

Name: \_\_\_\_\_ Class: \_\_\_\_\_ Date: \_\_\_\_\_

**Chapter 03: Dispute Resolution**

1. If Lorenzo is seeking an injunction against Brenda to prevent her from selling materials that infringe his copyright, he is entitled to a jury trial if the value of the materials is over \$100.

- a. True
- b. False

**ANSWER: False**

2. Disputants Martin and Daulton have hired Thurman to mediate their disagreement. Although Martin and Daulton must accept whatever decision Thurman makes, the mediation has the advantage of keeping Martin and Daulton out of court.

- a. True
- b. False

**ANSWER: False**

3. Small claims courts have jurisdiction over settling the estates of deceased persons.

- a. True
- b. False

**ANSWER: False**

4. Primary methods of alternative dispute resolution include litigation and mediation.

- a. True
- b. False

**ANSWER: False**

5. Generally, mandatory arbitration provisions in a contract are valid.

- a. True
- b. False

**ANSWER: True**

6. A prospective juror was excused from serving after being questioned by the plaintiff's attorney. No reason was given for the rejection. This would be accomplished by the use of a peremptory challenge.

- a. True
- b. False

**ANSWER: True**

7. Summary judgment is appropriate when there are no essential facts in dispute.

- a. True
- b. False

**ANSWER: True**

8. In order for a federal court to have jurisdiction, there must be a federal question involved and at least \$75,000 in dispute.

- a. True
- b. False

**ANSWER: False**

9. After being served with a summons and a copy of the complaint, a defendant usually files a pleading known as an answer, briefly replying to each allegation in the complaint.

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- a. True
- b. False

**ANSWER:** True

10. In a civil case, the plaintiff must prove the case beyond a reasonable doubt.

- a. True
- b. False

**ANSWER:** False

11. A summons is a paper ordering a defendant to appear in court at a certain time.

- a. True
- b. False

**ANSWER:** False

12. An appeals court can rule that a trial court's ultimate ruling was correct even if the trial court made a harmless error during the trial.

- a. True
- b. False

**ANSWER:** True

13. If interrogatories are being used as a form of discovery, the party being questioned must generally answer all the questions orally under oath.

- a. True
- b. False

**ANSWER:** False

14. Emails and their attachments are not subject to pretrial discovery.

- a. True
- b. False

**ANSWER:** False

15. In reaching its verdicts, appellate courts conduct trials and rehear all evidence.

- a. True
- b. False

**ANSWER:** False

16. Which of the following statements is most accurate regarding appellate courts?

- a. Appellate courts often hear new evidence and testimony.
- b. Appellate courts generally accept the factual findings of the trial court.
- c. Only the federal court system has appellate courts.
- d. Appellate courts hear only criminal cases.

**ANSWER:** b

17. Which of the following is an accurate statement regarding Alternative Dispute Resolution (ADR)?

- a. It is a much slower process than litigation.

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- b. It keeps the parties involved talking rather than fighting.
- c. It tends to be more expensive than litigation.
- d. It only takes place in federal courts.

**ANSWER:** b

18. The fastest growing method of dispute resolution in the United States is
- a. arbitration.
  - b. negotiation.
  - c. mediation.
  - d. litigation.

**ANSWER:** c

19. Jurisdiction can be described as
- a. the study of law.
  - b. the authority of a court to decide a particular type of case.
  - c. court cases involving the U.S. Constitution or a federal statute.
  - d. the burden of proof.

**ANSWER:** b

20. What two conditions must exist for federal courts to have diversity jurisdiction?
- a. an individual is bringing suit against a corporation and the amount in dispute exceeds \$75,000
  - b. the plaintiff and defendant are from the same family and the amount in dispute exceeds \$50,000.
  - c. the case has been tried in two different states with two different outcomes and the amount in dispute exceeds \$50,000.
  - d. the plaintiff and defendant are citizens of different states and the amount in dispute exceeds \$75,000.

**ANSWER:** d

21. Federal jurisdiction based upon a "federal question" includes cases based on all of the following EXCEPT
- a. the United States Constitution.
  - b. a federal statute.
  - c. a federal treaty.
  - d. diversity.

**ANSWER:** d

22. According to your text, the biggest change in litigation in the last decade has been
- a. an explosive rise of electronic discovery.
  - b. a decrease in the use of discovery.
  - c. the replacement of interrogatories with depositions.
  - d. the use of juries in appellate courts.

