Test Bank for Business Law with UCC Applications 15th Sukys

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Business Law with UCC Applications, 15e **(Sukys)**
Chapter 2 Sources of the Law

1) Ideally, the primary objectives of the law, such as harmony, stability, and justice within a society, should be balanced equally at all times.

Answer: TRUE
Explanation: The law consists of rules of conduct established by the government of a society to maintain harmony, stability, and justice. Ideally these should be balanced equally at all times. More often than not, however, "real life" is not harmonious, and justice must be sacrificed for harmony and stability.
Difficulty: 1 Easy
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-01 List the objectives of the law.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

2) The law is a delicate balancing act between the power of the state and the rights of individuals.

Answer: FALSE
Explanation: The law should be viewed as a delicate balancing act between the competing interests and rights of different groups of people. Further, the limitations and biases of judges, legislators, and the prosecutors require trade-offs and compromises to an already complex legal system.
Difficulty: 1 Easy
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-01 List the objectives of the law.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

3) Trade-offs rarely occur within the law.

Answer: FALSE
Explanation: On the contrary, trade-offs routinely occur within the legal system. One person is allowed to go free, while another is imprisoned, fined, and forced to forfeit his property. One corporation's contracts are upheld, while another's are struck down.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-01 List the objectives of the law.
Bloom's: Understand
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4) The language of the law can become a hindrance instead of assisting in the execution of the law.

Answer: TRUE
Explanation: Because words are often ambiguous, the language of the law can become a hindrance, rather than a help in the execution of the law.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Understand
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

5) In his book, *Law and History*, Professor Anthony Chase writes that the balance between the words and the interpretation of the law is a strength of the law, and not a weakness.

Answer: FALSE
Explanation: From Chase's perspective, **words** versus **interpretation** is a particular brand of duality, and is neither a strength nor a weakness, but merely how the law works.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Understand
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

6) According to the John M. Keynes' Uncertainty Principle, intent and results almost never coincide in economics, but when they do it is merely a matter of luck.

Answer: TRUE
Explanation: The uncertainty principle was one of the lynch pins of the economics theory of John Maynard Keynes. Keynes held that intent and results almost never coincide, and when they do, it is generally a matter of luck, nothing more.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
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7) The Articles of Confederation created a strong national government.

Answer: FALSE
Explanation: The first constitution of the United States was the Articles of Confederation—not the current Constitution. The Articles of Confederation were created to hold together a fragile coalition of states, each of which was determined to maintain its own independent existence. One of the main weaknesses of the Articles was the inability of Congress to impose taxes or tariffs.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

8) The principle of the separation of powers divides power between the national and United Nations governments.

Answer: FALSE
Explanation: The principle of the separation of powers in the U.S. Constitution set up the three branches of the national government—the executive branch, the legislative branch, and the judicial branch. The principle of checks and balances allows each branch to share in the power of the other two branches.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

9) Article III of the U.S. Constitution creates the U.S. Supreme Court and other lower courts.

Answer: TRUE
Explanation: Article III gives judicial power to the Supreme Court and other courts established by Congress.
Difficulty: 1 Easy
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Remember
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10) The original intent of the Bill of Rights was to protect the rights of slave owners among the southern colonies.

Answer: FALSE
Explanation: James Madison and other delegates to the Philadelphia convention in the late 1700s believed that Congress should have no power to enforce, eliminate, or modify rights except those that were expressly listed. However, some delegates warned that if some rights were listed, it would give the impression that those were the only rights that mattered. In the end the Bill of Rights, especially those regarding religion, was incorporated as a political compromise.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Understand
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

11) The Electoral College was a political compromise created so that the President would be chosen by electors, rather than directly by the people.

Answer: TRUE
Explanation: Although extreme, it is likely that many of the delegates to the Philadelphia convention would have actually preferred Congress choose the President. However, the delegates compromised on the Electoral College in which the people would directly vote for electors, who in turn would vote for the President. Note that the framers, who wanted a buffer between the people and the President, assumed that electors would always be land-owning, educated men of high class.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Understand
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12) In the "Opening Case," current President Donald Trump signed an Executive Order in August 2017 ending the DACA program created by former President Barack Obama in June 2012.

