

Chapter 2

Courts and Alternative Dispute Resolution

TRUE/FALSE QUESTIONS

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

ANSWER: F

BUSPROG: Analytic

PAGES: Introduction

AICPA: BB-Legal

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

ANSWER: T

BUSPROG: Analytic

PAGES: Section 1

AICPA: BB-Legal

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

ANSWER: F

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

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

ANSWER: T

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

- B3. Lewis wants to file a suit against Mikayla. Before any court can hear the case
- the parties to the dispute must agree.
 - the court must have jurisdiction.
 - the court must issue a deposition.
 - the parties must own property.

ANSWER: B

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Legal

- B4. A Maryland state court can exercise jurisdiction over National Insurance Corporation, an out-of-state company, if the firm has
- minimum contacts with the state.
 - maximum contacts with the state.
 - medium contacts with the state.
 - no contacts with the state.

ANSWER: A

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Decision Modeling

- B5. Marcus files a suit against Naomi in an Ohio state court. Naomi's only connection to Ohio is an ad on the Web originating in Pennsylvania. For Ohio to exercise jurisdiction, the issue is whether Naomi, through her ad, has
- a commercial cyber presence in Ohio.
 - conducted substantial business with Ohio residents.
 - claimed to be a resident of Ohio.
 - solicited virtual business in Ohio.

ANSWER: B

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Legal

- B6. Delia files a suit against Eduardo in a Florida state court over the ownership of a boat docked in a Florida harbor. Both Delia and Eduardo are residents of Georgia. Eduardo could ask for a change of venue on the ground that Georgia
- 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 PAGES: Section 2
BUSPROG: Reflective AICPA: BB-Legal

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

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

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

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

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

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

ANSWER: D

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

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

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

ANSWER: C

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

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

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

ANSWER: A

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Legal

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

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

- B16. First Community Credit Union and General Hydraulics, Inc., have their dispute resolved in arbitration. Before determining the award, the arbitrator meets with First Community's representative to discuss the dispute without General Hydraulics' representative being present. If this meeting substantially prejudices General Hydraulics' rights, a court will most likely

- compel arbitration.
- review the merits of the dispute.
- review the sufficiency of the evidence.
- set aside any award.

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

- B17. Lucille files a suit against Murray. They meet, and each party's attorney argues the party's case before a judge and jury. The jury presents an advisory verdict, after which the judge meets with the parties to encourage them to settle their dispute. This is

- a mini-trial.
- a summary jury trial.
- early neutral case evaluation.
- not a legitimate form of dispute resolution.

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

- B18. Transnational Corporation and United Shipping, Inc., agree to a contract that includes an arbitration clause. If a dispute arises, a court having jurisdiction may

- a. monitor any arbitration until it concludes.
- b. order an arbitrator to rule in a particular way.
- c. order a party to bring the dispute to court.
- d. order a party to submit to arbitration.

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

B19. To resolve a dispute in nonbinding arbitration, Alyson in Baltimore and Chuck in Denver utilize E-Resolve, an online dispute resolution (ODR) service. This limits these parties' recourse to the courts

- a. not at all.
- b. until the ODR service has issued a decision.
- c. with respect to any dispute arising between them.
- d. with respect to this dispute only.

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

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

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

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

ESSAY QUESTIONS

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

of BizApps's Price Control software. Price Control is designed to help businesses obtain the best prices for their products and services. When Price Control is found to have a defect in its calculating program, BizApps offers a patch on its Web site to fix the problem. Cassie has already lost profits because of the miscalculating defect, however, and files a suit against BizApps in a Wyoming state court. Can the court exercise jurisdiction over BizApps? Why or why not?

ANSWER: Some courts have upheld exercises of jurisdiction on the basis of the accessibility of a Web page. Other courts have concluded that without more, a presence on the Web is not enough to support jurisdiction over a nonresident. Courts generally use a "sliding scale" standard for evaluating the exercise of jurisdiction based on contacts over the Internet. On that scale, a court's exercise of personal jurisdiction depends on the amount of business that an individual or firm transacts over the Internet. A Web site that accepts orders from customers and provides upgrades and "patches" has a high degree of interactivity. There may be a question as to the amount of business that BizApps transacts with residents of Wyoming. If that business is substantial, BizApps would likely be subject to the court's jurisdiction.

PAGES: Section 2

BUSPROG: Reflective

AICPA: BB-Decision Modeling

- B2. Able Trucking Corporation files a suit in a state court against Bob's Service Company (BSC), and wins. BSC appeals the court's decision, asserting that the evidence presented at trial to support Able Trucking's claim was so scanty that no reasonable jury could have found for the plaintiff. Therefore, argues BSC, the appellate court should reverse the trial court's decision. Is the appellate court likely to reverse the trial court's findings with respect to the facts? Explain.

ANSWER: An appellate court will reverse a lower court's decision on the basis of the facts only when the finding is clearly erroneous (that is, when it is contrary to the evidence presented at trial) or when there is no evidence to support the finding. Appellate courts normally defer to a trial court's decision with regard to the facts of a case, however, for several reasons. First, trial court judges and juries have the opportunity to observe witnesses and tangible evidence first hand. The appellate court sees only a cold record of the trial court proceedings and therefore cannot make the kind of judgments about the credibility of witnesses and the persuasiveness of evidence that can be gleaned only from firsthand experience. Second, as occurs when there is no

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jury and the case is heard by a judge, trial judges routinely sit as fact finders. As a result, they develop a particular expertise in determining what kind of evidence and testimony is reliable and what kind is not.

PAGES: Section 3
BUSPROG: Reflective

AICPA: BB-Critical Thinking