Law for Business 14th edition Barnes Test Bank

SKU: 9781260247763-TEST-BANK

Law for Business Edition 14 by Barnes

CORRECT ANSWERS ARE LOCATED IN THE 2ND HALF OF THIS DOC.

TRUE/FALSE - Write 'T' if the statement is true and 'F' if the statement is false.

1) The names of the various courts and the way jurisdiction is divided between them are uniform from state to state.
   - ◎ true
   - ◎ false

2) Most minor criminal violations and civil disputes involving small amounts of money are handled by courts of record.
   - ◎ true
   - ◎ false

3) If parties to a dispute are from different states, and the amount involved in the dispute is $75,000 or more, the plaintiff may choose to bring suit in either state or federal court.
   - ◎ true
   - ◎ false

4) Courts only permit a plaintiff to bring a lawsuit if that person has standing.
   - ◎ true
   - ◎ false

5) While the rules of jurisdiction determine whether a plaintiff may bring a lawsuit at all, standing governs which particular courts may hear the case.
   - ◎ true
   - ◎ false

6) If a court has subject matter jurisdiction, it may decide the case even if it does not have personal jurisdiction over the defendant.
   - ◎ true
   - ◎ false

7) The doctrine of forum non conveniens permits a court, upon petition by the defendant, to dismiss the lawsuit when it believes it would be more convenient and fair to have the case tried in another forum.
   - ◎ true
   - ◎ false

8) The adversary legal system in the United States is premised on the notion that the ultimate truth and justice will prevail if each party to a legal dispute is represented by competent legal counsel.
   - ◎ true
   - ◎ false

9) In the adversary legal system, the trial judge acts essentially as an advocate.
   - ◎ true
   - ◎ false

10) The attorney-client privilege rule prevents an attorney from divulging confidential information communicated to the lawyer by a client or potential client in the course of seeking to retain the attorney or otherwise seeking legal advice.
   - ◎ true
   - ◎ false

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

11) Like the attorney-client privilege, the work product privilege is automatically lost if the client discusses the otherwise confidential matters with others.
- ◎ true
- ◎ false

12) The serving of a summary judgment on the defendant gives notice to the defendant of the suit, informs him or her who the plaintiff is, and states the time within which the defendant must make an appearance.
- ◎ true
- ◎ false

13) A counterclaim is a new claim stating that the defendant owes the plaintiff damages because of harm resulting from the incident alleged in the complaint.
- ◎ true
- ◎ false

14) To achieve justice in a particular case, an appellate court will typically hear witnesses and gather new evidence.
- ◎ true
- ◎ false

15) A mediator merely facilitates negotiation; no award or opinion on the merits of the dispute is given by the mediator.
- ◎ true
- ◎ false

MULTIPLE CHOICE - Choose the one alternative that best completes the statement or answers the question.

16) Inferior courts may be called _____ courts in urban areas and _____ courts in rural areas.
- A) district; municipal
- B) justice of the peace; municipal
- C) municipal; justice of the peace
- D) municipal; district

17) Trial courts differ from inferior courts in that the trial courts:
- A) are courts of limited jurisdiction.
- B) are limited by the amount of civil damages that can be awarded.
- C) are courts of record, and their decisions can be appealed.
- D) are called municipal courts in urban areas.

TBEXAM.COM

18) Generally, the role of appellate courts is to:
- A) rehear the testimony of trial court witnesses.
- B) establish new facts for all cases.
- C) accept the findings of the trial court unless there is proof beyond reasonable doubt that the trial court either committed an error of law or abused its discretion.
- D) review the proceedings in the trial court and correct legal errors made by the trial judge.

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

19) A certain court receives an appeal by parties dissatisfied with the decision of a trial court. However, neither does it hear any witnesses nor does it review new facts about the case. The court discussed in the example is a(n) _____.
A) municipal court
B) inferior court
C) appellate court
D) justice of peace court

20) Karl, a resident of Ohio, was convicted of a bank robbery worth $90,000 in California. In which of the following courts should his case be filed?
A) Small claims court
B) Tax court
C) District court
D) Appellate court

21) District courts:
A) only review the legal conclusions reached by lower federal courts.
B) are the intermediate courts of the federal court system.
C) have both fact-finding and law-finding functions.
D) are specialized courts in the federal court system.