Answer: FALSE
Explanation: Under President Trump's order, all those already granted DACA status would retain their benefits until those benefits expired under the original order. According to some analysts, President Obama's 2012 DACA order was unconstitutional because it created a set of legal benefits that violated the underlying constitutional principle of the separation of powers.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Analyze
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

13) California's introduction of SB 54 to declare California a "Sanctuary State" may involve a clash with the federal government under the Supremacy Clause of the U.S. Constitution.

Answer: TRUE
Explanation: Although the Supremacy Clause of the U.S. Constitution does in fact state that, "(t)his Constitution and the Laws of the United States... shall be the supreme Law of the Land", neither the President nor Congress can veto a state law. But state laws that conflict with the Constitution can be held to be "unconstitutional" by a federal court after a lawsuit is filed by a federal agency or a private party.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Apply
AACSB: Analytical Thinking
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14) An executive memorandum is a device by which the president can act on his own without having to resort to the somewhat cumbersome process of going through Congress.

Answer: FALSE
Explanation: That is the definition of an executive order, not memorandum. A memorandum is simply a suggestion issued by the president to an area of the executive branch, indicating how he would prefer that area to use its power. Executive Orders are generally risky because the president must be careful not to violate the separation of powers principle upon which the stability of federal government depends. The process is further complicated by the fact that executive orders actually have a variety of names, such as proclamations, orders, and memoranda.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Understand
AACSB: Ethics
Accessibility: Keyboard Navigation

15) A compilation of all the statutes of a particular state or the federal government is known as a code.

Answer: TRUE
Explanation: For example, all federal statutes are gathered in the United States Code (USC).
Difficulty: 1 Easy
Topic: Statutory Law
Learning Objective: 02-05 Explain the role of statutory law in the legal system.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

16) Courts today rely on precedent according to the principle of *stare precedentus*, which means "let the decision stand."

Answer: FALSE
Explanation: *Stare decisis*—not *precedentus*—means let the decision stand and is the process of relying on these previously recorded legal decisions.
Difficulty: 1 Easy
Topic: Court Decisions
Learning Objective: 02-07 Describe how the principle of stare decisis provides stability within the law.
Bloom's: Remember
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

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17) Binding precedent is a precedent that courts must follow.

Answer: TRUE
Explanation: Yes, binding precedent is precedent that a court must follow. At the highest level, U.S. Supreme Court opinions are binding precedent on all U.S. courts.
Difficulty: 2 Medium
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

18) *Stare decisis* means "let the decision stand."

Answer: TRUE
Explanation: *Stare decisis* is Latin for "let the decision stand." The phrase is derived from the common law, and comes from the process of judges recording and sharing their decisions with other judges. So *stare decisis* is the process of relying on previously recorded legal decisions, called precedents.
Difficulty: 1 Easy
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

19) Statutory interpretation is the process of determining the constitutionality of various legislative statutes, administrative regulations, or executive actions.

Answer: FALSE
Explanation: Statutory interpretation is the process by which a court analyzes a statute that may be unclear or ambiguous. However, a court will only analyze a statute when a lawsuit is filed challenging the statute itself.
Difficulty: 2 Medium
Topic: Court Decisions
Learning Objective: 02-09 Account for the legislature's need to establish administrative agencies.
Bloom's: Understand
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20) To help prevent any conflict of interest that could arise from overlapping responsibilities of creating and enforcing rules and regulations, Congress passed the federal Administrative Procedures Act (APA).

Answer: TRUE
Explanation: Under the APA, any administrative agency planning new regulations must notify the affected parties in the Federal Register, and hold hearings to allow those parties to express their views. The APA also allows the courts to review agency decisions and rulings.
Difficulty: 2 Medium
Topic: Administrative Regulations
Learning Objective: 02-10 Clarify the nature of the deep state within the American political and legal system.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

21) The law is a delicate balancing act. This is evident because:
A) political parties are always competing for power.
B) individuals require restraint to prevent chaos.
C) one corporation's contractual rights may be upheld, while another's are struck down.
D) one company may overcharge consumers.

