

Administrative Law
Fall 2003 - Richards

Put your exam number on each page of the examination. Do not put your name or any other identifying information on the examination. Make sure you have all the pages and that they are all different before you start answering the exam. Use no more than the space provided. These are all short answer, a few have room for a couple of sentences. If you are using the computer, make sure you number your answers correctly.

Name that case!

1. In this case the agency tried to supplement an inadequate record in a adjudication with briefs when the case was on appeal to the courts.
2. This is the classic new property case which granted hearing rights before the termination of welfare benefits.
3. This is the case that put major limits on the case from question 2, allowing the agency to use a cost benefit analysis to limit hearing rights. It introduced the improvement in the accuracy of the proceeding as a factor to consider when deciding on the level of due process.
4. The court rejected the rulemaking in this case because the proposed rule did not give the industry sufficient notice of the provisions of the final rule.
5. This case established that the state could require people to be vaccinated against smallpox.
6. In this case a congressman stepped over the line when trying to influence an agency's ruling in an adjudication that was in process.

7. The court deferred to the judgment of the university in this case, making it very difficult for students to attack university academic decisions.

8. This case ended the legislative veto.

9. This case required the joining of competing license applications.

10. This case prevented the DOT from withdrawing a final rule without going through the notice and comment process.

General questions

11. What is the process for requesting a hearing for a notice and comment rule under the Federal APA?

12. What do you need to get a hearing for a notice and comment rule under the LA APA?

13. If you do not like an emergency rule in LA, what do you ask for to contest it?

14. What are the Chevron step one grounds for challenging a notice and comment rule promulgated under the Federal APA?

15. Assume that you lose in question 14, what do you need to persuade the court to beat a regulation under Chevron step two?

16. Which step did the tobacco case (FDA v. Brown & Williamson Tobacco Corp.) turn on?

17. U.S. Customs issues a letter ruling classifying Daytimers as diaries for tariff purposes. What is the level of deference when a court is reviewing this classification?

18. HHS uses ALJs to make social security disability determinations. What is the judicial standard the court should use when deciding whether to accept a factual determination by an ALJ in such as proceeding?

19. What are the three factors the court looks at to determine if an association has standing to bring a claim on behalf of its members?

20. Federal agents break into your client's house and her up. What type of action would you bring? (Named for a case)

21. The Baton Rouge Parrish sheriff breaks into your client's house and beats her up. What federal law would you use to sue for damages?

22. Your client has been wrongly convicted by a prejudiced judge and sent to Angola for life. You eventually convince the federal courts to release her and overturn the conviction. What is her legal recourse against the judge?

23. A U.S Postal Service truck runs into your client when the driver does not check his mirror before backing up. What law would you use to bring this claim?

24. When you bring the claim from question 23, what do you have to do to before you file the lawsuit?

25. What were the plaintiffs able to show that allowed them to win in Berkowitz which they could not show in the airline inspection case?

26. What are two reasons to use a FOIA request rather than discovery?

27. Your clients wants classified information. What exemption will the DOD use to deny your FOIA request?

28. Your client wants the medical records of a patient at the VA hospital. What FOIA exemption controls release of these records?

29. Congress passes a new environmental protection law that abolishing the zone on interest test for cases under the law, allowing any person to challenge agency actions under the law. Is this constitutional?

30. Congress passes a new environmental protection law that abolishing the case or controversy test for cases under the law, allowing businesses to file for declaratory judgments on whether their practices are legal under the act. Is this constitutional?

31. Louisiana passes an emergency quarantine law that allows SARS carriers to be locked up by order of the health director. There are no specific review provisions in the statute. What proceeding do you bring to ask the court to review your client's confinement?

32. How do primary jurisdiction and exhaustion differ?

33. What is easier to get disqualified for bias, an Article III judge or an ALJ?

34. What is an Interim-final rule?

35. What is the magic language for formal rulemaking?

36. What is the test for probable cause for administrative subpoenas?

37. When is there a self-incrimination defense to an administrative subpoena?

38. In Louisiana, is the determination of an ALJ binding in a subsequent criminal trial on the same facts?

39. What is an unfunded mandate?

40. What does the God Squad do?