**CHAPTER 30-PERSONAL PROPERTY AND BAILMENT**

**TRUE/FALSE**

1. Jerry enters a restaurant and hangs his coat in an unattended cloakroom near the entrance of the restaurant. Even though no employee of the restaurant is present, the provision of the cloakroom makes Jerry think it will be safe. In this situation, the restaurant is a bailee of Jerry’s coat.

2. Charles agrees to store Tuan's car in Charles's garage for the winter months while Tuan visits his grandmother in California. As a bailee, Charles is automatically entitled to use Tuan's car while Tuan is away.

3. Ed wants to give Howard his old car, but Howard says he doesn’t want it. Howard later reconsiders and tells Ed he does want the car. His previous repudiation means there is no gift, and Howard has no rights in the car.

4. If property is mislaid, the finder of the property will have a superior claim to possession of the property against everyone except the true owner.

5. While shopping at the mall, Everett's wallet fell out of his pocket. Jon found the wallet. The wallet is abandoned property and Jon may keep it.

6. The difference between an *inter vivos* gift and a gift *causa mortis* is that the *inter vivos* gift is made during the donor's lifetime and a gift *causa mortis* is a gift is made after the donor's lifetime by the donor's estate.

7. All bailments have to be by agreement between the bailor and bailee.

8. Mislaid property is distinguished from lost property by the intent of the true owner.

9. The level of care a bailee is held to depends on who receives the benefits of the bailment

10. A bailment was created for the parties' mutual benefit. This means that the bailee must use ordinary care with the property.

11. Stephen wants to give his niece, Dawn, a piece of jewelry as a gift. Stephen gives Tracy, his agent, the bracelet to take to Dawn. The delivery element of making a gift has been completed.

12. In a bailment the one who delivers the goods is the bailee and the one receiving them is the bailor.

13. After a meeting with his advisor to register for a class at State University, Ron forgot his calculator in the dean's outer office. Theresa, another student, found the calculator. The calculator is treasure trove and Theresa may keep it.

14. In January, Erwin told David, his nephew, that he would give him a car when he graduates from college. David graduated in May. If Erwin refuses to give David a car, David can sue him for breach of an *inter vivos* gift.

15. Dersett Trucking hauls granite for the major granite companies in Minnesota. Dersett Trucking does not make its trucking services available to the general public. Dersett Trucking is a contract carrier and does not incur strict liability.

16. Jody loaned her neighbor, Phil, her snow blower. Phil set it near his driveway, and later accidentally ran over and destroyed it. In a suit to recover damages, Jody as plaintiff has the burden of proving that Phil was negligent and caused the destruction of her snow blower.

**MULTIPLE CHOICE**

1. In order to constitute a valid gift:

|  |  |
| --- | --- |
| a. | the donor must intend to transfer ownership of property immediately. |
| b. | the donee must accept the gift. |
| c. | the donor must deliver the gift property to the donee. |
| d. | All of the above are necessary for a valid gift. |

2. Percival takes his computer to a repair shop to have the disk drive repaired. This is most likely a:

|  |  |
| --- | --- |
| a. | bailor benefit bailment. |
| b. | bailee benefit bailment. |
| c. | mutual benefit bailment. |
| d. | leasehold arrangement. |

3. Buck, fearing death from severe injuries suffered in a machinery accident, assigned over a certificate of deposit worth $100,000 and delivered the certificate to Pearl, a friend, who gladly accepts. Buck ends up recovering from the injuries. Why must Pearl give the certificate of deposit back to Buck?

|  |  |
| --- | --- |
| a. | This type of gift is known as a gift *causa mortis*. It is a conditional gift which is conditioned on Buck's actually dying. Because Buck recovered, the gift is automatically revoked. |
| b. | This is an *inter vivos* gift because Buck was still alive when the gift was made. Any *inter vivos* gift is revocable because there is no consideration to make Buck's delivery of the certificate binding under contract law. |
| c. | This is an *inter vivos* gift and due to state laws, gifts in contemplation of death must be written into a valid will or otherwise the deceased's assets will be distributed according to state statute. |
| d. | This gift is an ordinary gift, but it is revocable because we don't know if the certificate of deposit has matured or not. |

4. Rhonda is a server in a restaurant. One day she finds a purse while clearing a table. The purse is most likely:

|  |  |
| --- | --- |
| a. | lost property. |
| b. | mislaid property. |
| c. | treasure trove. |
| d. | abandoned property. |

