

Name: \_\_\_\_\_

KEY! 😊

October 23, 2020

**MIDTERM EXAM**

**Description:** This exam is cumulative (includes all material since the start of the semester). It consists of thirty (30) short answer questions (multiple choice and true/false), each worth three (3) points each, plus one short essay worth 10 points, plus two (2) bonus questions worth up to two points each—ONLY if you answer all other questions on the exam!

**Instructions:** For questions 1 through 30 (short answers), choose the best answer to each question from among the options offered. For questions 31 and 32, which are the short essay and bonus questions, you may answer them in the spaces provided here on Blackboard or you may email your answers to Prof. Coughlin (kcoughlin@citytech.cuny.edu). You must complete this exam Friday, October 23, 2020, during any two-hour period between 10am and 6pm, in one sitting—so once you start the exam, you must complete and submit it before logging off Blackboard. You may, and should, refer to the maps and charts of the federal and NY court systems, and the CPLR, all available on our course OpenLab site. If you have questions, you may contact Prof. Coughlin by phone at 718.260.4939.

**SHORT ANSWERS!**

- A** 1. Which of the following is a trial court in the New York State court system?  
 (A) New York Supreme Court                      (C) U.S. District Court  
 (B) Appellate Term                                      (D) U.S. Circuit Court of Appeals
- C** 2. Which of the following is a trial court in the federal (U.S.) court system?  
 (A) New York Supreme Court                       (C) U.S. District Court  
 (B) U.S. Supreme Court                              (D) U.S. Circuit Court of Appeals
- D** 3. Which of the following is an intermediate appellate court in the federal court system?  
 (A) New York Supreme Court                      (C) U.S. District Court  
 (B) Appellate Division                               (D) U.S. Circuit Court of Appeals
- B** 4. Which of the following is an intermediate appellate court in the New York State court system?  
 (A) New York Supreme Court                      (C) U.S. District Court  
 (B) Appellate Division                              (D) U.S. Circuit Court of Appeals
- A** 5. Which of the following is the highest appellate court in the federal court system?  
 (A) U.S. Supreme Court                              (C) U.S. Court of International Trade  
 (B) U.S. Court of Appeals                              (D) U.S. District Court
- C** 6. Which of the following is the highest appellate court in the New York State court system?  
 (A) New York Supreme Court                       (C) New York Court of Appeals  
 (B) U.S. Supreme Court                              (D) New York Court of Claims
- C** 7. An appeal of a decision by NY Surrogate's Court, Albany County would be decided by:  
 (A) New York Supreme Court, Albany County                       (C) Appellate Division, Third Department  
 (B) Appellate Term, Third Department                              (D) U.S. Court of Appeals for the Third Circuit
- B** 8. An appeal of a civil decision by Appellate Term, Second Department, would be decided by:

- (A) Appellate Term, First Department
- (B) Appellate Division, Second Department
- (C) New York Court of Appeals
- (D) U.S. Court of Appeals for the Second Circuit

- D 9. An appeal of a decision by Appellate Division, Second Department would be decided by:  
 (A) New York Supreme Court (C) U.S. Supreme Court  
 (B) Appellate Division, First Department (D) New York Court of Appeals
- B 10. The federal trial court that includes Manhattan and the Bronx is U.S. District Court for the \_\_\_ District of New York. (A) Northern (B) Southern (C) Eastern (D) Western
- B 11. All of the federal District Courts in New York (as well as Connecticut [CT] and Vermont [VT]) are in the jurisdiction of the \_\_\_ Circuit Court of Appeals. (A) First (B) Second (C) Third (D) Ninth
- C 12. An appeal of a decision by U.S. District Court for the District of New Jersey (NJ) would be decided by:  
 (A) New Jersey Supreme Court (C) U.S. Court of Appeals for the Third Circuit  
 (B) U.S. Supreme Court (D) Appellate Division, Third Department
- B 13. Melania Trump wants to divorce her husband Donald. Which New York court(s) have subject matter jurisdiction? (Select all that apply.) (A) Family Court (B) Supreme Court (C) Surrogate's Court (D) Court of Claims
- B 14. The "court of last resort" in New York is its: (A) Supreme Court (B) Court of Appeals (C) Appellate Division (D) District Court.
- A 15. A federal court has authority to decide a case about an alleged violation of someone's First Amendment right to freedom of religion under its \_\_\_ jurisdiction. (A) federal question (B) diversity (C) appellate (D) general
- D 16. When more than one court has authority to decide a particular case (like New York's Family Court and Surrogate's Court, which both are empowered to handle adoptions) those courts have \_\_\_ jurisdiction over that case. (A) diversity (B) exclusive (C) federal question (D) concurrent
- A 17. Most courts have authority to decide only certain types of cases—like New York Court of Claims, which may only decide lawsuits seeking money damages from the State of New York and related entities. This type of authority to decide only certain types of cases is called \_\_\_ jurisdiction. (A) limited (B) concurrent (C) original (D) appellate
- G 18. New York Supreme Court is the only court in New York with jurisdiction to decide any type of case unless a statute or constitutional provision gives exclusive jurisdiction to another court. This is called \_\_\_ jurisdiction. (A) limited (B) exclusive (C) general (D) concurrent
- D 19. Prof. Williams, a NJ resident, wants to sue Prof. Coughlin, a NY resident, for negligent infliction of emotional distress under New York tort law, for the years Prof. Williams shared an office with Prof. Coughlin and had to listen to her terrible jokes. Prof. Williams will sue Prof. Coughlin for \$100,000. May Prof. Williams sue Prof. Coughlin in federal court?  
 (A) No, because the requirements for diversity jurisdiction are not satisfied. (B) Yes, because the federal court has exclusive jurisdiction. (C) Yes, because the federal court has federal question jurisdiction. (D) Yes, because the federal court has diversity jurisdiction.



