

Student: _____

1. Much of the origins of the law dealt with issues related to _____.

2. When the United States Supreme Court formally recognized their role in achieving equality for all Americans during the civil rights movement, they were following a _____ philosophy.

3. Attorneys who work for a company and are part of the executive or mid-level 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 law suit are called _____.

6. Equitable rules used in the context of Common Law rules that guide courts in deciding cases or controversies are called equitable _____.

7. Judicial opinions are also known as the _____ of the case.

8. A collection of uniform legal principles focused on a particular area of traditional state law is called _____ of the law.

9. Trial lawyers are also referred to as _____.

10. _____ are recognized as binding between two parties even though no specific statute or regulation provides for the rights of the parties.

11. Legal positivists believe that agreed upon laws should be uniformly and strictly enforced and may only be changed by the government.
True False
12. Law today is crucial to business by creating some degree of reliability to be used in business planning and commercial transactions.
True False
13. States tend to amend their constitutions less frequently than is the case with the United States Constitution.
True False
14. A presidential veto may be overridden by a 2/3 majority vote of the Senate.
True False
15. Legal Realism is the oldest form of American jurisprudence and was founded during the American Revolution and forms the basis for the United States Constitution.
True False

16. Courts regularly question and overturn administrative agency decisions involving how and when an agency enforces a regulation.
True False
17. The power of courts to establish law in matters not specifically addressed by statutes is very limited in common law countries.
True False
18. Equitable remedies are available to compensate injured parties in both civil and criminal lawsuits.
True False
19. Most states have separate courts of law and equity.
True False
20. A statute of limitations determines the maximum and minimum amounts of monetary relief that may be granted in different types of civil law suits.
True False
21. The purpose of secondary sources of law is to increase uniformity and fairness across courts in the 50 states.
True False
22. A wrongful act may violate civil law or criminal law but cannot violate both simultaneously.
True False
23. A zoning law which regulates what a landowner may or may not do with their privately owned property is an example of a public law.
True False
24. Laws which require that police show reasonable cause and obtain a search warrant before entering a place of business to search for evidence would be examples of substantive laws.
True False
25. Criminal law is designed to compensate parties for money lost as a result of another's unlawful conduct.
True False
26. For private law to be applied, there must be a statute or ordinance enacted that provides for the rights of the parties.
True False
27. Criminal law can also be characterized as public law but can never be considered private law.
True False
28. Freedom of Speech, as defined in the Constitution, is an example of substantive law.
True False
29. Restatements of the law are written and revised by the Congress and state legislatures as needed.
True False
30. All statutes have a statutory scheme but not all statutes have a legislative history.
True False
31. The common law is the law that all states follow to avoid confusion and to promote consistency from state to state.
True False
32. Civil law systems reject and prohibit the use of precedent, relying solely on strict interpretations of statutes.
True False

33. 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.
True False
34. Aggressive litigation generally results in a high monetary cost for a corporation.
True False
35. Arbitration and mediation are preferred dispute resolution methods because they always result in a satisfactory outcome for both sides of the dispute.
True False
36. Ordinances will preempt state level statutes.
True False
37. Alternative dispute resolution, when used to settle a business dispute, is usually not subject to appeal to a court.
True False
38. Laws relating to contracts for the sale of goods are primarily found in the common law.
True False
39. The U.S. system of common law is deep-seated in the French common law established by the Norman kings around 1066.
True False
40. Jurisprudence refers to the conducting of a trial and the rendering of a judicial decision.
True False
41. Black's Law Dictionary, as cited in the book defining the term law, includes each of the following except:
A. law is a body of rules.
B. law is conduct prescribed by a controlling authority.
C. law has a binding force.
D. law regulates personal ethics.
42. Jurisprudence is defined as:
A. adjudication of law suits.
B. the enactment of laws by a government body.
C. the science and philosophy of law.
D. the duties and obligations owed by a citizen.
43. Philip believes that moral values inherent in mankind should form the basis of law and that these principles are a higher authority than man made law. Philip is a proponent of:
A. natural law.
B. legal realism.
C. legal positivism.
D. social law.
44. 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:
A. securities law.
B. intellectual property law.
C. contract law.
D. antitrust law.

45. 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:
- A. securities law.
 - B. intellectual property law.
 - C. contract law.
 - D. antitrust law.
46. 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 a/an:
- A. ordinance.
 - B. regulation.
 - C. statute.
 - D. common law.
47. New York City has passed a law banning smoking of cigarettes and cigars in public bars and restaurants. This law would be defined as a/an:
- A. ordinance.
 - B. regulation.
 - C. statute.
 - D. common law.
48. The official publication of federal statutory law is the:
- A. Federal Register.
 - B. Consolidated Statutes of the United States.
 - C. Code of Congressional Statutes.
 - D. United States Code.
49. Kathy, a fashion model, witnesses a motor vehicle accident but does 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?
- A. statutory law
 - B. administrative law
 - C. common law
 - D. equity law
50. 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 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 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?
- A. sue for breach of contract and seek a legal remedy
 - B. sue for an injunction
 - C. bring a suit in equity and seek monetary damages
 - D. sue for breach of contract and seek a decree of specific performance
51. Which of the following is not available in a court of equity?
- A. an order for the payment of money damages for a breach of contract
 - B. an order prohibiting the building of a 16 foot fence in a residential neighborhood
 - C. an order requiring teachers to stop picketing in a particular area
 - D. an order requiring a party to turn over goods after being found guilty of breach of contract