TBEXAM.COM

22) A United States court of appeals is empowered to:
A) accept appeals only from other districts.
B) review legal conclusions reached by lower federal courts.
C) hear cases that have been appealed from U.S. Supreme Court decisions.
D) assume final responsibility for interpretation of the U.S. Constitution and federal statutes.

23) The United States Supreme Court:
A) decides all of the cases appealed to it.
B) decides most of the cases appealed to it.
C) decides only a small percentage of the cases appealed to it.
D) defers to the decision of the U.S. court of appeals in the event of a concurring opinion.

24) Writ of certiorari (cert.) may be granted when:
A) a person does not want to appeal to the United States Supreme Court.
B) there have been conflicting decisions in similar cases by different courts of appeal.
C) the U.S. Supreme Court has too many cases to be heard and has no time to take up a new case.
D) the U.S. Supreme Court chooses to defer its decision-making authority to the U.S. court of appeals.

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

25) Sometimes, when a defendant's actions have injured many plaintiffs, their claims may be consolidated into _____.
   A) cross-complaints
   B) counterclaims
   C) a class action lawsuit
   D) a multistate lawsuit

26) Which of the following is true regarding the Class Action Fairness Act (CAFA)?
   A) It was enacted in response to concerns that class actions were undermining the national judicial system.
   B) It was enacted in support of the notion that class actions were advancing the interests of interstate commerce.
   C) It supports the notion that plaintiffs' attorneys have used the class action mechanism to the exclusive advantage of class members.
   D) It generally requires that a class action be heard in federal court if there is diversity of citizenship and the amount in controversy exceeds $1 million.

27) Over the many years of being his neighbor, Tom has noticed that Jim is a very angry person. On numerous occasions, Tom has overheard Jim yelling at his wife and two children (Tom doesn't have a family of his own and believes Jim should be more grateful for and respectful of his family members). Worried, Tom went to the local courthouse to search Jim's criminal record, and although Jim had no prior convictions for assault, that did nothing to allay Tom's concern. Tom files a complaint against Jim in civil court, seeking a court order (more specifically, an injunction) prohibiting Jim from ever assaulting his wife and two children. What is the likely outcome of Tom's complaint?
   A) Tom's complaint will be successful, since he has standing to sue Jim as his neighbor.
   B) Tom's complaint will be dismissed, since he has no standing to sue Jim.
   C) Tom's complaint will be successful, since assault is both a civil and a criminal matter.
   D) Tom's complaint will be dismissed, since assault is a criminal, not a civil, matter.

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

28) Jurisdiction is defined as:
- A) the authority of a court to hear and determine disputes.
- B) the unlimited authority of the court.
- C) the process by which legal cases are decided.
- D) the power an individual appointed within an organization possesses to settle disputes.

29) Adia files a lawsuit against Chang in an Ohio court. Chang, a citizen and resident of neighboring Indiana, has never visited Ohio and has no personal ties with anyone in Ohio. Chang can successfully argue that the Ohio court:
- A) lacks personal jurisdiction.
- B) has legal reciprocity with Indiana, the state where Chang resides.
- C) must defer to the jurisdiction of a federal district court.
- D) lacks standing to hear the case, since the case involves diversity of citizenship.

