

30/25 (30%)

THE CIVIL JUSTICE SYSTEM

1. The main distinction between mediation and arbitration is that with arbitration, the arbitrator actually decide who wins the case. In contrast, in mediation, the mediator simply tries to help the parties work out a settlement
- A. True
 B. False
- * 2. In a civil case in common law jurisdictions, a court may grant a party's request for a(n) _____ if determines that there is no genuine, material issue of fact at issue and the requesting party is entitled to judgment as a matter of law.
- A. Summary judgment ✗
 B. Judgment n.o.v ✗
 C. De facto judgment ✓
 D. Judgment for lack of actionable claim ✓
3. Some common law countries allow parties to conduct a(n) _____, which is sworn testimony given by party or witness upon questioning by counsel for one of the parties before trial and outside of court, usually in lawyer's office.
- A. Interrogatory
 B. Oral examination ✓
 C. Request for admission
 D. Indictment
4. In civil law systems, the standard of proof in civil trials and criminal trials is generally the same.
- A. True
 B. False
5. If an employee commits internal fraud, the only feasible way for the employer to make up for the losses is to get them back from the employee through agreement or litigation.
- A. True
 B. False ✓
6. Which of the following best describes the civil trial process in a civil law jurisdiction?
- A. It is a continual series of meetings and written correspondences, rather than a single event. ✓
 B. The judge generally rules on the admissibility of the evidence at the beginning of the trial ✗
 C. It is generally divided into the pretrial stage and the trial stage ✓
 D. The judge is responsible for the trial record, which is a word-for-word transcript of the proceedings. ✓
7. In most common law systems, relevant documents in civil cases are listed and described by the party that hold them in which of the following devices?
- A. Subpoena coram non judice
 B. Writ of attachment
 C. Injunctions list
 D. Affidavit of documents or records ✓
8. Which of the following claims in a civil lawsuit would be considered a counterclaim?
- A. A plaintiff's challenge of the ruling in another case ✗
 B. A defendant's claim against another defendant in the same proceeding
 C. A plaintiff's response to defendant's affirmative defence ✗
 D. A defendant's claim against the original plaintiff of the action ✓
9. Integrative bargaining is the process whereby an impartial third person assists the parties to a dispute reaching a resolution.
- A. True ✓

~~B. False~~

10. In most common law jurisdictions, the plaintiff in a civil trial must prove his case beyond a reasonable doubt.

A. True

~~B. False~~

11. An injunction is a type of equitable remedy in which a court orders a party to perform, or refrain from performing, a specific act. ✓

A. True

B. False

* 12. In most jurisdictions, the plaintiff's initial pleading requires various kinds of information. Which of the following is NOT one of them?

A. All documents that might be introduced as evidence during the proceedings ✓

B. A summary of the evidence *

C. Specific facts on which the party's claim relies ✓

~~D. Grounds for legal relief *~~

13. XYZ Manufacturing has a document destruction procedure in which emails are automatically deleted after a specified period. A trading partner filed a civil lawsuit against XYZ in a civil law jurisdiction, claiming that XYZ sent fraudulent invoices via email. Under most civil law systems, the court would establish when XYZ should preserve and produce documents.

~~A. True~~

~~B. False~~

14. Which of the following is the alternative dispute process whereby an impartial third person assists the parties to a dispute in reaching a mutually agreeable settlement?

A. Propitiation

~~B. Mediation~~

C. Court-annexed conciliation

D. Arbitration

15. In most common law jurisdictions, which of the following actions may a civil appellate court generally perform?

A. Interview new fact witnesses *

~~B. Enter final judgment if legal grounds are proven ✓~~

C. Collect new documentary evidence *

D. Take expert testimony *

* 16. Which of the following types of remedies in civil litigation involves the victim recovering money from the defendant for compensation, reimbursement, or reparation for the defendant's offence?

