

Mock Exam 2012

Name.....

I. Read the following set of the texts and answer the questions. Try to be as concise as possible. Good Luck! ☺

A. D. 15.1.41. *Ulpianus, On Sabinus, Book XLIII. (pr.) Nec servus quicquam debere potest nec servo potest deberi, sed cum eo verbo abutimur, factum magis demonstramus quam ad ius civile referimus obligationem. Itaque quod servo debetur, ab extraneis dominus recte petet, quod servus ipse debet, eo nomine in peculium et si quid inde in rem domini versum est in dominum actio datur.* A slave cannot owe anything, nor can anything be due to a slave; but when we make a misuse of this word we are rather indicating a fact, than referring the obligation to the Civil Law. Hence the master can rightfully demand from strangers what is owing to a slave, and with respect to what the slave himself owes, an action for this cause is granted against the master, on the *peculium*; and also to the extent that property has been employed in the affairs of the master.

B. D. 14.1.1. *Ulpianus, On the Edict, Book XXVIII. (7) Non autem ex omni causa praetor dat in exercitorem actionem, sed eius rei nomine, cuius ibi praepositus fuerit, id est si in eam rem praepositus sit, ut puta si ad onus vehendum locatum sit aut aliquas res emerit utiles naviganti vel si quid reficiendae navis causa contractum vel impensum est vel si quid nautae operarum nomine petent.* The Praetor does not grant a right of action against an owner for every cause, but only with reference to the particular thing for which the master was appointed; that is to say, if he was appointed for a certain kind of business, for instance, where a contract was made for the transportation of merchandise; or where an agreement was entered into or money expended for the purpose of repairing the ship; or where the sailors demand payment on account of their services.

1. Who is the author of the texts? What can you say about the source of law he comments? How have these texts been preserved to our times?

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2. Describe briefly the general legal framework of these texts. Explain the notion of 'civil law' Text A. In what layer of the law 'an obligation' is no longer 'misused'? How was this legal protection created, in what way was it applied?

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II. Analyse the case and provide the parties with legal advice:

A rich freedman Quintus Sulpicius Symmachus gave his wife Marcia luxurious purple dye and some best quality wool. The woman ordered her slave-girl Syra , who had been instituted by her the manager of a small weaving shop at the Forum to weave the wool and to dye it. On a lovely sunny day Senator Marcus Aemilius Lepidianus was walking with his slave Hermas when he noticed the fabric at Syra’s shop. He simply loved the shade of purple and the quality of work so he told Syra to sell it to Hermas. The parties agreed they payment would be made within two weeks. Unfortunately on the way home Hermas got attacked by Malchus, and the fabric was robbed.

1. Who may proceed to recover the fabric? Why?

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2. Having been deprived of the so-much-wanted item Hermas does not want to pay the price he had agreed upon. What may be done? Advice the parties.

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