

Chapter 2

Courts and Alternative Dispute Resolution

TRUE/FALSE QUESTIONS

A1. Federal courts are superior to state courts.

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

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

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

A2. The courts can decide whether the other branches of government have acted within the scope of their constitutional authority.

ANSWER: T PAGE: 30 TYPE: N
NAT: AACSB Analytic AICPA Legal

B2. State courts are independent of federal courts.

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

A3. Minimum contacts with a jurisdiction are never enough to support jurisdiction over a nonresident defendant.

ANSWER: F PAGE: 31 TYPE: N
NAT: AACSB Analytic AICPA Legal

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

12 TEST BANK A—UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

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

- A4. The decisions of state trial courts of limited jurisdiction may sometimes be appealed to state trial courts of general jurisdiction.

ANSWER: T PAGE: 33 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: 31 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A5. Concurrent jurisdiction exists when both federal and state courts have the power to hear a particular case.

ANSWER: T PAGE: 34 TYPE: N
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: 31 TYPE: N
NAT: AACSB Analytic AICPA Legal

- A6. Any lawsuit involving a federal question can originate in a federal court.

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

- A7. Cyberspace is its own jurisdiction.

ANSWER: F PAGE: 34 TYPE: =
NAT: AACSB Analytic AICPA Critical Thinking

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

ANSWER: T PAGE: 34 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

- A8. Venue is the term for the subject matter of a case.

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

- 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: 36 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A9. A justiciable controversy is a case in which the court's decision—the "justice" that will be served—will be controversial.

ANSWER: F PAGE: 36 TYPE: =
NAT: AACSB Analytic AICPA Legal

14 TEST BANK A—UNIT ONE: THE LEGAL ENVIRONMENT OF BUSINESS

B9. The federal court system does not include the U.S. Court of International Trade.

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

A10. The federal equivalent of a state trial court is a U.S. court of appeals.

ANSWER: F PAGE: 40 TYPE: =
NAT: AACSB Analytic AICPA Legal

B10. The jurisdiction of state courts of appeals is substantially limited to hearing appeals.

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

A11. The United States Supreme Court has appellate authority over all cases decided in the state courts.

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

B11. Federal cases typically originate in federal district courts.

ANSWER: T PAGE: 40 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

A12. Alternative dispute resolution refers to any method for resolving a dispute outside the court system.

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

B12. The United States Supreme Court can review a decision by a state's highest court only if a question of federal law is involved.

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

A13. In some courts, pretrial negotiation is mandatory.

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

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

ANSWER: T PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

A14. Negotiation is the most complex form of alternative dispute resolution.

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

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

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

A15. No court offers mediation as an option before a case goes to trial.

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

B15. Mediation is adversarial in nature.

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

A16. An arbitrator can never render a legally binding decision.

ANSWER: F PAGE: 43 TYPE: =
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T PAGE: 45 TYPE: =
NAT: AACSB Analytic AICPA Legal

A17. In early neutral case evaluation, a third party's evaluation of each party's strengths and weaknesses forms the basis for negotiating a settlement.

ANSWER: T PAGE: 47 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

B17. Mandatory arbitration clauses in employment contracts are not enforceable.

ANSWER: F PAGE: 45 TYPE: =
NAT: AACSB Analytic AICPA Legal

A18. A court will review a contract for validity even if it contains an arbitration clause.

ANSWER: F PAGE: 48 TYPE: N
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: 47 TYPE: =

NAT: AACSB Reflective

AICPA Critical Thinking

- A19. Most online dispute resolution services apply general, universal legal principles to resolve disputes.

ANSWER: T PAGE: 48 TYPE: N

NAT: AACSB Technology AICPA Leveraging Technology

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

ANSWER: F PAGE: 47 TYPE: N

NAT: AACSB Analytic AICPA Legal

- A20. A choice-of-law clause is a provision in a contract that excuses a party from liability for nonperformance due to “acts of God.”

ANSWER: F PAGE: 48 TYPE: N

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: 48 TYPE: N

NAT: AACSB Reflective AICPA Critical Thinking

MULTIPLE CHOICE QUESTIONS

- A1. The Ohio state legislature passes a law to regulate local delivery services. The final authority regarding the constitutionality of this law is

- a. the judicial system.
- b. the president of the United States.
- c. the governor of Ohio.
- d. the U.S. Congress.

ANSWER: A PAGE: 30 TYPE: =

NAT: AACSB Reflective AICPA Legal

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

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

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

- A2. 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

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

ANSWER: C PAGE: 31 TYPE: +
NAT: AACSB Reflective AICPA Legal

- B2. Paula, a resident of California, owns a farm in Iowa. A dispute arises over the ownership of the farm with Don, a resident of Nevada. Don files a suit against Paula in Iowa. Regarding this suit, Iowa has

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

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

- A3. Alpha Company files a suit against Beta, 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.

ANSWER: A PAGE: 33 TYPE: +
NAT: AACSB Reflective AICPA Legal

- B3. 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.

