

Chapter 2—The Legal System in the United States and Its Constitutional Foundation

TRUE/FALSE

1. The United States has two separate and distinct court systems: the federal court system and the state and local court system.

ANS: T PTS: 1 DIF: Difficulty: Easy
 REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

2. A trial court has the power to hear an appeal of a decision of a lower court.

ANS: F PTS: 1 DIF: Difficulty: Moderate
 REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

3. Courts enforce law by imposing punishment for violations or awarding damages to ones who have been injured.

ANS: T PTS: 1 DIF: Difficulty: Easy
 REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

4. The federal court system varies from one area of the country to another.

ANS: F PTS: 1 DIF: Difficulty: Moderate
 REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

5. "Jurisdiction over the person" means that a court has the power to hear a case because it has authority over the parties.

ANS: T PTS: 1 DIF: Difficulty: Easy
 REF: p. 28 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

6. Both the U.S. district courts and the U.S. courts of appeal have jurisdiction to review decisions of the highest state courts.

ANS: F PTS: 1 DIF: Difficulty: Easy
 REF: p. 39 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

7. The U.S. Supreme Court was established by an act of Congress.

ANS: F PTS: 1 DIF: Difficulty: Easy
 REF: p. 39 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
 STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

8. At least four out of nine justices must agree to hear an appeal from a state or federal court before a case comes before the U.S. Supreme Court.

ANS: T PTS: 1 DIF: Difficulty: Moderate
REF: p. 41 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

9. The U.S. system of government is based on a concept known as separation of powers.

ANS: T PTS: 1 DIF: Difficulty: Easy
REF: p. 43 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

10. Both statute law and case law are used in the United States legal system to reach decisions in civil lawsuits and criminal actions.

ANS: T PTS: 1 DIF: Difficulty: Moderate
REF: p. 43 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

11. Our legal system operates within the framework of litigation. Litigation refers to a lawsuit or legal action.

ANS: T PTS: 1 DIF: Difficulty: Easy
REF: p. 44 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

12. In the United States, courts have the power to offer advisory opinions and answer hypothetical questions put to them by attorneys.

ANS: F PTS: 1 DIF: Difficulty: Easy
REF: p. 44 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

13. The Supreme Court case of *Marbury v. Madison* established the basis for the concept of judicial review in our legal system.

ANS: T PTS: 1 DIF: Difficulty: Moderate
REF: p. 43 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

14. The Fourth Amendment guarantees the individual's right to free speech.

ANS: F PTS: 1 DIF: Difficulty: Moderate
REF: p. 45 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

15. The first ten amendments to the U.S. Constitution are known as the Bill of Rights.

ANS: T PTS: 1 DIF: Difficulty: Easy
REF: p. 45 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

MULTIPLE CHOICE

1. The power of courts to hear and decide a case is known as
 - a. jurisdiction.
 - b. constitutionality.
 - c. judicial review.
 - d. accommodation of interests.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

2. The role of an appellate court is to
 - a. try a case for the first time.
 - b. review a case that has already been tried in a lower court.
 - c. select a jury to help decide a case.
 - d. select attorneys to present a case.

ANS: B PTS: 1 DIF: Difficulty: Easy
REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

3. A court of original jurisdiction is called a
 - a. trial court.
 - b. higher court.
 - c. review court.
 - d. criminal court only.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 27 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

4. A court that has the power to hear almost any case brought before it is considered to have
 - a. appellate jurisdiction.
 - b. general jurisdiction.
 - c. constitutional jurisdiction.
 - d. limited jurisdiction.

ANS: B PTS: 1 DIF: Difficulty: Easy
REF: p. 28 OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

5. A small claims court is an example of a(n)
 - a. appellate court.
 - b. criminal court.
 - c. district court.
 - d. local court.

ANS: D PTS: 1 DIF: Difficulty: Easy
REF: p. 31 OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

6. Most state court systems include all of the following *except*
 - a. lower-level trial courts.
 - b. an appellate court of final resort.
 - c. intermediate-level appeals courts.
 - d. bankruptcy courts.

ANS: D PTS: 1 DIF: Difficulty: Moderate
REF: p. 29 OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

7. A federal court has limited jurisdiction in a
- small claims action.
 - constitutional issue.
 - murder case.
 - bankruptcy case.

ANS: D PTS: 1 DIF: Difficulty: Moderate
REF: p. 38 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

8. The federal court system was established by
- a mandate from the public.
 - Congress.
 - Article III, Section I of the Constitution.
 - a vote of the judges on the Supreme Court.

