

## Chapter 2

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# Courts and Alternative Dispute Resolution

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### TRUE/FALSE QUESTIONS

B1. The federal courts are superior to the state courts.

ANSWER: F

BUSPROG: Analytic

PAGES: Introduction

AICPA: BB-Legal

B2. Laws would be meaningless without the courts to interpret and apply them.

ANSWER: T

BUSPROG: Analytic

PAGES: Section 1

AICPA: BB-Legal

B3. Because corporations are *not* considered legal persons, courts use different principles to determine whether it is fair to exercise jurisdiction over a corporation.

ANSWER: F

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

B4. Under the authority of a long arm statute, a court can exercise personal jurisdiction over certain out-of-state defendants.

ANSWER: T

BUSPROG: Analytic

PAGES: Section 2

AICPA: BB-Legal

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B5. A court can exercise jurisdiction over property that is located within its boundaries.

ANSWER: T PAGES: Section 2  
BUSPROG: Analytic AICPA: BB-Legal

B6. The minimum-contacts requirement is usually met if a corporation advertises or sells its products within a state.

ANSWER: T PAGES: Section 2  
BUSPROG: Reflective AICPA: BB-Critical Thinking

B7. For purposes of diversity of citizenship, a corporation is a citizen only of the state in which its principal place of business is located.

ANSWER: F PAGES: Section 2  
BUSPROG: Analytic AICPA: BB-Legal

B8. To have standing to sue, a party must have complaining sufficient stake in a matter to justify seeking relief through the court system.

ANSWER: T PAGES: Section 2  
BUSPROG: Analytic AICPA: BB-Legal

B9. Small claims courts are inferior trial courts.

ANSWER: T PAGES: Section 2  
BUSPROG: Analytic AICPA: BB-Legal

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

ANSWER: F PAGES: Section 2  
BUSPROG: Reflective AICPA: BB-Critical Thinking

B11. U.S. district courts have concurrent jurisdiction with state courts in matters involving federal questions.

ANSWER: F PAGES: Section 3  
BUSPROG: Reflective AICPA: BB-Critical Thinking

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ANSWER: F PAGES: Section 5  
BUSPROG: Reflective AICPA: BB-Critical Thinking

B20. The United States will *not* enforce a foreign court's decision.

ANSWER: F PAGES: Section 5  
BUSPROG: Reflective AICPA: BB-Critical Thinking

**MULTIPLE-CHOICE QUESTIONS**

B1. As a judge in a federal court, Christine can decide, among other things, whether the laws or actions of the executive and legislative branches are constitutional. The process for making this determination is known as

- a. judicial review.
- b. jurisdiction.
- c. venue.
- d. early neutral case evaluation.

ANSWER: A PAGES: Section 1  
BUSPROG: Reflective AICPA: BB-Legal

B2. Fresh Harvest Company, which is based on Georgia, packages and sells vegetables. Hayden, who is a resident of Indiana, buys a Fresh Harvest product, eats it, and suffers severe food poisoning. Hayden wants to file a suit against Fresh Harvest. 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 PAGES: Section 2  
BUSPROG: Reflective AICPA: BB-Legal

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- B9. The Iowa Supreme Court rules against Jennifer in a case against Kut-Rate Stores, Inc. Jennifer wants to appeal her case to the United States Supreme Court. She must ask the Court to issue a writ of
- appeal.
  - certiorari*.
  - jurisdiction.
  - summons.

ANSWER: B                      PAGES: Section 3  
BUSPROG: Reflective                      AICPA: BB-Critical Thinking

- B10. Lorena files a suit against Milton. 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
- arbitration.
  - mediation.
  - negotiation.
  - not a legitimate form of dispute resolution.

ANSWER: B                      PAGES: Section 4  
BUSPROG: Reflective                      AICPA: BB-Critical Thinking

- B11. Orson files a suit against Portia. 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
- arbitration.
  - mediation.
  - negotiation.
  - not a legitimate form of dispute resolution.

ANSWER: A                      PAGES: Section 4  
BUSPROG: Reflective                      AICPA: BB-Critical Thinking

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- 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                      PAGES: Section 4  
 BUSPROG: Reflective                      AICPA: BB-Legal

B19. To resolve a dispute in nonbinding arbitration, Alyson in Baltimore and Chuck in Denver utilize E-Resolve, 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                      PAGES: Section 4  
 BUSPROG: Reflective                      AICPA: BB-Legal

B20. Transcontinental Tours, a U.S. firm, and Victoria Hotels, Ltd., a Canadian firm, enter into a contract that does not have a forum-selection or choice-of-law clause. Litigation between Transcontinental and Victoria over a dispute involving this contract may occur in

- a. Canada only.
- b. Canada or the United States, but not both.
- c. Canada, the United States, or both.
- d. the United States only.

ANSWER: C                      PAGES: Section 5  
 BUSPROG: Reflective                      AICPA: BB-Legal

### ESSAY QUESTIONS

B1. BizApps hosts a Web site that advertises its software products, features upgrades and patches for its existing products, and accepts orders from customers throughout the world. Cassie, who owns and operates Holiday Vacations, Inc., a travel agency in Wyoming, orders from the Web site a copy

of BizApps's Price Control software. Price Control is designed to help businesses obtain the best prices for their products and services. When Price Control is found to have a defect in its calculating program, BizApps offers a patch on its Web site to fix the problem. Cassie has already lost profits because of the miscalculating defect, however, and files a suit against BizApps in a Wyoming state court. Can the court exercise jurisdiction over BizApps? 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. Courts generally use a "sliding scale" standard for evaluating the exercise of jurisdiction based on contacts over the Internet. On that 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 accepts orders from customers and provides upgrades and "patches" has a high degree of interactivity. There may be a question as to the amount of business that BizApps transacts with residents of Wyoming. If that business is substantial, BizApps would likely be subject to the court's jurisdiction.

**PAGES:** Section 2

**BUSPROG:** Reflective

**AICPA:** BB-Decision Modeling

- B2. Able 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 Able Trucking'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? Explain.

**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 trial court's decision with regard to the facts of a case, however, for several reasons. First, trial court 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. Second, as occurs when there is no

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jury and the case is heard by a judge, 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.

PAGES: Section 3  
BUSPROG: Reflective

AICPA: BB-Critical Thinking

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