**ANSWER:** a

23. Holt and Collins decide to have their dispute arbitrated by Corrales. Which of the following will NOT be a result of the arbitration?
- a. Corrales will render a binding decision.

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- b. Holt and Collins retain the right to a class action.
- c. Holt and Collins give up the right to discovery.
- d. Corrales need not give reasons for the decision.

**ANSWER:** b

24. Roberto sued Monica for injuries received in a traffic accident. If Monica does not respond to the complaint and summons served by Roberto within the prescribed time limits, Roberto may obtain a

- a. judgment on the pleadings.
- b. summary judgment.
- c. pretrial conference.
- d. default judgment.

**ANSWER:** d

25. Of all forms of dispute resolution, which one probably offers the strongest "win-win" potential because its goal is voluntary settlement?

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

**ANSWER:** d

26. In a civil case, the plaintiff must prove the case

- a. by a preponderance of the evidence.
- b. by clear and convincing evidence.
- c. beyond a reasonable doubt.
- d. None of the above; the burden of proof is on the defendant.

**ANSWER:** a

27. In *Jones v. Clinton*, the court held that

- a. Paula Jones did not demonstrate the essential elements for her claim.
- b. Paula Jones was entitled to a summary judgment.
- c. the case be dismissed because of the President's governmental position.
- d. President Clinton failed to comply with a discovery order.

**ANSWER:** a

28. A jury decision in a civil case

- a. must always be unanimous.
- b. must be reached in the same day the case is heard.
- c. depends on whether or not the parties have agreed to have their case decided by less than a unanimous verdict.
- d. is achieved by informal deliberations.

**ANSWER:** d

29. A \_\_\_\_\_ is a ruling by the court that no trial is necessary because there are no essential facts in dispute.

- a. default judgment

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- b. long-arm statute
- c. federal question
- d. summary judgment

**ANSWER:** d

30. After the plaintiff has presented her case, the defendant may be granted a
- a. directed verdict.
  - b. summary judgment.
  - c. judgment NOV
  - d. judgment on the pleadings.

**ANSWER:** a

31. Judge Zellar was asked to decide if a plaintiff could see the interrogatories procured by the defendant. The judge viewed the documents alone and decided that they should be made available to the plaintiff. The judge made
- a. an in camera inspection.
  - b. a motion to compel answers to interrogatories.
  - c. a request for admission.
  - d. a request for the production of documents.

**ANSWER:** a

32. After answering a summons and complaint, Mike received a set of written questions from the plaintiff's attorney. He was directed to respond to the questions in writing under oath. This discovery technique is called
- a. a request for admission.
  - b. a request for the production of documents.
  - c. a deposition.
  - d. interrogatories.

**ANSWER:** d

33. A civil case generally proceeds as follows:
- a. answer, complaint, discovery, trial, verdict.
  - b. complaint, answer, trial, discovery, verdict.
  - c. complaint, answer, discovery, trial, verdict.
  - d. discovery, complaint, answer, trial, verdict.

**ANSWER:** c

34. Deniz was one of 50,000 people defrauded of \$40 in an advertising scam. His best course of action to recover his money is to
- a. mediate the claim with the advertiser.
  - b. bring an individual lawsuit against the advertiser in a state appellate court.
  - c. bring an individual lawsuit in a U.S. District Court.
  - d. become part of a class action lawsuit, which might include plaintiffs who are unaware of the lawsuit or are even unaware they were harmed.

**ANSWER:** d

35. When an appeal is filed with the U.S. Supreme Court, the Supreme Court

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- a. must hear the case if the validity of a federal statute is in question.
- b. must hear the case if two or more U.S. courts of appeals have decided the legal issue differently.
- c. has discretion as to which cases it hears.
- d. must hear all cases.

ANSWER: c

36. Which of the following is NOT an example of a trial court of limited jurisdiction?

- a. A probate court
- b. A juvenile court
- c. A small claims court
- d. A general civil division court

ANSWER: d

37. The United States has taken a position that legal issues are best resolved by lawsuits involving parties with conflicting interests presenting their strongest possible case to a neutral factfinder. Because of this, the legal system in the United States is considered

- a. an adversary system.
- b. a conflict system.
- c. an alternative dispute resolution system.
- d. a mediation system.

