

Chapter 2

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

- A1. Federal courts are superior to state courts.

ANSWER: F PAGE: 28 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A2. The courts can decide whether the other branches of government have acted within the scope of their constitutional authority.

ANSWER: T PAGE: 28 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A3. Minimum contacts with a jurisdiction are never enough to support jurisdiction over a nonresident defendant.

ANSWER: F PAGE: 30 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A4. Diversity of citizenship cases are only those arising between citizens of different states.

ANSWER: F PAGE: 33 TYPE: N
NAT: AACSB Analytic AICPA Legal

- A5. Concurrent jurisdiction exists when both federal and state courts have the power to hear a particular case.

ANSWER: T PAGE: 33 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A6. A court cannot exercise jurisdiction over an out-of-state defendant who has only done business in the state over the Internet.

ANSWER: F PAGE: 34 TYPE: N
NAT: AACSB Analytic AICPA Legal

- A7. Venue is the term for the subject matter of a case.

ANSWER: F PAGE: 34 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A8. A justiciable controversy is a case in which the court's decision—the "justice" that will be served—will be controversial.

ANSWER: F PAGE: 35 TYPE: =
NAT: AACSB Analytic AICPA Legal

- A9. In some states, lawyers are not allowed to represent people in small claims courts.

ANSWER: T PAGE: 38 TYPE: N
NAT: AACSB Analytic AICPA Critical Thinking

- A10. The United States Supreme Court has original jurisdiction in rare instances.

ANSWER: T PAGE: 39 TYPE: N

NAT: AACSB Analytic

AICPA Legal

A11. A federal case typically originates in a state court.

ANSWER: F PAGE: 39 TYPE: N
NAT: AACSB Analytic AICPA Legal

A12. Alternative dispute resolution refers to any method for resolving a dispute outside the court system.

ANSWER: T PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

A13. Negotiation traditionally involves just the parties to a dispute without their attorneys.

ANSWER: F PAGE: 41 TYPE: N
NAT: AACSB Reflective AICPA Legal

A14. Negotiation is the most complex form of alternative dispute resolution.

ANSWER: F PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

A15. No court offers mediation as an option before a case goes to trial.

ANSWER: F PAGE: 41 TYPE: =
NAT: AACSB Reflective AICPA Legal

A16. Arbitration that is mandated by the courts is often binding on the parties.

ANSWER: F PAGE: 42 TYPE: N
NAT: AACSB Analytic AICPA Legal

A17. A court will review a contract for validity even if it contains an arbitration clause.

ANSWER: F PAGE: 43 TYPE: =
NAT: AACSB Analytic AICPA Legal

A18. Most online dispute resolution services apply general, universal legal principles to resolve disputes.

ANSWER: T PAGE: 45 TYPE: =
NAT: AACSB Technology AICPA Leveraging Technology

A19. In early neutral case evaluation, a third party's evaluation of each party's strengths and weaknesses forms the basis for negotiating a settlement.

ANSWER: T PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

A20. A choice-of-law clause is a provision in a contract that excuses a party from liability for nonperformance due to "acts of God."

ANSWER: F PAGE: 46 TYPE: =
NAT: AACSB Analytic AICPA Legal

MULTIPLE CHOICE QUESTIONS

A1. The Ohio state legislature passes a law to regulate local delivery services. The final authority regarding the constitutionality of this law is

- a. the judicial system.
- b. the president of the United States.
- c. the governor of Ohio.
- d. the U.S. Congress.

ANSWER: A PAGE: 28 TYPE: =
NAT: AACSB Reflective AICPA Legal

A2. Ginger wants to file a suit against Fred. For a court to hear the case

- a. Fred must agree.
- b. the court must have jurisdiction.
- c. the parties must have no minimum contact with each other.
- d. the parties must own property.

ANSWER: B PAGE: 30 TYPE: N
NAT: AACSB Reflective AICPA Legal

A3. The case of *Max v. National Credit Co.* is heard in a trial court. The case of *O! Boy! Ice Cream Co. v. Pickled Peppers, Inc.*, is heard in an appellate court. The difference between a trial and an appellate court is whether

- a. a trial is being held.
- b. the court is appealing.
- c. the parties question how the law applies to their dispute.
- d. the subject matter of the case involves complex facts.

