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Name:_____ Class:_____ Date:_____

Chapter 1 - Law and Legal Reasoning

1. In the United States, the law consists of written laws.
   a. True
   b. False

ANSWER: False

2. All laws establish rights, duties, and privileges that are consistent with the values and beliefs of a society or its ruling group.
   a. True
   b. False

ANSWER: True

3. The legal rules that control the actions of a business reflect past and current thinking about how similar businesses should and should not act.
   a. True
   b. False

ANSWER: True

4. Compartmentalizing the law into discrete topics indicates that each business transaction is subject to only one specific area of the law.
   a. True
   b. False

ANSWER: False

5. A constitution is a primary source of law.
   a. True
   b. False

ANSWER: True

6. A statute is a secondary source of law.
   a. True
   b. False

ANSWER: False

7. A secondary source of law is one that clarifies a source of primary law.
   a. True
   b. False

ANSWER: True

8. Legal encyclopedias, law review articles, and treatises are sources of primary law.
   a. True
   b. False

ANSWER: False

9. Even if it conflicts with the U.S. Constitution, a state constitution is supreme within the borders of that state.
   a. True

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b. False

ANSWER: False

10. The U.S. Constitution is the basis of all law in the United States.
    a. True
    b. False

ANSWER: True

11. Only if a state legislature passes a statute does that law become part of the relevant state code of laws.
    a. True
    b. False

ANSWER: True

12. A citation is a regulation enacted by a city or county legislative body.
    a. True
    b. False

ANSWER: False

13. A local ordinance commonly has to do with a matter concerning only a local governing unit.
    a. True
    b. False

ANSWER: True

14. A federal statute applies to all states.
    a. True
    b. False

ANSWER: True

15. The UCC is a uniform law that most states have adopted to govern commercial transactions.
    a. True
    b. False

ANSWER: False

16. Federal, state, and local governments may establish an administrative agency to perform a specific function.
    a. True
    b. False

ANSWER: True

17. Independent regulatory agencies are not subject to the authority of the President.
    a. True
    b. False

ANSWER: False

18. Rules issued by administrative agencies affect almost every aspect of the operations of a business.
    a. True

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b. False

ANSWER: True

19. Federal agency regulations take precedence over conflicting state regulations.

a. True

b. False

ANSWER: True

20. An administrative legislative rule is *not* legally binding on businesses.

a. True

b. False

ANSWER: False

21. The Administrative Procedure Act (APA) imposes strict procedural requirements that agencies must follow in legislative rulemaking and other functions.

a. True

b. False

ANSWER: True

22. If an agency fails to follow the rulemaking procedures imposed by the Administrative Procedure Act, the resulting rule may NOT be binding.

a. True

b. False

ANSWER: True

23. Common law is a body of law developed from judges' decisions in legal controversies.

a. True

b. False

ANSWER: True

24. Case law governs all areas of business not covered by statutory or administrative law.

a. True

b. False

ANSWER: True

25. Under the doctrine of *stare decisis*, judges are encouraged to follow the precedents established within their jurisdictions.

a. True

b. False

ANSWER: False

26. Controlling precedents are binding authorities.

a. True

b. False

ANSWER: True

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27. A court might look at fairness, social values and customs, and public policy in deciding a case if there is no precedent.
    a. True
    b. False
ANSWER: True

28. In the IRAC method of case-briefing, the A stands for analysis.
    a. True
    b. False
ANSWER: False

29. Because courts of law and equity have merged, there is no distinction between the two any longer.
    a. True
    b. False
ANSWER: True

30. Courts will NOT grant an equitable remedy unless the remedy at law is adequate.
    a. True
    b. False
ANSWER: False

31. Typically, in a civil case, a private party sues another private party who has failed to comply with a duty.
    a. True
    b. False
ANSWER: True

32. In a criminal case, the object is to obtain a remedy.
    a. True
    b. False
ANSWER: False

33. Civil law has to do with wrongs committed against society for which society demands redress.
    a. True
    b. False
ANSWER: False

34. The basis of a civil law system is a written code of laws.
    a. True
    b. False
ANSWER: True

35. International law derives from a variety of sources, including the laws of individual nations.
    a. True
    b. False
ANSWER: True

