

เลขทะเบียน
เลขที่นั่งสอบ

อ.ดร.จุมพิตา

Sec.32/02

การสอบความรู้ชั้นปริญญาตรี
คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์
การสอบไล่ภาคฤดูร้อน ประจำปีการศึกษา 2545
วิชาเลือก
วันศุกร์ที่ 9 พฤษภาคม พ.ศ. 2546

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ลักษณะวิชา น.265 เสริมทักษะการใช้ศัพท์กฎหมายอังกฤษ

I. จงแปล Legal Terms ต่อไปนี้ เป็นภาษาไทย (20 คะแนน)

<u>คำถาม</u>	<u>คำตอบ</u>
1. conviction
2. specific performance
3. legislation
4. probation
5. equity
6. injunction
7. recital
8. statute
9. bill
10. precedent
11. acquittal
12. decree
13. principal
14. legal profession
15. promulgation
16. advocacy
17. consent
18. insolvency
19. a minor

/ มีต่อหน้า 2

20. enactment	.....
21. aggrieved party	.....
22. covenant	.....
23. concession agreement	.....
24. bid security	.....
25. condition subsequent	.....
26. liquidated damages	.....
27. consideration	.....
28. damages	.....
29. gross negligence	.....
30. counterpart	.....
31. due diligence	.....
32. article	.....
33. bail	.....
34. chattel	.....
35. deed	.....
36. representation	.....
37. assignment	.....
38. governing law	.....
39. confidentiality	.....
40. ad hoc	.....

II. จงแปล Legal Terms ต่อไปนี้เป็นภาษาอังกฤษ (10 คะแนน)

คำถาม

คำตอบ

- | | |
|------------------|-------|
| 1. อัยการ | ..... |
| 2. โจทก์ - จำเลย | ..... |

3. เสรีภาพในการทำสัญญา
4. คำเสนอ – คำสนอง
5. เหตุสุดวิสัย
6. หลักประกันในการปฏิบัติตามสัญญา
7. สิทธิและหน้าที่
8. สิทธิบัตร
9. การฟ้องคดี
10. ความรับผิดชอบทางแพ่ง

III. จงเลือกเขียนคำตอบไปนี้เป็นภาษาอังกฤษ (เลือกเพียง 5 คำ) 10 คะแนน

<u>คำถาม</u>	<u>คำตอบ</u>
1. อนุญาโตตุลาการ
2. การฟ้องคดีอาญา
3. กฎหมายสารະប័ណ្ណុតិ
4. กฎหมายวิธีสบัญญัติ/วิธีพิจารณาความ
5. กฎหมายรัฐธรรมนูญ
6. ประมวลกฎหมายแพ่งและพาณิชย์
7. พระราชกำหนด
8. กฎหมายขัดกัน
9. การผิดสัญญา
10. ละเมิด

IV. จงแปลเป็นภาษาไทย (3 ข้อ ๆ ละ 10 คะแนน รวม 30 คะแนน)

ข้อ 1.

คำถาม

Working of Aliens Act,

B.E. 2521

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Whereas it is expedient to revise the law on working of aliens;

/ มีต่อหน้า 4

คำตอบ

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ข้อ 3.

คำถาม

Definitions

In the Contract, words indicating the singular may also include the plural and *vice versa* as the context requires, and the following words and expressions shall have the meanings assigned to hereunder except as the context requires otherwise:

คำตอบ

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หมายเหตุ

1. สอบเวลา 09.00 - 12.00 น.
2. ห้ามเขียนชื่อบนสมุดคำตอบ
3. ผู้ที่ทุจริตในการสอบจะถูกลงโทษทางวินัยนักศึกษาสถานหนัก

เลขทะเบียนนักศึกษา
เลขที่นั่งสอบ ห้องสอบ

ผศ. ดร. พินัยฯ
อ. พัชรพรรณฯ
อ. ทวีลาภา
Sec. ๓๒/๐๑

การสอบความรู้ชั้นปริญญาตรี
คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์
การสอบไล่ภาคฤดูร้อน ประจำปีการศึกษา ๒๕๕๕
วิชาเลือก ภาคปกติ
วันศุกร์ที่ ๙ พฤษภาคม ๒๕๕๖

ลักษณะวิชา น. ๒๖๕ เสริมทักษะการใช้ศัพท์กฎหมายอังกฤษ
คำสั่ง ข้อสอบมี ๓ ตอน ให้เขียนคำตอบลงในข้อสอบนี้

ตอนที่ ๑: ให้ทำดังนี้

- นักศึกษากลุ่มที่เลือกทำรายงานประเภทเขียนบทวิจารณ์ภาษาอังกฤษ: ให้ทำเฉพาะข้อ ๑ และข้อ ๒
- นักศึกษากลุ่มอื่น: ให้ทำทุกข้อ

