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1) In addition to the two basic categories of public and private law, law is divided further into two more categories, which are

a. criminal and contract law.

b. domestic and international law.

c. criminal and tort law.

d. public and private law.

e. substantive and procedural law.

Answer: e
Diff: 1

Type: MC
Topic: Classifying Law

Skill: Recall

2) The form of law that was adopted by the whole of continental Europe was one in which

a. the law was not codified.

b. the law was both codified and based on previous cases.

c. the law was based on decisions of previous cases.

d. the law was codified.

e. the law was partly, but not fully, codified.

Answer: d
Diff: 1

Type: MC
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall

3) The fact that similar cases are treated alike

a. increases the number of disputes that go to court.

b. reduces the number of disputes that go to court by allowing parties to anticipate the results based on prior outcomes.

c. does not help parties in a dispute to anticipate how a case will turn out based on prior outcomes.

d. does nothing to reduce the number of disputes that end up in the courts.

e. none of the above

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Answer: b
Diff: 2

Type: MC
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall/Applied

4) When we talk about predictability being a major element of law, we mean that

a. although the law is predictable, the outcome of a given dispute between people is not.

b. people should be more likely to be able to predict when they can circumvent a law.

c. the law itself is not predictable, only the cases that are decided.

d. by using common sense, the decision of any court can be determined in advance.

e. people should be able to find out where they stand and how to act with reasonable certainty.

Answer: e
Diff: 3

Type: MC
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall/Applied

5) The rule *stare decisis*

a. is a hard and fast rule that has qualifications attached to it that allow judges to depart from it.

b. is merely a principle that applies in those countries where the law is codified.

c. is not a hard and fast rule and is not always followed.

d. is a hard and fast rule that is always followed.

e. has no place in a system based on common law.

Answer: c
Diff: 2

Type: MC
Topic: Common Law: The Theory of Precedent

Skill: Recall

6) A valid argument as to why the rule *stare decisis* should not be an absolute rule is that

a. no two sets of facts are identical in every respect.

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b. fairness in law often requires that judges exercise some flexibility in their approaches to some cases.

c. precedents only bind the same set of circumstances.

d. judges are only bound to follow decisions of higher courts.

e. all of the above

Answer: e
Diff: 2

Type: MC
Topic: Common Law: The Theory of Precedent

Skill: Recall/Applied

7) In our legal system, the decision of a court of first instance

a. can only be overruled by the Supreme Court of Canada.

b. can only be overruled by a similar court of first instance.

c. can only be overruled by a similar court of first instance and an appeal court.

d. can only be overruled by either an appeal court or the Supreme Court of Canada.

e. can only be overruled by an appeal court.

Answer: d
Diff: 2

Type: MC
Topic: Common Law: The Theory of Precedent

Skill: Applied

8) When it comes to interpreting statutes, a precedent is formed when courts

a. decide on the meaning of the language of the statute.

b. decide what the language of the statute means; whether it applies to the facts of a case; and, if it does, its consequences.

c. determine whether the statute applies to the facts of a case.

d. decide on the consequences of the statute when applied to a particular case.

e. use and apply an existing case to the case being dealt with.

Answer: b
Diff: 2

Type: MC

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Topic: The Sources of Law

Skill: Recall

9) Of the two main classes of legislation,

a. active legislation gives the government itself the power to carry on a program and to change the law.

b. active legislation gives the government itself the power to change the law.

c. passive legislation gives the government itself the power to carry on a program.

d. active legislation gives the government itself the power to carry on a program and passive legislation allows it to change the law.

e. passive legislation gives the government itself the power to carry on a program and to change the law.

Answer: d
Diff: 2

Type: MC
Topic: The Sources of Law

Skill: Recall

10) The provincial court system has been established to deal with most matters of private and public law. Trial courts often deal with matters at first instance. The busiest of these civil courts as far as number of cases is

a. Superior Court.

b. Provincial Court (Civil Division).

c. Supreme Court.

d. Small Claims Court.

e. Surrogate Court (Probate Court).

Answer: d

Diff: 3

Type: MC

Topic: The System of Courts in Canada

Skill: Applied

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11) When we say that in order to institute a lawsuit, a person must first have standing, we mean that

a. the person bringing the lawsuit must establish that he or she has the right to bring the lawsuit.

b. the person bringing the lawsuit might be someone who has been wronged.

c. the person defending the lawsuit must establish that he or she has a good defence to it.

d. must be able to stand her or his ground during it.

e. the person bringing the lawsuit must explain to the court what his or her lawsuit is about.

