

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

1. A state long arm statute allows a court to exercise jurisdiction over out-of-state defendants based on activities that took place within the state.

ANSWER: T REF: Basic Judicial Requirements TYPE: +
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

2. Generally, a state court's power is limited to the territorial boundaries of the state in which it is located and the immediately adjacent states.

ANSWER: F REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

3. Cases involving diversity of citizenship arise only between citizens of different states.

2 UNIT ONE: THE FOUNDATIONS

ANSWER: F REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

4. The amount in controversy in a diversity of citizenship case must be more than \$1 million before a federal court can take jurisdiction.

ANSWER: F REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T REF: Basic Judicial Requirements TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

6. State courts cannot have exclusive jurisdiction.

ANSWER: F REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

7. A state court can exercise jurisdiction over an out-of-state defendant who does business in the state only over the Internet.

ANSWER: T REF: Basic Judicial Requirements TYPE: +
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T REF: Basic Judicial Requirements TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

9. Federal courts are superior to state courts.

ANSWER: F REF: The State and Federal Court Systems TYPE: N

BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

10. Lawyers are not allowed to represent people in small claims courts in any of the states.

ANSWER: F REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

11. Small claims courts hear both civil and criminal cases.

ANSWER: F REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

12. All states have intermediate appellate courts.

ANSWER: F REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

13. There is at least one federal district court in every state.

ANSWER: T REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

14. U.S. district courts have original jurisdiction in federal matters.

ANSWER: T REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

15. There are twelve justices on the United States Supreme Court.

ANSWER: F REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

16. The United States Supreme Court has original jurisdiction in some situations.

4 UNIT ONE: THE FOUNDATIONS

ANSWER: T REF: The State and Federal Court Systems TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

17. There is one set of procedural rules for federal courts and one set for state courts.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

18. A default judgment is a judgment entered against the party who brought the claim before the court.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

19. An answer never admits to the allegations made in a complaint.

ANSWER: F REF: Following a State Court Case TYPE: +
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

20. On a motion for judgment on the pleadings, a court may consider evidence outside the pleadings.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

21. A summary judgment is granted only if there is no genuine question of law.

ANSWER: F REF: Following a State Court Case TYPE: =
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

22. A deposition is sworn testimony by a party to a lawsuit or any witness.

ANSWER: T REF: Following a State Court Case TYPE: N

BUSPROG: Analytic
DIF: Easy

LO: 2-4

BLOOM'S: Knowledge
AICPA: BB-Legal

23. Interrogatories are written questions for which written answers are prepared and signed under oath.

ANSWER: T REF: Following a State Court Case TYPE: =
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

24. Any relevant material, except information stored electronically, can be the object of a discovery request.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

25. A closing argument is a statement by a party that results in a summary judgment in that party's favor.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

26. A motion for a new trial will be granted only if a constitutional issue is involved.

ANSWER: F REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

27. A motion for a directed verdict is also known as a motion for judgment as a matter of law.

ANSWER: T REF: Following a State Court Case TYPE: N
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

28. Any judgment is enforceable.

ANSWER: F REF: Following a State Court Case TYPE: =
BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge

DIF: Easy

AICPA: BB-Critical Thinking

29. Arbitration is always legally binding.

ANSWER: F REF: Alternative Dispute Resolution TYPE: N
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: F REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

32. ADR proceedings are always strictly regulated by federal statutes.

ANSWER: F REF: Alternative Dispute Resolution TYPE: N
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

34. The verdict in a summary jury trial is binding.

ANSWER: F REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

MULTIPLE-CHOICE QUESTIONS

1. Justin wants to file a suit against Kemel. For a court to hear the case

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

ANSWER: B REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

2. 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. federal jurisdiction.
- b. *in personam* jurisdiction.
- c. *in rem* jurisdiction.
- d. no jurisdiction.

ANSWER: C REF: Basic Judicial Requirements TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

3. Megan, a resident of Ohio, runs a red light in Texas and hits Sarah, a Texas resident. Sarah files suit against Megan. The statute that allows the Texas court to exercise jurisdiction over Megan is called

- a. a long arm statute.
- b. an *in personam* statute.
- c. an *in rem* statute.
- d. an out-of-state jurisdiction statute.

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ANSWER: A REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

4. A Montana state court can exercise jurisdiction over Endurance Insurance Corporation, an out-of-state defendant, if the defendant has
- minimum contacts with the state.
 - optimum contacts with the state.
 - any contacts with the state.
 - no contacts with the state.

ANSWER: A REF: Basic Judicial Requirements TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

5. Fresh Harvest Company, which is based on Georgia, packages and sells vegetables. Jack, who is a resident of North Carolina, buys a Fresh Harvest product, eats it, and suffers severe food poisoning. Jack wants to file a suit against Fresh Harvest. The diversity of citizenship between these parties means that
- federal and state courts have concurrent jurisdiction.
 - federal courts have exclusive jurisdiction.
 - no court has jurisdiction.
 - state courts have exclusive jurisdiction.