ตอนที่ ๒ และตอนที่ ๓: ให้ทำทุกข้อ

คะแนนจากการทำรายงานหรือการนำเสนอในชั้นเรียนจะนำมารวมในการสอบครั้งนี้ด้วย ทั้งนี้ให้นำรายงานมาส่งภายในวันที่ ๒๓ พฤษภาคม ๒๕๕๖

ตอนที่ ๑

1. Please fill in the blanks in the passage below using appropriate legal terminology provided in the box. (Some words may need to be converted into a grammatically correct form, tense and voice.)

binding	<i>consensus ad idem</i>	consequential	contractual
default	duress	enforceable	exonerate
<i>force majeure</i>	forthwith	freedom	manifestation
promise	provisions	remuneration	repugnant
rescind	thereunder	validity	vitiating

The law of contract is a fundamental private law establishing rules under which individuals create _____ agreements. In both civil law and common law jurisdictions, essential elements of _____ of a contract are of certain similarities. A contract is formed upon _____ of two matching intentions – an offer and an acceptance, whereby one party makes a _____ to be bound by what is expressed and the other accepts that promise without addition or qualification to the former's promise. The law gives importance to the _____ of contract and the sanctity of will by allowing _____ parties to fix their own _____ and giving legal effect to such provisions provided that they are not _____ to public order or good morals. Thus, a party may include in a contract a term which _____ himself from liability for _____ loss arising out of a breach of contract or gives him a right to _____ the contract

_____ without material breach by the other party. In addition, the law of contract ensures that the will of each party is a genuinely free will and not _____ by such factors as _____, fraud, misrepresentation or mistake. However, in common law jurisdictions, mere _____ does not suffice, for the law requires 'consideration', which is a mutual recompense – each party must generally give the other something in value so that the promise by that other party becomes _____. This consideration doctrine has been given no room by civilian lawyers, who maintain that the crucial legal justification for enforceability of a contract lies in the sanctity of will irrespective of _____. Once a contract has been concluded by an exchange of an offer and an acceptance, both parties are obliged to perform undertakings _____ and will be liable to pay damages for failure of performance unless the _____ in question is excused by law, as in the case where the performance is rendered impossible by _____.

(๑๕ คะแนน)

2. Mr. Thaksin Sookhun, a rubber dealer in Bangkok, orders 10 tons of Grade-A rubber from Mr. Rapeesak Na Songkhla, a rubber producer in Surat Thani Province. After a long series of negotiations, Rapeesak would like to have an agreement in writing for this sale. It is agreed as follows. The rubber is priced at Baht 20,000 per ton and payment must be made in crossed cheque payable to Rapeesak, provided that a cash deposit of 30 percent must be paid by Thaksin on the date of the contract. Rapeesak must deliver the goods to Thaksin's warehouse in Bangkok at Thaksin's costs within 14 days after the contract has been made. If the goods are robbed during transportation to Bangkok, Rapeesak will not be liable for it but, in order to protect Thaksin against this risk, Rapeesak is, before delivery, required to take an insurance of the goods against robbery and specify Thaksin as a beneficiary. Rapeesak is aware of a high possibility that the price of rubber in the world market will rise in the near future due to scarcity of rubber and therefore Rapeesak wishes to have a provision allowing an increase of the contract price by 5 percent in case of such rise in the world market. In addition, Rapeesak does not want to assume liability for Thaksin's loss of revenue and any other consequential loss in case of Rapeesak's default. Rapeesak also wishes to terminate the contract at once if Thaksin does not perform any contractual obligation. Further, Rapeesak and Thaksin prefer English law as the applicable law.

Rapeesak engages you, as a qualified attorney, to draft a contract for him. Please draft this contract for Rapeesak using professionally acceptable legal terms and phraseology.

(๒๕ คะแนน)

Lined writing area consisting of multiple horizontal lines for text entry.

3. Please read the following passage and answer questions below.

Cyberrisks in the Thai Context: Contract Making

All kinds of consumer risks emerging in the era of information superhighway must be kept under immediate control and, importantly, consumers have to be made aware of these risks. Working measures must be at hand for preventive and remedial purposes. The newly enacted Electronic Transactions Act, B.E. 2544 (2001) does not directly deal with consumer protection, for drafters of this law have felt that this matter should better be left to specific legislation. In the contractual context, the Consumer Protection Act, B.E. 2522 (1979) provides a wide preventive net in favour of consumers. Although the Act was drafted before the advent of the digital era, it has equal application to e-commerce.

The Consumer Protection Board is equipped with the power to notify or publish information on goods or services likely to cause loss of, or prejudice to, rights of consumers. The exercise of this power is evidently an efficient way to educate consumers on risks involved. Thus, a package prejudicial to consumers, as in the case of a pyramid selling scheme advertised across the Internet, also falls within the reach of this statutory arm.

