Test Bank for Business Law Today The Essentials 12th Miller

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TRUE/FALSE

1 : Laws would have no discernible meaning without the courts to interpret and apply them.
A : true
B : false

Correct Answer : A

2 : Judicial review is the process through which Congress approves or rejects judicial appointments.
A : true
B : false

Correct Answer : B

3 : Jurisdiction refers to the right of a citizen to bring a case before a court.
A : true
B : false

Correct Answer : B

4 : Any court can exercise jurisdiction over any property wherever it is located.
A : true
B : false

Correct Answer : B

5 : Under a state long-arm statute, a court can exercise jurisdiction over certain nonresident defendants.
A : true
B : false

Correct Answer : A

6 : The minimum-contacts requirement is met if a corporation does such substantial business that it is “at home” in a state.
A : true
B : false

Correct Answer : A

7 : A federal court will apply federal law in a case involving a federal question.
A : true
B : false

Correct Answer : A

8 : For purposes of diversity jurisdiction, a corporation is not considered a citizen of any particular state.
A : true
B : false

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Correct Answer : B

9 : In a case based on diversity of citizenship, a federal court will apply the relevant state law.
A : true
B : false

Correct Answer : A

10 : When concurrent jurisdiction exists, the decision of whether to litigate in a federal or state court can be affected by the availability of different remedies.
A : true
B : false

Correct Answer : A

11 : In a case involving Internet transactions, jurisdiction is proper only when the defendant conducts substantial business in the jurisdiction online.
A : true
B : false

Correct Answer : B

12 : Doing business within a jurisdiction is not enough for most courts to compel a defendant to appear.
A : true
B : false

Correct Answer : B

13 : The effect of the minimum-contacts standard is that a business firm has to comply with the laws of any jurisdiction in which it targets customers.
A : true
B : false

Correct Answer : A

14 : The federal courts are an independent system of courts that is superior to the state courts.
A : true
B : false

Correct Answer : B

15 : A question of law is generally the focus of an appellate court.
A : true
B : false

Correct Answer : A

16 : An appellate court will not challenge a trial court’s finding of fact, even if the finding is clearly erroneous.
A : true
B : false

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Correct Answer : B

17 : Failing to strictly follow the procedural rules and standards for determining disputes in courts is not likely to affect the outcome in a particular case.
A : true
B : false

Correct Answer : B

18 : A complaint contains a brief summary of the facts necessary to show the party filing the complaint is entitled to relief.
A : true
B : false

Correct Answer : A

19 : A default judgment is a judgment entered by a court against neither party to a case.
A : true
B : false

Correct Answer : B

20 : A motion to dismiss asserts that a claim has no basis in law.
A : true
B : false

Correct Answer : A

21 : A motion for summary judgment asserts that the plaintiff failed to state a claim for which the court can grant relief.
A : true
B : false

Correct Answer : A

22 : Discovery is the process of serving a summons and a copy of a complaint on a defendant.
A : true
B : false

Correct Answer : B

23 : Electronic discovery can reveal significant facts that are not discoverable by other means.
A : true
B : false

Correct Answer : A

24 : Choosing a jury is an important aspect of litigation strategy.
A : true
B : false

Correct Answer : A

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25 : Jurors must decide a case based only on the information that they learn during the trial.
A : true
B : false

Correct Answer : A

26 : Misconduct by the participants in a trial can cause the judge to grant a motion for a new trial.
A : true
B : false

Correct Answer : A

27 : A party does not need to have legitimate grounds to appeal a trial court’s decision.
A : true
B : false

Correct Answer : B

28 : An appellate court can modify a trial court’s decision, in whole or in part.
A : true
B : false

Correct Answer : A

29 : Appellate courts have no discretionary power to reject an appeal—appellate courts must accept all appeals.
A : true
B : false

Correct Answer : B

30 : Before a lawsuit is initiated, a plaintiff should consider whether the defendant is able to pay the damages sought.
A : true
B : false

Correct Answer : A

31 : An electronic court filing system allows parties to file litigation-related documents via electronic means.
A : true
B : false

Correct Answer : A

32 : Most states encourage or require parties to undertake a trial before alternative dispute resolution.
A : true
B : false

Correct Answer : B

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33 : Negotiation requires the use of a neutral third party to facilitate a settlement.
A : true
B : false

Correct Answer : B

34 : The simplest form of alternative dispute resolution is mediation.
A : true
B : false

Correct Answer : B

35 : Arbitration differs from other forms of alternative dispute resolution in that a third party hearing a dispute makes a decision for the parties.
A : true
B : false

Correct Answer : A

MULTIPLE CHOICE

36 : Two business companies dispute the quality of goods delivered by the seller and the price agreed to by the buyer. With regard to this dispute, the two firms can
A : any of the choices.
B : litigate it.
C : settle it between themselves.
D : resolve it through an alternative method, such as arbitration.