30) What type of jurisdiction permits courts to hear cases involving the rights over property that is physically located within the court's territory?
- A) In personam
- B) In rem
- C) Res ipsa loquitur
- D) Res judicata

31) Alvin has been accused of murdering his wife Marilyn in their home in Cincinnati, Ohio. The murder has received a great deal of media attention, and Alvin believes he cannot receive a fair trial if the case is tried in his hometown. Alvin believes he would receive a fair trial if the case is heard before a jury in Cleveland. To make his case for transfer of the trial from Cincinnati to Cleveland, Alvin will need to ask the court for _____.
- A) a change of venue
- B) a summary judgment
- C) in personam jurisdiction
- D) in rem jurisdiction

32) The doctrine of _____ permits a court, upon petition by the defendant, to dismiss the lawsuit when it believes it would be more convenient and fairer to have the case tried in another forum.
- A) res judicata
- B) forum judicata
- C) forum in absentia
- D) forum non conveniens

33) Which of the following is true of a forum selection clause?
- A) It must be exclusive.
- B) It must be nonexclusive.
- C) It may be either exclusive or nonexclusive.
- D) A forum selection clause is generally unenforceable, since jurisdiction and venue rules established by the rules of civil procedure dictate where a case may be heard.

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

34) Which of the following is true regarding the adversary system?
A) The adversary system represents the idea that truth is best discovered through the presentation of competing ideas.
B) The judge in an adversary system is actively involved in determining the facts of a case.
C) The lawyers in an adversary system do not persuade the judge that the other party's view of the facts is in error.
D) The judges have a duty to direct the search for truth rather than expecting it to emerge from the efforts of the lawyers for the parties.

35) Under the adversary system, the judge's role is viewed as not only _____ but also essentially _____.
A) unbiased; passive
B) biased; passive
C) unbiased; active
D) biased; active

TBEXAM.COM

36) The Smiths, an affluent family, own a hospitality chain called Smith Hotels, Inc. When a lawsuit is filed against the hotel for serving stale food to its guests, the Smiths and Smith Hotels, Inc. decide to defend the case on its merits and take the case to trial rather than settle. In an adversary system, how is this situation advantageous to the Smiths and Smith Hotels, Inc.?
A) The adversary system makes it easier for a biased judge to control the outcome of a case.
B) In an adversary system, the wealthy can hire better lawyers.
C) In an adversary system, corporations are generally immune from liability.
D) The adversary system opposes the idea that truth is best discovered through the presentation of competing ideas.

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

37) Alexander has been charged with armed robbery of a convenience store in Portland, Oregon. He retains attorney Lewis A. Clarke, III to represent him, and while preparing his defense, Alexander confesses to attorney Clarke that he did indeed rob the liquor store. Which of the following is true regarding Alexander's confession to Clarke?

A) It is protected as a professional courtesy, and Clarke is prohibited from divulging this information to the prosecution and the court.

B) It is protected by the attorney-client privilege, and Clarke is prohibited from divulging this information to the prosecution and the court.

C) Pursuant to the attorney-client privilege, just like Alexander had the privilege to decide whether to divulge this information to his attorney, attorney Clarke also has privilege to decide whether to divulge it to the prosecution and the court.

D) Since the confession relates to a criminal matter, it is not protected by the attorney-client privilege, and in the interests of justice, attorney Clarke must divulge it to the prosecution and the court.

38) Which of the following is true regarding the attorney-client privilege?

A) It is dependent upon the attorney actually being retained.

B) It does not cover information divulged to an attorney's subordinates (secretaries or paralegals).

C) A lawyer has a duty to report a client's statement that he intends to commit a crime.

D) The attorney-client privilege covers statements made in the presence of people other than the lawyer or her subordinates.

39) Which of the following is true regarding the attorney-client privilege?

A) It is derived from the notice that justice is best served if attorney divulges all evidence she has pertaining to a particular case to opposing counsel and the court.

B) It applies only if the attorney is in private practice.

C) It applies only if the attorney is in-house counsel.

D) It applies regardless of whether the attorney is in-house counsel or outside counsel.

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

40) Which of the following is true of pleadings?
A) The first step in starting a lawsuit is the serving of a summons on the defendant.
B) These are the first documents filed with the court, and they start and define the lawsuit.
C) The case is set for trial on the court calendar once the pleadings have commenced.
D) Both disputed and undisputed matters in the pleadings are tried in court.

41) In the context of filing a lawsuit, a complaint:
A) must contain sufficient facts to show that the plaintiff is entitled to some legal relief.
B) is a rule of law enabling the defendant to win even if all of the plaintiff's allegations are true.
C) was created to help deal with the increasing congestion of cases in most civil courts.
D) is a procedural device that is designed to streamline the issues to be addressed at trial.

