Test Bank for Business Law Principles for Todays Commercial Environment 5th Twomey

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Chapter 02 THE COURT SYSTEM AND DISPUTE RESOLUTION

TRUEFALSE

1. The authority of a court to decide certain types of cases is called *jurisdiction*.

(A) True

(B) False

Answer : (A)

2. All courts have general jurisdiction.

(A) True

(B) False

Answer : (B)

3. A court that can only hear disputes involving damages of $5,000 or less has a limited jurisdiction.

(A) True

(B) False

Answer : (A)

4. An appellate court determines whether there has been reversible error.

(A) True

(B) False

Answer : (A)

5. The federal court system consists of three levels.

(A) True

(B) False

Answer : (A)

6. Federal district courts are the trial courts of the federal court system.

(A) True

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(B) False

Answer : (A)

7. An *en banc* decision within a U.S. Court of Appeal only requires a panel of three judges.

(A) True

(B) False

Answer : (B)

8. A probate court is an example of a general trial court.

(A) True

(B) False

Answer : (B)

9. A family law court is an example of a small claims court.

(A) True

(B) False

Answer : (B)

10. State supreme courts generally hear all cases appealed to them.

(A) True

(B) False

Answer : (B)

11. The defendant in a civil case is the party who is suing.

(A) True

(B) False

Answer : (B)

12. To initiate a lawsuit, both parties must appear in person and state their claims and defenses in court.

(A) True

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(B) False

Answer : (B)

13. If questions of fact are involved, a judge will usually decide the case based on the pleadings alone.

(A) True

(B) False

Answer : (B)

14. Documents filed by both parties at the beginning of a lawsuit are called the *pleadings*.

(A) True

(B) False

Answer : (A)

15. Depositions are usually taken in the courtroom for purposes of discovery.

(A) True

(B) False

Answer : (B)

16. A *peremptory* challenge to a prospective juror generally can be exercised without giving a reason.

(A) True

(B) False

Answer : (A)

17. A motion for a directed verdict occurs immediately after the last pleading is filed.

(A) True

(B) False

Answer : (B)

18. A judge rules on the admissibility of evidence presented in the trial.

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(A) True

(B) False

Answer : (A)

19. Generally, the prevailing party in a lawsuit is awarded the costs of the action, including witness fees and jury fees.

(A) True

(B) False

Answer : (A)

20. Garnishment is a method for satisfying a judgment against a defendant.

(A) True

(B) False

Answer : (A)

21. The mediator in a mediation has the power to force the parties to come to a settlement.

(A) True

(B) False

Answer : (B)

22. Arbitration procedures occur in a court of law.

(A) True

(B) False

Answer : (B)

23. The Federal Arbitration Act provides that only arbitration clauses dealing with federal subject matters are valid, irrevocable, and binding.

(A) True

(B) False

Answer : (B)

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24. When arbitration is mandatory under a statute, the losing party generally can appeal from such arbitration to a court.

(A) True

(B) False

Answer : (A)

25. A summary jury trial is a mock trial before a judge.

(A) True

(B) False

Answer : (B)

26. Mediation tends to keep discussions between parties proceeding.

(A) True

(B) False

Answer : (A)

27. If there is a reference to a third party to determine a dispute, in most cases the decision is binding.

(A) True

(B) False

Answer : (A)

28. A "Rent-a-Judge" serves as a referee.

(A) True

(B) False

Answer : (A)

29. The decision of an association tribunal is binding on both the association member and the consumer.

(A) True

(B) False

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Answer : (B)

30. Courts have increasingly set aside arbitration clauses involving small businesses or consumers.

(A) True

(B) False

Answer : (B)

MULTICHOICE

31. A court is a tribunal established by:

(A) the parties to a lawsuit.

(B) the government.

(C) the parties to a contract.

(D) the will of the people.

Answer : (B)

32. The power given to courts to hear certain types of cases is called:

(A) jurisdiction.

(B) mediation.

(C) arbitration.

(D) summary judgment.

Answer : (A)

33. Original jurisdiction courts are generally _____.

(A) supreme courts

(B) appellate courts

(C) trial courts

(D) limited courts

Answer : (C)

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34. Which of the following is not an example of limited or special jurisdiction court?

(A) Probate court

(B) Juvenile court

(C) Domestic Relations court

(D) Court of original jurisdiction.

Answer : (D)

35. The U.S. Courts of Appeals consists of _____federal judicial districts.

(A) Ten (10)

(B) Fifteen (15)

(C) Thirteen (13)

(D) Nine (9)

Answer : (C)

36. The types of civil cases that a private citizen can file in federal district courts include:

(A) cases in which any state in the United States is one of the parties.

(B) cases between citizens of different states that involve damages of $75,000 or more.

(C) cases brought by the citizen of one state against the state government of the same state.

(D) criminal charges against a state representative.

Answer : (B)

37. The United States Supreme Court was created by:

(A) Congress.

(B) the President.

(C) the Uniform State Law Commission.

