

Bul 3310 Exam 1 Notes

- A _____ is a party whose promise is not limited to a single transaction or to a single creditor. **General Guarantor**
- A _____ is a party who limits his or her promise to a single transaction or to a single creditor. **Special guarantor/general**
- A(n) _____ is a legal proceeding accompanying an action in court by which a plaintiff may acquire a lien on a defendant's property as a security for the payment of any judgment that the plaintiff may recover. **Attachment**
- A _____ is the voluntary relinquishment of the right to a mechanic's lien before a notice of lien is filed. **Waiver**
- A _____ promises to be liable to the creditor only in the event that the surety refuses to perform and thereby defaults. **Subsurety**
- A _____ provides protection against losses that may result from the failure of a contracting party to perform the contract as agreed. **Performance bond**
- A _____ provides security for a creditor without involving an interest in the property, where the security for the creditor is provided by a third person's promise to be responsible for the debtor's obligation. **Suretyship**
- Absent an agreement otherwise, the members of an LLC have a statutory right to (select all the correct answers) - **Inspect the books and records of the LLC, dissolve the LLC, approve a merger**
- According to the self-interest theory, "good" decisions benefit the individual making the decision. **True**
- Acts which are wrongful in themselves and prohibited by almost all civilizations are classified as _____ crimes. **Malum in se**
- After his trial, Bill was fined \$2,500 and sentenced to serve 6 months in the local jail. From the sentence, we know that the crime he committed was a (n) _____.
- Misdemeanor**
- Al and Ben were clients of Big Brokerage Firm (BBF). They suffered financial losses because of fraudulent securities dealings by BBF. Many other clients were victims as well, with losses that varied depending on the size of the accounts and the dates of certain trades. Al and Ben filed suit against BBF on their own behalf and on behalf of the other clients who suffered losses. This suit is an example of a (n) _____ suit **Class action**
- Alan was convicted in a criminal trial of assaulting Ben. Ben cannot now sue Alan in tort for personal injuries because Alan is protected against double jeopardy. **False**
- All legal conduct is ethical? **False**
- All of the following could be accurate statements about a general partnership, except: **Partnership liabilities in a general partnership are limited to the amount of capital contribution**
- All of the following are considered advantages of doing business as an LLC, except: **Members of the LLC may lawfully avoid filing personal tax returns with the IRS**
- All of the following are functions of an LLC's operating Agreement, except: **To indemnify members of the LLC from liability for any unlawful acts**
- All of the following could be recognized as advantages of doing business as a limited partnership, except: **Limited partners can actively share in management of the partnership, without incurring the risks of business liabilities.**
- All of the following are rights held by an individual member of an LLC, except: **The right to sell one's interest in the LLC without notifying or consulting the other members of the LLC.**
- All of the following are true except:
A class-action suit is one in which a person files suit on his/her own behalf and on behalf of all other persons who may have a similar claim.
A class-action lawsuit may be brought on behalf of all purchasers of a defective product.
A class-action lawsuit may be brought on behalf of employees of a particular business.
The number of people who comprise a class in a class-action are frequently very small.
Class action suits are popular because they often involve matters in which no one member of the class would have a sufficient financial interest to warrant filing a suit.
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- Article 2A of the Uniform Commercial Code governs the sale of securities. **False**
- All states have juvenile courts with special procedures for crimes involving minors. **True**
- American government is based on the concept of _____, which allocates the power to govern between sovereign federal authority and the sovereign states. **Federalism**
- The American political system, which divides the power of government between sovereign states and a sovereign federal government, is an example of _____. **Federalism**
- Analogical reasoning is different from deductive reasoning. **True**
- Analogical reasoning relies inferences drawn from previous similar situations **True**
- Andrew owned a house painting business with 100 employees. Andrew fired Bob because Bob skipped work to attend a political rally. If Bob sues Andrew for wrongful termination, will he win? **No, Bob will not win the lawsuit**
- Angela is a law student writing a law review article on the economic impact of certain white-collar crimes. She follows the _____ school of jurisprudence. **Law and Economics**
- Angelique promotes the idea changes in social mores should inform legal analysis. She supports the _____ school of jurisprudence. **Sociological**
- Anne, a resident of New York, is suing Bill, also a resident of New York, in a contract dispute that is

governed by New York state law. This controversy would be classified as an _____ case. **Intrastate**

