

Chapter 2

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

ANSWER: T PAGE: 30 TYPE: =
BUSPROG: Analytic LO: 2-1 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 31 TYPE: N
BUSPROG: Analytic LO: 2-1 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 31 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-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 PAGE: 31 TYPE: +
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 32 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 32 TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Moderate AICPA: BB-Legal

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

ANSWER: T PAGE: 32 TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 34 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

9. 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: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 34 TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 35 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

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

ANSWER: F PAGE: 37 TYPE: N
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-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 PAGE: 37 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-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 PAGE: 37 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 40 TYPE: =
BUSPROG: Analytic LO: 2-2 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 41 TYPE: =
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 41 TYPE: N
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

18. No case can proceed to trial unless the plaintiff can prove that he or she has properly served the defendant.

ANSWER: T PAGE: 43 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

19. An answer can deny the allegations made in a complaint.

ANSWER: T PAGE: 44 TYPE: +
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 44 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 a genuine question of fact.

ANSWER: F PAGE: 44 TYPE: +
BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 45 TYPE: N
 BUSPROG: Analytic LO: 2-4 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 46 TYPE: =
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 46 TYPE: =
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 48 TYPE: N
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-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 PAGE: 48 TYPE: N
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

27. Any judgment is enforceable.

ANSWER: F PAGE: 50 TYPE: =
 BUSPROG: Analytic LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Critical Thinking

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

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ANSWER: F PAGE: 51 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

29. Negotiation normally involves just the parties to a dispute without their attorneys.

ANSWER: F PAGE: 51 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 PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

31. Mediation is adversarial in nature.

ANSWER: F PAGE: 52 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Critical Thinking

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

ANSWER: T PAGE: 52 TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: F PAGE: 52 TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

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

ANSWER: T PAGE: 55 TYPE: N

BUSPROG: Technology LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Leveraging
Technology

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

ANSWER: F PAGE: 55 TYPE: =
BUSPROG: Analytic LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-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 PAGE: 31 TYPE: +
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
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 question jurisdiction.
 - b. in personam jurisdiction.
 - c. in rem jurisdiction.
 - d. no jurisdiction.

ANSWER: C PAGE: 31 TYPE: +
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 PAGE: 33 TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension

DIF: Easy

AICPA: BB-Legal

4. Sean, a citizen of Tennessee, files a suit in a Tennessee state court against Upland Cattle 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: 34 TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-Legal

5. Megan, a citizen of New Mexico, wants to file a suit against Terry, a citizen of Oklahoma. 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: =
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 PAGE: 35 TYPE: N
BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-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 PAGE: 37 TYPE: =
 BUSPROG: Reflective LO: 2-2 BLOOM'S: Comprehension
 DIF: Easy AICPA: BB-Legal

8. Mediocre Appliance Company sells products that are poorly made. Nasser, who has never bought a Mediocre 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 Nasser does not have
- certiorari.
 - original jurisdiction.
 - standing to sue.
 - sufficient minimum contacts.

ANSWER: C PAGE: 37 TYPE: +
 BUSPROG: Reflective LO: 2-2 BLOOM'S: Application
 DIF: Moderate AICPA: BB-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 PAGE: 38 TYPE: N
 BUSPROG: Reflective LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Critical Thinking

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 PAGE: 42 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-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 PAGE: 43 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

12. Ula wants to initiate a suit against Valley Transit Company 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 PAGE: 43 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 counterclaim.
 - a crossclaim.
 - an affirmative defense.
 - an irrelevant response.

ANSWER: A PAGE: 44 TYPE: =
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

14. Gooseberry Grocery Company files a suit against Homemade Breads, Inc. Homemade responds that even if Gooseberry's statement of the facts is true, according to the law Homemade is not liable. This is
- a counterclaim.
 - a violation of the law.
 - a motion for summary judgment.
 - a motion to dismiss.

ANSWER: D PAGE: 44 TYPE: +
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 counterclaim.
 - a violation of the law.
 - a motion for summary judgment.
 - a motion to dismiss.

ANSWER: C PAGE: 44 TYPE: +
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

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
- Retail.
 - Sid.
 - Tod.
 - none of the choices.

ANSWER: A PAGE: 45 TYPE: N
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Application
 DIF: Moderate AICPA: BB-Legal

17. In Ed's suit against First National Bank, the discovery phase would include all of the following EXCEPT
- Ed's complaint.
 - Ed's deposition.
 - Ed's requests for First National's admissions.
 - First National's replies to Ed's interrogatories.

ANSWER: A PAGE: 45 TYPE: =
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-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 cross-examination.
 - a deposition.
 - a violation of the law.
 - an interrogatory.

ANSWER: B PAGE: 45 TYPE: N
 BUSPROG: Reflective LO: 2-4 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Legal

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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 PAGE: 46 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Easy AICPA: BB-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 PAGE: 48 TYPE: =
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 PAGE: 48 TYPE: N
BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

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
- affirm, reverse, or remand all or part of the lower court's decision.
 - only affirm or reverse all or part of the lower court's decision.
 - only remand all or part of the lower court's decision.
 - only reverse or remand all or part of the lower court's decision.

ANSWER: A PAGE: 49 TYPE: =
 BUSPROG: Reflective LO: 2-3 BLOOM'S: Comprehension
 DIF: Easy AICPA: BB-Legal

23. Edie files a suit against Frank. If this suit is like most cases, it will be
- dismissed during a trial.
 - dismissed or settled before a trial.
 - resolved only after a trial.
 - settled at a trial.

ANSWER: B PAGE: 51 TYPE: =
 BUSPROG: Reflective LO: 2-3 BLOOM'S: Knowledge
 DIF: Easy AICPA: BB-Legal

24. Betty files a suit against Colin. 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 PAGE: 51 TYPE: =
 BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
 DIF: Moderate AICPA: BB-Critical Thinking

25. Sheila files a suit against Tyler. 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
- arbitration.
 - litigation.
 - mediation.
 - negotiation.

ANSWER: C PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Critical Thinking

26. Jim files a suit against Katy. 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 PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Risk Analysis

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

ANSWER: C PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-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
- arbitration.
 - conciliation.
 - intervention.
 - mediation.

ANSWER: A PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Risk Analysis

30. National Consumer Goods Corporation and Paula Purchaser agree to resolve their dispute in arbitration. The arbitrator's decision is called
- a conclusion of law.
 - a finding of fact.
 - an award.
 - a verdict.

ANSWER: C PAGE: 52 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-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 PAGE: 52 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Application
DIF: Moderate AICPA: BB-Legal

32. Massive Equipment Company and Wastewater Management Corporation agree in writing to submit a dispute to arbitration. In most circumstances, submission to arbitration is possible
- for any commercial matter.
 - for no commercial matter.
 - only after a dispute arises.
 - only before a dispute arises.

ANSWER: A PAGE: 53 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Knowledge
DIF: Easy AICPA: BB-Legal

33. 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 PAGE: 54 TYPE: =
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-Legal

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34. 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: 55 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
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 PAGE: 55 TYPE: N
BUSPROG: Reflective LO: 2-5 BLOOM'S: Comprehension
DIF: Moderate AICPA: BB-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 con-

tradicts 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 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. (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.

PAGES:	40 & 49–50	TYPE:	=
BUSPROG:	Reflective	LO:	2-3
DIF:	Moderate	BLOOM’S:	Analysis
		AICPA:	BB-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

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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.

PAGES:	44–45 & 48	TYPE:	=
BUSPROG:	Reflective	LO:	2-3
DIF:	Moderate	BLOOM'S:	Analysis
		AICPA:	BB-Decision Modeling