***The Legal Environment of Business***

**Critical Thinking and Legal Reasoning**

1) Critical thinking skills can best be defined as

A) the ability to understand what someone is saying and then to apply evaluative criteria to assess the quality of the reasoning offered to support the conclusion.

B) the ability to demonstrate your superiority to others.

C) the ability to paraphrase and criticize others.

D) All of the above.

Answer: A

2) What is the best context in which to develop critical thinking skills?

A) through on the job training

B) through the study of laws that affect business

C) through the study of business

D) through the study of law

Answer: B

3) Which of the following BEST illustrates the use of critical thinking skills by a lawyer?

A) A lawyer raises a courtroom objection when her opponent engages in critical commentary about an opponent without prior permission of the judge.

B) A lawyer develops a closing argument using visual aids likely to impress a jury comprised of ordinary citizens.

C) A lawyer approaches a difficult problem by gathering all relevant facts, determining the real issue in dispute, and applying reason to reach a conclusion.

D) A lawyer scientifically analyzes the handwriting of a defense witness to determine the potential for bias.

Answer: C

4) How does law initially develop?

A) As a result of statutes enacted by a legislature.

B) As a result of years of judicial decisions.

C) As a result of arguments between various parties.

D) None of the above.

Answer: C

5) Which of the following is not an issue with which we are concerned in this Legal Environment of Business course?

A) Under the National Labor Relations Act, when are union organizers permitted to enter an employer's property?

B) Do petroleum firms have liability for the environmental and economic effects of oil spills?

C) Can a car be considered an occupied dwelling for purposes of convicted someone of committing a burglary?

D) Must a business fulfill a contract when the contract is made with an unlicensed contractor in a state requiring that all contractors be licensed?

Answer: C

6) Which of the following are situations you may face as a future business manager that have ethical considerations you must consider:

A) What are the boundaries of fair competition?

B) Whom should we hire?

C) What responsibilities do firms owe various stakeholders

D) All of the above.

Answer: D

7) Which of the following is the best example of a conclusion or rule of law:

A) Non-union organizers cannot enter the premises of an employer at will

B) Are nuclear power plants liable for any radioactive emissions?

C) Does a homeowner have to pay an unlicensed contractor?

D) All of the above are examples of conclusions.

Answer: A

8) Of the following, which is most true about conclusions?

A) They are key to deciding future decisions and cases

B) They resolve the current situation but should not be applied to other situations because no two situations are ever exactly the same.

C) They are usually based on personal experience and emotions.

D) None of the above are true

Answer: A

9) All of the following are examples of legally relevant facts in the *US v. Martha Stewart and Peter Bacanovic* case EXCEPT which one?

A) Perjury by a witness can be grounds for a new trial

B) Stewart and Bacanovic would have been convicted even without the perjured testimony

C) Stewart and Bacanovic were convicted of conspiracy, making false statements and obstruction of an agency proceeding

D) ImClone announced that the FDA had rejected its new cancer treatment drug

Answer: B

10) Which of the following legal terms is the best example of ambiguity in the *US v Martha Stewart and Peter Bacanovic* case?

A) Perjury

B) Burden of proof

C) Reasonable likelihood

D) Conspiracy

Answer: C

11) A judge who refuses to declare a contract unenforceable because one party alleges that enforcing the contract would cause them significant financial loss is most likely following which ethical norm?

A) Stability/Security

B) Justice

C) Freedom

D) Efficiency

Answer: A

12) In a case for damages caused to Bob when Billy allegedly ran Bob over while Bob was crossing the street, all but which of the following would likely be relevant information to deciding the case?

A) Was Bob walking within the lines of the crosswalk?

B) What color was the light when Billy entered the intersection?

C) Was Billy driving an American or Japanese vehicle?

D) What was the weather like at the time the collision occurred?

Answer: C

13) Which of the following is the best example of an appropriate legal analogy to a case deciding whether the law protects a homosexual male from being sexually harassed by a heterosexual male coworker?

A) A case precedent that finds the law protects heterosexuals from gender discrimination in the workplace.

B) A case precedent that finds the law protects heterosexual males from being harassed by heterosexual females in the workplace.

C) A case precedent that finds the law protects homosexuals of either gender from being harassed by heterosexual supervisors of either gender.

D) A case precedent that finds the law does not protect homosexuals from harassment during off duty hours.

