

科目：民法

系所組：財經法律學系碩士班

- 一、甲將屬於乙的A鑽戒以100萬出賣給知情的丙，並完成所有權移轉行為，交付鑽戒給丙。乙知情後請求丙返還鑽戒，但丙已將鑽戒贈與並交付給不知情的丁。問丙與丁之行為是否成立無權處分？(25分)
- 二、甲向乙銀行借款新台幣3,000萬元，為擔保此項債務，由甲提供A地及丙提供B地設定共同抵押權於乙。試問：甲、丙與乙之間，設定普通共同抵押權與最高限額共同抵押權對當事人各有何利弊？(25分)
- 三、甲駕駛汽車不慎，發生車禍事故撞傷乙。乙係A公司之重要經理人，因受重傷，一年無法上班，致A公司之營業受重大不良影響，遭受巨大營業收入損失。乙於治療休養期間，由其妻丙請假照顧；另乙為回復體能，須前往醫院進行復健，惟乙未前往醫院進行該復健。另丁將其所有之A房屋出租於戊，戊於A房屋內自殺死亡。試附理由及依據，分別說明下列問題：(25分)
- (一)A公司能否就營業收入損失，請求甲負損害賠償責任？丁能否以A房屋成為凶宅，請求戊之繼承人已負損害賠償責任？
- (二)乙能否請求甲賠償照顧看護及須進行復健所需要之費用？丙能否就其為照顧乙所增加勞務及因請假而減少之收入，請求甲為損害賠償？
- 四、甲男乙女為夫妻，未約定夫妻財產制。乙婚前購置價值1000萬元之A屋，但負債200萬元。乙婚後又以其職業所得購置價值1000萬元之B屋，但負債500萬元。甲乃以其婚後職業所得700萬元清償乙之所有債務。甲乙離婚時，甲尚有存在銀行之婚後職業所得500萬元，乙除其名下之A、B二屋外，別無財產。試問：甲乙之財產應如何分配？(25分)

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科目：商事法

系所組：財經法律學系碩士班

一、A 為經營建設業之上市公司 (以下簡稱 A 上市公司)，公司已發行股份總數為一億一千萬股，依章程規定選有董事七席 (皆以自然人身分當選並有兩席為獨立董事)，其中非獨立董事之甲董事持股二百萬股、乙董事持股三百萬股、丙董事持股二百萬股、丁及戊各一百萬股，獨立董事己及庚未持股，依證券主管機關所定之公開發行公司董事監察人股權成數及查核規則規定，實收資本額超過新臺幣三億元 (以下同) 在十億元以下者，全體董事持有記名股票不得少於百分之十；實收資本額超過新臺幣十億元在二十億元以下者，全體董事持有記名股票不得少於百分之七點五，試請檢具理由說明下列問題：(25 分)

(一) A 上市公司之全體董事應持有多少股份才符合規定？

(二) 若 A 上市公司之全體董事持股未符合規定亦不補足，現行證券主管機關得為如何處理？

二、現行公司法就有關股份有限公司關係企業之控制公司及其從屬公司相互間，其交叉持股與業務經營之行為有那些限制之規範？若違反規定之法律效果與責任又如何？(25 分)

三、關於危險增加之通知方式及危險發生之通知方式，我國保險法均未設規定，假設保險契約載有類如「有關本保險契約之一切通知，除經雙方同意得以其他方式為之者外，雙方當事人均應以書面送達對方最後所留之住址。」之條款時，被保險人於未經保險人同意之情形下，竟以電話或電子郵件為通知，是否有效？亦即保險人得否依保險法第 57 條規定解除保險契約？附理由說明之。(25 分)

附：保險法第 57 條規定：「當事人之一方對於他方應通知之事項而怠於通知者，除不可抗力之事故外，不問是否故意，他方得據為解除保險契約之原因。」

四、X 公開發行公司有甲、乙、丙、丁、戊五名董事，其中甲為該公司董事長。近期 X 公司擬召開股東常會討論解除董事競業禁止之議案。試附理由回答下列問題：(25 分)