Next, with respect to advertisements, the Act prohibits the use of a statement that is "unfair to consumers or likely to have adverse effects on the public". Moreover, an advertisement that may cause disturbance to consumers is also not allowed, as will be prescribed in the Ministerial Regulation. As a result, the random transmission of junk emails to introduce goods or services without the consent of the recipients is covered by the Act as well. Violation of such statutory prohibition amounts to a criminal offence provided in the Act and is also subject to the Board's order that the advertisement in question be, *inter alia*, modified.

The Consumer Protection Act also attempts to ensure that only fair terms and conditions are circulated in the market place. In this connection, the Act empowers the so-called "Sub-committee on Contracts" to, by way of Notification, set out requirements for policing fairness of contract terms either through imposition of compulsory terms or through outright prohibition of certain terms.

Despite a wide array of protective measures introduced by the Consumer Protection Act, it seems that provisions of the Act are not effectively enforced in the cyberspace context. At least, we have still witnessed a great deal of misleading and fraudulent conduct on the Internet without consumers being adequately educated on cyberrisks. It is questionable whether officials in charge are well trained to cope with cyberspace and information technology.

(i) Why does not the Electronic Transactions Act, B.E. 2544 (2001) make any provision for controlling cyberrisks threatening consumers?

(ii) Under the Consumer Protection Act, B.E. 2522 (1979), how can consumers be made aware of harmful pyramid selling schemes on the Internet?

(iii) Can disturbing junk e-mail advertisements be controlled by the Consumer Protection Act and, if so, how?

(iv) What mechanism does the Consumer Protection Act set up for scrutinising fairness of contract terms?

(v) Is the author of the article above satisfied with the enforcement of the Consumer Protection Act? Please explain this.

(๑๐ คะแนน)

ตอนที่ ๒

1. Please use the words provided below by adjusting them into their appropriate forms and meanings to fill in the blanks.

accidental	defendant	homicide	overturn	statute
admissible	dependent	just	petition	sane
avoidance	enforceable	lawful	prohibit	sentence
competent	estate	legal	prosecute	testimony
consent	evasion	legitimate	reconcilable	valid
constitutional	evidence	override	relevant	verdict

The jury had to listen to some humorous _____ about baked goods before arriving at a _____.

It is _____ and may be _____ to impose capital punishment for a crime such as criminal mischief.

It is _____ if a man is _____ to death without a jury trial, especially for crimes relating to _____.

A state law that _____ free speech is not only unconstitutional but also _____.

A _____ life imprisonment by a jury verdict has been _____ by elected trial judges in the case of *Ring v. Arizona*.

/ต่อหน้า ๖

The Supreme Court ruled in the 1996 federal trademark dilution _____ that the use of a similar name or business' identity is _____.

There was insufficient _____ for the court to _____ her when she _____ left the gun in her room.

Tax _____ is _____, whereas tax _____ is common in practice.

A person may become _____ before reaching an age of _____, but he or she cannot enter into a marriage before the age of 17 under the Thai law.

If a court _____ a precedent, it has decided that the precedent is no longer _____.

The children born to all wives during the existence of marriage are _____ and will be entitled to an _____ of their parents.

A person who lacks ability to legally act is an _____ person, which is different from an _____ person who has an infirmity of mind to manage his affairs.

Under both the U.S. and Thai laws, when a couple may file a _____ for divorce, if the court finds that there are _____ differences, a divorce may be granted.

Hearsay evidence – evidence which a witness has heard from another source – is _____ in a court of law.

(๒๐ คะแนน)

ตอนที่ ๓

๑. จงแปลข้อสัญญาที่ปรากฏดังต่อไปนี้เป็นภาษาไทยตามความเข้าใจของท่าน และอธิบายความมุ่งหมายของข้อสัญญาดังกล่าว

Prepayment of the principal is allowed with a prepayment fee of 2 (two) percent of the amount prepaid unless such amount derives from the operation or from the capital increase in the company.

คำแปล:

ความมุ่งหมาย:

(๔ คะแนน)

๒. โปรดอธิบายความหมายของคำว่า security และ securities โดยใช้ให้เห็นถึงความหมายที่แตกต่างกันของทั้งสองคำ

(๓ คะแนน)

๓. จงนำคำดังต่อไปนี้ไปแต่งเป็นประโยคภาษาอังกฤษและอธิบายความหมายของประโยคที่แต่งขึ้นดังกล่าว

repayment, interest, principal, payment

(๓ คะแนน)

หมายเหตุ

๑. สอบเวลา ๐๙.๐๐ - ๑๒.๐๐ น.
๒. ห้ามเขียนชื่อในสมุดคำตอบ
๓. ผู้ที่ทุจริตในการสอบจะถูกลงโทษทางวินัยนักศึกษาสถานหนัก