

Business Law, 10e (Cheeseman)

Chapter 3 Judicial, Alternative, and E-Dispute Resolution

1) An attorney who receives a percentage of the amount recovered in a personal injury lawsuit, but who receives no compensation whatsoever if the lawsuit is not won or settled in the client's favor, is utilizing what kind of fee arrangement?

- A) hourly rate
- B) retainer
- C) flat fee
- D) contingency fee

Answer: D

Diff: 1

LO: 3.1 Describe how attorneys are compensated.

AACSB: Analytical thinking

Classification: Concept

2) When an attorney and client have entered into a contingency fee arrangement, it is possible that the attorney will receive no compensation at all.

Answer: TRUE

Diff: 1

LO: 3.1 Describe how attorneys are compensated.

AACSB: Analytical thinking

Classification: Concept

3) What are the advantages and disadvantages to both client and attorney when entering into a contingency fee agreement for attorney's fees?

Answer: A distinct advantage for the client is that no fees are paid up front. When a client is unable to pay an attorney up front, a contingency fee arrangement is ideal. A possible disadvantage to the client is that the attorney generally receives a substantial portion — 35 to 40 percent — of a favorable settlement or award of damages. A client can negotiate the terms or shop law firms in order to enter into an agreeable contract for representation under a contingency fee arrangement.

For the attorney, there is a definite downside: The attorney is paid nothing if the lawsuit is not won or settled in the client's favor. The advantages for the attorney are twofold. The attorney can work for clients who would otherwise be unable to pay for representation. Second, the payout has potential to be larger than under the terms of an hourly or flat-fee arrangement.

Diff: 2

LO: 3.1 Describe how attorneys are compensated.

AACSB: Analytical thinking

Classification: Concept

4) Which of the following is NOT one of the four major pretrial phases?

- A) pleadings
- B) settlement Conference
- C) discovery
- D) litigation

Answer: D

Diff: 1

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

5) Which of the following is NOT one of the four major pretrial pleadings?

- A) complaint
- B) interrogatory
- C) cross-complaint
- D) answer

Answer: B

Diff: 1

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

6) Litigation is the process of bringing, maintaining, and defending a lawsuit.

Answer: TRUE

Diff: 1

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

7) The paperwork that is filed with the court to initiate and respond to a lawsuit is referred to as the pleadings.

Answer: TRUE

Diff: 1

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

8) Briefly explain the steps involved in the pretrial litigation process.

Answer: To initiate a lawsuit, the plaintiff must file a complaint in the proper court. The complaint names the parties to the lawsuit, alleges the ultimate facts and law violated, and contains a "prayer for relief" for a remedy to be awarded by the court. Following this, the defendant must file an answer to the complaint and can also file a cross-complaint against the plaintiff to claim damages. The plaintiff replies to the defendant's cross complaint. If other persons have an interest in a lawsuit, they may intervene and become parties to the lawsuit. A statute of limitations establishes the period during which a plaintiff must bring a lawsuit against a defendant. If a lawsuit is not filed within this time period, the plaintiff loses his or her right to sue.

Diff: 2

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

9) Why are pretrial hearings necessary, especially if both parties have pursued the lawsuit with full knowledge?

Answer: One of the major purposes of pretrial hearings is to facilitate the settlement of a case. This saves on legal expenses incurred by both parties. It also helps to save the time of the court, which can be used to pursue other (and more crucial) cases. If no settlement is reached, the pretrial hearing is used to identify the major trial issues and other relevant factors.

Diff: 2

LO: 3.2 Describe the pretrial litigation process.

AACSB: Analytical thinking

Classification: Concept

10) In a litigation process, the party who files a complaint is called the _____.

- A) bailiff
- B) plaintiff
- C) prosecutor
- D) defendant

Answer: B

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

11) _____ refers to the document a plaintiff files with the court that serves on the defendant to initiate a lawsuit.

- A) Complaint
- B) Order
- C) Appeal
- D) Rejoinder

Answer: A

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

12) Once a complaint has been filed with the court, the court will issue a(n) _____, directing the defendant to appear in court.

- A) answer
- B) rejoinder
- C) summons
- D) judicial restraint

Answer: C

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

13) Which of the following terms denotes the defendant's written response to a plaintiff's complaint that is filed with the court and served on the plaintiff?