ANSWER: a

38. An inmate in a state prison claims his United States constitutional rights prohibiting cruel and unusual punishment are being violated by the state correctional facility. This case

- a. may not be decided by a federal court since it involves a state facility.
- b. must be decided by the state court where the inmate established residency before going to prison.
- c. is a federal question case over which the federal courts have jurisdiction.
- d. cannot be heard, as prisoners lose the right to sue.

ANSWER: c

39. The primary trial court in the federal system is the

- a. United States district court.
- b. United States Supreme Court
- c. United States appellate courts.
- d. various appeals courts.

ANSWER: a

40. A party that wants the Supreme Court to review a lower court ruling must

- a. present a *non obstante veredicto*.
- b. file a petition for a writ of *certiorari*.
- c. file a petition for a *voir dire*.
- d. present a motion to dismiss.

ANSWER: b

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41. Briefly describe the process of jury selection.

**ANSWER:** The process of jury selection is called *voir dire*. The court's goal is to select an impartial jury. Through a series of questions, attorneys for each side attempt to get the most favorable jury for their position. As potential jurors are questioned, either side may exclude a juror for cause (some reason to think the person may not be impartial) or via a limited number peremptory challenges, in which no reason must be stated for excluding a juror.

42. Define discovery, and identify and explain five of the most important forms of discovery.

**ANSWER:** Discovery is the pre-trial opportunity for both parties to learn the strengths and weaknesses of the opponent's case. Discovery is aimed at aiding the parties in reaching a negotiated settlement of the case prior to trial or, if the case proceeds to trial, to make the trial more efficient and fair. The five most important forms of discovery are interrogatories, depositions, production of documents and things, physical and mental examinations, and electronic discovery. Interrogatories are written questions that an opposing party must answer in writing, under oath. Depositions are sessions of live questioning of opposing parties or potential witnesses under oath with lawyers for both parties present. Each side may ask the other for relevant documents for inspection or copying, for physical objects, or for permission to enter on land to inspect. A party may request that the court order a physical or mental examination of the other party if that is relevant to the case. Electronic discovery involves requests for furnishing relevant, nonconfidential emails and their attachments, as well as other electronically stored information.

43. Pablo, a resident of New Mexico, while driving through Arizona was struck by a SUV driven by Dick, a resident of California. Dick was speeding when the accident happened and Pablo suffered severe injuries that ruined a potential acting career. Pablo's damages are estimated at \$200,000. Discuss the court system(s) in which Pablo may bring a lawsuit.

**ANSWER:** Pablo could bring this case in the federal court system because he and Dick are residents of different states and there is more than \$75,000 in dispute. This is a diversity case. Filing in federal court is optional, however, so Pablo could alternatively bring this action in a state system.

44. What are the advantages and disadvantages of using arbitration rather than litigation?

**ANSWER:** The advantages of arbitration include using an impartial third party who often has expertise in the field to settle the dispute. The parties may have selected the arbitrator in advance or may have set forth a procedure to select a mutually agreeable arbitrator. Arbitration allows both sides to keep secret information that would have to be divulged in a court case. In most cases, use of an arbitrator will allow the case to be resolved much more quickly than utilizing traditional litigation techniques and it will probably be less expensive. A disadvantage to arbitration is that the parties may be barred from using the court system. After the arbitrator's ruling, the court cannot correct a mistake of law made by the arbitrator. An arbitrator may issue a binding decision without giving reasons for the decision. Parties in arbitration give up many rights litigants retain, such as discovery and class action.

45. Lance sued Mega Corp. for negligence, and a jury awarded him \$1.2 million. Mega Corp. filed a motion for judgment NOV, and that motion was denied by the trial court. Mega Corp. then appealed the case. Discuss a judgment NOV and when it is appropriate for a judge to grant such a judgment.

**ANSWER:** A judgment NOV (*non obstante veredicto* or not withstanding the jury's verdict) can be entered by the court when the judge is convinced that the evidence presented does not equate to the verdict reached by the jury. The judge, being a trier of fact as well as of law, shares the fact-finding process with the jury -- the jury cannot award damages in a civil trial inconsistent with the evidence. Generally, the judge will defer to the decision of the jury but in some cases where extreme findings are reached by the jury totally inconsistent with the evidence, the judge will nullify the jury's verdict.