Legal Environment of Business 10th edition Cheeseman Test Bank

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Legal Environment of Business, 10e **(Cheeseman)**
Chapter 1 Legal Environment of Business and Digital Commerce

1) Jordan is majoring in marketing and does not plan to attend law school. Jordan believes that enrolling in a Legal Environment of Business course would offer little benefit because legal principles are only relevant to attorneys. Based on the role of law in business decision-making, Jordan's belief is best evaluated as:
A) accurate, because legal rules primarily affect courtroom litigation
B) accurate, because non-legal careers rarely involve legal risk
C) inaccurate, because legal principles influence contracts, regulation, and ethical business practices
D) inaccurate, but only for students pursuing management or finance careers
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

2) All of the following are rights highlighted as benefits of centuries of developed laws, EXCEPT:
A) Freedom to avoid paying taxes
B) Freedom to enter into contracts
C) Freedom to operate without government oversight
D) Freedom from all business regulation
Answer: B
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

3) Why is taking a legal environment or business law course considered important for students?
A) It eliminates the need for professional legal advice.
B) It guarantees students will become practicing attorneys.
C) It provides a foundation for making informed decisions in both business and personal life.
D) It replaces the role of government in guiding business practices.
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

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4) A recent college graduate is starting a small business. To succeed, she needs to understand how laws allow her to form a corporation, protect employees, and safeguard consumers. This illustrates that:
A) laws only benefit large multinational corporations
B) knowledge of business law is essential for making informed business and career decisions
C) legal knowledge is unnecessary unless one becomes a lawyer
D) laws function mainly as obstacles to entrepreneurial activity
Answer: B
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

5) During a job interview, an employer asks a candidate to describe how a business law course has prepared them for the workplace. The best response would be:
A) "It taught me how to memorize laws, but I don't see much real-world use."
B) "It gave me insight into the history of the U.S. Constitution."
C) "It developed my ability to analyze legal concepts, apply them to real-world cases, and make informed workplace decisions."
D) "It allowed me to avoid taking more challenging business courses."
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

6) Freedoms like the ability to enter into contracts and protections under consumer laws exist only in certain industries and do not universally apply to all businesses or individuals.
Answer: FALSE
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

7) Professors who teach business law courses typically have extensive knowledge and experience in legal subjects.
Answer: TRUE
Diff: 1
Skill: Legal Concepts
LO: 1.1 Recognize the importance of business law for your career.
AACSB: Analytical thinking
Classification: Concept

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8) Law is described as _____.
A) a body of rules of action or conduct prescribed by controlling authority and having binding legal force
B) a study of fundamental problems, such as those connected with existence like knowledge and language
C) a legal system that builds and organizes knowledge in the form of testable explanations and predictions
D) a group of legal hypotheses employed to explain a legal phenomenon
Answer: A
Diff: 1
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

9) Which of the following would be considered an example of shaping moral standards, as seen as a function of the law?
A) laws granting freedom of speech and religion
B) laws discouraging drug and alcohol abuse
C) laws providing for the right to peaceful protest
D) laws preventing the overthrow of a government
Answer: B
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

10) What function of the law is being served when passing laws that prohibit discrimination at workplaces?
A) keeping the peace
B) providing a basis for compromise
C) maintaining the status quo
D) promoting social justice
Answer: D
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

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11) Halfren, a county in the state of Halizona, is earthquake-prone. The governor of Halizona sets up a committee to explore the possible methods that could be used to minimize damage and loss of life. The committee found that a new technique of using steel reinforcements in building columns would help reduce overall damages. The findings were put to a debate at the local town hall, where it was accepted by a majority of the residents. The state government then passed a law making it mandatory to use the new technique while constructing new buildings in Halfren. Which of the following functions of the law did the state government of Halizona exhibit in this case?
A) promoting social justice
B) maximizing individual freedom
C) shaping moral standards
D) facilitating orderly change
Answer: D
Diff: 3
Skill: Factual Application
LO: 1.2 Define law.
AACSB: Application of knowledge
Classification: Application

12) What function of the law is being served when passing laws that protect the U.S. government from the risk of being forcefully overthrown?
A) maintaining the status quo
B) shaping moral standards
C) facilitating orderly change
D) promoting social justice
Answer: A
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

13) By allowing the U.S. citizens to practice any religion of their choice, what essential function of the law does the U.S. Constitution serve?
A) facilitating orderly change
B) maintaining the status quo
C) maximizing individual freedom
D) facilitating planning
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

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14) Mark Walton was involved in a car accident in which the airbag of his car failed to deploy. He sued the car manufacturer for installing faulty airbags. But in the course of the case being heard in court, the car company and Mark decided to settle the lawsuit out of court. What important function of the law was served in this case?
A) promoting social justice
B) maximizing individual freedom
C) providing a basis for compromise
D) maintaining the status quo
Answer: C
Diff: 2
Skill: Factual Application
LO: 1.2 Define law.
AACSB: Application of knowledge
Classification: Application

15) What function of the law is being served when a state legislature enacts a statute making murder a crime?
A) keeping the peace
B) providing a basis for compromise
C) maintaining the status quo
D) promoting social justice
Answer: A
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

