**Chapter 01**

**Law as a Foundation for Business**

**True/False Questions**

1. Law is considered to be an informal social force.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

Feedback: Law is a formal social force, meaning that laws come from the state and are usually written down and accessible so those who need to understand and obey them can.

2. The first known written set of laws was the Code of Hammurabi.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

Feedback: The first known written set of laws was the Code of Hammurabi, named after the Babylonian king of the eighteenth century BC.

3. Rule-of-law nations adopt laws supporting the private market because it is in everyone’s interest, including the lawmakers’.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

Feedback: Lawmakers have an incentive to make laws that benefit everyone. Rule-of-law nations adopt laws supporting the private market because it is in everyone’s interest, including the lawmakers’.

4. Common property applies to public resources owned by the government (or “state”) like roads, public buildings, public lands, and monuments.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Common property applies to resources like land that more than one individual owns jointly. Public property applies to public resources owned by the government (or “state”) like roads, public buildings, public lands, and monuments.

5. Contract law compensates owners whose resources are wrongfully harmed by the actions of others.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Tort law compensates owners whose resources are wrongfully harmed by the actions of others. Contract law enables an owner to exchange resources, especially at a future date.

6. Regulatory law forbids owners from monopolizing classes of resources and sets rules for how businesses can compete to acquire ownership in new resources.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Antitrust law forbids owners from monopolizing classes of resources and sets rules for how businesses can compete to acquire ownership in new resources. Regulatory law both protects ownership and sets limits on private resource use.

7. Jurisprudence is the rule of law.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Jurisprudence is the philosophy of law. Over the centuries, several ideas have developed that help explain the origin of law and its justification.

8. Natural law theory asserts that law contains universal moral principles.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Natural law theory asserts that law contains universal moral principles.

9. Sociological jurisprudence emphasizes that contemporary law should focus on legal principles that have withstood the test of time in a nation.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Sociological jurisprudence supports the idea that law can and should change to meet new developments in society. The historical school of jurisprudence emphasizes that contemporary law should focus on legal principles that have withstood the test of time in a nation.

10. Jurisprudence refers to the general body of law interpretations by judges as different from legislation passed by legislators.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Jurisprudence is the philosophy of law. It also refers to the general body of law interpretations by judges as different from legislation passed by legislators.

11. Legal realism is the idea that courts should understand the meaning of the Constitution relative to the times in which they interpret it.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Legal realism tries to go beyond just the words of law to examine what police, administrators, prosecutors, and judges are actually doing as they enforce, interpret, and apply laws. In constitutional law, the idea that courts should understand the meaning of the Constitution relative to the times in which they interpret it is known as constitutional relativity.

12. The United Kingdom, the United States, Canada, Jamaica, India, Nigeria, New Zealand, and a few other countries—all colonized by England—follow the common law.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: The United Kingdom, the United States, Canada, Jamaica, India, Nigeria, New Zealand, and a few other countries—all colonized by England—follow the common law. The common law legal system emphasizes the role of judges in determining the meaning of laws and how they apply.

13. The civil law arose in the eleventh and twelfth centuries as the English monarch appointed royal judges to ride circuits around the English countryside and to resolve disputes in the name of the king (or queen).

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Common law arose in the eleventh and twelfth centuries as the English monarch appointed royal judges to ride circuits around the English countryside and to resolve disputes in the name of the king (or queen). The common law legal system emphasizes the role of judges in determining the meaning of laws and how they apply.

14. Louisiana is the only state in the United States that follows a partial civil law system due to its historical ties with France, a civil law nation.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Only Louisiana, among the U.S. states, follows a partial civil law system. This is due to Louisiana’s historical ties with France, a civil law nation.

15. The common law relies more on legislation than judicial decisions to determine what the law is.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: The common law legal system emphasizes the role of judges in determining the meaning of laws and how they apply. The civil law relies more on legislation than judicial decisions to determine what the law is.

16. In administrative law, a government official represents society, or “the people,” and the official is responsible for seeking justice to achieve the ends of society.

Answer: True

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Public law includes constitutional law, administrative law, and criminal law. In each of these matters, a government official represents society, or “the people,” and the official is responsible for seeking justice to achieve the ends of society.

17. Property law involves the recognition of exclusive right in both tangible and intangible resources.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Property law involves the recognition of exclusive right in both tangible and intangible resources. Special areas of property law concern land, goods, copyrights, trademarks, patents, and trade secrets.

18. Contract law often but not always requires actual injury to the owner’s resources.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Contracts often involve enforceable promises to exchange resources in the future. Tort law often but not always requires actual injury to the owner’s resources.

19. Judges in civil law courts find themselves obligated to follow precedents.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Civil law courts do not make law nor do their judges think themselves obligated to follow prior judicial decisions, called precedents, as they do in common law nations.

20. In constitutional law, originalism is synonymous with constitutional relativity.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In constitutional law, originalism is the opposite of constitutional relativity. It stands for the idea that courts should interpret the Constitution only according to the intentions of those who wrote it.

21. Legislation passed by the Congress is called a statute or an act.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The legislation passed by the Congress is called an act or a statute. Federal legislation that is constitutional prevails over all other sources of law.

22. The Second Amendment to the Constitution holds that “No State shall . . . deprive any person of life, liberty or property without due process of law.”

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The Second Amendment to the Constitution says that “the right to bear arms shall not be infringed.” Because punishment is used to secure obedience to the law, the Fourteenth Amendment to the Constitution of the United States provides in part: “No State shall . . . deprive any person of life, liberty or property without due process of law.”

23. Disadvantages of case law do not destroy the benefits of certainty, predictability, and stability provided by case law and *stare decisis*.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Disadvantages of case law do not destroy the benefits of certainty, predictability, and stability provided by case law and *stare decisis*. Regarding case law, courts are the institution in the U.S. legal system that interpret the meaning of the law, whether that law is the U.S. Constitution, legislation, administrative law, or the common law.