Correct Answer : A

37 : Analytica LLC files a suit against the United States, challenging a congressional enactment mandating that employers pay their employees' student loans. The process by which the court decides this issue is
A : judicial review.
B : *voir dire*.
C : unconstitutional.
D : the rule of four.

Correct Answer : A

38 : A judicial decision on the constitutionality of an executive order that limits certain state actions is
A : beyond the jurisdiction of the courts.
B : a question of fact.
C : a summary judgment.
D : the power of judicial review.

Correct Answer : D

39 : The 1803 decision of the United States Supreme Court in the case of Marbury v. Madison established

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A : the jurisdiction of the courts.
B : *voir dire*.
C : the power of judicial review.
D : the rule of four.

Correct Answer : C

40 : One party wants to file a suit against another. For a court to hear the case,
A : both parties must consent.
B : the court must have jurisdiction.
C : the parties must have diversity of citizenship.
D : the parties must own property.

Correct Answer : B

41 : Hal, a resident of Illinois, owns a warehouse in Indiana. A dispute arises over the ownership of the warehouse with Jack, a resident of Kentucky. Jack files a suit against Hal in Indiana. Regarding this suit, Indiana has
A : federal jurisdiction.
B : *in personam* jurisdiction.
C : *in rem* jurisdiction.
D : no jurisdiction.

Correct Answer : C

42 : Cattle House Steaks, an Alabama company, enters into a contract over the phone with Beef Packing Inc., an out-of-state corporation. If a dispute arises, an Alabama court can exercise jurisdiction over Beef Packing
A : under the minimum contacts test.
B : on the basis of a federal question.
C : in no circumstances.
D : only if Beef Packing files the suit.

Correct Answer : A

43 : Tyler, a citizen of Utah, files a suit in a Utah state court against SeaCoast Sales Corporation, a Washington state company that does business in Utah. The court has original jurisdiction, which means that
A : the case is being heard for the first time.
B : the court has a unique method of deciding whether to hear a case.
C : the court has unusual procedural rules.
D : the subject matter of the suit is interesting and new.

Correct Answer : A

44 : Jason, a citizen of Kansas, wants to file a suit against Lora, a citizen of Michigan. Their diversity of citizenship may be a basis for
A : no court to exercise jurisdiction.
B : a federal court to exercise jurisdiction.
C : any court to exercise jurisdiction.
D : the United States Supreme Court to refuse jurisdiction.

Correct Answer : B

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45 : Kari and Lillian, who are citizens of Mississippi, are involved in a case related to the adoption of their child. Over this case, Mississippi state courts have
A : concurrent jurisdiction with federal courts.
B : concurrent jurisdiction with other state courts.
C : exclusive jurisdiction.
D : no jurisdiction.

Correct Answer : C

46 : Honi is not a resident of Iowa although her website can be accessed by residents of that state. Jean files a suit against Honi in an Iowa state court. The court is most likely to have jurisdiction over Honi if Jean's claim arises from
A : minimum contacts between Honi and any Iowa resident.
B : substantial business between Jean and Honi through Honi's website.
C : no interactivity between Honi and any Iowa resident through Honi's website.
D : the Internet's capacity to bypass boundaries.

Correct Answer : B

47 : Fabrication, Inc., makes steel forms that are substandard. Geo Manufacturing Company has never bought or used a Fabrication form, but files a suit against the firm, alleging that its products are defective. Fabrication's best ground for dismissal of the suit is that Geo does not have
A : discovery.
B : exclusive jurisdiction.
C : standing to sue.
D : minimum contacts.

Correct Answer : C

48 : State trial courts that are called county, district, superior, or circuit courts are most likely to have
A : appellate jurisdiction.
B : general jurisdiction.
C : limited jurisdiction.
D : no jurisdiction.

Correct Answer : B

49 : State trial courts that are called special inferior trial courts or minor judiciary courts are most likely to have
A : appellate jurisdiction.
B : general jurisdiction.
C : limited jurisdiction.
D : no jurisdiction.

Correct Answer : C

50 : Gina and Harry present their case to an Idaho state court for resolution. The court defers to a different Idaho court's findings of fact in the case, and focuses on the application and interpretation of the law to the dispute. The court currently deciding Gina and Harry's dispute is
A : an appellate court.

