Fact pattern #1
Fred and Addie own neighboring hog farms. Both have been in business for 15 years. Both have about 3500 sows and both store waste in lagoons. Both border a river. Fred's farm is downstream from Addie's. One day Fred noticed that the level of waste in Addie's lagoon was very close to running over. Fred called Addie to let him know that there was a problem. Addie replied, "Mind your own business - if I run it over the top it is no concern of yours!" and hung up the phone. That night, after a short rain, the dam on the river side of Addie's lagoon broke, allowing several million gallons of raw hog waste to flow into the river. Fred, who had used water from the river for his hog operation, has had to truck in water since the break. The stench of the hog waste combined with that of fish killed by the spill is so overpowering that Fred and his family have been forced to leave their home and live in a motel. Upon seeing the spill, Fred ordered his lawyer to immediately file a lawsuit against Addie.

1. What is Addie's best defense against an action on a nuisance theory?

a. Fred did not engage in pre-litigation mediation
b. Fred does not own the river
c. Addie's farm has been in business for more than one year
d. Fred is also a hog farmer
e. None of the above

2. What is Addie's best defense against an action on a trespass theory?

a. Fred did not engage in pre-litigation mediation
b. Fred does not own the river
c. Addie's farm has been in business for more than one year
d. Fred is also a hog farmer
e. None of the above

3. If Fred can get the case to trial, remedies are likely to include:

a. abatement
b. actual damages
c. punitive damages
d. actual and punitive damages
e. abatement and actual and punitive damages
4. Fred's suit based upon a nuisance theory will likely be based upon which category of tort?

a. strict liability  
b. intentional tort  
c. negligent tort  
d. none of the above

Fact pattern #2
Donald raises and trains poodles for dog fighting. He has discovered that the novelty of fighting poodles attracts customers to his dog fights, and that the authorities don't take fighting poodles seriously so he avoids arrest under North Carolina laws that make dog fighting a crime. At any given time he keeps about 20 poodles in locked cages in his back yard. His yard is posted with "No Trespassing" signs. One day his neighbor, Darby, who is outraged by Donald's business, entered Donald's backyard and let all of the poodles free, whereupon they mauled Darby, inflicting serious bodily injury.

5. Darby is most likely to recover actual damages under a theory of:

a. strict liability  
b. intentional tort  
c. negligent tort  
d. none of the above

6. True or False  Donald's defense of contributory negligence is a complete defense against the lawsuit brought by Darby.

Fact pattern #3
Ernie and Kermit were sitting in the bar, the Snowflake, when Ernie said to Kermit, I will buy your farm for $100,000. Kermit said, "Sold!" Kermit drafted a contract on a napkin and signed it. At the insistence of Ernie they left the bar and went to Kermit's house to obtain Kermit's wife's signature on the contract. After they left the bar the DEA conducted a raid on it. They found three tons of cocaine in a storage shed behind the bar. The bar had originally belonged to Chump, who unable to make money in the business, had sold it to Risling who found that, after he renamed it and began selling drug paraphernalia, it became a real money maker. Chump financed the sale to Risling by taking back a deed of trust for the remaining purchase price owed. The federal government seized the bar. Risling refused thereafter to make any further payments to Chump. Kermit refused to convey his farm to Ernie. His comment was that he was "high as a Georgia pine tree" when he made the contract, and anyway, it was just a dare - he wanted to see if Ernie really had the money.

7. True or False  Kermit's oral statement, "Sold!" created an enforceable contract for the sale of his farm.
8. True or False Enforceable contracts for the sale of real property cannot be written on napkins under the Statute of Frauds.

