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## Introduction to US Business law

23 June 2016

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**Duration: 60 minutes**

**Maximum score: 30 points**

- Please check both at receipt as well as at submission of the exam the number of question sheets. The examination contains 8 pages and 30 questions.

### **Notes on multiple-choice questions**

- Each question only has one correct answer. Please answer each question.

### **Notes on completing the answer-sheet**

- We strongly recommend that you transfer the solutions to the answer sheet shortly before the end of the exam (see below). This is advisable, because possibly an answer to a question gives you reason to return to a previously answered question and to answer that question differently.

### **Notes concerning multiple-choice solution sheet**

- Answers to the multiple-choice questions **must be made on the multiple choice solution sheet according to the guidelines**. Only this solution sheet will be revised.

**We wish you a lot of success!**

1. Which was the first country to establish colonies in North America?

- a) France
- b) Spain**
- c) Switzerland
- d) Great Britain

2. Who was not a “founding father” of the USA?

- a) Benjamin Franklin
- b) Thomas Jefferson
- c) Abraham Lincoln**
- d) James Madison

3. In class we talked about the four stages of a civil procedure. Which are those?

- a) Pleading, Pre-Trial, Trial, Settlement
- b) Pleading, Settlement, Pre-Trial, Trial
- c) Pleading, Pre-Trial, Trial, Arrest
- d) Pleading, Pre-Trial, Trial, Post-Trial**

4. Which one of the following statements illustrates the principle of ‘checks and balances’ embodied in the United States Constitution?

- a) The power to declare war is with the Congress, but the President is commander in chief of the armed forces.**
- b) State corporate law governs corporate structure, but a federal agency, the Federal Securities Commission, regulates the stock exchanges.
- c) Each state is allocated the same number of seats in the United States Senate, but districts are drawn by population in the House of Representatives.
- d) Congress regulates interstate commerce, and the states regulate intra-state commerce.

5. **At what stage in an US civil procedure is ‘discovery’ usually done?**
- a) **After the plaintiff has filed his/her complaint.**
  - b) During pre-trial settlement negotiations before the judge.
  - c) Discovery can be done any time during the procedure.
  - d) In the course of the trial before the jury.
6. **Which of the following is a correct statement about federal judges?**
- a) **They are appointed by the president with the advice and consent of the Senate.**
  - b) They serve for fixed terms.
  - c) They are elected by the voters.
  - d) Their selection solely rests with the president.
7. **A bicycle rider from New York who was injured in a collision with an automobile in NYC, owned by a woman from New Jersey, brings an action against that woman to recover \$100,000 in damages for his injuries in a NY state court. The defendant would prefer to have the case decided in a federal court. Is this possible?**
- a) No, the plaintiff gets to choose the forum.
  - b) **Yes, if the plaintiff is seeking more than \$75,000 in damages.**
  - c) No, because this is a tort action and tort law is governed by state law.
  - d) Yes, but only if the defendant does so within 5 days.
8. **A woman applies for a job as a sales manager for a Hilton Hotel (yearly salary \$ 74’000) but does not get hired (Hilton Hotel is a chain that does business in every state of the USA). She believes that the real reason why she was not hired was because she is a woman. She wants to file a law suit against the hotel under the federal civil rights law that prohibits discriminating in employment on the basis of sex. Must she file this suit in a federal court?**
- a) **Yes, because her claim is under federal law.**
  - b) No.
  - c) No, because state courts can hear all federal law claims.
  - d) Yes, because the hotel is a nationwide chain with hotels all over the country.

9. **The U.S. Congress passes a law forbidding gasoline stations from selling gasoline at more than \$3 per gallon. Is this law immediately effective?**
- a) No, because it might be declared unconstitutional by the Supreme Court.
  - b) Yes, because Congress has the power to pass legislation.
  - c) **No, because it has not yet been signed by the President.**
  - d) No, because no statute takes effect until 90 days after the law is passed.
10. **A landowner brings an action under state law against a nearby factory for polluting the water that feeds a pond on the landowner's property. The case is brought in state court and the trial court rules in favor of the landowner. The factory owner appeals and loses the appeals before both the state court of appeals and the state supreme court. Does the factory owner have the right to have the U.S. Supreme Court hear the appeal?**
- a) Yes, because the case was decided by the state supreme court.
  - b) No, because it is a state law issue.
  - c) Yes, if the appeal to the Supreme Court is filed in a timely manner.
  - d) **No, because there is no right to have the Supreme Court heard appeals in any but a very select category of cases in which this case does not fall.**
11. **Is it correct to say the original text of the US Constitution does not provide for any fundamental rights?**
- a) **Yes, those rights were added later.**
  - b) No, the US Constitution included the "Bill of Rights" right away.
  - c) Yes, the US does not care much about human rights.
  - d) Just no!
12. **What was the significance of the Declaration of Independence of 4 July 1776?**
- a) **The original 13 states seceded Great Britain.**
  - b) The declaration had no immediate impact.
  - c) The declaration became the first Constitution of the USA.
  - d) The declaration is based on a poem by William Shakespeare.

