

Chapter 2

Traditional and Online 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.

For your convenience, page references for both the Summarized and Excerpted case versions of *Fundamentals of Business Law* are included.

SUMMARIZED PAGE: *Fundamentals of Business Law: Summarized Cases*,
Ninth Edition

EXCERPTED PAGE: *Fundamentals of Business Law: Excerpted Cases*, Third
Edition

TRUE/FALSE QUESTIONS

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

ANSWER: T SUMMARIZED PAGE: 28 TYPE: =
EXCERPTED PAGE: 30
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T SUMMARIZED PAGE: 28 TYPE: N

EXCERPTED PAGE: 30
NAT: AACSB Analytic AICPA Legal

3. A state court can exercise jurisdiction over any person within the boundaries of the state.

ANSWER: T SUMMARIZED PAGE: 29 TYPE: =
EXCERPTED PAGE: 31
NAT: AACSB Analytic AICPA Legal

4. A state court can exercise jurisdiction over any property within the boundaries of the state regardless of the property owner's location.

ANSWER: T SUMMARIZED PAGE: 29 TYPE: +
EXCERPTED PAGE: 31
NAT: AACSB Analytic AICPA Legal

5. A long arm statute permits a court to exercise jurisdiction over an out-of-state defendant.

ANSWER: T SUMMARIZED PAGE: 29 TYPE: =
EXCERPTED PAGE: 31
NAT: AACSB Analytic AICPA Legal

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

ANSWER: F SUMMARIZED PAGE: 29 TYPE: +
EXCERPTED PAGE: 31
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T SUMMARIZED PAGE: 29 TYPE: N
EXCERPTED PAGE: 31
NAT: AACSB Reflective AICPA Critical Thinking

8. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which it is incorporated.

ANSWER: F SUMMARIZED PAGE: 30 TYPE: =
EXCERPTED PAGE: 33
NAT: AACSB Analytic AICPA Legal

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9. A lawsuit involving a federal question can originate in a federal court.

ANSWER: T SUMMARIZED PAGE: 30 TYPE: =
EXCERPTED PAGE: 33
NAT: AACSB Analytic AICPA Legal

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

ANSWER: T SUMMARIZED PAGE: 31 TYPE: N
EXCERPTED PAGE: 33
NAT: AACSB Analytic AICPA Legal

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

ANSWER: F SUMMARIZED PAGE: 31 TYPE: =
EXCERPTED PAGE: 33
NAT: AACSB Analytic AICPA Legal

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

ANSWER: F SUMMARIZED PAGE: 33 TYPE: N
EXCERPTED PAGE: 35
NAT: AACSB Analytic AICPA Legal

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.

ANSWER: T SUMMARIZED PAGE: 33 TYPE: =
EXCERPTED PAGE: 35
NAT: AACSB Analytic AICPA Legal

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

ANSWER: F SUMMARIZED PAGE: 33 TYPE: =
EXCERPTED PAGE: 35
NAT: AACSB Analytic AICPA Legal

15. The jurisdiction of a state court of appeal is substantially limited to hearing appeals.

ANSWER: T SUMMARIZED PAGE: 34 TYPE: =
EXCERPTED PAGE: 37
NAT: AACSB Analytic AICPA Legal

16. A federal case typically originates in a federal district court.

ANSWER: T SUMMARIZED PAGE: 35 TYPE: =
EXCERPTED PAGE: 37
NAT: AACSB Analytic AICPA Critical Thinking

17. The United States Supreme Court cannot review a decision by a state's highest court.

ANSWER: F SUMMARIZED PAGE: 35 TYPE: =
EXCERPTED PAGE: 37
NAT: AACSB Analytic AICPA Legal

18. An answer can admit to the allegations made in a complaint.

ANSWER: T SUMMARIZED PAGE: 36 TYPE: =
EXCERPTED PAGE: 39
NAT: AACSB Analytic AICPA Legal

19. A counterclaim is raised by a plaintiff against a defendant's response to a complaint.

ANSWER: F SUMMARIZED PAGE: 36 TYPE: N
EXCERPTED PAGE: 39
NAT: AACSB Analytic AICPA Legal

20. Service of process is the process of obtaining information from an opposing party before trial.

ANSWER: F SUMMARIZED PAGE: 36 TYPE: N
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Critical Thinking

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

ANSWER: F SUMMARIZED PAGE: 37 TYPE: =
EXCERPTED PAGE: 39
NAT: AACSB Analytic AICPA Critical Thinking

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

ANSWER: T SUMMARIZED PAGE: 37 TYPE: N
EXCERPTED PAGE: 40
NAT: AACSB Analytic AICPA Legal

23. In most states, if neither party requests a jury, there will be no jury trial.

ANSWER: T SUMMARIZED PAGE: 38 TYPE: =
EXCERPTED PAGE: 41
NAT: AACSB Analytic AICPA Legal

24. *Voir dire* is a process for presenting evidence in a case.

