

Be prepared to answer these questions during the first week of class. I expect to start Chap. 2 in the later part of the first class, so you should look at these questions before the first class.

Agency Law: General Principles

1. Correctly identify the circumstances in which the law of agency would not typically apply.
 - A) To the relationship between an employer and an employee because that relationship is governed by state and federal statutes governing the employment relationship.
 - B) To the relationship between a corporation and its officers because that relationship is governed by corporation law and not agency law.
 - C) To the relationship between a licensed real estate broker hired to sell a property and his or her client/owners because the relationship is governed by a separate state law.
 - D) To the relationship between a homeowner and the contractor hired by the homeowner to install a new bathroom designed by the homeowner because contractors act in their own interest even if directed by the person who hired them.

2. Alvin installs decorative fans for Paradise Decor Inc., a specialty supply store. Which factor most strongly suggests that Alvin is an agent/employee of Paradise Decor and not an independent contractor.
 - A) Alvin's work requires a special skill because the fans are custom made.
 - B) Alvin is paid weekly by Paradise.
 - C) Alvin owns the tools used to do the special installations.
 - D) Alvin works alone without direct supervision by Paradise Decor managers.

3. In a signed writing titled "Operating Instructions", Anna appointed Bob as her agent to procure two computer terminals for use in her travel agency business. Bob went to Tiger Direct and ordered two terminals. He told the salesperson that he was there to purchase the goods for Anna and her business. In what capacity is Bob acting?

- A) Bob is acting for an undisclosed principal because he did not show the writing to Tiger Direct which appointed him as agent.
- B) Bob is technically acting for an unidentified principal because he did not show the writing to Tiger Direct to prove his status as an agent.
- C) Bob is a joint venturer or partner with Anna because they signed a paper to work together and Bob is an agent for the venture (as is Anna).
- D) Bob is acting for a disclosed principal.

4. Butch planned the grand opening of Butch's Baked Beans (BBB)--a new restaurant to be run as his sole proprietorship. He asked his cousin Sally (who currently runs a successful bar) to order champagne for him to serve--"The cheap stuff, not over \$60 per case, about 20 cases, I'll pay you back." Sally called her Distributor to place the order for 20 cases at \$120 per case to be delivered to BBB's address (without mentioning she was acting for BBB). BBB served the champagne. Distributor sent a bill for \$2,400 to Sally. When Sally saw it, she told Distributor to send a new bill to BBB. When BBB received the bill he refused to pay and explained to Distributor that he had never authorized the purchase at \$120 per case.

- A) Sally is a disclosed agent for BBB because the shipment was directed to BBB's address.
- B) This is a case of an unidentified principal because Sally directed the shipment but did not identify BBB.
- C) This is a case of an undisclosed principal because Sally did not indicate she was acting for someone else and not herself.
- D) No agency relationship was created because BBB did not appoint Sally to act as an "agent"--the facts indicate a mere favor or gratuity.

5. Anna runs a travel agency as a sole proprietorship. She appointed Bob as her agent in a writing signed by both to procure two computer terminals. She orally appointed Carmen as her agent to negotiate a radio advertisement with a local station for her business. Carmen said nothing but commenced negotiations. Anna asked Doug to go to the furniture store and buy her a new desk. Doug orally agreed to do so. What answer best describes the legal relationships among Anna, Bob, Carmen and Doug?

- A) All of Bob, Carmen and Doug are acting as agents for Anna.
- B) Only Bob has properly been designated as an agent for Anna.
- C) Both Bob and Carmen have properly been designated as agents for Anna, but not Doug because he was not specifically asked to act as an agent.
- D) Bob and Doug have been properly designated as agents for Anna, while Carmen failed to properly accept her role as an agent because no assent was manifested to Anna.

6. Anna appointed Bob as her agent to procure two computer terminals for use in her travel agency business. Bob went to Tiger Direct and ordered two terminals. He told the salesperson that he was there to order the goods for Anna and her business. Who is liable to Tiger Direct for payment of the purchase price?

- A) Only Anna.
- B) Only Bob.
- C) Both Anna and Bob.
- D) Either Anna or Bob at the election of Tiger Direct (but not both).