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B : a trial court.
C : a U.S. magistrate's court.
D : a special inferior court.

Correct Answer : A

51 : Martin files a suit against Nichelle in a state court over an employment contract. The case proceeds to trial, after which the court renders a verdict. The case is appealed to the state's highest court. After that court's review of Martin v. Nichelle, a party can appeal the decision to the United States Supreme Court if
A : a federal question is involved.
B : a state question is unresolved.
C : the party is unsatisfied with the result.
D : the state trial and appellate court rulings are different.

Correct Answer : A

52 : D'Antoni files a suit in a federal district court against Enya. D'Antoni loses the suit, appeals to the U.S. Court of Appeals for the Ninth Circuit, and loses again. D'Antoni asks the United States Supreme Court to hear the case. The Court is
A : not required to hear the case.
B : required to hear the case because D'Antoni lost in a federal court.
C : required to hear the case because D'Antoni lost in a lower court.
D : required to hear the case because it is an appeal.

Correct Answer : A

53 : Gilbert wants to initiate a suit against Healthways Insurance Company by filing a complaint. The complaint should include
A : an explanation of the proof to be offered at trial.
B : a statement refuting any defense that the defendant might assert.
C : a motion for judgment on the pleadings.
D : a statement alleging the facts showing the court has jurisdiction.

Correct Answer : D

54 : Commercial Supply wants to initiate a suit against Downwind Power Corporation by filing a complaint. The complaint should include a statement of the facts necessary to show that
A : Downwind does not have a valid defense.
B : the case can be disposed of without a trial.
C : the solvency of Downwind is in question.
D : Commercial is legally entitled to a remedy.

Correct Answer : D

55 : Isabel and Josh engage in a business transaction that leads to a dispute. Isabel initiates a lawsuit against Josh by filing a complaint. The sheriff serves Josh with a summons. If Josh chooses to ignore it,
A : Isabel must file an amended complaint.
B : Isabel will have a judgment entered in her favor.
C : Josh must be served with a second summons.
D : Josh will have a judgment entered in his favor.

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Correct Answer : B

56 : Grain Farms, Inc., files a suit against Harvest Services. Before the court can exercise jurisdiction over Harvest, the court must have proof that
A : Grain Farms is prepared to notify Harvest of the suit.
B : Grain Farms did not act to precipitate a dispute with Harvest.
C : Harvest committed the act of which Grain Farms complains.
D : Harvest was notified of the suit.

Correct Answer : D

57 : Quint files a suit against Ranchland Corporation. Ranchland believes that even if Quint's statement of the facts is true, according to the law Ranchland is not liable. Ranchland should
A : ask for a deposition.
B : seek an admission of the truth of the matter relating to the trial.
C : issue a summary judgment.
D : file a motion to dismiss.

Correct Answer : D

58 : Shippers Warehouse initiates a suit against Trans-State Trucking (TST) by filing a complaint. If TST files a motion to dismiss, the firm is asserting that
A : even if the facts in the complaint are true, TST is not legally liable.
B : the facts in the complaint are not true.
C : even if TST is legally liable, Shippers Warehouse cannot prove it.
D : if the facts are true, Shippers Warehouse has a right to judicial relief.

Correct Answer : A

59 : Beth files a suit against Cruise Line, Inc. Cruise responds that it appears from the pleadings that the parties do not dispute the facts and the only question is how the law applies to those facts. Cruise can support this response with witnesses' sworn statements. Cruise should file with the court
A : a summons.
B : a complaint.
C : a motion for summary judgment.
D : a motion to dismiss.

Correct Answer : C

60 : In a suit by Citizens Conservation Organization (CCO) against Deep Mining Inc., CCO serves a written request for the defendant to admit the truth of matters relating to the trial. Deep Mining's admission in response
A : conclusively establishes the matter for trial.
B : completely absolves the defendant of the issue in question.
C : is the basis for a default judgment in the plaintiff's favor.
D : is irrelevant.

Correct Answer : A

61 : Neville files a suit against Olina. To obtain information to prepare for trial, the parties engage in discovery. This includes gaining access to each other's witnesses and other types of evidence by

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A : chicanery, subterfuge, and similar methods.
B : undue harassment, improper requests, and related tactics.
C : *voir dire*, the rule of four, and a writ of *certiorari*.
D : depositions, interrogatories, and other procedural devices.

