

Chapter 2--Traditional and Online Dispute Resolution

Student: _____

1. The function of the courts is to interpret and apply the law.
True False
2. The courts can decide whether the other branches of government have acted within the scope of their constitutional authority.
True False
3. A state court can exercise jurisdiction over any person within the boundaries of the state.
True False
4. A state court can exercise jurisdiction over any property within the boundaries of the state regardless of the property owner's location.
True False
5. A long arm statute permits a court to exercise jurisdiction over an out-of-state defendant.
True False
6. Minimum contacts with a jurisdiction are never enough to support jurisdiction over a nonresident defendant.
True False
7. A business firm may have to comply with the laws of any jurisdiction in which it actively targets customers.
True False
8. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which it is incorporated.
True False
9. A lawsuit involving a federal question can originate in a federal court.
True False

10. Concurrent jurisdiction exists when both federal and state courts have the power to hear a particular case.
True False
11. A court cannot exercise jurisdiction over an out-of-state defendant who has only done business in the state over the Internet.
True False
12. *Venue* is the term for the subject matter of a case.
True False
13. To have standing to sue, a party must have been harmed or have been threatened with harm by the action about which he or she complains.
True False
14. A justiciable controversy is a case in which the court's decision^¾the "justice" that will be served^¾will be controversial.
True False
15. The jurisdiction of a state court of appeal is substantially limited to hearing appeals.
True False
16. A federal case typically originates in a federal district court.
True False
17. The United States Supreme Court cannot review a decision by a state's highest court.
True False
18. An answer can admit to the allegations made in a complaint.
True False
19. A counterclaim is raised by a plaintiff against a defendant's response to a complaint.
True False
20. Service of process is the process of obtaining information from an opposing party before trial.
True False

21. A summary judgment is granted only if there is no genuine question of law.
True False
22. Interrogatories are written questions for which written answers are prepared and signed under oath.
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23. In most states, if neither party requests a jury, there will be no jury trial.
True False
24. *Voir dire* is a process for presenting evidence in a case.
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25. A judge instructs a jury as to the law that applies in a case.
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26. A motion for a judgment notwithstanding the verdict seeks to set aside a verdict and enter a new verdict in favor of the non-prevailing party.
True False
27. Any judgment is enforceable.
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28. Negotiation is the most complex form of alternative dispute resolution.
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29. In mediation, the mediator proposes a solution that includes what compromises are necessary to reach an agreement.
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30. A court's review of an arbitrator's award may be restricted.
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31. Mandatory arbitration clauses in employment contracts are not enforceable.
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32. In early neutral case evaluation, a third party's evaluation of each party's strengths and weaknesses forms the basis for negotiating a settlement.
True False

33. The verdict in a summary jury trial is binding.
- True False
34. Most online dispute resolution services apply general, universal legal principles to resolve disputes.
- True False
35. Unless otherwise agreed, the result of an online dispute resolution proceeding may *not* be appealed to a court.
- True False
36. Moby, a resident of New Jersey, has an accident with Ogden, a resident of New York, while driving through that state. Ogden files a suit against Moby in New York. Regarding Moby, New York has
- A. federal question jurisdiction.
 - B. *in personam* jurisdiction.
 - C. *in rem* jurisdiction.
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37. Hua, a resident of Illinois, owns a warehouse in Indiana. A dispute arises over the ownership of the warehouse with Jac, a resident of Kentucky. Jac files a suit against Hua in Indiana. Regarding this suit, Indiana has
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38. Marbled Granite Company files a suit against Natural Stone, Inc., in a Colorado court with general jurisdiction. In a Delaware court with limited jurisdiction, E-Sales Corporation files a suit against First State Bank. The difference between general and limited jurisdiction is
- A. the subject matter of the cases that the courts can decide.
 - B. whether a case is being heard for the first time.
 - C. whether a suit is filed against a single individual or many people.
 - D. whether a suit is filed by a citizen or by a business.
39. Sam, a citizen of Tennessee, files a suit in a Tennessee state court against United Sales Corporation, a Wyoming company that does business in Tennessee. The court has original jurisdiction, which means that
- A. the case is being heard for the first time.
 - B. the court does not have concurrent jurisdiction.
 - C. the court has standing.
 - D. the court has venue.

40. Sam, a citizen of New Mexico, wants to file a suit against Tanya, a citizen of Texas. Their diversity of citizenship may be a basis for
- A. any court to exercise *in rem* jurisdiction.
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- A. affirm, reverse, or remand all or part of the lower court's decision.
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Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

Refer to Fact Pattern 2-1. The least expensive method to resolve the dispute between Java and Kaffe may be

- A. arbitration because the case will be heard by a mini-jury.
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Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

Refer to Fact Pattern 2-1. If Java and Kaffe have a long-standing business relationship that they would like to continue, a preferred method of settling their dispute may be mediation because

- A. the case will be heard by a mini-jury.
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- C. the process is not adversarial.
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64. **Fact Pattern 2-1**

Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

Refer to Fact Pattern 2-1. Resolving the dispute between Java and Kaffe by having a neutral third party render a binding decision is one of the advantages of

- A. arbitration.
- B. conciliation.
- C. intervention.
- D. mediation.

