

# Business law help needed



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\*Answers are highlighted in bold In a brief filed in Lea's suit against Mica in a court, Neil, Lea's attorney, cites, *Ole! Cafe v. Pan Foods Corp.*, an unpublished opinion. With respect to the persuasiveness of unpublished opinions, most states

- a. allow their courts to consider such opinions.
- b. do not allow their courts to consider such opinions.
- c. impose certain hierarchical rankings.
- d. require their courts to consider such opinions.

2.

Capital Credit Company files a suit against Downtown Developers, Inc., and seeks, as part of discovery, certain electronic documents in Downtown's possession. Responding to this request will most likely be required if the documents contain data that is relevant and

- a. accessible.
- b. privileged.
- c. recoverable.
- d. text only.

3.

Macro Retail Corporation operates stores in forty-two countries. It is important for the " culture"; at Macro, and other domestic, foreign, and international business firms, to distinguish among actions that are

- a. ethical and legal.
- b. unethical and illegal.

- c. unethical but legal.
- d. all of the choices.

4.

Ethical behavior on the part of Beta Products Company may be inhibited by

- a. clear ethical standards.
- b. collective decision making.
- c. legislative determinations of what represents society's best interest.
- d. managers' dissent to unethical decisions.

5.

Mike casts unwarranted doubts on Nina, a co-worker, to gain a job promotion. This is unethical

- a. only if Mike is caught.
- b. only if Mike gets the promotion.
- c. under any circumstances.
- d. under no circumstances.

6.

In a brief filed in Gene's suit against Hoyt in a federal court, Ilsa, Gene's attorney, cites, *Jon v. Klint*, an unpublished opinion. According to a ruling of the United States Supreme Court, the judge in Gene's suit

- a. may consider the unpublished opinion persuasive.
- b. must apply the unpublished opinion as binding.
- c. must ignore the unpublished opinion.
- d. must issue a judgment in Hoyt's favor.

7.

Nevada enacts a law to regulate Internet prescription transactions. New York enacts a ban on the Internet sale of tobacco products to New York residents. Texas prohibits automakers from selling vehicles on their Web sites. State regulation of Internet activities

- a. always violates the dormant commerce clause.
- b. is not subject to evaluation under the dormant commerce clause.
- c. may violate the dormant commerce clause.
- d. never violates the dormant commerce clause.

8.

International Business Corporation engages in bribery of potential clients, including government agencies, private companies, and the representatives of labor organizations. Bribery is

- a. ethical but illegal.
- b. legal but unethical.
- c. neither unethical nor illegal.
- d. wrong.

9.

Quality Sales Company develops its marketing strategies in terms of what its management perceives as its ethical obligations, which represent its

- a. legal liability.
- b. profitability.
- c. standards of right and wrong.
- d. unilateral corporate duties.

10.

Commercial Wholesale, Inc., conducts its operations unethically, which, when revealed, will likely affect its

- a. good will only.
- b. profits only.
- c. reputation only.
- d. good will, profits, and reputation.

11.

The Federal Trade Commission is a government agency that issues rules, orders, and decisions. The Georgia state legislature enacts statutes. The Jackson County Board and the Peach City Council enacts ordinances.

Administrative law includes

- a. all law that affects a business's operation.
- b. the rules, orders, and decisions of the Federal Trade Commission.
- c. statutes enacted by the Georgia state legislature.
- d. ordinances created by the Jackson County Board and the city council of Peach City, Georgia.

12.

As a judge, Jay applies common law rules. These rules develop from

- a. decisions of the courts in legal disputes.
- b. regulations issued by administrative agencies.
- c. statutes enacted by Congress and the state legislatures.
- d. uniform laws drafted by legal scholars.

13.

In an action against Elin, Frank obtains a remedy. This is

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- a. an administrative agency's enforcement of its rule.
- b. a principle of the law derived from earlier court cases.
- c. a statute enacted by a state legislature or Congress.
- d. the legal means to recover a right or to redress a wrong.

14.

Net Corporation files a suit against Omega, Inc., alleging that Omega breached a contract to sell Net a computer system for \$100, 000. Net is

- a. the appellant.
- b. the appellee.
- c. the defendant.
- d. the plaintiff.