16) The City of Hilbert is considering rezoning a part of its downtown so Flatlands University can build a satellite campus there. In accordance with local ordinance, the City Council will first conduct public hearings, then debate the proposed rezoning ordinance during one its regular meetings, and finally vote on the proposed rezoning ordinance at its regular meetings. This would be an example of which function of the law?
A) keeping the peace
B) providing a basis for compromise
C) maintaining the status quo
D) facilitating orderly change
Answer: D
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

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17) When deciding in which state to start their new business, the founders of Telstar Autos decided to set up shop in the State of Indillowa due to its well-designed commercial laws that allow businesses to plan their activities, allocate their productive resources, and assess the risks they take. This would be an example of the facilitating planning function of the law.
Answer: TRUE
Diff: 2
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

18) Maintaining the status quo is a key function of the law, which includes laws that prevent the violent overthrow of governments.
Answer: TRUE
Diff: 1
Skill: Legal Concepts
LO: 1.2 Define law.
AACSB: Analytical thinking
Classification: Concept

19) The Analytical School of Jurisprudence maintains that the law should be _____.
A) shaped by logic
B) based on social behavior
C) set by the ruling class
D) based on morality
Answer: A
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

20) Which school of jurisprudence views law as a sort of evolutionary process, where changing norms of society will be reflected in the law?
A) the Natural Law School of jurisprudence
B) the Sociological School of jurisprudence
C) the Analytical School of jurisprudence
D) the Historical School of jurisprudence
Answer: D
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

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21) Imposing a ban on public smoking can serve as an example of a law that adheres to the _____ School of jurisprudence.
A) Historical
B) Sociological
C) Natural
D) Analytical
Answer: B
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

22) Proponents of the _____ School of Jurisprudence assert that the law is a collection of a society's traditions and customs that has developed over the centuries.
A) Historical
B) Sociological
C) Analytical
D) Natural
Answer: A
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

23) Which school of jurisprudence bases its principles, for solving legal disputes, on broad notions of fairness and the idea that law is derived from what is morally right or wrong?
A) Historical
B) Sociological
C) Analytical
D) Natural
Answer: D
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

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24) Which school of jurisprudential thought is reflected in documents such as the U.S. Constitution, the Magna Carta, and the United Nations Charter?
A) the Natural Law School
B) the Historical School
C) the Sociological School
D) the Analytical School
Answer: A
Diff: 2
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

25) The Analytical School of jurisprudence focuses on the logic and reasoning behind legal decisions, rather than the social or moral consequences of the outcomes.
Answer: TRUE
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

26) The Natural Law School of jurisprudence emphasizes shaping laws based on morality and ethics.
Answer: TRUE
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

27) The Historical School of jurisprudence believes that changes in the norms of society will gradually be reflected in the law.
Answer: TRUE
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

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28) The Analytical School of jurisprudence emphasizes shaping laws on the basis of morality and ethics.
Answer: FALSE
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

29) The Natural Law School of jurisprudence maintains that the law is shaped by logic.
Answer: FALSE
Diff: 1
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

30) Differentiate between the Historical School of jurisprudence and the Sociological School of jurisprudence.
Answer: The Historical School of jurisprudence believes that the law is an aggregate of social traditions and customs that have developed over the centuries. It believes that changes in the norms of society will gradually be reflected in the law. To these legal philosophers, the law is an evolutionary process. Historical legal scholars look to past legal decisions (precedent) to solve contemporary problems.
The Sociological School of jurisprudence asserts that the law is a means of achieving and advancing certain sociological goals. The followers of this philosophy, known as realists, believe that the purpose of law is to shape social behavior. Sociological philosophers are unlikely to adhere to past law as precedent.
Diff: 2
Skill: Legal Concepts
LO: 1.3 Summarize the schools of judicial thought.
AACSB: Analytical thinking
Classification: Concept

31) What is considered as the supreme law of the land in the United States?
A) judicial decisions issued by the state courts
B) the Constitution of the United States of America
C) the federal statutes passed by the U.S. Congress
D) executive orders passed by the president
Answer: B
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

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32) The _____ branch of the federal government has the power to enforce the law.
A) judicial
B) legislative
C) executive
D) commissary
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

33) What is the function of the judicial branch of the federal government?
A) It has the power to interpret and determine the validity of the law.
B) It has the power to enact the law.
C) It has the power to enforce the law.
D) It has the power to act as a liaison between the legislative and executive branches.
Answer: A
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

34) The _____ branch of the federal government has the power to enact laws.
A) legislative
B) judiciary
C) consulate
D) executive
Answer: A
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

35) A(n) _____ is a compact made between two or more nations.
A) amendment
B) treaty
C) charter
D) statute
Answer: B
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

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36) A(n) _____ is a written law enacted by the legislative branch of the federal and state governments that establishes certain courses of conduct to which covered parties must adhere.
A) charter
B) treaty
C) executive order
D) statute
Answer: D
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

37) From the following, identify an example of codified law in the United States.
A) judicial rulings
B) federal statutes
C) treaties
D) executive orders
Answer: B
Diff: 2
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

38) Ordinances are codified laws that are issued by _____.
A) the president
B) the state legislature
C) the Supreme Court judges
D) local government bodies
Answer: D
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
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39) _____ are established by the legislative and executive branches of the federal government to enforce and interpret statutes enacted by the Congress and state legislatures.
A) Commissaries
B) State courts
C) Administrative agencies
D) Councils
Answer: C
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