ANSWER: A PAGE: 32 TYPE: N
NAT: AACSB Reflective AICPA Legal

A4. Rolf, a citizen of New Mexico, wants to file a suit against Sandy, a citizen of Texas. Their diversity of citizenship may be a basis for

- a. no court to exercise jurisdiction.
- b. a federal court to exercise original jurisdiction.
- c. a state court to exercise appellate jurisdiction.
- d. the United States Supreme Court to refuse jurisdiction.

ANSWER: B PAGE: 33 TYPE: N
NAT: AACSB Reflective AICPA Legal

A5. Inferior Company, which is based on South Carolina, makes and sells products that are poorly made. Jack, who is a resident of North Carolina, buys an Inferior product and suffers an injury through its use. The diversity of citizenship between these parties means that

- a. federal and state courts have concurrent jurisdiction.
- b. federal courts have exclusive jurisdiction.
- c. no court has jurisdiction.
- d. state courts have exclusive jurisdiction.

ANSWER: A PAGE: 33 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

A6. 3D HD TV Company, a firm in Minnesota, advertises on the Web. A court in North Dakota would be most likely to exercise jurisdiction over 3D HD if the firm

- a. conducted substantial business with North Dakota residents through its Web site.
- b. interacted with any North Dakota resident through its Web site.
- c. only advertised without interactivity at its Web site.
- d. suddenly removed its ad from the Internet.

ANSWER: A PAGE: 34 TYPE: =
 NAT: AACSB Reflective AICPA Legal

A7. Liu files a suit against Macro Sales, Inc., in a New Jersey state court based on a Web site through which New Jersey residents can do business with Macro. The court will most likely exercise jurisdiction over Macro if the interactivity of the site is seen as

- a. a “substantial enough” connection with the state.
- b. “downloading” from the state.
- c. not connected with the state.
- d. “uploading” to the state.

ANSWER: A PAGE: 34 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

A8. Inferior Company sells products that are poorly made. Jock, who has never bought an Inferior product, files a suit against Inferior, alleging that its products are defective. The firm’s best ground for dismissal of the suit is that Jock does not have

- a. certiorari.
- b. jurisdiction.
- c. standing.
- d. sufficient minimum contacts.

ANSWER: C PAGE: 35 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

- A9. Mariah wins her suit against Variety Products Company. Variety's best ground for appeal is the trial court's interpretation of
- a. the conduct of the witnesses during the trial.
 - b. the credibility of the evidence that Mariah presented.
 - c. the dealings between the parties before the suit.
 - d. the law that applied to the issues in the case.

ANSWER: D PAGE: 38 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A10. Drummond wants to make a federal case out of his dispute with Elena. Federal cases originate in
- a. federal courts of appeals.
 - b. federal district courts.
 - c. state trial courts.
 - d. the United States Supreme Court.

ANSWER: B PAGE: 39 TYPE: N
NAT: AACSB Reflective AICPA Legal

- A11. Boyd files a suit in a federal district court against Cathy. Cathy loses the suit, appeals to the U.S. Court of Appeals for the Second Circuit, and loses again. Cathy 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 Cathy lost in a federal court.
 - c. required to hear the case because Cathy lost in a lower court.
 - d. required to hear the case because it is an appeal.

ANSWER: A PAGE: 40 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A12. Olivia files a suit against Parker. If this suit is like most cases, it will be
- a. dismissed during a trial.
 - b. dismissed or settled before a trial.
 - c. resolved only after a trial.

d. settled at a trial.

ANSWER: B

PAGE: 41

TYPE: =

NAT: AACSB Reflective

AICPA Legal

A13. Shelly and Tom disagree over the amount of money due under their contract. To avoid involving any third party in a resolution of the dispute, Shelly and Tom might prefer to use the alternative dispute resolution method of

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

ANSWER: D PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Critical Thinking

Fact Pattern 2-A1 (Questions A14-A16 apply)

Java Cafes, Inc., and Kaffe Import Corporation dispute a term in their contract.

