Environmental Law Legal Studies of the Environment and Natural Resources 2nd edition Johnson Test Bank

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Chapter 2
The Legal System in the United States

Multiple Choice Questions

1. People who have specific roles in a civil lawsuit may include all of the following except
   a. plaintiff
   b. defendant
   c. judge
   d. juror
   e. bail bondsman

   e; Easy

2. Sally's feelings were hurt because she was not invited to her company's beach cleanup party, which occurred outside of normal business hours. All of the people from her workplace who regularly hang out together were there. She decided to sue the organizer of the beach party because of her hurt feelings. This lawsuit is likely to
   a. fail, because a civil suit must be based on law, rather than hurt feelings
   b. succeed, because a civil suit can be brought when another party is uncivil
   c. fail, because a civil suit cannot determine which party decided not to invite Sally
   d. succeed, because a civil suit is the appropriate remedy when someone is mistreated
   e. none of the above

   a; Moderate

3. Randy owned a company. He asked Stan to dump the company's pollution into a local river, rather than paying for proper disposal. Stan dumped the company's pollution into the local river, as directed. This action violated the Clean Water Act. Vincent saw Stan dump the pollution into the river. Vincent brought a civil suit against Randy, Stan, and the company. Vincent's civil suit will
   a. not be permitted to move forward, because Vincent does not have standing
   b. be permitted to move forward, because the Clean Water Act contains a citizen suit provision
   c. not be permitted to move forward, because the river would have to bring its own claim for damages to itself
   d. be permitted to move forward, because of carpe diem
   e. not be permitted to move forward, because Stan was simply following orders

   b. Difficult

4. This state power allows the states to regulate for the health, welfare, and safety of its citizens:
   a. preemption
   b. police power
   c. preponderance of the evidence
   d. plain meaning rule
   e. precedent

   b; Easy

5. When a violation of the federal Clean Water Act occurs within a specific state, the case may be brought in
   a. federal court, because federal courts are courts of general jurisdiction
   b. federal court, because there is a federal question

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c. state court, because there is no federal question
d. federal court, because there will be no damages to a legal person
e. state court, because damages are greater than $75,000

b; Moderate

6. This type of jurisdiction describes the power that a court has over someone who consents to the court's jurisdiction

a. federal question jurisdiction
b. limited jurisdiction
c. diversity jurisdiction
d. subject matter jurisdiction
e. personal jurisdiction

e; Easy

7. The following are courts of limited jurisdiction, except

a. Oregon circuit courts
b. probate court
c. U.S. Tax court
d. family law court
e. U.S. bankruptcy court

a; Moderate

8. The U.S. president may issue executive orders, providing

a. Congress allows it
b. the action is within the executive's constitutional powers to do so
c. the action is not vetoed
d. the action was part of the president's campaign promises
e. a bill was passed by 2/3rds majority

b. Easy

9. Enabling acts create

a. Congress
b. administrative agencies
c. federal courts
d. redistricting
e. ordinances

b; Easy

10. State governments

a. may enter treaties with other nations
b. may not enter treaties with other nations
c. may enter treaties with the U.S. federal government
d. may not enter treaties with other states
e. are the sole foreign policy power for treaties involving states

b; Moderate

11. Mark decided that he no longer wished to pay his telephone bill, which totaled $837.00. The telephone company sued Mark in court. If the lawsuit is successful, the judgment may include

a. diversity jurisdiction
b. writ of certiorari
c. civil disabilities

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d. monetary damages
e. incarceration

d; Easy

12. Interrogatories, production of real evidence, requests for admissions, and depositions are examples of

a. discovery techniques
b. the tools of statutory interpretation
c. voir dire
d. motions for summary judgment
e. civil disabilities

a; Easy

13. The U.S. Circuit Courts of Appeals are

a. federal courts
b. state courts
c. courts of general jurisdiction
d. inferior courts
e. trial courts

a. Easy

14. Gina spray painted graffiti on Monica's building without Monica's permission. They both live New Mexico. The damage to Monica's building totaled $12,000. This case will be heard in

a. federal court, because federal courts are courts of general jurisdiction
b. federal court, because there is a federal question
c. state court, because there is no basis for federal jurisdiction
d. federal court, because there is complete diversity
e. state court, because state courts are courts of limited jurisdiction.

c; Easy

15. The doctrine of *stare decisis* indicates that judges will generally follow established

a. public opinion
b. pleadings
c. petitions
d. precedents
e. preponderance of the evidence

d; Easy

16. Any powers not given to the federal government are reserved to the states or to the people by

a. the First Amendment
b. the Fourth Amendment
c. the Fifth Amendment
d. the Tenth Amendment
e. the Fourteenth Amendment

d; Easy

17. Claims arising under administrative rules and regulations will not be heard by a court without the plaintiff having first

a. obtained a favorable judgment at the state court level or the U.S. District Court level
b. been granted a pardon by the president or by the governor of a state
c. exhausted all administrative remedies

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d. made a motion for summary judgment
e. made a motion for the production of real evidence
c; Easy