Answer: C
Explanation: Often, the law is a balance between competing interests and rights. When people sue in court, for example, one party wins and one loses. In a criminal trial, one person is acquitted of a crime and allowed to go free, while another person is convicted and sent to prison.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-01 List the objectives of the law.
Bloom's: Understand
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22) The law has built-in _____—on the one hand, a person discovers the _____ of the law when he understands the law's actual intent, while on the other hand, if a person holds to the _____ of the law the person may have missed the true meaning.
A) dualities; spirit; letter
B) dualities; words; interpretation
C) dualities; abstract; concrete
D) dualities; uncertainty; reason

Answer: A
Explanation: According to Professor Anthony Chase, one of the most obvious dualities in the law is the balance between the spirit and the letter of the law. Generally, a person who follows the spirit of the law has found its actual intent, while one who is tied to the letter of the law has missed its true meaning.
Difficulty: 2 Medium
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

23) Lillian, who now lives in Oregon, was charged by an Idaho court with molesting several children while she worked for Idaho Social Services. Lillian could be brought back to Idaho for trial based on:
A) the Uniform Commercial Code.
B) persuasive precedent.
C) the Third Amendment to the U.S. Constitution.
D) Article IV of the U.S. Constitution.

Answer: D
Explanation: Article IV of the U.S. Constitution provides for extradition of those accused of crimes in other states (found in Table 2-1 "Articles of the U.S. Constitution.").
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Analyze
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24) Outside of the Bill of Rights, what is widely recognized as the most important amendment to the U.S. Constitution?
A) 13th Amendment which abolished slavery
B) 18th Amendment which gave 18-year-olds the right to vote
C) 14th Amendment's due process and equal protection
D) 21st Amendment which gave women the right to vote

Answer: C
Explanation: Although there are many important amendments, what is widely recognized as the single most important amendment outside of the Bill of Rights is the 14th Amendment that guarantees due process and the equal protection of the law to all people. Since its inception in 1868, the courts have decided the 14th Amendment means that the Bill of Rights must be enforced by the states as well as by the national government. States may expand rights, but they cannot limit or eliminate them.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

25) In 2017, when President Trump rescinded former President Obama's 2012 DACA order, opponents of Mr. Trump claimed that the rescission order violated the: _____. (See The Opening Case, Round 1).
A) Fourteenth Amendment's Rights and Privileges clause
B) First Amendment's Equal Protection clause
C) Fifth Amendment's Due Process Clause
D) First Amendment's Freedom of Speech clause

Answer: C
Explanation: The attorneys general from fifteen states filed suit against the rescission of DACA, arguing that the rescission order violated the Fifth Amendment's Due Process Clause by using information against the immigrants that it had promised to keep secret, and the Fifth Amendment's Equal Protection Clauses, by targeting people based on national origin.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Analyze
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26) _____ is the process by which the courts decide that a federal statute must take precedence over a state statute.
A) Stare Decisis
B) Revision
C) Uniformity
D) Preemption

Answer: D
Explanation: Preemption is the process by which the courts decide that a federal statute must take precedence over a state statute.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

27) _____ includes the freedom of the press, freedom of speech, freedom of assembly, and freedom of religion.
A) The Fifth Amendment
B) The Fourth Amendment
C) The Articles of Confederation
D) The First Amendment

Answer: D
Explanation: The First Amendment contains some of the most important rights in the Bill of Rights. These include freedom of the press, freedom of speech, freedom of assembly, and freedom of religion.
Difficulty: 1 Easy
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Remember
AACSB: Reflective Thinking
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28) According to _____, the third type of _____ in the law exists between _____ principles and _____ situations.
A) Anthony Chase; duality; abstract; concrete
B) Anthony Chase; uncertainty; abstract; concrete
C) Anthony Chase; duality; abstract; uncertain
D) John Maynard Keynes; duality; abstract; concrete

Answer: A
Explanation: In Law and History, author Anthony Chase explained that duality in the law exists between abstract principles and concrete situations.
Difficulty: 3 Hard
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Analyze
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

29) If Texas signed a trade agreement with Mexico which established tariffs and importing conditions for goods made in Mexico, the U.S. Constitutional objection to Texas' actions would be based upon the:
A) principle of preemption.
B) doctrine of devolution.
C) principle of separation.
D) principle of supremacy.

Answer: D
Explanation: A basic principle of constitutional law is that the U.S. Constitution is the supreme law of the land. This principle of constitutional supremacy means that all other laws must be in line with constitutional principles. If a law somehow conflicts with the Constitution, that law is said to be unconstitutional. If it does not conflict, it will be upheld by the court as constitutional.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Apply
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30) _____ subdivided into groupings of statutes that deal with a particular area of the law are called _____.
A) Codes; titles
B) Codes; articles
C) Titles; chapters
D) Codes; divisions

Answer: A
Explanation: In general, codes are subdivided into titles, which are groupings of statutes that deal with a particular area of the law.
Difficulty: 2 Medium
Topic: Statutory Law
Learning Objective: 02-05 Explain the role of statutory law in the legal system.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

31) The _____ is a unified set of statutes designed to govern almost all commercial transactions.
A) Uniform Common Law Code
B) Uniform Commercial Code
C) Uniform Civil Code
D) Uniform State Code

Answer: B
Explanation: The Uniform Commercial Code (UCC) is a unified set of statutes designed to govern almost all commercial transactions.
Difficulty: 1 Easy
Topic: Statutory Law
Learning Objective: 02-06 Defend the need to set up a system of uniform laws.
Bloom's: Remember
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32) The _____ created _____ dealing with the sale and licensing of digital information, and the _____ dealing with the enforceability of cyber-contracts.
A) NCCUSL; Cyber-Commerce; UCITA
B) NCCUSL; UETA; UCITA
C) NCCUSL; UCITA; UETA
D) UCITA; NCCUSL; UETA

Answer: C
Explanation: The NCCUSL has responded to the explosion in cyber-commerce by creating two model laws—the Uniform Computer Information Transactions Act (UCITA) which deals with the sale or licensing of digital information, and the Uniform Electronic Transactions Act (UETA) which helps make certain that cyber-contracts are enforceable.
Difficulty: 1 Easy
Topic: Statutory Law
Learning Objective: 02-06 Defend the need to set up a system of uniform laws.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

33) _____ comes from the attempts of early English kings to establish a body of law for all the courts in the kingdom.
A) Statutes
B) Amendments
C) A constitution
D) The common law

Answer: D
Explanation: The term common law comes from the attempts of early English kings to establish a body of law that all the courts in the kingdom would hold in common. At that time, judges in towns and villages had instructions to settle all disputes in as consistent a manner as possible. The judges maintained this consistency by relying on previous legal decisions whenever they faced a similar set of circumstances.
Difficulty: 1 Easy
Topic: Court Decisions
Learning Objective: 02-07 Describe how the principle of stare decisis provides stability within the law.
Bloom's: Remember
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34) Generally, if there are no modern court decisions or statutes dealing with an issue in dispute, the court hearing the case will:
A) apply common law.
B) inevitably devolve.
C) be unable to decide the case.
D) ask the U.S. Supreme Court for an advisory opinion.

Answer: A
Explanation: Modern courts still apply the common law when there are no modern court decisions or statutes dealing with an issue in dispute. When other cases may help in the decision, but are factually different, they may rely on *stare decisis* to apply precedents to the case before them.
Difficulty: 2 Medium
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Understand
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

35) Generally, if the Florida Supreme Court issues a decision, that decision would be considered:
A) persuasive precedent in all Florida state courts.
B) binding precedent in all Florida state courts.
C) binding in neighboring state courts.
D) binding precedent in all Florida federal courts.

Answer: B
Explanation: Whether a precedent is binding or persuasive is determined by the court's location. For instance, decisions made by the Florida Supreme Court would be binding in all Florida state courts, but persuasive in all other states' courts.
Difficulty: 2 Medium
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Understand
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36) Under the doctrine of _____, courts determine the constitutionality of statutes, regulations or executive actions and must rely upon any _____ in their analysis.
A) statutory interpretation; persuasive precedents
B) statutory interpretation; binding precedents
C) judicial review; persuasive precedents
D) judicial review; binding precedents

Answer: D
Explanation: When courts are exercising their inherent power of judicial review, the issue is whether the statute or regulation in question is compatible with Constitutional precedent. If the two are compatible, no problem exists; however if they are contradictory, the statute or regulation will be "struck down" as unconstitutional.
Difficulty: 2 Medium
Topic: Statutory Law
Learning Objective: 02-09 Account for the legislature's need to establish administrative agencies.
Bloom's: Understand
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

37) A business asks a court to interpret the way in which a newly enacted shoplifter detention statute will be applied if the business, at some future point, detains a suspected shoplifter. The court may:
A) issue an advisory memorandum.
B) convene a conference of business and consumer representatives.
C) not interpret the statute until a lawsuit is filed challenging the statute.
D) ask the legislature to issue an advisory memorandum.