15.

(Points: 1)

Fact Pattern 1-1A

The Montana Supreme Court decides the case of National Co. v. Overseas Corp. Of nine justices, six believe the judgment should be in National's favor. Justice Peel, one of the six, writes a separate opinion. The four justices who believe the judgment should be in Overseas's favor join in a third separate opinion.

Refer to Fact Pattern 1-1A. Peel's opinion is known as

- a. a concurring opinion.
- b. a dissenting opinion.
- c. a majority opinion.
- d. a propounding opinion.

Save Answer

16.

(Points: 1)

The basis for the U. S. legal system is natural law.

TrueFalse

Save Answer

17.

(Points: 1)

Constitutional law includes only the U. S. Constitution.

TrueFalse

Save Answer

18.

(Points: 1)

A state law that conflicts with the U. S. Constitution will be deemed unconstitutional.

TrueFalse

Save Answer

19.

(Points: 1)

Common law is a term for law that is common throughout the world.

TrueFalse

Save Answer

20.

(Points: 1)

Damages is a remedy at law.

TrueFalse

Save Answer

21.

(Points: 1)

In most states, the courts no longer grant " equitable" remedies.

TrueFalse

Save Answer

22.

(Points: 1)

A defendant is a person against whom a lawsuit is brought.

TrueFalse

Save Answer

23.

(Points: 1)

Courts do not depart from precedents.

TrueFalse

Save Answer

24.

(Points: 1)

How the courts interpret a statute determines how that statute is applied.

TrueFalse

Save Answer

25.

(Points: 1)

Criminal law focuses on duties that exist between persons.

TrueFalse

Save Answer

26.

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(Points: 1)

The Federal Trade Commission developed the Uniform Commercial Code.

TrueFalse

Save Answer

27.

(Points: 1)

Common law is a term for the laws that are familiar to most of us.

TrueFalse

Save Answer

28.

(Points: 1)

A decision on a given issue by a court is not binding on an inferior court.

TrueFalse

Save Answer

29.

(Points: 1)

Common law is no longer a source of legal authority.

TrueFalse

Save Answer

30.

(Points: 1)

Rules and regulations adopted by federal administrative agencies are compiled in the Code of Federal Regulations.

TrueFalse

Save Answer

31.

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(Points: 1)

The Ohio state legislature passes a law to regulate local delivery services.

The final authority regarding the constitutionality of this law is

- a. the judicial system.
- b. the president of the United States.
- c. the governor of Ohio.
- d. the U. S. Congress.

Save Answer

32.

(Points: 1)

Hua, a resident of Illinois, owns a warehouse in Indiana. A dispute arises over the ownership of the warehouse with Jac, a resident of Kentucky. Jac files a

suit against Hua in Indiana. Regarding this suit, Indiana has

- a. diversity jurisdiction.
- b. in personam jurisdiction.
- c. in rem jurisdiction.
- d. no jurisdiction.

Save Answer

33.

(Points: 1)

Alpha Company files a suit against Beta, Inc., in a Colorado court with general jurisdiction. In a Delaware court with limited jurisdiction, E-Sales Corporation files a suit against First State Bank. The difference between general and limited jurisdiction is

- a. the subject matter of the cases that the courts can decide.
- b. whether a case is being heard for the first time.

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- c. whether a suit is filed against a single individual or many people.
- d. whether a suit is filed by a citizen or by a business.

Save Answer

34.

(Points: 1)

Stan, a citizen of Texas, wants to file a suit against Uma, a citizen of Virginia.

Their diversity of citizenship may be a basis for

- a. any court to exercise in rem jurisdiction.
- b. a federal district court to exercise original jurisdiction.
- c. a U. S. court of appeals to exercise appellate jurisdiction.
- d. the United States Supreme Court to issue a writ of certiorari.

Save Answer

35.