18. The plain meaning rule
a. has no place in legal interpretation
b. is used by judges to determine statutory meaning
c. is constitutional law
d. the guiding principle of extraterritorial application of U.S. laws
e. used by defendants in civil cases as an affirmative defense
b; Easy

19. Jose wished to bring a claim against Richard for violating a federal statute, which contained a citizen suit provision. The action giving rise to the lawsuit occurred in Virginia, which is where both Joe and Richard live. The case can be brought in
a. federal court, because federal courts are courts of general jurisdiction
b. federal court, because there is complete diversity
c. federal court or the Virginia state court, because there is concurrent jurisdiction
d. the Virginia state court, because there is complete diversity
e. the Virginia state court, because state courts are courts of limited jurisdiction.
c; Difficult

20. In Congress, a bill must be introduced in
a. the House of Representatives
b. the Senate
c. the House of Representatives or the Senate
d. the Office of the President
e. any federal court
c; Easy

21. U.S. statutes are codified in the
a. U.S. Code
b. Federal Register
c. Code of Federal Regulations
d. Federal Reporter
e. Code and Register of Federal Actions
a; Easy

22. When a bill passes both houses of Congress, it then goes to
a. a joint committee
b. the U.S. Supreme Court
c. the Vice President
d. the people
e. the Environmental Protection Agency
a; Easy

23. The statute of limitations for a specific claim is two years. If a plaintiff wishes to bring that claim as a result of a specific incident, then she must
a. file the complaint within two years of the incident
b. have a jury reach a verdict within two years of the incident
c. complete all appeals within two years of the incident

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d. ensure the judgement, if any, is paid within two years of the incident
e. contact her state legislator within two years of the incident
a; Moderate

24. Common law is created by
a. judges
b. presidents
c. legislators
d. administrative agency heads
e. the people
a; Easy

25. The Supremacy Clause
a. prohibits state law from conflicting with federal law
b. prohibits federal law from conflicting with state law
c. prohibits federal law from conflicting with local ordinances
d. permits the United States to intervene in the affairs of foreign nations for humanitarian crises
e. permits the United States to lead at the United Nations
a; Easy

26. The United States is _____, where federal and state governments both have power and share power.
a. an adversarial system
b. a maxim
c. system of federalism
d. a system of voir dire
e. a long-arm statute
c; **Easy**

Short Answer

1. Describe how subject matter jurisdiction can be established for a case to be heard in federal court. Provide one example for each method of establishing subject matter jurisdiction that you identify.

   A federal question satisfies subject matter jurisdiction so that the case can be heard in federal court. Answers will vary regarding federal question, but any answer that identifies a federal statute, rule or regulation, treaty, or other federal law should be considered acceptable.

   Complete diversity also satisfies subject matter jurisdiction. Parties must be from different states and the amount in controversy must be greater than $75,000. Any fact pattern described where those two items are present will satisfy complete diversity and should be considered an acceptable response.

   Moderate

2. Identify and discuss the differences between civil law and criminal law.

   - Criminal law addresses injuries to the public, while civil law addresses private wrongs or private injuries

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- The government prosecutes a defendant in a criminal case, but a plaintiff sues a defendant in a criminal law. This also means that the government pays to prosecute the criminal case, while a private plaintiff pays to sue a civil defendant.
- Government will provide an attorney for a criminal defendant who cannot afford to provide his or her own attorney, but a civil defendant must pay for his or her own attorney in a civil case, if one is desired.
- In a criminal case, the standard of proof is beyond a reasonable doubt, but in a civil case, the standard of proof is by the preponderance of the evidence.
- In a criminal case, conviction may include loss of liberty and also may result in civil disabilities, but in a civil case, the legal remedy is typically monetary damages. There are no loss of civil liberties in a civil case, and a civil defendant is not incarcerated.

Easy

Essay Questions

1. Discuss when a summary judgment is appropriate. What are the benefits of a summary judgment? What are the drawbacks?

   Answers should address the following points:

   A party is entitled to summary judgment if there are no genuine issues of material fact and that party is entitled to judgment as a matter of law.

   Benefits of a summary judgment is the trial can be avoided, which might afford less publicity, might be less expensive for both sides, and might expedite the resolution of the case.

   Drawbacks to a summary judgment are that the parties will not get to have their day in court (assuming that the motion for summary judgment is brought before trial begins.)

   A summary judgment is a final judgment and may be appealed. Since the issue on appeal in many cases where summary judge was granted focus on whether there were genuine issues of material fact, then the grant of summary judgment might not satisfy both parties.

   Difficult

2. Identify and define six different sources of law, and provide an example of each.

   Answers will vary. Different examples of each type of law will be provided.

   Statutes – laws created by the legislature (e.g. Clean Water Act)
   Treaties – a legal agreement between two or more nation-states (e.g. Migratory Bird Treaty Act)
   Common law- judge made law (e.g. statutes are interpreted by the plain meaning of their words)
   Rules and regulations – laws created by administrative agencies (e.g. any of the EPA's rules)
   Constitutional law – based on the U.S. Constitution, but interpreted by judges (e.g. Roe v. Wade)
   Executive Orders – an order issued by the Executive (e.g. US President or state governor) (e.g. Executive Order 12898 related to environmental justice.)

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Moderate

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