A14. Refer to Fact Pattern 2-A1. The least expensive method to resolve the dispute between Java and Kaffe may be

- a. arbitration because the case will be heard by a mini-jury.
- b. litigation because each party will pay its own legal fees.
- c. mediation because the dispute will be resolved by a non-expert.
- d. negotiation because no third parties are needed.

ANSWER: D PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Risk Analysis

A15. Refer to Fact Pattern 2-A1. 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

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

ANSWER: C PAGE: 41 TYPE: =
 NAT: AACSB Reflective AICPA Risk Analysis

A16. Refer to Fact Pattern 2-A1. Resolving the dispute between Java and Kaffe by having a neutral third party render a binding decision is one of the advantages of

- a. arbitration.
- b. conciliation.
- c. intervention.
- d. mediation.

ANSWER: A PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Risk Analysis

A17. Eden Property Sales Corporation and Dion agree to resolve their dispute in arbitration. The arbitrator's decision is called

- a. a conclusion of law.
- b. a finding of fact.
- c. an award.
- d. a verdict.

ANSWER: C PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

A18. Transnational Corporation and UniShip, Inc., agree to a contract that includes an arbitration clause. If a dispute arises, a court having jurisdiction may

- a. monitor any arbitration until it concludes.
- b. order an arbitrator to rule in a particular way.
- c. order a party to bring the dispute to court.
- d. order a party to submit to arbitration.

ANSWER: D PAGE: 43 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A19. Vince files a suit against Will. Vince and Will meet, and each party's attorney argues the party's case before a judge and jury. The jury presents an advisory verdict, after which the judge meets with the parties to encourage them to settle their dispute. This is
- a. court-ordered arbitration.
 - b. early neutral case evaluation.
 - c. a mini-trial.
 - d. a summary jury trial.

ANSWER: D PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Legal

- A20. 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
- a. general, universal legal principles.
 - b. the provisions of the Federal Arbitration Act.
 - c. jurisprudence developed by the United Nations.
 - d. the law of California (or another specific U.S. jurisdiction) .

ANSWER: A PAGE: 45 TYPE: N
NAT: AACSB Reflective AICPA Legal

ESSAY QUESTIONS

- A1. Quik Results, Inc., a Maine corporation, makes and sells Power Up!, a weight-gain and muscle-building supplement. Orin, a citizen of New York, sees an ad for Power Up! in WorkOut magazine and buys it in New York City at a local health club. Within ten days of beginning to use Power Up!, Orin suffers internal injuries. Alleging that the injuries are caused by Power Up!, Orin files a suit against Quik in a New York state court. Quik asks the court to dismiss the suit on the ground that it does not have personal jurisdiction over Quik. What is the court most likely to rule and why?

ANSWER: The court will most likely refuse to dismiss the suit and allow the action to proceed, because Quik (the defendant) advertised and sold its

product Power Up! in New York to New York residents and thus subjected itself to being sued in New York. In other words, because Quik purposefully availed itself of the privilege of conducting business in New York, it had sufficient minimum contacts with the state for a New York state court to exercise jurisdiction over Quik.

PAGE: 30–32 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

- A2. Elle is walking to work along a sidewalk next to a road. A truck owned by Fast Distribution Company (FDC) strikes and injures Elle, causing her injuries that result in more than \$250,000 in medical expenses. Elle is a resident of Georgia, where the accident occurred. FDC has its principal place of business, and is incorporated, in Delaware. In what court may Elle sue FDC?

ANSWER: Elle may sue FDC in Delaware, because FDC has its principal place of business, and is incorporated, in that state. FDC may be sued in Georgia, because that is where Elle's injury occurred. FDC may be subject to Elle's suit in a federal court, because the parties have diversity of citizenship (Elle is a resident of Georgia and FDC has its principal place of business, and is incorporated, in Delaware) and the amount in controversy is more than \$75,000 (the cost of Elle's injuries is more than \$250,000).

PAGE: 32–33 TYPE: =
 NAT: AACSB Reflective AICPA Decision Modeling

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TRUE/FALSE QUESTIONS

B1. The function of the courts is to interpret and apply the law.