- A) summons
- B) answer
- C) rejoinder
- D) rebuttal

Answer: B

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

14) In which of the following cases is a default judgment entered?

- A) A defendant admits all the allegations in the complaint.
- B) There is insufficient evidence to resolve the dispute.
- C) The court believes that the lawsuit can be settled before/without trial.
- D) A defendant does not file a written response to a plaintiff's complaint.

Answer: D

Diff: 2

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Reflective thinking

Classification: Concept

15) A defendant who believes that he or she has been injured by the plaintiff can file a(n) _____ against the plaintiff.

- A) injunction
- B) cross-complaint
- C) rejoinder
- D) rebuttal

Answer: B

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

16) A(n) _____ is a document filed by the original plaintiff to answer the defendant's cross-complaint.

- A) rejoinder
- B) answer
- C) reply
- D) plea

Answer: C

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

17) The act of other interested parties joining as parties to an existing lawsuit is termed as _____.

- A) intervention
- B) consolidation
- C) class action
- D) arbitration

Answer: A

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

18) Which of the following can be filed by the defendant of a lawsuit?

- A) complaint
- B) answer
- C) reply
- D) injunction

Answer: B

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

- 19) Which of the following statements is true about the pretrial litigation process?
- A) To initiate a lawsuit, the plaintiff must file an appeal in the proper court.
 - B) If the plaintiff does not answer a complaint, a default judgment is entered against him or her.
 - C) A plaintiff files a cross-complaint against the defendant to seek damages.
 - D) A default judgment establishes the defendant's liability.

Answer: D

Diff: 2

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Reflective thinking

Classification: Concept

- 20) The statute of limitations establishes the period within which _____.

- A) a plaintiff must bring a lawsuit against a defendant
- B) a defendant must file a written answer against a plaintiff's complaint
- C) a defendant can file a cross-complaint against the plaintiff
- D) a motion for judgment on the pleadings can be made by either party

Answer: A

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

- 21) The state of Idaho has a two-year statute of limitations for personal injury actions. Graham was injured by Alice in a car accident on January 1, 2011. If Graham wants to bring a lawsuit against Alice on January 15, 2013, which of the following is most likely to be the outcome?

- A) Graham is allowed to sue Alice after appealing for an extension of the statute of limitations.
- B) Graham is not allowed to sue Alice, having lost his right to sue her.
- C) Graham can sue Alice but will not receive damages.
- D) Graham can sue Alice but is not entitled to a jury trial.

Answer: B

Diff: 3

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Application of knowledge

Classification: Application

- 22) To initiate a lawsuit, the plaintiff must file a complaint in the proper court.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

23) The complaint and summons are served on the plaintiff.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

24) An answer is the defendant's written response to a plaintiff's complaint that is filed with the court and served on the plaintiff.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

25) If the defendant does not answer the complaint, a default judgment is entered against him or her.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

26) Once a default judgment is established, the plaintiff only has to prove damages.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

27) While answering a complaint, a defendant cannot assert affirmative defenses.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

28) A plaintiff who believes that he or she has been injured by the defendant can file a cross-complaint against the defendant.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

29) A reply is a document filed by the original plaintiff in response to the defendant's cross-complaint.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

30) A defendant can answer a complaint and file a cross-complaint at the same time.

Answer: TRUE

Diff: 2

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

31) The act of people interested in the lawsuit joining as parties to an existing lawsuit is called arbitration.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

32) Despite their interest in a lawsuit, third parties may not become parties to the lawsuit.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

33) The statute of limitations for all lawsuits in the United States is two years.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

34) In a case of personal injury due to an accident, the statute of limitations begins to "run" at the time the accident occurs.

Answer: TRUE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

35) A plaintiff can appeal for the extension of the statute of limitations and sue the defendant.

Answer: FALSE

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

36) What happens if a defendant is served with a complaint and a summons, but the defendant chooses not to answer, hoping that the lawsuit will go away?

Answer: If a defendant does not answer the complaint, default judgment will be entered against him or her. A default judgment establishes the defendant's liability. Plaintiff is relieved of the duty to prove his or her case. Plaintiff must then only establish damages.