(1) X 公司可否於股東會中概括性解除該公司所有董事競業禁止之義務？

(2) 董事乙選任時持有 X 公司股份二萬股，股東會開會時持有該公司股份為六萬股，其中設質一萬二千股，則乙依法於此次股東會得行使表決權之股數為何？

(3) 股東會決議可否以反面表決或鼓掌通過方式通過議案？

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科目：法學英文  
共50題，每題2分

系所組：財經法律學系碩士班

1. John rented an apartment from Joe, and they signed a \_\_\_\_\_ to confirm their rental agreement.  
(A) collateral (B) warranty (C) easement (D) lease
2. Choose the best word that has the opposite meaning of “good faith”:  
(A) Minority (B) Incapacity (C) Unconscionable (D) Divisible
3. In talking about the different branches of government, which of the following is NOT a Yuan of the R.O.C. government?  
(A) Executive (B) Supervisory (C) Control (D) Examination
4. Which of these following orders would not be issued as part of the decision from an appellate court?  
(A) Attained (B) Reversed (C) Remanded (D) Affirmed
5. A \_\_\_\_\_ is sent to the Legislative Yuan to be debated and passed before being promulgated by the president.  
(A) bill (B) law (C) statute (D) code
6. Which of the following word is not a form of remedy?  
(A) compensation (B) damages (C) discovery (D) injunction
7. R.O.C. Consumer Protection Act Article 7 Paragraph 3 states, “Traders shall be jointly and severally liable in violating the foregoing paragraphs and thereby causing injury or damage to consumers or third parties, provided that if traders can prove that they have not been \_\_\_\_\_, the court may reduce damages.”  
(A) negligent (B) intentional (C) injurious (D) neglectful
8. R.O.C. Civil Code Article 2 states, “Only those \_\_\_\_\_ which are not against public policy or morals shall be applied to a civil case.”  
(A) jurisprudence (B) customs (C) statutes (D) precedent
9. Kelly filed a complaint with Taipei District Court against Jessica, and Jessica filed an answer with a \_\_\_\_\_ against Kelly.  
(A) counterargument (B) counterlawsuit (C) counterclaim (D) countermotion
10. According to R.O.C. Insurance Act Article 3, “The term ‘\_\_\_\_\_’ as used in this Act means a person having an insurable interest in the subject matter insured who applies to an insurer to enter into an insurance contract and is obligated to pay a premium.”  
(A) insurer (B) insured (C) beneficiary (D) proposer
11. Which one of the following words does not mean an opinion presented by the judge or jury at the outcome of a litigation?  
(A) decision (B) subpoena (C) judgment (D) verdict
12. In commercial contracts, in order to prevent the signing parties from going directly to the courts to resolve disputes, there is usually a(n) \_\_\_\_\_ clause in the contracts that mandate parties to undergo the alternative dispute resolution process.  
(A) arbitration (B) mediation (C) negotiation (D) conciliation
13. R.O.C. Civil Code Article 164 paragraph 1 states, “When a public notice promises to reward the person for his performance of a particular act, it is a rewarding public notice. The promisor is bound to deliver the reward to the person who has performed the act.” This is a type of \_\_\_\_\_ contract.  
(A) bilateral (B) mutual (C) singular (D) unilateral

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14. Drew tried to kill Jason with a knife but did not succeed in killing Jason. Drew will be charged with \_\_\_\_\_ to commit murder.  
(A) attempt (B) conspiracy (C) solicitation (D) causation
15. R.O.C. Civil Code Article 16 states, "No one shall be permitted to \_\_\_\_\_ his legal capacity or capacity to make juridical acts."  
(A) invalidate (B) disclaim (C) incapacitate (D) waive
16. If someone claimed that he received an e-mail from an Nigerian prince and invested a lot of money in an oil field owned by the prince, it is very likely that this would result in a(n) \_\_\_\_\_ investigation.  
(A) extortion (B) fraud (C) deception (D) deceit
17. According to R.O.C. Civil Code 1138, the first order of \_\_\_\_\_ to the property are spouses and descendants by blood.  
(A) inheritances (B) heirs (C) wills (D) estate
18. The selection of a jury is called the \_\_\_\_\_ process.  
(A) certiorari (B) ex post facto (C) voir dire (D) res judicata
19. The Constitution of R.O.C. Article 17 states, "The people shall have the right of election, recall, initiative and \_\_\_\_\_."  
(A) impeach (B) referendum (C) reimbursement (D) vote
20. John kicked Smith and injured Smith's leg. John is liable to Smith for \_\_\_\_\_.  
(A) battery (B) assault (C) defense (D) beating
21. R.O.C. Copyright Law Article 65 paragraph 1 states that the \_\_\_\_\_ use of a copyrighted work should not infringe on the economic rights of the copyright owner.  
(A) equal (B) right (C) good (D) fair
22. Which of the following is not a method of fulfilling contractual obligations:  
(A) tender (B) performance (C) delivery (D) ratification
23. R.O.C. Civil Code 125 states, "Unless shorter periods are provided by the act, a claim is extinguished by \_\_\_\_\_ if it is not exercised within fifteen years."  
(A) prescription (B) description (C) allotment (D) deadline
24. The person who gave you a loan is your \_\_\_\_\_.  
(A) administrator (B) lessee (C) creditor (D) offeror
25. Product manufacturers are \_\_\_\_\_ liable for all their products on the market.  
(A) seriously (B) strictly (C) stringently (D) similarly