9. Which fact tends to support the proposition that Kermit was of sufficiently sound mind to form a contract for the sale of real estate?
   a. Kermit had been drinking alcoholic beverages
   b. Kermit testified that he was "high"
   c. The sale price of the farm was $100,000
   d. Kermit and Ernie left the bar to obtain the signature of Kermit's wife
   e. None of the above

10. Name the type of action that Ernie must bring to obtain the farm:
    a. Rescission and restitution
    b. Negative injunction
    c. Specific performance
    d. Money damages
    e. None of the above

11. True or False Chump is most likely to recover the bar by suing Risling alone.

12. Risling's best defense against a suit by Chump on the note to recover the remaining money owed is:
    a. Purchase money deed of trust
    b. Risling was unaware of the cocaine in the shed
    c. Loss of the property was a result of actions by a third party (the federal government)
    d. Chump failed to seek foreclosure first
    e. None of the above

13. The federal government's best defense against an action by Chump to recover the value of the security interest represented by his deed of trust is:
    a. Chump was aware of the illegal activity on the property
    b. Chump knew nothing of the illegal activity on the property
    c. Chump had initiated a foreclosure action against Risling as a result of Risling's illegal activities, prior to the federal forfeiture
    d. Chump was served with papers in the government's civil forfeiture action and defaulted
    e. None of the above

Fact pattern #4
Tenant farmer (TF) rents farmland from Landlord (LL) under an annual oral lease. TF grows tobacco on the rented land. LL sells the land to Developer (D), who immediately upon closing bulldozes the tobacco crop and begins building houses. TF asks D to pay
her the value of the crop. D says that he purchased the property from LL without restriction and the tobacco was his to do with as he wished.

14. The growing tobacco is:

a. Tangible personal property  
b. Intangible personal property  
c. Real property  
d. Fructus industriales  
e. Both (a) and (d)

15. True or False D need not pay TF because he had no knowledge that TF was renting the property prior to purchasing it.

16. True or False LL transferred the property to D under a general warranty deed so he is not required to pay D if D is required to pay TF.

17. True or False LL transferred the property to D under a quitclaim deed, with full disclosure of the oral lease with TF, so he is not required to pay D if D is required to pay TF.

**Fact pattern #5**

Ian Farmer owns a vineyard of approximately 500 acres (in North Carolina in the County of County) that is bisected diagonally by a railroad right of way. The railroad had been operated by the Short Line Railroad for as long as anyone in the community can remember. Eight years ago Short Line Railroad was purchased by MegaCorp, which discontinued rail service on the line passing through Ian’s property. Shortly thereafter Megacorp removed the rails and ties. Six years ago MegaCorp leased its rail corridor to Octopus Communications, which promptly buried a fiber optic cable under the corridor. MegaCorp has told Ian that it has a deed granting it a fee simple interest in the rail corridor through his farm; however, despite Ian’s repeated requests, MegaCorp has never provided a copy of this deed to Ian. It is not recorded in the office of the County register of deeds. In fact the only deed to the corridor that is recorded is an 1845 deed that grants the Short Line Railroad an easement through Ian’s property that states, “said easement shall be used only for the purposes of operating a railroad, and, should such use cease, said easement shall be forthwith and forever extinguished…”

18. True or False Cessation of use of the easement for railroad purposes extinguished the easement.

19. Ian is most likely to bring a ____________ action against MegaCorp and Octopus.

a. Nuisance  
b. Trespass  
c. Products liability  
d. None of the above
Fact pattern #6
Cal Cain owned a tract of farmland but was never sure about the exact status of his title. Abe Able was interested in buying the property, so Cal conveyed it to him by quitclaim deed. Abe recorded the quitclaim deed immediately. Cal later discovered that he had a marketable title to the land so he executed a general warranty deed to Bill Buyer. Bill knew of the quitclaim deed since it was on record but decided to proceed anyway.

20. What is the name of the action that Bill will bring against Abe to recover possession of the property?

a. nuisance  
b. trespass  
c. tort  
d. none of the above

21. True or False  Bill will win his lawsuit against Abe.

22. True or False  Assuming that Bill lost his lawsuit against Abe, Bill will recover his purchase money from Cal.

Fact pattern #7
Alice lives in dire poverty on a farm of 25 acres. She holds it as a life estate, which was granted to her by her late husband, Argon. At the same time that Argon granted the life estate to her, he granted the remainder interest in the property to their two sons, John and James. While hunting squirrels to stave off starvation, Alice fired into the ground and inadvertently discovered oil. Alice has signed a lease with a major oil company to extract the oil, and plans to move to Beverly Hills. John, who has a successful medical practice, and, James, a well-known attorney, have filed suit to prevent Alice and the oil company from extracting oil from the property.