7. Anna properly appointed Bob as her agent. Anna told Bob to purchase a new couch for the waiting area of her travel agency. Anna told Bob not to pay more than \$1,000 for the couch. At the furniture store, Bob told the salesman he was shopping for Anna's travel agency business, and ordered a leather couch for \$1,200. The salesman had pointed out to Bob that it would last much longer than the cheaper \$899 cloth couches in stock. Bob believed Anna would be pleased. Anna was not happy and refused to pay for the couch. Who, if anyone, is liable to pay for the couch?

- A) Anna is liable for the purchase price but not Bob even though Bob exceeded his authority.
- B) Bob is liable for the purchase price but not Anna because Bob exceeded his authority.
- C) Both Anna and Bob are liable for the purchase price because Bob exceeded his authority.
- D) Anna is liable for the first \$1000 of the purchase price and Bob is liable for the extra \$200 of purchase price which exceeded his authority.

8. Anna properly appointed Bob as her agent. Anna told Bob to purchase a new couch for the waiting area of her travel agency. Anna told Bob not to pay more than \$1,000 for the couch. At the furniture store, Bob told the salesman he needed a couch for his boss. He ordered a leather couch for \$899. Anna changed her mind and refused to pay. Who, if anyone, is liable to pay for the couch?

- A) Bob is liable for the purchase because he is the agent for an unidentified principal.
- B) Both Anna and Bob are liable for the purchase price because Anna is an unidentified principal
- C) Anna is liable for the purchase price even though she is an unidentified principal.
- D) The vendor must collect the purchase price from Bob and Bob must seek reimbursement from Anna--so Anna is only secondarily liable.

9. Anna properly appointed Bob as her agent. Anna told Bob to purchase a new couch for the waiting area of her travel agency. Anna told Bob not to pay more than \$1,000 for the couch. At the furniture store, Bob told the salesman he needed a couch but he did not say anything about Anna or his boss. He ordered a leather couch for \$899. Anna changed her mind and refused to pay. Who, if anyone, is liable to pay for the couch?

- A) Anna is primarily liable. The vendor can only collect from Bob if Anna does not have the funds to pay.
- B) Only Anna is liable.
- C) Only Bob is liable.
- D) Both Bob and Anna are liable.

10. Butch planned the grand opening of Butch's Baked Beans (BBB)--a new restaurant to be run as his sole proprietorship. He asked his cousin Sally (who currently runs a successful bar) to order champagne for him to serve--"The cheap stuff, not over \$60 per case, about 20 cases, I'll pay you back." Sally called her Distributor to place the order for 20 cases at \$120 per case to be delivered to BBB's address (without mentioning she was acting for BBB). BBB served the champagne. Distributor sent a bill for \$2,400 to Sally. When Sally saw it, she told Distributor to send a new bill to BBB. When BBB received the bill he refused to pay and explained to Distributor that he had never authorized the purchase at \$120 per case.

- A) Butch, but not Sally.
- B) Sally, but not Butch.
- C) Both Butch and Sally.
- D) None, because the purchase was made outside the delegated authority.

11. Putter Inc. hired Golfer as its purchasing agent for miniature golf courses it operated. Putter gave Golfer written authorization to purchase putters for it without specifying a limit. After Golfer the writing, Putter said "Don't buy more than 100 new putters." Golfer showed Blade Ltd. its written authorization. Later Golfer contracted with Blade to purchase 150 putters because of a volume discount. Pick the correct statement(s).

- A) Putter should have no liability to Blade because Golfer exceeded his authority by purchasing 150 putters.
- B) Golfer has contract liability to Blade because Golfer exceeded his actual authority.
- C) Putter will be liable to Blade because Golfer had apparent authority.
- D) Golfer will have no liability to reimburse Putter if Putter is liable to Blade.

12. Pizza Barn is the fictitious name of a sole proprietorship operating Paul's restaurant. Alice is the delivery girl for Pizza Barn. While delivering 12 pizza's to an orientation of law students at University of Miami, Alice negligently caused a traffic accident on Red Road, damaging a third pary's car. Who is liable for the damage?