Answer: C

14) If a court rules that a town government can condemn private homes so that the homes can be torn down and the land used by local developers to build offices, restaurants and stores which will increase the tax revenues of the town, the judge in the case is likely following which ethical norm?

A) Freedom

B) Security/Stability

C) Justice

D) Efficiency

Answer: D

15) Once you identify a judge's conclusion in a case, what should you do?

A) Remember it as a guide for future business decision making.

B) Make a judgment about its quality.

C) Both A and B.

D) None of the above.

Answer: C

Topic: A Critical Thinking Model

16) Which is the most accurate statement about critical thinking?

A) There are different forms of critical thinking, but all share a focus on evaluating the quality of someone's reasoning.

B) There are wide differences between the many forms of critical reasoning, and each form bears little or no relationship to the other.

C) The highest forms of critical reasoning are those based on mathematical models developed in the 17th Century.

D) The notion that there are many forms of critical reasoning is a myth. There is really only one way to apply critical reasoning.

Answer: A

17) Which of the following BEST illustrates a "conclusion"?

A) The opening argument delivered by the defendant's lawyer to the jury.

B) The most important evidence offered by an eyewitness.

C) The action of a lawyer in objecting to unconvincing testimony.

D) The judge's written decision in favor of the plaintiff or defendant at the end of a trial.

Answer: D

18) Which of the following BEST summarizes the four first steps to legal reasoning?

A) Understanding the client, preparing the legal paperwork, appearing in court, arguing the case.

B) Drafting the summons, drafting the complaint, preparing the answer, filing documents in court.

C) Finding the facts, determining the issue, reasoning to a conclusion, and applying the relevant rules of law.

D) Raising an objection, explaining the reasons for the objection, waiting for the judge's ruling, proceeding with the testimony

Answer: C

Topic: The Critical Thinking Model

19) Which of the following is NOT a question you should ask when you are reading cases to develop your critical thinking abilities?

A) What are the reasons and conclusion?

B) What are the facts?

C) What are the irrelevant missing pieces of information?

D) What ethical norms are fundamental to the court's reasoning?

Answer: C

Topic: A Critical Thinking Model

20) Which of the following types of facts are NOT important in the critical thinking process?

A) those that indicate certain events occurred.

B) those that indicate certain actions were or were not taken.

C) those that indicate how particular persons behaved or failed to behave.

D) those that have no bearing on the outcome of the case.

Answer: D

21) The facts in a legal decision are BEST described by which of the following?

A) Facts are the most basic building blocks in a legal decision and provide the environment or context in which the legal issue is to be resolved.

B) Facts are words we use to describe our reasons for reaching conclusions in a complex legal dispute.

C) Facts are the issues in the dispute, the bone of contention between two opposing litigants.

D) Facts are all the parties need to determine the ultimate outcome of a case.

Answer: A

22) Which of the following was NOT one of the facts upon which Judge Selya based his opinion in the case of United States of *America v. Martha Stewart and Peter Bacanovic*?

A) Defendant Stewart sold 3, 928 shares of Imclone stock on December 27,2001.

B) Expert witness Lawrence Stewart was accused of perjuring himself in the testimony he gave prior to the defendants' conviction.

C) Defendant Stewart was a very successful businesswoman.

D) According to a federal rule and case law, perjury of a witness could constitute grounds for a new trial.

Answer: C

23) Of the following, which is the BEST definition of a legal issue?

A) A legal issue is the ultimate reasoning behind a judge's final decision.

B) A legal issue is the set of facts by which the lawyers and their clients assist the judge in reaching a final decision.

C) A legal issue is the question that caused the lawyers and their clients to enter the legal system.

D) A legal issue is an ethical norm fundamental to the court's decision.

Answer: C

24) Which of the following is a correct statement about legal issues?

A) There is generally only one right way to word a legal issue, and it is essential for lawyers to discover the proper wording to get the result they desire

B) There is generally only one right way to word a legal issue, but lawyers generally wait for a judge's ruling on this point.

C) There are multiple ways to word a legal issue, but each variation must fulfill the definition of an issue in the factual situation of each individual case.

D) Lawyers never disagree about how an issue should be stated.

Answer: C

25) Which of the following was an issue considered by Judge Cedarbaum in the case of United States of *America v. Martha Stewart and Peter Bacanovic*?

A) In what instances may a court grant a new trial?

B) Does the perjury of a witness mean the defendants should have a new trial?

C) Do the regulations associated with Rule 33 and relevant case law permit the defendants to have a new trial?

