

Each item is worth the number of points as indicated. (total = 80 pts)

Write on your exam paper. **Use only blue or black ink.**

Scene: The Town of Collinsport, in the State of Frid, United States of America

Part One: 10 points (5 items, up to 2 points each)

Walter and Lorna are next-door neighbors who hate each other for reasons unknown. They have had many petty disputes over the years. One day, Lorna decides she has had enough, and tells her lawyer, Quentin, that she wants to sue Walter “for everything he’s got,” because of “the rotten way he has treated me for so long.” Since the State of Frid retains the traditional common law forms of action, Quentin asks Lorna for some specifics.

First, Lorna says that Walter kidnapped her cat, Caitlyn, and refused for a week to return her, despite repeated requests. Quentin says this might be the basis of the following forms of action:

Next, Lorna says that while Caitlyn was in Walter’s possession, Walter repeatedly insulted Caitlyn and threatened to shave her head into a mohawk. Lorna says this conduct upset Caitlyn very much, and so she (Lorna) wants to bring an action for *quantum valebant*. Quentin says this form of action would not be appropriate, because it applies only for the following purpose:

Next, Lorna says that Walter’s insults and threats to Caitlyn justify an action for ejectment, because Caitlyn was so upset that her digestive system still has not recovered, and because she (Caitlyn) is still anxious and depressed as a result. Quentin says this form of action would not be appropriate, because it applies only for the following purpose:

Lorna then says that before returning Caitlyn, Walter damaged Caitlyn’s faux-vinyl collar by carving his initials in it, and he now refuses to pay for any repair. Quentin says this might be the basis of a form of action for _____, because:

Part Two: 14 points (7 items, 2 points each)

Lorna insists that she must be able to recover “something” from Walter based on his horrible conduct toward Caitlyn. She wants Quentin to file an action in the highest court of the land, called the United States _____ Court. She also wants to “force” that Court to hear the case. Quentin explains that this is not possible, because the Court has discretionary control over its own _____.

Lorna then says she wants to sue in the local federal trial court of general jurisdiction, called the _____ Court. Quentin says it would make more sense to file in state court, because the claim did not _____ federal law. Lorna insists that she has a Constitutional right to bring the action in federal court; but Quentin explains that federal jurisdiction is a creation of _____, not the Constitution.

Lorna then says that she should at least be able to file in a court of _____, because she wants a detailed written report of the proceedings. The State of Frid follows the same court naming conventions as the state

of New York, so such an action would be filed in the Frid
_____ Court.

Part Three: 32 points (16 items, 2 points each)

Quentin thinks the harm done to Caitlyn’s collar (by Walter’s carving his initials in it) is the most likely basis for an action against Walter. He explains Lorna’s options as to remedies, as follows: If she wants Walter to pay for the reduction in the value of the collar, she will bring a _____ action for _____ . In such an action, the parties would be entitled to a _____ trial. On the other hand, if Lorna wants Walter to somehow repair the collar, she will bring an action in _____ .

Lorna and Quentin then discuss the value of Caitlyn’s collar. Lorna, who fancies herself an excellent amateur lawyer, says that Quentin should rely on *Jeremiah v. Naomi*, a case from the high court of Frid. There, plaintiff Jeremiah’s land and buildings and faux-vinyl three-piece leisure suit were destroyed by a fire set by defendant Naomi, and the value of all of Jeremiah’s property was determined by applying a complicated mathematical formula.

Quentin explains that the *Jeremiah* formula is not appropriate, for several reasons. First, since *Jeremiah* involved not only a leisure suit but also land and buildings, that case is not “on _____”; that is, *Jeremiah* is

_____ from this case on one or more
_____. Therefore, *Jeremiah* is not
_____ for this case. Second, the *Jeremiah* formula is not
authoritative because it is not part of the _____ of the case,
but merely _____. Third, it so happens that just this morning,
the Frid State Legislature enacted Statute No. 27-1966, which is part of the Frid General
_____, and which apparently overrules *Jeremiah*. In this regard, Quentin
emphasizes that _____ law is generally more authoritative
than any prior inconsistent _____. In response, Lorna
argues that the Statute does not apply, because it was enacted after her claim arose,
and there is no indication that the Legislature intended the Statute to operate
_____, instead of
_____. But even if the trial court is not required to
follow *Jeremiah*, that case still might be _____ authority.

Part Four: 24 points (12 items, 2 points each)

Lorna still thinks she should be able to recover for Walter's upsetting Caitlyn. She
scours the case law and finds *Bramwell v. Cassandra*, a case recently decided by the
high court of Frid. There, the court held that plaintiff Bramwell's claim for chronic
headaches could be made against his neighbor Cassandra, who hosted noisy all-night
parties.

Lorna says that Quentin could persuade the court to apply _____ legal reasoning, because *Bramwell* provides a rule of law that clearly covers the facts of this case. But Quentin argues that the court would not use _____ logic in this way, because (1) *Bramwell* suffered from chronic headaches, whereas Caitlyn has ongoing indigestion and anxiety and depression; and (2) there is no claim here that Walter was too noisy. Therefore, *Bramwell* is _____ on at least these two _____.

As to Lorna's claim that Caitlyn is "anxious and depressed," she wants to rely on Frid Statute No. 71-1245, a law concerning the mental health of pets, and entitled "Keep Our Pets Ecstatic" ("KOPE"). Lorna has found several cases from other states, construing various statutes with (arguably) similar language to that of KOPE. Lorna argues that the court should apply _____ legal reasoning to distill a pertinent rule or principle from those cases, to the effect that KOPE provides her a private right of action to compensate her for Caitlyn's mental distress. Quentin is not convinced. Alternatively, Lorna argues that the court should apply reasoning by _____, to conclude that KOPE should be _____ to this situation; that is, even if the express language of KOPE does not seem to cover our facts, nonetheless the situation should be deemed to be within the purview of the _____ underlying KOPE.

Quentin remains skeptical about the applicability of KOPE. Annoyed by his obtuseness, Lorna changes tactics: She argues that this case involves a novel problem for which

there is no suitable rule or principle; and so the court should be urged to use _____ legal reasoning, based on all available “plausible and reasonable” arguments that Quentin can offer. She thinks that all the legislative materials and other sources of extraneous information should be used to “give effect to the true purpose” of KOPE.

Quentin feels that Lorna is getting too far afield. More important, he is getting tired of this silly case. So he reminds Lorna that when considering a statute, the least complicated approach can be the best, and says that he would rather not use the _____ approach. Specifically, he does not want to resort to legislative history or other _____ aids to statutory interpretation; instead, he wants to rely solely on _____ aids, i.e., principles based on study of the statutory language itself. So he wants Lorna to review the actual text of KOPE more closely. To “help” her, Quentin refers her to a host of Latin maxims, including expression *unius est exclusion alterius*, *noscitur a sociis*, *ejusdem generis*, and *in pari materia*. The effort proves to be too much for her, and she is never heard from again.