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26. A \_\_\_\_\_ is a person who undertakes as a business to transport goods or passengers for freight.  
(a) plaintiff (b) carrier (c) dismissal (d) defendant
27. A \_\_\_\_\_ is a contract whereby the parties agree that one of them shall be bound to satisfy the obligation, when the debtor of the other party fails to perform same.  
(a) damage (b) dividend (c) guaranty (d) release
28. A general mortgage is a preferential right of a \_\_\_\_\_ to receive satisfaction of a claim from the proceeds from sale of real property that a debtor or a third party has provided, without transferring possession, as security for the claim.  
(a) creditor (b) issuer (c) shareholder (d) jobber
29. Individuals receive \_\_\_\_\_ through earning wages by working and/or making investments into financial assets such as stocks, bonds and real estate.  
(a) accessory (b) corruption (c) income (d) refresh
30. "Lawsuit brought on behalf of a corporation by one or more of its shareholders against its directors and/or officers to seek redress for a breach of fiduciary duty, gross negligence, mismanagement, or other serious matter" is called  
(a) direct action (b) derivative action (c) personal action (d) class action.
31. A \_\_\_\_\_ occurs when a large number of people withdraw their money from a bank, because they believe the bank may cease to function in the near future.  
(a) bank run (b) hijacking (c) bank syndicate (d) due diligence
32. In the securities industry an \_\_\_\_\_ is a company that helps companies introduce their new securities to the market.  
(a) broker (b) dealer (c) issuer (d) underwriter
33. The regulations governing the relationship between the shareholders and directors of a company and required for the establishment of a company are:  
(a) Regulations of Incorporation (b) Articles of Incorporation  
(c) Laws of Incorporation (d) Files of Incorporation
34. An \_\_\_\_\_ is a business practice, policy or procedure that is established within an organization to create value or minimize risk.  
(a) espionage (b) bribe (c) attestant (d) internal control
35. A \_\_\_\_\_ shall refer to any sign with distinctiveness, which may, in particular, consist of words, devices, symbols, colors, three-dimensional shapes, motions, holograms, sounds, or any combination thereof.  
(a) patent (b) copyright (c) trademark (d) proxy
36. "An agreement that establishes an employee-employer relationship" is called  
(a) voting agreement (b) labor contract (c) warranty (d) force majeure
37. Generally speaking, \_\_\_\_\_ involves use of nonpublic information by any person having a relationship giving access, directly or indirectly, to information intended to be available only for a corporate purpose and not for the personal benefit of anyone.  
(a) wash sale (b) matched order (c) insider trading (d) tender offer

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38. George was \_\_\_\_\_ of stealing important documents from the office.  
(a) discovered (b) accused (c) charged (d) broken
39. When Peter \_\_\_\_\_ the court order, he was quickly jailed.  
(a) violated (b) banned (c) hit (d) sanctioned
40. Members of the board of directors are always elected by the \_\_\_\_\_.  
(a) liquidators (b) shareholders (c) supervisors (d) inspectors
41. If you want to drive a car, you have to make sure that you have \_\_\_\_\_, so you don't have to pay a lot if an accident occurs.  
(a) health insurance (b) annuity insurance (c) liability insurance (d) bonding insurance
42. "Company whose shares are traded on an official stock exchange" is called  
(a) listed company (b) holding company (c) unlimited company (d) parent company
43. A \_\_\_\_\_ is a payment order issued by the drawer, or a debt instrument signed by the drawee. This category includes the balance of bills receivable granted from own assets or intermediated from central government funds or funds of other financial institutions.  
(a) bill of lading (b) government bond (c) bill of exchange (d) depository receipt
44. James was \_\_\_\_\_ of accepting bribes because he couldn't explain why he suddenly had so much money in his bank account.  
(a) persuaded (b) threatened (c) investigated (d) suspected
45. \_\_\_\_\_ is the statutory right of a corporation's minority shareholders to have a fair stock price be determined by a judicial proceeding or independent valuator, and the obligation for the acquiring corporation to repurchase shares at that price.  
(a) A convertible security (b) An appraisal right (c) Severance pay (d) A verdict
46. \_\_\_\_\_ is the act of giving up something such as the profits obtained by illegal or unethical acts on demand or by legal compulsion. Court can order wrongdoers to pay back illegal profits to prevent unjust enrichment.  
(a) Detention (b) Disgorgement (c) Indemnity (d) Mortgage
47. \_\_\_\_\_ is an essential element for the formation of a contract. It may consist of a promise to perform a desired act or a promise to refrain from doing an act that one is legally entitled to do.  
(a) Declaration (b) Divestment (c) Condemnation (d) Consideration
48. When a company's shareholders' meeting reaches the unanimous agreement of dissolution, the company will generally cease to carry on business at that time and start the process of \_\_\_\_\_ before dissolution.  
(a) liquidation (b) acquisition (c) reincorporation (d) consolidation
49. The district court rejected the \_\_\_\_\_ of the defendant though he made a strong argument for him.  
(a) pension (b) petition (c) participation (d) partition
50. "\_\_\_\_\_" means any person who in relation to a commercial practice, is acting for purposes of consumption to make transactions in exchange for goods or services.  
(a) Consumer (b) Trader (c) Corporation (d) Partner