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Chapter 2

Courts and Alternative Dispute Resolution

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

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

- a. appeal.
- b. *certiorari*.
- c. jurisdiction.
- d. 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

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

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

ANSWER: A

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B12. The least expensive method of resolving a dispute between Ronald and Sharon 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

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B13. Bean House Coffees and Java Distributors, Inc., have a long-standing business relationship that they would like to continue. For this reason, they may prefer to settle any dispute between them through 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

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Critical Thinking

B14. HoneyBee Foods, Inc., in Illinois, and Jelly Roll Pastries, in Kentucky, consent to have their dispute resolved in arbitration according to the law of Illinois. This is a ground for a court to

- a. compel arbitration.
- b. review the merits of the dispute.
- c. review the sufficiency of the evidence.
- d. set aside any award.

ANSWER: A

PAGES: Section 4

BUSPROG: Reflective

AICPA: BB-Legal

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