23. Who wins the lawsuit?

a. Alice  
b. Argon  
c. John alone  
d. James alone  
e. John and James together

24. True or False  John and James hold a reversion.

End of questions based upon Fact pattern #7

25. True or False  A holder of a life estate who changes the use of the property commits waste.
26. True or False. Making a counteroffer revokes an option.

27. True or False. In North Carolina a deed of gift is void if not recorded within two years from the date of making.

28. True or False A child, age 10, may own real property in her own name.

29. An owner of a life estate may:

   a. cut timber on the property for making repairs on the property
   b. cut timber on the property for fuel for his own use
   c. cut timber on the property for fencing the property
   d. all of the above

30. Formerly personal property that has become real property by attachment to the land:

   a. easement
   b. emblement
   c. fixture
   d. none of the above

31. True or False An owner of land subject to a right of first refusal must sell when the holder of the right so requests.

32. True or False A deed must be delivered to be valid.

33. True or False Survivorship property may pass by will.

34. Real property rights include:

   a. disposition
   b. possession
   c. use
   d. all of the above

35. True or False The owner of a vested future interest in real property can sell that interest.

36. True or False The owner of a vested future interest in real property can use that interest.

37. True or False The owner of a vested future interest in real property has no right to possess the property.

38. True or False Property owned as tenants in common carries a right of survivorship.
39. True or False  Property owned as joint tenants in North Carolina carries a right of survivorship.

40. Which is not a duty of a life tenant?
   a. make repairs
   b. pay taxes
   c. avoid waste
   d. make improvements

41. True or False  Any group of people may hold property as tenants by the entireties.

42. True or False  A creditor of both spouses may execute against property held as tenants by the entireties.

43. True or False  Trust property does not benefit the trustee.

44. True or False  Ownership of annual crops passes with the land.

45. True or False  An optionee is not bound to purchase the property subject to the option.

46. True or False  Preemptive rights are not subject to the rule against perpetuities.

47. True or False  An optionee has priority over subsequent purchasers if the option was recorded.

48. True or False  Since an option pertains to real property it is not necessary to satisfy all the elements of a contract.

49. True or False  If the optionee exercises the option the optionor is bound to sell the property to the optionee.

50. True or False  A preemptive right and a right of first refusal are synonyms.

51. True or False  A preemptive right requires that the owner of the property sell the property at a specified price when the holder of the right exercises the preemptive right.

52. True or False  The rule against perpetuities limits the time within which contingent interests in real property may vest.
53. Which rule requires those contracts for the sale of real estate to be in writing?

a. statute of frauds  
   b. parol evidence rule  
   c. integration clause  
   d. Sam’s rule  
   e. none of the above  

54. True or False North Carolina law requires that all real estate sales contracts follow a form specified by statute.  

55. True or False The party seeking enforcement of a real estate sales contract need not have signed it.  

56. All are remedies for breach of a real estate sales contract except:  

a. specific performance  
   b. rescission and restitution  
   c. damages  
   d. self help  

57. True or False A buyer of real property under a long-term sales (installment sales) contract receives the deed upon making the last payment.  

58. All deeds require:  

a. competent grantor  
   b. operative words of conveyance  
   c. acceptance by the grantee  
   d. adequate description of the property  
   e. all of the above  

59. True or False A person under the age of 18 cannot own real property in North Carolina in their own name.  

60. A grantor under a warranty deed guarantees:  

a. that the grantor owns the property  
   b. that title is free from encumbrances  
   c. that grantor will defend the title  
   d. all of the above
61. A two party security interest in real property:
   a. mortgage
   b. easement
   c. covenant
   d. deed of trust
   e. none of the above

62. A three party security interest in real property:
   a. mortgage
   b. easement
   c. covenant
   d. deed of trust
   e. none of the above

