

**Final Examination**  
**Saturday, December 15, 2012**

GENERAL INSTRUCTIONS:

1. Be sure to write your anonymous number in the place provided at the top of this page. You are required to turn these test questions in at the end of the examination. Failure to return the test questions will result in a grade of **F** for this examination.
2. This is a limited open book examination. You are permitted to have with you the Rules book.
3. There are two parts to this examination:  
  
PART I - Essay (40%)  
PART II - Multiple Choice (60%)
4. Specific instructions for each part are located with that part. Read them carefully!
5. This is a 3 hour exam.
6. If you wish to leave the room during the examination, you may do so. You must, however, leave your test questions and answer sheet in the classroom. Moreover, you may not speak with any member of the class while outside the room.
7. All the examinations at the law school are conducted under the Student Code of Conduct, which forbids cheating or collaborating on examinations. If you witness anyone cheating in any form, it is your responsibility to report this to the Registrar or the Dean of Students. You are required to sign the form indicating compliance with the Student Code of Conduct at the completion of your examination.
8. All students are required to have a Widener University School of Law picture ID card with a validation sticker for fall 2012 on the desk in front of them during the examination.

## **PART I**

### **ESSAY QUESTION** **(suggested time: 1¼ hour)**

#### **IMPORTANT**

Read the following instructions CAREFULLY:

1. Unless you are using ExamSoft, use the “blue” books provided to write your answer. Be sure to put your anonymous number on each “blue” book. In addition, you **MUST** number each book, e.g., “1 of 1” or “1 of 3,” “2 of 3,” “3 of 3.”
2. If you are handwriting your exam, write only on one side of each sheet of paper. And remember, a legible exam makes a happy professor!
3. If there are any facts you need to know to analyze the problem, indicate what they are and how they would affect your conclusion. Do not, however, rewrite the question!
4. Address only the issues of procedural law. Do not address the substantive law involved.

Patty Paladino, a Delaware citizen, sued her former employer, Delta Drugs, in federal court pursuant to the federal Fair Labor Standards Act (FLSA). Delta, a Delaware corporation with its principal place of business in Delaware, employed Paladino as general counsel between April 21, 2008, and October 18, 2011. She served in a variety of roles, including supervising HIV/AIDS support groups, interfacing with pharmaceutical company representatives, and marketing Delta Drugs to state and local officials. Her salary was approximately \$202,000, paid semi-monthly. However, she received no salary between August 1, 2011, and October 18, 2011, in violation of the FLSA.

In its answer, Delta included a counterclaim against Paladino for fraud based on her supposed misrepresentations regarding her qualifications when she was hired. Specifically, Delta claims that Paladino asserted that she previously worked as an attorney for the United States Department of Justice and received a salary in excess of \$180,000. Defendant further alleges that she indicated she would be general counsel for Delta, and outside counsel would not be retained for work within the ordinary course of business. Relying on these statements, Delta hired Paladino. Defendant now contends that plaintiff never worked for the Department of Justice and often hired outside counsel to perform legal work that was within her scope of duties to be performed for Delta, thus causing injury to the company.

Paladino has moved to dismiss the counterclaim on the grounds the court lacks subject matter jurisdiction over the counterclaim. You are the clerk for the judge assigned to this case. She has asked you to write a memorandum advising her of the arguments for and against the motion. In addition, she wants you to advise her how you think she should rule, explaining why.

**PART II**  
**MULTIPLE CHOICE QUESTIONS**  
**(suggested time: 1¾ hour)**

**IMPORTANT**

Read the following instructions CAREFULLY:

1. Using a #2 pencil, write your anonymous number on the answer sheet in the first six columns for I.D. number and fully darken the rectangles that correspond with your number. Do not use ExamSoft for this portion of the exam; you must use the answer sheet provided to get credit for your answers.
2. Using a #2 pencil, fully darken the letter “A” under Test Form.
3. There are 25 questions in this part.
4. To be scored, your answers must be recorded on the answer sheet using side 1, numbers 1-25. Do not use the “E” rectangle on the answer sheet. Choose only rectangles “A” through “D.”
5. You must use only a #2 pencil in answering the questions. Fully darken the rectangle for the answer you wish to give.
6. Unless otherwise indicated, assume suit is in federal court.
7. For each question, choose the best answer.