40) What is a judicial decision?
A) a decision issued by the executive branch in a state of emergency
B) a decision about an individual lawsuit issued by a federal or state court
C) a codified law passed by the state legislature
D) a decision issued by the legislative branch to establish courses of conduct to which covered parties must adhere
Answer: B
Diff: 2
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

41) The Securities and Exchange Commission, created by the Congress to enforce federal securities laws, is an example of a(n) _____.
A) intelligence agency
B) congressional body
C) judicial body
D) administrative agency
Answer: D
Diff: 1
Skill: Legal Concepts
LO: 1.4 Describe the sources of law in the United States.
AACSB: Analytical thinking
Classification: Concept

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Chapter 4
Judicial and Alternative Dispute Resolution

"We're the jury, dread our fury!"
—William S. Gilbert, *Trial by Jury (1875)*

I. Teacher to Teacher Dialogue

Only a small percentage of civil cases ever make it to trial—most are resolved through settlement long before a verdict is reached. Settling is typically faster, less expensive, and more predictable than taking a case to trial. In my own practice, I even had several cases settle while the jury was still deliberating.

When teaching this topic, I focus on giving students a realistic understanding of how the legal system operates. I start by sharing statistics that show how few disputes actually reach the trial stage, and how even fewer are ultimately published in the National Reporter System. From there, I transition into the growing role of alternative dispute resolution (ADR) in today's legal environment. I highlight the main features of each ADR method—mediation, arbitration, negotiation—and use practical examples and local statutes to illustrate how these approaches are increasingly used to resolve conflicts efficiently.

Of course, not every dispute can be settled through ADR. Some cases still proceed to court, so I also emphasize the key stages of civil litigation, from filing the complaint to the trial process and appeal. For instructors with experience as trial attorneys, this is a natural opportunity to connect classroom discussion to real-world practice.

Finally, I like to engage students by asking about their own experiences with the court system—whether as jurors, witnesses, or observers. I always remind them, though, to share only what they feel comfortable discussing and to avoid personal or confidential details.

II. Learning Objectives

4.1 Summarize how disputes are resolved by courts and the judicial system.
4.2 Define *complaint*, *summons*, and *answer*, and describe the pleading process.
4.3 Describe the discovery process and the various methods of discovery.
4.4 Contrast the different types of pretrial motions.
4.5 Summarize the trial process.
4.6 Describe the appellate process and the possible results of an appeal.
4.7 Explain the use of arbitration and other methods of alternative dispute resolution.

III. Key Question Checklist

- ❖ Does the dispute or controversy lend itself to an out-of-court resolution, or must it be resolved through the court system?
- ❖ If the dispute proceeds to court, which court has jurisdiction and what steps initiate the case (complaint, summons, and answer)?
- ❖ Have the parties completed discovery and used the appropriate methods to obtain evidence?
- ❖ Were the correct pretrial motions filed and resolved before trial?
- ❖ Was the trial conducted according to proper procedure—from jury selection to verdict?
- ❖ Following the trial, what appellate options are available and what outcomes can result from an appeal?

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- ❖ Could the parties have used arbitration or another form of alternative dispute resolution to resolve the case more efficiently?

IV. Chapter Outline

Introduction to Judicial and Alternative Dispute Resolution

The process of bringing, maintaining, and defending a lawsuit is called litigation, or judicial dispute resolution, because courts are used to decide the case. Litigation is often complex, time-consuming, and expensive, and most parties hire attorneys to represent them. To reduce the cost and difficulty of lawsuits, many parties turn to alternative dispute resolution (ADR) methods—such as negotiation, mediation, and arbitration—which are increasingly used to settle contract and commercial disputes. Courts and parties now also rely heavily on digital tools for filing documents and conducting online arbitration and mediation.

Judicial Resolution of Disputes

Judicial dispute resolution involves using the federal or state court system to resolve legal controversies. Each level of government has its own court structure, and most courts now allow or require electronic filing of legal documents. The process of bringing, maintaining, and defending a lawsuit is known as the litigation process, or simply litigation.

Jury Trial – The Sixth Amendment guarantees the right to a trial by an impartial jury in all criminal prosecutions, whether heard in federal or state court. The Seventh Amendment provides the right to a jury trial in certain civil cases heard in federal court. Although the Seventh Amendment does not apply to state courts, most states independently grant the right to a jury trial in civil lawsuits. Thus, both criminal defendants and civil litigants are generally entitled to have their cases decided by a jury of their peers.

CASE 4.1 Federal Court Case Jury Verdict

Stults v. International Flavors & Fragrances, Inc.
815 F.3d 409
(United States Court of Appeals for the Eighth Circuit, 2016)
Case: Stults claimed exposure to diacetyl in microwave popcorn caused his lung disease, while IFF argued it was due to an autoimmune condition. The jury sided with IFF based on conflicting expert testimony. Stults moved for the court to overturn the verdict or grant a new trial.
Issue: Should the court overturn the jury's verdict or grant a new trial?
Decision: The court upheld the jury's verdict, finding sufficient evidence to support the decision.
Critical Thinking Question: What role does conflicting expert testimony play in jury decisions, and why is it difficult for a court to overturn a jury's verdict in such cases?