**13. Under the US Constitution:**

- a) All three branches of US Federal Government are equally powerful!
- b) The President is slightly more powerful than the other two branches.
- c) Congress is by far the most powerful branch.
- d) **The Supreme Court made itself the most powerful branch.**

**14. Some time ago the US Supreme Court decided on whether the so called “Obamacare” reform of the health care system in the US was constitutional or not? Why can the Supreme Court do this?**

- a) Because the President and Congress jointly can ask the Supreme Court to do so.
- b) Because Congress and President could not agree on the wording of the bill.
- c) **Because long time ago the Supreme Court has given itself the power to do so.**
- d) Because the International Court in The Hague has obliged the Supreme Court to do so.

**15. Before which court would you file a claim based on the Sherman Act?**

- a) This is a case of original jurisdiction of the US Supreme Court.
- b) **This is federal law, therefore before a federal court.**
- c) Before a federal court, but only if the dispute is about more than \$ 75'000.
- d) Depends if the defendant is from out of state. If not, before a state court.

**16. Why did Bank Wegelin settle its case before a US court although it had no business presence in the USA?**

- a) Jurisdiction of US courts was clearly given because Wegelin could have made business in the US.
- b) **The fact alone that the bank would have been indicted before a US court would have forced Wegelin to file for bankruptcy.**
- c) That was stupid to do so!
- d) Bank Wegelin should have chosen to go before a Swiss court instead of accepting jurisdiction of a US court, that would have solved its problem.

**17. How many court systems do the US have?**

- a) **The US has two court systems: a federal one and a state one (in each state one).**
- b) The US has one court system: a federal one with state branches.
- c) The US has 3 court systems: a federal one, state ones and the US Supreme Court.
- d) Based on the “founding fathers” the US does not recognize any court system.

**18. What are the 5 specialties of a US civil procedure?**

- a) **Jury, discovery, class action, lawyers fee, punitive damage**
- b) Jury, pre-trial motion, punitive damage, class action, constitutional review
- c) Jury, the judge knows it always better, pre-trial conference, class action, punitive damage
- d) Class action, punitive damage, lawyers fee, discovery, actions by the Supreme Court

**19. What is “consideration”?**

- a) Nothing to care about!
- b) The third tort case.
- c) **A necessary element to make agreements binding contracts.**
- d) The judge is using consideration to instruct the jury in a trial.

**20. What is needed to win a tort case?**

- a) Tort always needs intention.
- b) Either intention or negligence.
- c) There is no such thing as an intentional tort, therefore negligence has always to be proofed.
- d) **Tort cases need either negligence or intention, unless there is strict liability.**

**21. What is the so called “Delaware effect”?**

- a) After Delaware had joined the Union many other states followed its example.
- b) Delaware has the “best” company law in the US, that means “Delaware effect”.
- c) **Delaware has a low level of company regulation what causes other states to lower the level of their regulations, too.**
- d) Companies registered in Delaware do not have to pay taxes in other states.

**22. What is meant with the “rule of reason”?**

- a) **This rule allows the courts not to apply the wording of the provisions of the Sherman Act to all offenses strictly but only to the so called “hard core” violations.**
- b) Congress has to give reasons in order to make an antitrust law.
- c) Only reasonable actions under the Sherman Act are illegal.
- d) There is per se no rule of reason.

**23. On what sources of law did the court base its decision in “Pierson v. Post”?**

- a) Civil law.
- b) Common law, citing prior cases decided by US courts.
- c) Common law, citing prior cases decided by British courts.
- d) **Common law, citing prior cases not only decided by British courts but also sources like laws made by the late Roman emperors!**

**24. What is TTIP?**

- a) a secret federal program for telecom industries.
- b) a tax evasion action plan.
- c) **a comprehensive free trade agreement between the USA and the EU.**
- d) Tonald Trump Investment Program.

25. What is the so called “commerce clause”?

- a) **The provision in the US Constitution that gives power to federal government to regulate interstate trade.**
- b) A general rule that applies to all shopping centers in the US.
- c) The common law principle that regulates interstate commerce.
- d) The provision in the US Constitution that leaves the regulation of commerce to the individual states.

26. Who are the two so called “sisters republics”?

- a) Great Britain and the United States.
- b) The United States and France.
- c) The Netherlands and Great Britain.
- d) **Switzerland and the United States.**

27. Which form of business organization is ideal for a law firm in the USA and why?

- a) LLC, because a corporation means limitation of personal risks.
- b) LLC, because insurance institutions prefer corporations.
- c) **LLP, because it allows a partnership structure with limitation of personal liability by insurance.**
- d) A corporation, because it is easy to sell share to other firms and therefore merger two or more law firms easily.

28. Which of following statements is true?

- a) The USA is the most important export market for Switzerland.
- b) **The USA is by far the most important foreign direct investor in Switzerland.**
- c) Switzerland is the most important foreign direct investor in the USA.
- d) Trade between Switzerland and the USA is smaller than the trade between Switzerland and China.

**29. Under US antitrust law one can claim “triple damage”. What is that?**

- a) To get compensation from not involved third parties.
- b) The compensation has to be paid within 3 days.
- c) The compensation is three times the actual damage.**
- d) The defendant pay 1/3, the federal government 2/3 of the compensation.

**30. What is the Uniform Commercial Code - UCC?**

- a) A US federal law that regulates interstate commerce.
- b) A military code that regulates the production of military uniforms.
- c) A state code in Louisiana that regulates intrastate commerce.
- d) A non-binding model law to harmonize the different state regulations of commerce.**