Diff: 1

LO: 3.3 Define complaint, summons, and answer, and describe the pleading process.

AACSB: Analytical thinking

Classification: Concept

37) In which of the following cases does a class action occur?

A) There are no factual disputes to be decided by the jury.

B) The defendant has multiple grounds for appeal.

C) A group of plaintiffs collectively bring a lawsuit against a defendant.

D) The plaintiff does not reply to the defender's cross-complaint.

Answer: C

Diff: 2

LO: 3.4 Define class action and describe the requirements for bringing a class action lawsuit.

AACSB: Reflective thinking

Classification: Concept

38) A class action is a court order directing the defendant to appear in court and answer the complaint.

Answer: FALSE

Diff: 1

LO: 3.4 Define class action and describe the requirements for bringing a class action lawsuit.

AACSB: Analytical thinking

Classification: Concept

39) When a group of plaintiffs with common claims collectively bring a lawsuit against a defendant, it is known as consolidation.

Answer: FALSE

Diff: 1

LO: 3.4 Define class action and describe the requirements for bringing a class action lawsuit.

AACSB: Analytical thinking

Classification: Concept

40) A class action lawsuit is certified only if there is commonality among the plaintiffs' claims.

Answer: TRUE

Diff: 1

LO: 3.4 Define class action and describe the requirements for bringing a class action lawsuit.

AACSB: Analytical thinking

Classification: Concept

41) When is it appropriate for a court to certify a class to maintain a class action lawsuit? What factors weigh in favor of certification? What factors weigh against certification?

Answer: A class action lawsuit is appropriate when a group of plaintiffs collectively bring a lawsuit against a defendant. To obtain certification, the class must have common legal and factual claims, it must be impracticable for individual claimants to bring multiple lawsuits against the defendant, the claims and defenses must be typical for both plaintiffs and defendant, and the representative parties must be able to adequately protect the interests of the class. Certification is not appropriate if there is not sufficient commonality among plaintiffs' claims or if the court finds a class action is not suitable to the facts of the case.

Diff: 2

LO: 3.4 Define class action and describe the requirements for bringing a class action lawsuit.

AACSB: Analytical thinking

Classification: Concept

42) The term _____ refers to the oral testimony given by a party or witness prior to trial.

A) class action

B) deposition

C) interrogatory

D) intervention

Answer: B

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

43) Which of the following statements is true of deposition?

A) A deposition has to be a written statement.

B) A witness' deposition is voluntary and not pursuant to a court order.

C) Deposition is given post trial.

D) A deponent is given a chance to correct his or her deposition.

Answer: D

Diff: 2

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

44) _____ are written questions submitted by one party to a lawsuit to another party.

- A) Depositions
- B) Rejoinders
- C) Interrogatories
- D) Summons

Answer: C

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

45) Which of the following statements is true of deposition?

- A) A deposition is a written testimony given by a witness during the trial.
- B) A deposition establishes the period during which a plaintiff must bring a lawsuit against a defendant.
- C) Depositions are written questions submitted by one party to a lawsuit to another party.
- D) Depositions are used to impeach testimony given by witnesses at trial.

Answer: D

Diff: 2

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

46) _____, a pretrial litigation process, serves several functions, including preventing surprises, allowing parties to prepare thoroughly for trial, preserving evidence, saving court time, and promoting the settlement of cases.

- A) Pretrial motions
- B) Discovery
- C) Pleadings
- D) Settlement conference

Answer: B

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

47) A deposition is oral testimony given by a party or witness during the trial.

Answer: FALSE

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

48) Interventions are written questions submitted by one party to a lawsuit to the other party.

Answer: FALSE

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

49) In movies and on television, courtroom scenes often include surprises at trial — surprise evidence, surprise testimony and even surprise witnesses. In reality, are such surprises at trial common? In your answer, discuss the process known as discovery and its purposes.

Answer: Surprises supply drama in television and movies, but they are discouraged in our legal system; thus, they are rare. In fact, the purpose of the pretrial discovery process is to prevent surprises, allow the parties to prepare thoroughly for trial, preserve evidence, save the court time, and promote settlement of disputes.

Diff: 1

LO: 3.5 Describe the discovery process and the various methods of discovery.