52. 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:
- A. the court found that a temporary trust had indeed been created and that Mr. Kauffman was the equitable owner of the stock.
 - B. the court found that Mr. Kauffman was the equitable owner of the stock because the children had participated in a fraud when accepting ownership of the stock.
 - C. the court found that the children owned the stock because Mr. Kauffman's request for the return of the stock and the subsequent law suit came after the statute of limitations had run so he was barred from recovery.
 - D. the court found that the children owned the stock and Mr. Kauffman's claims were barred by the clean hands doctrine.
53. A state's appellate court has made a decision in a particular case. That decision becomes case precedent in all cases except those cases heard in:
- A. the state's Supreme or highest court.
 - B. the state's special courts such as family or probate court.
 - C. the state's general trial court.
 - D. the state's inferior or small claims court.
54. 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. The court determined that:
- A. the charitable immunity doctrine was specifically and clearly written so they were bound to follow the clear intent of the statutory scheme and find for the hospital.
 - B. 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.
 - C. current societal norms rendered the charitable immunity doctrine inapplicable to this case and that fundamental fairness allowed the court to deviate from established case precedent and find for Flagiello.
 - D. the charitable immunity doctrine can only be repealed or overturned by the state's legislature and that 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.
55. The source of each of the following types of law is primarily statutory except:
- A. zoning laws.
 - B. contracts for services.
 - C. contracts for the sale of goods.
 - D. employment discrimination.
56. The clean hands doctrine is most specifically applied to:
- A. primarily plaintiffs.
 - B. primarily defendants.
 - C. both plaintiffs and defendants equally.
 - D. the judge and jury deciding the case.
57. Secondary sources of law:
- A. are looked to when there is no primary source of law that applies to the facts of a case.
 - B. are considered a valid independent authority.
 - C. apply to both federal and state legal issues.
 - D. have no legally binding effect.
58. Under the American legal system, subject to some exceptions, costs of litigation regarding both the plaintiff and defendant:
- A. are all paid by the loser.
 - B. are all paid by the winner.
 - C. are paid for by each side with the plaintiff and defendant paying for their own legal costs.
 - D. are totaled by the court and then for fairness, split in half with each side paying an equal amount.

59. Regulations created and enforced by federal regulatory agencies are examples of:
- A. administrative laws.
 - B. anti-trust laws.
 - C. labor laws.
 - D. securities laws.
60. Which of the following, from highest to lowest, properly demonstrates preemption?
- A. federal common law; federal statutes; U.S. Constitution
 - B. state statutory law; federal common law; federal administrative law
 - C. state common law; state administrative law; state statutory law
 - D. federal administrative law; federal common law; state statutory law
61. The National Conference of Commissioners on Uniform State Laws (NCCUSL) was formed by the _____ for the purpose of establishing uniform standards in areas of law where national interests would be achieved through the use of uniform laws.
- A. Congress
 - B. American Bar Association
 - C. American Legal Institute
 - D. National Conference of Governor's
62. Which of the following is not a primary source of law?
- A. uniform model law
 - B. administrative law
 - C. federal common law
 - D. state common law
63. The U.S. system of common law:
- A. is derived from the French common law.
 - B. is derived from the British common law.
 - C. was established in the U.S. Constitution.
 - D. is a secondary source of law established in various restatements of the law.
64. A statute of limitations that most appropriately falls under the equitable maxim is:
- A. clean hands doctrine.
 - B. substance over form.
 - C. remedies at law are preferred over remedies in equity.
 - D. equity aids the vigilant.
65. The Uniform Commercial Code has been adopted in every state except:
- A. California.
 - B. Mississippi.
 - C. Louisiana.
 - D. Iowa.
66. The source of bankruptcy law is a combination of:
- A. statutory and common law.
 - B. constitutional and common law.
 - C. statutory and administrative law.
 - D. administrative and common law.
67. Once stare decisis and case precedent is established:
- A. it may be disregarded and overturned by a court if they deem such action appropriate.
 - B. it may not be disregarded by a court but may be overturned by state statute.
 - C. 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.
 - D. it may not be disregarded or overturned once established and must be followed without exception.

68. 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:
- A. an ordinance.
 - B. a public law.
 - C. a common law.
 - D. a private law.
69. Precedent evolves from:
- A. state and federal constitutions.
 - B. state and federal statutes.
 - C. the common law.
 - D. a combination of both state and federal statutes and common law.
70. A state statute mandates that the statute of limitations for a negligence law suit is two years and the plaintiff is barred from filing the suit if they file after that time. This statute is an example of a:
- A. private law.
 - B. procedural law.
 - C. criminal law.
 - D. substantive law.
71. Briefly discuss the origins and purposes of law.
72. Mike is a high school dropout employed as a counter worker at a Kentucky Fried Chicken Outlet (KFC) in Georgia. He has been voted the employee of the month and has been awarded a trip to Louisville, KY to visit the KFC headquarters. While there, he notices an open wall safe and when he looks inside he discovers the Colonels secret recipe of 23 herbs and spices. 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 KFC finds out what he's doing they immediately sue him, but discover that there are no applicable trade secret statutes. What effect does the failure of an applicable statute have and what, if anything, can KFC do?
73. Name the three essential functions of the United States Constitution.