ANSWER: T PAGE: 28 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B2. State courts are independent of federal courts.

ANSWER: T PAGE: 28 TYPE: =
 NAT: AACSB Analytic AICPA Legal

B3. The executive branch is the final authority concerning the constitutionality of a law.

ANSWER: F PAGE: 28 TYPE: =
 NAT: AACSB Analytic AICPA Legal

- B4. A long arm statute permits a court to obtain jurisdiction over an out-of-state defendant.

ANSWER: T

PAGE: 30

TYPE: =

NAT: AACSB Analytic

AICPA Legal

- B5. A state court cannot exercise jurisdiction over property located within the state's boundaries regardless of the property owners' location.

ANSWER: T PAGE: 30 TYPE: =
NAT: AACSB Analytic AICPA Legal

- B6. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which it is incorporated.

ANSWER: F PAGE: 33 TYPE: =
NAT: AACSB Analytic AICPA Legal

- B7. A business firm may have to comply with the laws of any jurisdiction in which it actively targets customers.

ANSWER: T PAGE: 34 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

- B8. To have standing to sue, a party must have been injured or have been threatened with injury by the action about which he or she is complaining.

ANSWER: T PAGE: 35 TYPE: =
NAT: AACSB Analytic AICPA Legal

- B9. Small claims courts are inferior state trial courts.

ANSWER: T PAGE: 38 TYPE: N
NAT: AACSB Analytic AICPA Legal

- B10. Courts of appeals conduct new trials in which evidence is submitted to the court and witnesses are examined.

ANSWER: F PAGE: 38 TYPE: N
NAT: AACSB Reflective AICPA Critical Thinking

- B11. U.S. district courts have original jurisdiction in matters involving federal questions.

ANSWER: T PAGE: 39 TYPE: N

NAT: AACSB Reflective

AICPA Critical Thinking

- B12. The United States Supreme Court can review any case decided by any of the federal courts of appeals.

ANSWER: T

PAGE: 39

TYPE: N

NAT: AACSB Analytic

AICPA Legal

- B13. Most lawsuits are settled or dismissed before they go to trial.

ANSWER: T

PAGE: 41

TYPE: =

NAT: AACSB Reflective

AICPA Risk Analysis

- B14. In mediation, the mediator proposes a solution that includes what compromises are necessary to reach an agreement.

ANSWER: T

PAGE: 41

TYPE: =

NAT: AACSB Reflective

AICPA Critical Thinking

- B15. Mediation is adversarial in nature.

ANSWER: F

PAGE: 41

TYPE: =

NAT: AACSB Reflective

AICPA Critical Thinking

- B16. A court's review of an arbitrator's award may be restricted.

ANSWER: T

PAGE: 42

TYPE: =

NAT: AACSB Analytic

AICPA Legal

- B17. Mandatory arbitration clauses in employment contracts are generally enforceable.

ANSWER: T

PAGE: 44

TYPE: +

NAT: AACSB Analytic

AICPA Legal

- B18. A mini-trial is a private proceeding in which each party's attorney argues the party's case before the other party.

ANSWER: T

PAGE: 45

TYPE: =

NAT: AACSB Reflective

AICPA Critical Thinking

B19. The verdict in a summary jury trial is binding.

ANSWER: F

PAGE: 45

TYPE: =

NAT: AACSB Analytic

AICPA Legal

- B20. A choice-of-law clause designates the jurisdiction for the litigation of disputes arising under a contract.

ANSWER: F PAGE: 46 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

MULTIPLE CHOICE QUESTIONS

- B1. Harvey, a resident of Indiana, has an accident with Janette, a resident of Kentucky, while driving through that state. Janette files a suit against Harvey in Kentucky. Regarding Harvey, Kentucky has

- a. diversity jurisdiction.
- b. in personam jurisdiction.
- c. in rem jurisdiction.
- d. no jurisdiction.

ANSWER: B PAGE: 30 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B2. Tyler, a citizen of Utah, files a suit in a Utah state court against Veritas 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.

