

逢甲大學101學年度碩士班招生考試試題 編號：032 科目代碼：

科目	法律英文	適用系所	財經法律研究所法律學組	時間	100 分鐘
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※請務必在答案卷作答區內作答。 共 4 頁第 1 頁

Instruction: In part I and part II, there are 26 multiple-choice questions in total. Please read the question carefully and select "ONE" correct answer in the answer sheet. For part III, please translate following paragraphs into Chinese.

Part I: Lexicons (36%): 2 points for each correct answer.

- Different from procedural law, _____ law concerns the law dealing with the facts of the case itself, such as the law of torts, property, contracts.
(a) Objective ; (b) Substantive ; (c) Entity ; (d) Concrete .
- The employer has _____ liability to you if you were harmed by his employee, which was caused "within the scope of employment."
(a) Strict liability ; (b) Principle liability ; (c) Vicarious liability ; (d) Relative liability .
- Taiwan-based HTC Corp said that it would appeal an initial ruling made by the U.S. International Trade Commission (ITC) that it has infringed two of ten patents held by Apple Inc. concerning portable electronic devices.
(a) Preliminary ; (b) Unfair ; (c) Excessive ; (d) Final .
- Tract A is transferred and occupied in a continuous manner form more than 10 years by the plaintiffs, so there is sufficient privity of estate to permit tacking and establish _____ as a matter of law.
(a) Timly possession ; (b) Acquisition possession ; (c) Adverse possession ; (d) Effective possession .
- _____ liability law is intended to hold manufacturers and sellers of goods liable for faulty goods that cause personal injury or property damage.
(a) Consumers ; (b) Sellers ; (c) Goods ; (d) Products .
- An important (but not universal) contemporary feature of a corporation is _____. If a corporation fails, shareholders may lose their investments, and employees may lose their jobs, but neither will be liable for debts to the corporation's creditors.
(a) Limited liability ; (b) Strict liability ; (c) Vicarious liability ; (d) Controlled liability
- A corporation owns its legal personality and is conceptually immortal, but it can "die" when they are _____ either by statutory operation, order of court, or voluntary action on the part of shareholders.
(a) Dissociated ; (b) Dissolved ; (c) Disaccorded ; (d) Dissoluted .
- The communication of _____ is not necessary in the case of unilateral contracts, in which the offeror makes an offer to the world and when people's conduct manifests an intention to contract.
(a) Acceptance ; (b) Promise ; (c) Assurance ; (d) Agreement .
- Once it is established that an attorney represents the person, the lawyer may make a (an) _____ for the client on some matters without the client being present.
(a) Appearance ; (b) Arraignment ; (c) Magistrate ; (d) indictment .
- A lawyer shall neither knowingly make a false statement of fact or law to a tribunal nor fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or _____ act by the client.
(a) Frivolous ; (b) Fraudulent ; (c) Fiduciary ; (d) Fundamental .

11. In most judicial system, there is more than one trial court. The selection of a particular trial court within a judicial system is referred to as a choice of _____.
- (a) Motion ; (b) Venue ; (c) Suit ; (d) Writ demesne ◦
12. What do we call an order of the court that deciding the case in favor of the plaintiff because the defendant failed to appear or to file an answer before the deadline?
- (a) Plea bargain ; (b) Summary judgment ; (c) Motion to dismiss;(d) Default judgment
13. Which one of the following “is not” a legal defense?
- (a) Failure to state a claim on which relief may be granted ;
 (b) Insufficiency of process ;
 (c) Pay off the alleged debt ;
 (d) Statute of litigation ◦
14. Which of the following memorandum of law “is not” belong to external memo?
- (a) Office memorandum ; (b) Memorandum of Points and Authorities ;
 (c) Trial Memorandum ; (d) Appellate Brief ◦
15. The parties were ready to seek discovery. Once the pleading were failed, each attorney first served written _____ on the opposing parties, which were followed by deposition and requests for admission. The blank _____ can be filled with which of the following word?
- (a) Prosecution ; (b) interrogatories ; (c) allegation ; (d) cause of action ◦
16. “Reinforce” means:
- (a) weaken ; (b) use force ; (c) use example ; (d) strengthen ◦
17. The phrase “plaintiff in error” can be replaced by which of the following word?
- (a) appraise ; (b) appellant ; (c) appellee ; (d) affidavit ◦
18. If a banker pays a bill which is drawn on a banker and payable to order on demand, in good faith and in the ordinary course of business, he is protected from liability for his act if the _____ has been forged or made without authority.
- (a) insolvency ; (b) indenture ; (c) injunction ; (d) indorsement ◦