74. Define and explain the concepts of permanence and preemption as they apply regarding the U.S. Constitution.
75. Congratulations, you have just been named as a judge in you state's general trial court. Your first case involves a complicated environmental statute. What methods might you use to interpret and apply the statute to your case?
76. What is the essential similarity and what are the differences between statutes, ordinances and regulations?
77. Discuss the differences between the common law and civil law with regard to precedent and the court's right to establish new law.
78. Tom has attacked Kathy in the parking lot of a bar. He knocks her to the ground breaking her arm as he steals her wallet. Kathy works as a data input specialist at a bank and misses 8 weeks of work due to her injury. Discuss how criminal law and civil law relate to this situation and possible remedies.

79. Discuss and explain the types of secondary law and how secondary law has an effect on the American legal system?
80. In 2010, the state of Arizona passed an immigration law which allowed law enforcement officers to check the immigration status of individuals should those individuals be charged with a crime. Which legal philosophy best fits the theory of jurisprudence which the Arizona law makers may use to justify such a law?

1 Key

1. Much of the origins of the law dealt with issues related to _____.
(p. 4) **property ownership**

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-01 Understand the broad definition and origins of law.
Melvin - Chapter 01 #1
Topic: Introduction to Law

2. When the United States Supreme Court formally recognized their role in achieving equality for all Americans during the civil rights movement, they were following a _____ philosophy.
(p. 4) **legal realism**

AACSB: Analytic
Blooms: Analyze
Difficulty: Hard
Learning Objective: 01-01 Understand the broad definition and origins of law.
Melvin - Chapter 01 #2
Topic: Jurisprudence

3. Attorneys who work for a company and are part of the executive or mid-level management team are specifically referred to as _____ counsel.
(p. 7) **in house**

AACSB: Analytic
Blooms: Knowledge
Difficulty: Easy
Learning Objective: 01-04 Articulate the role of counsel in legal decision making in a business context.
Melvin - Chapter 01 #3
Topic: Role of Counsel

4. Attorneys, particularly in a business context, are also referred to as _____.
(p. 7) **counsel**

AACSB: Analytic
Blooms: Knowledge
Difficulty: Easy
Learning Objective: 01-04 Articulate the role of counsel in legal decision making in a business context.
Melvin - Chapter 01 #4
Topic: Role of Counsel

5. Measures of judicial action intended to compensate an injured party in a civil law suit are called _____.
(p. 11) **remedies**

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-06 Differentiate between the concepts of law and equity.
Melvin - Chapter 01 #5
Topic: Law versus Equity

6. Equitable rules used in the context of Common Law rules that guide courts in deciding cases or controversies are called equitable _____.
(p. 12) **maxims**

AACSB: Analytic
Blooms: Remember
Difficulty: Easy
Learning Objective: 01-08 Understand the legal doctrine of stare decisis.
Melvin - Chapter 01 #6
Topic: Important Equitable Maxims

7. Judicial opinions are also known as the _____ of the case.
(p. 14) **holdings**

AACSB: Analytic
Blooms: Remember
Difficulty: Easy
Learning Objective: 01-07 Identify and apply important equitable maxims.
Melvin - Chapter 01 #7
Topic: Stare Decisis and Precedent

8. A collection of uniform legal principles focused on a particular area of traditional state law is called _____ of the law.

restatements

AACSB: Communication

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #8

Topic: Secondary Sources of Law

9. Trial lawyers are also referred to as _____.

litigators

AACSB: Reflective thinking

Blooms: Apply

Difficulty: Hard

Learning Objective: 01-04 Articulate the role of counsel in legal decision making in a business context.

Melvin - Chapter 01 #9

Topic: Role of Counsel

10. _____ are recognized as binding between two parties even though no specific statute or regulation provides for the rights of the parties.

Private laws

AACSB: Analytic

Blooms: Comprehend

Difficulty: Medium

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #10

Topic: Public Law versus Private Law

11. Legal positivists believe that agreed upon laws should be uniformly and strictly enforced and may only be changed by the government.

TRUE

Legal positivists believe that government should make and change rules, not individuals.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #11

Topic: Jurisprudence

12. Law today is crucial to business by creating some degree of reliability to be used in business planning and commercial transactions.

TRUE

Law must always be considered when making business decisions and when planning.

AACSB: Reflective thinking

Blooms: Apply

Difficulty: Hard

Learning Objective: 01-03 Explain the importance and benefits of legal awareness for business owners and managers in creating strategy and adding value to a company.

Melvin - Chapter 01 #12

Topic: Legal Decisions in a Business Environment: Theory to Practice

13. States tend to amend their constitutions less frequently than is the case with the United States Constitution.

FALSE

It is much more difficult to change the U.S. Constitution than individual state constitutions.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #13

Topic: Constitutional law

14. A presidential veto may be overridden by a 2/3 majority vote of the Senate.
(p. 9) **FALSE**

A repeal of a presidential veto requires a 2/3 vote of Congress.

