

Antitrust

Spring 2021

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University of Oklahoma College of Law

FINAL EXAMINATION

[↓ The following instruction material was released in advance of the exam. ↓]

INSTRUCTIONS

(Note: These same instructions are included on the exam Canvas page and within the downloadable exam booklet.)

Administrative/Technical Instructions

1. Once you start the exam, the exam booklet (containing both the Part One short-answer questions and the Part Two essay facts and questions) will be available as a downloadable PDF. Scroll down to look for the link. Please note that although the Canvas information may list this as a "Graded Quiz," it's actually the final exam. Whatever Canvas may say about how many points the exam or quiz is worth is irrelevant; I'm grading the exam normally, in accordance with what I've said in the syllabus and elsewhere.
2. If you have technical difficulties, please contact lawfacsupport@ou.edu immediately.
3. This is a timed exam. You have only one attempt. You have three hours to write the exam. There is a five-minute buffer for uploading on top of the three hours for taking the exam. This means the exam countdown clock will start at 3:05:00. If you start the exam with less than 3:05:00 left on the exam countdown clock, the exam will still close at the end of the time on the exam countdown clock. When the exam countdown clock gets to five minutes remaining, you must stop writing and begin working on uploading your exam. Make sure you upload before the countdown clock hits zero. If for some reason you are having trouble uploading and it appears that you may not succeed in uploading before the countdown clock expires, *immediately* e-mail the document you are attempting to upload to OU Law Faculty Support at lawfacsupport@ou.edu. If the countdown clock expires and the exam has not been received by Canvas (or, in a pinch, by e-mail to Faculty Support), then your exam is late and points will be taken off of your exam score.
4. Be aware that after the exam countdown clock expires, you will be unable to upload to Canvas, and at that point will have to submit your late exam by e-mail to Faculty Support at lawfacsupport@ou.edu. Follow that e-mail, if you wish, with a second e-mail providing any explanation you'd like to provide. In

all cases of late submissions, points will be taken off. The later the exam is, the more points will be taken off. If late enough, an exam will be given no credit at all. So make sure you monitor the exam countdown clock on Canvas and stop writing at five minutes left on the exam countdown clock.

5. *What if multiple things don't work and I can't upload or e-mail, etc.?* The only possible exception to the mandatory reduction in points will be in the case that before those five minutes expire you have tried to ameliorate the problem with Faculty Support and, after consultation with Faculty Support and persons in the OU Law administration, I am satisfied that the connectivity problems were bona fide and that it is beyond reasonable doubt that you obtained no advantage from any delay. If your internet isn't working at all, so that you can't even e-mail, then as a last resort you can try telephoning Faculty Support before the exam countdown clock expires. (The Canvas home page has the contact numbers to call Faculty Support personnel.) You could also try e-mailing from your phone—perhaps with pictures of your exam response if you can make that work. If Canvas, e-mail, and your phone all fail simultaneously so that nothing works, then points are going to be taken off your exam score, regardless of blameworthiness or innocence.

6. If you navigate away from the exam or close the browser during the testing time, you can re-enter the exam by clicking the "Resume Quiz" button. The exam countdown clock will continue to count down to zero.

7. It is strongly recommended that you do not take the exam using downloaded Canvas software (e.g., the Canvas app for iPad). Instead, whether you are using a tablet, a laptop, or a desktop, access Canvas through the web, using a browser (such as Chrome, Firefox, Safari, Edge, etc.) to take the exam.

8. Typed exam answers must be submitted as a DOCX (which is preferable) or PDF document file. Links to documents located in cloud storage such as OneDrive, GoogleDocs or DropBox will not be accepted. Follow the instructions below as to format.

9. *If you are not enrolled in the course, DO NOT open this exam. Contact lawfacsupport@ou.edu as soon as possible. Opening an exam for a course in which you are not enrolled violates the Honor Code.*

Other Instructions

1. The Download (the Exam Booklet):

All of the questions, hypothetical facts, etc., for both Part One and Part Two, are contained in a single PDF exam booklet, link below. You will be able to print-out and mark-up the booklet as may be useful to you. I strongly urge you not to copy and paste material from the exam booklet into your exam response! (I will already know what's in the exam booklet because I will have written it. If you need to refer to

material in the exam booklet, I suggest you just refer to it. There's no need to quote it.)

2. The Upload (Your Answers/Response):

You must submit answers for both Part One and Part Two of the exam in a single document which you will upload to the Canvas site.