D) All of the above were issues considered by the judge.

Answer: D

26) Which of the following best defines a conclusion?

A) the answer to the legal issue.

B) the ending to the case.

C) the outcome we think is fair and just in a particular instance.

D) the main issue presented in a legal argument.

Answer: A

27) Which of the following BEST states the conclusion reached by the federal district court in the case of United States of *America v. Martha Stewart and Peter Bacanovic*?

A) Only rarely should a judge grant a new trial when a witness commits perjury.

B) These defendants were entitled to a new trial because of witness perjury

C) Steward and Bacanovic were coconspirators and therefore entitled to a new trial.

D) Whenever a witness engages in perjury, a new trial should always be granted.

Answer: B

28) Which of the following was NOT an important aspect of the district court's reasoning in the case of *United States of America v. Martha Stewart and Peter Bacanovic*?

A) The defendants did not demonstrate that the government knew or should have known about the perjured testimony.

B) The jury would still have convicted the defendants apart from the perjured testimony.

C) Defense experts agreed with Lawrence about what was the "most critical aspects of his scientific analysis" were.

D) All of the above were important to the court's reasoning.

Answer: D

29) Which of the following is a true statement about statutes and rules of law?

A) They are never crystal clear, and judges often have room for interpretive flexibility in their reasoning.

B) They are drafted by judges, who are careful to ensure that each statute has only one clear meaning.

C) They are usually unconstitutional, and it is the job of judges to make this determination.

D) They tend to cloud a judge's reasoning, and should be avoided when reaching a decision.

Answer: A

30) What were the key ambiguous words or phrases in the case of *United States of America v. Martha Stewart and Peter Bacanovic*?

A) Perjury.

B) "If the interest of justice so requires."

C) Both A and B.

D) None of the above.

Answer: B

31) Other than the phrase "interest of justice" what is an example of ambiguity in the case of *United States of America v. Martha Stewart and Peter Bacanovic*?

A) There is no other significant ambiguity

B) Reasonable Likelihood

C) Misrepresentations

D) Substantial Basis

Answer: B

32) All of the following are true statements about ethical norms EXCEPT for which one?

A) Ethical norms are the collection of facts and issues that determine the outcome of a lawsuit.

B) Ethical norms are complex and subject to multiple interpretations.

C) Ethical norms include concepts like freedom, security/stability, justice, and efficiency.

D) To identify the importance of an ethical norm in a legal writing, one must examine the context to figure out which form of the ethical norm is being used.

Answer: A

33) Which of the following BEST characterizes Judge Cedarbaum's use of ethical norms in the case of *United States of America v. Martha Stewart and Peter Bacanovic*?

A) Judge Cedarbaum's decision was not influenced by ethical norms.

B) Judge Cedarbaum appeared to value the ethical norm of efficiency higher than the ethical norm of justice in reaching her decision.

C) Judge Cedarbaum cited the ethical norm of freedom in reaching her decision.

D) Judge Cedarbaum is a defender of the ethical norm of security/stability

Answer: D

34) Which of the following is a different form of the ethical norm of security/stability?

A) To provide the order in business relationships that permits predictable plans to be effective.

B) To be safe from those wishing to interfere with your property rights.

C) To achieve the psychological condition of self-confidence such that risks are welcomed.

D) All of the above.

Answer: D

35) If a judge's opinion suggests that the goal in a particular case is to minimize costs, what ethical norm applies?

A) freedom

B) efficiency

C) security/stability

D) justice

Answer: B

36) Which of the following statements about analogies is most accurate?

A) Lawyers and judges avoid analogies because they are too subjective.

B) Lawyers and judges avoid analogies because they obscure critical legal reasoning.

C) Lawyers and judges typically use analogies as substitutes for the facts of the case.

D) Lawyers and judges typically use analogies to compare the facts of legal precedents to the facts of the case at hand.

Answer: D

37) If a judge's opinion suggests that the goal in a particular case is to treat all humans identically, regardless of class, race, gender, age, etc., what ethical norm applies?

A) freedom

B) efficiency

C) security/stability

D) justice

Answer: D

38) In the case of *United States of America v. Martha Stewart and Peter Bacanovic*, Judge Cedarbaum relied upon which of the following precedents?

A) Judge Cedarbaum relied on a US Circuit Court of Appeals case, *United States v. Wachova*, that held that any admission of perjury requires a new trial.

