

Instructions: You may use one 3x5 card of notes, handwritten. No other notes or books are permitted. Each question is worth one point. There are 100 points available on the test.

1. When liability may be found without fault on the part of the defendant, the defendant's liability is said to be:
 - a. Negligent
 - b. Intentional
 - c. Reckless
 - d. Strict

2. The word used to designate a person who wants to be heard in a lawsuit, but who does not become a party.
 - a. Defendant
 - b. Intervenor
 - c. Plaintiff
 - d. *Amicus curae*

3. The word used to designate the party who who was not named in the lawsuit but who wants to become a party.
 - a. Defendant
 - b. Intervenor
 - c. Plaintiff
 - d. *Amicus curae*

4. The State of North Carolina is a unit of the federal government of the United States for?
 - a. Limited purposes.
 - b. All purposes.
 - c. Some purposes.
 - d. None of the above.

5. The basis for federal preemption is:
 - a. Commerce Clause
 - b. Supremacy Clause
 - c. Takings Clause of the 5th Amendment
 - d. Contract Clause

6. Uncompensated governmental takings of private property are prohibited by
 - a. Commerce Clause
 - b. Supremacy Clause
 - c. Takings Clause of the 5th Amendment
 - d. Contract Clause

7. A motion for summary judgment will be granted when:
 - a. there are no material issues of fact
 - b. there are no material issues of law
 - c. there are no material issues of fact or law

d. none of the above

8. Appellate courts hear issues of

- a. fact
- b. law
- c. fact and law
- d. none of the above

9. Juries decide issues of:

- a. fact
- b. law
- c. fact and law
- d. none of the above

10. A motion for summary judgment is

- a. Post-trial motion.
- b. Pre-trial motion
- c. Made during the trial.
- d. None of the above.

11. The highest source of state law in North Carolina is:

- a. constitution
- b. statute
- c. regulation
- d. ordinance

12. The federal government is a government of

- a. Limited powers.
- b. Unlimited powers.
- c. Derivative powers.
- d. None of the above.

13. States may sign treaties with

- a. The federal government.
- b. Foreign governments.
- c. Other states.
- d. None of the above.

14. Jurisdiction is defined as

- a. Where it is convenient for a court to decide a case.
- b. The court's discretion.
- c. The power of a court to decide a case.
- d. None of the above.

15. If a regulation and a statute are contradictory, then

- a. There is no hard and fast rule.
- b. The regulation prevails.
- c. The statute prevails.

d. None of the above.

16. An offer to form an express unilateral contract may be accepted only by:

- a. a promise
- b. a condition
- c. money
- d. an act

17. An offer to form an express bilateral contract may be accepted only by:

- a. a promise
- b. a condition
- c. money
- d. an act

18. Which rule requires that some contracts be in writing:

- a. statute of frauds
- b. parole evidence rule
- c. integration clause
- d. all of the above

19. Which rule bars the use of prior or contemporaneous oral statements to change a written contract:

- a. statute of frauds
- b. parole evidence rule
- c. integration clause
- d. all of the above

20. Which contract provision bars the use of subsequent oral statements to modify a written contract:

- a. statute of frauds
- b. parole evidence rule
- c. integration clause
- d. all of the above

21. A contract with a minor is:

- a. voidable by all parties to the contract
- b. voidable by the party not a minor
- c. voidable by the minor
- d. void

22. A contract to commit murder is:

- a. void
- b. voidable
- c. both a & b
- d. neither a & b

23. A penalty clause in a contract is:

- a. common
- b. not enforceable
- c. enforceable
- d. none of the above

24. Liquidated damages clauses avoid:

- a. breaches of contract
- b. litigating the amount of damages
- c. damages
- d. none of the above

25. After a counter offer, the original offer:

- a. continues to be capable of acceptance
- b. is modified
- c. is not modified
- d. no longer exists

26. Which two elements of a valid contract constitute a meeting of the minds?

- a. offer and acceptance
- b. offer and consideration
- c. proper subject matter and consideration
- d. proper subject matter and capacity