Answer: a
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

12) When two or more parties have a legal dispute, often the cheapest form of resolving the dispute is by

a. litigation in the court.

b. mediation.

c. arbitration.

d. an out of court settlement.

e. none of the above

Answer: d
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Applied

13) The normal steps in a civil lawsuit in Canadian courts are

a. statement of claim, statement of defence, discovery of documents, pre-trial conference, and trial.

b. statement of claim, statement of defence with or without counterclaim, oral and documentary examinations for discovery, pre-trial conference, and trial.

c. statement of claim, statement of defence, oral and documentary examinations for discovery, and trial.

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d. statement of claim, statement of defence, pre-trial conference, and trial.

e. statement of claim, statement of defence with or without counterclaim, oral examinations for discovery, pre-trial conference, and trial.

Answer: c
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall

14) When considering whether or not it is worthwhile to commence an action or lawsuit , a prudent business manager must consider

a. the staggering costs of the litigation, even if winning appears to be a certainty.

b. that even if winning appears to be a certainty, it may be impossible to collect any money from the defendant.

c. that there is always a risk of losing and having to pay the legal costs of the other party.

d. that even if winning appears to be a certainty, the litigation may take up a huge amount of the business manager's time, which would be better spent concentrating on the business.

e. all of the above

Answer: e
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Applied

15) Which of the following is generally used to resolve an international dispute?

a. mediation

b. litigation

c. settlement

d. arbitration

e. alternative dispute resolution

Answer: d
Diff: 2

Type: MC

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Topic: Alternative Dispute Resolution

Skill: Recall

16) Janet recently learned that her credit card company charged her an unauthorized amount of 94 cents on her credit card bill. She reviewed the matter and determined that this charge had been made on a monthly basis for several months. She consulted with a lawyer who told her that in the circumstances the best procedural approach to addressing the problem was for her to

a. issue a claim in Small Claims Court for the few dollars that she had been improperly charged.

b. commence court proceedings in Superior Court seeking a greater amount for legal costs.

c. do nothing given the small amount at stake and the costs of litigation.

d. seek to have the action against the credit card company certified as a class action thereby allowing her to represent the entire group of possible class members, i.e. those who likewise were billed an unauthorized amount by the credit card company.

e. forget any court proceedings but try to attract media attention.

Answer: d

Diff: 3

Type: MC
Topic: Procedural Law: Using the Courts
Skill: Applied

17) When a party wins a legal action, the judge will usually award the successful party

a. legal aid.

b. total costs of the litigation.

c. solicitor–client costs.

d. party and party costs.

e. out-of-pocket expenses only.

Answer: d
Diff: 1

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall

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18) Substantive law

a. means the civil law.

b. comprises law that applies to rulings of judges.

c. means the common law.

d. comprises the rights and duties that each person has in society.

e. comprises laws that are applied to issues or substantive matters that are identified by lawyers in court.

Answer: d
Diff: 1

Type: MC
Topic: Classifying Law

Skill: Recall

19) The primary goals of the common law when it was developed were

a. efficiency and regularity.

b. consistency and predictability.

c. efficiency and speed.

d. justice and speed.

e. justice and regularity.

Answer: b
Diff: 1

Type: MC
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall

20) The two main sources of law are

a. common law and canon law.

b. subordinate legislation and judge-made law.

c. judge-made law and statute law.

d. judge-made law and canon law.

e. judge-made law and equity.

Answer: c

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Diff: 1

Type: MC
Topic: The Sources of Law

Skill: Recall

21) Law created by administrative agencies that are authorized by statute to make laws for certain purposes is called

a. subordinate legislation.

b. common law.

c. law merchant.

d. administrative law.

e. domestic law.

Answer: a
Diff: 2

Type: MC
Topic: The Sources of Law

Skill: Recall

22) Specific performance and contempt of court are examples of

a. common law rules.

b. rules of the law merchant.

c. rules of canon law.

d. equitable remedies.

e. subordinate legislation.

Answer: d
Diff: 2

Type: MC
Topic: The Sources of Law

Skill: Recall

23) Which of the following is NOT/are NOT a Federal Court of Canada?

a. Federal Court of Canada

b. Federal Family Court

c. Supreme Court of Canada

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d. Tax Court

e. all of the above

Answer: b
Diff: 2

Type: MC
Topic: The System of Courts in Canada

Skill: Recall

24) Which of the following is NOT one of the tiers of courts in Canada?

a. intermediate provincial appeal courts

b. Supreme Court of Canada

c. circuit courts

d. court of first instance

e. none of the above

Answer: c
Diff: 2

Type: MC
Topic: The System of Courts in Canada

Skill: Recall

25) In class action proceedings,

a. legal aid is available to injured plaintiffs.

b. the court appoints a lawyer to help injured parties.

c. a court usually awards punitive damages against negligent manufacturers.

d. separate claims are consolidated for trial.

e. a plaintiff applies to court to represent a class of plaintiffs with similar claims.

