**CHAPTER 3-COURTS, LITIGATION AND ALTERNTIVE DISPUTE RESOLUTION**

**TRUE/FALSE**

1. If Lorenzo is seeking an injunction against Brenda to prevent her from selling materials that infringe his copyright, he is entitled to a jury trial if the value of the materials is over $100.

2. Disputants Martin and Daulton have hired Thurman to mediate their disagreement. Although Martin and Daulton must accept whatever decision Thurman makes, the mediation has the advantage of keeping Martin and Daulton out of court.

3. Hankrin Corp. is incorporated under Delaware law and has its principal place of business in Annapolis. For diversity purposes, it is considered a resident only of Maryland.

4. Primary methods of alternative dispute resolution include litigation and mediation.

5. Generally, mandatory arbitration provisions in a contract are valid.

6. U.S. Supreme Court justices serve for a nine year period.

7. A prospective juror was excused from serving after being questioned by the plaintiff's attorney. No reason was given for the rejection. This would be accomplished by the use of a peremptory challenge.

8. Summary judgment is appropriate when there are no essential facts in dispute.

9. In order for a federal court to have jurisdiction, there must be a federal question involved and at least $75,000 in dispute.

10. After being served with a summons and a copy of the complaint, a defendant usually files a pleading known as an answer, briefly replying to each allegation in the complaint.

11. In a civil case, the plaintiff must prove the case beyond a reasonable doubt.

12. A summons is a paper ordering a defendant to appear in court at a certain time.

13. Appellate courts conduct trial de novo, rehearing all evidence

14. If interrogatories are being used as a form of discovery, the party being questioned must generally answer all the questions orally under oath.

15. Emails and their attachments are not subject to pretrial discovery.

**MULTIPLE CHOICE**

1. The most accurate statement regarding appellate courts is:

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| a. | appellate courts often hear new evidence and testimony. |
| b. | appellate courts generally accept the factual findings of the trial court. |
| c. | only the federal court system has appellate courts. |
| d. | appellate courts hear only criminal cases. |

2. Advantages of Alternative Dispute Resolution (ADR) include:

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| a. | ADR is faster than litigation. |
| b. | ADR keeps the parties talking rather than fighting. |
| c. | ADR is less expensive than litigation. |
| d. | All of the above are advantages of ADR. |

3. The fastest growing method of dispute resolution in the United States is:

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| a. | arbitration. |
| b. | negotiation. |
| c. | mediation. |
| d. | litigation. |

4. Jurisdiction is:

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| a. | the study of law. |
| b. | the authority of a court to decide a particular type of case. |
| c. | a federal court concept. |
| d. | applicable only to appeals courts. |

5. Tony fell and injured himself in a Mega Toy Store. Mega Toy Store is incorporated in Delaware. Tony is a resident of Nevada but was injured in a Mega Toy Store located in Arizona. Mega Toy does not do business in Nevada. Tony's damages exceed $100,000. If Tony decides to sue Mega Toy Store:

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| a. | he may file the lawsuit in an Arizona state court. |
| b. | he may file the lawsuit in a federal district court in Arizona. |
| c. | he must file the lawsuit in a federal district court because the federal courts would have diversity jurisdiction in this case. |
| d. | Either a or b. |

6. Federal jurisdiction based upon a "federal question" includes cases based on:

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| a. | the United States Constitution. |
| b. | a federal statute. |
| c. | a federal treaty. |
| d. | All of the above. |

7. The biggest change in litigation in the last decade is:

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| a. | an explosive rise of electronic discovery. |
| b. | a decrease in the use of discovery. |
| c. | the replacement of interrogatories with depositions. |
| d. | the use of juries in appellate courts. |

8. Holt and Collins decide to have their dispute arbitrated by Corrales. Which of the following will NOT be a result of the arbitration?

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| a. | Corrales will render a binding decision. |
| b. | Holt and Collins retain the right to a class action. |
| c. | Holt and Collins give up the right to discovery. |
| d. | Corrales need not give reasons for the decision. |

9. Roberto sued Monica for injuries received in a traffic accident. If Monica does not respond to the complaint and summons served by Roberto within the prescribed time limits, Roberto may obtain a:

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| a. | judgment on the pleadings. |
| b. | summary judgment. |
| c. | pretrial conference. |
| d. | default judgment. |

10. Roxanne was injured when she fell in a hole while walking across her landlord's parking lot. She and her lawyer hope they can settle the claim. Which of the following statements about settlements is correct?