24. Judges in future cases are not as likely to follow the dicta in prior cases as they are the holdings.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The holdings in prior cases are what are necessary to the decision reached. Dicta are whatever else the court said. Judges in future cases are not so likely to follow the dicta in prior cases as they are the holdings.

25. Under *stare decisis*, judges in current cases follow whenever possible the interpretation of law determined by judges in prior cases.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Under *stare decisis*, judges in current cases follow whenever possible the interpretation of law determined by judges in prior cases. This doctrine arose from the desire for certainty and predictability in the law.

26. With reference to the hierarchy of sources of law, case law prevails over local ordinances.

Answer: False

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Case law is the lowest source of law; local ordinances rank higher and prevail over them.

27. The Fourteenth Amendment to the Constitution recognizes that the law is enforced by taking a person’s life, freedom, or the resources that he or she owns.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The Fourteenth Amendment to the Constitution recognizes that the law is enforced by taking a person’s life, freedom, or the resources that he or she owns. Because punishment is used to secure obedience to the law, the Fourteenth Amendment to the Constitution of the United States provides in part: “No State shall . . . deprive any person of life, liberty or property without due process of law.”

28. Whether it is stated in the contract or not, when a breach of contract occurs, the injured party will usually recover his or her attorney fees as part of compensatory damages.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Damages do not make most parties totally “whole,” because they do not as a general rule include attorney’s fees. Unless the contract or some special law provides to the contrary, parties to the contract litigation pay their own attorneys.

29. The single largest number of lawsuits today, especially in the federal courts, involves one business suing another business for tortious conduct.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The single largest number of lawsuits today, especially in the federal courts, involves one business suing another business for breach of contract.

30. Tort law helps protect property boundaries by providing compensation when someone wrongfully crosses such boundaries.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: A tort is a civil wrong other than a breach of contract. Tort law helps protect property boundaries by providing compensation when someone wrongfully crosses such boundaries.

31. In addition to compensatory damages, breach-of-contract cases may award punitive damages, when the breaching party knew or had reason to know that special circumstances existed that would cause the other party to suffer additional losses if the contract were breached.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In addition to compensatory damages, breach-of-contract cases may award consequential damages when the breaching party knew or had reason to know that special circumstances existed that would cause the other party to suffer additional losses if the contract were breached. Compensatory damages are awarded to make the victim of the breach “whole” in the economic sense.

32. A strict liability tort requires the plaintiff to show that a defendant injured what was proper to a plaintiff through unreasonable behavior.

Answer: False

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Strict liability torts usually require a plaintiff to prove only that a defendant has injured something proper to the plaintiff. Injury caused by an ultrahazardous activity like blasting is an example.

33. Sanctions for breach of contract include death sentences.

Answer: False

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: When one party to a contract fails to do what he or she agreed to do, a breach of contract occurs. The usual remedy for a breach is a suit for dollar damages. Sanctions for criminal conduct include death sentences.

34. The threat of sanctions usually results in compliance with the requirements of law.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Sanctions have a preventive function. The threat of sanctions usually results in compliance with the requirements of law.

35. Corporate governance rules protect the property interest that the owners have in corporations.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

Feedback: Corporate governance refers to the legal rules that structure, empower, and regulate the agents (primarily the board of directors and managers) of corporations and define their relationship to the owners (shareholders). Specifically, corporate governance rules protect the property interest that the owners have in corporations.

36. Corporate governance can fail even when corporate managers do nothing illegal.

Answer: True

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

Feedback: Corporate governance can fail even when corporate managers do nothing illegal. Corporate governance rules protect the property interest that the owners have in corporations.

**Multiple Choice Questions**

37. Article 6 of the Treaty on European Union, called the Maastricht Treaty, says the EU is “founded” on \_\_\_\_\_\_\_\_\_\_.

A. specific performance

B. the law of eminent domain

C. *stare decisis*

D. the rule of law

E. constitutional relativity

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

Feedback: Article 6 of the Treaty on European Union, called the Maastricht Treaty, says the EU is “founded” on “the rule of law.” There are no countries with strong, diverse economies that do not have the rule of law.

38. Which of the following statements is true of the rule of law?

A. Rule-of-law nations adopt laws supporting the private market because it is in everyone’s interest, including the lawmakers’.

B. Under the rule of law, laws that are made are not generally and equally applicable.

C. Its only aim is to prevent special interest groups to benefit at the expense of others.

D. It adopts laws supporting the growth of the public markets over private markets, increasing economic growth of nations.

E. It removes the power of the courts and creates an autocratic regime where businesses can freely invest and economic growth is high.

Answer: A

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

Feedback: Rule-of-law nations adopt laws supporting the private market because it is in everyone’s interest, including the lawmakers’. Under the rule of law, laws that are made are generally and equally applicable.

39. \_\_\_\_\_ property is an ownership fence, which applies to resources like land that more than one individual owns jointly.

A. Private

B. Civil

C. Public

D. Common

E. Tort

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Common property applies to resources like land that more than one individual owns jointly. It is through the law of property that individuals and business organizations can possess, use, and transfer their private resources.

40. A property-based legal system \_\_\_\_\_\_\_\_\_\_\_.

A. is unimportant in Western legal systems

B. believes that law is simply the commands of the state backed up by force and punishments

C. is contrary to the philosophy of natural law

D. does not allow for the transfer of private resources

E. allows people to exclude others from interfering with what their efforts produce

Answer: E

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: The enforcement of the property right under the rule of law gives people incentive to develop the resources they own and a property-based legal system that enables such control by allowing people to exclude others from interfering with what their efforts produce.

41. \_\_\_\_\_ can be thought of as the central concept underlying Western legal systems.