ANSWER: F SUMMARIZED PAGE: 38 TYPE: =
EXCERPTED PAGE: 41
NAT: AACSB Analytic AICPA Legal

25. A judge instructs a jury as to the law that applies in a case.

ANSWER: T SUMMARIZED PAGE: 38 TYPE: N
EXCERPTED PAGE: 42
NAT: AACSB Analytic AICPA Legal

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.

ANSWER: T SUMMARIZED PAGE: 40 TYPE: N
EXCERPTED PAGE: 43
NAT: AACSB Analytic AICPA Legal

27. Any judgment is enforceable.

ANSWER: F SUMMARIZED PAGE: 41 TYPE: =
EXCERPTED PAGE: 44
NAT: AACSB Analytic AICPA Critical Thinking

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

ANSWER: F SUMMARIZED PAGE: 42 TYPE: N
EXCERPTED PAGE: 45

NAT: AACSB Reflective

AICPA Critical Thinking

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

ANSWER: T SUMMARIZED PAGE: 43 TYPE: N
EXCERPTED PAGE: 45

NAT: AACSB Reflective

AICPA Critical Thinking

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

ANSWER: T SUMMARIZED PAGE: 43 TYPE: =
EXCERPTED PAGE: 46

NAT: AACSB Analytic

AICPA Legal

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

ANSWER: F SUMMARIZED PAGE: 44 TYPE: =
EXCERPTED PAGE: 47

NAT: AACSB Analytic

AICPA Legal

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.

ANSWER: T SUMMARIZED PAGE: 44 TYPE: =
EXCERPTED PAGE: 47

NAT: AACSB Reflective

AICPA Critical Thinking

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

ANSWER: F SUMMARIZED PAGE: 44 TYPE: N
EXCERPTED PAGE: 47

NAT: AACSB Analytic

AICPA Legal

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

ANSWER: T SUMMARIZED PAGE: 45 TYPE: N
EXCERPTED PAGE: 48

NAT: AACSB Technology

AICPA Leveraging Technology

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35. Unless otherwise agreed, the result of an online dispute resolution proceeding may *not* be appealed to a court.

ANSWER: F SUMMARIZED PAGE: 45 TYPE: =
EXCERPTED PAGE: 48
NAT: AACSB Analytic AICPA Legal

MULTIPLE-CHOICE QUESTIONS

1. 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.
 - d. no jurisdiction.

ANSWER: B SUMMARIZED PAGE: 29 TYPE: +
EXCERPTED PAGE: 31
NAT: AACSB Reflective AICPA 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 question jurisdiction.
 - b. *in personam* jurisdiction.
 - c. *in rem* jurisdiction.
 - d. no jurisdiction.

ANSWER: C SUMMARIZED PAGE: 29 TYPE: +
EXCERPTED PAGE: 31
NAT: AACSB Reflective AICPA Legal

3. 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.

ANSWER: A SUMMARIZED PAGE: 30 TYPE: +
EXCERPTED PAGE: 32
NAT: AACSB Reflective AICPA Legal

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4. 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 SUMMARIZED PAGE: 30 TYPE: N
EXCERPTED PAGE: 33
NAT: AACSB Reflective AICPA Legal

5. 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.
 - 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 SUMMARIZED PAGE: 30 TYPE: =
EXCERPTED PAGE: 33
NAT: AACSB Reflective AICPA Legal

6. 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 SUMMARIZED PAGE: 31 TYPE: N
EXCERPTED PAGE: 33
NAT: AACSB Reflective AICPA Legal

7. 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
- has a sufficient stake in the matter.
 - has jurisdiction.
 - has sufficient minimum contacts with the parties.
 - is a more convenient location to hold the trial.

ANSWER: D SUMMARIZED PAGE: 33 TYPE: =
 EXCERPTED PAGE: 35
 NAT: AACSB Reflective AICPA Legal

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

ANSWER: C SUMMARIZED PAGE: 33 TYPE: +
 EXCERPTED PAGE: 35
 NAT: AACSB Reflective AICPA Decision Modeling

9. 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 U.S. district court.
 - the Minnesota Supreme Court.
 - the United States Supreme Court.
 - the U.S. Court of Appeals for the Eighth Circuit.