Part II: Reading Comprehension (24%): 3 points for each correct answer.

1. Andy, Ben and Charlie planned to organize a new corporation, ABC, Inc., to manufacture hand-tool in Taiwan. For about four months, Ben has worked on preparations for ABC, Inc., although he had no agreement with Andy and Charlie as to compensation for such work. Last month, Ben entered into a contract, on behalf of ABC, Inc., with China Steel Corporation (CSC), to purchase material. Yesterday, the certificate of incorporation for ABC, Inc., was filed with the Commerce Industrial Service Portal.
- Which of the following statements is **correct**?
- (a) Ben is entitled to the reasonable value of his service as a promoter of ABC, Inc., and the contract he signed with CSC is binding on ABC, Inc.
- (b) Ben is not entitled to the reasonable value of his service as a promoter of ABC, Inc., and the contract he signed with CSC is not binding on ABC, Inc.
- (c) Ben is entitled to the reasonable value of his service as a promoter of ABC, Inc., but the contract he signed with CSC is not binding on ABC, Inc.
- (d) Ben is not entitled to the reasonable value of his service as a promoter of ABC, Inc., but the contract he signed with CSC is binding on ABC, Inc.

2.

KNOW ALL MEN BY THESE PRESENTS:

That we, Fong-ja, Ltd., for the sole consideration of NT150,000 dollars to us in hand paid, receipt of which is hereby acknowledged, have released and forever discharged, and our executors, administrators do hereby release and forever discharged:

Jong-Fa Taxi, Inc.

And its successors and assigns administrators and all other persons, firms and corporations, of and from any and all claims, rights and causes of action and unknown foreseen and unforeseen, personal injuries and damage to property, resulting and to result from a certain accident happened on 1st February 2011, for which we have claimed the said

Jong-Fa Taxi, Inc.

Not to be legally liable, whose liability is hereby expressly denied.

IN WITNESS WHEREOF, we have hereto set our hands and seals the 10th Day of February 2012.

Sealed and delivered in the presence of

Witness _____ (L.S.)

Address _____ (L.S.)

State of: _____ Country of: _____ ss.

On this 10th Day of February 2012, before me personally appeared the above named persons to me known, and known to be the same persons who executed the above instrument and they acknowledged to me that they executed the same.

Notary Public

According to the content above, what kind of contract is it?

- (a) Retainer Agreement; (b) General Release; (c) Motion for offer of Judgment;
(d) Statement of Services ◦

3. "Securities Law entitles the purchaser to sue the issuer, underwriter, certified public accountant and lawyer with respect to any material misstatements or omissions in the prospectus. However, except to the issuer, which has absolute liability for any material misstatements or omissions, Securities Law provides an affirmative defense for any other defendant who can demonstrate that he/she met a prescribed standard of diligence with respect to the information contained in the prospectus."

Based on the above description, what kind of liability the issuer has?

- (a) Strict liability ; (b) No liability ; (c) Negligent liability ; (d) Presumption of negligence ◦

4. It has been noted that, traditionally, courts have granted divorces on fault grounds: one spouse is deemed to be at fault in causing the divorce. More and more today, however, divorces are being granted on a no-default basis.

Proponents of no fault divorce argue that when a marriage fails, it is rarely the case that one marriage partner is completely to blame and the other blameless. A failed marriage is much more often the result of mistakes by both partners.