A. Dicta

B. Property

C. Tort law

D. Ethics

E. Eminent domain

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Property can be thought of as the central concept underlying Western legal systems. Property is a legal right that allows people to exclude others from their resources.

42. In the context of property, contract law\_\_\_\_\_\_\_\_\_\_.

A. enables an owner to exchange resources, especially at a future date

B. compensates owners whose resources are wrongfully harmed by the actions of others

C. punishes those who harm an owner’s resources in particular ways

D. identifies how individuals can own and use private resources in groups

E. protects ownership and sets limits on private resource use

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Contract law enables an owner to exchange resources, especially at a future date. Property can be thought of as the central concept underlying Western legal systems.

43. \_\_\_\_\_ law both protects ownership and sets limits on private resource use.

A. Tort

B. Antitrust

C. Securities

D. Regulatory

E. Contract

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Regulatory law both protects ownership and sets limits on private resource use. Property can be thought of as the central concept underlying Western legal systems.

44. The law protecting the owners of a business organization from the managers who run it for them is \_\_\_\_\_.

A. corporate governance

B. antitrust law

C. constitutional relativity

D. contract law

E. tort law

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Corporate governance specifically concerns the law protecting the owners of a business organization from the managers who run it for them. Generally speaking, corporate governance also refers to any law regulating and limiting private owners’ productive resources and their use.

45. Which law forbids owners from monopolizing classes of resources and sets rules for how businesses can compete to acquire ownership in new resources?

A. Regulatory law

B. Tort law

C. Antitrust law

D. Antidiscrimination law

E. Securities law

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Antitrust law forbids owners from monopolizing classes of resources and sets rules for how businesses can compete to acquire ownership in new resources. Property can be thought of as the central concept underlying Western legal systems.

46. The ideas and philosophies that explain the origin of law and its justification are called \_\_\_\_\_.

A. the rule of law

B. torts

C. *stare decisis*

D. jurisprudence

E. statutes

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: The ideas and philosophies that explain the origin of law and its justification are called jurisprudence. It is the philosophy of law.

47. \_\_\_\_\_ law jurisprudence believes that law is simply the commands of the state backed up by force and punishments.

A. Positive

B. Natural

C. Historical

D. Sociological

E. Tort

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Positive law jurisprudence believes that law is simply the commands of the state backed up by force and punishments. Jurisprudence is the philosophy of law.

48. Which of the following schools of jurisprudence emphasizes that contemporary law should focus on legal principles that have withstood the test of time in a nation?

A. Sociological

B. Tort

C. Positive

D. Historical

E. Natural

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Friedrich Savigny, a prominent German legal philosopher, helped develop the historical school of jurisprudence. This jurisprudence emphasizes that contemporary law should focus on legal principles that have withstood the test of time in a nation.

49. \_\_\_\_\_ jurisprudence supports the idea that law can and should change to meet new developments in society.

A. Historical

B. Natural

C. Sociological

D. Positive law

E. Legal realism

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Sociological jurisprudence supports the idea that law can and should change to meet new developments in society. From this point of view, the Second Amendment to the U.S. Constitution, which asserts the right to “bear arms,” or weapons, should not be interpreted today to allow citizens to own and carry lightweight fully automatic rifles that can fire hundreds of rounds a minute.

50. Which of the following philosophies of law tries to go beyond just the words of law to examine what police, administrators, prosecutors, and judges are actually doing as they enforce, interpret, and apply laws?

A. Positive law jurisprudence

B. Sociological jurisprudence

C. *Stare decisis*

D. Legal realism

E. Originalism

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Legal realism tries to go beyond just the words of law to examine what police, administrators, prosecutors, and judges are actually doing as they enforce, interpret, and apply laws. When Supreme Court Justice Oliver Wendell Holmes Jr. said that “law is what officials do about it,” he reflected the jurisprudence of legal realism.

51. Positive law is contrary to the philosophy of \_\_\_\_\_.

A. specific performance

B. legal realism

C. historical jurisprudence

D. natural law

E. sociological jurisprudence

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

Feedback: Positive law jurisprudence believes that law is simply the commands of the state backed up by force and punishments. It is contrary to the philosophy of natural law.

52. Stephanie has written a book, *Mirari*, and was talking to some interested parties from Hollywood about making a movie based on it. However, she turned down an offer due to differences of opinion. A year later, *Mirari* was made into a movie but it did not acknowledge the author. This scenario best reflects a violation of \_\_\_\_\_.

A. property law

B. administrative law

C. constitutional law

D. criminal law

E. contract law

Answer: A

AACSB: Reflective Thinking

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself; which gives incentive for wealth creation.

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: The given scenario best reflects a breach of property law. Property law involves the recognition of exclusive right in both tangible (physically touchable) and intangible resources. Special areas of property law concern land, goods, copyrights, trademarks, patents, and trade secrets.

53. Meril is a luxury bag brand that has its own distinctive pattern. The company recently learned that another retailer has been selling fake Meril bags. The legal dispute that will arise here is most likely to be governed by \_\_\_\_\_.

A. administrative law

B. constitutional law

C. property law

D. criminal law

E. contract law

Answer: C

AACSB: Reflective Thinking

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself; which gives incentive for wealth creation.

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: The legal dispute that will arise in the given scenario is most likely to be governed by property law. Property law involves the recognition of exclusive right in both tangible (physically touchable) and intangible resources. Special areas of property law concern land, goods, copyrights, trademarks, patents, and trade secrets.

54. So significant is the role of judges in the United States that they determine the meaning of the Constitution and can declare void the legislation of Congress and the acts of the president. This illustrates that the legal system in the United States is based on \_\_\_\_\_.