Mandatory formatting requirements: You must upload your response either as a DOCX (which is strongly preferred) or as a PDF. The document **must** be 8.5-inch-by-11-inch in size in portrait orientation with line spacing set to **single-spaced** with the only font used being **12-point font**, and with the **margins set to 1 inch** all around. Put your exam number in a paragraph by itself at the very beginning of the document and in a paragraph by itself at the very end. If your exam response does not meet these minimal mandatory formatting requirements, points will be taken off.

Strong recommendations for formatting: The document **should** use only Arial, Helvetica, or a similar sans-serif font and have paragraphs where the first line is set to indent by 0.5" and there is 6 points of space after each paragraph. The document header should consist only of your exam number and the document footer should have only the page number or, preferably, say "Page X of Y" where X is the page number and Y is the total number of pages. For each question, put the question number on a line by itself, and put an extra line break between questions. Put "PART ONE – SHORT ANSWER" at the beginning of Part One and "PART TWO – ESSAY" at the beginning of Part Two. I've created a sample/dummy response you can look at. It's on the class webpage, but here's the direct link: http://www.ericejohnson.com/courses/antitrust_21/m/Exam_response_sample.pdf. What I really want is for it to be crystal clear what material is for what question and what your exam number is.

I have posted an exam response template that I urge you to use if possible. It already has the required/recommended margins, font, font size, line spacing, etc. This exam response template is already on the class webpage, but here's the direct link: http://www.ericejohnson.com/courses/antitrust_21/m/Exam_response_template.docx. (When you use it, replace "000" with your exam number.)

Please do not disregard the formatting requirements or recommendations! These format requirements are so that all responses will look alike and be similarly readable. That helps grading fairness.

3. Anonymity and Identification:

Use your exam number. Each exam will be "blind graded," so that I will not know the identity of the student as I am grading her or his exam. You may not waive anonymity. Do not include your name in your exam response. Self-identification on the exam or otherwise compromising anonymity will presumptively result in both a deduction from your exam grade and a referral for disciplinary action.

4. Allowed and Not Allowed:

There is no difference between what is allowed and not allowed for Part One and Part Two of the exam. The whole exam is conducted on what might be called an open-book basis, more or less. Here's the specific rules:

(i) You may access any print sources you like for which you have your own copy, but you may not share print sources with anyone else, including other students.

(ii) You may access any of your own electronic documents for which you have a locally stored copy. No sharing of these either, obviously.

(iii) You may access my own website at ericejohnson.com and any materials thereon. But note that while I do not foresee any web hosting problems with ericejohnson.com, I cannot guarantee service during and through the exam period. Thus, I recommend having locally stored copies of any documents from ericejohnson.com that you consider essential.

(iv) You may use scratch paper. You may also use a digital device to take notes—i.e., to serve as virtual scrap paper—but whatever notes you make must be locally stored and may not be stored online or made accessible to anyone else.

(v) You may use a timer, such as a kitchen timer, a timer app on your phone or computer, a countdown function on your watch, etc. And, if it ends up being helpful, you may use a calculator, including a calculator app on your computer or phone.

(vi) **You are prohibited from communicating with anyone during the exam period.** You may not communicate with anyone—whether in person, on the phone, via text, or via any platform (e.g., Twitter, GroupMe, Discord, Facebook, Snapchat, Zoom, or anything). So, among other things, **you are prohibited from collaborating with or asking for help from any fellow student or any non-law-student for any purpose, including, for instance, helping you figure out what something means, proofreading your essay response, or helping to let you know when you are running out of time.** The only exception is that you can have entirely non-substantive communications with people along the lines of sharing physical space. So, you can yell, “Get out of the bathroom already, I’m taking an exam!” or “Can you please take the crying baby outside, I’m trying to take an exam!” If you need technical support (e.g., “This stupid thing won’t upload, can you help me?”), you can communicate with staff at OU for that purpose. If you use another person who is not OU staff for technical support, such a roommate, sibling, etc., then you must disclose that communication immediately following the conclusion of the exam to OU Law Faculty Support. If disclosure is prompt and if it is determined no substantive help was given, then this will not be considered a rule violation. Under no circumstances may you communicate with another law student in this course—even to help with tech support issues.

(vii) **You are prohibited from accessing any internet or online sources at all—with the exception of the OU Canvas site you are using to take the exam and any materials available on my own website at ericejohnson.com** (see

above). This means, for instance, that you may not access or search for anything using Google, Westlaw, Lexis, Quimbee, government websites, library websites, etc. **For clarity: You are prohibited from using an online/cloud-based platform for writing your exam, such as Google Docs.** And, of course, you cannot make or receive any communications via social media.