(Points: 1)

LCD TV Company, a firm in Minnesota, advertises on the Web. A court in North Dakota would be most likely to exercise jurisdiction over LCD if the firm

- a. conducted substantial business with North Dakota residents through its Web site.
- b. interacted with any North Dakota resident through its Web site.
- c. only advertised without interactivity at its Web site.
- d. suddenly removed its ad from the Internet.

Save Answer

36.

(Points: 1)

Edie files a suit against Frank. If this suit is like most cases, it will be

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- a. dismissed during a trial.
- b. dismissed or settled before a trial.
- c. resolved only after a trial.
- d. settled at a trial.

Save Answer

37.

(Points: 1)

Fact Pattern 2-1A

Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

Refer to Fact Pattern 2-1A. The least expensive method to resolve the dispute between Java and Kaffe may be

- a. arbitration because the case will be heard by a mini-jury.
- b. litigation because each party will pay its own legal fees.
- c. mediation because the dispute will be resolved by a non-expert.
- d. negotiation because no third parties are needed.

Save Answer

38.

(Points: 1)

Fact Pattern 2-1A

Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

Refer to Fact Pattern 2-1A. If Java and Kaffe have a long-standing business relationship that they would like to continue, a preferred method of settling their dispute may be mediation because

- a. the case will be heard by a mini-jury.

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- b. the dispute will eventually go to trial.
- c. the process is not adversarial.
- d. the resolution of the dispute will be decided an expert.

Save Answer

39.

(Points: 1)

Vince files a suit against Will. Vince and Will meet, and each party's attorney argues the party's case before a judge and jury. The jury presents an advisory verdict, after which the judge meets with the parties to encourage them to settle their dispute. This is

- a. court-ordered arbitration.
- b. early neutral case evaluation.
- c. a mini-trial.
- d. a summary jury trial.

Save Answer

40.

(Points: 1)

Dick submits his claim against EZ Sales Corporation to FairSettle. com, a private, online dispute resolution forum. At any time, an appeal of the dispute to a court may be made by

- a. Dick only.
- b. Dick or EZ.
- c. EZ only.
- d. neither Dick nor EZ.

Save Answer

41.

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(Points: 1)

Federal courts are superior to state courts.

TrueFalse

Save Answer

42.

(Points: 1)

Minimum contacts with a jurisdiction are never enough to support jurisdiction over a nonresident defendant.

TrueFalse

Save Answer

43.

(Points: 1)

The decisions of state trial courts of limited jurisdiction may sometimes be appealed to state trial courts of general jurisdiction.

TrueFalse

Save Answer

44.

(Points: 1)

Venue is the term for the subject matter of a case.

TrueFalse

Save Answer

45.

(Points: 1)

A justiciable controversy is a case in which the court's decision--the " justice" that will be served--will be controversial.

TrueFalse

Save Answer

46.

(Points: 1)

The federal equivalent of a state trial court is a U. S. court of appeals.

TrueFalse

Save Answer

47.

(Points: 1)

Negotiation is the most complex form of alternative dispute resolution.

TrueFalse

Save Answer

48.

(Points: 1)

In early neutral case evaluation, a third party's evaluation of each party's strengths and weaknesses forms the basis for negotiating a settlement.

TrueFalse

Save Answer

49.

(Points: 1)

Most online dispute resolution services apply general, universal legal principles to resolve disputes.

TrueFalse

Save Answer

50.

(Points: 1)

A choice-of-law clause is a provision in a contract that excuses a party from

liability for nonperformance due to "acts of God."

TrueFalse

Save Answer

51.

(Points: 10)

Quik Results, Inc., a Maine corporation, makes and sells Power Up!, a weight-gain and muscle-building supplement. Orin, a citizen of New York, sees an ad for Power Up! in WorkOut magazine and buys it in New York City at a local health club. Within ten days of beginning to use Power Up!, Orin suffers internal injuries. Alleging that the injuries are caused by Power Up!, Orin files a suit against Quik in a New York state court. Quik asks the court to dismiss the suit on the ground that it does not have personal jurisdiction over Quik.

What is the court most likely to rule and why

Paragraph Quik is still liable for their products since they are sold in New York. The court will rule for the plaintiff. (See more about Question 51 after quiz.)

Insert equation

Save Answer

52.