A. civil law

B. religious law

C. common law

D. hybrid law

E. constitutional law

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: The common law legal system emphasizes the role of judges in determining the meaning of laws and how they apply. The common law continues its development even today, and so significant is the role of judges in the United States that they determine the meaning of the

Constitution and can declare void the legislation of Congress and the acts of the president.

55. \_\_\_\_\_ do not make law nor do their judges think themselves obligated to follow prior judicial decisions called precedents.

A. Common law courts

B. Religious law courts

C. Civil law courts

D. Administrative law courts

E. Constitutional law courts

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Civil law courts do not make law nor do their judges think themselves obligated to follow prior judicial decisions called precedents. The civil law relies more on legislation than judicial decisions to determine what the law is.

56. \_\_\_\_\_ covers the legal principles that apply to government agencies, bureaus, boards, or commissions.

A. Administrative law

B. Constitutional law

C. Tort law

D. Criminal law

E. Contract law

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Administrative law covers the legal principles that apply to government agencies, bureaus, boards, or commissions. It is a type of public law.

57. Which of the following statements is true of civil cases?

A. They typically involve a representative of government attempting to prove the wrong committed against society and seeking to have the wrongdoer punished by the court system.

B. They typically involve a request for damages or other appropriate relief that does not involve punishment of the wrongdoer.

C. They typically include matters that involve the regulation of society as opposed to individuals interacting.

D. They typically include matters that involve the interpretation and application of either the federal or state constitutions.

E. They typically include legal principles that apply to government agencies, bureaus, boards, or commissions.

Answer: B

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Civil cases may include suits for breach of contract or tort cases, such as suits for personal injuries. Typically, they involve a request for damages or other appropriate relief that does not involve punishment of the wrongdoer.

58. Which of the following statements is true of tort law?

A. It involves the recognition of exclusive right in both tangible and intangible resources such as copyrights, patents, trademarks, etc.

B. It covers the rules of how owners transfer resources by exchanging them.

C. It specifies various offenses against the proper order of the state.

D. It covers the legal principles that apply to government agencies, bureaus, boards, or commissions.

E. It establishes rules for compensation when an owner’s legal boundaries are wrongfully crossed by another.

Answer: E

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Tort law establishes rules for compensation when an owner’s legal boundaries are wrongfully crossed by another. Tort law often but not always requires actual injury to the owner’s resources.

59. Kate has entered into a binding agreement to sell a house to Michael. When Michael shows up to complete the deal as per the agreement, Kate refuses to go through with the transaction. Which of the following best categorizes Kate and Michael’s issue in the context of classifications of laws?

A. This is a public law issue regarding substantive law.

B. This is a private law issue regarding contract law.

C. This is a public law issue regarding property law.

D. This is a private law issue regarding criminal law.

E. This is a public law issue regarding tort law.

Answer: B

AACSB: Reflective Thinking

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Kate’s and Michael’s issue in the scenario is a private law issue regarding contract law. Private law covers those legal problems and issues that concern a person’s private resource relationships with other people. Private law traditionally includes contract law, which covers the rules of how owners transfer resources by exchanging them.

60. The time allowed for one party to sue another and the rules of law governing the process of a lawsuit are examples of \_\_\_\_\_\_\_\_\_\_.

A. tort laws

B. procedural laws

C. international laws

D. substantive laws

E. property laws

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Procedural law deals with the method and means by which substantive law is made and administered. The time allowed for one party to sue another and the rules of law governing the process of a lawsuit are examples of procedural laws.

61. Which of the following statements is true of substantive law?

A. The rules of law governing the process of a lawsuit are substantive in nature.

B. It deals with the method and means by which procedural law is made and administered.

C. The time allowed for one party to sue another is an example of substantive law.

D. Enforcement of a contractual promise is substantive in nature.

E. It provides the machinery for rights and duties.

Answer: D

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Substantive law defines the legal relationship of people with other people or between them and the state. The rules of law governing the creation or enforcement of a contractual promise are substantive in nature.

62. Which of the following is a type of public law?

A. Contract law

B. Property law

C. Tort law

D. Hybrid law

E. Criminal law

Answer: E

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Public law includes constitutional law, administrative law, and criminal law. It includes those matters that involve the regulation of society as opposed to individuals interacting.

63. Private law traditionally includes \_\_\_\_\_\_\_\_\_\_.

A. international law

B. property law

C. administrative law

D. constitutional law

E. criminal law

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

Feedback: Private law traditionally includes property law, contract law, and tort law. Private law covers those legal problems and issues that concern one’s private resource relationships with other people.

64. The \_\_\_\_\_ in prior cases were necessary to reach the decisions in those cases.

A. dicta

B. holdings

C. citations

D. statutes

E. ordinances

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Increasing the difficulty of determining how to follow prior precedent is the distinction between the holding in a prior case and mere dicta. The holdings in prior cases are precisely what was necessary to reach the decision. Dicta are whatever else the court said.

65. According to \_\_\_\_\_, judges in current cases follow whenever possible the interpretation of law determined by judges in prior cases.

A. *stare decisis*

B. *writ of certiorari*

C. *ratio decidendi*

D. constitutional relativism

E. legal realism

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: *Stare decisis* is the doctrine of prior precedents. According to *stare decisis*, judges in current cases follow whenever possible the interpretation of law determined by judges in prior cases.

66. When judges who decide appeals from trial courts make decisions on legal issues, they write their decisions, or \_\_\_\_\_, setting out reasons.

A. citations

B. opinions

C. codes

D. statutes

E. ordinances

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: When judges, especially judges who decide appeals from trial courts, make decisions on legal issues, they write their decisions, or opinions, setting out reasons. These case opinions are collected and published in book volumes known as reporters.

67. Which of the following are judicial decisions that interpret the relevant constitutional, legislative, and regulatory laws?