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| a. | A case can be settled provided it has not been filed with the court. |
| b. | A case can be settled provided that discovery has not commenced. |
| c. | A case can be settled provided the jury has not heard any testimony. |
| d. | A case can be settled at any time. |

11. In a civil case, the plaintiff must prove the case:

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| a. | by a preponderance of the evidence. |
| b. | by clear and convincing evidence. |
| c. | beyond a reasonable doubt. |
| d. | None of the above; the burden of proof is on the defendant. |

12. In *Jones v. Clinton*, the court held:

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| a. | Paula Jones did not demonstrate the essential elements for her claim. |
| b. | Paula Jones was entitled to a summary judgment. |
| c. | public policy required that the case be dismissed because of the President’s governmental position. |
| d. | President Clinton failed to comply with a discovery order. |

13. A jury decision in a civil case:

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| a. | must be unanimous. |
| b. | must be reached in the same day the case is heard. |
| c. | depends on whether or not the parties have agreed to have their case decided by less than a unanimous verdict. |
| d. | is achieved by informal deliberations. |

14. When an appellate court hears a case, it may:

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| a. | affirm the decision. |
| b. | reverse the decision. |
| c. | modify the decision. |
| d. | All the above are correct. |

15. After the plaintiff has presented her case, the defendant may be granted a:

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| a. | directed verdict. |
| b. | summary judgment. |
| c. | judgment n.o.v. |
| d. | judgment on the pleadings. |

16. After answering a summons and complaint, Mike received a set of written questions from the plaintiff's attorney. He was directed to respond to the questions in writing under oath. This discovery technique is called:

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| a. | a request for admission. |
| b. | a request for the production of documents. |
| c. | a deposition. |
| d. | interrogatories. |

17. A civil case generally proceeds as follows:

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| a. | answer, complaint, discovery, trial, verdict. |
| b. | complaint, answer, trial, discovery, verdict. |
| c. | complaint, answer, discovery, trial, verdict. |
| d. | discovery, complaint, answer, trial, verdict. |

18. Denzil was one of 50,000 people defrauded of $40 in an advertising scam. His best course of action to recover his money is to:

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| a. | mediate the claim with the advertiser. |
| b. | bring an individual lawsuit against the advertiser in a state appellate court. |
| c. | bring an individual lawsuit in a U.S. District Court. |
| d. | become part of a class action lawsuit, which might include plaintiffs who are unaware of the lawsuit or are even unaware they were harmed. |

19. When an appeal is filed with the U.S. Supreme Court, the Supreme Court:

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| a. | must hear the case if the validity of a federal statute is in question. |
| b. | must hear the case if two or more U.S. courts of appeals have decided the legal issue differently. |
| c. | has discretion as to which cases it hears. |
| d. | must hear all cases. |

20. Which of the following is not an example of a trial court of limited jurisdiction?

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| a. | A probate court. |
| b. | A juvenile court. |
| c. | A small claims court. |
| d. | A general civil division court. |

21. The United States has taken a position that legal issues are best resolved by lawsuits involving parties with conflicting interests presenting their strongest possible case to a neutral factfinder. Because of this, the legal system in the United States is considered:

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| a. | an adversary system. |
| b. | a conflict system. |
| c. | an alternative dispute resolution system. |
| d. | a mediation system. |

22. An inmate in a state prison claims his United States constitutional rights prohibiting cruel and unusual punishment are being violated by the state correctional facility. This case:

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| a. | may not be decided by a federal court since it involves a state facility. |
| b. | must be decided by the state court where the inmate established residency before going to prison. |
| c. | is a federal question case over which the federal courts have jurisdiction. |
| d. | cannot be heard, as prisoners lose the right to sue. |

23. A United States district court is:

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| a. | the primary federal trial court. |
| b. | an appellate court. |
| c. | a small claims court only. |
| d. | none of the above. |

24. Randi, a resident of Oregon, was involved in a auto accident while in Idaho. The other party lives in Wyoming. Randi wishes to recover the $28,000 cost to repair her car. The most appropriate court for her to file her lawsuit is in a:

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| a. | federal court in Idaho. |
| b. | state court in Idaho. |
| c. | federal court in Wyoming. |
| d. | federal court in Oregon. |

25. Which of the following does a defendant have to do in person?

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| a. | Interrogatories |
| b. | Subpoena |
| c. | Production |
| d. | Deposition |

**ESSAY**

1. Briefly describe the process of jury selection.

2. Define discovery, and identify and explain five of the most important forms of discovery.

3. Pablo, a resident of New Mexico, while driving through Arizona was struck by a SUV driven by Dick, a resident of California. Dick was speeding when the accident happened and Pablo suffered severe injuries that ruined a potential acting career. Pablo's damages are estimated at $200,000. Discuss the court system(s) in which Pablo may bring a lawsuit.

4. What are the advantages and disadvantages of using arbitration rather than litigation?

5. Lance sued Mega Corp. for negligence, and a jury awarded him $1.2 million. Mega Corp. filed a motion for judgment NOV, and that motion was denied by the trial court. Mega Corp. then appealed the case. Discuss a judgment NOV and when it is appropriate for a judge to grant such a judgment.