Bench Trial – Parties in criminal or civil cases can waive the right to a jury trial, resulting in a bench trial where the judge decides both questions of fact and law. Bench trials are common in business-related, real property, and specific types of cases like family law, probate, minor civil claims, traffic violations, and juvenile matters, while jury trials are more frequent in criminal defense, negligence, and product liability cases.

Attorney Representation – Individuals have the right to represent themselves in court as pro se litigants, though this is rare and discouraged. Most parties in criminal and civil cases hire attorneys, who typically charge hourly rates based on case type, experience, and location. In criminal cases, the government is represented by a prosecutor, and defendants unable to afford an attorney are provided one by the government. In certain civil cases, attorneys may work on a contingency fee basis, earning a percentage of the recovery amount (typically 20–50%) only if the case is won or settled, commonly used in personal injury lawsuits like auto accidents and

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medical malpractice.

Legal Environment
Cost-Benefit Analysis of a Lawsuit
The choice of whether to bring or defend a lawsuit, or to settle a lawsuit, should be analyzed like any other business decision. This includes performing a cost–benefit analysis of the lawsuit.

Pleadings
The paperwork filed to initiate and respond to a lawsuit is known as the pleadings. These include the complaint and summons, the answer, and any cross-complaints and replies, as well as interventions and consolidation requests.

Complaint and Summons – To initiate a lawsuit, the party who is suing (the plaintiff) must file a complaint in the proper court. A summons is a court order directing the defendant to appear in court and answer the complaint. The complaint and summons are served on the defendant. This is called service of process.

Answer – The defendant, the party who is being sued, must file an answer to the plaintiff's complaint.

Affirmative Defenses – In addition to answering the complaint, a defendant's answer can assert affirmative defenses.

Cross-Complaint and Reply – A defendant who believes he or she has been injured by the plaintiff can file a cross-complaint against the plaintiff in addition to an answer. The original plaintiff must file a reply (answer) to the cross-complaint.

Intervention and Consolidation – If other persons have an interest in a lawsuit, they may intervene and become parties to the lawsuit. This is called intervention. If several plaintiffs have filed separate lawsuits stemming from the same fact situation against the same defendant, the court can consolidate the cases into one case if doing so would not cause undue prejudice to the parties.

Statute of Limitations – A statute of limitations establishes the period during which a plaintiff must bring a lawsuit against a defendant. If a lawsuit is not filed within this time, the plaintiff loses the right to sue. A statute of limitations begins to "run" at the time the plaintiff first has the right to sue the defendant.

Legal Environment
Class Action Lawsuits
A class action occurs when a group of plaintiffs collectively bring a lawsuit against a defendant. To maintain a class action lawsuit, a class must be certified by the appropriate federal or state court. A class can be certified if the legal and factual claims of all the parties are common.

Class Action Fairness Act
The purpose of class actions is to provide individual consumers with the financial ability to address claims they have against major corporations. Yes, many plaintiffs would not be able to afford to sue large companies as individual plaintiffs.

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The Class Action Fairness Act (CAFA) gives federal courts power to hear cases which are worth over $5 million that state courts would have otherwise heard in the past. Federal courts also may rule upon the reasonableness of non-cash or coupon settlements.

Discovery
A legal process during which both parties engage in various activities to discover facts of the case from the other party and from witnesses prior to trial. Examples include depositions and interrogatories.

Deposition – A deposition is oral testimony given by a party or witness prior to trial. The person giving a deposition is called the deponent.

Interrogatories – Interrogatories are written questions submitted by one party to a lawsuit to another party.

Physical or Mental Examination – In cases that concern the physical or mental condition of a party, a court can order the party to submit to certain physical or mental examinations to determine the extent of the alleged injuries.

Production of Documents – One party to a lawsuit may request that the other party produce all documents that are relevant to the case prior to trial. This is called production of documents.

Artificial Intelligence and Digital Evidence – In modern litigation and arbitration, parties must produce all relevant electronically stored information (ESI), which may include data created or analyzed by artificial intelligence (AI). Discoverable ESI can consist of emails, texts, social media posts, digital files, metadata, blockchain records, smart contracts, and other electronic data. Parties are required to preserve and produce this information in an organized manner, either as kept in the ordinary course of business or according to discovery requests. If disputes arise over production, the court resolves them, and computer forensics experts may be needed to locate or recover deleted or hidden digital evidence.

Artificial Intelligence and Tech
Social Media Postings and Images as Discoverable Evidence
Courts increasingly recognize that social media content can serve as relevant evidence in litigation. In *Nucci v. Target Corporation* (2015), the plaintiff claimed severe and lasting injuries after a fall in a Target store. Surveillance videos and her social media photos showed her engaging in physical activities inconsistent with her claims. The court held that photographs posted on social media are discoverable because they can accurately reflect a person's lifestyle and physical condition. As the court noted, "there is no better portrayal of what an individual's life was like than those photographs the individual has chosen to share through social media."

Pretrial Motions
Pretrial motions like a motion for judgment on the pleadings and a motion for summary judgment are used to try to dispose of all or part of the lawsuit prior to trial.

Motion to Dismiss – A motion to dismiss is filed by a defendant after a complaint is submitted, often instead of filing an answer. It asks the court to dismiss the case based solely on the complaint and its attachments. Common grounds include lack of jurisdiction, improper service, or filing in the wrong court. A case may also be dismissed if the complaint fails to state a valid legal claim. Courts grant motions to dismiss to eliminate frivolous or legally insufficient lawsuits before they proceed further.

