

CHAPTER 1: Introduction to Canada's Legal System and Real Estate Industry

This assignment is a Multiple Choice Assignment.

Marks: 1 mark per question.

1. Answer: 4
A lawyer is only exempt from the basic rule in s. 2 if the transaction in question occurs in the course of his or her legal practice. The receipt of a commission in addition to legal fees would suggest the transaction was not in the regular course of practice.

2. Answer: 3
A Real Estate Board is not responsible for reassessing commission rates.

3. Answer: 3
Options (1), (2), and (4) are incorrect. A sheriff seizes goods pursuant to a writ of execution. Wages are not paid directly to the creditor, rather, they are paid into court and an application is made to have the money paid out.

4. Answer: 2
An examination for discovery occurs after the pleadings are complete, and is done with the parties and their lawyers present, not a judge. The evidence is recorded, so is of tremendous help in reviewing the evidence in order to facilitate a settlement.

5. Answer: 1
Court costs are not always awarded against unsuccessful litigants - they can be split between the parties, or ordered any way the judge sees fit. Court costs only cover a portion of actual costs incurred at trial, so options (2), (3), and (4) are true.

6. Answer: 1
Pleadings follow commencement of the action, occur before Discovery, and prior to trial.

7. Answer: 3
Stare decisis still exists and has not been eliminated by statute. Literally meaning "let the former decision stand", the principle helps ensure consistency in court decisions by binding lower courts to the decisions in previous cases, where the same point was considered. Stare decisis also allows for the development of the law, in that a judge may rely on a principle from an earlier case, but refine that principle further.

8. Answer: 2.
Private disputes are settled under civil law principles in all provinces other than Quebec — only Quebec uses a civil code system. Common law and equitable principles now make up what we call the "common law". Both common law and equitable principles and argument are now heard in the same court. Public law, not private law, involves an individual versus the government. Private law is between two individuals.
9. Answer: 1
The Charter only applies to government, so covers statutes brought into affect by all levels of government. Options (2), (3), and (4) concern private businesses or clubs, so these issues are only covered under Human Rights Codes, if applicable.
10. Answer: 3
Each government can legislate in the areas given to it by the Constitution. The courts act as arbiters of disputes as to jurisdiction or power. The courts cannot override the Constitution — they are bound by the principle of parliamentary supremacy to render decisions that are consistent with the Charter of Rights and Freedoms.
11. Answer: 2
Most provinces provide mandatory insurance. Only the Crown can take an accused to court in a criminal matter.
12. Answer: 3
Real Estate Boards oversee conduct of their members and arbitrate disputes between members.
13. Answer: 3
Where there is a conflict between equity and common law, equitable principles prevail. The conduct of a party can influence the availability of equitable remedies. Damages are a common law remedy, not an equitable one.
14. Answer: 4
Options (1), (2), and (3) are true. A dispute involving tax would not be a private law issue, as it would not be a conflict between two individuals. This would be a public law dispute.
15. Answer: 4
All of the answers are correct.
16. Answer: 3
The laws created by the federal government (legislation) are not considered common law.

17. Answer: 2
The federal government has jurisdiction over currency, banking, and defence. The provincial government has jurisdiction over matters affecting private property as well as the power to delegate some of their authority to a third level of government.
18. Answer: 1
When a case is distinguished it means that there is something different about the case as compared to a previous decision. Once a case is distinguished, a judge does not have to follow the previous, otherwise binding, decision.
19. Answer: 3
Statute law is binding, despite any case law on point. Judges may interpret the law, and apply it, but the law as set out in the statute prevails. For example, if the statute says it is an offence to drive over 80 kilometres per hour on a road, that law prevails, whether or not you were driving safely despite your excess speed.
20. Answer: 3
This is covered in the section titled "Structure of the Courts". A plaintiff cannot force a defendant to attend a trial where the plaintiff resides, unless the cause of action arose there.
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- 20 Total Marks