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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

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

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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

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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) Ayman, a resident of Kansas, allegedly embezzled $90,000 from his employer in Missouri. 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

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 decides _____.
A) all the cases appealed to it
B) most of the cases appealed to it
C) only a small percentage of the cases appealed to it
D) to the decision of the U.S. court of appeals in the event of a concurring opinion

24) The U.S. Supreme Court may grant writ of certiorari (cert.) when _____.
A) a litigant would prefer to have the case resolved through alternate dispute resolution
B) there have been conflicting decisions in similar cases by different courts of appeal
C) the U.S. Supreme Court already has too many cases to review and therefore 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

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

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28) Jurisdiction is defined as the _____.
- A) authority of a court to hear and determine disputes
- B) unlimited authority of the court
- C) process by which legal cases are decided
- D) 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) Geno has been accused of murdering his wife Roshan in their home in Cincinnati, Ohio. The murder has received a great deal of media attention, and Geno believes he cannot receive a fair trial if the case is tried in his hometown. Geno believes he would receive a fair trial if the case were heard before a jury in Cleveland. To make his case for transfer of the trial from Cincinnati to Cleveland, Geno 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 regarding 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.

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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 judge in an adversary system has 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

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36) The Benningtons, an affluent family, own a hospitality chain called Bennington Hotels, Incorporated When a lawsuit is filed against the hotel for serving stale food to its guests, the Benningtons and Bennington Hotels, Incorporated 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 Benningtons and Bennington Hotels, Incorporated?
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.

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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 belief that justice is best served if an attorney divulges all evidence they have 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.

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40) Which of the following is true regarding pleadings?
A) The first step in starting a lawsuit is the serving of a counterclaim 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 filing of 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 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 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) default judgment
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

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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.

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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) writ of certiorari

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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 regarding 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.

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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

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.

59) Explain the two types of personal jurisdiction.

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

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61) The employees of Claudio, Incorporated 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?

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Answer Key

Test name: Chapter 02

1) FALSE

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