Correct Answer : D

62 : Ovid files a suit against Portia, alleging that she failed to pay him for goods shipped in response to an e-mail order. Portia denies the charge. If her e-mail order exists, it is
A : evidence.
B : a deposition.
C : an interrogatory.
D : discovery.

Correct Answer : A

63 : Petro Fuel files a suit in a state court against Quality Gas. Before the trial, Petro requests from Quality relevant information stored electronically. In contrast to traditional discovery, this request can legitimately reveal
A : privileged or confidential material.
B : metadata.
C : information to which Petro would otherwise be denied access by the right to privacy.
D : all of the choices.

Correct Answer : B

64 : Sara files a suit in a state court against Tech Innovations Inc. The parties are allowed to file litigation-related documents with the court online. This is
A : online dispute resolution.
B : an electronic court filing system.
C : electronic discovery.
D : a cyber court.

Correct Answer : B

65 : Jill and Kane, with their attorneys, meet to try to resolve a dispute. A neutral third party works with both sides and proposes a solution, but does not make a decision resolving the matter. This is
A : arbitration.
B : mediation.
C : negotiation.
D : none of the choices.

Correct Answer : B

66 : Quarry Mining Inc. and Riverside Vineyards agree to resolve a dispute in arbitration. The arbitrator meets with Quarry’s representative to discuss the matter without Riverside’s representative being present. If this substantially prejudices Riverside’s rights, a court will most likely
A : dismiss the dispute.
B : review the record of the case.
C : file a complaint against the arbitrator.
D : set aside any award.

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Correct Answer : D

67 : Liz and Moss disagree over the amount due under their contract. To avoid involving any third party in the resolution of their dispute, Liz and Moss could resolve their dispute through
A : arbitration.
B : litigation.
C : mediation.
D : negotiation.

Correct Answer : D

68 : Farmers Pantry Products Inc. and Market Grocers LLC dispute a term in their contract. Because the parties have a long-standing business relationship that they would like to continue, they could settle their dispute through mediation because
A : the case will be heard by a jury.
B : the dispute will eventually go to trial.
C : the process is not as adversarial as litigation.
D : the resolution of the dispute will be decided by an expert.

Correct Answer : C

69 : Cornel and Deanna resolve their dispute over the subsidence of Cornel's real property due to Deanna's excavation for an irrigation pond by having a neutral third party render a binding decision. This is
A : arbitration.
B : conciliation.
C : intervention.
D : rendition.

Correct Answer : A

70 : Service Employees International Union and Timberline Products, Inc., have their dispute resolved in arbitration. The arbitrator decides issues that the parties did not agree to submit to arbitration. This is a ground for a court to
A : none of the choices.
B : dismiss the dispute.
C : review the record of the case.
D : set aside the award.

Correct Answer : D

ESSAY

71 : 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? Why or why not? What are an appellate court's options after reviewing a case?

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Correct 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. There are a number of reasons for this. 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 firsthand 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.

72 : Giles is a tenant in Home Suite Home, an apartment building owned by Italo. Giles is injured when he falls in an unlighted stairwell in the building. Giles asks Italo to cover his medical expenses. Italo refuses to admit that Giles's injury resulted from a fall in the stairwell, or that Italo should assume liability for the cost. Unable to negotiate a settlement, Giles wants to file a suit against Italo. What pleading begins a suit? Once a defendant is notified of a suit, what must he or she do?

Correct Answer : Pleadings inform each party to a suit of the claim of the other and specify the issues involved. A suit begins when a complaint (or petition or declaration) is filed with the clerk of a trial court with appropriate jurisdiction.A complaint must contain the following:A statement alleging facts necessary for the court to take jurisdiction.A statement of facts necessary to show the plaintiff's legal basis for a remedy.A statement of the remedy that the plaintiff is seeking.A defendant is notified of a suit by being served with a summons and a copy of the complaint. The summons informs the defendant that he or she is required to file an answer to the complaint with the court and the plaintiff within a specified time (usually twenty to thirty days after the summons is served).After the defendant is served with a copy of the complaint and summons, he or she must respond by filing an answer or a motion to dismiss. If the defendant does not respond, the court may enter a default judgment against him or her, awarding the plaintiff the remedy sought.Here, if Giles initiates a suit by filing a complaint against Italo, Giles would be the plaintiff and Italo would be the defendant. Assuming Giles's complaint contains the required information, Italo would be served with a copy of it and a summons. Italo would then need to respond with an answer or a motion to dismiss within the appropriate time. If he does not, he will likely have a default judgment entered against him.

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