AACSB: Analytic
Blooms: Apply
Difficulty: Hard
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #14
Topic: Statutory Law

15. Legal Realism is the oldest form of American jurisprudence and was founded during the American Revolution and forms the basis for the United States Constitution.
(p. 4) **FALSE**

Legal realism arose after World War I.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-01 Understand the broad definition and origins of law.
Melvin - Chapter 01 #15
Topic: Jurisprudence

16. Courts regularly question and overturn administrative agency decisions involving how and when an agency enforces a regulation.
(p. 10) **FALSE**

Courts are highly differential to agency decisions.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #16
Topic: Administrative Law

17. The power of courts to establish law in matters not specifically addressed by statutes is very limited in common law countries.
(p. 11) **FALSE**

Such power is limited in civil law countries but not so in common law countries.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #17
Topic: Common Law

18. Equitable remedies are available to compensate injured parties in both civil and criminal lawsuits.
(p. 11) **FALSE**

Equitable remedies are only available in civil cases.

AACSB: Analytic
Blooms: Apply
Difficulty: Hard
Learning Objective: 01-06 Differentiate between the concepts of law and equity.
Melvin - Chapter 01 #18
Topic: Law versus Equity

19. Most states have separate courts of law and equity.

(p. 11)

FALSE

Most modern courts are combined courts of law and equity.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-06 Differentiate between the concepts of law and equity.
Melvin - Chapter 01 #19
Topic: Law versus Equity

20. A statute of limitations determines the maximum and minimum amounts of monetary relief that may be granted in different types of civil law suits.

(p. 12)

FALSE

A statute of limitations sets the time within which a law suit must be filed after an injury occurs.

AACSB: Analytic
Blooms: Apply
Difficulty: Hard

Learning Objective: 01-08 Understand the legal doctrine of stare decisis.
Melvin - Chapter 01 #20
Topic: Important Equitable Maxims

21. The purpose of secondary sources of law is to increase uniformity and fairness across courts in the 50 states.

(p. 15)

TRUE

Secondary sources of law allow each state to refer to a singular explanation of various laws for increased consistency.

AACSB: Communication
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #21
Topic: Secondary Sources of Law

22. A wrongful act may violate civil law or criminal law but cannot violate both simultaneously.

(p. 18)

FALSE

The same act may result in both civil and criminal liability.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-09 Classify the law into several broad categories.
Melvin - Chapter 01 #22
Topic: Criminal Law versus Civil Law

23. A zoning law which regulates what a landowner may or may not do with their privately owned property is an example of a public law.

(p. 18)

TRUE

Zoning laws are based on statutes and ordinances.

AACSB: Analytic
Blooms: Apply
Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.
Melvin - Chapter 01 #23
Topic: Public Law versus Private Law

24. Laws which require that police show reasonable cause and obtain a search warrant before entering a place of business to search for evidence would be examples of substantive laws.

FALSE

Search and seizure laws are examples of procedural laws.

AACSB: Analytic

Blooms: Analyze

Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #24

Topic: Substantive Law versus Procedural Law

25. Criminal law is designed to compensate parties for money lost as a result of another's unlawful conduct.

FALSE

Only civil law actions may result in monetary damages.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #25

Topic: Criminal Law versus Civil Law

26. For private law to be applied, there must be a statute or ordinance enacted that provides for the rights of the parties.

FALSE

Statutes and ordinances result in public law.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #26

Topic: Public Law versus Private Law

27. Criminal law can also be characterized as public law but can never be considered private law.

TRUE

Criminal law must be statutory and is therefore public law.

AACSB: Reflective thinking

Blooms: Analyze

Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #27

Topic: Criminal Law versus Civil Law; Public Law versus Private Law

28. Freedom of Speech, as defined in the Constitution, is an example of substantive law.

TRUE

Freedom of Speech is an individual right.

AACSB: Reflective thinking

Blooms: Analyze

Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #28

Topic: Substantive Law versus Procedural Law

29. Restatements of the law are written and revised by the Congress and state legislatures as needed.
(p. 16) **FALSE**

Restatements of the law are written by the American Legal Institute.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #29
Topic: Restatements of the Law

30. All statutes have a statutory scheme but not all statutes have a legislative history.
(p. 9) **FALSE**

All statutes have both with the history showing the sponsor, debates and votes.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #30
Topic: Statutory Scheme and Legislative History

31. The common law is the law that all states follow to avoid confusion and to promote consistency from state to state.
(p. 10) **FALSE**

The common law is made by state courts and varies from state to state.

AACSB: Reflective thinking
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #31
Topic: Common Law

32. Civil law systems reject and prohibit the use of precedent, relying solely on strict interpretations of statutes.
(p. 11) **FALSE**

Civil law recognizes the general notion of precedent but its use is severely limited.

AACSB: Reflective thinking
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #32
Topic: Common Law: Origins

33. 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.
(p. 13) **FALSE**

Stare decisis and case precedent only apply in courts in the state in which the appellate court making the decision sits.

AACSB: Reflective thinking
Blooms: Apply
Difficulty: Hard
Learning Objective: 01-07 Identify and apply important equitable maxims.
Melvin - Chapter 01 #33
Topic: Stare Decisis and Precedent

34. Aggressive litigation generally results in a high monetary cost for a corporation.
(p. 20) **TRUE**

Aggressive litigation takes additional counsel time and assets which increases the cost of litigation.

*AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard*

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #34

Topic: Solutions for Managers; Legal Decisions fin Business: An Analytical Model

35. Arbitration and mediation are preferred dispute resolution methods because they always result in a satisfactory outcome for both sides of the dispute.
(p. 20) **FALSE**

While arbitration and mediation are legitimate and effective dispute resolution methods, they do not always result in a satisfactory outcome for both sides of the dispute.