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36. Power is a business engaged in the business of producing, refining, and distributing energy resources. Like many businesses, Power must make hiring and firing decisions, make decisions regarding financing, as well as find ways to improve its manufacturing processes. Belle is a new Human Resources manager at Power, and she contacts Renee, the general counsel of Power, and asks if a specific government regulation regarding employment issues that would increase the expenses of Power applies to Power as a business. Renee will likely advise Belle that the regulation will likely
   a. not apply because laws and government regulations do not apply to solely business activities.
   b. apply, but only because laws and government regulations relating to employment issues apply to business activities.
   c. not apply because businesses may opt out of laws and government regulations and Power will likely exercise that right.
   d. apply because laws and government regulations affect almost all business activities.

ANSWER: d

37. An example of a primary source of law would be
   a. legal encyclopedias.
   b. official comments to statutes.
   c. Constitutional law.
   d. legal treatises.

ANSWER: c

38. Secondary sources of law include
   a. state constitutions.
   b. law review articles.
   c. laws passed by local governing bodies.
   d. regulations created by administrative agencies.

ANSWER: b

39. A constitution sets forth the government's general organization and its
   a. case law.
   b. statutory law.
   c. limits and powers.
   d. precedential powers.

ANSWER: c

40. The basis of all law in the United States is
   a. the U.S. Constitution.
   b. laws passed by Congress.
   c. case law.
   d. regulations created by administrative agencies.

ANSWER: a

41. What part of the U.S. Constitution reserves to the states all powers not granted to the federal government?
   a. First Amendment
   b. Fourteenth Amendment

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c. Tenth Amendment
d. Bill of Rights

ANSWER: c

42. Laws enacted by legislative bodies at any level of government make up the body of law generally referred to as
a. statutory law.
b. stare decisis.
c. the supreme law of the land.
d. uniform law.

ANSWER: a

43. On a challenge to a provision in a state constitution that conflicts with a provision in the U.S. Constitution
a. neither provision will be enforced.
b. both provisions will be enforced.
c. the state provision will be enforced only within the borders of that state.
d. the federal provision will be enforced.

ANSWER: d

44. The Montana legislature enacts a state law that violates the U.S. Constitution. This law can be enforced by
a. no one.
b. the federal government only.
c. the state of Montana only.
d. the United States Supreme Court only.

ANSWER: a

45. The Uniform Commercial Code provides a set of rules governing interactions
a. among the states.
b. between the states and the federal government.
c. in countries that were once colonies of Great Britain.
d. in international markets.

ANSWER: a

46. The Uniform Commercial Code provides a set of rules governing
a. commercial transactions.
b. state legislative adoptions.
c. congressional procedures.
d. administrative processes.

ANSWER: a

47. Administrative law includes
a. all laws that affect business operations.
b. the rules, orders, and decisions of a government agency.
c. model laws developed by the National Conference of Commissioners.
d. laws enacted by a legislative body.

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ANSWER: b

48. Which of the following is an agency in the United States?
    a. Uniform Commercial Code
    b. Kentucky General Assembly
    c. Master's of Business Administration Program at Harvard University
    d. Food and Drug Administration

ANSWER: d

49. An executive agency is subject to the authority of
    a. its director only.
    b. the President.
    c. Congress.
    d. the U.S. Attorney General.

ANSWER: b

50. A main function of an administrative agency is
    a. overruling previous cases.
    b. rulemaking.
    c. hearing cases.
    d. passing its enabling statute.

ANSWER: b

51. Legislative rulemaking under the APA typically involves all but which one of the following three steps?
    a. a comment period
    b. notice of proposed rulemaking
    c. public hearing
    d. final rule

ANSWER: c

52. The Internal Revenue Service (IRS), an administrative agency, issues an interpretive rule regarding tax deductions. Wei, a taxpayer, is unsure if this interpretive rule applies to her, so she consults with Mike, a C.P.A., for guidance. Mike tells her that this interpretive rule, like all interpretive rules, is
    a. legally binding.
    b. legally binding but only binding on IRS employees.
    c. not legally binding but indicates how the IRS plans to interpret and enforce its statutory authority.
    d. not legally binding and may be ignored because it does not indicate how the IRS plans to interpret and enforce its statutory authority.