B) Judge Cedarbaum relied on a US Circuit Court of Appeals case, *United States v. Wallach*, in which the court held that even if the prosecutor knew of perjury, as long as there was independent evidence to support the jury's verdict, a new trial is not required.

C) Judge Cedarbaum relied on a United States Supreme Court case, *United States v. Wallach*, in which the court held that even if the prosecutor knew of perjury, as long as there was independent evidence to support the jury's verdict, a new trial must be ordered.

D) Judge Cedarbaum did not rely on any precedents in this case because it was a case of first impression.

Answer: B

39) Which of the following explains when we should be comfortable with a particular analogy?

A) When the previous case is distinguishable from the present case.

B) When the previous case has exactly the same facts as the present case.

C) When the previous case has facts that are similar to those in the present case.

D) None of the above.

Answer: C

40) Which of the following explains why it is important to search for relevant missing information?

A) All information is relevant, even if the information is not discussed in the judge's final decision.

B) Missing information generally proves that one of the parties is trying to hide something.

C) If relevant information is missing, then subsequent reasoning may be faulty because it will not rest squarely on all relevant facts.

D) Ethical norms are generally based on relevant missing information.

Answer: C

41) In a case where one party failed to fulfill the terms of a contract, which of the following pieces of information is most likely to be irrelevant?

A) where the parties met to sign the contract

B) when the contract was signed

C) when the contract was to be fulfilled

D) who the parties to the contract are

Answer: A

42) Judge Cedarbaum decided in *United States of America v. Martha Stewart and Peter Bacanovic* that Rule 33 permits the court to grant a new trial if the "interest of justice so requires." Which of the following is NOT a way to interpret the phrase "interest of justice:"

A) the interest of justice entails strict conformity to legal precedents.

B) The interest of justice requires us to look away from legal precedents when following them would result in injustice.

C) Both A and B.

D) Neither A nor B.

Answer: C

43) Each of the following would constitute relevant missing information in the case of *United States of America v. Martha Stewart and Peter Bacanovic* EXCEPT for which one?

A) Anything in the legislative history of Rule 33 that would indicate Congress' intent with respect to the conditions under which a defendant should be granted a new trial.

B) Any cases with similar fact patterns where the court reached a different conclusion.

C) How much the judge knows about the factors the jury relied upon in its deliberations?

D) None of the above because all would be relevant.

Answer: D

44) Which of the following states the correct order of the first four critical thinking steps:

A) What are the facts?, What are the reasons and conclusions?, What are the relevant rules of law?, What is the issue?

B) What are the reasons and conclusions?, What are the facts?, What are the relevant rules of law?, What is the issue?

C) What are the facts?, What is the issue?, What are the reasons and conclusion?, What are the relevant rules of law?

D) What are the relevant rules of law?, What are the reasons and conclusion?, What is the issue?, What are the facts?

Answer: C

45) Which of the following state the correct order of the last four critical thinking steps:

A) Does the legal argument contain significant ambiguity?, What ethical norms are fundamental to the court's reasoning?, How appropriate are the legal analogies?, Is there relevant missing information?

B) What ethical norms are fundamental to the court's reasoning?, Does the legal argument contain significant ambiguity?, How appropriate are the legal analogies?, Is there relevant missing information?

C) Is there relevant missing information?, How appropriate are the legal analogies?, What ethical norms are fundamental to the court's reasoning?, Does the legal argument contain significant ambiguity?

D) None of the above.

Answer: A

46) Which of the following best states the purpose of the two parts of the critical thinking process?

A) There are not two parts to the critical thinking process.

B) The first four steps are the critical thinking steps and the last four steps are the foundational steps.

C) The first four steps are the foundational steps and the last four steps are the critical thinking steps.

D) All eight steps are critical thinking steps

Answer: C

Topic: A Critical Thinking Model

47) Which of the following statements about a legal issue is most accurate?

A) The legal issue is determined by the judge based on the conclusion the judge hopes to reach.

B) Whether an issue is phrased in broad or narrow language has major implications on the scope of the impact of the final decision reached by the court.

C) Forming the legal issue is a minor feature of critical legal reasoning, and takes its place of importance behind the formation of ethical norms and rules of law.

D) The legal issue should be based on relevant missing information.

Answer: B

48) Which critical thinking step would require careful consideration of the phrase "traditional notions of fair play and substantial justice" if that phrase were used in a case analysis?

A) What are the facts?

B) What are the reasons and conclusions?