Answer: C
Explanation: Courts are not free to interpret statutes without a lawsuit that challenges the particular statute. When analyzing a statute, courts look to a variety of sources, including the legislative history, why the old statute was replaced, and any binding precedent that interprets that statute.
Difficulty: 2 Medium
Topic: Court Decisions
Learning Objective: 02-09 Account for the legislature's need to establish administrative agencies.
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38) A _____ is a network of interacting conditions which _____ one another, while at the same time _____ change from agents outside and inside the system.
A) legal ecosystem; adjust to; reinforces
B) complex adaptive system; reinforce; adjusts to
C) legal ecosystem; reinforce; adjusting to
D) complex adaptive system; adjusts to; reinforces

Answer: B
Explanation: The ultimate purpose of a Complex Adaptive System (CAS) is the survival and improvement of the system itself. Natural examples of CASs would include beehives, anthills, and the neural network of the human brain. All CASs share at least five elements—interaction with many agents, no central controlling agent, complexities, long-term adeptness to changes, and inferential to future events.
Difficulty: 3 Hard
Topic: Administrative Regulations
Learning Objective: 02-10 Clarify the nature of the deep state within the American political and legal system.
Bloom's: Apply
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

39) A new administrative regulation allowed the Social Security Administration to charge women for Social Security cards, yet enabled men to obtain the cards for free. A lawsuit was filed challenging the constitutionality of this new regulation. If you were a justice on the Supreme Court you would most likely:
A) review common law to see whether a precedent exists that violates the Fourth Amendment.
B) use statutory interpretation to clarify the law based on First Amendment considerations.
C) rule the regulation unconstitutional because it violates the Equal Protection clause.
D) let the regulation stand in the interest of justice and equity.

Answer: C
Explanation: Because the Constitution is the supreme law of the land, any regulation or statute that is contrary to it must be held unconstitutional. In this case, because the regulation treats men and women differently, it would be held unconstitutional because it violates the equal protection clause of the 14th Amendment.
Difficulty: 3 Hard
Topic: Court Decisions
Learning Objective: 02-09 Account for the legislature's need to establish administrative agencies.
Bloom's: Apply
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

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40) According to the Administrative Procedures Act, a proposed federal regulation must first be published in the _____ with adequate time allowed for public comments.
A) Administrative Register
B) Code of Federal Regulations
C) Uniform Commercial Code
D) Modern Federal Register

Answer: B
Explanation: And once a federal regulation is finalized, it is published in its final form in the Code of Federal Regulations (CFR) which is updated each year.
Difficulty: 1 Easy
Topic: Administrative Regulations
Learning Objective: 02-10 Clarify the nature of the deep state within the American political and legal system.
Bloom's: Remember
AACSB: Reflective Thinking
Accessibility: Keyboard Navigation

41) Stanley runs a business in Middletown. He knows bribing an officer in return for favorable duties is a crime. However, he avoids "bribery" by sending "gifts" to the sheriff as a token of appreciation for the officer's services to the town. The sheriff is impressed by Stanley's act and ensures that his business is "well protected." Analyze the situation.

Answer: According to Professor Anthony Chase, one of the most obvious dualities in the law is the balance between the spirit and the letter of the law. Generally, a person who follows the spirit of the law has found its actual intent, while one who is tied to the letter of the law has missed its true meaning. In this case, Stanley seems to have complied with the letter of the law, but not the spirit of the law, missing the true meaning of the prohibition of bribery which ensures all citizens are treated equally.
Difficulty: 3 Hard
Topic: The Purpose and the Operation of the Law
Learning Objective: 02-02 Clarify the duality of the law.
Bloom's: Apply
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42) Small towns want to restrict the speed of trains passing through the towns to 20 miles per hour. The Federal Railroad Administration allows trains to travel through the towns at up to 70 miles per hour. Discuss whether or not the towns may restrict the speed of the trains.

Answer: The administration should analyze if this decision of the state comes with the intent of taking extra precautions for public safety. Have accidents occurred in the past? Notwithstanding, state statutes can be preempted by federal statutes in areas that are traditionally that of the federal government.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Evaluate
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

43) A local city council enacts an ordinance that prohibits aircraft from taking off before 7:00 A.M., disturbing the city's residents. An airline whose schedule is subject to federal regulation challenges this ordinance. Discuss the legal basis of this challenge and the likely outcome.