A. Citations

B. Injunctions

C. Case law

D. Dicta

E. Statutes

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Even after considering constitutional language, reading legislation, and referring to administrative regulation, an attorney must still know the judicial decisions, called case law, that apply to a legal problem. These decisions interpret the relevant constitutional, legislative, and regulatory laws.

68. In constitutional law, the idea that courts should understand the meaning of the Constitution relative to the times in which they interpret it is known as \_\_\_\_\_.

A. constitutional holding

B. legal realism

C. legal originalism

D. constitutional relativity

E. constitutional governance

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In constitutional law, the idea that courts should understand the meaning of the Constitution relative to the times in which they interpret it is known as constitutional relativity. Originalism is the opposite of constitutional relativity.

69. \_\_\_\_\_ stands for the idea that courts should interpret the Constitution only according to the intentions of those who wrote it.

A. Constitutional relativity

B. Originalism

C. Legal realism

D. Dicta

E. Constitutional holding

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Originalism stands for the idea that courts should interpret the Constitution only according to the intentions of those who wrote it. It is the opposite of constitutional relativity.

70. One important advantage of *stare decisis* was \_\_\_\_\_\_\_\_\_\_.

A. increased emphasis on dicta than on holding

B. the elimination of alternative dispute resolution methods

C. security with regard to property

D. limited volume of cases

E. rejection of precedent

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: One important advantage of *stare decisis* was people became secure in their right of property. They then became willing to invest resources in fixed locations for factories and other immovable valuables because they were certain the state would not seize these resources for its own use.

71. Which of the following sources of law ranks the highest in the hierarchy of sources of law?

A. Local ordinances

B. State constitutions

C. Statutes of Congress

D. State administrative regulations

E. U.S. Constitution and Amendments

Answer: E

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The U.S. Constitution and Amendments rank the highest in the hierarchy of sources of law. Each higher source of law voids, or prevails, over every lower source of law in the hierarchy, except that in many instances there will be no conflict between higher and lower sources of law and in other instances it may not be clear whether a higher source of law conflicts with a lower source of law.

72. The Latin meaning of the word *stare decisis* is \_\_\_\_\_\_\_\_\_\_.

A. speak the truth

B. let the prior decision stand

C. the thing has been decided

D. let the plaintiff beware

E. the rationale for the decision

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: *Stare decisis* is the doctrine of prior precedents. The Latin meaning of these words is “let the prior decision stand.”

73. Collections of legislation, often on the same subject, passed by the Congress are called \_\_\_\_\_\_\_\_\_\_.

A. precedents

B. opinions

C. ordinances

D. codes

E. citations

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The legislation passed by Congress is called an act or a statute. Collections of legislation, often on the same subject, are codes.

74. Following much debate, the Congress has decided to pass a bill that will increase the taxes on tobacco sales. This legislation is called a(n) \_\_\_\_\_\_\_\_\_\_.

A. statute

B. regulation

C. ordinance

D. tort

E. citation

Answer: A

AACSB: Analytical Thinking

Blooms: Apply

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The legislation passed by Congress is also called an act or a statute. Federal legislation that is constitutional prevails over all other sources of law.

75. The administrative agencies in the City of Dover have passed a written law banning smoking in most restaurants and bars. This legislation is an example of a(n) \_\_\_\_\_\_\_\_\_\_.

A. statute

B. act

C. regulation

D. ordinance

E. jurisprudence

Answer: D

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Law in the counties and cities is called ordinances. Counties and cities also sometimes have administrative agencies that help plan local development, such as zoning boards, that specify where businesses and housing can be located.

76. Which of the following are essential to locate prior precedents?

A. Codes

B. Remediations

C. Citations

D. Dicta

E. Torts

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: To locate prior precedents, it is helpful to know the citation for the case where a precedent is found. Knowing a case citation, one can easily locate the case in a library or through computer databases.

77. Which of the following refers to judicial decisions that apply to legal problems and interpret the relevant constitutional, legislative, and regulatory laws?

A. Case law

B. Procedural law

C. Substantive law

D. Commercial law

E. Tort law

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: After considering constitutional language, reading legislation, and referring to administrative regulation, an attorney must still know the judicial decisions, called case law, that apply to a legal problem. These decisions interpret the relevant constitutional, legislative, and regulatory laws.

78. The source of law that ranks the lowest among all the others is a \_\_\_\_\_.

A. local ordinance

B. statute

C. case law

D. state administrative regulation

E. federal administration regulation

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The source of law that ranks the lowest among all the others is a case law. Each higher source of law voids, or prevails, over every lower source of law in the hierarchy, except that in many instances there will be no conflict between higher and lower sources of law, and in other instances, it may not be clear whether a higher source of law conflicts with a lower source of law.

79. \_\_\_\_\_ are in effect a form of punishment for violating the law and have a preventive function.

A. Ordinances

B. Statutes

C. Sanctions

D. Torts

E. Opinions

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Sanctions are in effect a form of punishment for violating the law. Sanctions also have a preventive function. The threat of sanctions usually results in compliance with the requirements of law.

80. The right of an individual to take another person’s resources because that person has failed to meet the requirements of the law is known as a \_\_\_\_\_.

A. precedent

B. citation

C. remedy

D. dicta

E. holding

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: The right of an individual to take another person’s resources (especially money) because that person has failed to meet the requirements of the law (e.g., the breach of a contract) is known as a remedy. The enforcement of the law is vital to the rule of law and a proper legal system.

81. A \_\_\_\_\_ is a civil wrong other than a breach of contract.

A. caucus

B. tort

C. sanction

D. remedy

E. dicta

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: A tort is a civil wrong other than a breach of contract. Torts involve improper crossing of property boundaries, usually causing injury to our person or other things people own.