Another argument in favor of no-fault divorce is that providing fault in court, in a public arena, is a destructive process that only serves to lengthen the divorce process and that dramatically increase the negative feelings present in a divorce. If a couple can reach a decision to divorce without first deciding which partner is to blame, the divorce settlement can be negotiated more easily and equitably and the post-divorce healing process can begin more rapidly.

Which of the following is **Not listed** in this as an argument in favor if no-fault divorce?

- (a) A no-fault divorce generally costs less in legal fees.
(b) Rarely is only one marriage partner to blame for a divorce.
(c) Finding fault in a divorce increases negative feelings.
(d) A no-fault divorce settlement is generally easier to negotiate.

5. John is the patentee of patent A, and granted his all exclusive rights to Ted by an exclusive licensing agreement. Which of the following statements is true?
- (a) After the aforesaid agreement is concluded, John may grant the same rights to Jenny as Ted' through the non-exclusive licensing.
- (b) When Leo infringed upon patent A, Ted may take the legal action against Leo in his name without the consent of John.
- (c) Because John is the patentee of patent A, he is still entitled to execute the exclusive rights of patent A, even after the aforesaid the exclusive licensing agreement is concluded.
- (d) In accordance with Taiwanese law, Ted has no position to argue about the invalidity of patent A during the term of the exclusive licensing agreement.

6. The typical shareholder rights plan, known as a _____, involves a scheme whereby shareholders will have the right to buy more shares at a discount if one shareholder buys a certain percentage of the company's shares. For instance, any takeover bidder buys 20% of this company's shares will trigger the shareholder rights plan which allows every other shareholder to buy more shares at a discount, such purchases will dilute the bidder's interest, and the cost of the bid will rise substantially. Knowing that such plan could be called on, the bidder could be disinclined to the takeover of the corporation without the board's approval, and will first negotiate with the board so that the plan is revoked.

- (a) Killer bees ; (b) Crown jewel ; (c) Poison pill ; (d) Nuclear war ◦

7. Bob, a candidate for the city mayor, was present in town square on Oct. 21 to deliver his speech to the public. After he presented his short speech and went back to his seat, Jack, an opposing candidate, pull Bob's chair out as Bob began to sit down. Because of Jack's action, Bob felled to the stage floor. Although Bob suffered no injuries he was deeply humiliated over the incident. If Bob brings a tort action against Jack, Bob will probably recover on which of the following?

- (a) Intentional infliction of emotional distress ; (b) Assault ; (c) Negligence ; (d) No recovery ◦

8. In the past, the financial industry was not treated as a single industry; instead, it was fragmented into banking, insurance and securities businesses that were supervised separately by three different MOF departments -- the Bureau of Monetary Affairs, the Department of Insurance, and the Securities and Futures Commission. Furthermore, on-site examinations of banks were also carried out by three different agencies -- the Central Bank, the MOF and the Central Deposit Insurance Corporation. In order to resolve the problem of overlapping authority due to multiple supervisory systems for insurance, securities, and banking, which government agency was set up by the Executive Yuan to consolidate the functions of monitoring and rule-setting for the banking, securities, futures and insurance industries?

- (a) The Fair Trade Commission ; (b) The Financial Supervisory Commission ; (c) The Public Construction Commission ; (d) The Research, Development and Evaluation Commission ◦

Part III: Translations (40%): 10 points for each correct answer.

1. If a Plaintiff who has once dismissed an action in any court commences another action based upon or including the same claim against the same defendants, then the court may stay the proceedings in the second action until the plaintiff has complied with the order.
2. The principle of subrogation covers the situations where one party substitutes for a debtor whose debt the party pays, entitling the paying party to rights or remedies that would otherwise belong to the debtor.
3. The fact that Mary did not know that it was a federal crime to smoke on the plane as she did will not relieve her of liability for violation of this federal criminal statute, because the knowledge of federal territorial jurisdictional boundaries is not a defense.
4. There was an old saying that those rich walk free, while those without money get punished. For the goals of judicial reforms, the Judicial Yuan has put special emphasis on a high ethical standard to be observed by all judges. Judges must behave in a manner befitting their profession. They must not be interfered with, and they must not accept bribes.