5. Substance:

Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems. This is what you will be graded on.

Unless otherwise provided, base your legal analysis on the federal law, the general common law and typical state statutory law in the United States, including all rules, procedures, and cases from the course, plus any hypothetical laws presented in the facts.

6. About Part One of the Exam:

Part One of the exam is worth one-third of the total exam grade. It should take about one hour out of a total of three hours.

Clearly label each question separately in your answer.

Obey the word limits in Part One. Note that for some questions, I direct you to make the first two words of your answer “XXX words,” where “XXX” is the number of words.

7. About Part Two of the Exam:

Part Two of the exam is worth two-thirds of the total exam grade. I recommend that you do Part Two second and that you spend at least two hours on it.

Clearly label each question separately in your answer.

There are no length limits (e.g., word-count limits or page limits) applicable to Part Two.

Organization counts. Read all questions before answering any of them – that way you can be sure to put all of your material in the right places.

Clarity counts. Be aware that there are no points to be won or lost for spelling, grammar, or stylistic aspects of writing – so long as I can understand what you are saying. Feel free to use abbreviations, but only if the meaning is entirely clear.

Important: **Limit your discussion to the questions posed.** Leave out parties and causes of action not embraced by any question. Also: **Please do not repeat the exact same analysis when discussing a different aspect of something.** Instead, if analysis of an issue is similar to but not exactly the same as what you have written previously, then I encourage you to refer to your prior analysis and go on to discuss any differences. Within the confines of the questions you are asked, note all issues you see. More difficult issues will require more analysis. Spend your time accordingly.

Note that the Part Two questions are not separately weighted; instead, they will be lumped together for assessment. So divide your time among the questions according to what requires the most discussion and analysis. Plan ahead to put information where it belongs. And correspondingly: **Do not expect that each question calls for an equal share of your time or words. Consider that any given question might be appropriately answered with substantial brevity or might require in-depth treatment.**

8. Final Admonitions:

In case one of your fellow students is delayed in taking the exam—perhaps because of a medical emergency (rare, but not unheard of)—communicate nothing about the exam publicly (including social media) until after everyone has taken the exam. That means not even vague impressions or characterizations. And take care to avoid any direct communications about the exam to any member of the class who may not yet have taken the exam.

Failure to follow exam instructions—including but not limited to allowed communications, device usage, and time limits—are academic misconduct issues, and violations will be treated as such even if inadvertent.

I wish you good luck, and here's early wishes for a wonderful summer!

[↑ The preceding instruction material was released in advance of the exam. ↑]

PART ONE – SHORT ANSWER

[↓ The following instruction material was released in advance of the exam. ↓]

Some key admonitions:

- Obey the max word counts!
- These are short answer questions. In every instance the max word counts give you more words than are necessary for an outstanding response. There's no point in trying to run your answers to the limit.
- You only need to specify the number of words in your answer where directed. Wherever directed to state a word count, simply start off your response with "XXX words." But replace XXX with the number of words.
- You don't need to include the two words specifying the word count within the word count.
- **These questions are not meant to be tricky!** If you know the material well, you should be able to get them done quickly – with all due care but without a lot of deep thinking or creativity.
- **DO NOT TAKE LONGER THAN ONE-THIRD OF YOUR EXAM PERIOD (ONE HOUR!) FOR THIS PART ONE! YOU WILL WANT AND NEED TWO-THIRDS OF YOUR TIME FOR THE ESSAY IN PART TWO.**

[↑ The preceding instruction material was released in advance of the exam. ↑]

THE QUESTIONS BEGIN:

[omitted]

PART TWO – ESSAY

[omitted]

[↓ The following instruction material was released in advance of the exam. ↓]

Please do not bring in material from other courses! Stick to what you learned in this course.

For emphasis, I repeat the following:

Limit your discussion to the questions posed. Leave out parties and causes of action not embraced by any question.

Note that the Part Two questions are not separately weighted; instead, they will be lumped together for assessment.

Plan ahead to put information where it belongs.

Do not expect that each question calls for an equal share of your time or words. Consider that any given question might be appropriately answered with substantial brevity or might require in-depth treatment.

[↑ The preceding instruction material was released in advance of the exam. ↑]

Some possibly helpful abbreviations:

[omitted]