42) A rule of law enabling a defendant to win even if all of plaintiff's allegations are true is a(n) _____.
A) counterclaim
B) affirmative defense
C) deposition
D) judgment notwithstanding the verdict

43) A new claim stating that plaintiff owes the defendant damages because of harm resulting from the incident alleged in the complaint is called a(n) _____.
A) counterclaim
B) affirmative defense
C) cross-claim
D) motion for judgment notwithstanding the verdict

44) A motion to dismiss made by a defendant is granted when:
A) the plaintiff in a civil case has not proven beyond reasonable doubt the defendant's liability for the plaintiff's harm.
B) it is clear that the plaintiff does not have a case, and it would be wasteful to continue.
C) either party feels that the judge is not impartial.
D) people or groups other than the parties involved are interested in the outcome of a certain case.

45) Salim files a case against Nina for nonpayment of a debt. Before the trial, Nina is examined under oath in the presence of Salim's attorney. This process of examination is known as a(n) _____.
A) deposition
B) interrogatory
C) pretrial conference
D) direct examination

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

46) Which of the following is true regarding the pretrial conference?
A) It is held in the courtroom.
B) The plaintiff and the defendant are personally present at the pretrial conference.
C) The parties' witnesses are present at the pretrial conference.
D) The judge tries to get the parties' attorneys to stipulate to as many of the material facts as possible.

47) Which of the following is true of the presentation of testimony?
A) Under direct examination, each witness is sworn and then examined by the defendant's attorney.
B) A defendant's attorney may cross-examine each of the plaintiff's witnesses, trying to raise doubts as to the person's credibility or trustworthiness.
C) A defendant's attorney may conduct a redirect examination to clarify the plaintiff's view of the facts.
D) During a witness's testimony, the opposing attorney cannot object to the presentation of certain evidence.

48) A _____ is designed to reach things belonging to the debtor that are in the hands of third parties.
A) long-arm statute
B) writ of garnishment
C) writ of certiorari
D) writ of mandamus

49) Which of the following is true of the burden of proof in a criminal trial?
A) It must be proof beyond a reasonable doubt.
B) It is placed on the defendant, since the defendant has been charged with not only committing a wrong against an individual victim, but a wrong against society as well.
C) It is less than the burden of proof in a civil case.
D) It is identical to the burden of proof in a civil case.

50) The term *amicus curiae* means:
A) friendly cure, or more specifically, the amicable resolution of a dispute through mediation.
B) friend of the court and refers to briefs filed by third parties interested in the outcome of a certain appeal.
C) friend of the court and refers to the resolution of a dispute through the execution of a binding settlement agreement.
D) friendly cure, or more specifically, the amicable resolution of a dispute through either binding or non-binding arbitration.

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

51) To appeal a decision, _____.
- A) a party must claim that the court made an error of law or that the evidence in the trial did not support the trial court's decision
- B) a party need not have objected to a judge's action at the time the alleged error was made
- C) a party must prepare for a new fact-finding process and must be dissatisfied with the judgment of the court
- D) the defendant must show that the errors made were not material

52) A record in writing of the entire trial proceedings including the testimony of all the witnesses and any discussions between the judge and the attorneys that must be prepared and forwarded to the appeals court is called a(n) _____.
- A) amicus brief
- B) motion in limine
- C) transcript
- D) brief

53) Pursuant to the Federal Arbitration Act:
- A) a court will review the wisdom of the decision of an arbitrator.
- B) both the agreement of parties to arbitrate and the arbitration award are enforceable in court.
- C) the agreement of parties to arbitrate is enforceable in court, but the arbitration award is unenforceable.
- D) the arbitration award is enforceable in court, but the agreement of parties to arbitrate is unenforceable.

