Chapter 1

The Legal Environment

|  |
| --- |
| N.B.: TYPE indicates that a question is new, modified, or unchanged, as follows.N A question new to this edition of the Test Bank.+ A question modified from the previous edition of the Test Bank,= A question included in the previous edition of the Test Bank. |

TRUE/FALSE QUESTIONS

1. There is really no reason to be acquainted with business laws and gov­ernment regu­lations, except to pass this test.

 ANSWER: F PAGE: 3 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

2. Law consists of enforceable rules governing relationships among indi­viduals and between individuals and their society.

 ANSWER: t PAGE: 3 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

3. Many different laws may apply to a single business transaction.

 ANSWER: T PAGE: 4 TYPE: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Critical Thinking

4. Businesspersons are expected to make decisions that are ethically sound.

 ANSWER: T PAGE: 4 type: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

5. Being a small-business owner means that you will never have to take on the role of finance manager, marketing manager or accountant.

 ANSWER: F PAGE: 6 TYPE: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

6. State laws are the supreme law of the United States.

 ANSWER: F PAGE: 6 type: +

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

7. The federal government and the states have the same constitution.

 ANSWER: F PAGE: 6 type: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

8. A state law that conflicts with the U.S. Constitution will be deemed unconstitutional.

 ANSWER: T PAGE: 6 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

9. State constitutions are supreme within their respective borders.

 ANSWER: T PAGE: 6 type: +

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

10. Statutory law includes state statutes and ordinances passed by cities and counties.

 ANSWER: T PAGE: 7 TYPE: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

11. Whether financial statements created by an accountant need to be verified for accuracy is not a legal question.

 ANSWER: F PAGE: 7 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Critical Thinking

12. There are legal questions involved when considering ways to raise capital so a business can grow.

 ANSWER: T PAGE: 7 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Critical Thinking

13. There are legal questions involved when choosing an appropriate business organizational form.

 ANSWER: T PAGE: 7 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Critical Thinking

14. A small business owner is likely to face legal questions when determining ways to reduce his small business’s taxes.

 ANSWER: T PAGE: 7 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Critical Thinking

15. Statutes are laws enacted by Congress and the state legislatures and comprise one of the sources of American law.

 ANSWER: T PAGE: 7 TYPE: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Legal

16. Administrative law is a source of American law that is comprised of statutes.

 ANSWER: F PAGE: 8 TYPE: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

17. Uniform laws apply in all states, including those in which the laws have not been adopted.

 ANSWER: F PAGE: 8 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

18. The American Law Institute was the only organization involved in developing the Uniform Commercial Code.

 ANSWER: f PAGE: 8 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Legal

19. No state has adopted the Uniform Commercial Code.

 ANSWER: F PAGE: 8 type: +

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

20. Administrative law consists of the rules, orders, and decisions of administrative agencies. .

 ANSWER: T PAGE: 8 type: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

21. Administrative law includes only state regulations.

 ANSWER: F PAGE: 9 type: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

22. In order to truly understand our legal system, it is important to understand the origins of the common law tradition.

 ANSWER: T PAGE: 11 type: N

 BUSPROG: Reflective LO: 1-2 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

23. Congress creates an administrative agency by enacting enabling legislation.

 ANSWER: t PAGE: 9 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

24. Common law is the same as statutory law.

 ANSWER: F PAGE: 11 type: N

 BUSPROG: Analytic LO: 1-2 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

25. A court may depart from a precedent if the precedent is no longer valid.

 ANSWER: T PAGE: 12 TYPE: +

 BUSPROG: Analytic LO: 1-3 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

26. Stare decisis is a doctrine obligating judges to help persons who have failed to protect their own rights.

 ANSWER: F PAGE: 12 type: =

 BUSPROG: Analytic LO: 1-3 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

27. Stare decisis is a doctrine obligating judges to follow the precedents established within their jurisdictions.

 ANSWER: T PAGE: 12 type: N

 BUSPROG: Analytic LO: 1-3 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

28. Damages are a remedy at law.

 ANSWER: T PAGE: 14 type: +

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

29. Damages are never paid in money.

 ANSWER: F PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

30. Equity is a branch of law, founded in justice and fair dealing, that seeks to supply a remedy when no adequate remedy at law is available.