27. Who owns land under navigable water?

- a. North Carolina in fee simple
- b. North Carolina under the public trust doctrine
- c. the federal government
- d. the landowner whose land adjoins the water

28. Who owns land under non navigable water?

- a. North Carolina in fee simple
- b. North Carolina under the public trust doctrine
- c. the federal government
- d. the landowner whose land adjoins the water

29. Where the land on opposite sides of a non navigable river are owned by different owners, where is the dividing line between the properties:

- a. each owner owns only to the edge of the water
- b. the middle of the river
- c. the middle of the main channel of the river
- d. none of the above

30. Where the land on opposite sides of a navigable river are owned by different owners, where is the dividing line between the properties:

- a. each owner owns only to the edge of the water
- b. the middle of the river
- c. the middle of the main channel of the river
- d. none of the above

31. Define a tort.

- a. a crime
- b. a moral outrage
- c. a special type of contract
- d. a civil wrong

32. Which word or phrase best characterizes an intentional tort?

- a. fault
- b. intent

- c. liability without fault
- d. all of the above

33. Which word or phrase best characterizes a strict liability tort?

- a. fault
- b. intent
- c. liability without fault
- d. all of the above

34. Which word or phrase best characterizes a tort in negligence?

- a. fault
- b. intent
- c. liability without fault
- d. all of the above

35. A trespass action protects a landowner's right of:

- a. alienation
- b. possession
- c. sale
- d. use

36. A nuisance action protects a landowner's right of:

- a. alienation
- b. possession
- c. sale
- d. use

37. What is the burden of proof in civil trespass action?

- a. beyond a reasonable doubt
- b. beyond a shadow of a doubt
- c. weight of the evidence
- d. preponderance of the evidence

38. What is the burden of proof in criminal trespass action?

- a. beyond a reasonable doubt
- b. beyond a shadow of a doubt

- c. weight of the evidence
- d. preponderance of the evidence

39. In which types of tort actions are punitive damages available?

- a. intentional torts
- b. negligent torts
- c. strict liability torts
- d. all torts

40. A nuisance may be:

- a. a strict liability tort
- b. a negligent tort
- c. an intentional tort
- d. any of the above

41. In tort cases, North Carolina follows the rule of:

- a. comparative fault
- b. no fault
- c. contributory negligence
- d. all of the above

42. Which two types of entrants onto land are due the same duty in North Carolina?

- a. trespasser and invitee
- b. trespasser and licensee
- c. licensee and invitee
- d. none of the above

43. A codified federal statute may be found in:

- a. the United States Code
- b. the U.S. Statutes at Large
- c. the Code of Federal Regulations
- d. the Federal Register

44. Which is an example of an easement in gross.

- a. an access road across the land of another

- b. a hunting right
- c. a prohibition against putting up a clothesline
- d. none of the above

45. Which is an example of an easement appurtenant.

- a. an access road across the land of another
- b. a hunting right
- c. a prohibition against putting up a clothesline
- d. none of the above

46. Which is an example of a restrictive covenant.

- a. an access road across the land of another
- b. a hunting right
- c. a prohibition against putting up a clothesline
- d. none of the above

47. How may an easement be created.

- a. express grant in a deed
- b. express reservation in a deed
- c. prescription
- d. all of the above

48. A provision in a deed that provides that any house built on the property must contain 2,000 square feet of space or more is an example of:

- a. an easement
- b. a life estate
- c. a lease
- d. a restrictive covenant

49. Which is not an element of adverse possession.

- a. exclusive
- b. hostile
- c. permissive
- d. duration for the statutory period