- B** 20. In question 19, the \$100,000 Prof. Williams seeks is known as the: (A) federal question (B) amount in controversy (C) preponderance of evidence (D) reasonable doubt
- C** 21. Your client wants to contest (challenge) the last will and testament of her mother who recently died. You should commence the client's action in which New York court: (A) Family (B) Appellate (C) Surrogate's (D) Court of Claims
- D** 22. CPLR § 104 states that "[t]he civil practice law and rules shall be liberally construed to secure" what type(s) of "determination of every civil judicial proceeding"? (A) just (B) speedy (C) inexpensive (D) all of the above
- B** 23. New York's Long Arm Statute identifies circumstances in which a New York State court may:  
(A) require individuals who live in New York to obey a New York court's decision  
(B) require individuals who live outside New York to obey a NY court's decision  
(C) require individuals who live in New York to spend money in New York  
(D) prohibit individuals who live outside New York from defaming New Yorkers' character
- B** 24. Which section of the CPLR is New York's Long Arm Statute? (A) 104 (B) 302 (C) 602 (D) 3019
- B** 25. R. Kelly, a domiciliary of Chicago, Illinois, is sued in New York Supreme Court for the tort of sexual battery that he allegedly committed while visiting New York. May New York Supreme Court exercise personal jurisdiction over R. Kelly in this case? (A) Yes, under CPLR § 302(a)(1). (B) Yes, under CPLR § 302(a)(2). (C) Yes, under CPLR § 302(a)(3). (D) No.
- A** 26. (Questions 26-29 all refer to the case described in this question.) Your client, Tanya, is the tenant of a Queens apartment owned by Landlord Leon, who lives in Louisiana and has never been to New York. The apartment is in terrible disrepair. Tenant Tanya wants to sue Landlord Leon for failing to maintain a habitable dwelling, in violation of New York law. Tenant Tanya seeks \$15,000 in damages from Landlord Leon. In this case, Tenant Tanya will be the: (A) plaintiff (B) defendant
- B** 27. In the case described in question 26, Landlord Leon will be the: (A) plaintiff (B) defendant (C) judge (D) jury
- E** 28. In the case described in question 26, What court(s) have subject matter jurisdiction over Tenant Tanya's claim against Landlord Leon? (A) New York Supreme Court (B) NYC Civil Court (C) U.S. District Court (D) U.S. Supreme Court (E) A & B only
- D** 29. In the case described in question 26, may a New York court exercise personal jurisdiction over Landlord Leon?  
(A) No, because Leon lives in Hawaii.  
(B) No, because that would violate Leon's right to due process under the U.S. Constitution.  
(C) Yes, because a New York trial court can do anything it wants.  
(D) Yes, because Leon owns real property within New York (the apartment where Tanya lives), and Tanya's cause of action against Leon arises from Leon's ownership of that real property.
- B** 30. Select choice B. (This is not a trick question.)

**SHORT ESSAY!** (10 points)

You tell your friend, a student in City Tech's Mechanical Engineering program, that you are taking this course. Your friend asks, "What does "civil law and procedure" mean?!" Explain it to her in one or more paragraphs of complete sentences, with correct grammar and spelling. Your response should address, for example, what "civil law" is, what "civil procedure" is, how civil law differs from criminal law, the full name (and abbreviation) of the set of rules that govern civil procedure, and other information that might be helpful.

**BONUS!** (2 points each – ONLY IF you answer all other questions!):

A. Name something(s) you like about how this course is going so far.

B. Name something(s) you'd like to change about this course, or suggestion(s) you have.

\*\*For both of these questions, you might want to address how online class sessions are run, or types of assignments, or how you submit assignments, or subjects we cover, or our OpenLab or Blackboard sites, or anything at all! THANK YOU!! Your input is helpful. ☺

***END OF EXAM!!***

