

MIDTERM EXAM
3 Hours

This examination covers “Introduction to Forms of Business Entities” through “Duty of Care” (Chapters 1-10).

There are two parts to this exam, both worth 50 points. Please use your time accordingly. This examination will test your knowledge of the materials that we covered in class. Please answer each question concisely. Please use headings, underline issues and rules, as this will help you organize your thoughts, spot and frame the legal issues, and present the rules and doctrines clearly. Try to answer all questions with complete sentences. Do not use abbreviations, other than those commonly used for each business organization (like LLP). Answer all questions presented. If you cannot answer a question completely, answer as best you can. Partial answers will be given partial credit.

Good luck!

PART I (50 POINTS)

In 2005, Greg Jones and Melinda Smith, college friends from college, met each other again at North Bay college reunion at the Downtown Hotel in Santa Rosa. While catching up on what they had been doing since college, they started talking about wanting to get out of their current jobs and start a new business. They were both excited about this new idea and talked about working together. Greg would bring his business relations and networking skills to secure new contracts (book tours), and Melinda would design promotional materials for high-end Sonoma County travel experiences, with wine tasting, horse back riding, balloon rides, biking, zip-lining and more, package the tours, and lead them. They want to call the business Sonoma Escapes. Melinda has a day-time job, as does Greg, so neither of them to draw salaries. They can each only contribute \$5,000 in cash for now, to pay for ads, creating a website, social media sites, etc.

Bert Howell, who is a business partner at the Sonoma County Airport, is a family friend of Melinda's parents. Melinda mentioned Sonoma Escapes to him over coffee at a family dinner with her parents one week later, and when Bert heard of the project, he offered to let Greg and Melinda use an office space he owns at the airport. Here, they can (1) greet clients flying in to Sonoma County on commercial or private planes, and (2) be close to travelling themselves, as they reach out to other areas to attract business. Greg and Melinda will not have

to pay rent, but in exchange for free rent, Bert would like to have some interest in the new business. Greg and Melinda plan to have collaborative agreements with the Sonoma Tourist Agency, local chambers, hotels, restaurants and wineries in Sonoma. If Sonoma Escapes is successful, Greg and Melinda want to be able to quit their day jobs, and draw a salary from Sonoma Escapes.

Bert has approached you, and asked you to prepare a Memorandum (Memo), in preparation for a meeting with all of them, to discuss how to process. Bert is specific in what he wants your Memo to address:

- 1. Please list the six (or more) issues you should address with Greg, Melinda and Bert (and/or ask yourself, as their lawyer) in determining which business organization form to recommend to them.**
- 2. Please list what are some of the Business Organizations in the United States that Greg, Melinda and Bert can choose from.**
- 3. List some factors for them to consider in choosing what type of business organization to conduct business as. (Please list the drawbacks and benefits of each business organization listed above).**
- 4. What are two ways in which Bert (an investor) can receive a return on his investment?**

After you meet with them, Greg, Melinda and Bert enter into a Partnership Agreement that you draft for them, and Melinda and Greg proceed with their tasks, using Bert's space. After six months, Melinda comes to your office,

because she happened to heard from a childhood friend who is an avid bicyclist that Bert received \$3,000 from *Sonoma Bike Monkey Tours* in Windsor, to book tours for bike enthusiasts. She is appalled as Bert did not mention this to her, nor share that money with Melinda. Melinda is asking you if Bert is allowed to do that, as it seems “sneaky” to her, so she asks you if she has any legal footing to confront Bert about this issue and ask for part of the money.

- 5. Please name the legal doctrine that can help Melinda, define it, and also list the three *subsidiary obligations* are under that doctrine (that is, give examples of behavior that violates that duty).**

PART II (50 POINTS)

1. Define the term LIMITED LIABILITY.
2. What is meant by PIERCING THE CORPORATE VEIL? And list as many factors you can that are considered in deciding whether to “pierce the corporate veil.”
3. What is the difference between a limited partnership and a limited liability partnership?
4. What are the circumstances for a Principal being liable for an Agent’s TORT?
5. Define the DUTY OF LOYALTY.
6. List at least four forms of Corporations. If there are sub categories of any of those, please list those too. Examples of each type will also give you points.
7. What is the BUSINESS JUDGMENT RULE?
8. What is a JOINT VENTURE? Is it similar to another business organization form?
9. May an Attorney settle a case without his or her client’s approval?
10. What is the “Double Taxation Scheme” and what is “Pass-Through Taxation”?

END OF EXAMINATION