

## Mid-Term Examination

On a cold winter day in January 2014 Ralph Razorback was injured while splitting wood in the Ozark Mountains of Missouri. He was using a maul manufactured by Moose Manufacturing Company (of Maine). His injuries are \$100,000.

Moose is a century old, family run corporation, located only in Maine. It does not advertise; its employees are only in Maine. Moose regularly participates in trade shows, including Arkansas in 2012 and 2013, but does not sell products at those trade shows. None of its products are sold in Arkansas. It does not have a mail order sales office. The long time president of the company was Harry Moose. He retired in 2008 and now lives in Hot Springs Village, Arkansas. He still owns 80% of the corporate stock. The current president and chief operating officer is his son Barry Moose, who still lives in Maine.



Moose sells all its mauls to Empire Distributing Company, a regional distributor located in New York. Empire sold one truckload of mauls to Buckeye Woodworking Equipment, an Ohio corporation that supplies stores through the Midwest. Buckeye sold 25 mauls to Joplin Home Center, in Joplin, Missouri. This particular maul was purchased by Marcia Missouri (who resides in Missouri).

She gave it to her boy friend Ralph for Christmas 2013. (Joplin, Missouri is 30 miles from the Arkansas border). He was very pleased; he knew about the quality of the Moose maul from his lumberjack friends; and he had told Marcia of his Christmas dreams of a Moose maul. Three of his Arkansas friends had traveled to Missouri and purchased a Moose maul. On that January day, Ralph left his home in Eureka Springs, Arkansas, and crossed the border to obtain firewood.

Ralph has an Arkansas lawyer; the lawyer has filed a lawsuit for the personal injuries of Ralph in the Federal Court of the Western District of Arkansas. The only defendant is Moose Manufacturing Company. The summons and complaint were properly served on the defendant in Bangor, Maine.

Moose has filed Rule 12(b)(1), 12(b)(2) and 12(b)(3) motions in Arkansas federal court. Its motions rely on Worldwide, Asahi, J. McIntyre v. NiCastro, and other authority.

You represent Ralph. You are standing in front of the Arkansas federal trial judge. Your task is to persuade the court that the case is properly before the federal court. Make the best argument that you can. Be organized, be logical, be creative, develop your own arguments, refute the obvious arguments of the defendant Moose.

Notes:

- 1) Do not waste time repeating the facts at the beginning of your argument. Work them into the argument as needed and when appropriate.
- 2) You may keep this question.
- 3) This question is based generally on Parry v. Ernst Home Center, 779 P. 2d 659 (Utah 1989).