C) What are the relevant rules of law?

D) Does the legal argument contain significant ambiguity?

Answer: D

49) Which of the following statements is true about finding a legal conclusion?

A) Legal conclusions should generally be found before relevant information is determined.

B) Legal conclusions should be based on analogies and ethical norms rather than statutes, whenever possible.

C) To find a legal conclusion, the issue can be used as a helper.

D) To find a legal conclusion, one should begin with an analogy to justice and freedom.

Answer: C

50) From what source do we determine the relevant rules of law?

A) a legal dictionary

B) Wikipedia

C) relevant legal precedents

D) the opinions and values of the judge

Answer: C

51) Which of the following best describes the risk associated with ambiguity in legal reasoning?

A) Ambiguity adds flexibility to the court's decisions.

B) Ambiguity frustrates those who have to read the reasoning.

C) The precedent will be ignored because nobody wants to deal with the ambiguity.

D) The meaning of the precedent can change depending on the interpretation given to the court's decision by other courts and attorneys.

Answer: D

52) Which of the following is the most complete definition of an analogy:

A) Comparing one thing to another.

B) A verbal device for transferring meaning from something we understand quite well to something we have just discovered and have, as yet, not understood satisfactorily.

C) Deciding a case based on a previous case.

D) None of the above.

Answer: B

53) Which of the following is the best example of the conclusion in an employment discrimination case?

A) The employee was terminated.

B) The employee worked for the company for 2 years.

C) The employee did an interview for a local newspaper supporting a particular political candidate.

D) The employee was a victim of employment discrimination and is entitled to a damage award of $50,000.

Answer: D

54) Which of the critical thinking steps is the most important in the process of legal reasoning?

A) careful consideration of the issue

B) careful consideration of the reasons

C) careful consideration of the conclusion

D) careful consideration of the facts

Answer: A

55) Which of the following statements BEST explains the reason why legal arguments often contain significant ambiguity?

A) Legal arguments are expressed in words, and words rarely have the clarity we presume.

B) Lawyers purposely distort the facts of each case in order to assist their clients in appearing favorable before a jury.

C) Ambiguity is an important goal of critical thinking.

D) Judges choose ambiguous statutes and precedents in order to reach proper and flexible rules of law.

Answer: A

56) Which of the following are potential methods someone could use to reach a conclusion about a particular issue?

A) listening to voices in the night

B) asking friends and relatives

C) playing hunches

D) all of the above.

Answer: D

57) Which of the following illustrates Emerson's observation that "to be understood is a rare luxury"?

A) The phrase "public safety" is clearly understood, because everyone knows the meaning of both words.

B) The phrase "public safety" is rarely used, because the concept of security is an ethical norm.

C) The phrase "public safety" represents an ethical norm that is a rare luxury, because the public rarely feels safe.

D) The phrase "public safety" seems clear at first glance, but as we continue to ponder its various interpretations, we realize it is not so clear.

Answer: D

58) Each of the following could be described as a primary ethical norm EXCEPT for which one?

A) Freedom

B) Convenience

C) Efficiency

D) Justice

Answer: B

59) Which of the following is a true statement about our legal system?

A) It is based on certain unchanging laws, which have been handed down from Great Britain and carefully guarded.

B) It is based solely on the primary ethical norm of freedom, which cannot be subordinated to other norms.

C) It is based on statutes, which must be interpreted by legal scholars, who then impart their wisdom to judges and lawyers.

D) It has evolved over the centuries through previous case decisions.

Answer: D

60) Which of the following BEST describes the relationship between an analogy and the use of a legal precedent by a lawyer?

A) The lawyer uses an analogy to persuade the court that the facts in this case are similar to the facts given in a favorable precedent.

B) The lawyer attempts to convince the court that justice is a more important ethical norm than the analogous ethical norm of freedom.

C) The lawyer is attempting to convince the court to establish a legal precedent in this case by rephrasing the legal issue.

D) The lawyer draws an analogy between an ethical norm and an ambiguous statement.

Answer: A

61) Each of the following explains why relevant facts are often missing from written legal decisions EXCEPT for which one?

A) People often see what they want to see and remember only those facts which fit their own experience and perceptions.

B) No one ever gives a complete version of the facts.

C) At some point we have to stop gathering information and settle the dispute.

D) All of the above are reasons why relevant facts are often missing

Answer: D

62) An attorney hires a private investigator to question all eyewitnesses to a traffic accident. She decides not to engage in legal research until she sees the private investigator's report. Which of the following BEST characterizes what the attorney is doing?