54) Which of the following is true about a minitrial?
- A) A minitrial involves a six-member mock jury empaneled by the court that hears a shortened presentation of the case by the lawyers for each side and renders an advisory verdict.
- B) A minitrial often involves a neutral third-party advisor who will render a nonbinding opinion, if a settlement is not reached, regarding how a dispute is likely to be resolved if it goes to trial.
- C) A minitrial is conducted under court guidance.
- D) A minitrial differs from mediation in that the third-party to whom the dispute is submitted decides the outcome.

TBEXAM.COM

55) In the private judging method of dispute resolution, _____.
- A) a hired judge renders a binding opinion after hearing the evidence and arguments of the parties
- B) executives of the disputing companies, who have settlement authority, hear a shortened presentation of the case by the lawyers for each side
- C) a six-member mock jury empaneled by the court hears a shortened presentation of the case by the lawyers for each side
- D) executives of the disputing companies meet with lawyers for each side to negotiate a settlement

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

56) An individual appointed within an organization to settle disputes is called a(n) _____.
A) private judge
B) arbitrator
C) mediator
D) ombudsperson

SHORT ANSWER. Write the word or phrase that best completes each statement or answers the question.

57) Explain the differences between trial courts and inferior courts.

58) Explain what is meant by standing to sue.

TBEXAM.COM

59) Explain the two types of personal jurisdiction.

60) What are the advantages and disadvantages of the adversary system?

61) The employees of Claudio, Inc. were on strike for 30 days and that led to huge losses for the business. Due to loss of business and wages, both parties wanted to settle the dispute but were unable to negotiate successfully. Which method of alternative dispute resolution is best suited to them? Why?

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

TBEXAM.COM

Law for Business Edition 14 by Barnes

Answer Key

Test name: Chapter 02

1) FALSE
2) FALSE
3) TRUE
4) TRUE
5) FALSE
6) FALSE
7) TRUE
8) TRUE
9) FALSE
10) TRUE
11) FALSE
12) FALSE
13) FALSE
14) FALSE
15) TRUE
16) C
Inferior courts may be called municipal courts in urban areas and justice of the peace courts in rural areas.

17) C
Trial courts differ from inferior courts in that the trial courts are courts of general jurisdiction; they are not limited by the amount of civil damages that can be awarded or the criminal penalties that can be imposed. Their geographic jurisdiction is often a county. In addition, trial courts are courts of record. Thus, an appeal can be taken from a trial court decision.

18) D
As the name implies, state appeals courts hear cases that have been appealed from trial court decisions or state administrative agency rulings. Generally, appellate courts do not hear witnesses or determine facts. Their job is to review the proceedings in the trial court and correct legal errors made by the trial judge. Appellate courts must accept the trial court's findings of fact unless it goes against all the evidence.

19) C
As the name implies, state appeals courts hear cases that have been appealed from trial court decisions or state administrative agency rulings. Generally, appellate courts do not hear witnesses or determine facts. Their job is to review the proceedings in the trial court and correct legal errors made by the trial judge.

TBEXAM.COM

20) C
Karl's case should be filed in a district court. Cases heard in the federal courts fall into one of two classes: They are either cases involving a federal question or cases in which there is diversity of citizenship between the parties. If the parties are from different states, and the amount involved in the dispute is $75,000 or more, the plaintiff may choose to bring suit in either state or federal court. With few exceptions, lawsuits brought in federal courts must be started in district courts. These are the federal trial courts.

21) C

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

With few exceptions, lawsuits brought in federal courts must be started in district courts. These are the federal trial courts. Like state trial courts, they have both fact finding (by the judge or jury) and law-finding (by the judge) functions.

22) B
An appeal from a district court is taken to a United States court of appeals. Like state intermediate appellate courts, the U.S. courts of appeals generally do not have a fact-finding function. They only review the legal conclusions reached by lower federal courts. The courts of appeal also hear appeals from many federal administrative agency decisions.

23) C
Because most appeals to the United States Supreme Court involve its certiorari jurisdiction, and relatively few of these are heard, the Court decides only a small percentage of the cases appealed to it.

