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Semester I, 2009

UNM School of Law  
Final Examination  
Two Credits

Professor Fritz  
Friday Dec. 11, 2009  
1:30-4:00

Instructions

1. This is a **LIMITED OPEN BOOK EXAMINATION**. You may use the course materials, handouts and materials distributed during the course by the Professor or Tutors, and any notes or outlines that you have participated in creating.
2. There are two parts to the exam. Part One consists of two questions for which you have a choice of answering **either** question: **but just answer ONE question** in Part One. Part Two consists of a single question that everyone must answer. Both Parts of the exam are equally weighted.
3. **Please note:** This exam was written to be answered in two hours. Thus, you should feel free to leave after that period of time. The extra one half hour is given *solely* to remove the time pressure and anxiety of the ticking clock that *some* of you might experience. *Thoughtful, organized, and focused responses are much stronger than stream-of-consciousness or repetitive answers that show less organization and thought. Please keep this in mind.*
4. On each blue book, write the subject, professor's name, and your exam number. **DO NOT WRITE YOUR NAME ON THE BLUE BOOKS.**
5. For students typing their exams: Type or write the information that would appear on the front of the blue book at the top of the first page of your answer. Put your exam number on each typed page.

**Good luck and have a Happy Holiday season!**

### Part One

(Please answer *only one* of the following two questions in Part One)

1. The concept of standing—the question of who are deemed the relevant parties to a dispute—can reveal much about underlying values and expectations of given dispute resolution systems.

**What does the view of standing in the traditional trial model of the Common law as opposed to Navajo justice concepts of dispute resolution described by Justice Yazzie reveal about the underlying values and expectations of each approach? What trade-offs do you see in both approaches?**

2. The American lawyer in practice today encounters many codes. In addition, the readings have indicated that there are numerous developments suggesting an increasing convergence of the Common law and the Civil law traditions. Notwithstanding these facts, codification considered as an ideology and not just a form of law arguably continues to reflect a difference in mind-set or world-view between lawyers from the Common law and Civil law traditions.

**How would you describe the difference in mind-set or world-view between Common law and Civil law lawyers in terms of the nature of law as a consequence of their different legacies with codification? Moreover, how has that different experience with codification left a distinctive or characteristic mark on the Common law tradition?**

## **Part Two**

(Everyone needs to answer this question)

The tension between form and substance (that is, between process and procedure on the one hand versus the substantive merits of an issue on the other hand) is a long-standing tension in the Anglo-American Common law tradition. Indeed, that tension can be found in the broad sweep of that tradition—from the medieval origins of the Common law to our present day practice.

**Reflect on the significance of that tension in the Common law tradition, offering specific and concrete examples of how it has manifested itself historically and to what extent you still see evidence of it in our law today.**