82. Which of the following statements is true of a breach of contract?

A. A tort is a kind of breach of contract, which is a civil wrongdoing.

B. Damages make most parties totally whole because as a general rule they include attorney’s fees.

C. A contract can be rescinded only if both the parties to the contract agree to it.

D. The remedy for an injured party may be a decree of specific performance under certain circumstances.

E. Breach-of-contract cases may not award any consequential damages under any circumstances.

Answer: D

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In some circumstances, the remedy of an injured party may be a decree of specific performance—an order by the court commanding the other party actually to perform a bargain as agreed.

83. Which of the following is an order by the court commanding the other party actually to perform a bargain as agreed?

A. *De novo* judicial review

B. *Obiter dicta*

C. *Stare decisis*

D. Specific performance

E. Eminent rationality

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In some circumstances, the remedy of an injured party may be a decree of specific performance—an order by the court commanding the other party actually to perform a bargain as agreed.

84. Which of the following sanctions are awarded with the objective of ensuring that a party be in as good a position as he or she would have been in had the contract been performed?

A. Punitive damages

B. Compensatory damages

C. Incidental damages

D. Exemplary damages

E. Liquidation damages

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Compensatory damages are awarded to make the victim of the breach “whole” in the economic sense. Such damages compensate a party for all losses that are the direct and foreseeable result of the breach of contract. The objective is that the party be in as good a position as he or she would have been in had the contract been performed.

85. Coach Kleats is in charge of the softball team at Phoenix Junior School. He loses his temper with one of the substitutes following a game and slams the child against the lockers in his anger. The child is badly bruised and is bleeding from the nose. In this scenario, the coach can be sued for committing a(n) \_\_\_\_\_.

A. tort of negligence

B. intentional tort

C. strict liability tort

D. statutory tort

E. tort of nuisance

Answer: B

AACSB: Reflective Thinking

Blooms: Apply

Difficulty: 3 Hard

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: In this scenario, coach Kleats can be sued for committing an intentional tort. Intentional torts include assault (intentionally placing someone in apprehension of his physical safety), battery (intentionally making offensive, unconsented to physical contact with someone), conversion (intentionally depriving someone of goods owned), and trespass (intentionally crossing someone else’s land boundaries without permission).

86. Punitive damages are frequently awarded in \_\_\_\_\_.

A. ordinary negligence cases

B. intentional tort cases

C. strict liability cases

D. equal protection cases

E. overbreadth doctrine cases

Answer: B

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Punitive damages—also called exemplary damages—are appropriate when the tort is intentional or the unreasonable conduct is extremely severe.

87. In a broad general sense, \_\_\_\_\_ includes the legal property relations that large businesses have with each other, with their customers, and with society.

A. corporate governance

B. specific performance

C. *stare decisis*

D. tort law

E. strict liability

Answer: A

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

Feedback: In a broad general sense, corporate governance includes the legal property relations that large businesses have with each other, with their customers, and with society. The economic collapse of 2008 illustrates the need for corporate governance in this general sense.

88. \_\_\_\_\_ refers to the legal rules that structure, empower, and regulate the agents of organizations and define their relationships to the owners.

A. *Voir dire*

B. *Res judicata*

C. Corporate relativity

D. Corporate governance

E. Categorical imperative

Answer: D

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

Feedback: Corporate governance refers to the legal rules that structure, empower, and regulate the agents (primarily the board of directors and managers) of corporations and define their relationship to the owners (shareholders). Specifically, corporate governance rules protect the property interest that the owners have in corporations.

89. Which of the following usually requires a plaintiff to prove only that a defendant has injured something proper to the plaintiff?

A. Torts of negligence

B. Intentional torts

C. Strict liability torts

D. Statutory torts

E. Torts of nuisance

Answer: C

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

Feedback: Strict liability torts usually require a plaintiff to prove only that a defendant has injured something proper to the plaintiff. Injury caused by an ultrahazardous activity like blasting is an example.

**Short Answer Questions**

90. Why is law considered to be a formal social force?

Answer: Law is a formal social force, meaning that laws come from the state and are usually written down and accessible so those who need to understand and obey them can. To maintain order in society, adequate enforcement institutions such as courts and the police are a necessary part of the legal system.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

91. Why is law considered to be the most significant of social forces in modern nations?

Answer: In the modern nation, the most significant of the social forces is law because law can glue together diverse peoples of different backgrounds into very large, organized groups. Law is known by everyone and is designed to tell members of society what they can or cannot do. Strangers to a society may not understand or appreciate complex and subtle customs of behavior, but they can observe the formal laws governing what kinds of activities are permitted and prohibited in society. Lawyers, judges, and other trained interpreters of the rules can help them in this process.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

92. Briefly explain the rule of law.

Answer: Under the rule of law, laws that are made are generally and equally applicable. They apply to all or most members of society, and they apply to various groups in the same way. Under the rule of law, law applies to lawmakers as well as to the rest of society. Thus, lawmakers have an incentive to make laws that benefit everyone. Rule-of-law nations adopt laws supporting the private market because it is in everyone’s interest, including the lawmakers’.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-01 To understand that laws and regulations are fundamental foundations for business.

Topic: Law, the Rule of Law, and Property

93. With reference to property in the legal sense, what are the three main types of ownership?

Answer: In law the word “property” (or “ownership”) means the right to turn to public authorities like the police or the courts to help one keep others from interfering with what he or she owns. Three types of ownership fences are as follows:

(a) Public property, which applies to public resources owned by the government (or “state”) like roads, public buildings, public lands, and monuments

(b) Private property, which applies to resources that you own as an individual

(c) Common property, which applies to resources like land that more than one individual owns jointly.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

94. Compare natural law and positive law in jurisprudence.

Answer: According to Aristotle and other ancient philosophers, natural law theory asserts that law contains universal moral principles. These principles are observable in nature, and we can determine them through human reason. Positive law jurisprudence believes that law is simply the commands of the state backed up by force and punishments. It is contrary to the philosophy of natural law.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

95. Illustrate the concept of sociological jurisprudence with an example.

Answer: Sociological jurisprudence supports the idea that law can and should change to meet new developments in society. From this point of view, the Second Amendment to the U.S. Constitution, which asserts the right to “bear arms,” or weapons, should not be interpreted today to allow citizens to own and carry lightweight fully automatic rifles that can fire hundreds of rounds a minute. When the Second Amendment was written, a highly trained person carrying a 25-pound rifle could fire only about two rounds a minute.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-02 To explain that “property” in the law refers not to something that is owned but to the right of ownership itself, which gives incentive for wealth creation.