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Motion for Judgment on the Pleadings – Motion that alleges that if all the facts presented in the pleadings are taken as true, the party making the motion would win the lawsuit when the proper law is applied to these asserted facts.

Motion for Summary Judgment – Motion asserting that there are no factual disputes to be decided by the jury; if so, the judge can apply the proper law to the undisputed facts and decide the case without a jury.

State Court Case
CASE 4.2 Federal Court Case Summary Judgment
Casey v. McDonald's Corporation
880 F.3d 564 (2018)
United States Court of Appeals for the District of Columbia
Facts: Two groups began an altercation at McDonald's. The altercation moved outside the McDonald's location. One man punched another man who hit his head on the sidewalk and later died. The parents of the victim sued McDonald's Corporation for negligence.
Issue: Should the court have granted summary judgment to McDonald's?
Decision: The U.S. district court granted summary judgment to McDonald's, finding that there was no evidence that McDonald's acted negligently. The Caseys appealed. The U.S. court of appeals affirmed the district court's grant of summary judgment to McDonald's.
Critical Legal Thinking Questions: What purpose is served by permitting courts to grant summary judgment instead of allowing cases to go to trial and be decided by a jury? Do you think that McDonald's should have been granted summary judgment in this case?

Trial
Under the Seventh Amendment, parties in federal civil cases have the right to a jury trial, and most state constitutions provide similar rights in state courts. If either party requests a jury, the case is tried before jurors; if both waive this right, the judge serves as the trier of fact in a bench trial. Before trial, each party typically submits a trial brief outlining legal arguments and supporting authority. Trials may last from a single day to several months, depending on complexity, and proceed through a series of defined stages.

Settlement Conference – Many courts require that the parties appear for a pretrial hearing known as a settlement conference in order to identify relevant issues and attempt settlement.

Jury Selection – Individuals are selected to hear specific cases through a process called *voir dire* ("to speak the truth"). Lawyers for each party and the judge can ask prospective jurors questions to determine whether they would be biased in their decisions. Individuals who are determined to be biased are prohibited from serving as a juror.

Opening Statements – During opening statements, an attorney usually summarizes the main factual and legal issues of the case and describes why he or she believes the client's position is valid. The information given in this statement is not considered as evidence.

The Plaintiff's Case – A plaintiff bears the burden of proof to persuade the trier of fact of the merits of his or her case. The plaintiff's attorney calls witnesses to give testimony through direct examination. Documents and other evidence can be introduced through each witness. After the defendant cross-examines the plaintiff's witness, the plaintiff's attorney can engage the witness in re-direct examination.

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The Defendant's Case – This occurs after the plaintiff has concluded his or her case. The defendant's case must (1) rebut the plaintiff's evidence, (2) prove any affirmative defenses asserted by the defendant, and (3) prove any allegations contained in the defendant's cross-complaint.

Rebuttal and Rejoinder – After the defendant's attorney has finished calling witnesses, the plaintiff's attorney can call witnesses and put forth evidence to rebut the defendant's case. This is called a rebuttal. The defendant's attorney can call additional witnesses and introduce other evidence to counter the rebuttal. This is called the rejoinder.

Artificial Intelligence–Manipulated Evidence – Advances in AI technology allow the creation of realistic but false images, videos, or voice recordings that can make it appear someone said or did something they did not. Courts and attorneys are increasingly concerned about the risk of AI-generated or manipulated evidence influencing trials. When there is reason to suspect such evidence, some courts require the party offering it to verify and corroborate its authenticity before it may be admitted at trial.

Closing Arguments – After the presentation of the evidence, each party's attorney is permitted to make a closing argument, also called a closing statement, to the jury. Each attorney tries to convince the jury to render a verdict for his or her client by pointing out the strengths in the client's case and the weaknesses in the other side's case. Information given by the attorneys in their closing statements is not evidence.

Jury Instructions, Deliberation, and Verdict – Once the closing arguments are completed, the judge reads jury instructions (or charges) to the jury. These instructions inform the jury about what law to apply when they decide the case. After jury instructions, the jury retires to the jury room to consider the evidence and attempt to reach a decision. This is called jury deliberation. During deliberation, the jury attempts to reach a verdict.

Entry of Judgment – After the jury has returned its verdict, in most cases, the judge enters a judgment to the successful party based on the verdict. This is the official decision of the court.

Artificial Intelligence and Tech

Artificial Intelligence Used by the Legal Profession

AI technology is transforming the legal profession by automating many routine tasks once performed by attorneys and staff. It can draft contracts and briefs, conduct legal research, organize discovery materials, and create trial exhibits and real-time transcripts. AI also assists with strategic decision making by predicting case outcomes, evaluating settlements, and helping judges assess damages or sentencing. However, lawyers must provide human oversight to ensure accuracy and integrity, as AI-generated content can include false or "hallucinated" information. Courts often require attorneys to disclose and verify any AI-produced documents. While AI is expected to make legal services more efficient and accessible, it also presents challenges such as potential job displacement and the need for new skills—prompting law schools to integrate AI training into their curricula.