24) B
The primary way a case can be appealed to the United States Supreme Court is through writ of certiorari (cert.). Hearing such cases is entirely discretionary with the Court. If there have been conflicting decisions in similar cases by different courts of appeals, the Court may grant *cert*. It may also grant *cert*. in a case from the highest court of a state where a right is claimed under the U.S. Constitution or where the validity of a federal statute is in question.

25) C
Lawsuits can have more than one plaintiff and/or defendant. Sometimes, when a defendant's actions have injured many plaintiffs, their claims may be consolidated into a class action lawsuit.

26) A
Congress enacted the Class Action Fairness Act (CAFA) in response to concerns that class actions were undermining the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction.

27) B
Federal courts and most state courts hear only real controversies—concrete disputes between actual parties. They do not give advisory opinions, nor do they make rulings on hypothetical cases. This saves the time of judges and avoids the danger that the arguments for one side might not be vigorously pressed because no one as yet has been truly hurt. Basically, courts only permit a plaintiff to bring a lawsuit if that person has standing. In the subject case, there is no evidence that Jim has ever threatened Tom. The court will dismiss Tom's complaint, since he has no standing to sue Jim.

28) A
Jurisdiction is the authority of a court to hear and determine disputes. While standing to sue determines whether a plaintiff may bring a lawsuit at all, the rules of jurisdiction govern which particular courts may hear the case.

29) A

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

In this scenario, Chang can successfully argue that the Ohio court lacks personal jurisdiction. A court may not decide a legal dispute unless it has personal jurisdiction over the defendant. Personal jurisdiction generally does not exist unless the defendant has some close connection with the territory where the suit is brought. Personal jurisdiction is likely to exist if the defendant is a resident of the territory where the court is located or if a nonresident defendant is physically present in that territory.

30) B
In rem jurisdiction permits courts to hear cases involving the rights over property that is physically located within the court's territory. The court possess this power even if the disputants themselves reside outside of that territory.

31) A
Parties who feel they cannot get a fair trial in the designated area can ask the court for a change of venue. Since Alvin does not believe that he will receive a fair trial in Cincinnati but that he would receive one in Cleveland, he (or his attorney) should ask for a change of venue to Cleveland.

32) D
A court that meets the jurisdiction and venue requirements may voluntarily refuse to hear a particular lawsuit when it believes that it is not the most appropriate forum. Known as forum non conveniens, this doctrine permits a court, upon petition by the defendant, to dismiss the lawsuit when it believes it would be more convenient and fairer to have the case tried in another forum.

33) C
Contracting parties often negotiate a forum selection clause that designates the appropriate forum for resolving any contractual dispute. A forum selection clause may be either exclusive (mandatory) or nonexclusive (permissive). The former requires that any lawsuit be filed only in the designated court, while the latter permits suits to be brought in the designated forum but does not prevent a plaintiff from suing somewhere else instead.

34) A
The adversary system represents the idea that truth is best discovered through the presentation of competing ideas. It is the lawyer's job to present the client's view of the facts to the judge, or to the jury if one is used. The judge's role under the adversary system is viewed as not only unbiased but also essentially passive. In essence, a trial judge acts as a referee.

TBEXAM.COM

35) A
The judge's role under the adversary system is viewed as not only unbiased but also essentially passive. The trial judge is to keep order in the court and, when a jury is present, to see that the lawyers do not use improper methods to influence the jury. Generally, the judge stops questions from lawyers or orders witnesses to change their behavior only when asked to do so by one of the lawyers.

36) B

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

Critics argue that the adversary system does not work when the opposing lawyers are of unequal skill. This gives an advantage to the wealthy, such as the Smiths and Smith Hotels, Inc., who can hire better lawyers.

37) B
The attorney-client privilege prevents an attorney from divulging confidential information communicated to the lawyer by a client or potential client in the course of seeking to retain the attorney or otherwise seeking legal advice. The privilege is derived from the notion that the effective functioning of the judicial system will be undermined if a client does not feel free to speak fully and honestly with his attorney. In the subject case, Alexander's confession is protected by the attorney-client privilege, and Clarke is prohibited from divulging this information to the prosecution and the court.

