

BASIC PRINCIPLES OF EVIDENCE

1. In systems using adversarial processes, counsel may be able to impeach an opposing party's witness by showing that the witness has an impaired ability to observe.
 - A. True
 - B. False
2. In systems using adversarial processes, an attorney may impeach an opposing party's witness by showing/proving that the witness:
 - A. Has a reputation for untruthfulness
 - B. Made prior inconsistent statements
 - C. Is influenced by bias or self-interest
 - D. All of the above
3. In most common law jurisdictions, for a document to be admitted into evidence, it must be properly _____; that is, the party offering the document must produce some evidence to show it is, in fact, what the party says it is.
 - A. Marked
 - B. Authenticated
 - C. Validated
 - D. Certified
4. Michael Caston, a fraud suspect, confesses to a fraud. During Caston's trial for the fraud, the government introduces the confession as evidence of Caston's intent to commit the fraudulent act for which he is charged. What type of evidence is Caston's confession?
 - A. Circumstantial
 - B. Direct
 - C. Character
 - D. Testimonial
5. The fact that an item of evidence is relevant does not automatically mean that it will be admitted in adversarial trials. Evidence may be relevant but still excluded for other reasons.. Which of the following is one of those reasons?.
 - A. Waste of time
 - B. Unduly prejudicial
 - C. Misleading
 - D. All of the above
6. Black, a Certified Fraud Examiner who lives and works in a common law legal system with a litigation privilege, discovers a potential fraud at the ABC Company while auditing ABC's procedures. She immediately notifies ABC's in-house counsel. As a result, Black's work up until that point is protected by:
 - A. The CFE/client privilege
 - B. The investigator/client privilege
 - C. The employer / employee privilege

D. None of the above

7. Relevant evidence is evidence that tends to make some fact at issue more or less likely than it would be without the evidence.

A. True

B. False

8. In most common law systems, a party can introduce relevant exhibits as evidence in trial even if the items are not established as authentic.

A. True

B. False

9. Which of the following is an acceptable way of authenticating computerised records in most common law systems?

A. Providing evidence of distinctive characteristics of the records

B. Having a witness with personal knowledge of the records offer testimony

C. Accompanying the evidence with a written certification by the custodian record

D. All of the above

10. Testimonial evidence refers to the oral statements made by witnesses under oath.

A. True

B. False

11. A report by a Certified Fraud Examiner states that \$11,354.56 was withdrawn without authorisation from the plaintiff's business on Dec. 3, Year 1, and that on Dec. 6, Year 1, \$11,354.56 was deposited into an account owned by the defendant. During a criminal trial against the defendant, the government introduces this information as evidence of the defendant's guilt. What type of evidence is the information contained in this report?

A. Inferential evidence

B. Indirect evidence

C. Circumstantial evidence

D. None of the above

12. Edward is being prosecuted in a common law system using adversarial processes for committing data theft after hacking into a victim's website. In defence of the charges, Edward claims that he did not have the technical skills required to gain access to the site, and therefore could not have committed the crime. The prosecution wants to show evidence of Edward's previous convictions for data theft to prove that he has the technical skills required to gain access to the site. Could the court allow the prosecution to introduce the evidence of Edward's previous convictions?

A. Yes, because the evidence is being entered to prove Edward's ability to commit the crime.

B. Yes, because the evidence is self-authenticating

C. No, because Edward's prior convictions are inadmissible character evidence

D. No, because the evidence is not relevant

13. Blue is a defendant on trial for fraud in a common law jurisdiction. One of the key pieces of evidence in the trial is a handwritten letter written by Blue that indicates his intent to commit the fraud. Before the letter can be admitted into evidence, Blue's authorship of the letter must be established. Which of the following statements about establishing the authenticity of the letter is CORRECT?

- A. The letter's authenticity can be established by having a witness testify that he saw Blue write the letter .
- B. Because the letter is self-authenticating, it needs no additional authentication to be admitted .
- C. The letter's authenticity can be established by having the jury review the document and vote on its authenticity .
- D. None of the above .
14. While conducting a fraud examination, Black, a Certified Fraud Examiner, obtained a document in Year 1 . Since Black obtained the document, several individuals have had it in their possession. In Year 2, the document was introduced at trial. The document's authenticity, however, was questioned because there was no record of who had possession of it and what they did with it. The question concerning the document's authenticity is based on a failure to maintain _____.
- A. Who validated the evidence .
- B. The chain of custody .
- C. The best form of the evidence .
- D. The attorney's evidence records .
15. In jurisdictions that provide a legal professional privilege, such as the attorney-client privilege, an attorney's client can waive any protection the privilege provides over confidential communications if the client discloses the privileged information to unrelated third parties who have no need to know the information.
- A. True
- B. False
16. Litigation privileges and other similar evidentiary protections, such as the attorney work product doctrine, only protect documents and materials prepared by an attorney.
- A. True
- B. False
17. The hard drive of a compromised computer system was given to Brad, a forensic examiner, for analysis. If Brad cannot verify who provided him with the computer's hard drive for analysis, then:
- A. The best-evidence rule is invoked .
- B. The chain of custody is broken .
- C. The hard drive must be rehashed .
- D. The hard drive must be imaged .
18. Blake, a Certified Fraud Examiner, testifies during a criminal trial that \$25,000 was withdrawn without authorization from the plaintiff's business and that one week later, \$20,000 was deposited into an account owned by the defendant. In the criminal trial of the defendant for theft, Blake's testimony would be considered what type of evidence?
- A. Direct evidence +
- B. Demonstrative evidence +
- C. Real evidence +
- D. Circumstantial evidence

