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CORRECT ANSWERS ARE LOCATED IN THE 2ND HALF OF THIS DOC.

TRUE/FALSE - Write 'T' if the statement is true and 'F' if the statement is false.

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

2) The law should be viewed as a delicate balancing act between morality and ethics.
   - ◎ true
   - ◎ false

3) Trade-offs rarely occur within the law.
   - ◎ true
   - ◎ false

4) The language of the law can become a hindrance instead of assisting in the execution of the law.
   - ◎ true
   - ◎ false

5) In his book Law and History: *The Evolution of the American Legal System*, 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.
   - ◎ true
   - ◎ false

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

7) The Articles of Confederation created a strong national government.
   - ◎ true
   - ◎ false

8) The principle of the separation of powers divides power between the national and state governments.
   - ◎ true
   - ◎ false

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

10) The original intent of the Bill of Rights was to protect the rights of slave owners among the southern colonies.
    - ◎ true
    - ◎ false

11) An executive order is a device by which the president, not state governors, can act on their own without having to resort to the process of going through the legislature.
    - ◎ true
    - ◎ false

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12) The practice of writing and issuing an executive order is risky because the president must be careful not to violate the Privileges and Immunities Clause upon which the stability of government depends.
- ◎ true
- ◎ false

13) Technically, a proclamation is an executive order that addresses the public at large.
- ◎ true
- ◎ false

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.
- ◎ true
- ◎ false

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

16) The most significant development in uniform state legislation has been the Uniform Contracts Code.
- ◎ true
- ◎ false

17) 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.
- ◎ true
- ◎ false

18) *Stare decisis* means "let the decision stand."
- ◎ true
- ◎ false

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

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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).
- ◎ true
- ◎ false

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MULTIPLE CHOICE - Choose the one alternative that best completes the statement or answers the question.

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.

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

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.

24) Outside of the Bill of Rights, what is widely recognized as the most important amendment to the U.S. Constitution?
- A) The 13th Amendment, which abolished slavery
- B) The 18th Amendment which gave 18-year-olds the right to vote
- C) The 14th Amendment, which guarantees due process and equal protection
- D) The 21st Amendment, which gave women the right to vote

25) Which of the following is false regarding executive orders?
- A) It is a device by which the president can act individually without having to go through Congress.
- B) They have a variety of names, such as proclamations, orders, and memoranda.
- C) From a governing standpoint, they are risk-free.
- D) It is a device by which state governors can act on their own without going through their state legislature.

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

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27) _____ to the U.S. Constitution includes the rights of 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

28) According to _____ in his study *Law and History: The Evolution of the American Legal System*, 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) John Maynard Keynes; duality; abstract; uncertain
D) John Maynard Keynes; uncertainty; abstract; concrete

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 principle of:
A) preemption.
B) privileges and immunities.
C) separation of powers.
D) supremacy.

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

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

32) The _____ created the _____, which is designed to deal directly with cyber-contracts that involve the sale or licensing of digital information, and the _____, which points out those principles that should be used in every state to make certain that cyber-contracts are enforceable.
A) FCC; UETA; UCITA
B) FTC; UCITA; UETA
C) ULC; UCITA; UETA
D) UCC; UETA; UCITA

33) _____ law comes from the attempts of early English kings to establish a body of law for all the courts in the kingdom.
A) Statutory
B) Administrative
C) Constitutional
D) Common

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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.

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 precedent in all Georgia and Alabama (i.e., neighboring) state courts.
D) binding precedent in all Florida federal courts.

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 precedent
B) statutory interpretation; binding precedent
C) judicial review; persuasive precedent
D) judicial review; binding precedent

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 mandatory 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.

38) Which of the following is false regarding the Regulatory Flexibility Act (RFA)?
A) The goal of the act is to make sure that small businesses and other small institutions get equal or nearly equal treatment in the marketplace.
B) The goal of the act is to give special treatment to small organizations.
C) It seeks to ensure that federal agencies do their best to protect small entities by keeping the negative effects produced by new regulations to a minimum.
D) It places an obligation on federal agencies to evaluate the effect that new regulations will have on small institutions.

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39) A new administrative regulation allows the Social Security Administration to charge women for Social Security cards, yet permits men to obtain the cards for free. A lawsuit is filed challenging the constitutionality of this new regulation. A federal court hearing the case 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.

40) The _____ is a publication that produces a _____ compilation of new regulations issued by federal administrative agencies.
   A) Federal Register; daily
   B) U.S. Code; monthly
   C) U.S. Register; quarterly
   D) Federal Code; yearly

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

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 in the context of dualities within the law recognized by author Anthony Chase in his study *Law and History: The Evolution of the American Legal System*.

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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.

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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.

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 for its decision?

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?

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.

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?

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48) Explain the two core theories recognized in the text concerning the nature of presidential power.

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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.

50) List the series of questions, articulated by the U.S. Supreme Court, that judges should ask as they contemplate whether to overturn a precedent.

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Answer Key

Test name: Chapter 02

1) TRUE
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.

2) FALSE
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.

3) FALSE
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.

4) TRUE
Because words are often ambiguous, the language of the law can become a hindrance, rather than a help in the execution of the law.

5) FALSE
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.

6) TRUE
The Uncertainty Principle was one of the linchpins 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.

7) FALSE
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.

8) FALSE
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.

9) TRUE
Article III gives judicial power to the U.S. Supreme Court and other courts established by Congress.