(D) the U.S. Constitution

Answer : (D)

38. State supreme courts primarily have _____ jurisdiction.

(A) appellate

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(B) limited

(C) general

(D) original

Answer : (A)

39. The person who initiates a civil lawsuit is called the:

(A) defendant.

(B) prosecutor

(C) plaintiff.

(D) judge.

Answer : (C)

40. Service of process refers to:

(A) a demand letter sent by the plaintiff to the defendant.

(B) a reply sent to the plaintiff by the defendant.

(C) giving the defendant proper notice that a legal action is pending.

(D) a record of the court's preliminary hearing.

Answer : (C)

41. The answer to the complaint is filed by the:

(A) defendant.

(B) prosecutor.

(C) plaintiff.

(D) judge.

Answer : (A)

42. When a defendant files a(n) _____ he is attacking the plaintiff's pleading as not stating a cause of action or defense.

(A) counterclaim.

(B) motion to dismiss.

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(C) motion for summary judgment.

(D) notice of service.

Answer : (B)

43. If a case has no material facts in dispute either party can file a(n) _____ and allow a judge to make a ruling as a matter of law.

(A) motion to dismiss

(B) counterclaim

(C) demurrer

(D) Motion for summary judgment

Answer : (D)

44. A deposition is or can accomplish any of the following except:

(A) the testimony of a witness taken under oath.

(B) conducted outside of the courtroom.

(C) can be used to impeach a witness.

(D) can be used to dismiss the lawsuit.

Answer : (D)

45. *Voir dire* examination is used in connection with:

(A) determining whether the pleadings are valid.

(B) jury selection.

(C) deciding whether to appeal a trial court decision.

(D) discovery.

Answer : (B)

46. The _____ rule(s) on the admissibility of evidence.

(A) Judge

(B) Jury

(C) Attorneys

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(D) court clerk

Answer : (A)

47. A motion for a directed verdict is appropriate:

(A) immediately after the pleadings are filed.

(B) immediately after discovery is concluded.

(C) immediately after the presentation of all evidence at trial.

(D) on appeal.

Answer : (C)

48. One of the motions that can be made after a verdict has been entered is a motion for a:

(A) mistrial.

(B) summary judgment.

(C) directed verdict.

(D) judgment notwithstanding the verdict.

Answer : (D)

49. When testifying at trial, the witness for the plaintiff will undergo _____ by the plaintiff's attorney, and a(n) _____ by defense counsel.

(A) a background check, cross-examination

(B) direct examination, recross-examination

(C) redirect examination, cross-examination

(D) direct examination, cross-examination

Answer : (D)

50. Garnishment applies to the judgment debtor's:

(A) wages.

(B) attorney fees.

(C) land and home.

(D) cars.

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Answer : (A)

51. Which is not considered an alternate means of dispute resolution?

(A) civil lawsuit

(B) arbitration

(C) association tribunals

(D) minitrial

Answer : (A)

52. In mediation, the mediator acts as a(n):

(A) judge.

(B) attorney.

(C) messenger.

(D) expert witness.

Answer : (C)

53. A summary jury trial is:

(A) binding on the parties.

(B) a mock trial.

(C) a full and complete hearing of all evidence pertaining to the case.

(D) a shortcut to establishing judicial precedent.

Answer : (B)

54. In a minitrial:

(A) only three jurors are used.

(B) the trial addresses only portions of the case or certain issues related to the case.

(C) the decision is always fully binding on the parties.

(D) none of these.

Answer : (B)

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55. Judicial Triage is all of the following except:

(A) a court management tool.

(B) results in some cases being expedited.

(C) results in some cases being postponed.

(D) a directed verdict

Answer : (D)

ESSAY

56. Chandra sues Martin for breach of contract. Both parties have completed discovery. Chandra now wants her attorney to file a motion to have the judge rule in her favor without having to proceed further. Chandra does not know whether the motion to dismiss or the motion for a summary judgment is proper. Which motion is proper and why?

Graders Info :

As between the motion to dismiss and the motion for summary judgment, Chandra's attorney should file a motion for summary judgment, since the parties are beyond the pleadings stage of litigation, and since they have completed discovery. Using evidence gathered during discovery, such as affidavits and/or deposition testimony, Chandra's attorney could argue that there are no material issues of fact disputed by the parties, and that Chandra is entitled to judgment as a matter of law.

57. Billy has a dispute with Sleepdigit Bedspring Company over a number of beds Billy recently purchased from Sleepdigit for use in his hotel. Billy needs to decide whether to pursue litigation or employ an alternative means of dispute resolution. What advantages are most often associated with alternative dispute resolution? Which choice would be most appropriate in this case?

Graders Info :

The most frequently cited advantages of alternative dispute resolution, compared to litigation, are a) cost savings and b) time savings. As far as a specific method of alternative dispute resolution, arbitration might be the best approach for Billy in his commercial dispute with Sleepdigit; in addition to the cost-saving and time-saving advantages of alternative dispute resolution, arbitration has a long history of success in the area of commercial contracts.

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