Topic: Law, the Rule of Law, and Property

96. Differentiate between substantive law and procedural law.

Answer: Substantive law defines the legal relationship of people with other people or between them and the state. Thus, the rules of law governing the creation or enforcement of a contractual promise are substantive in nature. Procedural law deals with the method and means by which substantive law is made and administered. The time allowed for one party to sue another and the rules of law governing the process of the lawsuit are examples of procedural laws. Thus, substantive rules of law define rights and duties, while procedural rules of law provide the machinery for enforcing those rights and duties.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

97. Briefly describe the two major legal systems: common law and civil law.

Answer: Common law emphasizes the role of judges in determining the meaning of laws and how they apply. Civil law relies more on legislation than judicial decisions to determine what the law is. Like common law courts, courts in civil law nations decide the facts in a disputed case (for example, who did what, who committed a crime or breached a contract), but civil law courts do not make law nor do their judges think themselves obligated to follow prior judicial decisions, called precedents, as they do in common law nations, although they do refer to “settled” cases.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

98. Describe public law and its categories.

Answer: Public law includes those matters that involve the regulation of society as opposed to individuals interacting.

The main types of public law include the following:

(a) Constitutional law, which involves the interpretation and application of either the federal or state constitutions

(b) Administrative law, which covers the legal principles that apply to government agencies, bureaus, boards, or commissions

(c) Criminal law, which specifies various offenses against the proper order of the state.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

99. What is private law? What are its categories?

Answer: Private law covers those legal problems and issues that concern your private resource relationships with other people. Private law traditionally includes the following:

(a) Property law, which involves the recognition of exclusive right in both tangible (physically touchable) and intangible resources

(b) Contract law, which covers the rules of how owners transfer resources by exchanging them

(c) Tort law, which establishes rules for compensation when an owner’s legal boundaries are wrongfully crossed by another.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

100. Briefly describe civil law and criminal law.

Answer: For administrative purposes, courts usually separate criminal actions from all other lawsuits. Civil cases may include suits for breach of contract or tort cases, such as suits for personal injuries. Typically, they involve a request for damages or other appropriate relief that does not involve punishment of the wrongdoer. Criminal cases involve a representative of government attempting to prove the wrong committed against society and seeking to have the wrongdoer punished by the court system.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-03 To analyze why *stare decisis* is different in common law nations than in civil law nations.

Topic: Classifications of Law

101. Briefly describe *stare decisis*.

Answer: *Stare decisis* is the doctrine of prior precedents. The Latin meaning of these words is “let the prior decision stand.” Under *stare decisis,* judges in current cases follow whenever possible the interpretation of law determined by judges in prior cases. This doctrine arose from the desire for certainty and predictability in the law. One important advantage of *stare decisis* was people became secure in their right of property.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

102. Briefly explain the importance of federal law.

Answer: Federal law is a very important source of law. It includes the U.S. Constitution, which is the supreme law of the nation. Any law, federal or state, that conflicts with the Constitution is said to be void and has no legal effect. Next in the hierarchy of federal law comes the legislation passed by Congress, also called acts or statutes. Federal legislation that is constitutional prevails over all other sources of law. Administrative law or regulation is made by agencies of the federal government like the Environmental Protection Agency.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

103. What are acts, statutes, and codes?

Answer: In federal law, the legislations passed by the Congress are called acts or statutes. Codes are collections of legislation, often on the same subject.

AACSB: Analytical Thinking

Blooms: Remember

Difficulty: 1 Easy

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

104. What are opinions, precedents, and citations?

Answer: When judges, especially judges who decide appeals from trial courts, make decisions on legal issues, they write their decisions, or opinions, setting out reasons. These case opinions are collected and published in book volumes known as “reporters,” and these opinions now become precedents for future cases involving similar facts and legal issues. To locate prior precedents, it is helpful to know the citation for a case where a precedent is found.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

105. What information can be obtained from the citation of a case?

Answer: To locate prior precedents, it is helpful to know the citation for a case where a precedent is found. For example, a case opinion cited as 675 F.3d 23 (2014) can be located on page 23 of volume 675 of the Federal Reporter, third edition, a case decided in 2014. Knowing a case citation, one can easily locate the case in a library or through computer databases.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

106. List any two disadvantages of case law.

Answer: The disadvantages of case law are as follows:

Conflicting precedents: Sometimes in searching prior cases, attorneys find cases in which judicial decisions conflict with each other. Conflicting precedents do not create confidence in the certainty of law.

Rejection of precedent: Because of *stare decisis*, courts usually hesitate to reject the precedents of prior cases, but sometimes they do. They may think that prior cases were wrongly decided, or they may think that times have changed.

Volume of cases: Even with computers, searching through hundreds of thousands of cases and then identifying and reading the significant ones is often a very great task. At the very least, it is both time consuming for the attorney and expensive for the client.

Dicta: Increasing the difficulty of determining how to follow prior precedent is the distinction between the holding in a prior case and mere dicta. The holdings in prior cases are precisely what was necessary to the decision reached. Dicta are whatever else the court said. Judges in future cases are not so likely to follow the dicta in prior cases as they are the holdings.