 ANSWER: T PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

31. The basis for the U.S. legal system is the natural law school.

 ANSWER: T PAGE: 15 TYPE: =

 BUSPROG: Ethics LO: 1-4 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

32. Criminal law focuses on duties that exist between persons.

 ANSWER: F PAGE: 17 TYPE: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Critical Thinking

33. Criminal acts are prohibited only by federal government statutes.

 ANSWER: F PAGE: 17 type: N

 BUSPROG: Analytic LO: 1-5 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

34. Government authorities cannot enforce na­tional law.

 ANSWER: F PAGE: 18 type: N

 BUSPROG: Analytic LO: 1-5 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

35. International law is the law of a foreign nation and varies from country to country.

 ANSWER: F PAGE: 18 type: =

 BUSPROG: Diversity LO: 1-5 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

multiple choice questions

1. Congress enacts a statute, the Federal Deposit Insurance Corporation (an administrative agency) issues rules, the Southeast Financial Institutions Association (a private organizations) issues instructions, South Valley Bank posts a memo with orders for its employees, and Tina tells her co-worker about a recent news story. Sources of law include

a. the instructions issued by private associations.

b. the orders posted by employers.

c. the rules issued by federal administrative agencies.

d. the stories released by news agencies.

 ANSWER: C PAGE: 6 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

2. Under Ohio’s state constitution, the Ohio Environmental Protection Agency issues a new rule, the Polk County Commission approves a new property tax measure, and the professors and students at Ohio Law School publish the results of their most recent legal research. Sources of law do not include

a. the measures approved by local governing bodies.

b. the results of legal scholars’ research.

c. the rules issued by state administrative agencies.

d. the states’ constitutions.

 ANSWER: B PAGE: 6 type: =

 BUSPROG: Reflective LO: 1-1 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

3. A provision in the California state constitution conflicts with a provision in the U.S. Constitution. If challenged

a. neither provision will be enforced.

b. the provisions will be balanced to reach a compromise.

c. the state provision, not the U.S. Constitution, will be enforced.

d. the U.S. Constitution, not the state provision, will be enforced.

 ANSWER: D PAGE: 6 TYPE: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

4. The Tenth Amendment to the U.S. Constitution

a. reserves to the states all powers not granted to the federal government.

b. reserves to the federal government all powers not granted to the states.

c. requires each state in the union to have its own constitution.

 d. does not exist.

 ANSWER: A PAGE: 6 TYPE: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

5. The Pennsylvania legislature enacts a state law that violates the U.S. Constitution. This law can be enforced by

 a. no one.

 b. the federal government only.

 c. the state of Pennsylvania only.

 d. the United States Supreme Court only.

 ANSWER: A PAGE: 6 type: =

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Easy AICPA: BB-Legal

6. Smithy Saddlery is a saddle shop subject to the laws of New York. In New York, the highest-ranking (superior) law is

a. a case decided by the New York Court of Appeals.

b. a rule created by a New York state administrative agency.

c. a provision in the New York constitution.

d. a statute enacted by the New York legislature.

 ANSWER: C PAGE: 6 TYPE: +

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

7. The Uniform Commercial Code has been adopted, at least in part, in

a. all states.

b. forty-five states.

c. thirty-five states.

d. no state.

 ANSWER: A PAGE: 8 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

8. Crater Tools Company is subject to regulations issued by the Occupational Safety and Health Administration (OSHA). Like other federal administrative agencies, the OSHA was created by

a. Congress, through enabling legislation.

b. the Federal Trade Commission, through the rulemaking process.

c. the president, through an executive order.

d. the U.S. Department of Labor, through a final order.

 ANSWER: A PAGE: 9 type: =

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

9. Much of American law is based on

a. the English legal system.

b. the Spanish legal system.

c. the civil law of the Greeks.

d. Ancient Chinese law.