ANSWER: B SUMMARIZED PAGE: 34 TYPE: N
 EXCERPTED PAGE: 37
 NAT: AACSB Reflective AICPA Critical Thinking

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10. 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 SUMMARIZED PAGE: 36 TYPE: N
EXCERPTED PAGE: 38
NAT: AACSB Reflective AICPA Legal

11. Emil wants to initiate a suit against Fast Credit Company by filing a complaint. The complaint should include
- a. an explanation of the proof to be offered at trial.
 - b. a motion for judgment *n.o.v.*
 - c. a motion for judgment on the pleadings.
 - d. a statement of the grounds for the court to exercise jurisdiction.

ANSWER: D SUMMARIZED PAGE: 36 TYPE: N
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Legal

12. Ula wants to initiate a suit against Valley Farms 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 Ula is entitled to relief.

ANSWER: D SUMMARIZED PAGE: 36 TYPE: N
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Legal

13. Lynn files a suit against Karl. Karl denies Lynn's charges and sets forth his own claim that Lynn breached their contract and owes Karl money for the breach. This is
- a. a counterclaim.
 - b. a crosclaim.
 - c. an affirmative defense.
 - d. an irrelevant response.

ANSWER: A SUMMARIZED PAGE: 36 TYPE: =
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Legal

14. Olsen Grocery Company files a suit against Pickle Products, Inc. Pickle responds that even if Olsen's statement of the facts is true, according to the law Pickle is not liable. This is
- a. a counterclaim.
 - b. a motion for judgment on the pleadings.
 - c. a motion for summary judgment.
 - d. a motion to dismiss.

ANSWER: D SUMMARIZED PAGE: 37 TYPE: =
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Legal

15. Carol files a suit against Downwind Boat Corporation. Downwind responds that it appears from the pleadings the parties do not dispute the facts and the only question is how the law applies to those facts. Downwind supports this response with witnesses' sworn statements. This is
- a. a counterclaim.
 - b. a motion for judgment on the pleadings.
 - c. a motion for summary judgment.
 - d. a motion to dismiss.

ANSWER: C SUMMARIZED PAGE: 37 TYPE: =
EXCERPTED PAGE: 39
NAT: AACSB Reflective AICPA Legal

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16. Quality Products, Inc., files a suit against Retail Sales Corporation. Sid is a witness for Quality. Tod is a witness for Retail. Quality may direct interrogatories to

- a. Retail only.
- b. Retail, Sid, or Tod.
- c. Sid only.
- d. Sid or Tod only.

ANSWER: A SUMMARIZED PAGE: 37 TYPE: N
EXCERPTED PAGE: 40
NAT: AACSB Reflective AICPA Legal

17. In Ed's suit against First National Bank, the discovery phase would include all of the following EXCEPT

- a. Ed's complaint.
- b. Ed's deposition.
- c. Ed's requests for First National's admissions.
- d. First National's replies to Ed's interrogatories.

ANSWER: A SUMMARIZED PAGE: 37 TYPE: =
EXCERPTED PAGE: 40
NAT: AACSB Reflective AICPA Legal

18. To prepare for a trial between Large Lots Development Corporation (LLDC) and MiniMansion Construction Company (MMCC), MMCC's attorney places LLDC's president under oath. A court reporter makes a record of the attorney's questions and the officer's answers. This is

- a. a cross-examination.
- b. a deposition.
- c. an imposition.
- d. an interrogatory.

ANSWER: B SUMMARIZED PAGE: 37 TYPE: N
EXCERPTED PAGE: 40
NAT: AACSB Reflective AICPA Legal

19. During the trial phase of Fuel Corporation's suit against Gas Stations, Inc., their attorneys engage in *voir dire*. This is
- the assessment of the arguments on the issues.
 - the determination of the issues to be argued.
 - the litigation of the issues and arguments.
 - the selection of jurors.

ANSWER: D SUMMARIZED PAGE: 38 TYPE: N
EXCERPTED PAGE: 40
NAT: AACSB Reflective AICPA Legal

20. In Fancy Frills Corporation's suit against Glamour Stores, Inc., the jury returns a verdict in Fancy's favor. Glamour files a motion asking the judge to set aside the verdict and begin new proceedings. This is a motion for
- a judgment in accordance with the verdict.
 - a judgment on the pleadings.
 - a new trial.
 - judgment *n.o.v.*

ANSWER: C SUMMARIZED PAGE: 40 TYPE: =
EXCERPTED PAGE: 43
NAT: AACSB Reflective AICPA Legal

21. In Restful Motel's suit against Sleepy Hotels, Inc., the jury returns a verdict in Restful's favor. Sleepy files a motion stating that even if the evidence is viewed in the light most favorable to Restful, a reasonable jury should not have found in its favor. This is a motion for
- a judgment in accordance with the verdict.
 - a judgment on the pleadings.
 - a new trial.
 - judgment *n.o.v.*

ANSWER: D SUMMARIZED PAGE: 40 TYPE: N
EXCERPTED PAGE: 43
NAT: AACSB Reflective AICPA Legal

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22. 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 can
- a. affirm, reverse, or remand all or part of the lower court's decision.
 - b. only affirm or reverse all or part of the lower court's decision.
 - c. only remand all or part of the lower court's decision.
 - d. only reverse or remand all or part of the lower court's decision.

