrance.

Fearing that I might lose her in the crowd, I shouted at her to stop. I then grasped her by the arm and shoved her back to the store. Apparently, the customer lost her balance and fell on her back hitting one of the checkout counters. She seemed to be hurt a little, but then I offered to help her stand up, although she continued to limp. I then asked her if she had forgotten to pay for something. She seemed surprised and said that she does not understand what I am talking about.

I then directed her to follow me to the Loss Prevention room. Kimberly Youseff, one of the checkout employees, helped her walk toward the Loss Prevention room as the customer complained she was having difficulties walking and was experiencing terrible back pain. I closely walked behind the two of them.

Per store's protocol, I then advised the customer that she would have to wait until the store's manager would come back from a meeting for the investigation to begin. The store's manager, Jennifer Parker, was due to return from a meeting at 2:30 p.m. that day. Unfortunately, she only returned at 3:30 p.m. At that time, Mrs. Parker advised the customer why she was being held up and asked her to empty her pockets. However, no calligraphy set was found.

Mrs. Parker then apologized for the inconvenience, gave her a \$25 gift certificate, and wished the customer well. I really did not mean to hurt the customer, but apparently her fall did some damage to her as she kept complaining that her back hurts.

Discuss all relevant issues.