*AACSB: Reflective thinking
Blooms: Understand
Difficulty: Medium*

Learning Objective: All apply

Melvin - Chapter 01 #35

Topic: Solutions for Managers; Legal Decisions fin Business: An Analytical Model

36. Ordinances will preempt state level statutes.
(p. 9, 10-11) **FALSE**

State level laws preempt local level laws.

*AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard*

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #36

Topic: Sources and Levels of American Law

37. Alternative dispute resolution, when used to settle a business dispute, is usually not subject to appeal to a court.
(p. 20) **TRUE**

Alternative dispute resolution methods, unless there is a prior agreement are generally not subject to appeal to a court.

*AACSB: Analytic
Blooms: Understand
Difficulty: Medium*

Learning Objective: All apply

Melvin - Chapter 01 #37

Topic: Solutions for Managers; Legal Decisions fin Business: An Analytical Model

38. Laws relating to contracts for the sale of goods are primarily found in the common law.
(p. 15) **FALSE**

Laws relating to contracts for the sale of goods are statutory.

*AACSB: Analytic
Blooms: Understand
Difficulty: Medium*

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #38

Topic: Table 1.2: Laws that Impact Businesses

39. The U.S. system of common law is deep-seated in the French common law established by the Norman kings around 1066.

FALSE

The U.S. system of common law is deep-seated in the English common law established by the Norman kings around 1066.

AACSB: Reflective thinking

Blooms: Remember

Difficulty: Easy

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #39

Topic: Common Law

40. Jurisprudence refers to the conducting of a trial and the rendering of a judicial decision.

(p. 4)

FALSE

Jurisprudence is the science and philosophy of law.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #40

Topic: Jurisprudence

41. Black's Law Dictionary, as cited in the book defining the term law, includes each of the following except:

(p. 4)

- A. law is a body of rules.
- B. law is conduct prescribed by a controlling authority.
- C. law has a binding force.
- D.** law regulates personal ethics.

The definition does not refer to ethics.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #41

Topic: Introduction to Law

42. Jurisprudence is defined as:
- A. adjudication of law suits.
 - B. the enactment of laws by a government body.
 - C.** the science and philosophy of law.
 - D. the duties and obligations owed by a citizen.

(p. 4)

Jurisprudence is defined as the science and philosophy of law.

AACSB: Reflective thinking

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #42

Topic: Jurisprudence

43. Philip believes that moral values inherent in mankind should form the basis of law and that these principles are a higher authority than man made law. Philip is a proponent of:
- (p. 4)
- A. natural law.
 - B. legal realism.
 - C. legal positivism.
 - D. social law.

Natural law values moral values over national law.

AACSB: Analytic

Blooms: Apply

Difficulty: Hard

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #43

Topic: Jurisprudence

44. 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:
- (p. 6)
- A. securities law.
 - B. intellectual property law.
 - C. contract law.
 - D. antitrust law.

Stocks are securities and subject to securities laws.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-03 Explain the importance and benefits of legal awareness for business owners and managers in creating strategy and adding value to a company.

Melvin - Chapter 01 #44

Topic: Table 1.1: Expansion Options and Potential Legal Impacts

45. 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:
- (p. 6)
- A. securities law.
 - B. intellectual property law.
 - C. contract law.
 - D. antitrust law.

Corporate logos and trademarks are subject to intellectual property law.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #45

Topic: Table 1.1: Expansion Options and Potential Legal Impacts

46. 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 a/an:
(p. 9)
- A. ordinance.
 - B. regulation.
 - C. statute.**
 - D. common law.

When a law is passed by a state legislature, that law is a statute.

*AACSB: Reflective thinking
Blooms: Analyze
Difficulty: Hard
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #46
Topic: Statutory Law*

47. New York City has passed a law banning smoking of cigarettes and cigars in public bars and restaurants. This law would be defined as a/an:
(p. 9)
- A. ordinance.**
 - B. regulation.
 - C. statute.
 - D. common law.

When a law is passed at a local level, that law is an ordinance.

*AACSB: Reflective thinking
Blooms: Analyze
Difficulty: Hard
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #47
Topic: Statutory Law*

48. The official publication of federal statutory law is the:
(p. 10)
- A. Federal Register.
 - B. Consolidated Statutes of the United States.
 - C. Code of Congressional Statutes.
 - D. United States Code.**

The United States Code arranges all existing federal laws in a system organized by title and divided into chapters and sections.

*AACSB: Communication
Blooms: Remember
Difficulty: Easy
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #48
Topic: Finding Statutory Law*

49. Kathy, a fashion model, witnesses a motor vehicle accident but does 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?

A. statutory law
B. administrative law
C. common law
D. equity law

In the absence of written law, courts will look to the common law and case precedent.

AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #49
Topic: Common Law

50. 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 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 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?
- A. sue for breach of contract and seek a legal remedy
B. sue for an injunction
C. bring a suit in equity and seek monetary damages
D. sue for breach of contract and seek a decree of specific performance

Specific performance is an equitable remedy available only when monetary damages will not be a sufficient remedy.