ANS: C PTS: 1 DIF: Difficulty: Easy
REF: p. 37 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

9. The trial courts in the federal court system are called
- U.S. district courts.
 - criminal courts.
 - tax courts.
 - bankruptcy courts.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 38 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

10. The Supreme Court of the United States derives its judicial power from the
- U.S. Constitution.
 - U.S. president.
 - U.S. Congress.
 - state courts.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 39 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

11. The thirteen intermediate courts of appeal of the federal court system are called
- circuit courts.
 - district courts.
 - claims courts.
 - supreme courts.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 39 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

12. The only court actually provided for by name in the U.S. Constitution is

- a. the U.S. Supreme Court.
- b. the Court of International Trade.
- c. small claims court.
- d. commercial claims court.

ANS: A PTS: 1 DIF: Difficulty: Easy
REF: p. 39 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

13. A specialized federal court is
- a. a U.S. district court.
 - b. a U.S. court of appeals.
 - c. a U.S. claims court.
 - d. none of these.

ANS: C PTS: 1 DIF: Difficulty: Moderate
REF: p. 38 OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

14. What are the grounds for trying a case in a federal court?
- a. State crimes and diversity of citizenship
 - b. Only diversity of citizenship cases involving \$50,000 or more
 - c. Federal issues and diversity of citizenship
 - d. Bankruptcy and state crimes

ANS: C PTS: 1 DIF: Difficulty: Easy
REF: p. 38 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

15. The U.S. Supreme Court consists of
- a. four justices.
 - b. five justices.
 - c. eight justices.
 - d. nine justices.

ANS: D PTS: 1 DIF: Difficulty: Easy
REF: p. 41 OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

16. The number of jurors selected for a particular trial will
- a. depend upon whether the trial is civil or criminal.
 - b. vary according to the particular state where the jurors reside.
 - c. vary according to the judge's wishes.
 - d. be affected by both whether the trial is civil or criminal and by the particular state where the jurors reside, but not according to the judge's wishes.

ANS: D PTS: 1 DIF: Difficulty: Easy
REF: p. 43 OBJ: LO: 2-4 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

17. The concept of judicial review was established by
- a. Congress.
 - b. the president.
 - c. the judicial branch of government.
 - d. English common law.

ANS: C PTS: 1 DIF: Difficulty: Moderate
REF: p. 43 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Comprehension

18. The right of courts to review the decisions of lower courts is called
- separation of powers.
 - judicial review.
 - litigation.
 - none of these.

ANS: B PTS: 1 DIF: Difficulty: Easy
REF: p. 43 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

19. The amendment to the U.S. Constitution that protects the individual's right to privacy by prohibiting unreasonable search and seizure by government is the
- First Amendment.
 - Fifth Amendment.
 - Fourth Amendment.
 - Sixth Amendment.

ANS: C PTS: 1 DIF: Difficulty: Easy
REF: p. 46 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking
STA: AICPA: BB-Legal KEY: Bloom's: Knowledge

COMPLETION

1. "Jurisdiction over the person" means that a court can hear and decide a case because it has authority over the _____ in the case.

ANS: parties

PTS: 1 DIF: Difficulty: Easy REF: p. 28
OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Knowledge

2. If a court has the power to hear only certain types of cases, it is said to have _____ jurisdiction.

ANS: limited

PTS: 1 DIF: Difficulty: Easy REF: p. 28
OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Knowledge

3. To provide fast and inexpensive hearings on minor claims, many states have established _____ courts.

ANS: small claims

PTS: 1 DIF: Difficulty: Easy REF: p. 31
OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

4. A state judicial system usually includes a(n) _____ court to handle deceased persons' estates.

ANS:
probate
surrogate's

PTS: 1 DIF: Difficulty: Moderate REF: p. 35
OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Application

5. The _____ is the highest court in the United States.

ANS: U.S. Supreme Court

PTS: 1 DIF: Difficulty: Easy REF: p. 38
OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Knowledge

6. The U.S. courts of appeals are divided into _____ circuits.

ANS: 13; thirteen

PTS: 1 DIF: Difficulty: Easy REF: p. 39
OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

7. Diversity of citizenship exists when the parties to a lawsuit are from different states and wish to have their case tried in a(n) _____ court.