63. True or False  North Carolina is a lien theory state.

64. A clause in a security agreement that causes all principle, interest, and costs to become due and payable upon default by the debtor:
   a. equity of redemption
   b. due on sale clause
   c. acceleration clause
   d. deficiency judgment
   e. none of the above

65. The right of the debtor to pay off the debt secured by a deed of trust and recover the property prior to foreclosure (including the period for upset bids):
   a. equity of redemption
   b. due on sale clause
   c. acceleration clause
   d. deficiency judgment
   e. none of the above

66. A clause in a security agreement that causes all principle, interest, and costs to become due and payable upon sale of the property by the debtor:
   a. equity of redemption
   b. due on sale clause
   c. acceleration clause
   d. deficiency judgment
   e. none of the above
67. Methods of selling real property include:

a. private agreement  
b. broker/agent  
c. auction  
d. sealed bid  
e. all of the above

68. True or False  An abstract is a chronological arrangement of facts relevant to the title of a property.

69. True or False  A fixture filing under the UCC creates a security interest in the fixture that has priority over the deed of trust on the property.

70. Which of the following items is a tenant most likely to be able to remove (absent agreement of the landlord) from the property at the conclusion of a lease?

a. trees intended for harvest as Christmas trees five years after the termination of the lease  
b. trees intended as nursery stock  
c. a fence to enclose a pasture for cattle  
d. an industrial stove that is usable only in the tenant's restaurant business  
e. a replacement air conditioning unit bolted to a concrete pad outside of a residence

71. In a buyer agency arrangement, the broker represents the interests of the:

a. buyer of real property  
b. seller of real property  
c. both a and b  
d. neither a and b

72. In a dual agency arrangement, the broker represents the interests of the:

a. buyer of real property  
b. seller of real property  
c. both a and b  
d. neither a and b

Fact pattern #8
Maude signed an exclusive right-to-sell agency agreement with George, a licensed real estate broker in North Carolina, to sell her farm of 100 acres. The agreement was scheduled to terminate after three months if the property was not sold. The agreement provided compensation to George in the form of a commission expressed as a percentage of the sale price of the property. Newland saw an ad that George had placed in the newspaper and contacted George who showed him the property. Maude then arranged to sell the property to Newland without participation from George. The sales contract was
signed before the end of Maude's contract with George ended but the closing occurred after the contract had expired.

73. Maude will owe George:
   a. his full commission
   b. one half of his commission
   c. nothing
   d. an amount required to avoid unjust enrichment

74. Assume for this question that Maude signed the sales contract with Newland after the listing agreement had expired, she would owe George:
   a. his full commission
   b. one half of his commission
   c. nothing
   d. an amount required to avoid unjust enrichment

75. Assume for this question that Newland contacted Maude directly and did not know of the agency contract between Maude and George, then Maude will owe George:
   a. his full commission
   b. one half of his commission
   c. nothing
   d. an amount required to avoid unjust enrichment

76. Assume for this question that Newland contacted Maude directly and did not know of the agency contract between Maude and George, and that the sales contract was signed after the termination of the listing agreement, then Maude will owe George:
   a. his full commission
   b. one half of his commission
   c. nothing
   d. an amount required to avoid unjust enrichment

77. Assume for this question that everything went well until it was discovered that a heretofore unknown descendent of Maude's grandfather, who died intestate, had a claim to an undivided interest in the property. Newland refused to close on the property and the sale was not concluded.
   a. Maude will owe George his full commission
   b. Newland will owe George his full commission
   c. Neither Newland nor Maude will owe George anything
   d. Maude will owe George a prorated commission
   e. Newland will owe George a prorated commission
78. True or False  Lender's title insurance protects the buyer's equity in real property if there is a defect in title.

79. True or False  Owner's title insurance protects the buyer's equity in real property if there is a defect in title.

80. In which type of state does the owner of livestock have the duty to prevent the livestock from straying across the property of another?

   a. fence in
   b. fence out
   c. both a and b
   d. neither a or b