AACSB: Analytic
Blooms: Analyze
Difficulty: Hard
Learning Objective: 01-06 Differentiate between the concepts of law and equity.
Melvin - Chapter 01 #50
Topic: Law versus Equity

51. Which of the following is not available in a court of equity?
- (p. 11) A. an order for the payment of money damages for a breach of contract
B. an order prohibiting the building of a 16 foot fence in a residential neighborhood
C. an order requiring teachers to stop picketing in a particular area
D. an order requiring a party to turn over goods after being found guilty of breach of contract

Remedies in equity do not include monetary damages.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-06 Differentiate between the concepts of law and equity.
Melvin - Chapter 01 #51
Topic: Law versus Equity

52. 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:
(p. 13)
- A. the court found that a temporary trust had indeed been created and that Mr. Kauffman was the equitable owner of the stock.
 - B. the court found that Mr. Kauffman was the equitable owner of the stock because the children had participated in a fraud when accepting ownership of the stock.
 - C. the court found that the children owned the stock because Mr. Kauffman's request for the return of the stock and the subsequent law suit came after the statute of limitations had run so he was barred from recovery.
 - D.** the court found that the children owned the stock and Mr. Kauffman's claims were barred by the clean hands doctrine.

Kauffman tried to shield assets from creditors and did not exhibit "clean hands".

AACSB: Ethics
AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard
Learning Objective: 01-08 Understand the legal doctrine of stare decisis.
Melvin - Chapter 01 #52
Topic: Case 1.1

53. A state's appellate court has made a decision in a particular case. That decision becomes case precedent in all cases except those cases heard in:
(p. 13)
- A.** the state's Supreme or highest court.
 - B. the state's special courts such as family or probate court.
 - C. the state's general trial court.
 - D. the state's inferior or small claims court.

Stare decisis requires only lower courts to follow case precedent.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-07 Identify and apply important equitable maxims.
Melvin - Chapter 01 #53
Topic: Stare Decisis and Precedent

54. 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. The court determined that:
(p. 14)
- A. the charitable immunity doctrine was specifically and clearly written so they were bound to follow the clear intent of the statutory scheme and find for the hospital.
 - B. 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.
 - C.** current societal norms rendered the charitable immunity doctrine inapplicable to this case and that fundamental fairness allowed the court to deviate from established case precedent and find for Flagiello.
 - D. the charitable immunity doctrine can only be repealed or overturned by the state's legislature and that 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.

Case precedent can be rejected by the court if changes in law and society indicate a need for change.

AACSB: Ethics
AACSB: Reflective thinking
Blooms: Analyze
Difficulty: Hard
Learning Objective: 01-07 Identify and apply important equitable maxims.
Melvin - Chapter 01 #54
Topic: Landmark Case 1.1

55. The source of each of the following types of law is primarily statutory except:

(p. 15)

- A. zoning laws.
- B.** contracts for services.
- C. contracts for the sale of goods.
- D. employment discrimination.

Contracts for services are primarily common law issues.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #55

Topic: Secondary Sources of Law

56. The clean hands doctrine is most specifically applied to:

(p. 13)

- A.** primarily plaintiffs.
- B. primarily defendants.
- C. both plaintiffs and defendants equally.
- D. the judge and jury deciding the case.

For a plaintiff to successfully sue a defendant the plaintiff must come to court unstained by bad faith, misrepresentations or deceit.

AACSB: Ethics
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-08 Understand the legal doctrine of stare decisis.
Melvin - Chapter 01 #56

Topic: Clean Hands Doctrine

57. Secondary sources of law:

(p. 15)

- A. are looked to when there is no primary source of law that applies to the facts of a case.
- B. are considered a valid independent authority.
- C. apply to both federal and state legal issues.
- D.** have no legally binding effect.

Secondary sources of law are generally advisory and may or may not be adopted or followed as a state seems fit.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #57

Topic: Secondary Sources of Law

58. Under the American legal system, subject to some exceptions, costs of litigation regarding both the plaintiff and defendant:

(p. 20)

- A. are all paid by the loser.
- B. are all paid by the winner.
- C.** are paid for by each side with the plaintiff and defendant paying for their own legal costs.
- D. are totaled by the court and then for fairness, split in half with each side paying an equal amount.

Under the American system, generally both sides bear their own costs of litigation.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: All apply
Melvin - Chapter 01 #58

Topic: Solutions for Managers; Legal Decisions in Business: An Analytical Model

59. Regulations created and enforced by federal regulatory agencies are examples of:
(p. 6) **A.** administrative laws.
B. anti-trust laws.
C. labor laws.
D. securities laws.

Laws pertaining to regulatory agencies fall under the category of administrative law.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
company.

Learning Objective: 01-03 Explain the importance and benefits of legal awareness for business owners and managers in creating strategy and adding value to a

Melvin - Chapter 01 #59

Topic: Table 1.1: Expansion Options and Potential Legal Impacts

60. Which of the following, from highest to lowest, properly demonstrates preemption?
(p. 8, 16) **A.** federal common law; federal statutes; U.S. Constitution
B. state statutory law; federal common law; federal administrative law
C. state common law; state administrative law; state statutory law
D. federal administrative law; federal common law; state statutory law

See the chart on page 16.

AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #60

Topic: Sources and Levels of American Law

61. The National Conference of Commissioners on Uniform State Laws (NCCUSL) was formed by the
(p. 16) _____ for the purpose of establishing uniform standards in areas of law where national interests would be achieved through the use of uniform laws.
A. Congress
B. American Bar Association
C. American Legal Institute
D. National Conference of Governor's

The National Conference of Commissioners on Uniform State Laws (NCCUSL) was formed by the American Bar Association.

AACSB: Communication
Blooms: Remember
Difficulty: Easy

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #61

Topic: Uniform Model Laws

62. Which of the following is not a primary source of law?
(p. 15) **A.** uniform model law
B. administrative law
C. federal common law
D. state common law

Uniform model laws are secondary sources of law.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #62

Topic: Sources and Levels of American Law

63. The U.S. system of common law:
(p. 10) A. is derived from the French common law.
B. is derived from the British common law.
C. was established in the U.S. Constitution.
D. is a secondary source of law established in various restatements of the law.

United States common law has its basis in English common law.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #63
Topic: Common Law

64. A statute of limitations that most appropriately falls under the equitable maxim is:
(p. 12) A. clean hands doctrine.
B. substance over form.
C. remedies at law are preferred over remedies in equity.
D. equity aids the vigilant.

One must be vigilant and be sure to file a law suit before the statute of limitations runs, barring the suit.

AACSB: Reflective thinking
Blooms: Evaluate
Difficulty: Hard
Learning Objective: 01-08 Understand the legal doctrine of stare decisis.
Melvin - Chapter 01 #64
Topic: Important Equitable Maxims

65. The Uniform Commercial Code has been adopted in every state except:
(p. 16) A. California.
B. Mississippi.
C. Louisiana.
D. Iowa.

Louisiana, a state with deep civil law roots, has not adopted the Uniform Commercial Code.

AACSB: Reflective thinking
Blooms: Remember
Difficulty: Easy
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #65
Topic: Uniform Model Laws

66. The source of bankruptcy law is a combination of:
(p. 15) A. statutory and common law.
B. constitutional and common law.
C. statutory and administrative law.
D. administrative and common law.

Bankruptcy law is derived from both federal statutes and federal administrative law.

AACSB: Analytic
Blooms: Understand
Difficulty: Medium
Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.
Melvin - Chapter 01 #66
Topic: Table 1.2: Laws that Impact Businesses

67. (p. 13) Once stare decisis and case precedent is established:
- A. it may be disregarded and overturned by a court if they deem such action appropriate.
 - B. it may not be disregarded by a court but may be overturned by state statute.
 - C. 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.
 - D. it may not be disregarded or overturned once established and must be followed without exception.

Case precedent must be followed unless a court determines that the prior decision is not reflective of the current law and social climate.

AACSB: Reflective thinking

Blooms: Apply

Difficulty: Hard

Learning Objective: 01-07 Identify and apply important equitable maxims.

Melvin - Chapter 01 #67

Topic: Stare Decisis and Precedent

68. (p. 18) 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:
- A. an ordinance.
 - B. a public law.
 - C. a common law.
 - D. a private law.

This law is statutory so it is considered public law.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #68

Topic: Categories of Law

69. (p. 13) Precedent evolves from:
- A. state and federal constitutions.
 - B. state and federal statutes.
 - C. the common law.
 - D. a combination of both state and federal statutes and common law.

Precedent results from appellate court decisions in the absence of written law.

AACSB: Analytic

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-07 Identify and apply important equitable maxims.

Melvin - Chapter 01 #69

Topic: Stare Decisis and Precedent

70. (p. 18) A state statute mandates that the statute of limitations for a negligence law suit is two years and the plaintiff is barred from filing the suit if they file after that time. This statute is an example of a:
- A. private law.
 - B. procedural law.
 - C. criminal law.
 - D. substantive law.

This statute sets the structure and rules for pursuing the plaintiff's rights.

AACSB: Reflective thinking

Blooms: Evaluate

Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #70

Topic: Substantive versus Procedural Law

71. Briefly discuss the origins and purposes of law.
(p. 4)

The origins of recorded law were initially a collection of rules created by tribal chieftains in order to perpetuate their domination and authority. Over time the purpose of law has evolved in order to ensure consistency and fairness. The law also sets out a system for resolving disputes by providing a basis for deciding the legal interests and rights of parties.

AACSB: Reflective thinking

Blooms: Remember

Difficulty: Easy

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #71

Topic: Purposes of Law

72. Mike is a high school dropout employed as a counter worker at a Kentucky Fried Chicken Outlet (KFC) in Georgia. He has been voted the employee of the month and has been awarded a trip to Louisville, KY to visit the KFC headquarters. While there, he notices an open wall safe and when he looks inside he discovers the Colonels secret recipe of 23 herbs and spices. 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 KFC finds out what he's doing they immediately sue him, but discover that there are no applicable trade secret statutes. What effect does the failure of an applicable statute have and what, if anything, can KFC do?
(p. 8, 11, 13)

When there are no applicable statutes, the court will look to the common law for case precedent. If a case with a similar fact situation has previously been decided, the doctrine of stare decisis will mandate that the court follow the established case precedent in most cases. Initially KFC should ask for an equitable remedy in the form of an injunction to prevent the sales until binding decisions can be made.

AACSB: Analytic

AACSB: Reflective thinking

Blooms: Evaluate

Difficulty: Hard

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Learning Objective: 01-07 Identify and apply important equitable maxims.