ANS: federal; federal district

PTS: 1 DIF: Difficulty: Moderate REF: p. 38
OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

8. The concept of _____ resulted in the establishment of three branches of government.

ANS: separation of powers

PTS: 1 DIF: Difficulty: Moderate REF: p. 43
OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

9. In our courts, litigation is based on the _____, where the parties are represented by attorneys who are opponents of each other.

ANS: adversarial system

PTS: 1 DIF: Difficulty: Moderate REF: p. 44
OBJ: LO: 2-4 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

10. One principle of our legal system is to acknowledge the equitable considerations of the parties involved. This principle is referred to as _____.

ANS: accommodation of interests

PTS: 1 DIF: Difficulty: Easy REF: p. 44
OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Comprehension

SHORT ANSWER

1. What is the effect on a lawsuit if the person suing brings his or her case to a court that does not have the proper jurisdiction to hear the case?

ANS:

If a court does not have proper jurisdiction, it (the court) has no legitimate right by which judges can exercise their authority. Thus, in this case, the lawsuit could not be heard. The attorneys would need to reschedule the suit for a hearing in the proper court (i.e., the court with the proper jurisdiction).

PTS: 1 DIF: Difficulty: Moderate REF: p. 28
OBJ: LO: 2-1 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Application

2. Dunn, a resident of Florida, was in an automobile accident caused by Greeley, a resident of Alabama. Dunn's van was damaged to the extent of \$3,500. May Dunn sue Greeley in the federal district court for Alabama? Why or why not?

ANS:

No. Although federal district courts may hear cases involving parties from different states, the amount of a claim must be more than \$75,000.

PTS: 1 DIF: Difficulty: Moderate REF: p. 38
OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Application

3. The ambassador from Austria to the United States wanted to sue the ambassador from Chile for injuries in a car accident caused by the Chilean ambassador. In which court will this suit be brought?

ANS:

U.S. Supreme Court. The Supreme Court has original jurisdiction to try cases involving foreign ambassadors.

PTS: 1 DIF: Difficulty: Moderate REF: p. 39
OBJ: LO: 2-3 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
KEY: Bloom's: Application

4. What is the essential role of Judicial Review in the U.S. Court System?

ANS:

Judicial review allows higher courts to review decisions of a lower court. The review process allows decisions and laws to be reversed or changed if they are not in harmony with existing laws and constitutions. The power of judicial review also enables the judicial branch to act as a check on the other two branches of government. For example, the Federal courts review acts of the U.S. Congress and state legislatures. This process makes judicial review the cornerstone of our Constitution since it assures full protection of our rights as individuals under the U.S. Constitution.

PTS: 1 DIF: Difficulty: Moderate REF: p. 43-44
 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
 KEY: Bloom's: Comprehension

5. The state needed a portion of Beck's land to construct a highway. If the state decides to take the land for the public welfare over Beck's objection, may Beck have his case heard by a court?

ANS:

Yes. In the United States, based on the concept of judicial review, Beck would have the right to have his interests protected by having his case heard in court and, if he is dissatisfied with the ruling, having a higher court review this lower court's decision.

PTS: 1 DIF: Difficulty: Moderate REF: p. 36
 OBJ: LO: 2-5 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
 KEY: Bloom's: Application

6. What are the advantages and disadvantages of taking your case to small claims court? Refer to text.

ANS:

Advantages

1. Fast. Once a claim is filed (which is a fairly easy process), your case will be heard shortly thereafter, generally within thirty to ninety days. The actual hearing lasts about one hour or less (sometimes only fifteen minutes).
2. Informal. Technical rules of evidence and procedure followed in a regular court trial are not strictly applicable in small claims court and an individual can represent himself or herself.
3. Inexpensive. Since a party is not required to have an attorney, no attorney's fees are required. Only a small filing fee is required. Further, a person with a legal claim might have been discouraged from filing the case in another court where legal fees and court fees might have exceeded the amount of the plaintiff's (person suing) claim.

Disadvantages

1. The maximum amount for which a person may sue in small claims court is limited by state law in each state. If you are seeking an amount that exceeds the small claims court limit for your state and you win your case, you will be unable to claim any amount over the state limit.
2. Most states allow only the loser to appeal. A few states allow no appeal.
3. Difficult to collect the judgment if you win your case. The court does not participate in the collection process. If you win, you are on your own and may have to take legal action to collect if the loser will not pay. You may have to hire a collection agency at great expense.

PTS: 1 DIF: Difficulty: Moderate REF: p. 31-33
 OBJ: LO: 2-2 NAT: BUSPROG: Reflective Thinking STA: AICPA: BB-Legal
 KEY: Bloom's: Comprehension