ANSWER: A SUMMARIZED PAGE: 41 TYPE: =
EXCERPTED PAGE: 44
NAT: AACSB Reflective AICPA Legal

23. 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 SUMMARIZED PAGE: 42 TYPE: =
EXCERPTED PAGE: 45
NAT: AACSB Reflective AICPA Legal

24. 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 SUMMARIZED PAGE: 43 TYPE: =
EXCERPTED PAGE: 45
NAT: AACSB Reflective AICPA Critical Thinking

25. Betty files a suit against Carl. Before going to trial, the parties meet, with their attorneys to represent them, to try to resolve their dispute without involving a third party. This is
- arbitration.
 - litigation.
 - mediation.
 - negotiation.

ANSWER: D SUMMARIZED PAGE: 43 TYPE: =
 EXCERPTED PAGE: 45
 NAT: AACSB Reflective AICPA Critical Thinking

26. Jim files a suit against Kay. 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
- arbitration.
 - litigation.
 - mediation.
 - negotiation.

ANSWER: A SUMMARIZED PAGE: 43 TYPE: =
 EXCERPTED PAGE: 46
 NAT: AACSB Reflective AICPA Critical Thinking

Fact Pattern 2-1 (Questions 27-29 apply)

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

27. Refer to Fact Pattern 2-1. The least expensive method to resolve the dispute between Java and Kaffe may be
- arbitration because the case will be heard by a mini-jury.
 - litigation because each party will pay its own legal fees.
 - mediation because the dispute will be resolved by a non-expert.
 - negotiation because no third parties are needed.

ANSWER: D SUMMARIZED PAGE: 42 TYPE: =
 EXCERPTED PAGE: 45
 NAT: AACSB Reflective AICPA Risk Analysis

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28. 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.
- 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 SUMMARIZED PAGE: 43 TYPE: =

EXCERPTED PAGE: 45

NAT: AACSB Reflective

AICPA Risk Analysis

29. 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.

ANSWER: A SUMMARIZED PAGE: 43 TYPE: =

EXCERPTED PAGE: 46

NAT: AACSB Reflective

AICPA Risk Analysis

30. 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.

ANSWER: C SUMMARIZED PAGE: 43 TYPE: =

EXCERPTED PAGE: 46

NAT: AACSB Reflective

AICPA Legal

31. 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
- do nothing.
 - review the merits of the dispute.
 - review the sufficiency of the evidence.
 - set aside the award.

ANSWER: A SUMMARIZED PAGE: 44 TYPE: N
EXCERPTED PAGE: 46
NAT: AACSB Reflective AICPA Legal

32. Transnational Corporation and United Shipping, Inc., agree to a contract that includes an arbitration clause. If a dispute arises, a court having jurisdiction may
- monitor any arbitration until it concludes.
 - order an arbitrator to rule in a particular way.
 - order a party to bring the dispute to court.
 - order a party to submit to arbitration.

ANSWER: D SUMMARIZED PAGE: 44 TYPE: =
EXCERPTED PAGE: 47
NAT: AACSB Reflective AICPA Legal

33. 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 mini-trial.
 - arbitration.
 - a summary jury trial.
 - early neutral case evaluation.

ANSWER: A SUMMARIZED PAGE: 44 TYPE: =
EXCERPTED PAGE: 47
NAT: AACSB Reflective AICPA Legal

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34. 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
- court-ordered arbitration.
 - early neutral case evaluation.
 - a mini-trial.
 - a summary jury trial.

ANSWER: D SUMMARIZED PAGE: 44 TYPE: =
EXCERPTED PAGE: 47
NAT: AACSB Reflective AICPA 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 SUMMARIZED PAGE: 45 TYPE: N
EXCERPTED PAGE: 48
NAT: AACSB Reflective AICPA Legal

ESSAY QUESTIONS

1. 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 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 op-

portunity 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.

SUMMARIZED PAGES:	35–36 & 41	TYPE:	=
EXCERPTED PAGES:	37–38 & 43–44		
NAT: AACSB Reflective		AICPA Decision Modeling	

- 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.

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SUMMARIZED PAGES:	35–36 & 39–40	TYPE:	=
EXCERPTED PAGES:	39–40 & 42–43		
NAT: AACSB Reflective		AICPA Decision Modeling	