

Chapter 2

Courts and Alternative Dispute Resolution

TRUE/FALSE QUESTIONS

- B1. The federal courts are superior to the state courts.

ANSWER: F

BUSPROG: Analytic

PAGES: Introduction

AICPA: BB-Legal

- B2. Laws would be meaningless without the courts to interpret and apply them.

ANSWER: T

BUSPROG: Analytic

PAGES: Section 1

AICPA: BB-Legal

- B3. Because corporations are *not* considered legal persons, courts use different principles to determine whether it is fair to exercise jurisdiction over a corporation.

ANSWER: F

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

- B4. Under the authority of a long arm statute, a court can exercise personal jurisdiction over certain out-of-state defendants.

ANSWER: T

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

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- B5. A court can exercise jurisdiction over property that is located within its boundaries.

ANSWER: T PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Legal

- B6. The minimum-contacts requirement is usually met if a corporation advertises or sells its products within a state.

ANSWER: T PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Critical Thinking

- B7. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which its principal place of business is located.

ANSWER: F PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Legal

- B8. To have standing to sue, a party must have complaining sufficient stake in a matter to justify seeking relief through the court system.

ANSWER: T PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Legal

- B9. Small claims courts are inferior trial courts.

ANSWER: T PAGES: Section 2
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: F PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Critical Thinking

- B11. U.S. district courts have concurrent jurisdiction with state courts in matters involving federal questions.

ANSWER: F PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Critical Thinking

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

ANSWER: T PAGES: Section 3
BUSPROG: Analytic AICPA: BB-Legal

B13. Litigation is the process of resolving a dispute through the court system.

ANSWER: T PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Risk Analysis

B14. In mediation, the mediator proposes a solution and makes a decision resolving the dispute.

ANSWER: F PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Critical Thinking

B15. A court's review of an arbitrator's award may be restricted.

ANSWER: T PAGES: Section 4
BUSPROG: Analytic AICPA: BB-Legal

B16. Mandatory arbitration clauses in employment contracts are generally enforceable.

ANSWER: T PAGES: Section 4
BUSPROG: Analytic AICPA: BB-Legal

B17. A mini-trial is a private proceeding in which each party's attorney argues the party's case before the other party.

ANSWER: T PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Critical Thinking

B18. The verdict in a summary jury trial is *not* binding.

ANSWER: T PAGES: Section 4
BUSPROG: Analytic AICPA: BB-Legal

B19. International treaties never stipulate arbitration for resolving disputes.

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ANSWER: F PAGES: Section 5
BUSPROG: Reflective AICPA: BB-Critical Thinking

B20. The United States will *not* enforce a foreign court's decision.

ANSWER: F PAGES: Section 5
BUSPROG: Reflective AICPA: BB-Critical Thinking

MULTIPLE-CHOICE QUESTIONS

B1. As a judge in a federal court, Christine can decide, among other things, whether the laws or actions of the executive and legislative branches are constitutional. The process for making this determination is known as

- a. judicial review.
- b. jurisdiction.
- c. venue.
- d. early neutral case evaluation.

ANSWER: A PAGES: Section 1
BUSPROG: Reflective AICPA: BB-Legal

B2. Fresh Harvest Company, which is based on Georgia, packages and sells vegetables. Hayden, who is a resident of Indiana, buys a Fresh Harvest product, eats it, and suffers severe food poisoning. Hayden wants to file a suit against Fresh Harvest. The diversity of citizenship between these parties means that

- a. federal and state courts have concurrent jurisdiction.
- b. federal courts have exclusive jurisdiction.
- c. no court has jurisdiction.
- d. state courts have exclusive jurisdiction.

ANSWER: A PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

B3. Lewis wants to file a suit against Mikayla. Before any court can hear the case

- a. the parties to the dispute must agree.
- b. the court must have jurisdiction.
- c. the court must issue a deposition.
- d. the parties must own property.

ANSWER: B

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Legal

B4. A Maryland state court can exercise jurisdiction over National Insurance Corporation, an out-of-state company, if the firm has

- a. minimum contacts with the state.
- b. maximum contacts with the state.
- c. medium contacts with the state.
- d. no contacts with the state.

ANSWER: A

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Decision Modeling

B5. Marcus files a suit against Naomi in an Ohio state court. Naomi's only connection to Ohio is an ad on the Web originating in Pennsylvania. For Ohio to exercise jurisdiction, the issue is whether Naomi, through her ad, has

- a. a commercial cyber presence in Ohio.
- b. conducted substantial business with Ohio residents.
- c. claimed to be a resident of Ohio.
- d. solicited virtual business in Ohio.

ANSWER: B

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Legal

- B6. Delia files a suit against Eduardo in a Florida state court over the ownership of a boat docked in a Florida harbor. Both Delia and Eduardo are residents of Georgia. Eduardo could ask for a change of venue on the ground that Georgia
- a. has a sufficient stake in the matter.
 - b. has jurisdiction.
 - c. has sufficient minimum contacts with the parties.
 - d. is a more convenient location to hold the trial.

ANSWER: D PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

- B7. Arnold loses his suit against Buffy in a Colorado state trial court. Arnold appeals to a state intermediate court of appeals and loses again. Arnold would appeal next to
- a. a U.S. district court.
 - b. the Colorado Supreme Court.
 - c. the United States Supreme Court.
 - d. the U.S. Court of Appeals for the Ninth Circuit.