A. Declaratory relief *

~~B. Damages ✓~~

C. Equitable relief *

D. Injunction *

17. Which of the following best describes the standard of proof for civil trials in civil law jurisdictions?

A. Preponderance of evidence

~~B. The inner conviction of the judge~~

C. Clear and convincing *

D. More likely than not *

18. Which of the following is a method of pretrial civil discovery used in most common law jurisdictions?

~~A. Pretrial written examinations ✓~~

B. Requests for agreement ✓

C. Injunctions *

D. Indictment ✗

19. In an arbitration, the arbitrator acts as a judge or jury by deciding the case on its merits.

A. True

B. False

20. Which of the following actions may a civil appellate court perform in most civil law jurisdictions?

A. Obtain new expert opinions ✗

B. Gather new documentary evidence ✗

C. Obtain new witness testimony ✗

D. All of the above

21. An individual is a defendant in a civil fraud lawsuit filed by his employer. In the same proceeding, the jurisdiction allows the defendant to file a claim stating the employer owes him backpay. The defendant's claim in this case called a counterclaim.

A. True

B. False

22. Which of the following statements concerning the alternative dispute resolution process is accurate?

A. Mediation agreements are enforceable as binding contracts ✓

B. Arbitration decisions are binding until a party challenges the decision in court ✗

C. Arbitration decisions are always binding ✗

D. Mediation agreements are generally nonbinding ✗

23. Gerald is involved in pretrial civil litigation in a common law jurisdiction and believes the other party know several facts that are relevant to the case. Which of the following statements is MOST ACCURATE?

A. Gerald may not request information from the other party in civil litigation ✗

B. Gerald may request the information from the party through a written pretrial examination ✓

C. Gerald will have to wait until trial to request that the other party provide this information ✗

D. Gerald must wait for the judge to obtain the information during the judge's investigation. ✗

✗ 24. In civil law jurisdictions, which of the following best describes a major role of the parties' attorneys or advocates during civil litigation?

A. To request and obtain documentary evidence from each other prior to the trial ✗

B. To examine and cross-examine witnesses ✗

C. To ensure that the judge accurately creates the trial record ✓

D. All of the above

25. Generally, after a civil trial, only the losing side may appeal from an adverse verdict.

A. True

B. False

26. In common law jurisdictions, civil juries must be composed of the same number of members as in the jurisdiction's criminal trials.

A. True

B. False

27. When does the duty to preserve relevant evidence regarding civil litigation typically arise for litigation in common law countries?

A. When litigation is reasonably anticipated ✓

B. As soon as the defendant files an answer or response to the plaintiff's pleading or complaint ✗

C. A short time period after the plaintiff files the lawsuit, typically 30 days ✗

D. As soon as the plaintiff files the lawsuit

28. In most civil law jurisdictions, oral testimony is favoured over written evidence in civil litigation.

A. True

B. False

29. Fidelity insurance financially covers a party against losses caused by customers.

A. True

~~B. False~~

30. The commencement of a civil action begins with the filing of a(n):

~~A. Pleading, usually in the jurisdiction in which the defendant resides or where the claim arose~~

B. Information usually in the jurisdiction in which the defendant or plaintiff resides or where the claim arose ✓

C. Supposition, usually in the jurisdiction where the defendant resides -

D. Information, usually in the jurisdiction where the plaintiff resides →

31. Two parties entered into a real estate contract for various properties, but the vague nature of the contract led to confusion about who owned a particular property. The parties took the issue to court, and the court interpreted and stated the rights of each party under the contract. What type of remedy did the court provide?

A. Monetary relief ↘

B. Exemplary damages *

C. Declaratory relief ✓

D. Punitive damages *

32. Which of the following statements concerning civil trials in common law jurisdictions is most accurate?

A. The jury typically decides the order in which evidence is presented *

B. The defendant is typically the first party to present evidence at trial *

C. The judge typically presents the evidence at trial >

~~D. The plaintiff is typically the first party to present evidence at trial ✓~~

33. In civil litigation in civil law jurisdictions, when is the trial record typically created?

~~A. After the court has completed the evidence-gathering process *~~

B. After the judge has announced the court's decision *

C. Throughout the trial as the court gathers evidence *common* ✓

D. In the pretrial stage

34. Which of the following best describes what is typically included in the trial record of a civil lawsuit in civil law jurisdictions?

A. A verbatim transcript of all oral testimony ✓

B. The judge's summaries of the evidence ✓

C. Every document submitted as evidence ✓

D. All of the above *

35. In civil cases in some common law jurisdictions, the jury verdict does not need to be unanimous.

A. True ✓

B. False