50. An owner of a life estate who discovers oil and pumps it commits:

- a. fraud
- b. larceny
- c. waste
- d. no problem

51. Formerly personal property that has become real property by attachment to the land.
- a. easement
 - b. emblement
 - c. fixture
 - d. none of the above
52. Real property rights include:
- a. disposition
 - b. possession
 - c. use
 - d. all of the above
53. Remedies for breach of a real estate sales contract include:
- a. specific performance
 - b. rescission and restitution
 - c. damages
 - d. any of the above
54. All deeds require:
- a. competent grantor
 - b. operative words of conveyance
 - c. acceptance by the grantee
 - d. all of the above
55. A grantor under a warranty deed guarantees:
- a. that the grantor owns the property
 - b. that title is free from encumbrances
 - c. that grantor will defend the title
 - d. all of the above
56. A three party security interest in real property:
- a. mortgage
 - b. easement
 - c. covenant
 - d. deed of trust
57. Causes all payments under a security agreement to become due and payable upon default:
- a. equity of redemption
 - b. due on sale clause
 - c. acceleration clause

d. deficiency judgment

58. The right of the debtor to pay off the debt secured by a deed of trust:

- a. equity of redemption
- b. due on sale clause
- c. acceleration clause
- d. deficiency judgment

59. Causes all payments under a security agreement to become due and payable upon sale of the property:

- a. equity of redemption
- b. due on sale clause
- c. acceleration clause
- d. deficiency judgment

60. Methods of selling real property include:

- a. private agreement
- b. broker/agent
- c. auction
- d. all of the above

61. How may property be transferred in N.C. at death?

- a. By will.
- b. By intestate succession.
- c. By right of survivorship.
- d. All of the above.

62. How is property owned as tenants by the entirety in N.C. transferred at death?

- a. By will.
- b. By intestate succession.
- c. By right of survivorship.
- d. All of the above.

63. Pick the means that is **not** used to transfer property owned as joint tenants in N.C. at death?

- a. By will.
- b. By intestate succession.
- c. By right of survivorship.
- d. Through a living trust

64. As a will substitute, a living trust is:

- a. Less expensive.
 - b. Simpler.
 - c. Easier to set up.
 - d. Provides for greater privacy
65. What is the minimum age at which one may execute a valid will in N.C.?
- a. 16
 - b. 18
 - c. 20
 - d. 21
66. When does a will become legally effective?
- a. at death
 - b. when executed
 - c. when read by the beneficiaries
 - d. when probated
67. A witness to a will may be a beneficiary of the same will in N.C. if:
- a. the testator agrees
 - b. the probate court agrees
 - c. if there are two other witnesses
 - d. all of the other beneficiaries agree
68. What is the advantage of a self-proved will?
- a. testator need not sign it
 - b. signatures of witnesses need not be proved at probate
 - c. costs more
 - d. none of the above
69. A will may be revoked by:
- a. physical act
 - b. making another will
 - c. writing on it
 - d. all of the above
70. Which is an option for a disinherited spouse in North Carolina?
- a. elect a statutory share
 - b. sue the testator
 - c. sue the beneficiaries
 - d. none of the above

71. Expresses the desire of the person executing it to die a natural death.

- a. durable power of attorney
- b. health care power of attorney
- c. revocable trust
- d. living will

72. Allows one person to act for another in a legal matter; power to do so terminates with disability or death.

- a. will
- b. living trust
- c. power of attorney
- d. durable power of attorney

73. Created in a will; permits maximum use of unified credit.

- a. living will
- b. irrevocable trust
- c. unified credit testamentary trust
- d. testamentary trust

74. Permits a designated person to make health care decisions for another after the onset of disability.

- a. health care power of attorney
- b. revocable trust
- c. living will
- d. irrevocable trust

75. May avoid the need for a guardianship proceeding.

- a. durable power of attorney
- b. health care power of attorney
- c. revocable trust
- d. living will

76. Income retained above a nominal amount taxed at the top personal rate.

- a. health care power of attorney
- b. revocable trust
- c. living will
- d. irrevocable trust

77. Directs the probate court as to how and to whom property should be transferred at death.

- a. will
- b. revocable trust

- c. living will
- d. irrevocable trust

78. A will substitute.

- a. living trust
- b. durable power of attorney
- c. unified credit testamentary trust
- d. testamentary trust

79. General term for a trust created at death in a will.

- a. living will
- b. irrevocable trust
- c. unified credit testamentary trust
- d. testamentary trust

80. Allows one to handle the financial affairs of another during periods of that other's disability; terminates at death.