ANSWER: A PAGE: 32 TYPE: N
NAT: AACSB Reflective AICPA Legal

- B3. Lora is a resident of Illinois. Ned is a resident of Wisconsin. They dispute the ownership of a boat docked in a Michigan harbor. This diversity of citizenship could serve as a basis for

- a. federal jurisdiction.
- b. general jurisdiction.

- c. limited jurisdiction.
- d. state jurisdiction.

ANSWER: A

NAT: AACSB Reflective

PAGE: 33

AICPA Legal

TYPE: N

- B4. 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 commercial cyber presence in Missouri.
 - conducted substantial business with Missouri residents.
 - general maximum contact with Missouri.
 - solicited virtual business in Missouri.

ANSWER: B PAGE: 34 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B5. Lacey files a suit in Michigan against Ned over the ownership of a boat docked in a Michigan harbor. Lacey 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: 34 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B6. Child's Play, Inc., sells a toy with a dangerous defect. Drew buys the toy for his son but discovers the defect before the child is injured. Drew files a suit against Child's Play. The firm's best ground for dismissal of the suit is that Drew does not have
- certiorari.
 - jurisdiction.
 - standing to sue.
 - sufficient minimum contacts.

ANSWER: C PAGE: 35 TYPE: =
NAT: AACSB Reflective AICPA Decision Modeling

- B7. 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. a U.S. district court.
 - b. the Minnesota Supreme Court.
 - c. the United States Supreme Court.
 - d. the U.S. Court of Appeals for the Eighth Circuit.

ANSWER: B PAGE: 38 TYPE: =
NAT: AACSB Reflective AICPA Critical Thinking

- B8. 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: 40 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B9. Milo files a suit against Otis. At the trial, each party's attorney presents the party's case before a judge who hears the dispute and renders a legally binding decision. This is
- a. a mini-trial.
 - b. a summary jury trial.
 - c. litigation.
 - d. not a legitimate form of dispute resolution.

ANSWER: C PAGE: 41 TYPE: +
NAT: AACSB Reflective AICPA Critical Thinking

B10. Jackson files a suit against Lance. Before going to trial, the parties, with their attorneys, meet to try to resolve their dispute. A third party suggests or proposes a resolution, which the parties may or may not decide to adopt. This is

- a. arbitration.
- b. mediation.
- c. negotiation.
- d. not a legitimate form of dispute resolution.

ANSWER: B PAGE: 41 TYPE: +
NAT: AACSB Reflective AICPA Critical Thinking

B11. Pixie files a suit against Quiver. 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 imposes a resolution on the parties. This is

- a. arbitration.
- b. mediation.
- c. negotiation.
- d. not a legitimate form of dispute resolution.

ANSWER: A PAGE: 42 TYPE: +
NAT: AACSB Reflective AICPA Critical Thinking

B12. Owen, in Pennsylvania, and Quonset Structures, 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

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

B13. Eager Workers Union and Factory Assembly Company have their dispute resolved in arbitration. The arbitrator makes a mistake in a conclusion of law. This is a ground for a court to

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

B14. Far Trade Company and Global Shipping, Inc., have their dispute resolved in arbitration. The arbitrator meets with Far's representative to discuss the dispute outside the presence of Global's representative, before determining the award. If this meeting substantially prejudiced Global's rights, a court will most likely

- a. do nothing.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside the award.

ANSWER: A PAGE: 42 TYPE: =
NAT: AACSB Reflective AICPA Legal

B15. Massive Equipment Company and Wastewater Management Corporation agree in writing to submit a dispute to arbitration. In most circumstances, submission to arbitration is possible

- a. for **any** commercial matter.
- b. for **no** commercial matter.
- c. only **after** a dispute arises.
- d. only **before** a dispute arises.

ANSWER: A PAGE: 43 TYPE: N
NAT: AACSB Reflective AICPA Legal

B16. Seaside Resort, Inc., adopts an alternative dispute resolution (ADR) program. Tess, a current employee, signs an agreement under which arbitration is subject to “Seaside’s rules, with the employee to bear all costs of the proceeding.” When a dispute arises, Tess refuses to arbitrate. Seaside files a suit to compel arbitration. The court will most likely

- a. order arbitration according to Seaside’s rules.
- b. order arbitration but suspend Seaside’s rules.
- c. refuse to order arbitration if a resolution of the dispute is clear.
- d. refuse to order arbitration if Tess lacks the ability to pay.