- Ann is the head of the accounts payable department in a large corporation. She set up a bank account in the name of a fictitious supplier and deposits a check in it every month. She is the owner of the account. Because Ann is an employee entrusted with making out checks for her employer, what crime has she committed? **Embezzlement**

- Any law that treats citizens differently based on race, religion or national origin will be reviewed under intermediate scrutiny. **False**

- Any third party who promises a creditor to be liable for a principal's payment is either a surety or _____.

Guarantor

- Any profits which a surety makes when called upon to perform the principal's duties belong to the surety. **False**

- An appeals court does not have the power to review the findings of law made by the judge during the trial, only the jury's findings of fact. **False**

- An artisan's lien is always assignable. **False**

- An "improvement" to real property necessarily increases the market value of the real property. **False**

- Arizona cannot have different standards for admitting in-state and out-of-state residents to the practice of medicine because of the Full Faith and Credit Clause. **False**

- The assembled group of people from which a trial jury will be selected is called the _____.

Venire

- Assume that Big Chicken Grower (BCG) is sued in a court of equity and the court issues a temporary injunction against BCG to prevent it from discharging waste water from its processing plant into the local river. This temporary injunction is an example of a (n) _____. **Interlocutory decree**

- Assume that Connecticut took 600 acres of private property to build an overpass over a major state road. This is an exercise of the state's power of _____. **Eminent domain**

- Assume that Defendant is found guilty and pursues his appeal up to the United States Supreme Court. If the Court agrees to hear his case, it will issue a writ of _____. **certiorari**

- Assume that Iowa passes a law requiring that all beverages sold in the state in plastic containers must be bottled in 1 plastic. Assume also that it is the practice in the bottling industry to put beverages in 2 containers. Special bottles will have to be bought for distribution in Iowa and special procedures developed for their handling. If out-of-state bottlers bring suit challenging the constitutionality of Iowa's law, which test will the court apply?

Does the law impose an undue burden on interstate commerce without conferring a substantial benefit on Iowa?

- Assume that State University institutes a curfew for the female students who live on campus. To protect both the safety and morals of its female population, State University requires that the female students be in their dorms by 1:00 a.m. every night. There is no curfew for male students because they are less likely to be victims of attacks. If Nellie Nightowl wants to protest, under which standard of review will the court hear this case?

Intermediate scrutiny

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The Equal protection Clause of the 14th Amendment

- Assume that the resort town of Ocean View passed a law imposing an extra tax on boardwalk food businesses that used plastic cups, plates or utensils. Plastic litter costs the town more to dispose of and it wants to pass this cost on to the merchants. Fran Fries, a boardwalk food vendor, claims that the law is denying her equal protection of the law. Which of the following tests will the court apply in deciding this case?

Is the law rationally related to a legitimate government interest?

- Assume that the Vermont legislature passed a bill prohibiting the sale within the state of detergents containing certain chemicals harmful to the environment. Assume further that the governor signed the bill into law. This law has the status of a(n) _____. **Statute**

- At the end of the trial, the losing party asks the judge to overturn the jury verdict in a motion for a judgment notwithstanding the evidence. **False**

- An attorney is not allowed to ask his own witnesses leading questions. **True**

- The balancing test for an issue reviewed under strict scrutiny is: "Is the law rationally related to a legitimate government interest?" **False**

- A basic principle of statutory interpretation is that specific provisions in the statute are of greater weight than general provisions. **True**

- Before the jury begins its deliberations, the judge tells them the law that applies to the case and the questions of fact they must decide. This process is known as _____.