A) The attorney is gathering facts.

B) The attorney is researching the relevant rules of law.

C) The attorney is crafting a legal analogy.

D) The attorney is reasoning to the final conclusion.

Answer: A

63) In a case concerning an alleged breach of contract, which of the following is NOT a relevant rule of law that might be used to justify the court's decision in the case?

A) Previous case decisions handed down by other courts in similar cases

B) The statutes related to contract law in the jurisdiction where the case is being decided

C) The arguments made by each side for why the court should find for them instead of the other side

D) All of the above are relevant rules of law

Answer: C

64) Which of the following is NOT an example of a legal issue?

A) Can a city limit the placement of billboards advertising beer to sections of the city where children are not commonly present without violating the First Amendment?

B) Is a magazine that prints an advertisement for a "mercenary for hire" be held liable for a murder that is committed at the request of an individual who hired the "mercenary" in response to the advertisement?

C) Does Title VII protect individuals who are refused employment because they cannot speak English?

D) All of the above are examples of legal issues.

Answer: D

65) A lobbyist is attempting to persuade a member of Congress that the federal minimum wage laws need to be amended. The member of Congress asks the Congressional Budget Office to estimate the impact of the amendment on the nation's economy. Which of the following BEST characterizes what the member of Congress is doing?

A) The member of Congress is gathering facts.

B) The member of Congress is determining the relevant rules of law.

C) The member of Congress is weighing two conflicting ethical norms.

D) The member of Congress is defining the issue.

Answer: A

66) A labor union negotiator insists that all union members be paid according to a standard schedule to ensure fairness; however, the management negotiator argues that a standard schedule would tie the hands of management and reduce operating profits. Which of the following BEST characterizes this dispute?

A) The two negotiators disagree about which facts are relevant.

B) The two negotiators do not understand the issue of the case.

C) The two negotiators disagree about the relative priority of ethical norms.

D) The two negotiators are attempting to determine the relevant rules of law.

Answer: C

67) John and Sue signed a contract on January 1, 2011. The contract required Sue to deliver goods to John on January 20, 2011. Sue failed to deliver the goods. John sued and the judge held that Sue breached the contract and as a result John was entitled to damages. Which of the following is the conclusion in the hypothetical:

A) John and Sue signed a contract on January 1, 2011.

B) The contract required Sue to deliver goods to John on January 20, 2011.

C) Sue failed to deliver the goods.

D) Sue breached the contract and as a result John was entitled to damages.

Answer: D

 and Using Critical Thinking to Make Legal Reasoning Come Alive

68) John and Sue signed a contract on January 1, 2011. The contract required Sue to deliver goods to John on January 20, 2011. Sue failed to deliver the goods. John sued and the judge held that Sue breached the contract and as a result John was entitled to damages. Which of the following is the legal reasoning supporting this conclusion?

A) Sue breached the contract and as a result John was entitled to damages.

B) The contract required Sue to deliver goods to John on January 20, 2011 and she failed to do.

C) A prior decision provides that failure to make delivery by the date specified in the contract shall be considered a breach of contract and the non-breaching party shall be entitled to damages.

D) None of the above.

Answer: B

69) How is one most likely to determine the ethical norms that influence a judge's decision?

A) They will be stated on his conclusion.

B) They can be inferred from his reasoning.

C) They are stated in his iteration of the facts of the case.

D) They can never really be ascertained.

Answer: B

70) As a result of increasing competitive pressure, business and industry managers with advanced thinking skills.

Answer: TRUE

71) A goal of education is to prepare students to enter the workforce; part of being prepared to enter the workforce is learning critical thinking.

Answer: TRUE

72) No training is necessary to effectively tackle ethical issues in business.

Answer: FALSE

73) As a business manager you will experience many ethical dilemmas.

Answer: TRUE

74) Critical thinking leads to the development of more effective law.

Answer: TRUE

75) Conclusions are the stimulus that gets lawyers and judges thinking.

Answer: FALSE

76) Critical thinking is active; it challenges us to form judgments about the quality of the link between someone's reasons and conclusions.

Answer: TRUE

77) The Critical Thinking skills learned in the legal environment of business course will not be useful in your future career.

Answer: FALSE

78) Critical thinking focuses on the conclusion or final decision, not on the quality of a person's reasoning.