Melvin - Chapter 01 #72

Topic: Sources and Levels of American Law, Law versus Equity, Stare Decisis and Precedent

73. Name the three essential functions of the United States Constitution.
(p. 8)

The Constitution addresses three broad areas which are: (1) establishing a state and federal government structure with qualifications for certain offices and positions and rules for amending the constitution; (2) granting specific powers to the three branches of federal government; and (3) providing procedural protections for U.S citizens from wrongful governmental actions.

AACSB: Reflective thinking

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #73

Topic: Constitutional law

74. Define and explain the concepts of permanence and preemption as they apply regarding the U.S. Constitution.
(p. 8)

Permanence refer to the concept that a constitution is thought to reflect the basic principles of a society and should be amended only in extraordinary cases and only when a majority of its constituents agree over a certain period of time. Preemption, in terms of the constitution, stands for the concept that constitutional law is supreme over all other sources of law.

AACSB: Reflective thinking

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #74

Topic: Constitutional law

75. Congratulations, you have just been named as a judge in you state's general trial court. Your first case involves a complicated environmental statute. What methods might you use to interpret and apply the statute to your case?
(p. 9)

Two things that must be considered are the statute's statutory scheme and its legislative history. The statutory scheme refers to the format and wording used which gives an indication of the legislature's intent regarding the statute's application. The statute's legislative history includes all records pertinent to the introduction, debate and voting regarding the particular statute. The debate history in particular will show the thought processes used by the legislature when discussing, amending and passing the law.

AACSB: Analytic

Blooms: Apply

Difficulty: Hard

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #75

Topic: Statutory Scheme and Legislative History

76. What is the essential similarity and what are the differences between statutes, ordinances and regulations?
(p. 9, 10)

Statutes, ordinances and regulations are similar in that each is a form of a written law or rule of public law. The differences have to do with where they originate. Statutes are written laws passed by Congress or a state legislature. Ordinances are written laws which are enacted by local government bodies below a state legislature level. Regulations are written laws and rules created by administrative agencies.

AACSB: Reflective thinking

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #76

Topic: Statutory Law, Administrative Law

77. Discuss the differences between the common law and civil law with regard to precedent and the court's right to establish new law.
(p. 10-11)

Under the common law, in the absence of statutory law, judges may make decisions creating law which becomes case precedent in future cases unless subsequently preempted by statute. Civil law recognizes the general notion of precedent but its role is substantially reduced. The power of courts to make new law in matters not specifically addressed by the civil country's code is very limited under civil law.

AACSB: Reflective thinking

Blooms: Understand

Difficulty: Medium

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #77

Topic: Common Law

78. Tom has attacked Kathy in the parking lot of a bar. He knocks her to the ground breaking her arm as he steals her wallet. Kathy works as a data input specialist at a bank and misses 8 weeks of work due to her injury. Discuss how criminal law and civil law relate to this situation and possible remedies.

(p. 18)

Criminal law protects society by making certain conduct unlawful. Knocking Kathy to the ground and stealing her wallet would certainly be criminal offenses. Penalties if Tom is convicted could include fines and or imprisonment. Civil law is designed to compensate individuals for losses due to another persons conduct. Reimbursement for lost wages and for her medical bills would be available along with other possible monetary damages.

AACSB: Analytic

Blooms: Analyze

Difficulty: Hard

Learning Objective: 01-09 Classify the law into several broad categories.

Melvin - Chapter 01 #78

Topic: Categories of Law

79. Discuss and explain the types of secondary law and how secondary law has an effect on the American legal system?

(p. 15, 16)

The two most important forms of secondary law are Restatements of the Law and model state statutes. Restatements of the Law are prepared, from time to time, by professors, judges and lawyers who are members of the American Legal Institute. These Restatements capture the state of the law at the time the restatement is written and provides a basis for interpretation which allows for consistency and general conformity. Model state statutes, written by the National Conference of Commissioners on Uniform State Laws was formed through the American Bar Association for the purpose of establishing uniform standards in areas of law where national interest would be achieved through the use of uniform laws. Both forms of secondary law feature commentary and examples but possess no independent authority and have no legally binding effect. They are advisory and states are free to reject all, adopt all or adopt part of proposed secondary laws.

AACSB: Reflective thinking

Blooms: Evaluate

Difficulty: Hard

Learning Objective: 01-05 Recognize; explain; and give examples of sources of American law.

Melvin - Chapter 01 #79

Topic: Secondary Sources of Law

80. In 2010, the state of Arizona passed an immigration law which allowed law enforcement officers to check the immigration status of individuals should those individuals be charged with a crime. Which legal philosophy best fits the theory of jurisprudence which the Arizona law makers may use to justify such a law?

(p. 4)

Legal realism is based on the concept that law is a social institution and that law should be used to promote fairness by taking into account social and economic realities when arriving at a legal conclusion. Arguments made by Arizona law makers center on issues relating to crime, a social issue and increased costs for essential services which relates to economic issues. In terms of fairness, the argument that has been put forward is that citizen's lives are being negatively impacted by uncontrolled illegal immigration.

AACSB: Ethics

AACSB: Reflective thinking

Blooms: Evaluate

Difficulty: Hard

Learning Objective: 01-01 Understand the broad definition and origins of law.

Melvin - Chapter 01 #80

Topic: Jurisprudence

1 Summary

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