Conflicts of law: In a tort case, the usual conflicts of law rule applies the law of the state where the injury occurred, no matter where the injury occurred. If a contract specifies no particular state’s law for the parties to a dispute to follow, a court interpreting the contract will usually apply the law of the state where the contract was made.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

107. Distinguish between holding and dicta in prior precedent.

Answer: Increasing the difficulty of determining how to follow prior precedent is the distinction between the holding in a prior case and mere dicta. The holdings in prior cases are precisely what was necessary to the decision reached. Dicta are whatever else the court said. Judges in future cases are not so likely to follow the dicta in prior cases as they are the holdings.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

108. What is constitutional relativity? How does it affect *stare decisis*?

Answer: In constitutional law, the idea that courts should understand the meaning of the Constitution relative to the times in which they interpret it is known as constitutional relativity. Because of *stare decisis*, courts usually hesitate to reject the precedents of prior cases, but sometimes they do. They may think that prior cases were wrongly decided, or they may think that times have changed.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

109. Briefly explain conflicts of law.

Answer: In some cases, a question arises as to what state’s law applies to a situation. Courts resolve such problems by applying conflicts of law rules, but even these rules may vary from state to state. In a tort case, the usual conflicts of law rule applies the law of the state where the injury occurred, no matter where the injury occurred. If a contract specifies no particular state’s law for the parties to a dispute to follow, a court interpreting the contract will usually apply the law of the state where the contract was made.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

110. List the various sources of law and their order of hierarchy.

Answer: The hierarchy of the sources of law is well understood. That hierarchy is as follows. Each higher source of law voids, or prevails, over every lower source of law in the hierarchy, except that in many instances there will be no conflict between higher and lower sources of law, and in other instances, it may not be clear whether a higher source of law conflicts with a lower source of law. Hierarchy of sources of law from highest to lowest:

(a) U.S. Constitution and Amendments

(b) Statutes (also called “acts” or “legislation”) of Congress

(c) Federal administration regulation

(d) State constitutions (apply only in individual states)

(e) State statutes (apply only in individual states)

(f) State administrative regulation (applies only in individual states)

(g) Local ordinances (apply only in cities, towns, and other such areas)

(h) Case law (court cases, as they interpret all of the other sources, may void sources lower than the source being interpreted).

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

111. The Fourteenth Amendment recognizes that law may be enforced by taking resources owned by a citizen. Name the instances in which someone’s resources may be taken.

Answer: The Fourteenth Amendment recognizes that the law is enforced by taking a person’s life, freedom, or the resources that he or she owns. The taking of an owner’s resources may be (a) for the benefit of society generally, as when land is taken through eminent domain; (b) to punish someone, as with a traffic fine; or (c) for the benefit of another person, as an award of damages.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

112. Differentiate between an intentional tort and negligence.

Answer: Intentional torts all require a plaintiff (the person who initiates a lawsuit) to prove a defendant intended to cross the boundaries protecting the plaintiff. Intentional torts include assault (intentionally placing someone in apprehension of his physical safety), battery (intentionally making offensive, unconsented to physical contact with someone), conversion (intentionally depriving someone of goods owned), and trespass (intentionally crossing someone else’s land boundaries without permission).

Negligence is when the plaintiff shows that the defendant injured what was proper to the plaintiff through unreasonable behavior.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

113. What are exemplary damages?

Answer: In law, the sanction (or remedy) for tortious conduct is money damages. The damages compensate injured plaintiffs for medical expenses, lost wages or earning power, pain and suffering, and damages to other owned goods and land.

Punitive damages—also called exemplary damages—are also appropriate when the tort is intentional or the unreasonable conduct is extremely severe and are used to punish rather than compensate.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

114. What sanctions may be imposed for violating statutes and regulations?

Answer: Statutes at both the federal and state levels of government impose a variety of sanctions for violating the statutes or regulations of administrative agencies adopted to accomplish statutory purposes. Many statutes, for example, impose a fine for a violation and authorized damages to injured parties as well. Although common law did not make a defendant pay a plaintiff’s attorney fees, many statutes do require so in various circumstances.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law

115. Define a corporation.

Answer: A corporation is a business chartered by the state to do business as a legal person in a certain form of organization. It is owned by shareholders who have stock in the business. They vote to elect the board of directors who legally run the business but who often hire managers to be in charge of day-to-day business operations. In large corporations, few shareholders sit on the board of directors or are managers of these businesses, and thus ownership is usually separate from resource control.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

116. How does corporate governance break down due to the illegal actions of managers?

Answer: Corporate governance rules protect the property interest that the owners have in corporations. Because of the complexity of modern corporations, there are sometimes breakdowns in corporate governance. Managers like the president, vice presidents, or chief financial officer of a corporation can abuse their control of its resources to benefit themselves in ways that impair or even destroy the corporation’s value to the shareholders. For example, often top managers have salaries, bonuses, or stock options that are tied to a corporation’s profitability or stock price. If they manipulate the corporation’s profit by puffing up assets or concealing debts, they may be able to raise their incomes by millions of dollars even as they mislead the owners about the true value of the corporation and risk corporate collapse when the true situation is disclosed.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: A Property-Based Legal System and Corporate Governance

117. What are compensatory damages?

Answer: When one party to a contract fails to do what he or she agreed to do, a breach of contract occurs. The usual remedy for a breach is a suit for dollar damages. These damages, called compensatory damages, are awarded to make the victim of the breach “whole” in the economic sense. Such damages compensate the party for all losses that are the direct and foreseeable result of a breach of contract. The objective is that a party be in as good a position as he or she would have been in had the contract been performed.

AACSB: Analytical Thinking

Blooms: Understand

Difficulty: 2 Medium

Learning Objective: 01-04 To classify what legal sources lawyers turn to in answering legal questions from their clients and the hierarchy of those sources.

Topic: Sources of Law