ANSWER: A PAGE: 33 TYPE: N
NAT: AACSB Reflective AICPA Legal

- A4. Stan, a citizen of Texas, wants to file a suit against Uma, a citizen of Virginia. Their diversity of citizenship may be a basis for
- a. any court to exercise *in rem* jurisdiction.
 - b. a federal district court to exercise original jurisdiction.
 - c. a U.S. court of appeals to exercise appellate jurisdiction.
 - d. the United States Supreme Court to issue a writ of *certiorari*.

ANSWER: B PAGE: 34 TYPE: =
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. a commercial cyber presence in Missouri.
 - b. conducted substantial business with Missouri residents.
 - c. general maximum contact with Missouri.
 - d. solicited virtual business in Missouri.

ANSWER: B PAGE: 34 TYPE: N
NAT: AACSB Reflective AICPA Legal

- A5. LCD TV Company, a firm in Minnesota, advertises on the Web. A court in North Dakota would be most likely to exercise jurisdiction over LCD if the firm
- a. conducted substantial business with North Dakota residents through its Web site.
 - b. interacted with any North Dakota resident through its Web site.

- c. only advertised without interactivity at its Web site.
- d. suddenly removed its ad from the Internet.

ANSWER: A PAGE: 34 TYPE: +
NAT: AACSB Reflective AICPA Legal

B5. Lee files a suit in Michigan against Ned over the ownership of a boat docked in a Michigan harbor. Lee and Ned are residents of Ohio. Ned could ask for a change of venue on the ground that Ohio

- 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 PAGE: 35 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A6. Milo files a suit against Nik in an Ohio state court, noting that Nik operates a Web site through which Ohio residents have done substantial business with him. The court is most likely to exercise jurisdiction over Nik if Milo's claim arises from

- a. anything an Ohio resident has done.
- b. Nik's Web site activities.
- c. nothing an Ohio resident has done.
- d. something other than Nik's Web site.

ANSWER: B PAGE: 34 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

- 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

- a. certiorari.
- b. jurisdiction.
- c. standing to sue.
- d. sufficient minimum contacts.

ANSWER: C PAGE: 36 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

- A7. Liu files a suit against Macro Sales, Inc., in a New Jersey state court based on a Web site through which New Jersey residents can do business with Macro. The court will most likely exercise jurisdiction over Macro if the interactivity of the site is seen as

- a. a "substantial enough" connection with the state.
- b. "downloading" from the state.
- c. not connected with the state.
- d. "uploading" to the state.

ANSWER: A PAGE: 34 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

- 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: 39 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

- A8. Inferior Company sells products that are poorly made. Jock, who has never bought an Inferior product, files a suit against Inferior, alleging that its products are defective. The firm's best ground for dismissal of the suit is that Jock does not have
- a. certiorari.
 - b. jurisdiction.
 - c. standing.
 - d. sufficient minimum contacts.

ANSWER: C PAGE: 36 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

- 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: 41 TYPE: +
NAT: AACSB Reflective AICPA Legal

- A9. Mary wins her suit against National Manufacturing Company. National's best ground for appeal is the trial court's interpretation of
- a. the conduct of the witnesses during the trial.
 - b. the credibility of the evidence that Mary presented.
 - c. the dealings between the parties before the suit.
 - d. the law that applied to the issues in the case.

ANSWER: D PAGE: 38 TYPE: =
NAT: AACSB Reflective AICPA Legal

B9. Miles files a suit against Nina. 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. arbitration.
- b. litigation.
- c. mediation.
- d. negotiation.

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

A10. Boyd files a suit in a federal district court against Cathy. Cathy loses the suit, appeals to the U.S. Court of Appeals for the Second Circuit, and loses again. Cathy asks the United States Supreme Court to hear the case. The Court is

- a. not required to hear the case.
- b. required to hear the case because Cathy lost in a federal court.
- c. required to hear the case because Cathy lost in a lower court.
- d. required to hear the case because it is an appeal.

ANSWER: A PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Legal

B10. Sid files a suit against Tina. Before going to trial, the parties, with their attorneys, meet to try to resolve their dispute. A third party helps them to reach an agreement. This is

- a. arbitration.
- b. litigation.
- c. mediation.
- d. negotiation.

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

A11. Cody wants to appeal his case against Digital Corporation to the United States Supreme Court. Cody must ask the Court to issue a writ of

- a. certiorari.
- b. jurisdiction.
- c. standing.
- d. venue.

ANSWER: A PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Legal

A12. Edie files a suit against Frank. If this suit is like most cases, it will be

- a. dismissed during a trial.
- b. dismissed or settled before a trial.
- c. resolved only after a trial.
- d. settled at a trial.

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

B12. Jen files a suit against Kyle. 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 renders a legally binding decision. This is

- a. arbitration.
- b. litigation.
- c. mediation.
- d. negotiation.

ANSWER: A PAGE: 43 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

A13. Sally and Tom disagree over the amount of money due under their contract. To avoid involving any third party in a resolution of the dispute, Sally and Tom might prefer to use the alternative dispute resolution method of

- a. arbitration.
- b. litigation.
- c. mediation.
- d. negotiation.

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

B13. 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.