Answer: FALSE

Topic: A Critical Thinking Model

79) We should always critically analyze the court's decision before we try to understand the legal argument being made.

Answer: FALSE

Topic: A Critical Thinking Model

80) The last four steps in the Critical Thinking model are designed to help us critically analyze the quality of a legal decision or argument.

Answer: TRUE

Topic: The Critical Thinking Model

81) Issues tend to complicate legal reasoning, and should therefore be eliminated before reaching a conclusion.

Answer: FALSE

82) Because there are so many different ways to word an issue, the issue is anything we say it is.

Answer: FALSE

83) It is not important to familiarize yourself with the facts if the rule of law in a particular case is obvious.

Answer: FALSE

84) In *United States of America v. Martha Stewart and Peter Bacanovic*, Judge Cedarbaum held that the defendants should not have a new trial.

Answer: TRUE

85) An ambiguous word is one capable of having more than one meaning in the context of the given facts.

Answer: TRUE

86) We want the world to be full of differing opinions so we have a broad field of choice when deciding where we stand on a particular issue.

Answer: TRUE

87) Judges are not required to look back at previous court decisions to provide a foundation for current or future decisions.

Answer: FALSE

88) The call for the facts is not a request for all facts but only those that have a bearing on the dispute at hand.

Answer: TRUE

89) A reason is an explanation or justification provided as support for a conclusion.

Answer: TRUE

90) When requesting additional information there is no need to include an explanation as to why you want the information.

Answer: FALSE

91) Until we determine what an ambiguous term means we cannot fairly decide whether a particular judge has made the appropriate decision.

Answer: TRUE

92) The reasons for a conclusion provide the answer to the question: Why did the court prefer this response to the issue rather than any alternative?

Answer: FALSE

93) If someone fails to provide reasons to support their legal conclusion we should not accept the conclusion without questioning it.

Answer: TRUE

94) The historical record of pertinent judicial decisions is a rich source of reason on which courts base their conclusions.

Answer: TRUE

95) To feel comfortable with the analogy, we need to be persuaded that the independent evidence in prior cases is similar to the evidence in the current case.

Answer: TRUE

96) Analogies can be used to distinguish a current case from an existing rule of law.

Answer: TRUE

97) Examining reasoning is especially important when trying to understand and evaluate a conclusion.

Answer: TRUE

98) Intellectual and legal tradition demands that we have reasons to support our conclusions.

Answer: TRUE

99) In determining the conclusion, one should consider how the court reacted to the issue.

Answer: TRUE

100) Once you have identified the legal conclusion, there is no need to look for the reasons offered to support that conclusion.

Answer: FALSE

101) The key to issue spotting is asking yourself "what question do the parties want answered by the court?"

Answer: TRUE

102) Ambiguity is rare in legal reasoning, because words "speak for themselves."

Answer: FALSE

103) It is important to clarify the meaning of an ambiguous term because we need to determine what were are being asked to embrace.

Answer: TRUE

104) In legal reasoning, we treat each legal dispute as though it were the first such dispute.

Answer: FALSE

105) To determine the meaning of an ambiguous term, it is important to study the intent of the person making the argument.

Answer: TRUE

106) A norm is a standard of conduct–a set of expectations that we bring to social encounters.

Answer: TRUE

107) Ethical norms are special because they are steps toward achieving what we consider good or virtuous.

Answer: TRUE

108) Ethical norms are the standards of conduct we most want to be observed by our children and our neighbors.

Answer: TRUE

109) Conversations about ethics compare the relative merit of human behavior guided by one ethical norm or another.

Answer: TRUE

110) Ethical norms represent the abstractions we hold out to others as the most fundamental standards defining our self-worth and value to the community.

Answer: TRUE

111) Freedom, stability, justice, and efficiency are the only ethical norms found in legal reasoning.

Answer: FALSE

112) If courts are relying on an ethical norm they will announce it.

Answer: FALSE

113) When approaching a new fact pattern, one should not completely disregard prior precedents.

Answer: TRUE

114) One of the major differences between legal reasoning and other forms of analysis is the heavy reliance of analogies.

Answer: TRUE

115) Analogies are useful because we can be guided by similar experiences that our predecessors have already studied.

Answer: TRUE

116) Analogies are rarely used by lawyers because lawyers are required to follow precedents.

Answer: FALSE

117) It is important for lawyers and judges to weigh the importance of all missing information and not just focus on relevant missing information.