10) FALSE

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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.

11) FALSE
An executive order is a device by which the president (and state governors) can act on their own without having to resort to the somewhat cumbersome process of going through Congress (or in the case of the governor the state legislature).

12) FALSE
The practice of writing and issuing an executive order is risky because the president (and the governor) must be careful not to violate the separation of powers principle upon which the stability of government depends.

13) TRUE
Technically, a proclamation is an executive order that addresses the public at large, while an order is one that is mandatory directive aimed at a subdivision within the executive branch.

14) FALSE
That is the definition of an executive order, not a 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.

15) TRUE
For example, all federal statutes are gathered in the United States Code (USC).

16) FALSE
The most significant development in uniform state legislation has been the Uniform Commercial Code (UCC). The UCC is a unified set of statutes designed to govern almost all commercial transactions.

17) TRUE
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.

18) TRUE

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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. *Stare decisis* is the process of relying on previously recorded legal decisions, called precedents.

19) FALSE
Statutory interpretation is the process by which courts analyze those aspects of a statute that are unclear or ambiguous or that were not anticipated at the time the legislature passed the statute. A court cannot interpret a statute unless it is faced with a case involving that statute.

20) TRUE
Under the Administrative Procedures Act (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.

21) C
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.

22) A
According to Professor Anthony Chase in his study *Law and History: The Evolution of the American Legal System*, 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.

23) D
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.").

24) C
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.

25) C

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An executive order is a device by which the president (and state governors) can act on their own without having to resort to the somewhat cumbersome process of going through Congress (or in the case of the governor the state legislature). The practice of writing and issuing an executive order is risky because the president (and the governor) must be careful not to violate the separation of powers principle upon which the stability of 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.

26) D
Preemption is the process by which the courts decide that a federal statute must take precedence over a state statute.

27) D
The First Amendment to the U.S. Constitution 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.

28) A
In his study *Law and History*: *The Evolution of the American Legal System*, author Anthony Chase explains that in addition to duality in the law between the spirit and letter of the law and words versus interpretation, duality in the law exists between abstract principles and concrete situations.

29) D
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.

30) A
In general, codes are subdivided into titles, which are groupings of statutes that deal with a particular area of the law.

31) B
The most significant development in uniform state legislation has been the Uniform Commercial Code (UCC). The UCC is a unified set of statutes designed to govern almost all commercial transactions.

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32) C
The advent of the information age has sparked the need for specific cyber-law statutes that address the problems associated with cyber-commerce. The Uniform Law Commission (ULC) has responded to this challenge by creating the Uniform Computer Information Transactions Act (UCITA), which deals with cyber-contracts that involve the sale or licensing of digital information, and the Uniform Electronic Transactions Act (UETA), which points out those principles that should be used in every state to make certain that cyber-contracts are enforceable.

33) D

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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.

34) A
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.

35) B
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.

36) D
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.

37) C
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.

38) B
The goal of the Regulatory Flexibility Act (RFA) is not to give special treatment to small organizations, but to make sure that they get equal or nearly equal treatment in the marketplace. The RFA places an obligation on federal agencies to evaluate the effect that new regulations will have on these small institutions. The objective of this procedure is to make certain that the agencies do their best to protect small entities by keeping the negative effects produced by new regulations and orders to a minimum.

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39) C
Because the U.S. 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.

40) A

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The Federal Register is a publication that produces a daily compilation of new regulations issued by federal administrative agencies. The Federal Register operates within the National Archives and Records Administration under the authority of the Office of the Federal Register.

41) Essay
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.

42) Essay
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.

43) Essay
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.

44) Essay
The United States Supreme Court 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.

45) Essay
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.

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46) Essay
The prosecutor was wrong. Pierce's argument was correct in that the Fourteenth Amendment to the U.S. Constitution extends the protections of the Bill of Rights to state governments.

47) Essay
Matrix Corp. will lose because the Seventh Amendment to the U.S. Constitution only guarantees trials in common law cases, not for administrative agency actions.

48) Essay

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Two core theories have been proposed concerning the nature of presidential power: (1) inherent executive power and (2) delegated executive power. The core theory of inherent executive power, which is sometimes referred to as the stewardship theory, was first promoted by Alexander Hamilton, who simply looked at the wording of the Articles I and II and concluded that the authority of the president was not limited to the content of the article but, instead, included anything that any other national leader could do. In contrast, the core theory of delegated powers was promoted by William Howard Taft, who refused to believe that the chief executive held any "undefined residuum" of authority. Instead, Taft firmly believed that the president could not issue an executive order absent constitutional or congressional authority to do so.

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49) Essay
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.

50) Essay
The U.S. Supreme Court has outlined a series of questions that judges should ask as they contemplate whether to overturn a precedent. These questions include the following:

1. Did the Court make a serious Constitutional error in the earlier decision and, if so, what was the nature of the error?
2. Was the Court's reasoning in the earlier decision well-thought-out and well-structured, or was it fundamentally flawed?
3. Was the earlier decision applied in a consistent and predictable manner, or was its application erratic and inconsistent?
4. Was the earlier decision compatible or incompatible with other cases?
5. Will overturning the earlier decision upset the planning of those who relied on its continued existence, or will retaining the error cause even more serious consequences?

According to the Court, only if judges can answer those questions satisfactorily should they consider overturning an established precedent.

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