38) C
The existence of the attorney-client privilege is not dependent upon the attorney actually being retained because it may be necessary to disclose confidential information in the course of persuading a lawyer to take a case. The privilege also covers information divulged to an attorney's subordinates (secretaries or paralegals). There are exceptions to the privilege. For instance, a lawyer has a duty to report a client's statement that he intends to commit a crime. Further, the attorney-client privilege generally does not cover statements made in the presence of people other than the lawyer or her subordinates.

39) D
The attorney-client privilege is derived from the notion that the effective functioning of the judicial system will be undermined if a client does not feel free to speak fully and honestly with his attorney. The privilege applies regardless of whether the attorney is in-house counsel or outside counsel.

40) B
Pleadings include complaints, answers, and replies. These are the first documents filed with the court, and they start and define the lawsuit. They serve two major functions: They inform the parties of each other's claims, and they form the basis for a trial. Only those matters that are disputed in the pleadings are tried in court.

41) A
A complaint must contain sufficient facts to show that the plaintiff is entitled to some legal relief and to give the defendant reasonable notice of the nature of the plaintiff's claim.

42) B
An answer that responds to a complaint may also state an affirmative defense. An affirmative defense is a rule of law enabling the defendant to win even if all of the plaintiff's allegations are true. For example, the plaintiff may allege that the defendant breached their contract. The defendant might respond by admitting that the contract had been breached but that he or she should not be held liable because the contract had been induced by the plaintiff's fraudulent misrepresentations.

43) A

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

A counterclaim is a new claim stating that plaintiff owes defendant damages because of harm resulting from the incident alleged in the complaint.

44) B
A defendant may make a motion to dismiss the case rather than give an answer. If it is clear that the plaintiff has no case, it would be wasteful for the case to continue, and the motion would be granted.

45) A
A deposition is an examination under oath, much like the questioning at a trial, in the presence of the attorney for the other party.

46) D
At the pretrial conference, the judge tries to get the parties' attorneys to stipulate to (agree to) as many of the material facts as possible. Through this effort, the judge may find that in spite of the appearance of the pleadings, there is no true disagreement on some important facts. These stipulations can save a considerable amount of court time.

47) B
A plaintiff's attorney presents the evidence through witnesses and exhibits. Each witness is sworn and then examined by the plaintiff's attorney; this is called direct examination. The defendant's attorney may cross-examine each witness, trying to raise doubts as to the person's credibility or trustworthiness. The plaintiff's attorney may then conduct a redirect examination to clarify the plaintiff's view of the facts and perhaps to minimize whatever negative effect was created in the cross-examination. During a witness's testimony, the opposing attorney may object to the presentation of certain evidence.

48) B
A writ of garnishment is designed to reach things belonging to the debtor that are in the hands of third parties, such as wages, bank accounts, and accounts receivable. Garnishment proceedings, like execution sales, are highly regulated by statute.

49) A
The attorneys make closing arguments that sum up a case. Normally the defendant's attorney goes first. This gives the plaintiff, who has the burden of proof, the last word. The burden of proof for a criminal case is different from that for a civil case. In a criminal case the state, as plaintiff, must convince the fact finder—jury or judge—beyond a reasonable doubt of the defendant's guilt.

50) B

TBEXAM.COM

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

When people or groups other than the parties involved are interested in the outcome of a certain appeal, they may request to be permitted to file *amicus curiae* (friend of the court) briefs.

51) A
To be able to appeal, a party must claim that the court made an error of law or that the evidence in the trial did not support the trial court's decision. The appellate courts hear no witnesses and gather no new evidence.

52) C
A transcript of the entire trial proceeding, including the testimony of all the witnesses and any discussions between the judge and the attorneys, must be prepared and forwarded to the appeals court.

53) B
The Federal Arbitration Act makes both the agreement of parties to arbitrate and the resulting arbitration award enforceable in court. Generally, a court will not review the wisdom of the decision of an arbitrator. It may, however, hold that the dispute was not arbitrable under the agreement of the parties, or that the arbitrator exceeded his or her authority, or acted arbitrarily, capriciously, or in a discriminatory manner.