65. National Consumer Goods Corporation and Paula Purchaser agree to resolve their dispute in arbitration. The arbitrator's decision is called

- A. a conclusion of law.
- B. a finding of fact.
- C. an award.
- D. a verdict.

66. Owen, in Pennsylvania, and Quik Jobs, 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.

67. Transnational Corporation and United Shipping, Inc., agree to a contract that includes an arbitration clause. If a dispute arises, a court having jurisdiction may
- A. monitor any arbitration until it concludes.
 - B. order an arbitrator to rule in a particular way.
 - C. order a party to bring the dispute to court.
 - D. order a party to submit to arbitration.
68. In Harley's suit against Irma, the parties meet before going to trial, and each party's attorney argues the party's case before the other party. A third party renders an opinion as to how a court would likely decide the dispute. This is
- A. a mini-trial.
 - B. arbitration.
 - C. a summary jury trial.
 - D. early neutral case evaluation.
69. Molly files a suit against Naomi. 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. court-ordered arbitration.
 - B. early neutral case evaluation.
 - C. a mini-trial.
 - D. a summary jury trial.
70. 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
- A. not at all.
 - B. until the ODR service has issued a decision.
 - C. with respect to any dispute arising between them.
 - D. with respect to this dispute only.

71. Norwest Trucking Corporation files a suit in a state court against Bob's Service Company (BSC), and wins. BSC appeals the court's decision, asserting that the evidence presented at trial to support Norwest's claim was so scanty that no reasonable jury could have found for the plaintiff. Therefore, argues BSC, the appellate court should reverse the trial court's decision. Is the appellate court likely to reverse the trial court's findings with respect to the facts? If not, why not? What are an appellate court's options after reviewing a case?
72. Discount Mart, Inc., files a suit in a state court against Elements Computer Corporation, alleging that Elements breached a contract to sell 500 notebook computers to Discount. During the course of the suit, Discount files a motion for judgment on the pleadings, Elements files a motion for a directed verdict, and both parties file motions for summary judgment. When and for what purpose are each of these motions made?

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TRUE

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- A.** a mini-trial.
 - B. arbitration.
 - C. a summary jury trial.
 - D. early neutral case evaluation.
69. Molly files a suit against Naomi. 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. court-ordered arbitration.
 - B. early neutral case evaluation.
 - C. a mini-trial.
 - D.** a summary jury trial.
70. 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
- A.** not at all.
 - B. until the ODR service has issued a decision.
 - C. with respect to any dispute arising between them.
 - D. with respect to this dispute only.

71. Norwest Trucking Corporation files a suit in a state court against Bob's Service Company (BSC), and wins. BSC appeals the court's decision, asserting that the evidence presented at trial to support Norwest's claim was so scanty that no reasonable jury could have found for the plaintiff. Therefore, argues BSC, the appellate court should reverse the trial court's decision. Is the appellate court likely to reverse the trial court's findings with respect to the facts? If not, why not? What are an appellate court's options after reviewing a case?

An appellate court will reverse a lower court's decision on the basis of the facts if the evidence does not support the findings or if it contradicts them. 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. (There are also constitutional reasons for an appellate court to defer to a jury verdict. If, based on the evidence presented to a jury, a reasonable person could have come to the same decision that the jury came to, an appellate court cannot reverse the jury's decision with regard to the facts because this would, in essence, take away a person's right to a jury trial.) An appellate court's options after reviewing a case are to affirm the trial court's judgment, to reverse it in whole, to reverse it in part, to modify the decision, or to remand the case for further proceedings.

72. Discount Mart, Inc., files a suit in a state court against Elements Computer Corporation, alleging that Elements breached a contract to sell 500 notebook computers to Discount. During the course of the suit, Discount files a motion for judgment on the pleadings, Elements files a motion for a directed verdict, and both parties file motions for summary judgment. When and for what purpose are each of these motions made?

After the pleadings have been filed, either party can file a motion for judgment on the pleadings. This motion may be used when no facts are disputed and, thus, only questions of law are at issue. The difference between this motion and a motion for summary judgment is that the party requesting the motion may support a motion for summary judgment with sworn statements and other materials; on a motion for a judgment on the pleadings, a court may consider only those facts pleaded. At the conclusion of the plaintiff's case, the defendant can file a motion for a directed verdict (federal courts use the term motion for a judgment as a matter of law), asking the court to direct a verdict for the defendant on the ground that the plaintiff has presented no evidence to justify the granting of the plaintiff's remedy. In considering the motion, the judge looks at the evidence in the light most favorable to the plaintiff and grants the motion only if there is insufficient evidence to raise an issue of fact. At the end of the defendant's case, either party can move for a directed verdict. If the only question is which laws apply to the facts in a case, either party can move for summary judgment before or during a trial. When a court considers a motion for summary judgment, it can take into account evidence outside the pleadings. The evidence may consist of sworn statements by parties or witnesses, as well as documents. A motion for summary judgment will be granted only when there are no genuine questions of fact, and the only question is a question of law.