Answer: e
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall

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26) Mary owes Jack $15 000 in unpaid bills. Mary and Jack enter into an agreement. Jack is required to pay Mary $20 000 for the delivery of certain products. Jack is unable to pay and Mary sues Jack. Under the circumstances, Jack may also

a. file a statement of questions.

b. counterclaim for $15 000.

c. reserve judgment.

d. provide admissible evidence.

e. request an examination for discovery.

Answer: b
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Applied

27) Jack decides to sue Mary and consults a lawyer. Because Jack had very little money, the lawyer agrees that his fees will take the form of a percentage of the damages Jake collects if he wins. The lawyer's fee arrangement is a

a. contingent fee arrangement.

b. flat fee arrangement.

c. solicitor–client fee arrangement.

d. sliding scale fee arrangement.

e. party and party costs.

Answer: a
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall

28) The two models of legal aid that are used in Canada are the

a. Ontario legal aid and legal clinics.

b. community legal clinic and judicare.

c. judicare and payment plans.

d. payment plans and community clinic.

e. free services and community legal services.

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Answer: b
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

29) Mary works at a bread-making factory. All the women workers at the plant are paid lower wages than their male counterparts for the same work. The women workers decide to sue. They decide that Mary should represent all of them in a lawsuit. This kind of lawsuit is known as

a. a class action.

b. a labour dispute.

c. *res judicata* action.

d. a plaintiff claim.

e. a representative action.

Answer: a
Diff: 2

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

30) Standing to sue is recognized by a court when a litigant

a. pays money into court to the credit of the action he or she has brought.

b. enters an appearance by filing a notice of intention to contest an action.

c. files an affidavit containing hearsay evidence.

d. fails to defend an action.

e. has a direct interest in a matter and/or whose rights are specifically affected by another.

Answer: e
Diff: 3

Type: MC
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

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31) Substantive law deals with the rights and duties of each person in society, and procedural law deals with the machinery to enforce those rights.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 1

Type: TF
Topic: Who Makes Law?

Skill: Recall

32) English common law is based on laws that are codified.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 1

Type: TF
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall

33) In any jurisdiction of Canada, such as Ontario, the rule is that the decision of a higher court is binding on a lower court.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 2

Type: TF
Topic: The System of Courts in Canada

Skill: Recall

34) Administrative agencies derive their authority from regulations passed under statutes.

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a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 2

Type: TF
Topic: The Sources of Law

Skill: Recall/Applied

35) The merger of the courts of chancery with the courts of common law has resulted in judges abandoning the philosophy of equity when deciding cases.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 3

Type: TF
Topic: The Sources of Law

Skill: Recall/Applied

36) The privilege between a doctor and his or her patient is recognized by law in the same way as solicitor–client privilege.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 3

Type: TF
Topic: The Legal Profession

Skill: Recall/Applied

37) An arbitration is presided over by a mediator whose decision is binding on the parties to the arbitration.

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a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 2

Type: TF
Topic: Alternative Dispute Resolution

Skill: Recall

38) After negotiation, alternative dispute resolution is the cheapest form of resolving disputes.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 3

Type: TF
Topic: Alternative Dispute Resolution

Skill: Applied

39) The only court in Canada that is not bound by its own decisions is the Supreme Court of Canada.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 3

Type: TF
Topic: Common Law: The Theory of Precedent

Skill: Applied

40) Equitable remedies such as specific performance originated in the early common law courts.

