**Chapter 1: U.S. Law and Legal System**

**The basic legal information covered in Chapter 1 is essential to understand the legal cases and other content covered in the remaining chapters.**

Review the learning objectives listed on page 3 in the text. After reading this chapter, complete the following study questions. **Instructions:** **Click on the shaded box provided - then type in your answer.**

**Study Questions**

1. The       became the supreme law of the land in 1787. List its three primary outcomes.

 (1)

 (2)

 (3)

1. List the three branches of the U.S. government and the type of law that each creates.

 (1)

 (2)

 (3)

1. States also have a constitution and the same three branches of government. State and federal legislators make laws called       whereas local governments such as counties and cities make laws called       .
2. Numerous administrative agencies exist at the federal, state, and local levels. List three of their major powers.

 1.

 2.

 3.

1. U.S. common law (case law) is often referred to as judge-made law. When a judge(s) writes the reasons for his/her opinions or rulings, it is referred to as a      . These opinions can create       or law that similar future cases may have to follow, also referred to as       -- a term that means “it stands decided.”
2. Defendants in civil cases may be found       for certain conduct (e.g., harming another

 through negligence) but defendants in criminal cases are found       if a judge or jury

 determines they violated a statute.

1. **True or False:** Place a T or F in the space provided.

       A) Primary sources of law include federal and state constitutions, statutes, administrative rules and regulations, and court decisions.

       B) Jurisdiction refers to the geographic area in which a court has authority and the types of cases it has the power to hear.

       C) Sovereign immunity applies to private law.

       D) Procedural law creates, defines, and regulates the duties of parties and includes tort, contract, and employment law.

       E) Both criminal and civil law cases involve plaintiffs and defendants.

       F) The standard of proof in a civil lawsuit is “beyond a reasonable doubt”.

       G) At the federal level, there are 94 district (or trial) courts.

       H) The U.S. Supreme Court receives thousands of petitions for a writ of certiorari

 each year and grants and hears all of them.

       I) Appellate courts carry out the initial proceedings in legal cases.

       J) Juries make the decisions in appellate courts.

       K) Appellate courts are always made up of an odd number of judges.

       L) There are 20 U.S. Courts of Appeal.

1. List the three levels of courts within the federal and state court systems.

 (1)

 (2)

 (3)

1. The purposes of trial court proceedings are to (a) determine the facts of dispute, (b) determine what rules of law should be applied to the facts, and (c)      .
2. Describe the major functions of appellate courts.
3. To understand many of the cases in this textbook, readers will need to understand what is meant by “summary judgment.” Describe this procedure.
4. Tort liability involves three levels of fault. List these three levels and give an example of each.

 (1)

 (2)

 (3)

1. **True or False:** Place a T or F in the space provided**.**

       A) Invasion of privacy and defamation are examples of intentional torts.

       B) Intentional torts can only lead to civil actions.

       C) Breach of duty is an act that reflects negligent omission (failure to perform) or commission (improper performance).

       D) To determine factual cause, courts will first use the “substantial factor” test.

       E) Compensatory damages (actual damages) only cover non-economic

 losses such as pain and suffering and loss of consortium.

       F) Punitive damages (exemplary damages) can be awarded to plaintiffs

 when a court finds the defendant(s) liable for ordinary negligence.

       G) Most states have adopted a comparative fault system in which damages are based on the percentages of fault (or negligence) of each party.

       H) Under the doctrine of contributory negligence, if a plaintiff is even 1% negligent, he/she could not recover any damages.

       I) In negligence cases, published standards of practice are often introduced via expert witness testimony to help the court determine the duty the defendant owed to the plaintiff.

       J) Exercise professionals who lack “practical skills” may be more likely to breach their legal duties than exercise professionals who have developed practical skills.

1. Describe the distinction between **ordinary negligence** and **gross negligence**.

1. Negligence lawsuits are common in the exercise profession. List and describe the four elements that the plaintiff must prove by the preponderance of the evidence (more likely than not) in a negligence lawsuit.

 (1)

 (2)

 (3)

 (4)

1. Describe what is meant by “standard of care” and its legal implications.
2. Defendants have several “legal” defenses they can use to help refute negligence claims made against them -- briefly described in Chapter 1. Questions related to the assumption of risk and waivers (releases of liability) defenses are included in the Chapter 4 study questions. Describe how the following defenses can be used by fitness managers and exercise professionals.
3. Comparative negligence
4. Statutes of limitations
5. Sovereign or governmental immunity
6. Eight defenses were described in Chapter 1 (pp. 23-24) that are ineffective “legal”

 defenses to negligence. Explain how “misunderstanding of the law” is, perhaps, the basis

 of all of them.

1. First, define **strict liability** and then briefly describe (a) product liability, (b) workers’

 compensation, and (c) vicarious liability.

 **Strict liability**

 (a) Product liability

 (b) Workers’ compensation

 (c)Vicarious liability

1. A **contract** is defined as      . A **breach of contract** occurs when      .
2. As presented in Table 1-6 (p. 28), all types of contracts are used in fitness facilities and programs. List and describe the four essential elements necessary for a contract to be valid.

 (1)

 (2)

 (3)

 (4)

1. Certain contracts must be in writing to meet the “legality” requirement, (e.g., purchasing exercise equipment over $500) under the      . Contracts that involve the sale and/or purchase of goods (e.g., exercise equipment) may be governed by specifications set forth in the      .

**Note:** An overview of employment law was provided in this chapter with several employment laws briefly described. Study questions related to these laws are covered in Chapter 3 and Chapter 5.

1. Describe how workers’ compensation benefits both employers and employees.       Then, briefly describe the relevant issues applicable to fitness managers and exercise professionals in the *Price* and *Jones* cases.

 ***Price***

 ***Jones***

 **Note:** There are many“spotlight cases” described throughout this textbook. Please review the “case brief” format used to describe these cases, described on p. 34 (Facts, Issue(s), Court’s Ruling, and Court’s Reasoning).

1. As shown in Figure 1-9 (p. 25), this textbook was designed to cover **what, why,** and **how**. Explain how learning not just the “what” – but also the why and how is essential for fitness managers and exercise professionals to comply with the law.

**Continue to next page for final question, #25**

25. **Matching**: Indicate the correct response in the space provided from the list of terms below.

      A contract that is missing one or more of four essential elements necessary for it to be

 valid.

      A contract that violates a statute or is against public policy.

      A resource considered a secondary source of law.

      Part of the law that creates, defines, and regulates the duties of the parties in any case.

      Part of the law that prescribes methods and rules for processing cases through the court

 system.

      An injured fitness participant who files a negligence lawsuit against the fitness facility.

      The exercise professional and/or the fitness facility that the plaintiff is suing in a negligence lawsuit.

      Body of law that deals with crimes against society (e.g., conduct that violates federal and

 state statutes).

      Body of law that addresses disputes between individuals, organizations, businesses and

 governmental agencies.

      A document that the plaintiff’s lawyer files with the court to initiate a civil lawsuit.

      A document, commonly delivered by a court officer, which informs defendants that a

 lawsuit has been filed against them.

      An often lengthy phase in a civil lawsuit that involves interrogatories, depositions, and

 motions to produce evidence.

      The judge or the jury.

      Individuals that educate the triers of fact, via testimony, as to whether or not the defendant

 met a certain standard of care.

1. Procedural Law H. Plaintiff
2. Unenforceable I. Complaint
3. Civil Law J. Voidable
4. Criminal Law K. Substantive Law
5. Defendant L. Summons
6. Discovery M. Triers of Fact
7. Expert Witnesses N. *Restatement of the Law Third, Torts*