AACSB: Analytical thinking

Classification: Concept

50) Which of the following motions asserts that there are no factual disputes to be decided by the jury, and that the judge can apply the proper law to the undisputed facts and decide the case without a jury?

A) motion for summary judgment

B) motion for judgment on the pleadings

C) motion for a directed verdict

D) motion for judgment notwithstanding the verdict

Answer: A

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

51) A _____ alleges that if all the facts presented in the paperwork filed with the court to initiate or respond to the lawsuit are true, the party making the motion would win the lawsuit when the proper law is applied to these facts.

A) motion for judgment on the pleadings

B) motion for summary judgment

C) motion for judgment notwithstanding the verdict

D) motion to set aside judgment

Answer: A

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

52) A pretrial motion is made to try and dispose of all or part of a lawsuit prior to trial.

Answer: TRUE

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

53) The motion for summary judgment alleges that if all the facts presented in the pleadings are taken as true, the party making the motion would win the lawsuit when the proper law is applied to these asserted facts.

Answer: FALSE

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

54) The motion for judgment on the pleadings alleges that if the defendant does not file an answer to the plaintiff's complaint, the defendant's liability is established.

Answer: FALSE

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

55) Motions for summary judgment are supported by evidence outside of the pleadings.

Answer: TRUE

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

56) In deciding the motion for judgment on the pleadings, the judge also considers facts outside the pleadings.

Answer: FALSE

Diff: 1

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Analytical thinking

Classification: Concept

57) A tree falls from Helen Homeowner's property onto the parked car of Nelly Neighbor, who lives next-door to Helen. The car was very valuable and is now a total loss. Both parties agree that the tree was not diseased. They also agree that the tree fell because of an act of nature — an ice storm that had weighed down the tree's limbs. The only question is whether, under applicable state law, the homeowner on whose land the tree grew is liable for the loss or whether the automobile owner must bear the loss for an event caused by an act of nature.

Can this case be disposed of prior to trial with a pretrial motion? If so, what pretrial motion would be appropriate in this case? In your answer, discuss whether evidence outside the pleadings could properly be considered.

Answer: A motion for summary judgment is appropriate. The parties agree as to the facts of the case. The judge can apply the relevant state law to the undisputed facts and decide the case. In this case, the judge could come to a conclusion and issue a summary judgment in the moving party's favor. Evidence outside the pleadings could be considered. For example, affidavits, relevant documents, and depositions are often considered in determining motions for summary judgment.

Diff: 2

LO: 3.6 Contrast the different types of pretrial motions.

AACSB: Application of knowledge

Classification: Application

58) What is the purpose of a pretrial hearing?

A) requesting the other party to produce all documents relevant to the case

B) assessing the factual accuracy of the deposition of witnesses

C) instructing the judge to decide the case without a jury

D) facilitating the settlement of a case before it goes to trial

Answer: D

Diff: 2

LO: 3.7 Describe the goals and procedures of a settlement conference.

AACSB: Analytical thinking

Classification: Concept

59) A pretrial hearing is also known as a settlement conference.

Answer: TRUE

Diff: 1

LO: 3.7 Describe the goals and procedures of a settlement conference.

AACSB: Analytical thinking

Classification: Concept

60) Why would a judge require the parties to a lawsuit to appear before the court for a pretrial settlement conference?

Answer: The purpose of a settlement conference is to promote compromise and work toward a settlement in lieu of trial. Settlement saves the court time, energy and resources. Even if the parties are unable to reach settlement prior to trial, a pretrial hearing can help the parties to identify major trial issues in order to promote efficiency.

Diff: 1

LO: 3.7 Describe the goals and procedures of a settlement conference.

AACSB: Analytical thinking

Classification: Concept

61) _____ is the process whereby the judge and attorneys ask prospective jurors questions to determine whether they would be biased in their decisions.

A) Consolidation

B) Trial of fact

C) *Voir dire*

D) Intervention

Answer: C

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

62) What is direct examination?

A) inspection and verification of all documents related to a trial by the judge

B) inspection and verification of all documents related to a trial by the jurors

C) witnesses being questioned by the plaintiff's attorney

D) prospective jurors being questioned by the judge or lawyers of each party

Answer: C

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

63) What is cross-examination?

A) inspection of evidence by the trier of facts

B) prospective jurors being questioned by the judge or lawyers of each party

C) witnesses being questioned by the plaintiff's attorney

D) witnesses being questioned by the defendant's attorney

Answer: D

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

64) Which of the following statements best describes re-direct examination?

- A) The plaintiff's attorney questions the witness who was questioned by the defendant's attorney.
- B) The plaintiff's attorney questions the witness before he or she is questioned by the defendant's attorney.
- C) The defendant's attorney questions the witness who was questioned by the plaintiff's attorney.
- D) The defendant's attorney questions the witness before he or she is questioned by the plaintiff's attorney.

Answer: A

Diff: 2

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

65) Which of the following statements is true of the plaintiff's case?

- A) The plaintiff's attorney examines the witnesses during cross-examination.
- B) The defendant's attorney examines the witnesses during re-direct examination.
- C) The defendant's attorney can ask questions only about the subjects that were brought up during the direct examination.
- D) Documents and other evidence have to be introduced before the first witness is subject to direct examination.

Answer: C

Diff: 2

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

66) After the defendant's attorney has finished calling witnesses, the plaintiff's attorney can call witnesses and put forth evidence to disprove the defendant's case. This is called a _____.

- A) rebuttal
- B) rejoinder
- C) closing argument
- D) deliberation

Answer: A

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

67) During a _____, the defendant's attorney can call additional witnesses and introduce other evidence to counter the rebuttal.

- A) closing argument
- B) rejoinder
- C) cross-examination
- D) re-direct examination

Answer: B

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

68) What are jury instructions?

- A) instructions from the jury to the plaintiff's attorney about settling a case before trial
- B) instructions from jury informing the judge on what grounds the case can be dismissed
- C) instructions to the jury from both parties over the duration within which the case has to be settled
- D) instructions to inform the jury about what law to apply when they decide the case

Answer: D

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

69) What is jury deliberation?

- A) jurors re-questioning a particular witness from one of the parties
- B) jurors considering the evidence and attempting to reach a decision
- C) jury and the judge disagreeing on the outcome of the case
- D) jurors being replaced in case of illness or disqualification

Answer: B

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

70) Which of the following terms refer to the overturn of verdict when jury misconduct is detected?

- A) remittitur
- B) judgment notwithstanding the verdict
- C) motion for summary judgment
- D) motion for judgment on the pleadings

Answer: B

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

71) In a civil case John Deer vs. Jane Doe, the judge finds that the jury was swayed by the fact that Jane Doe was a woman when passing the verdict in her favor. Owing to this, the judge reduces the damages awarded to Jane by \$20,000. This act is called _____.

- A) remittitur
- B) judgment notwithstanding the verdict
- C) motion for summary judgment
- D) motion for judgment on the pleadings

Answer: A

Diff: 3

LO: 3.8 Describe the trial process.

AACSB: Application of knowledge

Classification: Application

72) In a jury trial, the judge is the trier of fact.

Answer: FALSE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

73) *Voir dire* is the process whereby the jurors ask prospective judges questions to determine whether they would be biased in their decisions.

Answer: FALSE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

74) A trial is conducted with a jury only when the defendant requests a jury trial.

Answer: FALSE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

75) After a witness is sworn in, he or she is cross-examined by the plaintiff's attorney.

Answer: FALSE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

76) After the defendant's attorney completes his or her questions, the plaintiff's attorney can question the witness in a re-direct examination.

Answer: TRUE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

77) In a rejoinder, the defendant's attorney can call additional witnesses and introduce other evidence to counter the rebuttal.

Answer: TRUE

Diff: 1

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

78) Differentiate between trials with and without jury.

Answer: Pursuant to the Seventh Amendment to the U.S. Constitution, a party to a civil action at law is guaranteed the right to a jury trial in a case in federal court. If either party requests a jury, the trial will be by jury. If both parties waive their right to a jury, the trial will occur without a jury. The judge sits as the trier of fact in nonjury trials. Lawyers for each party and the judge can ask prospective jurors questions to determine whether they would be biased in their decisions. Biased jurors can be prevented from sitting on a particular case.

Diff: 2

LO: 3.8 Describe the trial process.

AACSB: Analytical thinking

Classification: Concept

79) Which of the following is NOT generally available to litigants?

A) electronic filing of pleadings

B) virtual jury trials

C) electronic scheduling of hearings and conferences

D) email correspondence with opposing counsel

Answer: B

Diff: 3

LO: 3.9 Explain how electronic technology is being used in courts and legal proceedings.

AACSB: Application of knowledge

Classification: Application

80) In some jurisdictions, electronic filing of pleadings is mandatory.

Answer: TRUE

Diff: 1

LO: 3.9 Explain how electronic technology is being used in courts and legal proceedings.

AACSB: Analytical thinking

Classification: Concept

81) Explain some of the ways in which electronic filings and electronic communications have changed the practice of law.

Answer: Traditionally litigators have been buried in paper. Now, however, pleadings, interrogatories, motions, briefs, memoranda, and other documents can be created and transmitted electronically. These documents can be served on the opposing party electronically and filed with the clerk of the court electronically. Scheduling is almost always now accomplished electronically. More and more often, conferences and even some pretrial hearings are conducted via "virtual courthouses."

Diff: 1

LO: 3.9 Explain how electronic technology is being used in courts and legal proceedings.

AACSB: Analytical thinking

Classification: Concept

82) Which of the following statements is true about appeals?

- A) Only the plaintiff can appeal the court's decision in a civil case.
- B) Only the defendant can appeal the court's decision in a criminal case.
- C) An appeal can be made before the trial court gives its final judgment.
- D) An appellate court cannot reverse a lower court's decision.

Answer: B

Diff: 2

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

83) The appealing party in an appeal is called a(n) _____.

- A) appellate
- B) appellee
- C) respondent
- D) petitioner

Answer: D

Diff: 1

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

84) Which of the following statements is true about appellate courts?

- A) Appellate courts cannot reverse a finding of fact made by the jury.
- B) Appellate courts cannot reverse a finding of fact made by the judge.
- C) Appellate courts permit brief oral arguments between attorneys.
- D) An appellate court cannot reverse a decision of a lower court.

Answer: C

Diff: 2

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

85) Appellate courts will frequently reverse a finding of fact made by a jury.

Answer: FALSE

Diff: 1

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

86) On rare occasions, an appellate court will overturn a jury verdict if there was not sufficient evidence at trial to support the jury's findings.

Answer: TRUE

Diff: 1

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

87) Only the defendant can appeal in a criminal case.

Answer: TRUE

Diff: 1

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

88) When will an appellate court reverse a lower court decision? In your answer, address whether an appellate court will reverse a trial court's finding of fact. Why or why not?

Answer: An appellate court will reverse a lower court decision if it finds an error of law in the record. Generally, an appellate court will not reverse a finding of fact made by a jury or by a judge if there was no jury. On rare occasions, an appellate court will reverse a trial court's verdict if the trial record indicates there was insufficient evidence to support the trier of fact's findings.

Diff: 2

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

89) What can a party to a lawsuit do if he or she is displeased with the trial court's judgment?

Answer: In a civil case, either party can appeal the trial court's decision once a final judgment is entered. Only the defendant can appeal in a criminal case. The appeal is made to the appropriate appellate court. A notice of appeal must be filed by a party within a prescribed time after judgment is entered. An appellate court will reverse a lower court decision if it finds an error of law in the record.

Diff: 2

LO: 3.10 Describe the appellate process and the possible results of an appeal.

AACSB: Analytical thinking

Classification: Concept

90) Which of the following is a method of alternative dispute resolution?

- A) pretrial hearing
- B) settlement conference
- C) appeal
- D) fact-finding

Answer: D

Diff: 1

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

91) Rita Fuller and Robert Morgan are contending parties to a lawsuit involving the division of their inheritance from their grandmother. They wish to settle their case out of court. Rita and Robert engage in discussions and bargaining with the presence of their attorneys and finally conclude that Robert keeps 60 percent of the inheritance while Rita gets the remainder. In this scenario, the _____ method of alternative dispute resolution is used.