(Points: 1)

To initiate a lawsuit, Allen files a complaint against Beth, who responds with an answer. Taken together, the complaint and answer are

- a. depositions and interrogatories.
- b. discovery.
- c. hearsay.
- d. the pleadings.



Save Answer

53.

(Points: 1)

Emil wants to initiate a suit against Fast Credit Company by filing a complaint. The complaint should include

- a. an explanation of the proof to be offered at trial.
- b. a motion for judgment n. o. v.
- c. a motion for judgment on the pleadings.
- d. a statement of the grounds for the court to exercise jurisdiction.

Save Answer

54.

(Points: 1)

Ruth files a suit against Solid Products, Inc. Solid responds that even if Ruth's statement of the facts is true, according to the law Solid is not liable. This is

- a. a counterclaim.
- b. a motion for judgment on the pleadings.
- c. a motion for summary judgment.
- d. a motion to dismiss.

Save Answer

55.

(Points: 1)

Fact Pattern 3-1B

Orin and Pia engage in a business transaction from which a dispute arises.

Orin initiates a lawsuit against Pia by filing a complaint.

Refer to Fact Pattern 3-1B. If Pia files a motion to dismiss, she is asserting that

- a. Orin did not state a claim for which relief can be granted.
- b. Orin's statement of the facts is not true.
- c. Orin's statement of the law is not true.
- d. Pia suffered greater harm than Orin.

Save Answer

56.

(Points: 1)

Fact Pattern 3-1B

Orin and Pia engage in a business transaction from which a dispute arises.

Orin initiates a lawsuit against Pia by filing a complaint.

Refer to Fact Pattern 3-1B. If Pia files a motion to dismiss, and the court grants it

- a. Orin will be given more time to file an amended complaint.
- b. Orin will have a judgment entered in his favor.
- c. Pia will be given more time to file another response.
- d. Pia will have a judgment entered in her favor.

Save Answer

57.

(Points: 1)

To prepare for a trial between Large Lots Development Corporation (LLDC) and MiniMansion Construction Company (MMCC), MMCC's attorney places LLDC's president under oath. A court reporter makes a record of the attorney's questions and the officer's answers. This is

- a. a cross-examination.
- b. a deposition.
- c. an imposition.

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d. an interrogatory.

Save Answer

58.

(Points: 1)

During the trial phase of Fuel Corporation's suit against Gas Stations, Inc., their attorneys engage in voir dire. This is

- a. the assessment of the arguments on the issues.
- b. the determination of the issues to be argued.
- c. the litigation of the issues and arguments.
- d. the selection of jurors.

Save Answer

59.

(Points: 1)

Toppers, Inc., files a suit against Unique Hat Company. Toppers's attorney calls Vicky, the first witness, and questions her. This questioning is

- a. cross-examination.
- b. direct examination.
- c. recross-examination.
- d. redirect examination.

Save Answer

60.

(Points: 1)

Irma files a civil suit against Jim. To succeed, Irma must prove her case

- a. beyond a reasonable doubt.
- b. by a preponderance of the evidence.
- c. by indisputable proof.

d. within an iota of the truth.

Save Answer

61.

(Points: 1)

Fact Pattern 3-2B

Kelly files a suit against Lewis in a state court. The case proceeds to trial, after which the court renders a verdict. The case is appealed to an appellate court.

Refer to Fact Pattern 3-2B. After a final determination in the case of Kelly v.

Lewis, any judgment will be satisfied

- a. if the losing party pays the judgment, or his or her property is sold and the proceeds paid to the winner.
- b. only if the court orders the sheriff to pay the winner.
- c. only if the losing party pays the judgment in cash.
- d. only if the losing party's property is sold and the proceeds paid to the winner.

Save Answer

62.

(Points: 1)

The three major stages of litigation are filing, answering, and appealing.

TrueFalse

Save Answer

63.

(Points: 1)

A counterclaim may be raised by a plaintiff against a defendant's response to a complaint.

TrueFalse

Save Answer

64.

(Points: 1)

Only a plaintiff may file a motion for summary judgment.

TrueFalse

Save Answer

65.