- A) The assets of Pizza Barn may be liable, but neither Paul nor Alice have personal liability.
- B) Paul has no liability because Alice's negligent action was outside the scope of her employment (which did not include permission to commit torts!). Only Alice is liable.
- C) Both Paul and Alice are liable on these facts. Alice is responsible for her own torts and Paul is liable on respondeat superior.
- D) Paul has liability but not Alice. Alice is protected from liability because the accident took place during a delivery in the scope of her employment as agent/employee for Pizza Barn.

13. Pizza Barn Inc. hired Mary as a manager and Diana as a delivery girl, both on salary, to work for the restaurant business run by Pizza Barn Inc. Mary dispatched Diana to deliver pizzas and gave her a computer printout with the fastest route. While delivering 12 pizzas to an orientation of law students at University of Miami, Alice negligently caused a traffic accident on Red Road, damaging a third party's car. What is the legal status of the persons under agency law? Pick the most complete description.

- A) Both Mary and Diana are agents of Pizza Barn Inc.
- B) Diana is an agent of Pizza Barn Inc. but Mary, as a manager is not an agent.
- C) Mary is an agent of Pizza Barn Inc. and Diana is an agent of Mary.
- D) Mary is an agent of Pizza Barn Inc. and Diana is a subagent of Pizza Barn.

14. Pizza Barn Inc. hired Mary as a manager and Diana as a delivery girl on salary to work for the restaurant business run by Pizza Barn. Mary dispatched Diana to deliver pizzas and gave her a computer printout with the fastest route. While delivering 12 pizzas to an orientation of law students at University of Miami, Alice negligently caused a traffic accident on Red Road, damaging a third party's car. On these facts, pick the description that best describes those responsible for damage to the car.

- A) Only Diana is responsible for the damage.
- B) Diana is responsible for the damage AND Mary is also responsible for the damage BUT NOT Pizza Barn Inc.
- C) Diana is responsible for the damage AND Pizza Barn Inc. also is responsible, BUT NOT Mary.
- D) Only Pizza Barn Inc. is responsible for the damage.

15. Lumber owns a materials supply business. Lumber gave Wood a power of attorney to act for the materials supply business. Pick the statement that best describes the status of this power of attorney.

- A) The power of attorney may limit the scope of authority for which Wood is authorized to act.
- B) The power of attorney must be signed by Lumber and Wood.
- C) The power of attorney must specify a duration during which it is effective.
- D) It may continue in effect after the death of Lumber to complete projects in progress at the time of Lumber's death.

16. Pizza Barn Inc. hired Alice as a delivery girl, on salary, to work for the restaurant business run by Pizza Barn Inc. Pizza Barn Inc. did a background check on Alice's driving record before hiring her. Pizza Barn also had Diana take a "safe driving" course before it would allow her to deliver pizzas. Nevertheless, while delivering 12 pizza's to an orientation of law students at University of Miami, Alice negligently caused a traffic accident on Red Road, damaging a third pary's car. On these facts, is Pizza Barn liable for the tort committed by Alice?

A) YES. Pizza Barn is liable despite following prudent hiring practices.

B) NO. By following prudent hiring practices Pizza Barn has insulated itself from liability for Alice's torts.

17. Pizza Barn Inc. hired Alice's delivery service to deliver pizza's. Alice uses her own car to make deliveries and she pays her own auto insurance. She is paid a flat rate per delivery. Alice is one of several delivery services used by Pizza Barn. Pizza Barn Inc. did a background check on Alice's driving record before hiring her. While delivering 12 pizza's to an orientation of law students at University of Miami, Alice negligently caused a traffic accident on Red Road, damaging a third pary's car. On these facts, is Pizza Barn liable for the tort committed by Alice?

A) YES. Alice is still the agent for Pizza Barn Inc. and principals are liable for torts committed by their agents.

B) NO. Probably not on these facts because Alice, though apparently an agent, is acting as an independent contractor.