Answer: FALSE

118) The unique facts in each individual case may lead the same judge to a different conclusion in cases involving a similar legal concept.

Answer: TRUE

119) The way we express the issue generally guides the legal reasoning in the case.

Answer: TRUE

120) During a trial, a lawyer compares the facts of the case to the facts of an important precedent that was handed down in the 19th Century. If the lawyer's reasoning were correct, the rule of law would favor the lawyer's client. In this case, it would be important for the judge to determine whether or not the attorney had drawn an appropriate analogy.

Answer: TRUE

121) Upon reading a judge's decision in a case, an attorney is concerned that one of the parties may have withheld important evidence in order to gain an advantage. It would be correct to conclude that the attorney is concerned about the potential effects of relevant missing information.

Answer: TRUE

122) Efficiency is a primary ethical norm.

Answer: TRUE

123) Courts usually announce which primary ethical norms they are using to support their reasoning.

Answer: FALSE

124) Analogical reasoning is different from legal reasoning, and the two processes should be kept separate.

Answer: FALSE

125) Being a critically thinking manager may make you seek a more accurate portrayal of facts from your employees when give you reports.

Answer: TRUE

126) Your critical thinking skills may make you a better business manager.

Answer: TRUE

127) A businessperson facing the problem of relevant missing information should terminate the critical thinking process, because there is nothing more that can be done.

Answer: FALSE

128) The critical thinking approach could assist a businessperson who is reading the *Wall Street Journal*.

Answer: TRUE

129) Critical thinking is a natural process that will require little practice.

Answer: FALSE

130) Why is it important to phrase the issue of a dispute carefully? How might sloppy thinking with regard to the issue affect the quality of a judge's reasoning and ultimate conclusions?

Answer: The issue is the question that caused the lawyers and their clients to enter the legal system. If the issue is not carefully defined, then the lawyers and the judge will be arguing past each other–wasting time and money trying to answer the wrong question. Lawyers will then be researching the wrong precedents, applying the wrong facts, and reasoning to an erroneous conclusion. Sloppy thinking about the issue may cause a judge to answer a question that was not asked–in effect, to resolve the wrong dispute. The quality of the judge's decision would suffer because the primary dispute that brought the parties to the courthouse would remain unresolved.

131) If judges are supposed to make decisions on an issue based solely on the facts and applicable law, what's the point of trying to understand which ethical norms might be influencing a judge's decision?

Answer: A judge's claiming or implying allegiance to a particular ethical norm focuses our attention on a specific category of desired conduct. Courts do not often announce their preferred pattern of ethical norms. Therefore, it is up to us to infer their identity from the court's reasoning. As critical thinkers, we want to use the ethical norms, once we find them, as a basis for evaluating the reasoning. Since any given fact pattern may be susceptible to more than one interpretation of more than one rule of law, the judge's emphasis of one ethical norm over another often explains why the judge chose to emphasize one particular interpretation over all others. For example, if a particular court issues decisions that consistently emphasize efficiency over personal freedom, a lawyer can better predict the direction of a future interpretation of a similar law involving a different set of facts.

132) Why is it especially important to be able to identify and evaluate analogies?

Answer: Almost all cases involve the use of analogies, which come from other cases. Each party tries to argue that he or she has the precedent that is most analogous to the case at issue. Then the judge must decide which analogy is better. Therefore, to evaluate the judge's reasoning, you need to have some ability to evaluate analogies.

133) Why is it important to consider the missing information when evaluating a particular case?

Answer: No case occurs in a vacuum. When a case makes it into the court system for argument, there are people doing the arguing. Although those making the arguments are going to have to rely on a certain set of facts to make their argument, people run into the limits of their own experience and perceptions. In many instances people will often see what they want to see, and will consequently select certain facts as relevant to a particular case. Because people are only likely to include a certain set of facts based on their experience there are likely to be other facts out there that are relevant to a particular case. Therefore, it is important that we consider relevant missing information.

134) Why is it important to identify any significantly ambiguous words when reading a legal case?

Answer: When a court relies on a significantly ambiguous word or phrase it is relying on a term that is capable of having more than one meaning in the context of the facts. Depending on which of the various meanings the court adopts, the conclusion that a particular judge reaches may seem either consistent or inconsistent with that term (which is often tied to a reason in support of the proffered conclusion). Moreover, ambiguous words used as part of a legal rule can have a substantial impact on the conclusion that naturally flows from a particular set of facts.