ANSWER: c

53. The Environmental Protection Agency (EPA) discovers that Fish Farm Inc. has violated an EPA regulation. No settlement is reached. The EPA may now
    a. issue a formal complaint.
    b. require a local county attorney to prosecute Fish Farm Inc. criminally.

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c. take the matter to the U.S. Supreme Court.
d. immediately impose sanctions.

ANSWER: a

54. Home Care Company is charged with violating a rule of the Social Security Administration. Most likely, Home Care will be required to appear at a hearing presided over by a(n)
a. federal appellate court judge.
b. federal district court judge.
c. administrative law judge.
d. state supreme court justice.

ANSWER: c

55. Common law rules develop from
a. principles underlying judges' decisions in actual controversies.
b. regulations issued by administrative agencies.
c. statutes enacted by Congress and the state legislatures.
d. uniform laws drafted by legal scholars.

ANSWER: a

56. *Stare decisis* is best defined as
a. a doctrine under which judges follow established precedents.
b. the authority to decide a specific dispute.
c. a judicial proceeding to redress a wrong.
d. the right to begin a judicial proceeding.

ANSWER: a

57. A precedent is
a. the chief executive officer of the United States and their authority.
b. a court decision that is used as an example for deciding subsequent cases with similar facts.
c. a lawsuit in which a number of persons join together for ease of filing.
d. the fundamental procedure by which the government exercises its authority.

ANSWER: b

58. Each court has a jurisdiction. Jurisdiction is best defined as
a. a doctrine that follows established precedents.
b. the geographic area in which a court has the power to apply the law.
c. a judicial proceeding to redress a wrong.
d. the right to sue another person.

ANSWER: b

59. Applying the relevant rule of law to the facts of a case requires a judge to find previously decided cases that in relation to the case under consideration are
a. different.
b. similar.

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c. less than six months older.
d. identical.

ANSWER: b

60. There are no precedents on which the court deciding the case *Algorithm Corp. v. Beta Bytes, Inc.,* can base its decision. Which of the following may the court consider?
a. the opinions of friends and relatives of the judge
b. the results of a poll of those in the courtroom
c. social values and customs
d. the desire of the defendant to avoid jail time.

ANSWER: c

61. In *Beto v. Car Dealership*, the Kentucky state supreme court held that Jack, a minor, could cancel his contract for the purchase of his car if Jack desired to do so. Now, Kentucky Circuit Court, a trial court, is deciding *Dora v. Even Steven Autos, Inc.,* a case with similar facts, with Dora, a minor, asking the court to allow her to cancel her contract regarding the purchase of her car. Under the doctrine of *stare decisis*, the Kentucky Circuit Court is likely to
a. allow Dora to cancel her contract if she would like to do so.
b. not follow the decision of the *Beto* case.
c. order Dora to cancel her contract, even if she does not want to do so.
d. require both Jack and Dora to fulfill their contracts.

ANSWER: a

62. In the case of *Sales Corp. v. Transport Co.*, the court may rule contrary to a precedent if the court decides that the precedent
a. is incorrect or inapplicable.
b. violates the judge's personal values.
c. would lead to unintended consequences.
d. would not bring about the result the judge prefers.

ANSWER: a

63. A legal authority that a court may consult for guidance but that is not binding on the court is known as
a. legal treatise.
b. applicable statute.
c. persuasive authority.
d. reference authority.

ANSWER: c

64. In the IRAC method of case briefing, the R stands for
a. remedy.
b. rule of law.
c. reference.
d. restitution.

ANSWER: b

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65. Federico and Gwen are involved in a court proceeding. This is
    a. an action.
    b. *stare decisis.*
    c. a precedent.
    d. a remedy.

ANSWER: a

66. In a suit against Kaitlyn, Luke obtains an injunction, which is
    a. an order to do or refrain from doing a certain act.
    b. a departure from precedent.
    c. a payment of damages or money.
    d. the cancellation of a contract.

ANSWER: a

67. At one time, a court of law could only grant as a remedy
    a. monetary damages.
    b. an order to perform a contract.
    c. stare decisis.
    d. an injunction.