18. Shifty played golf in a charity tournament hosted by Bland Hula, a former star football coach. Shifty had his picture taken with Hula. Shifty later approached Gullible with a business proposition, stating very persuasively that he was Hula's business agent (and he showed Gullible the photo, as well as some business cards he made naming him as Hula's agent). Shifty signed a contract with Gullible to market golf shirts with Hula's picture on the back. Do these facts make out a case that Shifty has apparent authority to act for Hula?

A) YES.

B) NO.

19. The directors of a corporation are agents of the corporation as a matter of law.

A) TRUE.

B) FALSE.

20. The partners of a general partnership are agents for each other as a matter of law.

A) TRUE.

B) FALSE.

21. Peter told Albert, his agent, to go the county fair and order him a new saddle for his horse. He said several famous saddlemakers would be showing their wares at the fair and to try to order a saddle from Trail King or Back Ranger. Albert did so from Trail King. There was an admission fee to enter the county fair, as well as an outrageous parking fee. Albert paid them both before entering the fairgrounds to place the order. Peter was surprised and upset at these additional expenses when Albert asked for reimbursement. Does Peter owe Albert anything?

A) No. Albert did not have authority to pay these fees and expenses.

B) Yes. Peter must reimburse Albert for the entry fee and the parking.

22. Peter hired Albert as his agent to manage the Bar P ranch for a one year term. Peter instructed Albert to go the county fair and order him a new saddle for his horse. He said several famous saddlemakers would be showing their wares at the fair and to try to order a saddle from Trail King or Back Ranger. Albert did so from Trail King, indicating he was manager of the Bar P for Peter. There was an admission fee to enter the county fair, as well as an outrageous parking fee. Albert paid them both before entering the fairgrounds to place the order. Peter was upset at these additional expenses and fired Albert. Albert then called Trail King and cancelled the order, incurring a 20% cancellation fee. What best describes the situation.

A) Peter had the right to terminate Albert's actual authority and the cancellation of the saddle order is not effective.

B) Peter had the power to terminate Albert's actual authority but the cancellation of the order is nevertheless effective because Albert had apparent authority to cancel the order.

C) Peter had the power to terminate Albert's actual authority but the cancellation of the order is nevertheless effective because Albert had apparent authority to cancel the order, Peter may have liability to Albert for cancelling the agency early, and Albert may have liability to Peter for the cancellation.

D) Peter had the right to terminate Albert's agency and, if he had notified Trail King when he fired Albert, the cancellation would have been ineffective.

23. Peter hired Albert as his agent to manage the Bar P ranch for a one year term. Peter instructed Albert to go the county fair and enter his bull, Budd of Aberlone, in the bull riding contest (providing a letter to the rodeo authority for the fair confirming Albert had the power to enter Budd in the contest). The day before the rodeo, Peter told Albert not to take Budd to the contest. Albert took Budd anyway. Albert signs a waiver in connection with the entry which absolved Peter of liability for injury caused by Budd and absolved the rodeo for injury to Budd caused by the competition. Is Peter bound by this waiver?

A) Yes.

B) No.

24. Peter hired Albert as his agent to manage the Bar P ranch for a one year term. Peter instructed Albert to go the county fair and enter his bull, Budd of Aberlone, in the bull riding contest (providing a letter to the rodeo authority for the fair confirming Albert had the power to enter Budd in the contest). The day before the rodeo, Peter told Albert not to take Budd to the contest. Albert took Budd anyway. Albert signs a waiver in connection with the entry which absolved Peter of liability for injury caused by Budd and absolved the rodeo for injury to Budd caused by the competition. Is the rodeo bound by this waiver?

A) Yes.

B) No.

25. Tragic Kingdom Inc. operates amusement parks around the country. Tragic hires real estate brokers to act for it to acquire parcels of land. The brokers are instructed to enter into purchase contracts in their own names (without disclosing Tragic Kingdom's involvement). If a broker enters into a purchase contract with a seller for Tragic Kingdom's benefit:

A) The broker has actual authority to act so the broker will not be personally bound to the contract.

B) Tragic Kingdom will not be liable for torts committed while the broker acts for it because Tragic Kingdom is an undisclosed principal.

