

Review and Discussion Guide No. 1

CHAPTERS 1 & 2: Fundamentals of Law and the Real Estate Services Act

REVIEW AND DISCUSSION QUESTIONS (Not for marks)

1. When a judge "distinguishes" a case on its facts, this means:
 1. the judge decides that facts crucial to a former decision are not present in the case at hand, and does not follow the former decision.
 2. the judge formally reports the case to publishers of important case law books since it is a crucial decision.
 3. the judge follows a former decision because the same facts or issues exist in the case which is being decided.
 4. None of the above.

2. What is the result of the doctrine of *stare decisis*?
 1. Former decisions are used as a basis for later decisions.
 2. The common law system has uniformity.
 3. Decisions of the Supreme Court of Canada are accorded the most weight in the B.C. Courts.
 4. All of the above result from the doctrine of *stare decisis*.

3. There are several steps taken before a lawsuit actually is brought before a judge. Some of these procedures are called:
 - A. filing and service of the statement of claim.
 - B. entering an appearance.
 - C. filing and service of a writ of summons.
 - D. conducting examinations for discovery.

Which of the following is the correct chronological order of the above?

 1. A,B,C,D
 2. C,A,D,B
 3. B,D,A,C
 4. C,B,A,D

4. When a judge in the B.C. Supreme Court exercises equitable jurisdiction:
 1. he or she may refuse to apply any common law which is unfair.
 2. he or she may grant such remedies as specific performance or an injunction.
 3. he or she may refer to a statute to ascertain the law on a particular matter.
 4. he or she may do all of the above.

5. Which one of the following statements is TRUE?
1. An appeal from all courts of original jurisdiction in B.C., including small claims court, is to the B.C. Court of Appeal.
 2. Only an appeal from the B.C. Supreme Court is to the B.C. Court of Appeal.
 3. A person who loses in the B.C. Court of Appeal has an absolute right to be heard in the Supreme Court of Canada.
 4. An appeal from small claims court is heard by three, five or seven judges.
6. Which of the following statements concerning the equitable jurisdiction of the court are TRUE?
- A. The rules of equity developed as a remedy for the rigidity of the common law in England.
 - B. Where the rules of equity and common law conflict, the court will apply the common law rules.
 - C. Equitable remedies are available to parties in a court action as a matter of right, regardless of their conduct.
 - D. Specific performance, injunctions and legal damages are all types of equitable remedies.
1. A, B and D are true.
 2. B and C are true.
 3. Only A is true.
 4. All of the above are true.
7. Which of the following is NOT a possible meaning of the term "common law"?
1. The law created by the courts as opposed to statute law.
 2. The principles derived from the common law courts in England as opposed to the principles derived from the courts of chancery.
 3. The laws created by the federal government in accordance with its power under the constitution.
 4. The system of law which relies upon the doctrine of stare decisis for its development.
8. Which of the following falls within the category of law called "public law"?
1. breach of contract
 2. agency law
 3. civil law
 4. none of the above
9. Governments pass statutes in order to:
1. change the common law.
 2. develop a system of precedent.
 3. alter the constitution allocation of legislative authority between federal and provincial governments.
 4. do all of the above.

10. A new furnace that Sally installed in her house exploded 6 months later. Sally intends to bring a lawsuit against the manufacturer. The first document that Sally's lawyer will file is:
1. the pleadings.
 2. a notice of trial.
 3. a writ of summons.
 4. a statement of claim.

SOLUTIONS

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| 1. Answer : Option (1) | 6. Answer : Option (3) |
| 2. Answer : Option (4) | 7. Answer : Option (3) |
| 3. Answer : Option (4) | 8. Answer : Option (4) |
| 4. Answer : Option (2) | 9. Answer : Option (1) |
| 5. Answer : Option (2) | 10. Answer : Option (3) |