 ANSWER: A PAGE: 11 type: +

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

10. As a judge, Bonnie applies common law rules. These rules develop from

a. administrative regulations.

b. court decisions.

c. federal and state statutes.

d. proposed uniform laws.

 ANSWER: B PAGE: 11 type: =

 BUSPROG: Analytic LO: 1-2 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

11. The best definition of a precedent is

a. a law developed from custom.

b. a judicial proceeding for the determination of a dispute between parties in which rights are enforced or protected.

c. a proceeding by one person against another in court.

d. a court decision that furnishes an example or authority for deciding subsequent cases involving identical or similar facts.

 ANSWER: D PAGE: 11 type: N

 BUSPROG: Analytic LO: 1-3 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

12. Miley and Otis are involved in a case. The best definition of a case is

a. a criminal prosecution, not a civil proceeding.

b. a failure to perform a legal obligation.

c. a judicial proceeding for the resolution of a dispute.

d. a type of regulation applied to a business.

 ANSWER: C PAGE: 11 type: N

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

13. Owen is a federal judge whose judicial decisions are part of case law, which does not include interpretations of

a. other case law.

b. constitutional provisions.

c. statutes.

d. sound bites in the media.

 ANSWER: D PAGE: 11 TYPE: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

14. Karen is a judge hearing the case of Local Dispatch Co. v. National Transport Corp. Applying the relevant rule of law to the facts of the case requires Karen to find previ­ously decided cases that, in relation to the case under con­sidera­tion, are

a. as different as possible.

b. as similar as possible.

c. at odds.

d. exactly identical.

 ANSWER: B PAGE: 12 type: =

 BUSPROG: Reflective LO: 1-3 Bloom’s: Application

 DIF: Moderate AICPA: BB-Critical Thinking

15. A court may rule contrary to a precedent if the court decides that the precedent

a. is incorrect or inapplicable.

b. is not in line with the judge’s personal values.

c. would lead to unintended consequences.

d. would not bring about the result the judge prefers.

 ANSWER: A PAGE: 12 TYPE: N

 BUSPROG: Reflective LO: 1-3 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

16. There are no precedents on which the court deciding the case Financial Investment Co. v. Goodhands Insurance, Inc., can base its decision. The court may consider

 a. issuing an order according to the judge’s personal values.

 b. refusing to decide the case.

 c. postponing a decision until a precedent is available.

 d. basing a decision on public policy or social customs and values.

 ANSWER: D PAGE: 12 TYPE: +

 BUSPROG: Reflective LO: 1-3 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

17. In Benny v. City Car Dealership, a state supreme court held that a minor could cancel a con­tract for the sale of a car. Now a trial court in the same state is decid­ing Daphne v. Even Steven Auto Deals, Inc.,, a case with similar facts. Under the doctrine of stare decisis, the trial court is likely to

 a. allow the minor to cancel the contract.

 b. disregard the Benny case.

c. order the minor to cancel the contract.

 d. require the minor to fulfill the contract.

 ANSWER: a PAGE: 12 TYPE: =

 BUSPROG: Reflective LO: 1-3 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

18. Judge Julia decides that the precedent for the case she is hearing is no longer correct due to technological changes. She overturns the precedent when she decides the case. It is most likely that her case will

 a. go unnoticed by the public.

 b. be thrown out of court.

c. receive a great deal of publicity.

 d. be ignored by the media.

 ANSWER: C PAGE: 12 TYPE: N

 BUSPROG: Reflective LO: 1-3 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

19. The best definition of a remedy is

a. the relief given to an innocent party to enforce a right or to prevent or compensate for the violation of a right.

b. medication paid for by the government.

c. a right guaranteed by the Bill of Rights.

d. a situation or state of facts that gives a person a right to initiate a judicial proceeding.

 ANSWER: a PAGE: 13 TYPE: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

20. Beth and Celia are involved in an action. The best definition of an action is

a. a criminal prosecution, not a civil proceeding.

b. a failure to perform a legal obligation.

c. a judicial proceeding for the resolution of a dispute.

d. a way to raise capital so that a business can grow.