Appeal

In a civil case, either party may appeal a final judgment, while in a criminal case, only the defendant has the right to appeal. The appeal must be filed within a set period—typically 60 to 90 days—by submitting a notice of appeal to the appropriate appellate court. The appealing party is the appellant (or petitioner), and the opposing party is the appellee (or respondent). The appellant

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submits an opening brief outlining legal arguments for reversal, and the appellee files a responding brief defending the lower court's decision. After reviewing the record and hearing oral arguments, the appellate court may reverse a lower court's decision if it finds an error of law, such as improper jury instructions, misinterpretation of the law, or wrongful admission or exclusion of evidence. However, appellate courts rarely overturn findings of fact, as those are generally supported by the trial record. Most trial court judgments are therefore affirmed on appeal.

CASE 4.3 State Court Case Appeal
Berkheimer v. REKM L.L.C.
2024-Ohio-2787 (2023)
Supreme Court of Ohio
Facts: Michael Berkheimer dined at Wings on Brookwood, a restaurant owned by REKM, L.L.C., and ordered his usual meal of boneless wings with parmesan garlic sauce. While eating, he swallowed what he later learned was a 5-cm chicken bone that became lodged in his esophagus, causing a tear, infection, and ongoing medical complications. Berkheimer sued REKM for negligence, arguing that a bone in a "boneless" wing created an unreasonable risk. The trial court ruled as a matter of law that REKM was not negligent and dismissed the case without sending it to a jury. The court of appeals affirmed, and Berkheimer appealed to the Ohio Supreme Court.
Issue: Was there sufficient evidence of negligence to allow a jury to decide the case?
Decision: No. The Ohio Supreme Court held that REKM was not negligent as a matter of law and affirmed the lower court's judgment.
Reasoning: The Court reasoned that even though the food item was advertised as a "boneless wing," Berkheimer could have reasonably guarded against the risk of encountering a bone of such size. The majority concluded that reasonable minds could only find that REKM did not breach a duty of care. The dissent argued that whether a customer could reasonably expect to find a bone in a "boneless" product was a factual question that should have been left to a jury, emphasizing that most consumers understand "boneless" to mean "without bones."
Critical Legal Thinking:
1. Should the question of negligence in this case have been decided by the court or by a jury?
2. Would you find it reasonable for a customer to expect a "boneless" product to be completely free of bones?

Alternative Dispute Resolution
Alternative dispute resolution (ADR) refers to methods of resolving conflicts outside the court system, often called nonjudicial dispute resolution. ADR is increasingly used to save time, reduce legal costs, and minimize disruption to business operations. The most common form of ADR is arbitration, in which disputes are decided through private proceedings rather than public court trials. Other forms include negotiation, mediation, mini-trials, fact-finding, and the use of a judicial referee.

Negotiation – A procedure by which the parties to a dispute try to voluntarily settle their dispute. This is usually done through a series of offers and counteroffers. Successful negotiations will culminate in a settlement agreement.

Federal Arbitration Act (FAA) – Enacted in 1925, the Federal Arbitration Act (FAA) established that arbitration agreements involving interstate commerce are valid, enforceable, and irrevocable, except on legal grounds such as fraud or duress. The FAA allows courts to compel arbitration when one party refuses to comply with an arbitration clause. Over time, courts and the U.S. Supreme Court have confirmed that statutory claims—such as those involving contract or

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employment disputes—can be resolved through arbitration without forfeiting substantive rights. The Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 amended the FAA to prohibit employers from requiring arbitration of sexual harassment or assault claims before a dispute arises. Many states have also adopted the Uniform Arbitration Act, encouraging arbitration at the state level.

Arbitration Procedure – Arbitration begins when a party gives notice under a valid agreement, and the parties select an arbitrator or arbitration association. Hearings follow procedures similar to those in court, allowing each side to present evidence and witnesses. After the hearing, the arbitrator issues a decision and award. In binding arbitration, the decision is final and cannot be appealed; in nonbinding arbitration, the award may be reviewed by a court. Courts generally defer to arbitrators' rulings and can enforce awards if a party fails to comply. Many business contracts now include class action waivers in arbitration clauses, preventing groups of plaintiffs from pursuing collective claims—an approach the U.S. Supreme Court has upheld as lawful.

CASE 4.4 Federal Court Case – Arbitration Agreement in Web Contract
Sultan v. Coinbase, Inc.
354 F.Supp.3d 156 (2019)
United States District Court for the Eastern District of New York
Facts: Ezra Sultan opened an online account with Coinbase, Inc., a digital currency exchange, by completing a web form that required him to check a box stating, "I certify that I am 18 years of age or older, and I agree to the User Agreement and Privacy Policy." The underlined phrases linked to full-text versions of the documents, including an **arbitration clause** in the User Agreement. Months later, Sultan was defrauded by a hacker posing as a Coinbase representative, resulting in the theft of over $200,000 in cryptocurrency. Sultan sued Coinbase in federal court, alleging negligence for inadequate security. Coinbase moved to compel arbitration based on the User Agreement.
Issue: Is the arbitration agreement contained in Coinbase's online User Agreement enforceable?
Decision: Yes. The court held that the arbitration agreement was valid and enforceable.
Reasoning: The court explained that online "clickwrap" agreements—where users affirmatively click "I agree" to terms—are binding because they demonstrate **assent** to the contract. Sultan had reasonable notice of the User Agreement and agreed to its terms when creating his account. His claim that he did not recall seeing or clicking the verification box did not negate his legal consent. As the court stated, "While commerce on the internet has exposed courts to many new situations, it has not fundamentally changed the principles of contract." Therefore, the arbitration provision was enforceable, and the dispute had to be resolved through arbitration.
Critical Legal Thinking:
1. Should Sultan have been aware that by clicking "I agree," he was accepting the arbitration clause?
2. Do consumers have a responsibility to read online agreements before accepting them?
3. How might online platforms make arbitration clauses more visible or transparent to users?

