

## Professor Coyne's Evidence Questions Fall 2017

Name: \_\_\_\_\_ Date: \_\_\_\_\_

1. Hearsay is

---

---

2. It's not hearsay if:

---

---

---

---

3. Who can make hearsay statements \_\_\_\_\_

4. You offer hearsay through \_\_\_\_\_

---

5. Inconsistent statements \_\_\_\_\_

---

---

6. In Massachusetts what are admissible as hearsay exceptions? \_\_\_\_\_

---

7. There are \_\_\_\_\_ hearsay exceptions.

8. What makes some unavailable? \_\_\_\_\_

---

---

9. The three main groups of hearsay exceptions are \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_.

10. The 3 d's & 2 f's of unavailability are \_\_\_\_\_  
\_\_\_\_\_

11. What are the spontaneous exceptions \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. What is the Hillman Doctrine? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. With Present Sense Impression, the statement can be about any \_\_\_\_\_  
\_\_\_\_\_ as long as the statement is made \_\_\_\_\_

14. \_\_\_\_\_ must be a startling event; and made while under the stress or  
excitement caused by the event or condition.

15. \_\_\_\_\_ is the only hearsay exception that requires availability.

16. What can be used to Recollection Refreshed? \_\_\_\_\_

17. What Federal rules pertain to Hearsay, \_\_\_\_\_

18. A statement can be \_\_\_\_\_  
\_\_\_\_\_

19. Legally operative facts \_\_\_\_\_ hearsay, because \_\_\_\_\_  
\_\_\_\_\_

20. A co-conspirator's statement is not hearsay, if \_\_\_\_\_  
\_\_\_\_\_

21. What was the common law rule for spousal testimony \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Which spouse has the right to prevent the other from testifying about confidential communications between them while they were married? \_\_\_\_\_

23. What is a "Confidential Communication," \_\_\_\_\_  
\_\_\_\_\_

24. An eavesdropper \_\_\_\_\_ destroys the confidential nature of the communication.

25. Conversations that took place before marriage, \_\_\_\_\_ excluded under Marital Communication rule.

26. Marital Communication Privilege for marital communications \_\_\_\_\_ lost after a divorce.

27. The Observation Rule is used in \_\_\_\_\_ cases.

28. Observations or transactions of a spouse relates to things other than \_\_\_\_\_  
\_\_\_\_\_ between husband and wife.

29. What is the test used in for observations or transactions of a spouse \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

30. If the observations or transactions of a spouse does apply what is the acronym to use? \_\_\_\_\_

31. In State court (generally), \_\_\_\_\_  
\_\_\_\_\_

32. In Federal Court, \_\_\_\_\_  
\_\_\_\_\_

33. In Federal Court while witness spouse may elect to testify about observations, \_\_\_\_\_  
\_\_\_\_\_

34. Post Divorce, the rule followed by most state courts in criminal cases is \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

35. Subsequent to a divorce, either spouse has the right \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

36. General rule is that character evidence may *NOT* be introduced, \_\_\_\_\_  
\_\_\_\_\_ or \_\_\_\_\_  
\_\_\_\_\_

37. What type of case is character evidence offered in (generally)? \_\_\_\_\_

38. And only after \_\_\_\_\_ first offers character evidence (by general reputation only),  
or by testifying, \_\_\_\_\_ places his or her character for truthfulness in issue.

39. Which types of offenses is character is relevant to damages? \_\_\_\_\_  
\_\_\_\_\_

40. The criminal defendant may offer \_\_\_\_\_ evidence of their character.

41. The character evidence that may be offered is limited to \_\_\_\_\_ character traits –  
\_\_\_\_\_ to the crime charged.

42. Once the \_\_\_\_\_ makes character an issue, then \_\_\_\_\_ character can be attacked by \_\_\_\_\_ .

43. Prosecution may impeach character witnesses through \_\_\_\_\_

44. The prosecution may also rebut the defendant's good character evidence by offering evidence, again \_\_\_\_\_

45. The \_\_\_\_\_ of every witness -- in a civil or criminal case can be attacked.

46. When respect to Character For Truthfulness, a witness can be impeached by \_\_\_\_\_

47. Habit is proven \_\_\_\_\_

48. Habit is generally used in \_\_\_\_\_ cases.

49. Habit is defined \_\_\_\_\_

50. Character is an issue in a criminal case only \_\_\_\_\_, or \_\_\_\_\_

51. The scope of impeachment is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

52. You may impeach any witness by \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

53. Witnesses may be impeached through the use of their \_\_\_\_\_

54. The court has no discretion to exclude \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

55. All other felonies are subject to a \_\_\_\_\_, unless it is a prior conviction of the criminal defendant and then it is excluded if it is more \_\_\_\_\_

56. When prior convictions are too similar to the present charge, they are likely to be \_\_\_\_\_ by the jury, and there is greater reason therefore for the judge to \_\_\_\_\_

\_\_\_\_\_

57. No discretion to exclude a \_\_\_\_\_ if it is less than 10 years old when it used to impeach the witness.

58. Government can impeach a character witness with \_\_\_\_\_

\_\_\_\_\_

59. To be admissible, all crimes over 10 years old, \_\_\_\_\_ and \_\_\_\_\_

\_\_\_\_\_

60. Mimic rule (what Irving calls *Brides in the Bathtub*), allows \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

61. The mimic rule are not used for \_\_\_\_\_, the prior acts are used to show the person committed.

62. Who can be called to offer a hearsay statement? \_\_\_\_\_

\_\_\_\_\_

63. An agent's statement is not hearsay if \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

64. Prior statements of identification come in as \_\_\_\_\_.

65. Prior consistent statement of a witness testifying at the present trial is excluded unless \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

66. Forfeiture by Flight of a Witness is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

67. \_\_\_\_\_

\_\_\_\_\_

to prove the truth of the matter asserted therein except a party's own statement offered  
against that party