ANSWER: A PAGE: 45 TYPE: +
NAT: AACSB Reflective AICPA Legal

Fact Pattern 2-A1 (Questions A14-A16 apply)

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

A14. Refer to Fact Pattern 2-A1. 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.
- 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 PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

B14. Eager Workers, Inc., 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: D PAGE: 45 TYPE: +
NAT: AACSB Reflective AICPA Legal

Fact Pattern 2-A1 (Questions A14-A16 apply)

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

A15. Refer to Fact Pattern 2-A1. 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.
- 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 PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

B15. Jan and Kyle sign a contract that provides that if a dispute arises, they will submit to arbitration. A dispute arises, but before it goes to arbitration, Jan files a suit against Kyle. The court will likely

- a. hear the suit and then order the parties to arbitrate.
- b. hear the suit without ordering the parties to arbitrate.
- c. order relief without hearing the suit or compelling the parties to arbitrate.
- d. order the parties to arbitrate.

ANSWER: D PAGE: 45 TYPE: =
 NAT: AACSB Reflective AICPA Risk Analysis

Fact Pattern 2-A1 (Questions A14-A16 apply)

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

A16. Refer to Fact Pattern 2-A1. 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.

ANSWER: A PAGE: 43 TYPE: =
 NAT: AACSB Reflective AICPA Risk Analysis

B16. Far Trade Company and Good Shipping, Inc., have their dispute resolved in arbitration. The arbitrator meets with Far's representative to discuss the dispute outside the presence of Good's representative, before determining the award. If this meeting substantially prejudiced Good'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: 45 TYPE: +
 NAT: AACSB Reflective AICPA Legal

A17. Consumer Sales Corporation and Dion 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.

ANSWER: C PAGE: 43 TYPE: =
 NAT: AACSB Reflective AICPA Legal

B17. Molly files a suit against Nick. 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. court-ordered arbitration.
- d. early neutral case evaluation.

ANSWER: B PAGE: 47 TYPE: =
NAT: AACSB Reflective AICPA Legal

A18. Transnational Corporation and UniShip, 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 PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Legal

B18. United, Inc., a U.S. firm, and Wallaby, Ltd., an Australian firm, enter into a contract that does not have a forum-selection or choice-of-law clause. Litigation between United 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: 48 TYPE: =
NAT: AACSB Reflective AICPA Legal

A19. Vince files a suit against Will. Vince and Will 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.

ANSWER: D PAGE: 47 TYPE: =

NAT: AACSB Reflective

AICPA Legal

- B19. 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: 48

TYPE: N

NAT: AACSB Reflective

AICPA Legal

- A20. Dick submits his claim against EZ Sales Corporation to FairSettle.com, a private, online dispute resolution forum. At any time, an appeal of the dispute to a court may be made by
- Dick only.
 - Dick or EZ.
 - EZ only.
 - neither Dick nor EZ.

ANSWER: B

PAGE: 48

TYPE: =

NAT: AACSB Reflective

AICPA Legal

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

ANSWER: B

PAGE: 48

TYPE: =

NAT: AACSB Reflective

AICPA Legal

ESSAY QUESTIONS

- A1. Quik Results, Inc., a Maine corporation, makes and sells Power Up!, a weight-gain and muscle-building supplement. Orin, a citizen of New York, sees an ad for Power Up! in *WorkOut* magazine and buys it in New York City at a local health club. Within ten days of beginning to use Power Up!, Orin suffers internal injuries. Alleging that the

injuries are caused by Power Up!, Orin files a suit against Quik in a New York state court. Quik asks the court to dismiss the suit on the ground that it does not have personal jurisdiction over Quik. What is the court most likely to rule and why?

ANSWER: The court will most likely refuse to dismiss the suit and allow the action to proceed, because Quik (the defendant) advertised and sold its product Power Up! in New York to New York residents and thus subjected itself to being sued in New York. In other words, because Quik purposefully availed itself of the privilege of conducting business in New York, it had sufficient minimum contacts with the state for a New York state court to exercise jurisdiction over Quik.

PAGE: 31–33

TYPE: N

NAT: AACSB Reflective

AICPA Decision Modeling

- B1. 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: 34–35

TYPE: =

NAT: AACSB Reflective

AICPA Decision Modeling

- A2. Elle is walking to work along a sidewalk next to a road. A truck owned by Fast Distribution Company (FDC) strikes and injures Elle, causing her injuries that result in more than \$250,000 in medical expenses. Elle is a resident of Georgia, where the accident occurred. FDC has its principal place of business, and is incorporated, in Delaware. In what court may Elle sue FDC?

ANSWER: Elle may sue FDC in Delaware, because FDC has its principal place of business, and is incorporated, in that state. FDC may be sued in Georgia, because that is where Elle's injury occurred. FDC may be subject to Elle's suit in a federal court, because the parties have diversity of citizenship (Elle is a resident of Georgia and FDC has its principal place of business, and is incorporated, in Delaware) and the amount in controversy is more than \$75,000 (the cost of Elle's injuries is more than \$250,000).

PAGE: 31–34

TYPE: =

NAT: AACSB Reflective

AICPA Decision Modeling

- B2. 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: 38–39

TYPE: =

NAT: AACSB Reflective

AICPA Critical Thinking