

Each item is worth the number of points as indicated. (total = 80 pts)
Write on your exam paper. **Use only blue or black ink.**

Part One: 5 points

Wendall and Larry are discussing the history and general principles of Anglo-American law. First, Wendall asserts that Prof. Maitland expressed the essence of the common law basis for modern American law by stating, “The forms of action we have buried, but they rule us from their graves.” This statement means:

Part Two: 10 points (5 items, 2 points each)

To illustrate the chief forms of action at common law, Wendall relates several factual scenarios, and challenges Larry to determine the form(s) of action that would arise under each scenario:

Scenario 1: A lends a camera to B for a week. B damages the camera and then returns it to A, refusing to pay for any repair. This situation gives rise to the following form(s) of action:

Scenario 2: A and B enter into a written contract under seal, whereby B promises to do specified renovation work on A’s house. B fails to do the work. Assuming the damages are unliquidated, this situation gives rise to the following form(s) of action:

Scenario 3: B enters A’s land without permission and refuses to leave, claiming title to the land. This situation gives rise to the following form(s) of action:

Scenario 4: A and B enter into an agreement whereby B is to perform certain services for A, but without any agreement as to the amount of compensation. B performs the services under circumstances in which payment normally would be expected, but A fails to pay B. This situation gives rise to the following form(s) of action:

Scenario 5: A walks up to B, punches B in the face, takes B’s wallet, and runs away. This situation gives rise to the following form(s) of action:

Part Three: 28 points (14 items, 2 points each)

Next, Wendall and Larry discuss the American court system. Wendall thinks all the states should follow the naming conventions of the federal courts, i.e., every trial court should be called the _____; every intermediate appellate court should be called the _____; and the high court should be called the _____.

Wendall also finds it interesting that the high court in the federal system is not required to take every case presented to it, but instead determines its own _____. If that court decides to consider a case, it issues a writ of _____.

Wendall mentions that he wants to sue Jeremiah in California next month, and is annoyed that he has to learn the naming conventions of the California state court system. Larry first explains that if the amount that Wendall wants to sue for is very small, he may not be able to sue in a court of _____, i.e., a court that makes a detailed written account of the proceedings; instead, he probably will have to sue in the _____ court.

Otherwise, the normal naming conventions of the California courts are as follows: The trial court is called the _____; the intermediate appellate court is called the _____; and the high court is called the _____.

Wendall then says that regardless of what happens between himself and Jeremiah in the upcoming California litigation, he is planning to move from California to New York soon, and will have to learn the naming conventions of that state's court system as well. So Larry explains the naming conventions of the New York state courts as follows: The trial court is called the _____; the intermediate appellate court is called the _____ of the _____; and the high court is called the _____.

Part Four: 16 points (8 items, 2 points each)

The discussion now turns to the basic structure of American government. Wendall is confused about the branches of government, and how they relate to one another. Larry explains that unlike in the fictional *Case of the Speluncean Explorers*, the three branches of American government – the _____, the _____, and the _____ branches – are co-equal, with each having its own sphere of authority. The principle of keeping their respective functions distinctly within each sphere of authority is called _____ . For example, the making of new law by means of a formal pronouncement is the basic function of the _____ branch. This form of law is known as statutory law, or _____ law. Case law originates in the _____ branch. This branch also is charged with statutory construction, which means statutory _____ .

Part Five: 21 points (3 items, 7 points each)

Wendall wants more information about how statutory construction operates. Larry identifies and explains the three fundamental approaches to statutory construction as follows:

Approach 1:

Approach 2:

Approach 3:
