

Chapter 2

Courts and Alternative Dispute Resolution

N.B.: TYPE indicates that a question is new, modified, or unchanged, as follows.

- N A question new to this edition of the Test Bank.
- + A question modified from the previous edition of the Test Bank.
- = A question included in the previous edition of the Test Bank.

TRUE/FALSE QUESTIONS

B1. The function of the courts is to interpret and apply the law.

ANSWER: T PAGE: 26 TYPE: =
NAT: AACSB Analytic AICPA Legal

B2. State courts are independent of federal courts.

ANSWER: T PAGE: 26 TYPE: =
NAT: AACSB Analytic AICPA Legal

B3. The executive branch is the final authority concerning the constitutionality of a law.

ANSWER: F PAGE: 26 TYPE: =
NAT: AACSB Analytic AICPA Legal

B4. A long arm statute permits a court to obtain jurisdiction over an out-of-state defendant.

ANSWER: T PAGE: 28 TYPE: =
NAT: AACSB Analytic AICPA Legal

B5. A state court cannot exercise jurisdiction over property located within the state's boundaries regardless of the property owners' location.

ANSWER: T PAGE: 28 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B6. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which it is incorporated.

ANSWER: F PAGE: 30 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B7. A business firm may have to comply with the laws of any jurisdiction in which it actively targets customers.

ANSWER: T PAGE: 31 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

B8. To have standing to sue, a party must have been injured or have been threatened with injury by the action about which he or she is complaining.

ANSWER: T PAGE: 34 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B9. Small claims courts are inferior state trial courts.

ANSWER: T PAGE: 35 TYPE: N
 NAT: AACSB Analytic AICPA Legal

B10. Courts of appeals conduct new trials in which evidence is submitted to the court and witnesses are examined.

ANSWER: F PAGE: 35 TYPE: N
 NAT: AACSB Reflective AICPA Critical Thinking

B11. U.S. district courts have original jurisdiction in matters involving federal questions.

ANSWER: T PAGE: 36 TYPE: N

NAT: AACSB Reflective

AICPA Critical Thinking

B12. The United States Supreme Court can review any case decided by any of the federal courts of appeals.

ANSWER: T PAGE: 37 TYPE: N
 NAT: AACSB Analytic AICPA Legal

B13. Most lawsuits are settled or dismissed before they go to trial.

ANSWER: T PAGE: 37 TYPE: =
 NAT: AACSB Reflective AICPA Risk Analysis

B14. In mediation, the mediator proposes a solution that includes what compromises are necessary to reach an agreement.

ANSWER: T PAGE: 38 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

B15. Mediation is adversarial in nature.

ANSWER: F PAGE: 38 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

B16. A court's review of an arbitrator's award may be restricted.

ANSWER: T PAGE: 39 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B17. Mandatory arbitration clauses in employment contracts are generally enforceable.

ANSWER: T PAGE: 41 TYPE: +
 NAT: AACSB Analytic AICPA Legal

B18. A mini-trial is a private proceeding in which each party's attorney argues the party's case before the other party.

ANSWER: T PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

B19. The verdict in a summary jury trial is binding.

ANSWER: F PAGE: 41 TYPE: =
NAT: AACSB Analytic AICPA Legal

B20. A choice-of-law clause designates the jurisdiction for the litigation of disputes arising under a contract.

ANSWER: F PAGE: 42 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

MULTIPLE CHOICE QUESTIONS

B1. Harvey, a resident of Indiana, has an accident with Janette, a resident of Kentucky, while driving through that state. Janette files a suit against Harvey in Kentucky. Regarding Harvey, Kentucky has

- a. diversity jurisdiction.
- b. in personam jurisdiction.
- c. in rem jurisdiction.
- d. no jurisdiction.

ANSWER: B PAGE: 28 TYPE: =
 NAT: AACSB Reflective AICPA Legal

B2. Tyler, a citizen of Utah, files a suit in a Utah state court against Veritas Sales Corporation, a Washington state company that does business in Utah. The court has original jurisdiction, which means that

- a. the case is being heard for the first time.
- b. the court has a unique method of deciding whether to hear a case.
- c. the court has unusual procedural rules.
- d. the subject matter of the suit is interesting and new.

ANSWER: A PAGE: 29 TYPE: N
 NAT: AACSB Reflective AICPA Legal

B3. Lora is a resident of Illinois. Ned is a resident of Wisconsin. They dispute the ownership of a boat docked in a Michigan harbor. This diversity of citizenship could serve as a basis for

- a. federal jurisdiction.
- b. general jurisdiction.

- c. limited jurisdiction.
- d. state jurisdiction.

ANSWER: A PAGE: 30 TYPE: N
NAT: AACSB Reflective AICPA Legal

- B4. Jo files a suit against Lara in a Missouri state court. Lara’s only connection to Missouri is an ad on the Web originating in Nebraska. For Missouri to exercise jurisdiction, the issue is whether Lara, through her ad, has
- a commercial cyber presence in Missouri.
 - conducted substantial business with Missouri residents.
 - general maximum contact with Missouri.
 - solicited virtual business in Missouri.

ANSWER: B PAGE: 31 TYPE: =
 NAT: AACSB Reflective AICPA Legal

- B5. Lacey files a suit in Michigan against Ned over the ownership of a boat docked in a Michigan harbor. Lacey and Ned are residents of Ohio. Ned could ask for a change of venue on the ground that Ohio
- has a sufficient stake in the matter.
 - has jurisdiction.
 - has sufficient minimum contacts with the parties.
 - is a more convenient location to hold the trial.

ANSWER: D PAGE: 33 TYPE: =
 NAT: AACSB Reflective AICPA Legal

- B6. Child’s Play, Inc., sells a toy with a dangerous defect. Drew buys the toy for his son but discovers the defect before the child is injured. Drew files a suit against Child’s Play. The firm’s best ground for dismissal of the suit is that Drew does not have
- certiorari.
 - jurisdiction.
 - standing to sue.
 - sufficient minimum contacts.

ANSWER: C PAGE: 34 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

- B7. Kit loses her suit against Lou in a Minnesota state trial court. Kit appeals to the state court of appeals and loses again. Kit would appeal next to
- a. a U.S. district court.
 - b. the Minnesota Supreme Court.
 - c. the United States Supreme Court.
 - d. the U.S. Court of Appeals for the Eighth Circuit.

ANSWER: B PAGE: 35 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

- B8. The Idaho Supreme Court rules against Jiffy Mart in a case against Kwik Stop Stores, Inc. Jiffy Mart files an appeal with the United States Supreme Court. The Court does not hear the case. This
- a. is a decision on the merits with value as a precedent.
 - b. indicates agreement with the Idaho court's decision.
 - c. means nothing.
 - d. means that the Idaho court's decision is the law in Idaho.

ANSWER: D PAGE: 37 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B9. Milo files a suit against Otis. At the trial, each party's attorney presents the party's case before a judge who hears the dispute and renders a legally binding decision. This is
- a. a mini-trial.
 - b. a summary jury trial.
 - c. litigation.
 - d. not a legitimate form of dispute resolution.

ANSWER: C PAGE: 37 TYPE: +
NAT: AACSB Reflective AICPA Critical Thinking

B10. Jackson files a suit against Lance. Before going to trial, the parties, with their attorneys, meet to try to resolve their dispute. A third party suggests or proposes a resolution, which the parties may or may not decide to adopt. This is

- a. arbitration.
- b. mediation.
- c. negotiation.
- d. not a legitimate form of dispute resolution.

ANSWER: B PAGE: 38 TYPE: +
 NAT: AACSB Reflective AICPA Critical Thinking

B11. Pixie files a suit against Quiver. Before going to trial, the parties meet, with their attorneys to represent them, to present their dispute to a third party who is not a judge but who imposes a resolution on the parties. This is

- a. arbitration.
- b. mediation.
- c. negotiation.
- d. not a legitimate form of dispute resolution.

ANSWER: A PAGE: 38 TYPE: +
 NAT: AACSB Reflective AICPA Critical Thinking

B12. Owen, in Pennsylvania, and Quonset Structures, Inc., in Maryland agree to have their dispute resolved in arbitration according to the law of Virginia. This is a ground for a court to

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 39 TYPE: =
 NAT: AACSB Reflective AICPA Legal

B13. Eager Workers Union and Factory Assembly Company have their dispute resolved in arbitration. The arbitrator makes a mistake in a conclusion of law. This is a ground for a court to

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 39 TYPE: =
NAT: AACSB Reflective AICPA Legal

B14. Far Trade Company and Global Shipping, Inc., have their dispute resolved in arbitration. The arbitrator meets with Far's representative to discuss the dispute outside the presence of Global's representative, before determining the award. If this meeting substantially prejudiced Global's rights, a court will most likely

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 39 TYPE: =
NAT: AACSB Reflective AICPA Legal

B15. Massive Equipment Company and Wastewater Management Corporation agree in writing to submit a dispute to arbitration. In most circumstances, submission to arbitration is possible

- a. for any commercial matter.
- b. for no commercial matter.
- c. only after a dispute arises.
- d. only before a dispute arises.

ANSWER: A PAGE: 39 TYPE: N
NAT: AACSB Reflective AICPA Legal

- B16. Seaside Resort, Inc., adopts an alternative dispute resolution (ADR) program. Tess, a current employee, signs an agreement under which arbitration is subject to “Seaside’s rules, with the employee to bear all costs of the proceeding.” When a dispute arises, Tess refuses to arbitrate. Seaside files a suit to compel arbitration. The court will most likely
- order arbitration according to Seaside’s rules.
 - order arbitration but suspend Seaside’s rules.
 - refuse to order arbitration if a resolution of the dispute is clear.
 - refuse to order arbitration if Tess lacks the ability to pay.

ANSWER: D PAGE: 41 TYPE: N
 NAT: AACSB Reflective AICPA Risk Analysis

- B17. Kobe files a suit against Joanna. They meet, and each party’s attorney argues the party’s case before a judge and jury. The jury presents an advisory verdict, after which the judge meets with the parties to encourage them to settle their dispute. This is
- a mini-trial.
 - a summary jury trial.
 - early neutral case evaluation.
 - not a legitimate form of dispute resolution.

ANSWER: B PAGE: 41 TYPE: +
 NAT: AACSB Reflective AICPA Legal

- B18. To resolve a dispute, Amy in Boston and Chris in Denver utilize E-Solution, an online dispute resolution (ODR) service. This limits these parties’ recourse to the courts
- not at all.
 - until the ODR service has issued a decision.
 - with respect to any dispute arising between them.
 - with respect to this dispute only.

ANSWER: A PAGE: 42 TYPE: =
 NAT: AACSB Reflective AICPA Legal

- B19. Pan American Pancake House, Inc., a U.S. firm, and Wallaby Waffles, Ltd., an Australian firm, enter into a contract that does not have a forum-selection or choice-of-law clause. Litigation between Pan American and Wallaby over a dispute involving this contract may occur in
- a. Australia only.
 - b. Australia or the United States, but not both.
 - c. Australia, the United States, or both.
 - d. the United States only.

ANSWER: C PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B20. A clause in a contract between Tall Timber Corporation, a U.S. firm, and Wang Woods, Ltd., a Japanese firm, specifies that disputes over the contract will be adjudicated in the United States. This is
- a. a domestic-dispute clause.
 - b. a forum-selection clause.
 - c. an adjudication clause.
 - d. an arbitration clause.

ANSWER: B PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

ESSAY QUESTIONS

- B1. Worldwide Trucking Corporation files a suit in a state court against XL Service Company, and wins. XL appeals the court's decision, asserting that the evidence presented at trial to support Worldwide's claim was such that no reasonable jury could have found for the plaintiff. Therefore, argues XL, the appellate court should reverse the trial court's decision. May an appellate court ever reverse a trial court's findings with respect to questions of fact?

ANSWER: An appellate court will reverse a lower court's decision on the basis of the facts only when the finding is clearly erroneous (that is, when it is contrary to the evidence presented at trial) or when there is no evidence

to support the finding. Appellate courts normally defer to a judge's decision with regard to the facts of a case, however, for a number of reasons. First, trial judges routinely sit as fact finders. As a result, they develop a particular expertise in determining what kind of evidence and testimony is reliable and what kind is not. Second, trial judges and juries have the opportunity to observe witnesses and tangible evidence first hand. The appellate court sees only a cold record of the trial court proceedings and therefore cannot make the kind of judgments about the credibility of witnesses and the persuasiveness of evidence that can be gleaned only from first-hand experience.

PAGES: 29–30 & 35 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

- B2. MicroWare hosts a Web site that advertises its software products, features upgrades and “patches” for its existing software products, and accepts orders for the products from consumers throughout the world. Mary, who owns and operates Business Records, Inc., a small bookkeeping and payroll business in Colorado, orders from the Web site a copy of MicroWare’s Office Books software. Office Books is designed to help accountants and bookkeepers keep accurate business records. When Office Books is found to have a defect in its calculating program, MicroWare offers a patch on its Web site to fix the problem. Mary has already lost several customers because of the miscalculating defect, however, and files a suit against MicroWare in a Colorado state court. Can the court exercise jurisdiction over MicroWare? Why or why not?

ANSWER: Some courts have upheld exercises of jurisdiction on the basis of the accessibility of a Web page. Other courts have concluded that without more, a presence on the Web is not enough to support jurisdiction over a nonresident. The standard that is generally accepted for evaluating the exercise of jurisdiction based on contacts over the Internet is a “sliding scale.” On the scale, a court’s exercise of personal jurisdiction depends on the amount of business that an individual or firm transacts over the Internet. A Web site that provides upgrades and “patches,” and accepts orders from customers has a high degree of interactivity. There may be a question as to the amount of business that MicroWare transacts with residents of Colorado. If that business is substantial, MicroWare would likely be subject to the court’s jurisdiction.

PAGES: 30–31

NAT: AACSB Reflective

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