19. Litigants involved in cross-border litigation should expect to have the privilege laws from their own jurisdiction applied when engaged in cross-border litigation ✓
- A. True
 - ~~B. False~~
20. Which of the following would be an example of direct evidence?
- A. In a misappropriation trial, testimony that the defendant deposited \$2,000 into his account on the same day \$2,000 was stolen from his employer.
 - B. In an embezzlement trial, expert testimony regarding the defendant's mental functioning and drug addiction
 - ~~C. In a misappropriation trial, eyewitness testimony of someone saying that she saw the defendant steal items from his employer's inventory ✓~~
 - D. In an embezzlement trial, witness testimony about a suspicious situation in which the defendant was involved.
21. Which of the following is an element that must be present for communications between an attorney and his client to be protected by a legal professional privilege?
- A. Communication between a legal advisor and a client
 - ~~B. Intent to keep the communications confidential~~
 - C. Purpose of the communications was to seek or provide legal advice
 - ~~D. All of the above~~
22. The three basic forms of evidence are demonstrative, real, and direct.
- A. True
 - ~~B. False~~
23. Which of the following is a reason why litigants involved in cross-border litigation should not expect to have the privilege laws from their own jurisdiction applied when engaged in cross-border litigation?
- A. Courts are more inclined to apply their own privilege laws than the laws of foreign jurisdictions ✓
 - B. Courts are more familiar with local privilege laws than the laws of foreign jurisdictions
 - C. Characterisations and conceptualisations of privileges vary among different countries
 - ~~D. All of the above~~
24. Evidence that proves or disproves facts by inference is called direct evidence.
- A. True
 - ~~B. False~~
25. A photograph can be either demonstrative evidence or real evidence.
- ~~A. True~~
 - ~~B. False~~
26. Which of the following scenarios would potentially result in the waiver of a client's legal professional privilege over confidential communications with his attorney?
- ~~A. The client's legal representative shares privileged communications with an unrelated third party who has no need to know the information~~
 - B. The client intentionally shares privileged communications with an unrelated third party who has no need to know the information

C. The client inadvertently forwards an email with privileged information to unrelated third parties who have no need to know the information.

All of the above

27. A client hires an attorney in a jurisdiction that provides a legal professional privilege. If the attorney shares client communications that are confidential and subject to the legal professional privilege with an outside consultant hired to help provide legal advice to the attorney's client, the client will automatically lose any protection the legal professional privilege provided over the communications.

A. True

B. False

28. The primary reason for maintaining the chain of custody on an item of evidence is to deter or prevent unauthorized individuals from handling the evidence before its production in court.

A. True

B. False

29. During a criminal trial involving allegations of corruption, the prosecution introduces a diagram illustrating the organisational structure of a company allegedly involved in the crimes under which the trial was conducted. The diagram is an example of:

A. Documentary evidence ✗

B. Direct evidence ✗

C. Demonstrative evidence

D. Real evidence ✓

30. The purpose of the authentication requirement in most common law systems is to ensure that hearsay is not admitted into evidence.

A. True

B. False

31. In common law jurisdictions, evidence of other crimes committed by a defendant in a criminal action is usually admissible to prove that the defendant is generally a bad person, and therefore is likely to have committed the crime with which he is charged.

A. True

B. False

32. Which of the following is the MOST ACCURATE statement about the judicial treatment of privileges from foreign jurisdictions in cross-border litigation?

A. There is a lack of standardization and predictability with respect to privileges in cross-border litigation

B. The transnational principles and rules established a set of standardized rules of privilege for cross-border litigation

C. Litigants involved in cross-border litigation should expect to have the privilege laws from their own jurisdiction applied when engaged in litigation abroad ✗

D. The Hague Evidence Convention established a set of standardized rules of privilege for cross-border litigation ✗

33. Waiver of a legal professional privilege occurs when a client shares privileged information with an outside party who has nothing to do with the client's pursuit of legal representation.