(Points: 1)

A motion for summary judgment may be supported with materials outside the pleadings.

TrueFalse

Save Answer

66.

(Points: 1)

A plaintiff's rebuttal includes evidence to refute the defendant's case.

TrueFalse

Save Answer

67.

(Points: 1)

A judge instructs a jury as to the law that applies in a case.

TrueFalse

Save Answer

68.

(Points: 1)

A motion for a judgment notwithstanding the verdict seeks to set aside a

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verdict and enter a new verdict in favor of the nonprevailing party.

TrueFalse

Save Answer

69.

(Points: 1)

A party who files an appeal is known as an appellant.

TrueFalse

Save Answer

70.

(Points: 1)

A reviewing court reverses a trial court's judgment only in cases in which the plaintiffs lost.

TrueFalse

Save Answer

71.

(Points: 1)

In an appeal, the parties' attorneys cannot present oral arguments.

TrueFalse

Save Answer

72.

(Points: 1)

Business Markets Coalition (BMC), a political lobbying group, wants a certain policy enacted into law. If BMC's policy conflicts with the U. S. Constitution, a law embodying it can be enacted by

- a. any state legislature and Congress.
- b. any state legislature but not Congress.

- c. Congress but not any state legislature.
- d. none of the choices.

Save Answer

73.

(Points: 1)

Eli, a citizen of Florida, wants to obtain a business license in Georgia. The Georgia state legislature enacts a law that imposes a \$2,000 license fee on nonresidents. Georgia residents pay \$0. This most likely violates

- a. no provision in the U. S. Constitution.
- b. the commerce clause.
- c. the full faith and credit clause.
- d. the privileges and immunities clause.

Save Answer

74.

(Points: 1)

The Constitution sets out the authority and the limits of the branches of the government. The term checks and balances means that

- a. Congress writes checks and the president balances the budget.
- b. each branch of government has some power to limit the actions of the other branches.
- c. each branch of government may exercise the authority of the other branches.
- d. the president "checks" the courts, which "balance" the laws.

Save Answer

75.

(Points: 1)

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The Motor Vehicle Insurance Association wants the federal government to spend money to build a new highway. Congress can spend revenues

- a. only to carry out Congress's enumerated powers.
- b. to promote any objective that Congress deems worthwhile.
- c. without regard to whether the expense violates the Bill of Rights.
- d. without regard to whether the expense violates the Constitution.

Save Answer

76.

(Points: 1)

Mike, an advocate of a certain religion, publishes an article in New Times magazine insisting that Congress base all federal law on his religion's principles. The First Amendment guarantees Mike's freedom of

- a. religion only.
- b. speech only.
- c. the press only.
- d. the press, speech, and religion.

Save Answer

77.

(Points: 1)

Len, a citizen of Maryland, obtains a federal license to operate a commercial fishing boat in Chesapeake Bay. The Maryland state legislature enacts a law that bans all commercial fishing in the bay. The state law most likely violates

- a. no provision in the U. S. Constitution.
- b. the commerce clause.
- c. the due process clause.



d. the supremacy clause.

Save Answer

78.

(Points: 1)

Serene City enacts an ordinance that bans the use of " sound amplifying systems" on public streets. Tom wants to campaign for a seat on the city council by broadcasting his message through speakers mounted on a truck.

In Tom's suit against the city, a court would likely hold this ordinance to be

- a. constitutional under the First Amendment.
- b. not subject to the U. S. Constitution.
- c. unconstitutional under the commerce clause.
- d. unconstitutional under the First Amendment.

Save Answer

79.

(Points: 1)

Congress enacts the Tight Money Act (TMA) of 2006 to ban " major business entities" from making political contributions that individuals can make. A court would likely hold the TMA to be

- a. an unconstitutional restriction of speech.
- b. constitutional under the First Amendment.
- c. justified by the need to protect individual rights.
- d. necessary to protect state interests.

Save Answer

80.

(Points: 1)

Myra claims that a Nebraska state statute infringes on her " procedural due

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process" rights. This claim focuses on

- a. procedures used in making decisions to take life, liberty, or property.
- b. the content of the statute.
- c. the similarity of the treatment of similarly situated individuals.
- d. the steps to be taken to protect Mary's privacy.