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a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 2

Type: TF
Topic: Common Law: The Theory of Precedent

Skill: Recall

41) Equity is currently separate from the common law.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 1

Type: TF
Topic: The Sources of Law

Skill: Recall

42) A statement of defence cannot be combined with a counterclaim.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

Answer: b
Diff: 1

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall

43) There are two models of legal aid that are used in Canada.

a. True
Correct: *Correct*

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b. False
Incorrect: *Incorrect*

Answer: a
Diff: 1

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall

44) Most provinces in Canada permit contingency fee arrangements.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 1

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall

45) Before a person can commence a suit, he or she must have standing to sue.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 2

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

46) Most legal cases do not go to trial because the plaintiffs simply abandon their rights.

a. True
Incorrect: *Incorrect*

b. False
Correct: *Correct*

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Answer: b
Diff: 2

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall

47) The great majority of civil lawsuits do not proceed to trial because the parties ultimately settle.

a. True
Correct: *Correct*

b. False
Incorrect: *Incorrect*

Answer: a
Diff: 2

Type: TF
Topic: Procedural Law: Using the Courts

Skill: Recall

48) Explain whether judges are required to follow the principle of *stare decisis*.

Answer:
Although traditionally judges strictly followed this rule, today they are only bound by decisions of higher courts, and even then, since no two sets of facts are identical in every respect, judges can and do distinguish the facts of the case in issue before them with the facts of earlier similar cases in order to avoid this rule.

Diff: 3

Type: ES
Topic: Common Law: The Theory of Precedent

Skill: Applied

49) Explain what is meant by the liberal approach taken by judges in interpreting statutes.

Answer:
A liberal approach involves consideration of the context, the custom, and trade usage of the language, as well as the intent or purpose of the government when it passed the law. This will involve looking at the state of the law at the time of the passage of the statute and the language used when the bill was introduced and debated.

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Diff: 2

Type: ES
Topic: Legislation: Government Made Law

Skill: Recall

50) Explain the legal system commonly referred to as civil law.

Answer:
This system of law is one that was derived from Roman law, and more particularly Justinian's Code; it involves a comprehensive legislated code in which the actual laws are codified or written down in a statute.

Diff: 2

Type: ES
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall/Applied

51) Explain what a court of first instance is.

Answer:
A court of first instance is a trial court where witnesses give evidence and an initial judgment is made. The topic of dispute will determine in which trial court the dispute belongs.

Diff: 1

Type: ES
Topic: The System of Courts in Canada

Skill: Recall

52) How is an appeal different from a trial?

Answer:
A trial is the culmination of an action. The parties to the dispute bring all their evidence and version of the facts before the court. The difference between the version of the facts of both parties is usually very wide. The court's task is to sift through all the evidence presented to determine which evidence is admissible, which facts are credible, and which witnesses are credible. Ultimately, when the judge makes a finding, it is a finding that a person's story is more likely than that of the other party. An appeal is very different from a trial. An appeal is essentially a review of the trial. The appeal judges review the trial

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and evidence to determine whether certain errors were made. Errors could include errors of law, drawing wrong conclusions from the evidence, and misconstruing the evidence. The appeal judges do not re-try the whole matter.

Diff: 1

Type: ES
Topic: The System of Courts Skill: Recall/Applied

53) What is *res judicata*?

Answer:
The term *res judicata* means that a matter has already been decided by the courts and cannot be re-argued by the same parties. For instance, if Jack sues a corporation for negligence and the court hands down a judgment, then the matter becomes *res judicata* and Jack cannot re-argue the case.

Diff: 1

Type: ES
Topic: Procedural Law: Using the Courts

Skill: Recall/Applied

54) What is an examination for discovery?

Answer:
When an action is commenced, each party to the dispute has a right to question the other party, before trial, to determine the case that he or she has to answer and to determine the nature of the evidence that the other side possesses. These pre-trial question-and-answer sessions are known as examinations for discovery. Not all provinces provide for examinations for discovery in their court procedures.

Diff: 1

Type: ES
Topic: Procedural Law: Using the Courts

Skill: Recall

55) Why is hearsay evidence generally not admissible in a trial?

Answer:
Witnesses who testify in court should be subject to cross-examination so the court can assess their credibility. Hearsay evidence is evidence of words attributed by a witness to a

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person who is not before the court. That evidence should not be allowed because the person who is alleged to have said the words cannot be cross-examined by the opposing lawyer.

Diff: 3

Type: ES
Topic: Procedural Law: Using the Courts

Skill: Applied

56) Explain how a trial judge might avoid the rule of *stare decisis*, or precedent, to ensure that justice was done in a particular case that came before her or him so as to change the law.

Answer:
Although the trial judge in such a case would understand that she or he was technically bound to follow earlier decisions dealing with the same subject as the case before her or him and also that normally decisions of higher courts would be binding on her or him, it would be open to her or him to distinguish the facts of the case before her or him from the facts of earlier decisions by dwelling on minor differences between them. This would permit the trial judge to depart from the normal rules and adjust the law to the case before her or him by applying it differently than it was applied in previous or higher decisions. However, the real test of the correctness of the trial judge's decision would come on appeal to either a court of appeal or the Supreme Court of Canada. If these courts, more particularly the Supreme Court of Canada, upheld the trial judge's decision, then her or his departure from the normal rules would be confirmed and she or he would have effectively changed the common law.