54) B
The minitrial often involves a neutral third-party advisor. If a settlement is not reached, she or he will render a nonbinding opinion regarding how the dispute is likely to be resolved if it goes to trial, and how the court is likely to rule on factual and evidentiary issues.

55) A
In the private judging, or "rent-a-judge," method of dispute resolution, a hired judge (who is often a retired judge) renders a binding opinion after hearing the proofs and arguments of the parties.

56) D
An ombudsperson is an individual appointed within an organization to settle disputes.

57) Short Answer
Trial courts differ from inferior courts in that the trial courts are courts of general jurisdiction; they are not limited by the amount of civil damages that can be awarded or the criminal penalties that can be imposed. Their geographic jurisdiction is often a county. They also differ in that the judge must be a lawyer, and juries are provided for. The juries decide the facts and, under instructions from the judge about the applicable law, reach a verdict. In addition, trial courts are courts of record. Thus, an appeal can be taken from a trial court decision.

TBEXAM.COM

58) Short Answer

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

Federal courts and most state courts hear only real controversies—concrete disputes between actual parties. They do not give advisory opinions, nor do they make rulings on hypothetical cases. This saves the time of judges and avoids the danger that the arguments for one side might not be vigorously pressed because no one as yet has been truly hurt. Basically, courts only permit a plaintiff to bring a lawsuit if that person has standing. At its most basic level, the standing requirement is derived from Article III of the United States Constitution, which prohibits the courts from hearing a case unless there exists a real case or controversy. This is known as "constitutional (or Article III) standing." It prevents people from litigating frivolous or hypothetical claims. To meet this standard, a plaintiff must she that she has (1) suffered an actual injury, (2) that is traceable to the challenged conduct of the defendant, and (3) that the injury could be redressed by a favorable judicial decision.

59) Short Answer

There are two types of personal jurisdiction: general and specific. General jurisdiction arises when the defendant's contact with the court's territory are so continuous and systematic as to render it essentially at home in the forum state. In those instances, the court can adjudicate any cause of action involving that particular defendant, regardless of where the cause of action arose. Specific jurisdiction refers to personal jurisdiction over causes of action arising from or related to the defendant's actions within the court's territory. Specific jurisdiction, on the other hand, requires a relationship between the activity giving rise to the lawsuit and the court's territory. In short, specific jurisdiction is properly exercised where the injuries triggering the litigation arise out of and are related to activities that are significant and purposefully directed by the defendant at residents of the forum.

TBEXAM.COM

60) Short Answer

TBEXAM.COM

TBEXAM.COM – THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank

Law for Business Edition 14 by Barnes

Advocates of the adversary system believe that truth is most effectively determined as a result of each lawyer presenting his or her client's "case" through witnesses, and that deception and misperception are best exposed through cross-examination. In addition, the system makes it more difficult for a dishonest or biased judge to control the outcome of a case. Critics argue that honest witnesses can be confused by hostile questioning. They say that the system does not work when the opposing lawyers are of unequal skill. This gives an advantage to the wealthy, who can hire better lawyers. Furthermore, the competition to win can encourage suppression of unfavorable facts and overstatement, if not misstatement, of the truth.

61) Short Answer

TBEXAM.COM

Students answers may vary. The alternative dispute resolution method that is best suited to them is mediation. Mediation is the best suited method to resolve the dispute in the given case because a mediator often tries first to communicate the positions of the parties to each other. It allows the parties to settle the case by appointing a mediator who merely facilitates the negotiation by proposing a basis for settlement and does not give awards or opinions on the merits of the dispute. It is a suitable method when the two parties, here the employees of Claudio, Inc. and the management, have a continuing relationship because it allows them to compromise and to reach a solution themselves.

TBEXAM.COM

TBEXAM.COM - THE WORLD'S LARGEST TEST BANK AND SOLUTIONS DATABASE WITH UNBEATABLE RATES
Law for Business 14th edition Barnes Test Bank