- a. living will
- b. irrevocable trust
- c. unified credit testamentary trust
- d. durable power of attorney

81. One person doing business alone, with unlimited liability.

- a. Limited liability company
- b. S corporation
- c. General partnership
- d. Sole proprietorship

82. Two or more people doing business together with unlimited liability.

- a. Limited liability company
- b. S corporation
- c. General partnership
- d. C corporation

83. Owned by shareholders with limited liability; taxed at two levels.

- a. Limited liability company
- b. S corporation
- c. General partnership
- d. C corporation

84. Owned by shareholders with limited liability; taxed at one level.

- a. Limited liability company
- b. S corporation
- c. General partnership
- d. C corporation

85. Hybrid form; may elect to be taxed at one or two levels.

- a. Limited liability company
- b. S corporation
- c. General partnership
- d. C corporation

86. Which of the following is not a good for the purposes of the UCC?

- a. an unborn calf
- b. next year's cotton crop
- c. wheat that is 3 months away from harvest
- d. a chair

87. The UCC statute of frauds requires that contracts valued at what amount or more be in writing?

- a. \$100
- b. \$250
- c. \$500
- d. \$1000

88. A UCC contract must contain which of the following elements?

- a. meeting of the minds
- b. consideration
- c. competent parties
- d. all of the above

89. Which are exceptions to the UCC statute of frauds rule?

- a. Merchants' exception
- b. Completed transaction
- c. Specially manufactured goods
- d. all of the above

90. In a UCC contract, supplying nonconforming goods is

- a. acceptable
- b. normal
- c. unacceptable
- d. a breach of contract

91. The warranty that the goods are of the quality and type standard in the industry is called

- a. Warranty of fitness for a particular purpose
- b. Warranty of freedom from known defects

- c. Warranty of merchantability
- d. none of the above

92. The warranty that may apply when the seller knows the purpose to which the buyer intends to put the goods.

- a. Warranty of fitness for a particular purpose
- b. Warranty of freedom from known defects
- c. Warranty of merchantability
- d. none of the above

93. Which is not an acceptable theory in a products liability case in North Carolina?

- a. Warranty of fitness for a particular purpose
- b. Strict liability
- c. Warranty of merchantability
- d. Negligence

94. On Dec. 6, Bob mailed an offer to buy Ed's car to Ed. Ed received it on Dec. 7, and mailed his acceptance on the same day. Also on Dec. 7, Bob mailed a revocation of his offer to Ed. Ed received the revocation on Dec. 8, and Bob received the acceptance on Dec. 9. Does Ed have an enforceable contract?

- a. Yes, because the mailbox rule applies.
- b. Yes, because the post office rule applies.
- c. No, because the mailbox rule applies.
- d. No, because the post office rule applies.

95. The tort of criminal conversation is based upon which theory?

- a. negligence
- b. intentional tort
- c. strict liability
- d. none of the above

96. The tort of alienation of affection is based upon which theory?

- a. negligence
- b. intentional tort
- c. strict liability
- d. none of the above

97. Which is not a right associated with marriage?

- a. Support
- b. Statutory dower.
- c. Payment of gambling debts
- d. Statutory share

98. A prenuptial agreement may not:

- a. set child support

- b. divide property
- c. require specific terms in a will
- d. require specific terms in a separation agreements

99. Which prenuptial agreement is most likely to be enforceable?

- a. One drafted by the spouses' parents
- b. One drafted by the spouses themselves
- c. One drafted by their attorney who represents both prospective spouses jointly
- d. One negotiated by the separate attorneys for each prospective spouse

100. Which is not marital property?

- a. Income earned during the marriage
- b. An inheritance received during the marriage
- c. Royalties from a book written during the marriage
- d. A house built during the marriage