Evidence in Context 3rd edition Doak Test Bank

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1 The Defence does not have to give any evidence whatsoever. It is for the Prosecution/Claimant to prove their case, not for the Defence to prove they are innocent/not liable. However, in a criminal context, adverse inferences may be drawn by a Defendant's failure to call or give evidence.

(A) True

(B) False

Answer: (A) True

2 At which points during a trial can the Defence submit that 'there is no case to answer'? The Defence may make a submission of no case to answer at any point up until a verdict is delivered but only after the Prosecution/ Claimant has finished calling evidence.

(A) After the Prosecution/Claimant has finished calling evidence

(B) As the Prosecution/Claimant is calling evidence

(C) During the Defence's calling of evidence

(D) After the Defence has finished calling their evidence

Answer: (A) After the Prosecution/Claimant has finished calling evidence
(C) During the Defence's calling of evidence
(D) After the Defence has finished calling their evidence

3 Which of the following are types of trial system available in the West? B and C are the only correct answers.

(A) Exquisitorial

(B) Inquisitorial

(C) Adversarial

(D) Judicial

Answer: (B) Inquisitorial
(C) Adversarial

4 Which of the following is NOT a feature in the adversarial trial system? Examining magistrates only appear in the inquisitorial system. Magistrates and judges (district judges in criminal and all judges in civil cases) decide facts in addition to juries.

(A) Arbiters of fact other than juries

(B) Documentary evidence

(C) Judges

(D) Examining magistrates

Answer: (D) Examining magistrates

5 Which of the following is NOT a phase in inquisitorial trials? There is no such phase as A. Instead, evidence is looked at throughout.

(A) Evidential phase

(B) Examining phase

(C) Trial

(D) Investigative phase

Answer: (A) Evidential phase

6 In which of the following circumstances is a judge permitted to intervene? A judge has powers at common law to do all of the above.

(A) To call his or her own witness of their own motion

(B) To prevent offensive or vexatious cross-examination

(C) To invite or suggest to counsel that there is no case to answer

(D) None of the above

(E) All of the above

Answer: (E) All of the above

7 Documentary evidence In the inquisitorial system, documentary evidence is far more preferable to oral evidence which is perhaps treated with more mistrust. The other two options are irrelevant in this context.

(A) Bad character evidence

(B) In the inquisitorial system, documentary evidence is far more preferable to oral evidence which is perhaps treated with more mistrust. The other two options are irrelevant in this context.

(C) Documentary evidence

(D) Livelink evidence

Answer: (C) Documentary evidence

8 Which of the following is a judicial comment highly likely to result in a successful appeal? In the statement in B, the judge is giving an opinion on the credibility of a side's evidence which is not permitted. (S)he may be entitled to make the statement in D due to admissible bad character evidence being adduced.

(A) ""The Prosecution/Claimant has brought this case and has the task of proving it""

(B) ""Exhibit X makes the Defendant's entire case implausible""

(C) ""Witness X's evidence is totally incredulous, you may think""

(D) ""The Defendant is a serial offender""

Answer: (B) ""Exhibit X makes the Defendant's entire case implausible""

9 A submission of 'no case to answer' will succeed where the Prosecution's evidence, taken at it highest, is such that a properly directed jury could not convict upon it.

(A) True

(B) False

Answer: (A) True

Feedback: The test applied is laid down in R v Galbraith [1981] 1 WLR 1039, 1042. Similar provisions apply in civil trials.

10 In the English system, a judge always takes a very active role in fact management and assembling the parties' evidence. Each party is left to manage and provide their own evidence.

(A) True

(B) False

Answer: (B) False

11 In a trial involving a jury, it is for the jury to decide matters of fact only . The judge decides matters of law, but matters of fact are for the jury only. However, the distinction better matters of law and fact can sometimes be blurred.

(A) True

(B) False

Answer: (A) True

12 The English legal system is an inquisitorial one as it uses judges, magistrates and juries to get to the bottom of the facts. It is an adversarial system which, whilst using a judge, magistrates or a jury to decide facts, is an adversarial contest between two sides in the case. These two opposing sides present their arguments to the arbiter of fact for them to decide which side to believe.

(A) True

(B) False

Answer: (B) False

13 A judge is totally barred from commenting on witness' evidence as they could prejudice one side over the other in the trial. Judges are perfectly entitled to comment on the credibility and plausibility of witnesses. They cannot however express whether they believe or disbelieve evidence.

(A) True

(B) False

Answer: (B) False

14 Put the following phases of adversarial trial into the correct order:

(A) The Defence tests the Prosecution/Claimant's evidence

(B) The judge sums up the evidence (in cases involving juries) or decides the case

(C) Prosecution/Claimant calls evidence

(D) Closing speeches/submissions

(E) The Defence calls evidence (if they wish)

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