



**Copyrights (Law 431)
Final Exam**

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This exam has 3 questions with a total time limit of 3½ hours. Question 1 (120 minutes) is worth 75% of the final score and Questions 2 and 3 (20 minutes each) are each worth 12.5% of the final score. You should allocate your time accordingly. The total time limit includes 50 minutes of discretionary time to use for transportation, printing, unforeseen delays or whatever you'd like (but please, not to spew unorganized thoughts!).

This is a "take-home" exam, meaning that you can take the exam anywhere you like. I have reserved Room 239 and the Miller computer lab for your convenience, but you may take the exam in the library, another classroom or outside the law school.

You must return the exam to me in my office (Room 110) or by email (see below) by noon Central time. www.time.gov provides the official time for the exam. Because I have already given you ample discretionary time for unforeseen problems, THERE IS NO ADDITIONAL GRACE PERIOD—NOT EVEN ONE MINUTE. I DO NOT INTEND TO GRADE LATE EXAMS. NO EXCUSES!

This is an "open book" exam, meaning that you may use any written material you want. However, during the exam, you may not communicate about the exam or your answer with anyone (orally, electronically or otherwise).

If you use a computer:

- You may return your answer to me by delivering a printed copy to me in Room 110 or by email at eric.goldman@marquette.edu. Include page numbers and your exam number on every page of your exam, but do not otherwise include any information that would identify yourself on the exam. If you are concerned that emailing your exam does not sufficiently preserve anonymity, please send it from an account that does not use your name or through an anonymous remailer, or turn in a printed exam.
- If you email me your answer, your answer is not received until your exam is in my inbox *and* I can successfully open and print the file. I use Microsoft Word for Windows 2000. I will reply as promptly as I can to confirm that I can print, in which case my reply email confirms that I have received your exam. However, if you have not promptly received a reply from me, I expect you to take all necessary steps to get your answer to me before the deadline. You can reach me by phone at (414) 288-5232.

- NO TIME EXTENSIONS WILL BE GIVEN DUE TO COMPUTER, EQUIPMENT OR POWER FAILURES, BECAUSE I CANNOT OPEN OR PRINT YOUR FILE, OR BECAUSE OF DIFFICULTIES TRANSMITTING THE FILE VIA THE INTERNET (although I might make special adjustments for widespread power or email failures).
- At the top of each answer, you must tell me how many words are in your answer. I DO NOT INTEND TO GRADE AN ANSWER THAT EXCEEDS THE APPLICABLE WORD LIMIT BY EVEN ONE WORD. FAILURE TO INCLUDE A WORD COUNT, OR INACCURATELY REPORTING A WORD COUNT, MAY LEAD TO SIGNIFICANT PENALTIES.

If you are hand-writing your exam, please write legibly! Also, include your exam number on every bluebook and tell me how many bluebooks you are submitting. Hand-written exams are not word-limited and do not require a word count.

I have the following additional thoughts for you:

- I recommend that you spend approximately 1/3 of your allocated time reading the question and outlining a response.
- Some potential efficiency techniques:
 - Bullet points are OK
 - Short citation forms are OK
 - You can use abbreviations if you define them and they are not ambiguous
 - Please quote statutes and cases only as necessary to make your point
- Read each question very carefully. Make sure you answer the questions actually asked.
- While generally your answers should be based on legal principles, it is often appropriate to address other perspectives and concerns.
- If any additional information would be useful in your analysis, indicate what information would be helpful and then state your assumptions in order to proceed with your analysis.

In all questions, assume all actions take place in the United States in 2003. Ignore all issues related to copyright notices. Where relevant, assume that any copyrighted works have not yet been registered but can be registered if the works otherwise comprise copyrightable subject matter.

GOOD LUCK AND HAVE A GREAT SUMMER!

Question 1 (120 minutes) [Maximum word limit for computer users: 3,600 words]

CollegeFunding publishes books containing descriptions of college financial aid programs (scholarships, loans, etc.). A sample CollegeFunding program description is included on the next page.