ANSWER: A REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

6. The case of *Max v. National Credit Co.* is heard in a trial court. The case of *O! Boy! Ice Cream Co. v. Refrigerated Transport, Inc.* is heard in an appellate court. The difference between a trial and an appellate court is whether
- the proceedings focus on the presentation of evidence and the examination of witnesses.
 - the court is appealing.
 - the parties question how the law applies to their dispute.
 - the subject matter of the case involves complex facts.

ANSWER: A REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

7. Laney is a resident of Maine. Delacorte is a Canadian. They dispute the ownership of Petite Isle, an island in North Rapids River on the border between Canada and the United States. The diversity of the parties' citizenship could serve as a basis for
- a. federal jurisdiction.
 - b. general jurisdiction.
 - c. limited jurisdiction.
 - d. universal jurisdiction.

ANSWER: A REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

8. Sandy, a resident of Illinois, wants to file suit against Carl, a resident of Kansas, over Carl's failure to pay Sandy for work on his house. The amount in dispute is \$15,000. Under diversity of citizenship requirements, a federal cannot exercise jurisdiction in this case because
- a. the dispute concerns property, not persons.
 - b. a state court has not yet ruled in the suit.
 - c. the parties are citizens of different states.
 - d. the amount in controversy is less than \$75,000.

ANSWER: D REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

9. Tyler, a citizen of West Virginia, files a suit in a West Virginia state court against Louisville Sales Corporation, a Kentucky state company that does business in West Virginia. The court has original jurisdiction, which means that
- a. the case is being heard for the first time.
 - b. the court has a unique method of deciding whether to hear a case.
 - c. the court has unusual procedural rules.
 - d. the subject matter of the suit is interesting and new.

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ANSWER: A REF: Basic Judicial Requirements TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

10. Jack and Jill, citizens of Vermont, are involved in a case related to the adoption of their child. Over this case, the Vermont state courts have

- a. concurrent jurisdiction with federal courts.
- b. concurrent jurisdiction with other state courts.
- c. exclusive jurisdiction.
- d. no jurisdiction.

ANSWER: C REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

11. David, an Alabama resident, files a suit in an Alabama court against QuickAds, an Internet company based in Georgia that provides advertising services. QuickAds's only contact with persons in Alabama has been through QuickAds's passive advertising. In this case, the Alabama court most likely

- a. has jurisdiction.
- b. does not have jurisdiction.
- c. has concurrent jurisdiction with a Georgia state court.
- d. has concurrent jurisdiction with a federal court.

ANSWER: B REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

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

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

ANSWER: B REF: Basic Judicial Requirements TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application

DIF: Moderate

AICPA: BB-Critical Thinking

13. 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 REF: Basic Judicial Requirements TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

14. Lora files a suit in Michigan against Ned over the ownership of a boat docked in a Michigan harbor. Lora 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 REF: Basic Judicial Requirements TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

15. Elinor sells Cathy a horse for \$2,000. When Elinor goes to the bank to deposit Cathy's check, the check bounces. Elinor is furious and files suit against Cathy. Elinor probably filed her suit in
- a. a small claims court.
 - b. a domestic relations court.
 - c. a municipal court.
 - d. a probate court.

ANSWER: A REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

12 UNIT ONE: THE FOUNDATIONS

16. Carol files a suit against Andy in a state trial court and loses. Carol

- a. cannot take her case any higher in the court system.
- b. can insist that the United States Supreme Court hear her case.
- c. can plead her case before an appellate court.
- d. can plead her case before a small claims court.

ANSWER: C REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

17. 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 REF: The State and Federal Court Systems TYPE: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

18. Martha brings a suit against SafeCars, Inc. claiming that she was injured during a car crash due to defects in the car she had purchased from SafeCars. There is no evidence that Martha was injured in the accident, but the trial court awards her \$1 million in damages. SafeCars appeals the decision. The appellate court will most likely

- a. not modify the trial court's finding of fact because appellate courts are forbidden to look at questions of fact.
- b. modify the trial court's finding of fact because the finding was clearly erroneous.
- c. modify the trial court's finding of fact because the award amount was more than \$25,000.
- d. modify the trial court's finding of fact because the award amount was less than \$5 million.

ANSWER: B REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Critical Thinking

19. Drummond wants to make a federal case out of his dispute with Elena. Federal cases originate in
- federal courts of appeals.
 - federal district courts.
 - state trial courts.
 - the United States Supreme Court.

ANSWER: B REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

20. The Arizona 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
- appeal.
 - certiorari*.
 - jurisdiction.
 - summons.