5. If a bailment is for the sole benefit of the bailee which is the level of care he is required to use?

|  |  |
| --- | --- |
| a. | Extraordinary care |
| b. | ordinary care |
| c. | slight care |
| d. | no care |

6. A bailee always has a right:

|  |  |
| --- | --- |
| a. | to possession of the bailed property. Anyone who interferes with this right is liable to the bailee. Even the bailor himself is liable for wrongful interference with the bailee’s possession. |
| b. | to use the bailed property. |
| c. | to compensation. |
| d. | All of the answers are correct. |

7. George gave his great-grandfather's pocket watch to Nurse Nadene because he expected to die soon. This is:

|  |  |
| --- | --- |
| a. | a testamentary gift. |
| b. | an *inter vivos* gift. |
| c. | an executed gift. |
| d. | a gift *causa mortis*. |

8. Hanna intends to give her granddaughter, Melodee, her antique hat pin. This heirloom has been kept under lock and key in the wall vault in the library of Hanna’s house in Virginia. The hat pin is currently the only item in the vault. When Hanna is visiting Melodee in Connecticut, Hanna gives Melodee the only key to the vault. Melodee is grateful for the present and excitedly accepts. In this situation has there been a completed gift?

|  |  |
| --- | --- |
| a. | No. There has been no physical delivery of the hat pin. |
| b. | Yes. There has been physical delivery of the hat pin. |
| c. | No. There has only been constructive delivery of the hat pin. |
| d. | Yes. There has been constructive delivery of the hat pin. |

9. Bertha, from Chicago, traveled to San Francisco to attend a conference. Her sister, Martha, lives in San Francisco and consequently, Bertha made arrangements to spend a couple of days with her sister. The next morning sitting at the breakfast table, Bertha realizes that she packed a mismatched pair of shoes (one is black and the other is blue). Luckily, Martha wears the same size of shoes and lends Bertha a pair of black leather pumps. During the day, the shoes are damaged while Bertha is wearing the shoes. Bertha's duty of care would be a duty of:

|  |  |
| --- | --- |
| a. | extraordinary care, because this is a bailment for the sole benefit of the bailee. |
| b. | ordinary care, because this is a bailment with both parties receiving mutual benefits. |
| c. | only slight care, because this is a bailment for the sole benefit of the bailor. |
| d. | none, as the sisters would share without condition. |

10. The element that distinguishes a contract from a gift is:

|  |  |
| --- | --- |
| a. | performance of the offeror's or donor's promise. |
| b. | the element of consideration which is present in a contract, but not in a gift. |
| c. | whether or not the offeree or donee accepts the offer. |
| d. | whether or not the subject of the gift or contract is illegal. |

11. Personal property means all property other than:

|  |  |
| --- | --- |
| a. | soil, plants, and trees removed from the land. |
| b. | minerals and crops removed from the land. |
| c. | land and all things permanently attached to the land. |
| d. | intangible property. |

12. Select the correct answer:

|  |  |
| --- | --- |
| a. | Rosie rents a locker at the airport, and she puts a bag in the locker. Rosie keeps the locker key. In this case, the bag has been delivered to and accepted by the airport. The airport is a bailee. |
| b. | Hill rents a boat to Dan. The boat is located at a lake 30 miles away. Hill gives Dan keys to the boat. Dan drives to the lake and takes possession of the boat. In this case, the boat has been delivered to and accepted by Dan, and Dan is a bailee. |
| c. | Unknown to Lon, Jeff left a bike at Lon's house. Lon has not found the bike and he is not likely to find it because Jeff left the bike under the front porch. In this case, Lon is a bailee of the bike. |
| d. | Ken parked a car in a self-service lot and Ken kept the keys. The parking lot is a bailee. |

13. Which of the following is/are generally subject to a standard of strict liability for bailed goods?

|  |  |
| --- | --- |
| a. | Contract carriers and common carriers. |
| b. | Common carriers and innkeepers. |
| c. | Common carriers. |
| d. | Contract carriers. |

14. Sarah works for a company that has offered a promotion if she was willing to relocate. Sarah accepted the position and prepared to move. She hired a common carrier “We Move It” to move her furniture. She entered into a written contract with “We Move It”. The agreement included a clause excusing “We Move It” from any liability for loss or damage, even if the loss or damage resulted from “We Move It”'s negligent acts. Because of “We Move It”'s negligence, Sarah's furniture was damaged. Sarah claims that “We Move It” is liable for the full cost of the damage. Is Sarah correct?