Jury instructions

- The belief that the law reflects the biases of a ruling class is a foundation of the _____ school of legal thought. **Critical Legal Studies**

- Ben is suing Chad in a tort action for property damages and personal injuries he sustained when Chad negligently ran a red light and crashed into him in a busy intersection. Ben must convince the jury that

the light was red and that his injuries were caused by the crash. How convinced must the jurors be that Chad is at fault in order to find him liable? **By a preponderance of the evidence**

- Beth and Nan are college students who share an off-campus apartment. The rent is \$800 a month, which they agree to share equally. The lease is in Beth's name. Nan has not paid her half for the past two months and is about to graduate. Beth's best option to get the money Nan owes her is to sue Nan in **Small claims court**

- Big Corporation (BC) is an American business incorporated in the State of Delaware. Its principal place of business is in New Jersey. Franklin lives in New York. For purposes of diversity of citizenship, Big Corporation is a citizen of **Both Delaware and New Jersey**

- Bill sued Ted for libel over statements Ted published in the company newsletter. A jury heard the case and found that no libel had occurred because the statements were true. Bill is very unhappy with this decision, but cannot sue Ted again over these statements because of the doctrine of **Stare decisis**

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- Bob and Carol are heirs to some farmland located in Wicomico County. Bob lives in Brown County and Carol lives in Chester County. Because of ambiguous language in the will, some issues of title have arisen that need to be resolved in court. Under traditional rule of venue, which county will hear this case? **Wicomico**

- Bob's Beer and Booze Barn classifies a clerk as a "managerial assistant" and assigns menial supervisory duties to this employee, that do not meet the department of labor (DOL) standards, to avoid paying overtime wages. Bob "knows" the clerk will not be aware that these new supervisory duties do not meet the requirements of the DOL and does not expect the department of labor will look into the classification if the clerk does not contest their status with the DOL. This practice is:

Unethical and contrary to the spirit of the employment laws

Unethical and contrary to the letter of the employment laws

- Bob's Beer Barn and Booze is in a price war with Lucy Liquor's. Bob has talked to his attorney to find out if he can illegally bring a meritless lawsuit against Lucy that may potentially shut her down. Which of the following best characterizes this scenario.

This type of legal action cannot be ethically or legally justified.

- Bob is a co-surety with Sue on a loan that was made to Sue's business. If the business defaults on the loan and Bob is required to pay the full amount, Bob has the right of _____ against Sue. **Contribution**

- The body of law that will be used to determine which state's law will apply in a multi-state transaction is conflict of laws **True**

- Bonding companies are usually uncompensated sureties. **False**

- Both the plaintiff and the defendant must have minimum contacts with a state for a court to meet the requirements for personal jurisdiction.

False

- Both contractors and subcontractors are entitled to a mechanic's lien against the owner for nonpayment of their accounts. **True**

- The building code of River City requires that elevators in public buildings be inspected every nine months. Hal did not have the elevators in his seven story office building inspected for two years. He was brought before a city magistrate and fined \$10,000. His offense would be classified as a

_____ **Public tort**

- Cal, a resident of New York, and Tomas, a resident of New Jersey had a car accident in New York. Cal is alleging that Thomas failed to obey a New York traffic sign that gave Cal the right of way. The case is being heard in federal district court in New York. In deciding this case, the court will apply

_____ substantive law and _____ procedural law. **New York, federal**

- A "certificate of limited partnership" is a document that is filed with the state Secretary of State by the limited partnership as part of its application process.

- The city of Delmar passed a law requiring that restaurants and taverns stop serving alcohol to patrons at 1 am. That law is an example of an ordinance. **True**

- The City of Sunnydale enacted a law limiting to 4 the number of unrelated individuals who can live together in a house or apartment. This city law has the status of an _____ **Ordinance**

- A civil law system is based on _____ and a common law system is based on _____.

Legislative codes judicial decisions

- A claim of sexual harassment from a sales representative working for your firm creates a potential liability that has ramifications in terms of:

- lost time working on productive endeavors
- emotional toll on other employees involved in the investigation
- financial loss if the claim is proven true
- all the above are correct**

- "Clear and convincing evidence" is the easiest level of proof for a party with the burden of proof to meet. **False**

- Codes of Ethical Conduct adopted by businesses and professions often provide for sanctions against individuals who violate the code. **True**

- Codes of Ethical Conduct adopted by corporations and professional associations have the same legal