ANSWER: B REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

21. Ben 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 agrees to hear the case. This means that
- at least four justices approve of hearing the case.
 - Cathy's petition does not raise a possibility of an important constitutional question.
 - the amount in controversy in Cathy's suit is greater than \$100,000.
 - the Court feels that the lower courts' judgments were erroneous.

ANSWER: A REF: The State and Federal Court Systems TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

14 UNIT ONE: THE FOUNDATIONS

22. Wade wants to initiate a suit against Valley Vacation Tours by filing a complaint. The complaint should include

- a. an explanation to refute any defense the defendant might assert.
- b. a motion for summary judgment.
- c. a motion to dismiss.
- d. a statement of the facts necessary to show Wade is entitled to relief.

ANSWER: D REF: Following a State Court Case TYPE: =
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

23. To initiate a lawsuit, Darla files a complaint against E-Sales Company, which responds with an answer. Together, the complaint and answer are

- a. a motion to dismiss.
- b. a summons.
- c. a writ of *certiorari*.
- d. the pleadings.

ANSWER: D REF: Following a State Court Case TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

24. Jason files a suit against Maybelline. If Maybelline fails to respond, Jason

- a. must appeal the case to a different court.
- b. must refile the suit in the same court.
- c. will be awarded the remedy sought.
- d. will have a default judgment entered against him.

ANSWER: C REF: Following a State Court Case TYPE: =
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

25. Lyn files a suit against Karl. Karl denies Lyn's charges and sets forth his own claim that Lyn breached their contract and owes Karl money for the breach. Karl's claim is

- a. a contrary charge.
- b. a counterclaim.

- c. a counterpoint.
- d. a cross complaint.

ANSWER: B REF: Following a State Court Case TYPE: =
BUSPROG: Reflective LO: 2-3 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

26. iTablets, Inc., files a suit against Andromeda Pads Corporation. Suri is a witness for iTablets. Kevin is a witness for Andromeda. iTablets may direct *interrogatories* to

- a. Andromeda.
- b. Suri.
- c. Kevin.
- d. the judge.

ANSWER: A REF: Following a State Court Case TYPE: +
BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

27. Solar Power, Inc., files a suit against Thunder Bay Utility Company and seeks to examine electronic documents in Thunder's possession. A legitimate reason for this examination is that the documents contain

- a. evidence about the case.
- b. private information about Thunder's operations.
- c. public information about energy generation.
- d. irrelevant data that can be eliminated from consideration.

ANSWER: A REF: Following a State Court Case TYPE: N
BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

28. During the trial phase of Fuel Corporation's suit against Gas Stations, Inc., their attorneys engage in *voir dire*. This is

- a. an assessment of the validity of the arguments for both parties.
- b. a determination of the issues to be argued before the court.
- c. the trial.
- d. the selection of jurors.

ANSWER: D REF: Following a State Court Case TYPE: +
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

29. Kelly files a suit against Lewis in a state court. The case proceeds to trial, after which the court renders a verdict. The case is appealed to an appellate court. After its review of *Kelly v. Lewis*, the appellate court upholds the lower court's verdict. The appellate court has

- a. affirmed the case.
- b. reversed the case.
- c. remanded the case.
- d. reversed and remanded the case.

ANSWER: A REF: Following a State Court Case TYPE: +
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

30. In Kettle Cafe's suit against Food Services, Inc., the court issues a judgment in Kettle's favor. The judgment can be appealed to an appropriate court of appeals by

- a. either party.
- b. Kettle only.
- c. Food Service only.
- d. neither party.

ANSWER: A REF: Following a State Court Case TYPE: N
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

Fact Pattern 2-1 (Questions 31-33 apply)

Bean Vendors, Inc., and Java Bistros Corporation dispute a term in their contract.

31. Refer to Fact Pattern 2-1. The least expensive method of resolving the dispute between Bean and Java 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 REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Risk Analysis

32. Refer to Fact Pattern 2-1. If Bean and Java have a long-standing business relationship that they would like to continue, they may prefer to settle their dispute 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 REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Risk Analysis

33. Refer to Fact Pattern 2-1. If Bean and Java resolve their dispute by having a neutral third party render a binding decision, they will have used the method of
- a. arbitration.
 - b. conciliation.
 - c. intervention.
 - d. mediation.

ANSWER: A REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Risk Analysis

34. 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 REF: Alternative Dispute Resolution TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

35. 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 REF: Alternative Dispute Resolution TYPE: =
 BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

ESSAY QUESTIONS

- 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?

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

REF: The State and Federal Court Systems & Following a State Court Case TYPE:

=

BUSPROG: Reflective

LO: 2-3 & 2-4

BLOOM'S: Analysis

DIF: Challenging

AICPA: BB-Decision Modeling

2. 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?

ANSWER: 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.

REF: The State and Federal Court Systems & Following a State Court Case TYPE:

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BUSPROG: Reflective

LO: 2-3 & 2-4

BLOOM'S: Analysis

DIF: Challenging

AICPA: BB-Decision Modeling