

Law 30 Chapter 2 Exam Outline

Complete the activities below to prepare for your Chapter 2 test. This outline assignment will focus your attention to only the things, terms, concepts, etc. that you need to know to succeed on your exam.

The test will consist of multiple choice, true false, fill in the blank, matching, short answer questions and one essay (based on a case).

1). Memorize the Following Terms & People

The multiple choice, true/false, and matching questions, etc. on the mid-term are based upon *only* the terms below. I recommend you create a glossary for these terms using the space provided below.

General Terms		
common law	statutes	criminal law
international law	municipal government	constitutional law
domestic law	bylaws	jurisdiction
substantive law	precedent	tort law
procedural law	<i>stare decisis</i>	contract law
administrative law	private law	family law
<i>Criminal Code of Canada</i>	public law	
federal government	civil law	
provincial government	international law	

Common Law:

International Law:

Domestic Law:

Substantive Law:

Procedural Law:

Administrative Law:

Criminal Code of Canada:

Federal Government:

Provincial Government:

Municipal Government:

Bylaws:

Precedent:

Stare decisis:

Private Law:

Public Law:

Civil Law:

International Law:

Criminal Law:

Constitutional Law:

Jurisdiction:

Tort Law:

Contract Law:

Family Law:

2). Short Answer Questions

The majority of the exam's marks are earned by answering short answer questions. Below are the possible questions that you will be asked to answer on your mid-term.

1). Why are constitutional level laws binding on all lower level courts?

2). For what reason is the principle of *Stare decisis* useful when it comes to making legal decisions?

3). Describe how an aboriginal government is structured.

4). Identify the three major functions of Canada's constitution.

5). Explain why international law is so difficult to enforce.

6). How can international law exist when there is no global law-making body in existence?

7). Identify the three branches of law that make up public law. Provide a brief description of each.

8). Why are criminal charges brought against the accused in the name of the Queen?

9). In what sense are municipal governments and Indian Bands similar?

3). Essay: Practicing with Case Law

On your test you will use your understanding of the law to answer a series of questions related to one case. The question below will provide you with an opportunity to practice completing such a question. Take the opportunity to improve your question answering abilities, i.e. Complete the question and then show your teacher. Your teacher will give you immediate feedback on how you can improve the quality of your answer. Note: this specific question will not appear on your exam. Instead, a question that is *like* this one will appear.

Spencer v. Spencer (2002), B.C.C.A. 265

Timothy and Virginia Spencer were married and had two children. After 29 years of marriage, the couple separated and eventually divorced. Certain issues remained unresolved and the divorce went to trial. At trial, the judge granted Mrs. Spencer spousal support payments of \$1500 per month for two years from the date of the order. Up to that point, Mrs. Spencer had received \$1000 per month for approximately ten months and \$1700 per month for approximately two years. The spousal support payments granted at trial brought the total period of support payments to five years. The judge based her ruling on the fact that Mrs. Spencer had worked for most of the latter years of the marriage at a bank, that she was planning to take an aesthetician training program at a college, and that she was employable. The judge was of the opinion that during the additional two years of support payments, Mrs. Spencer could become economically self-sufficient.

Mrs. Spencer appealed this ruling. She was seeking a permanent support order, which meant she would receive support payments for an indefinite period.

The Court of Appeal of British Columbia dismissed Mrs. Spencer's appeal. In its decision, the Court cited the guidelines for granting an appeal as established by the Supreme Court of Canada. According to the Supreme Court of Canada, an appeal can only be granted if there has been an error in principle, a significant misapprehension of evidence, or the award is clearly wrong. The Appeal Court found that because there was no clear error, the Court was bound to dismiss the appeal.

Questions for Analysis

a). This case went from the trial court to an appeal court. This process of appeal follows procedural law. Explain what is meant by "procedural law."

b). The lawyer for Mrs. Spencer made reference to other cases during the trial to try to convince the Appeal Court that an error had been made. Explain the significance of referring to previous decisions.

374787 B.C. v. Dion. (2002), B.C.C.A. 297

In June 1999, the company 374787 B.C. Ltd. loaned Dion Entertainment Corporation \$45 000. An agreement between the two companies stated that the loan was to be repaid by June 22, 1999, and the repayment could be in cash or in stocks in the Dion Entertainment company, which when sold, would be worth \$45 000. Dion Entertainment failed to repay the debt by June 22, but on July 16, Dion transferred 16 000 shares of capital stock to 374787 B.C. Both companies were satisfied that this transfer of shares was full repayment of the original loan.

In the spring of 2000, however, 374787 B.C. sold the shares, but by that time they were not worth the value of the original loan. As a result, 374787 B.C. sued Dion for the difference owing on the original loan. The case was decided under Rule 18A, a rule of procedure in British Columbia that allows a trial to be held entirely on paper. Under Rule 18A, the two sides in a legal dispute do not appear in court. There is no examination or cross-examination of witnesses. Both sides sign the necessary documents in their case, and the judge, after reading the signed documents (called affidavits), decides the case. In order for Rule 18A to be applied, both sides must agree to the facts, that is, there can be no arguable claim or defence by either side. The purpose of Rule 18A is to reduce court time and the expense of lengthy trials.

The trial judge decided that Dion Entertainment Corporation owed 374787 B.C. the difference between the value of the stocks that had been cashed in and the loan. Dion appealed the decision.

At the appeal level, Dion argued that the case should not have been decided under Rule 18A because there was disagreement over the credibility of evidence. The Court of Appeal noted that if there was a question about the credibility of evidence, then it should have been advanced in the lower court where the judge could have ordered a cross-examination on the affidavits (the evidence in dispute in this case), which would have allowed the judge to factor this information into the decision. The appeal was dismissed.

Questions for Analysis

a). How does Rule 18A affect the procedure in a trial?

b). What government enacted Rule 18A? How could it be declared unconstitutional?

c). How do you know this is not a criminal case?