Mediation – Mediation calls for a neutral third party to act as a mediator, but not a decision-maker. His or her job is to encourage settlement between the parties. If the two sides choose an interested third party to act as a mediator, he or she is considered a conciliator.

Conciliation – In conciliation, a neutral third party called a conciliator, approved by both sides, assists disputing parties in reaching a voluntary settlement. The conciliator typically meets with the parties separately and communicates settlement offers and counteroffers between them. Unlike a mediator, a conciliator is often asked to propose a specific resolution for consideration.

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Conciliation is especially useful when the parties are unwilling to meet face-to-face in an adversarial setting.

Mini-Trial – A mini-trial is a private, voluntary proceeding where each side's attorneys present a condensed version of their case to a panel of decision-makers representing each party, overseen by a neutral expert or attorney. The process helps both sides realistically evaluate their positions and often leads to settlement. The neutral party may suggest how a court would likely decide the case. If no settlement is reached, the parties may move to arbitration or litigation.

Private Trial – In a private trial, disputing parties hire a neutral private judge, often a retired judge or experienced attorney, to hear their case outside the public court system. The process mirrors a traditional trial but is shorter, more flexible, and confidential. The private judge has authority similar to that of a public judge and issues a decision that is usually legally binding, though the parties may sometimes retain appeal rights. Private trials are most often used for complex or high-value business disputes.

V. Key Terms and Concepts

- Affirmative defense—May be asserted by a defendant along with an answer to a complaint.
- Alternate juror—A person who is selected to witness a trial and may replace a juror who cannot complete the trial because of death, illness, discovered bias, or other reasons.
- Alternative dispute resolution (ADR)—Methods of resolving disputes other than litigation.
- Answer—The defendant's written response to the plaintiff's complaint that is filed with the court and served on the plaintiff.
- Appeal—The act of asking an appellate court to overturn a decision after the trial court's final judgment has been entered.
- Appellant (petitioner)—The appealing party in an appeal.
- Appellee (respondent)—The responding party in an appeal.
- Arbitration—A form of alternative dispute resolution in which the parties choose an impartial third party to hear and decide the dispute.
- Arbitration clause—A clause contained in many international contracts stipulating that any dispute between the parties concerning the performance of the contract will be submitted to an arbitrator or arbitration panel for resolution.
- Arbitrator—The neutral party in an arbitration.
- Bench trial—A trial in which a judge decides both questions of fact and questions of law in reaching a decision in a trial.
- Binding arbitration—The type of arbitration where the parties agree to be bound by an arbitrator's decision and remedy.
- Burden of proof—Borne by the plaintiff to persuade the trier of fact of the merits of his or her case.
- Class action—A lawsuit where a group of plaintiffs with common claims collectively brings a lawsuit against a defendant.
- Class Action Fairness Act (CAFA)—Gives federal courts jurisdiction to hear class action lawsuits that would otherwise be heard by state courts.
- Class action waiver—A clause in an arbitration agreement whereby a party agrees not to join a class action to pursue a defendant in an arbitration proceeding.
- Closing argument (closing statement)—An argument made to the jury by each party's attorney at the conclusion of the presentation of evidence.

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- Complaint—The document the plaintiff files with the court and serves on the defendant to initiate a lawsuit.
- Conciliation—A form of alternative dispute resolution where a neutral party meets with disputing parties and transfers information and settlement offers between the parties.
- Conciliator—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Consolidation—The act of a court to combine two or more separate lawsuits into one lawsuit.
- Cost-benefit analysis—Performed by both the plaintiff and defendant to determine whether to bring or defend a lawsuit in court.
- Contingency fee—A fee arrangement with a client whereby a lawyer receives a percentage of the amount recovered by winning or settling a lawsuit. If the lawyer does not win or settle the case in the client's favor, the lawyer receives nothing.
- Cross-complainant—The defendant who files a cross-complaint against the plaintiff.
- Cross-complaint—Filed by the defendant against the plaintiff to seek damages or some other remedy.
- Cross-defendant—The original plaintiff against whom a cross-complaint has been filed.
- Cross-examination—The opportunity to question an adversarial witness. For example, after the plaintiff's attorney engages his or her witness in direct examination, the defendant's attorney can then cross-examine the witness.
- Default judgment—Entered against a defendant if he or she fails to answer to a complaint.
- Defendant—The party who is being sued.
- Defendant's case—Proceeds after the plaintiff's case. It must rebut the plaintiff's evidence, prove any affirmative defenses asserted by the defendant, and prove any allegations contained in the defendant's cross-complaint.
- Deponent—Party who gives his or her deposition.
- Deposition—Oral testimony given by a party or witness prior to trail. The testimony is given under oath and is transcribed.
- Direct examination—Examination carried out by the plaintiff's attorney, during the plaintiff's case, after a witness has been sworn in.
- Discovery—A legal process during which both parties engage in various activities to discover facts of the case from the other party and witnesses prior to trial.
- Electronically stored information (ESI)—Relevant (i.e., discoverable) evidence that is retained electronically, including Microsoft Word documents, Excel spreadsheets, emails, instant messages, text messages, cloud storage, phone records, etc.
- Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Error of law—Error in court records which may lead an appellate court to reverse a lower court's decision.
- Federal Arbitration Act (FAA)—Provides that arbitration agreements involving commerce are valid, irrevocable, and enforceable contracts, unless some grounds exist at law or equity (e.g., fraud or duress) to revoke them.
- Finding of fact—An appellate court will not reverse a finding of fact made by a jury, or made by a judge if there is no jury, unless such finding is unsupported by the evidence or is contradicted by the evidence.

