

**Past Examinations in  
Comparative Contract Law: American and European**

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This document includes the past examinations that I gave on July 16, 2009 and July 27, 2006. I did not teach the course in any other years.

FINAL EXAMINATION IN

Comparative Contract Law: American and European

Professor Gregory E. Maggs  
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**Part I. (30 minutes)**

"Freedom of contract" is the policy of affording private parties the liberty to decide whether they wish to form contracts and to decide what terms to include in any contracts they do form. Identify and discuss two specific areas in which European contract law affords greater freedom of contract than American contract law, and two specific areas in which American contract law provides greater freedom of contract than European contract law. Your discussion should illustrate the differences with hypothetical examples and should address possible justifications for the differences.

**Part II. (15 minutes)**

In some instances, American contract law and European contract law have significantly different rules for addressing particular legal issues, but these differences ultimately have few practical consequences. Identify and discuss two instances of this phenomenon. Your discussion should provide hypothetical examples and should briefly explain the reasons that the differing rules may provide similar results.

**Problem III. (15 minutes)**

A legal "formality" is a requirement that must be satisfied in order for an act to have a legal effect. For example, both American and European contract law require certain promises to be evidenced by a signed writing to be enforceable. The requirement of a writing is a formality. Identify and discuss two ways in which American contract law and European contract law differ from each other in using formalities. Your discussion should provide hypothetical examples and should give one possible justification for each legal system's approach.

FINAL EXAMINATION IN

Comparative Contract Law (American and European)

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**Part I. (40 minutes)**

Identify and discuss three important differences between rules typically applied by American courts and European courts to contract disputes. For each of the three differences that you identify, your discussion should:

(1) summarize the pertinent American and European rules and describe how they vary from each other;

(2) provide a hypothetical example of how the difference in the rules might affect the outcome of a contract dispute;

(3) identify any policy goals that may justify the difference in the rules; and

(4) explain why it may be important for American and European attorneys to understand the differences in the pertinent rules.

**Part II. (20 minutes)**

Discuss the difference between mandatory rules and default rules. Your discussion should:

(1) define each type of rule and describe the difference between them;

(2) provide examples of each kind of rule in American and European contract law; and

(3) explain why understanding the difference between the two kinds of rules may be important both in the study of comparative contract law and in the practice of law.