C) Tragic Kingdom will be liable on the contract because the broker has either apparent or inherent authority to act.

D) The broker has the same actual authority to act as if the broker had disclosed the identity of Tragic Kingdom.

26. Real World Case. The German-American Vocational League was formed in New York during World War II to serve as a propaganda agency for the German Reich. Under U.S. law all foreign agents were required to register. Neither the Vocational League nor its officers registered. When they were charged with violating U.S. law, they argued that they were not agents of the German government because they had no formal agency agreement. Their one written agreement with the German Reich said nothing about being a propaganda agency. Is a formal contract necessary to establish an agency relationship?

A) Yes.

B) No.

27. Real World Case. One Friday afternoon a custodian at the Lazear Elementary School in Oakland, California, raped an 11-year-old student in his office on the school premises. The student sued the school district on a theory of respondeat superior. Is the school district liable for this intentional tort by its employee?

A) Yes.

B) No.

28. Real World Case. Roy Watson bought vacuum cleaners from T & F Distributing Co. and then resold them door-to-door. He was an independent contractor. Before hiring Watson, the president of T & F checked with two former employers but could not remember if he called Watson's two references. Watson had an extensive criminal record, primarily under the alias Leroy Turner, but he was listed in FBI records under both Leroy Turner and Roy Watson. T & F granted Watson sales territory that included Neptune City, New Jersey. This city required that all "peddlers" such as Watson be licensed. Applicants for this license were routinely fingerprinted. T & F never insisted that Watson apply for such a license. Watson attacked Miriam Bennett after selling a vacuum cleaner to her at her home in Neptune City. Is T & F liable to Bennett?

A) YES.

B) NO.

29. Real World Case. Jack and Rita Powers purchased 312 head of cattle at an auction conducted by Coffeyville Livestock Sales Co. They did not know who owned the cattle they bought. The Powers, in turn, sold 159 of this lot to Leonard Hoefling. He sued the Powers, alleging the cattle were diseased and dying in large numbers, and recovered \$38,360. Are the Powers entitled to reimbursement from Coffeyville?

A) YES.

B) NO.

30. Angel is the disclosed purchasing agent for Pigment, a paint manufacturer. On September 1, Angel signed a contract to purchase 1000 gallons of premium paint from Color World (but Angel did not have actual authority to purchase more than 500 gallons at any one time). On September 7, Color World found out that Angel did not have actual authority for the order and promptly told both Angel and Pigment that the deal was off and it purported to cancel the contract signed on September 1. On September 10, Pigment sent a notice to Color World that it had decided to ratify the contract. If Color World does not perform and Pigment decides to sue for breach of contract, identify the likely result.

- A) Pigment will lose because Color World cancelled the contract by notice to Angel and Pigment prior to the purported ratification.
- B) Pigment will lose because the contract was void at its inception due to Angel exceeding his authority.
- C) Pigment will win because Color World knew that Angel was acting for Pigment and Angel had apparent authority to bind Pigment.
- D) Pigment will win because Pigment ratified the contract in its entirety and not simply in part.

31. Real World Case. Humble previously owned a beer-house at the Victoria Hotel which he sold to Fenwick (a firm of brewers). Fenwick kept Humble on to manage the beer-house (and Humble's name appeared over the door and on the license for the business). Fenwick gave Humble the limited authority to purchase bottled ale and mineral water (with Fenwick supplying all other goods). Humble, however, had purchased cigars and other items for the business from Watteau (who thought he was extending credit to Humble alone). Watteau sought to recover the price for these items delivered to the Victoria Hotel from the true owner, Fenwick. On what theory of agency authority might Watteau recover the price of the goods?

- A) The apparent authority of Humble.
- B) Estoppel.
- C) A theory of inherent authority.
- D) A theory of ratification.

