

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

- A1. Federal courts are superior to state courts.

ANSWER: F PAGE: 28 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: 28 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: 30 TYPE: =
NAT: AACSB Analytic AICPA Legal

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A4. Diversity of citizenship cases are only those arising between citizens of different states.

ANSWER: F PAGE: 33 TYPE: N
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: 33 TYPE: =
NAT: AACSB Analytic AICPA Legal

A6. A court cannot exercise jurisdiction over an out-of-state defendant who has only done business in the state over the Internet.

ANSWER: F PAGE: 34 TYPE: N
NAT: AACSB Analytic AICPA Legal

A7. *Venue* is the term for the subject matter of a case.

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

A8. A justiciable controversy is a case in which the court's decision—the "justice" that will be served—will be controversial.

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

A9. In some states, lawyers are not allowed to represent people in small claims courts.

ANSWER: T PAGE: 38 TYPE: N
NAT: AACSB Analytic AICPA Critical Thinking

A10. The United States Supreme Court has original jurisdiction in rare instances.

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

A11. A federal case typically originates in a state court.

ANSWER: F PAGE: 39 TYPE: N
NAT: AACSB Analytic AICPA Legal

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

A13. Negotiation traditionally involves just the parties to a dispute without their attorneys.

ANSWER: F PAGE: 41 TYPE: N
NAT: AACSB Reflective AICPA Legal

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

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

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

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

A16. Arbitration that is mandated by the courts is often binding on the parties.

ANSWER: F PAGE: 42 TYPE: N
NAT: AACSB Analytic AICPA Legal

A17. A court will review a contract for validity even if it contains an arbitration clause.

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

A18. Most online dispute resolution services apply general, universal legal principles to resolve disputes.

ANSWER: T PAGE: 45 TYPE: =
NAT: AACSB Technology AICPA Leveraging Technology

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- A19. 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: 45 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

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

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: 28 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A2. Ginger wants to file a suit against Fred. For a court to hear the case

- a. Fred must agree.
- b. the court must have jurisdiction.
- c. the parties must have no minimum contact with each other.
- d. the parties must own property.

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

A3. The case of *Max v. National Credit Co.* is heard in a trial court. The case of *O! Boy! Ice Cream Co. v. Pickled Peppers, Inc.*, is heard in an appellate court. The difference between a trial and an appellate court is whether

- a. a trial is being held.
- b. the court is appealing.
- c. the parties question how the law applies to their dispute.
- d. the subject matter of the case involves complex facts.

ANSWER: A PAGE: 32 TYPE: N
NAT: AACSB Reflective AICPA Legal

A4. Rolf, a citizen of New Mexico, wants to file a suit against Sandy, a citizen of Texas. Their diversity of citizenship may be a basis for

- a. no court to exercise jurisdiction.
- b. a federal court to exercise original jurisdiction.
- c. a state court to exercise appellate jurisdiction.
- d. the United States Supreme Court to refuse jurisdiction.

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

A5. Inferior Company, which is based on South Carolina, makes and sells products that are poorly made. Jack, who is a resident of North Carolina, buys an Inferior product and suffers an injury through its use. 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 PAGE: 33 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

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- A6. 3D HD TV Company, a firm in Minnesota, advertises on the Web. A court in North Dakota would be most likely to exercise jurisdiction over 3D HD 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

- 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: =
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: 35 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

A9. Mariah wins her suit against Variety Products Company. Variety'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 Mariah 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

A10. Drummond wants to make a federal case out of his dispute with Elena. Federal cases originate in

- a. federal courts of appeals.
- b. federal district courts.
- c. state trial courts.
- d. the United States Supreme Court.

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

A11. 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: 40 TYPE: =
NAT: AACSB Reflective AICPA Legal

A12. Olivia files a suit against Parker. 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

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

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

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

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: 41 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

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: 41 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

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: 42 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

A17. Eden Property 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: 42 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: 43 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
- court-ordered arbitration.
 - early neutral case evaluation.
 - a mini-trial.
 - a summary jury trial.

ANSWER: D PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A20. Kato and Leilani dispute the quality of a collection of sports memorabilia sold over the Internet. They agree to resolve this dispute in 2BRNot2B.com, an online forum. Like most online forums, 2BRNot2B.com applies
- general, universal legal principles.
 - the provisions of the Federal Arbitration Act.
 - jurisprudence developed by the United Nations.
 - the law of California (or another specific U.S. jurisdiction) .

ANSWER: A PAGE: 45 TYPE: N
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: 30–32 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: 32–33

NAT: AACSB Reflective

TYPE: =

AICPA Decision Modeling