 ANSWER: C PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Moderate AICPA: BB-Legal

21. Eliza is a state court judge. Flora appears in a case in Eliza’s court, claim­ing that Glover breached a contract. Which of the following actions may Eliza take?

a. Award damages or issue a decree of specific performance

b. Imprison Glover, but not Flora

c. Imprison Flora, but not Glover

d. Order the parties to pay Eliza to render a favorable ruling

 ANSWER: A PAGE: 14 type: N

 BUSPROG: Reflective LO: 1-4 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

22. Starlight Café brings a suit, seeking a remedy at law. A remedy at law is

a. the payment of money or property as compensation for damages.

b. a decree of specific performance.

c. a judicial proceeding for the resolution of a dispute.

d. an injunction.

 ANSWER: A PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

23. Leona enters into a contract with Munchie Bakery to cater a sales conference. When the conference is postponed indefinitely, Leona asks a court to cancel the contract and return the parties to the positions that they held before its formation. This request involves

a. specific performance.

b. an injunction.

c. rescission.

d. an action that the court cannot order.

 ANSWER: C PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

24. Maggie and Nate enter into a contract for the sale of a car, but Nate later refuses to deliver the car. Maggie asks a court to order Nate to perform as promised. Ordering a party to perform what was promised is

a. specific performance.

b. damages.

c. rescission.

d. beyond the court’s authority.

 ANSWER: A PAGE: 14 type: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

25. Chelsea is a state court judge. Like judges in most state courts, in a particular case, she may grant

a. a remedy at law only.

b. a remedy in equity or a remedy at law, but not both.

c. a remedy in equity and a remedy at law.

d. a remedy in equity only.

 ANSWER: C PAGE: 14 type: N

 BUSPROG: Reflective LO: 1-4 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

26. Jane enters into a contract with Jill to provide 100 roses for a dinner party. Jane fails to deliver the roses. Jill initiates a suit against Jane, asking the court to order Jane to deliver the roses. Jill is

a. the plaintiff.

 b. the defendant.

c. the binding authority.

 d. the persuasive authority.

 ANSWER: A PAGE: 14 TYPE: N

 BUSPROG: Analytic LO: 1-4 Bloom’s: Application

 DIF: Challenging AICPA: BB-Legal

27. To Cody, the written law of a particular society at a particular time is most significant. Cody is a

a. legal positivist.

b. legal rationalist.

c. legal realist.

d. person who adheres to the natural law school.

 ANSWER: A PAGE: 16 type: =

 BUSPROG: Analytic LO: 1-4 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Critical Thinking

28. Beth is a victim of Carl’s violation of a criminal law. Criminal law is con­cerned with

a. the prosecution of private individuals by other private individuals.

b. the prosecution of public officials by private individuals.

c. the relief available when a person’s rights are violated.

d. wrongs committed against the public as a whole.

 ANSWER: D PAGE: 17 type: =

 BUSPROG: Reflective LO: 1-5 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

29. Japan violates an international law. Other countries may take coercive actions, which include

a. violating the same law in the same way with impunity.

b. confiscating Japanese businesses.

c. boycotting Japanese goods.

d. taxing Japanese citizens.

 ANSWER: C PAGE: 18 type: N

 BUSPROG: Analytic LO: 1-5 Bloom’s: Comprehension

 DIF: Moderate AICPA: BB-Legal

30. Civil law is

a. a body of law in the form of rules, regulations, orders, and decisions of administrative agencies

b. the branch of law dealing with the definition and enforcement of all private or public rights.

c. federal law, as opposed to state law.

d. law that provides for societal order.

 ANSWER: B PAGE: 18 type: N

 BUSPROG: Analytic LO: 1-5 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

Fact Pattern 1-1 (Questions 31–33 apply)

The Texas Supreme Court decides the case of Livewire Co. v. Power Corp. Of nine justices, five believe the judgment should be in Livewire’s fa­vor. Justice Bellamy, one of the five, writes a separate opinion. The four justices who believe the judgment should be in Power’s favor join in a third separate opinion.