Save Answer

81.

(Points: 1)

South Carolina enacts a statute to impose a prison term, without a trial, on all street vendors who operate in certain areas. A court would likely hold this to be

- a. constitutional under the due process clause.
- b. constitutional under the equal protection clause.
- c. unconstitutional under the due process clause.
- d. unconstitutional under the equal protection clause.

Save Answer

82.

(Points: 1)

A federal form of government is a confederation of independent states with a central government of very limited powers.

TrueFalse

Save Answer

83.

(Points: 1)

The federal government retains all powers not specifically delegated to the states.

TrueFalse

Save Answer

84.

(Points: 1)

Whether the federal government has preempted a certain area is always clear.

TrueFalse

Save Answer

85.

(Points: 1)

The taxing and spending clause of the U. S. Constitution has had a greater impact on business than any other clause in the Constitution.

TrueFalse

Save Answer

86.

(Points: 1)

Some constitutional protections apply to business entities.

TrueFalse

Save Answer

87.

(Points: 1)

The Bill of Rights confers absolute rights, not subject to interpretation by the United States Supreme Court.

TrueFalse

Save Answer

88.

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(Points: 1)

Political speech that would otherwise be protected by the First Amendment loses that protection if its source is a corporation.

TrueFalse

Save Answer

89.

(Points: 1)

The establishment clause of the U. S. Constitution prohibits the federal government from establishing an official religion.

TrueFalse

Save Answer

90.

(Points: 1)

Any law that distinguishes between or among individuals violates the equal protection clause.

TrueFalse

Save Answer

91.

(Points: 1)

Review of a law on a substantive due process basis and review of a law on an equal protection basis considers some similar questions.

TrueFalse

Save Answer

92.

(Points: 10)

Old Oak Brewery, Inc., makes and sells alcoholic beverages with labels that

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display a drawing of a squirrel making the gesture generally known as "giving the finger." Old Oak applies to the Ohio State Liquor Authority (OSLA) for brand-label approval to sell the beer in Ohio. Without considering alternatives, OSLA denies approval because "the label could appear in grocery stores, with obvious exposure on the shelf to children of tender age." Why would a court hold that the denial of Old Oak's application violates the First Amendment

Paragraph This is speech that would not incite a riot, therefore it would be a violation of the First Amendment. (See more about Question 92 after the quiz.)

Insert equation

Save Answer

93.

(Points: 1)

Mina works in the public relations department of National Sales Company. Her job includes portraying National's activities in their best light. In this context, ethics consist of

- a. a different set of principles from those that apply to other activities.
- b. the same moral principles that apply to non-business activities.
- c. those principles that produce the most favorable financial outcome.
- d. whatever saves National's "face."

Save Answer

94.

(Points: 1)

Fact Pattern 5-1B

Leo runs an asset recovery business. In one case, he recruits clients by

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misrepresenting the facts and pretending to be licensed to practice law in Mississippi. He files gratuitous, malicious pleadings, lies to the court, and otherwise abuses the judicial process. Later, he involves himself in other cases in which he uses similar tactics.

Refer to Fact Pattern 5-1B. According to the description quoted by the court in Case 5. 1, Baum v. Blue Moon Ventures LLC, Leo's conduct is

- a. " an example of guerilla warfare through litigation."
- b. " praiseworthy for its ingenuity in recovering hidden assets."
- c. " understandable in the pursuit of profit but not laudable."
- d. " unjustifiable but not seriously reprehensible."

Save Answer

95.

(Points: 1)

Dona, an accountant for Engineering Services, Inc., attempts to apply the duty-based approach to ethical reasoning in conflicts that occur on the job.

This approach is based on the idea that a person

- a. has a duty to engage in ethical behavior no matter the consequences.
- b. has a duty to conform one's behavior to society's ethical standards.
- c. has a duty to one's employer that is superior to any other duty.
- d. may engage in unethical behavior if it achieves a greater good.

Save Answer

96.