32. Able, Baker and Charlie each run small sole proprietorships that smoke meats for sale to consumers. Each have properly appointed Woody as agent to purchase cords of wood for use in their businesses. Able has an express instruction to purchase exactly 5 cords of wood per month, Baker exactly 3 cords, and Charlie exactly 2 cords. Woody made a discount volume purchase of 10 cords from Cutter (without disclosing that he was acting as an agent). Woody failed to pay Cutter. Cutter thereafter learned that Woody was acting as an agent for Able, Baker and Charlie and wants to sue each of them for payment. Who is liable on the contract with Cutter and to what extent?

A) Once the agency was discovered, Able, Baker and Charlie are each liable for the full amount of the contract (with Woody being relieved of liability on the contract, but still potentially liable to his principals for damage).

B) Only Woody is liable on the contract.

C) Able is liable for 5 cords, Baker is liable for 3 cords and Charlie is liable for 2 cords (with Woody liable on these facts for the full amount).

D) Able, Baker and Charlie are each liable for the full amount of the order--10 cords, with the ability to recover any loss for the over order from Woody; Woody remains liable for the full amount.

33. Able, Baker and Charlie each run small sole proprietorships that smoke meats for sale to consumers. Each have properly appointed Woody as agent to purchase cords of wood for use in their businesses. Able has an express instruction to purchase exactly 5 cords of wood per month, Baker exactly 3 cords, and Charlie exactly 2 cords. Woody made a discount volume purchase of 10 cords from Cutter. Able, Baker and Charlie have each separately told Cutter that Woody acts as general purchasing agent for each of them. Woody failed to pay Cutter. Cutter wants to sue each of them for payment. Who is liable on the contract with Cutter and to what extent?

A) Able, Baker and Charlie are each responsible for their respective shares of the contract.

B) Able, Baker and Charlie are each responsible for their respective shares of the contract but only if Cutter had indicated a willingness to be bound to each of them.

C) Able, Baker and Charlie are each responsible for their respective shares of the contract but only if Cutter had indicated a willingness to be bound to each of them AND none of them had changed their position (such as making alternate purchase arrangements for wood) on the reasonable believe that no contract existed.

D) Each of Able, Baker and Charlie is liable on the combined contract.

34. Pick the answer that best describes the legal status of the Restatement (Second) of Agency and the Restatement (Third) of Agency.

A) Each are mere scholarly representations describing the state of agency law (but are merely persuasive authority which a court may adopt or not). There is a normative aspect to these Restatements as, on disputed issues, they each formulate a recommended response to an issue or type of issue.

B) The Restatement (Second) of Agency is binding law in some states, while the Restatement (Third) of Agency is binding law in other states--depending on the choice made by individual state legislatures.

C) The Restatement (Second) of Agency was replaced by the Restatement (Third) of Agency which is now binding in the states.

D) As a compilation of state law, neither the Restatement (Second) of Agency nor the Restatement (Third) of Agency has applicability to questions of federal law which require an agency law question to be addressed.

35. Tragic Kingdom Inc. operates amusement parks around the country. Tragic hires real estate brokers to act for it to acquire parcels of land. The brokers are instructed to enter into purchase contracts in their own names (without disclosing Tragic Kingdom's involvement). Tragic hired Rat in Orlando to purchase land. Thereafter, Tragic set its sights on a parcel of land know as "The Mouse Ranch." Some years ago before agreeing to work for Tragic, Rat had acquired an option to buy The Mouse Ranch for \$150,000. Tragic told Rat to try and buy the land for not more than \$300,000. Rat told Tragic he could acquire the land for \$300,000, Tragic wired Rat \$300,000, Rat exercised the option, transferred the land to Tragic, and put \$150,000 in his own bank account. Pick the answer that best describes the legal status of this transaction.

A) It stinks, but it does not violate any principles of agency law. Rat had acquired the option before he worked for Tragic and he secured the land for Tragic at a price specified by Tragic. Different answer if Rat acquired the option while working for Tragic.

B) It does not violate a duty of loyalty to Tragic because Tragic gave implied authority to Rat to acquire the property without specifying from whom, thus in effect giving its consent to the transaction.

C) Rat should not act in a transaction in a position that is adverse to his principal, Tragic Kingdom.

D) Rat has violated his duty of care owed by an agent to his principal by placing himself in a compromising position which should be disclosed.