31. Refer to Fact Pattern 1-1. These opinions are collected and published in volumes called

 a. citations.

 b. codes.

 c. regulations.

 d. reporters.

 ANSWER: D PAGE: 25 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Research

32. Refer to Fact Pattern 1-1. Bellamy’s opin­ion is

 a. a concurring opinion.

 b. a dissenting opinion.

 c. a majority opinion.

 d. a per curiam opinion.

 ANSWER: A PAGE: 30 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Research

33. Refer to Fact Pattern 1-1. The opin­ion joined by the four justices who favor Power is known as

 a. a concurring opinion.

 b. a dissenting opinion.

 c. a majority opinion.

 d. a per curiam opinion.

 ANSWER: B PAGE: 30 type: =

 BUSPROG: Analytic LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Research

34. Standard Business Company appeals a decision against it, in favor of Top Flight Corporation, from a lower court to a higher court. Standard is

a. the appellant.

b. the appellee.

c. the defendant.

d. the plaintiff.

 ANSWER: A PAGE: 30 TYPE: =

 BUSPROG: Reflective LO: 1-1 Bloom’s: Knowledge

 DIF: Easy AICPA: BB-Legal

35. Law enforcement officers suspect Chris of drug trafficking. Without a warrant, the officers install a tracking device on a vehicle belonging to Chris’s mother. Tracking the vehicle with the device produces incriminating evidence, and Chris is charged with trafficking. He argues that the government’s use of the device violated his Fourth Amendment rights by subjecting him to an unlawful “search.” Under the principles discussed in “A Sample Court Case,” United States v. Jones, the court is most likely to rule that the officers’ installation of the device was

a. a search and an unlawful trespass.

b. not a search because incriminating evidence was produced.

c. not a search because the officers did not obtain a warrant.

d. not a search because only the officers knew about the device.

 ANSWER: A PAGE: 30 type: N

 BUSPROG: Reflective LO: 1-1 Bloom’s: Application

 DIF: Moderate AICPA: BB-Legal

Essay QuestionS

1. Americans with a Better Cause (ABC), a nonprofit organization, files a suit against the U.S. Department of Justice (DOJ), claiming that a cer­tain federal statute the DOJ is empowered to enforce conflicts with the U.S. Constitution and with a state constitution. In each situation, which source of law has priority?

 ANSWER: The U.S. Constitution is the supreme law of the land. A law in violation of the Constitution, no matter what its source, will be de­clared unconstitutional and will not be enforced. Thus, the federal statute does not have priority over the Constitution. The federal statute would have priority over the state constitution, however, because under the U.S. Constitution, when there is a conflict between a federal law and a state law, the state law is rendered invalid.

PAGES: 6–7 type: =

 BUSPROG: Reflective LO: 1-1 Bloom’s: Application

 DIF: Challenging AICPA: BB-Decision Modeling

2. In a dispute between Cosmic Games Corporation and Mythic Engineering Associates, Inc., the court applies the doctrine of stare decisis. What is this doctrine? What does this doctrine have to do with the American le­gal system?

ANSWER: In a common law legal system, past judicial decisions are binding in current disputes with similar facts. This feature of the com­mon law, which is the basis of the American legal system, is unique be­cause, unlike the law in other legal systems, it is judge-made law. Within the common law system, when possible, judges attempt to be con­sistent and to base their decisions on the principles suggested by earlier cases. The body of principles and doctrines that form the common law emerged over time as judges applied the principles announced in earlier cases to subsequent legal controversies. The practice of deciding cases with reference to former decisions, or precedents—the cornerstone of the American legal system—is called the doctrine of stare decisis. Under this doctrine, judges are obligated to follow the precedents established within their jurisdictions. This helps courts to be more efficient, and makes the law more stable and predictable.

PAGES: 12–13 type: =

 BUSPROG: Reflective LO: 1-3 Bloom’s: Application

 DIF: Challenging AICPA: BB-Decision Modeling