ANSWER: D PAGE: 44 TYPE: N
NAT: AACSB Reflective AICPA Risk Analysis

B17. Kobe files a suit against Joanna. They meet, and each party’s attorney argues the party’s case before a judge and jury. The jury presents an advisory verdict, after which the judge meets with the parties to encourage them to settle their dispute. This is

- a. a mini-trial.
- b. a summary jury trial.
- c. early neutral case evaluation.
- d. not a legitimate form of dispute resolution.

ANSWER: B PAGE: 45 TYPE: +
NAT: AACSB Reflective AICPA Legal

B18. 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

- a. not at all.
- b. until the ODR service has issued a decision.
- c. with respect to any dispute arising between them.
- d. with respect to this dispute only.

ANSWER: A PAGE: 45 TYPE: =
NAT: AACSB Reflective AICPA Legal

- B19. Pan American Pancake House, Inc., a U.S. firm, and Wallaby Waffles, Ltd., an Australian firm, enter into a contract that does not have a forum-selection or choice-of-law clause. Litigation between Pan American and Wallaby over a dispute involving this contract may occur in
- Australia only.
 - Australia or the United States, but not both.
 - Australia, the United States, or both.
 - the United States only.

ANSWER: C PAGE: 46 TYPE: =
 NAT: AACSB Reflective AICPA Legal

- B20. A clause in a contract between Tall Timber Corporation, a U.S. firm, and Wang Woods, Ltd., a Japanese firm, specifies that disputes over the contract will be adjudicated in the United States. This is
- a domestic-dispute clause.
 - a forum-selection clause.
 - an adjudication clause.
 - an arbitration clause.

ANSWER: B PAGE: 46 TYPE: =
 NAT: AACSB Reflective AICPA Legal

ESSAY QUESTIONS

- B1. MicroWare hosts a Web site that advertises its software products, features upgrades and “patches” for its existing software products, and accepts orders for the products from consumers throughout the world. Mary, who owns and operates Business Records, Inc., a small bookkeeping and payroll business in Colorado, orders from the Web site a copy of MicroWare’s Office Books software. Office Books is designed to help accountants and bookkeepers keep accurate business records. When Office Books is found to have a defect in its calculating program, MicroWare offers a patch on its Web site to fix the problem. Mary has already lost several customers because of the miscalculating defect, however, and files a suit against

MicroWare in a Colorado state court. Can the court exercise jurisdiction over MicroWare? Why or why not?

ANSWER: Some courts have upheld exercises of jurisdiction on the basis of the accessibility of a Web page. Other courts have concluded that without more, a presence on the Web is not enough to support jurisdiction over a nonresident. The standard that is generally accepted for evaluating the exercise of jurisdiction based on contacts over the Internet is a “sliding scale.” On the scale, a court’s exercise of personal jurisdiction depends on the amount of business that an individual or firm transacts over the Internet. A Web site that provides upgrades and “patches,” and accepts orders from customers has a high degree of interactivity. There may be a question as to the amount of business that MicroWare transacts with residents of Colorado. If that business is substantial, MicroWare would likely be subject to the court’s jurisdiction.

PAGES: 33–34

TYPE: =

NAT: AACSB Reflective

AICPA Decision Modeling

- B2. Worldwide Trucking Corporation files a suit in a state court against XL Service Company, and wins. XL appeals the court’s decision, asserting that the evidence presented at trial to support Worldwide’s claim was such that no reasonable jury could have found for the plaintiff. Therefore, argues XL, the appellate court should reverse the trial court’s decision. May an appellate court ever reverse a trial court’s findings with respect to questions of fact?

ANSWER: An appellate court will reverse a lower court’s decision on the basis of the facts only when the finding is clearly erroneous (that is, when it is contrary to the evidence presented at trial) or when there is no evidence to support the finding. 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.

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