(Points: 1)

Eve, the chief executive officer of Federated Corporation (FC), wants to ensure that FC's activities are legal and ethical. The best course of Eve and FC is to act in

- a. good faith.
- b. ignorance of the law.
- c. regard for the firm's shareholders only.
- d. their own self interest.

Save Answer

97.

(Points: 1)

Make-It Construction Corporation makes a side payment to a government official in Nigeria to obtain a contract. In the United States, this is

- a. illegal and unethical.
- b. illegal only.
- c. neither illegal nor unethical.
- d. unethical only.

Save Answer

98.

(Points: 1)

Managers must apply different standards to themselves than they apply to their employees.

TrueFalse

Save Answer

99.

(Points: 1)

According to utilitarianism, an action that affects a minority adversely is morally wrong.

TrueFalse

Save Answer

100.

(Points: 1)

Corporate ethical policies must be clearly communicated to be effective.

TrueFalse

Save Answer

101.

(Points: 1)

The legality of a particular action is always clear.

TrueFalse

Save Answer

102.

(Points: 1)

Ignorance of a law excuses a business from liability for its violation.

TrueFalse

Save Answer

103.

(Points: 10)

Olaf, an executive with Product Distribution, Inc., has to decide whether to market a product that might have undesirable side effects for a small percentage of users. What is the balance that must be struck in deciding whether to sell the product How does the standard of ethics that is applied affect this balance

Paragraph

Insert equation Olaf must decide that he is not going to sell the product because of his liability for that small percentage of customers that would be harmed, or consider attaching a warning label to the product. (See more

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about Question 103 after quiz.)

Save Answer

Three Essay Questions

Answer to Question 51. Quik, although it is a company based in Maine, still has to appear in court due to the fact that the jurisdiction of where the plaintiff, Orin, resided-New York-was where the offense took place due to the fact that the product was distributed in New York.

Most likely the court would advocate for in rem jurisdiction. " Rem is Latin for 'thing.' When a court exercises in rem jurisdiction, it exercises authority over a thing, rather than a person Usually, the property must be located in the same county as the court for it to have in rem1 jurisdiction." 2

Technically, the court could decide to prosecute either in Maine or in New York, depending on where the court decided where the case should be held. Typically cases such as these are held in the states where the plaintiff filed the grievance.

While it is not entirely impossible that the case could be pursued in a court of law in Maine, this is highly unlikely. Since the plaintiff was injured within New York, technically torts law would dictate that the legal proceedings, therefore, would then concurrently take place in New York as well.

This is simply a jurisdictional matter. The fact that the original parent company of the brand name item through which Orin became ill resides in Maine is of no consequence, and consequentially has no bearing on the fact that the damage occurred in New York.

In light of these facts, the case would most likely be tried in New York courts.

Answer to Question 92. Although Old Oak's particular brand of humor may

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have been found offensive by OSLA, the main issue at stake is the concept of free speech. What is key here is one must decide if this is a question of law or a question of fact.

In this case, all the facts are clear. OSLA's claim that children would see the offensive material in stores is of no consequence to the fact that the rejection of Old Oaks's right to free speech guaranteed by the First Amendment.

In the First Amendment, basically any kind of speech (even hate speech or offensive speech) is guaranteed by the free speech clause-so long as the speech being used does not incite a riot, which is illegal.

Technically Old Oaks was within its right to sue and they should be allowed to have their beer on the shelves with their logo of the squirrel " giving the finger."

Answer to Question 103. On one hand, Olaf wants to sell his product. On the other hand, he does not want to see anyone harmed due to the fact that they used his product. How can he strike a balance Instead of not selling the product altogether because of the potential liability it would pose for a small fraction of his consumers, Olaf should sell the product with a warning label that would alert said population to the potential harm the product could cause. This is not unlike how some soda companies alert phenylketonurics that their products contain phenylalanine. Ethically, if the potential harm is great to this small sector of people, he should not sell the product at all-the thought being that, if the product contains something that would cause adverse harm but is preventable and highly likely to cause serious damage, it would probably be best for Olaf to consider not selling the product at the cost of great liability to himself.

## REFERENCES

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