ANSWER: a

68. Which of the following addresses wrongs committed against society for which society demands redress?
    a. civil law
    b. procedural law
    c. stare decisis
    d. criminal law

ANSWER: d

69. In a civil case, the objective is to
    a. arbitrate the dispute.
    b. fine one of the parties.
    c. punish a wrongdoer.
    d. obtain a remedy to compensate the injured party.

ANSWER: d

70. When a nation violates international law, who responds to these violations?
    a. the U.S. Supreme Court
    b. the Uniform Commercial Code
    c. the highest court in the nation accused of these violations
    d. other nations

ANSWER: d

71. Judge Rice is a trial court judge in Rhode Island. Judge Rice must decide a pending contract case. To decide the case, Judge Rice engages in legal thought and reasoning. The study of law, which includes learning about different schools of

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legal thought, is often referred to as

a. equitable remedies.

b. jurisprudence.

c. *stare decisis.*

d. judicial philosophy.

ANSWER: b

72. MCQ, Inc., is an American company that has a manufacturing plant in Germany. In the MCQ office in New Jersey, an employee accuses MCQ of discrimination. MCQ follows American law and revises their policy and no longer engages in discriminatory actions. In the MCQ office in Germany, an employee also accuses MCQ of the same discriminatory actions. There is no law in Germany protecting this employee. Nevertheless, MCQ agrees to apply their new, nondiscrimination policy to the German employee as well. The legal school of thought this exemplifies is

a. natural law.

b. legal positivism.

c. the historical school.

d. legal realism.

ANSWER: a

73. Anne, a law professor, believes there is no higher law than a nation's positive law. Anne adheres to which school of legal thought?

a. legal realism

b. natural law

c. legal positivism

d. the historical school

ANSWER: c

74. Terry, an attorney, has an appeal in front of the U.S. Supreme Court. In oral argument, Terry argues that, even though precedent exists that would cause the Justices to rule against Terry, society has changed a great deal since the precedential case was decided, and it would be unfair to follow precedent now. Terry argues that our current society and technology require the Court to ignore the precedent. This argument is based on which school of legal thought?

a. the historical school

b. legal realism

c. legal positivism

d. natural law

ANSWER: b

75. Which of the following is not a valid penalty for violations of criminal acts?

a. death

b. fines

c. imprisonment

d. All of these are valid penalties for violations of criminal acts.

ANSWER: d

76. Distinguish between primary and secondary sources of law and give specific examples of each.

ANSWER: There are numerous sources of American law. A source that establishes the law on a particular issue is called a

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primary source of law. Primary sources include the following:
• The U.S. Constitution and the constitutions of the various states.
• Statutory law—including laws passed by Congress, state legislatures, and local governing bodies.
• Regulations created by administrative agencies, such as the federal Food and Drug Administration.
• Case law (court decisions).

A secondary source of law is a book (or article) that summarizes and clarifies a primary source of law. Legal encyclopedias, compilations (such as *Restatements of the Law*, which summarize court decisions on a particular topic), official comments to statutes, treatises, articles in law reviews published by law schools, and articles in other legal journals are examples of secondary sources of law. Courts often refer to secondary sources of law for guidance in interpreting and applying the primary sources of law discussed here.

77. A case, *SAC v. Houben,* is before Judge Thomas. Judge Thomas is a judge in Ohio Common Pleas court and must follow *stare decisis* when deciding this case. How will *stare decisis* be applied, and what are the advantages of following *stare decisis* in our American legal system?

ANSWER: In a common law legal system, past judicial decisions are binding in current disputes with similar facts. This feature of common law, which is the basis of the American legal system, is unique because, unlike the law in other legal systems, it is judge-made law. Within the common law system, when possible, judges attempt to be consistent and to base their decisions on the principles suggested by earlier cases. The body of principles and doctrines that form the common law emerged over time as judges applied the principles announced in earlier cases to subsequent legal controversies. The practice of deciding cases with reference to former decisions (or precedents)—the cornerstone of the American legal system—is called the doctrine of *stare decisis*. Under this doctrine, judges are obligated to follow the precedents established within their jurisdictions. This helps courts to be more efficient and makes the law more stable and predictable.

78. Mona is asked to brief a case for a Legal Environment of Business class. Detail what process Mona should use.

ANSWER: The basic steps of the legal reasoning process remain the same. These steps form what is commonly referred to as the IRAC method of legal reasoning. IRAC is an acronym formed from the first letters of the words Issue, Rule, Application, and Conclusion. To apply the IRAC method: Issue—What are the key facts and issues? Rule—What rule of law applies to the case? Application—How does the rule of law apply to the particular facts and circumstances of this case? Conclusion—What conclusion should be drawn?

79. The legal system in Alabama has two pending cases that involve different issues regarding *stare decisis*. First, *Briggs v. Jones,* an earlier Alabama case, decided a computer software issue based on now-outdated technology. A current case, *Alston v. Rawls*, involves a similar issue. In a second case, *Randall v. Palmer*, a technology issue is presented that has never been decided because the technology is new. Is the court in *Alston v Rawls* required to follow the holding in *Briggs v. Jones*? Why or why not? In *Randall v. Palmer,* what may the court base its decision on in the absence of any controlling precedent?

ANSWER: The practice of deciding cases with reference to former decisions (or precedents)—the cornerstone of the American legal system—is called the doctrine of *stare decisis*. Under this doctrine, judges are obligated to follow the precedents established within their jurisdictions. This helps courts to be more efficient and makes the law more stable and predictable. Although courts are obligated to follow precedents, sometimes a court will depart from the rule of precedent. If a court decides that a precedent is simply incorrect or that technological or social changes have rendered the precedent inapplicable, the court may rule contrary to the precedent, and this is likely in the first scenario here. Regarding the second scenario, occasionally, courts must decide cases for which no precedents exist, called cases of first impression. When deciding cases of first impression, courts often look at persuasive authorities. A persuasive authority is a legal authority that a court may consult for guidance but that is not binding on the court. A court may consider precedents from other jurisdictions, for instance, although those precedents are not binding. A court may also consider legal principles and policies underlying previous court decisions or existing statutes. Additionally, a court might

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look at fairness, social values and customs, and public policy (governmental policy based on widely held societal values). Federal courts can also look at unpublished opinions (those not intended for publication in a printed legal reporter) as sources of persuasive authority.

80. Local government in Newport Township passes a noise ordinance. The Environmental Protection Agency passes a regulation regarding air pollution. The U.S. Constitution is amended to allow sixteen-year-old people the right to vote. The Ohio state constitution is amended to allow women the right to reproductive health care under a right to privacy. A federal statute is passed that requires all medical marijuana dispensaries to pay 40 percent of their profits to the federal government. List these laws and regulations in hierarchical order, and explain the reasons for your listing.

ANSWER: Primary sources of American law include the following: The U.S. Constitution and the constitutions of the various states, statutory law—including laws passed by Congress, state legislatures, and local governing bodies, regulations created by administrative agencies and case law (court decisions). The U.S. Constitution is the basis of all law in the United States. It provides a framework for statutes and regulations and thus is the supreme law of the land. A law in violation of the U.S. Constitution, if challenged, will be declared unconstitutional and will not be enforced, no matter what its source. Unless it conflicts with the U.S. Constitution or a federal law, a state constitution is supreme within that state's borders. Thus, the amendment to the U.S. Constitution is the highest law here, and the amendment to the Ohio state constitution is the next highest law here. Laws enacted by legislative bodies at any level of government make up the body of law generally referred to as statutory law. Statutory law also includes local ordinances. An ordinance is a regulation passed by a municipal or county governing unit to deal with matters not covered by federal or state law. A federal statute, of course, applies to all states. A state statute, in contrast, applies only within the state's borders. State laws thus may vary from state to state. No federal statute may violate the U.S. Constitution, and no state statute or local ordinance may violate the U.S. Constitution or the relevant state constitution. Thus, the next highest law is the federal statute and, then, the local government noise ordinance. Finally, administrative law consists of the rules, orders, and decisions of administrative agencies. Rules issued by various administrative agencies affect almost every aspect of a business's operations. The EPA regulation is thus the law at the end of this list.

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