ANSWER: B PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Critical Thinking

- B8. The Montana Supreme Court rules against Natural Grocery Mart in a case against One Stop 2 Shop Stores, Inc. Natural Grocery files an appeal with the United States Supreme Court. The Court does not hear the case. This
- a. is a decision on the merits that has value as a precedent.
 - b. indicates agreement with the Montana court's decision.
 - c. means nothing.
 - d. means that the Montana court's decision is the law in Montana.

ANSWER: D PAGES: Section 3
BUSPROG: Reflective AICPA: BB-Legal

B9. The Iowa Supreme Court rules against Jennifer in a case against Kut-Rate Stores, Inc. Jennifer wants to appeal her case to the United States Supreme Court. She must ask the Court to issue a writ of

- a. appeal.
- b. *certiorari*.
- c. jurisdiction.
- d. summons.

ANSWER: B

PAGES: Section 3

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B10. Lorena files a suit against Milton. 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

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B11. Orson files a suit against Portia. 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

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B12. The least expensive method of resolving a dispute between Ronald and Sharon may be

- a. arbitration because the case will be heard by a mini-jury.
- b. litigation because each party will pay its own legal fees.
- c. mediation because the dispute will be resolved by a non-expert.
- d. negotiation because no third parties are needed.

ANSWER: D

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B13. Bean House Coffees and Java Distributors, Inc., have a long-standing business relationship that they would like to continue. For this reason, they may prefer to settle any dispute between them through mediation because

- a. the case will be heard by a mini-jury.
- b. the dispute will eventually go to trial.
- c. the process is not adversarial.
- d. the resolution of the dispute will be decided an expert.

ANSWER: C

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B14. HoneyBee Foods, Inc., in Illinois, and Jelly Roll Pastries, in Kentucky, consent to have their dispute resolved in arbitration according to the law of Illinois. This is a ground for a court to

- a. compel arbitration.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside any award.

ANSWER: A

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Legal

- B15. Service Employees International Union and Timberline Products, Inc., have their dispute resolved in arbitration. The arbitrator arbitrates issues that the parties did not agree to submit to arbitration. This is a ground for a court to
- a. none of the choices.
 - b. review the merits of the dispute.
 - c. review the sufficiency of the evidence.
 - d. set aside the award.

ANSWER: D PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Legal

- B16. First Community Credit Union and General Hydraulics, Inc., have their dispute resolved in arbitration. Before determining the award, the arbitrator meets with First Community's representative to discuss the dispute without General Hydraulics' representative being present. If this meeting substantially prejudices General Hydraulics' rights, a court will most likely
- a. compel arbitration.
 - b. review the merits of the dispute.
 - c. review the sufficiency of the evidence.
 - d. set aside any award.

ANSWER: D PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Legal

- B17. Lucille files a suit against Murray. 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. a mini-trial.
 - b. a summary jury trial.
 - c. early neutral case evaluation.
 - d. not a legitimate form of dispute resolution.

ANSWER: B PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Legal

- B18. 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.

ANSWER: D PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Legal

B19. To resolve a dispute in nonbinding arbitration, Alyson in Baltimore and Chuck in Denver utilize E-Resolve, 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.

ANSWER: A PAGES: Section 4
BUSPROG: Reflective AICPA: BB-Legal

B20. Transcontinental Tours, a U.S. firm, and Victoria Hotels, Ltd., a Canadian firm, enter into a contract that does not have a forum-selection or choice-of-law clause. Litigation between Transcontinental and Victoria over a dispute involving this contract may occur in

- a. Canada only.
- b. Canada or the United States, but not both.
- c. Canada, the United States, or both.
- d. the United States only.

ANSWER: C PAGES: Section 5
BUSPROG: Reflective AICPA: BB-Legal

ESSAY QUESTIONS

B1. BizApps hosts a Web site that advertises its software products, features upgrades and patches for its existing products, and accepts orders from customers throughout the world. Cassie, who owns and operates Holiday Vacations, Inc., a travel agency in Wyoming, orders from the Web site a copy

of BizApps's Price Control software. Price Control is designed to help businesses obtain the best prices for their products and services. When Price Control is found to have a defect in its calculating program, BizApps offers a patch on its Web site to fix the problem. Cassie has already lost profits because of the miscalculating defect, however, and files a suit against BizApps in a Wyoming state court. Can the court exercise jurisdiction over BizApps? 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. Courts generally use a "sliding scale" standard for evaluating the exercise of jurisdiction based on contacts over the Internet. On that 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 accepts orders from customers and provides upgrades and "patches" has a high degree of interactivity. There may be a question as to the amount of business that BizApps transacts with residents of Wyoming. If that business is substantial, BizApps would likely be subject to the court's jurisdiction.

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Decision Modeling

- B2. Able 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 Able Trucking'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? Explain.

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 trial court's decision with regard to the facts of a case, however, for several reasons. First, trial court 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 firsthand experience. Second, as occurs when there is no

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jury and the case is heard by a judge, 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.

PAGES: Section 3
BUSPROG: Reflective

AICPA: BB-Critical Thinking