Jane is CollegeFunding's president. Her daughter, Julie, attends Idaho College and cannot find a summer job. So Jane asks Julie to spend the summer writing a new book, *CollegeFunding for Theology Students* (the "Book"), which will contain descriptions of financial aid programs available to college students seeking religious-oriented careers. Jane verbally promises to pay Julie a 20% royalty on all Book sales but no written agreement or other paperwork is prepared (after all, they are family!). Julie writes the Book over the summer in her college dorm room. The final Book contains approximately 1,000 program descriptions, grouped by religious denomination (i.e., Episcopalian, Jewish, Buddhist) and then presented alphabetically.

To prepare each program description, Julie first obtains information from a program sponsor about each program, either through a brochure or the program sponsor's website. Then, she writes the program description by placing that information into the categories used by CollegeFunding (see categories in the sample below). She also makes some minor word and format changes for logic and style. However, to maximize the descriptions' accuracy, she tries to retain the program sponsor's exact words as much as possible.

CollegeFunding publishes the Book on September 1, initially only through California bookstores. Several months later, Jane obtains a guidebook (the "Guidebook"), with a September 2 publication date, published by some Scientology students at Generic University ("GU") in Iowa. The Guidebook helps new GU students who are Scientologists make the transition from high school to college. The Guidebook includes a section on financial aid resources for Scientologists which contains 24 descriptions of financial aid programs for Scientologists, 18 of which use identical words in identical categories as the Book's 18 program descriptions applicable to Scientologists.

Jane contacts you and says that she wants to sue for copyright infringement. How would you counsel her?

Note: Do not discuss any potential contributory or vicarious liability on the part of GU, the Church of Scientology or anyone else.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK—SEE NEXT PAGE]

SAMPLE COLLEGEFUNDING PROGRAM DESCRIPTION

Scholarship Name	OMVETS Auxiliary Scholarships
Sponsor Name	OMVETS Auxiliary
Address	National Scholarship Chair, 4647 Forbus Boulevard
City	Lanham
State	MD
Postal Code	20706
Contact Phone	(301) 555-6255
Purpose	To recognize and reward need, academic achievement, and potential of members or certain dependents of members of OMVETS Auxiliary by providing financial aid for their undergraduate education.
Eligibility	Applicants must belong to the OMVETS Auxiliary or be the child or grandchild of a member. They must be at least in the second year of undergraduate study at an accredited college or university. Applications must include 3 letters of recommendation and a resume (from 200-500 words) including their past accomplishments, career and educational goals, and objectives for the future. Selection is based on personality (15%), scholarship (35%), aim (20%), and need (30%).
Financial Data	Scholarships are \$1,000 and \$750 each.
Duration	1 year.
Number Awarded	Up to 7 each year: 2 for \$1,000 and 5 for \$750.
Deadline	July 1 of each year.

END OF QUESTION 1

Question 2 (20 minutes) [Maximum word limit for computer users: 600 words]

Jane writes an article and sends a copy to *Pretentious* magazine to be considered for publication. *Pretentious* wants to publish the article and sends a written publication agreement to Jane. Among other things, the publication agreement says the article is a “work made for hire” and, if not, Jane assigns all right, title and interest in the article to *Pretentious*. Jane verbally agrees to the publication agreement’s terms but never signs the written publication agreement. *Pretentious* publishes the article anyway. What copyright ownership or license rights has *Pretentious* obtained from Jane?

END OF QUESTION 2

Question 3 (20 minutes) [Maximum word limit for computer users: 600 words]

Joe wants to make his own personal stationery by pasting a favorite comic he clipped from a newspaper onto a page and then making photocopies. He will then use the stationery for personal correspondence. He asks permission from the comic publisher to make the stationery, and the publisher says no because it has already licensed a third party the exclusive rights to make stationery using the comics. Is Joe’s activity fair use? Does it matter if he makes 1 copy or 1,000 copies of his stationery?

END OF QUESTION 3

END OF EXAM