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Administrative Law Fall 2012 – Richards 4 Hours

The exam is closed book and closed notes. Put your exam number on each page of the examination if you are **handwriting** the exam. Put your exam number only on the first page of the paper exam if you are **using the computer**. Do not put your name or any identifying information other than your exam number on the examination. Read the entire exam before answering any questions. Make sure you have all the pages and that they are all different. Use no more than the space provided. **Do not write answers on the back**. (If you are using the computer, you may use the whole exam as note paper.) You may use the back for scratch paper.

Each question has a 75-word limit. If you are hand writing, you are also bound by the word limit. These are short answer questions. Read the question carefully and think about your answer before you start writing. If you use the computer, make sure to number your answers to match the question numbers.

Exams are to be turned in to my secretary, Linda May, in room 427. If you use the computer, you must still turn in your paper exam. We have deferred exams, so I need to keep control of the exam questions until all exams have been administered. You must not discuss the exam questions with anyone who has not yet taken the exam.

1. If a city wants to have traffic tickets adjudicated by an ALJ, rather than a municipal judge, how must the city change the penalties?

2. What is an earmark?

3. What is the basic rule for who can remove principle and inferior officers of the U.S. who do not have a term of office?

4. How does the DAL legislation change the relationship between the agency and the ALJ, i.e., how is the LA system now different from the Federal system?

5. How does the "substantial evidence" standard change the Residuum Rule?

6. What are the enforcement advantages of requiring a license as compared to allowing the activity until the agency can show that the party is violating the law?

7. Why did the suicidal policeman not get a hearing?

8. How were the rights in *Goldberg* specifically tailored to the special problems posed in providing due process to an indigent welfare population?

9. How were the factual determinations made in *Matthews* as compared to *Goldberg*?

10. Why did the court believe that a post-termination hearing was OK in *Matthews* and not in *Goldberg*?

11. What does *Pillsbury* tell us about the allowable limits of congressional case work?

12. How were the facts determined in the perverts R us cases?

13. Referencing the above question, why does this undermine the basis for demanding a hearing?

14. What is the separation of powers issue in the *Wooley* case?

15. How does the *Bonvillian II* decision undermine the LA SC's resolution of *Wooley*?

16. The city council sets a tax rate for real property: Rulemaking or adjudication and why?

17. Why is it especially hard to assure consistent policy in adjudications in LA?

18. What is the substitute for individual due process in rulemaking?

19. What factors do the courts consider when determining whether an interpretive rule is really a legislative rule, requiring notice and comment?

20. What do the *Hoctor* and *Picciotto* cases tell us about the distinction between legislative and interpretive rules?

21. How was Chocolate Manufacturers Ass'n v. Block modified by Arizona Public Service?

22. What issue in permitting in *Vermont Yankee* did the AEC attempt to resolve with rulemaking to reduce the issues that could be attacked by activists during the permitting process?

23. In broad terms, what does Executive Order 12866 require an agency to consider when making rules?

24. We have seen different standards for reviewing rules that affect small business. What are the problems with this special concern for small business from a consumer/individual citizen's point of view?

25. How was the zone of interest different between *Hazardous Waste Treatment Council v. Thomas*, 885 F.2d 918 (D.C. Cir. 1989) and *Honeywell International, Inc. v. EPA*, 374 F.3d 1363 (D.C. Cir. 2004)?

26. What made standing easier to show in *Friends of the Earth v. Laidlaw Environmental Services*, 528 U.S. 167 (2000)?

27. Why did the Court find that the orders in Sackett v. EPA were ripe?

28. Why is failing to exhaust your remedies (if required and not within an exception) a fatal error that the court cannot correct on equitable grounds?

29. Does the Global Climate Protection Act of 1987 directly support the argument that Congress intended EPA to regulate greenhouse gasses?

30. What are the *Barnhart* Factors for evaluating agency persuasiveness?

31. If an appeals court disagrees with an agency's interpretation of law in an adjudication, can the agency relitigate the same interpretation in other adjudications with different parties?

32. How does an area warrant differ from a criminal law warrant?

33. In the context of private data aggregators such as Equifax and Facebook, how does the Silver Platter Doctrine undermine constitutional protections?

34. How is a statute in dereliction of immunity construed differently from a statute creating immunity?

35. What is the immunity provision of the Flood Control Act of 1928 (FCA), i.e., how broad is it?		