|  |  |
| --- | --- |
| a. | Yes, because common carriers cannot limit their liability. |
| b. | No, common carriers can limit their liability. |
| c. | Yes, because exculpatory clauses are illegal and never enforceable. |
| d. | No. common carriers are never liable for negligence. |

15. Jeannie carelessly packed her grandmother's antique glassware and had it shipped to her 30-year-old daughter, Abby, via Common Freight Carriers. When the china arrived at Abby's house, most of the pieces were broken. As between Jeannie and Common Freight Carriers, who will bear the loss?

|  |  |
| --- | --- |
| a. | Jeannie is liable for the loss if Common Freight Carriers shows it was not negligent and that the loss was caused by Jeannie’s failure to wrap and pack the glassware properly. |
| b. | Common Freight Carriers is liable. A common carrier is always liable. |
| c. | Common Freight Carriers is liable because of its negligence in not inspecting Jeannie's packing job. |
| d. | Jeanie is liable because she did not get an exculpatory clause. |

16. Ali took a seat at a booth at Midway Diner. Between the salt and pepper shakers, Ali noticed something glittering. It was a diamond ring. The ring is:

|  |  |
| --- | --- |
| a. | abandoned property. |
| b. | an accession. |
| c. | mislaid property. |
| d. | treasure trove. |

17. Lacy sets her textbook under her chair in her business law class and then forgets to take it with her when she leaves the classroom. A janitor later discovers the textbook and gives it to the Dean of the Business College. In this situation:

|  |  |
| --- | --- |
| a. | the college is a constructive bailee, obligated to return the textbook to Lacy, and until it does, it is liable for harm to the property. |
| b. | the college is a bailee by agreement because holding items in a lost and found box is generally part of the college-student agreement when the student enrolls for classes. |
| c. | the college is responsible for the discovered textbook because in this situation, the college is subject to implied warranties unless the college has disclaimed such warranties in the student handbook. |
| d. | this is a bailment for the sole benefit of the bailee. |

18. A bailment is different from a gift because:

|  |  |
| --- | --- |
| a. | a gift requires consideration, but a bailment does not. |
| b. | a gift requires delivery, but a bailment does not. |
| c. | in a bailment, only possession of the property is transferred to the bailee, whereas with a gift, both possession and ownership must pass to the donee. |
| d. | a gift is always a contract, but a bailment is generally not a contract. |

19. Farmer Fred stay at a Quality Inn when eh goes to Des Moines for the pig auction. He leaves his $25,000 Rolex in the room so as not to reveal him net worth tot he people at the auction. When he returns the watch is gone. Who is liable

|  |  |
| --- | --- |
| a. | State statute may limit the Inn’s liability |
| b. | State statute may have required Fred to leave the watch in the Inn’s safe. |
| c. | Farmer Fred may not be able to hold Quality Inn liable |
| d. | All of these answers are correct. |

20. In the *Albinger v Harris* case:

|  |  |
| --- | --- |
| a. | there was a bailment of a ring and the court had to decide who paid for the diamond which was lost. |
| b. | the court stated had to figure out how to reimburse a bride who was left at the alter. |
| c. | the court had to decide whether an ex-fiance could keep an engagement ring. |
| d. | the court found that the cause of a fiance resulted in her being able to keep all the property acquired while they lived together. |

21. Jake owns an old piece of exercise equipment. He has been using the equipment merely to hang his clothes on, so Jake decides to get rid of the thing. He takes the unused exercise machine to the landfill and throws it off the back of the truck. Maggie, a teenager, is at the landfill rummaging for useful items. Maggie sees the exercise equipment and decides it is just the thing to give her sister for Christmas, so she decides to take it home. As she is loading it into the back of her pickup truck, Jake stops and tries to get it back. The landfill owner sees the commotion and decides he would like to have the equipment as well. Who has the best rights in the exercise equipment?

|  |  |
| --- | --- |
| a. | They are all joint owners. |
| b. | Maggie. |
| c. | Jake. |
| d. | The landfill owner. |