Diff: 3

Type: ES
Topic: Common Law: The Theory of Precedent

Skill: Applied

57) Explain why it is important that the Supreme Court of Canada not be bound by its own decisions.

Answer:
The Supreme Court of Canada is the highest court in the country and the court of last resort for all matters. If it were to bind itself to it own decisions, it would make it virtually impossible for the law to change. As the highest court in Canada, the Supreme Court of Canada must have the flexibility to change the law when contemporary standards change. For this reason it must be able to review and reverse its own earlier decisions, thereby keeping the law current and up to date.

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Diff: 3

Type: ES
Topic: Common Law: The Theory of Precedent

Skill: Applied

58) Distinguish between mediation and arbitration.

Answer:
A mediation is presided over by a mediator, whose job it is to try to resolve the dispute between parties by facilitating a settlement between them. Usually, the mediator is an expert in the area of law that applies to the dispute and he or she will use a number of established techniques to help the parties resolve their dispute. However, a mediator cannot make a decision that is binding on the parties. An arbitration is a form of proceeding that is presided over by an official called an arbitrator, who is also usually an expert in the area of law that applies to the dispute. But in an arbitration the parties have agreed in advance to be bound by the arbitrator's decision. During the arbitration, the arbitrator hears evidence from each of the parties and then renders a decision that is final and binding on the parties. None of the parties has a right of appeal unless it can be shown that the arbitrator made an error by exceeding or going beyond his or her authority.

Diff: 2

Type: ES
Topic: Alternative Dispute Resolution

Skill: Recall/Applied

59) Explain the relationship between the courts of common law and equity.

Answer:
The common law system developed in feudal England at the time of the Norman conquest. The common law is said to be judge-made law because it is based on the recorded reasons of judges. At the core of the common law system is the theory of precedent, which means that judges should stand by the decided cases. The previous decisions of judges are thus important. Because of the importance of the theory of precedent and following previous decisions, the common law grew to be strict and inflexible and in most cases unjust. For instance, before a party could be heard, he or she had to ensure that his or her claim fell within a particular procedure, otherwise it would not be heard. Soon, it became necessary to modify the rigours of the common law. The king thus established another set of courts, referred to as courts of equity, which were intended to remedy the unfairness of the common law decisions. The courts of equity developed side by side with the common law courts and soon were administered by the Lord Chancellor. The Lord Chancellor was said to be the custodian of the conscience of

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the King. In 1865, the British Parliament passed an act that merged the two courts. From this time onwards, the same courts that administered the common law also administered the principles of equity. Hence the saying that equity and the common law go hand-in-hand. In Canada, various provinces have also passed acts that have merged the two systems of courts into one court.

Diff: 2

Type: ES
Topic: Legal Systems: Civil Law and Common Law

Skill: Recall

60) Trial judges hear evidence and appeal judges review evidence. Explain.

Answer:
A trial is the culmination of an action. The parties to the dispute bring all their evidence and version of the facts before the court. The difference between the version of the facts of both parties is usually very wide. The court's task is to sift through all the evidence presented to determine which evidence is admissible, which facts are credible, and which witnesses are credible. Ultimately, when the judge makes a finding, it is a finding that a person's story is more likely than that of the other party. An appeal is very different from a trial. An appeal is essentially a review of the trial. The appeal judges review the trial and evidence to determine whether certain errors were made. Errors could include errors of law, drawing wrong conclusions from the evidence, and misconstruing the evidence. The appeal judges do not re-try the whole matter.

Diff: 1

Type: ES
Topic: The System of Courts in Canada

Skill: Recall/Applied

61) Critics of class actions say that the legislation encourages frivolous lawsuits that are expensive to defend. Explain the benefits of class actions.

Answer:
A class action allows one individual to represent a group or class of others in one proceeding. Multiple actions and inconsistent results are thereby eliminated. Furthermore, any settlement or judgment binds all members of the class as well as all defendants. This ensures that a subsequent action cannot be brought before the court to contest liability. Finally, class actions can increase access to the courts by allowing claimants to come forward with claims of a small value that might previously have been too costly to litigate.

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Diff: 3

Type: ES
Topic: Procedural Law: Using the Courts

Skill: Applied

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