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- Impanel—Once the appropriate number of jurors is selected, they are impaneled to hear the case and are sworn in.
- Interrogatories—Written questions submitted by one party to another party. The questions must be answered in writing within a stipulated time.
- Intervention—The act of others to join as parties to an existing lawsuit.
- Judgment—A decision entered by a judge based on the verdict given by the jury.
- Judgment notwithstanding the verdict (judgment n.o.v. or j.n.o.v.)—The overturning of a verdict by a court due to bias or jury misconduct.
- Judicial dispute resolution—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Jury deliberation—The retiring of the jury to consider the evidence and attempt to reach a verdict.
- Jury instructions (charges)—Instructions the judge gives to the jury that inform the jurors of the law to be applied in the case.
- Jury summons (juror summons)—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Jury trial—A trial which involves a jury.
- Litigation—The process of bringing, maintaining, and defending a lawsuit.
- Mediation—A form of ADR in which the parties choose a neutral third party to act as the mediator of the dispute.
- Mediator—A neutral third party who assists in mediation.
- Mini-trial—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Motion for judgment on the pleadings—Motion alleging that if all the facts presented in the pleadings are taken as true, the moving party would win the lawsuit when the proper law is applied to the asserted facts.
- Motion for summary judgment—Motion asserting that there are no factual disputes to be decided by the jury; if so, the judge can apply the proper law to the undisputed facts and decide the case without a jury. These motions are supported by affidavits, documents, and deposition testimony.
- Motion to dismiss—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Negotiation—A procedure whereby the parties to a dispute engage in discussions and bargaining to try to reach a voluntary settlement of their dispute.
- Nonbinding arbitration—An arbitration where the decision and award of the arbitrator can be appealed to the courts.
- Nonjudicial dispute resolution—The resolution of disputes outside of the court judicial system.
- Notice of appeal—Notice that must be filed by a party within a prescribed period of time after a court judgment is entered.
- Opening brief—Filed by the appellant's attorney; it sets forth legal research and other information to support his or her contentions on appeal.
- Opening statement—Each party's attorney is allowed to make an opening statement to the jury at the beginning of a trial. During the opening statement, the attorney usually summarizes the main factual and legal issues of the case and describes why he or she

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believes the client's position is valid. Information in the opening statement is not considered evidence.

- Peremptory challenge (peremptory strike)—Permits each party to a lawsuit to dismiss a limited number of proposed jurors from becoming jurors without having to show that the dismissed individuals were biased.
- Physical or mental examination—A court may order another party to submit to a physical or mental examination prior to trial.
- Plaintiff—The party who files the lawsuit.
- Plaintiff's case—A plaintiff bears the burden of proof to persuade the trier of fact of the merits of his or her case.
- Pleadings—The paperwork that is filed with the court to initiate and respond to a lawsuit.
- Pretrial motions—Motions a party can make to try to dispose of all or part of a lawsuit prior to trial.
- Private trial—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Pro se litigant—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Production of documents—Request by one party to another party to produce all documents relevant to the case prior to trial.
- Rebuttal—After the defendant's attorney has finished calling witnesses, the plaintiff's attorney can call witnesses and introduce evidence to rebut the defendant's case.
- Record—An account of court proceedings.
- Redirect examination—After the defendant's attorney completes his or her questions, the plaintiff's attorney can ask questions of the witness.
- Rejoinder—The defendant's attorney can call additional witnesses and introduce other evidence to counter the rebuttal.
- Remittitur—The judge's decision to reduce the amount of monetary damages awarded by the jury if he or she finds the jury to have been biased, emotional, or inflamed.
- Reply—Filed by the original plaintiff to answer the defendant's cross-complaint.
- Responding brief—May be filed by the appellee to answer the appellant's contentions.
- Sequester—The separation of the jury from family, etc. Can be done during important cases.
- Service of process—A summons is served on the defendant to obtain personal jurisdiction over him or her.
- Settlement agreement—An agreement that is voluntarily entered into by the parties to a dispute that settles the dispute.
- Settlement conference (pretrial hearing)—A hearing before trial in order to facilitate settlement of a case.
- Seventh Amendment—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Sixth Amendment—A neutral third party in a conciliation proceeding who transfers information and settlement offers between the parties to a legal dispute in an attempt to settle the dispute.
- Statute of limitations—Establishes the time period during which a lawsuit must be brought; if the lawsuit is not brought within this period, the injured party loses the right to sue.

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