Answer: The principle of supremacy—the commerce clause in this case—allows federal regulations enacted under Constitutional authority to be superior to state law. The airline wins.
Difficulty: 2 Medium
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Apply
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

44) A Massachusetts law prohibited governmental agencies of Massachusetts from buying goods from companies that conducted business with Myanmar. If the U.S. Supreme Court were to strike down this law, what might be the basis?

Answer: The Supreme Court of the United States can use the preemption doctrine to strike down this Massachusetts law. Preemption is the process by which the courts decide that a federal statute must take precedence over a state statute. The courts can preempt a state statute that has entered an area of the law that is traditionally an area that the federal government handles, such as national security or immigration.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Analyze
AACSB: Analytical Thinking
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45) A state law restricts the sulfur dioxide emissions from electric generation plants more severely than those of the federal Clean Air Act. Must an electric generation plant obey the state law or may it follow the federal statute?

Answer: State statutes can be preempted by federal statutes when they conflict with the objectives of federal legislation. The courts will preempt a state statute that has entered an area of the law that is exclusively an area belonging to the federal government. Since clean air regulation is not one of those areas, a state may have more stringent requirements for air pollution than the federal government, as long as the state statute is not in conflict with the federal Clean Air Act.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-03 Outline the content of the U.S. Constitution.
Bloom's: Evaluate
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

46) Pierce was arrested under a city ordinance that made distributing handbills on the city streets a crime. Pierce argued that the U.S. Constitution guaranteed his right to free speech under the First Amendment. The local prosecutor argued that the First Amendment to the U.S. Constitution did not apply to state laws. Was the prosecutor correct? Explain.

Answer: The prosecutor was wrong. Pierce's argument was correct in that the Fourteenth Amendment extends the protections of the Bill of Rights to state governments.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Apply
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

47) Matrix Corp. is fined by the Occupational Safety and Health Administration for violations of workplace safety regulations. Matrix challenges the fine on the basis that it was not allowed to have a jury trial before being fined. What resolution will result?

Answer: Matrix Corp. will lose because the Seventh Amendment to the U.S. Constitution only guarantees trials in common law cases, not administrative agency actions.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Analyze
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48) A court decides that a state agency, rather than a federal one, can control what government employees, in the course of performing their duties, are permitted to talk or write about in relation to official policies, procedures, and programs. Such a prohibition might appear to violate the employee's Constitutional right of free speech as a U.S. citizen. Analyze.

Answer: Devolution occurs when the courts redefine a right and shift the obligation to enforce a right from an upper level authority to a lower one. In such cases, the court has decided that the duty and the power to define and enforce that right belong to the state, rather than to the federal government. It is important to note that the devolution of a right does not destroy that right. Rather, devolution simply redistributes the authority to define the nature of that right in certain situations.
Difficulty: 3 Hard
Topic: Constitutional Law
Learning Objective: 02-04 Define and explain the use of executive orders.
Bloom's: Analyze
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

49) In a case presented to a Philadelphia court, the judge and the jury realize that no specific statute is applicable and decide to refer to previously recorded legal decisions made in similar cases. Discuss.

Answer: The judge and the jury will arrive at a decision using common law—a body of previously recorded legal decisions made by the courts in specific cases. The process of relying on common law is known as *stare decisis*. The court is likely to use a precedent in using the principle of *stare decisis*. A precedent is a model case that a court can follow when facing a similar situation.
Difficulty: 3 Hard
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Apply
AACSB: Analytical Thinking
Accessibility: Keyboard Navigation

50) Helen, a 15-year-old citizen of Illinois, was about to go to the doctor for an abortion when the Supreme Court of Michigan ruled that minors could not receive an abortion without parental consent. What effect might the Michigan Supreme Court's decision have on Helen?

Answer: The ruling of the Michigan Supreme Court will have only persuasive power in Illinois where Helen lives. Persuasive precedent is a precedent that a court is free to follow or ignore.
Difficulty: 3 Hard
Topic: Court Decisions
Learning Objective: 02-08 Differentiate between statutory interpretation and judicial review.
Bloom's: Apply
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