22. Beth owned an original United States flag. She had previously loaned the flag to Ross, a lawyer, so that he could display the flag on the wall behind his office desk. One day while visiting Ross in his office and admiring the flag, Beth said to Ross, "You are so fond of that flag, I would like you to have it!" Ross responded with a gracious "thank you." In this situation:

|  |  |
| --- | --- |
| a. | Beth has not made a valid, binding gift of the flag because gifts are never binding and can always be revoked by the donor. |
| b. | Beth has not made a valid, binding gift of the flag because the donor must deliver the property to the donee, which was not done here. |
| c. | Beth has made a valid, binding gift if Beth agreed to give the flag in exchange for Ross's legal services. |
| d. | Beth has made a valid, binding gift because she intended to transfer present ownership to Ross and Ross accepted the flag. |

23. Mitch takes his two best suits to Quality Cleaners and receives a ticket as a receipt. Quality tells Mitch his suits will be cleaned and will be ready to be picked up on Monday. Another customer overhears the exchange and early on Monday goes to Quality, convinces the worker he is Mitch but that he has lost his receipt. He identifies and retrieves the suits, which happen to fit him perfectly, too. Quality Cleaners:

|  |  |
| --- | --- |
| a. | is strictly liable to Mitch for the suits. |
| b. | is liable to Mitch only if Mitch can prove Quality was grossly negligent. |
| c. | has no liability unless Mitch proves Quality did not use ordinary care. |
| d. | will avoid liability if the receipt contained an exculpatory clause excluding gross negligence. |

24. Bruce tells his son, “You can have my 1990 truck, but if your grades fall, I’m taking it back.” Bruce:

|  |  |
| --- | --- |
| a. | has made no gift. |
| b. | has made a “revocable gift,” which is effective as a gift as long as the stated condition is met. |
| c. | intended to transfer ownership. |
| d. | has made a constructive gift. |

25. Darlene lent Jeff her car to go to a job interview. She did not tell him her brakes were going out. While driving to the job interview the brakes went out on Jeff and he cause a major accident resulting in his hospitalization. Who is liable for the damages?

|  |  |
| --- | --- |
| a. | Jeff, he was a bailee for his sole benefit. |
| b. | Jeff as he was driving except Darlene may be liable for the lost income because he did not get the job. |
| c. | Darlene is liable because she did not tell Jeff about all known defects |
| d. | Both Darlene and Jeff are liable as this was a bailment by agreement. |

26. Griffith Manufacturing ships 40 crates of goods by Trusty Shipping, a common carrier. Trusty offers Griffith a shipping rate of $725 for a limited liability of $5,000 or a rate of $975 for full liability for any harm to the goods. Griffith chooses the $725 rate. In transit, Trusty’s driver has an accident during an ice storm and all of Griffith’s goods are destroyed, causing a loss of $12,000. If Griffith sues Trusty:

|  |  |
| --- | --- |
| a. | Trusty will be liable for only $5,000 because a common carrier is allowed to limit its liability by contract. |
| b. | Trusty will be liable for the full $12,000 because common carriers have strict liability. |
| c. | Trusty will automatically be liable for the full $12,000 under the Carmack Amendment. |
| d. | Trusty is subject to normal bailment rules and can escape liability for any damage to the goods by proving that it exercised due care of the property and that the loss was caused by an act of God. |

**ESSAY**

1. Bill was shopping at the mall. As he was walking to Tonne's Department Store, his wallet fell out of his pants. While trying on a new suit, Bill left his leather jacket in the change room. Sue found Bill's wallet. Arnie, a sales associate, found his coat. What kind of found property is Bill's wallet? What kind of property is his jacket? What rights do Sue and Arnie have in the found property?

2. Most of the goods contained in a freight train (a common carrier) were destroyed when a tornado wrecked the train. The carrier was sued for damages by all the shippers that had merchandise on the train. Is the carrier strictly liable for the damage done to the goods by the tornado?

3. Distinguish between a contract and a gift. Give an example of each.

4. Discuss whether or not the following common transactions are bailments and if so, who is the bailor/bailee, and what type of bailment is involved:

|  |  |
| --- | --- |
| A) | Renting storage space in Farmer's Frank's huge barn to keep your classic car out of the snow and ice of winter. The rental agreement provides for $100/month rent and Farmer Frank has the only access to the barn. |
| B) | Hiring a moving company to move your belongings to a new residence. |
| C) | Loaning your lawn mower to your neighbor. |
| D) | Parking your car in a "park and lock" parking lot. |

5. Discuss a bailor’s liability for defects in the bailed property.

6. Tommy is going to have heart surgery. He is afraid that he will not survive, so he gives his favorite ring to his friend, Rod. Rod is aware of Tommy's apprehensions. Tommy survives the surgery and wants his ring back. Who is entitled to the ring and why?