- A) negotiation
- B) arbitration
- C) mini-trial
- D) mediation

Answer: A

Diff: 3

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Application of knowledge

Classification: Application

92) Which of the following statements best represents the distinction between binding and nonbinding arbitration?

- A) Unlike nonbinding arbitration, binding arbitration takes place at a court, in the presence of a judge.
- B) If the arbitration is nonbinding, the decision and award of the arbitrator can be appealed to the courts.
- C) A nonbinding arbitration takes place at a court, in the presence of the jury.
- D) A nonbinding arbitration implies that the arbitrator's decision must be reinforced by the courts.

Answer: B

Diff: 2

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Reflective thinking

Classification: Concept

93) Which of the following statements is true about the Federal Arbitration Act (FAA) of 1925?

A) The FAA restricts parties from obtaining a court order to compel arbitration with an arbitration agreement.

B) The FAA restricts federal courts from hearing issues of law that have been decided by an arbitrator.

C) The FAA provides that arbitration agreements involving commerce are revocable contracts under ordinary circumstances.

D) Breach of contract cases and tort claims are not candidates for arbitration as per the FAA.

Answer: B

Diff: 2

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

94) Which of the following is the most common form of alternative dispute resolution (ADR)?

A) negotiation

B) mini-trial

C) arbitration

D) fact-finding

Answer: C

Diff: 1

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

95) Negotiation is a procedure whereby the parties choose an impartial third party to hear and decide the dispute.

Answer: FALSE

Diff: 1

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

96) Binding arbitration is subject to appeal in a court of law.

Answer: FALSE

Diff: 1

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

97) Why might a business prefer alternative dispute resolution (ADR) to litigation?

Answer: The use of the court system to resolve disputes can take years and can cost a tremendous amount of money. Normal business operations might be disrupted during litigation. Additionally, some forms of ADR like negotiation and mediation facilitate reaching a voluntary settlement. Thus, the parties to a dispute — rather than a jury — can control their own outcome.

Diff: 1

LO: 3.11 Explain the use of arbitration and other methods of alternative dispute resolution.

AACSB: Analytical thinking

Classification: Concept

98) Which of the following is NOT an advantage of e-dispute resolution?

A) Settlement negotiating can be accomplished electronically.

B) Arbitration and mediation service charges are reasonable.

C) A settlement can be reached relatively quickly.

D) The process is more subjective than face-to-face meetings and negotiation.

Answer: D

Diff: 2

LO: 3.12 Describe forms of e-dispute resolution.

AACSB: Analytical thinking

Classification: Concept

99) During electronic mediation, the parties to a dispute are assigned individual "chat rooms" used for online conversations with a mediator.

Answer: TRUE

Diff: 1

LO: 3.12 Describe forms of e-dispute resolution.

AACSB: Analytical thinking

Classification: Concept

100) Although e-dispute resolution may save the parties to a legal dispute time and energy, the legal fees associated with e-dispute resolution are exorbitant.

Answer: FALSE

Diff: 1

LO: 3.12 Describe forms of e-dispute resolution.

AACSB: Analytical thinking

Classification: Concept

101) Describe in brief the concepts of electronic dispute resolution, electronic arbitration, and electronic mediation.

Answer: Electronic technologies have made it possible to settle disputes online. This is referred to as electronic dispute resolution, or e-dispute resolution. Many ADR providers offer electronic arbitration, or e-arbitration services. Most of these services allow a party to a legal dispute to register the dispute with the service and then notify the other party by e-mail of the registration of the dispute. Most online arbitration, called electronic arbitration or e-arbitration, requires the registering party to submit an amount that the party is willing to accept or pay to the other party in the online arbitration. The other party is afforded the opportunity to accept the offer. If that party accepts the offer, a settlement has been reached; however, the other party may return a counteroffer. The process continues until a settlement is reached or one or both parties remove themselves from the online ADR process. Several websites offer online mediation, called electronic mediation or e-mediation. In an online mediation, the parties sit before their computers and sign on to the website. A chat room is assigned to each party and the mediator, and another is set aside for both parties and the mediator. The individual chat rooms are used for private conversations with the online mediator, and the other chat room is for conversations between both parties and the mediator.

Diff: 2

LO: 3.12 Describe forms of e-dispute resolution.

AACSB: Analytical thinking

Classification: Concept