

**Civil Procedure
Fall 2014
Prof. Brill**

Quiz # 1

Big Box, Inc., which is located in New York, has stores in all 50 states. In particular it owns land and has five stores in five Arkansas cities.

Harriet Hog is visiting Florida. While in a Big Box store, she is injured.

Harriet Hog returns to Arkansas and sues Big Box in Arkansas for money damages.

Does Arkansas have personal jurisdiction over Big Box?

- A) Yes, under in rem jurisdiction.
- B) Yes, under quasi in rem jurisdiction.
- C) Yes, under general jurisdiction.
- D) Yes, under domicile jurisdiction.
- E) Yes, under territorial jurisdiction.
- F) Yes, under transient jurisdiction.
- G) Yes, under specific jurisdiction.
- H) Yes, under foreseeability jurisdiction.
- I) Yes, under implied consent jurisdiction.
- J) Yes, under stream of commerce jurisdiction.
- K) No.

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Civil Procedure
Fall 2014 - Quiz # 1

Name **PLEASE PRINT**

Answer

If you believe this question is vague, ambiguous, misleading or unfair, please explain why.

Quiz #2

The Fayetteville plaintiff sues in an Arkansas federal court for patent infringement. The defendant is a resident of Fayetteville. Service is made by Ed, a 22 year old full time employee of the plaintiff's law firm. Ed has not been appointed by the court to serve process. In each instance the defendant receives the papers in a timely fashion.

In light of the Federal Rules of Civil Procedure and the Constitution, which of the following methods of service are valid?

- 1) Ed leaves the papers with the defendant, while he is leaving the church on Sunday morning.
- 2) Ed leaves the papers with the mature 13 year old son, while he is enjoying the family swimming pool at the residence of the defendant.
- 3) Ed waits outside the locked door at the house of the defendant, shouts "Fire, Fire", and serves the defendant when he in panic flees the house.
- 4) Ed leaves the papers with the spouse, while she is working at the family hardware store.
- 5) Ed calls the defendant at his house, reads him the summons over the phone, and then faxes the papers to him.
 - a) Only 1 and 2 are valid.
 - b) (2) is not permitted because the son is a minor.
 - c) Only 1, 3 and 5 are permitted, because service on the defendant is always required.
 - d) (4) is valid because they are validly married.
 - e) (2) is not permitted, because the pool is not the house, and the rule must be strictly construed.
 - f) All 5 methods of service are permissible, because the defendant received the papers in a timely fashion.
 - g) None are permissible because Ed has not been appointed by the court.

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Fall 2014
Quiz #2

Name

Answer

If you believe this question is vague, ambiguous, misleading or unfair, please explain why.

Quiz #3

Which of the following cases fall within federal diversity jurisdiction? (The amount in controversy excess \$100,000.)

- 1) A citizen of Ohio attending law school in Arkansas versus a citizen of Arkansas.
- 2) A citizen of Japan working in Pennsylvania versus a citizen of Pennsylvania.
- 3) A citizen of Arkansas versus a subject of Her Majesty Queen Elizabeth II living permanently and legally in Arkansas.
- 4) A citizen of Michigan versus ABC, a corporation that is incorporated in Michigan and generates 80% of its income in Illinois.
- 5) A citizen of California versus XYZ, a corporation that is incorporated in Oregon and has its corporate headquarters in Oregon and generates 75% of its income in California..
- 6) Citizens of Montana, Wyoming and Idaho versus citizens of Oregon, California and Idaho.
- 7) A New York bank, which serves as the personal representative of a Pennsylvania decedent, brings a wrongful death lawsuit against the Pennsylvania defendant.
- 8) A citizen of the District of Columbia versus a citizen of Puerto Rico.

Which of the above fact patterns fall within diversity jurisdiction?

- A) only 1, 2, 3, 4.
- B) only 1, 2, 5, 8.
- C) only 1, 3, 5, 6.
- D) only 1, 4, 5, 7.
- E) only 2, 3, 5, 8.
- F) only 2, 4, 6, 7.
- G) only 3, 6, 7, 8.
- H) only 4, 6, 7, 8.

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Name

Answer

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Quiz #4

Last week we covered supplemental jurisdiction, removal jurisdiction, and federal venue. Following are three fact patterns, one for each subject. Which fact patterns have correct conclusions?

- 1) Plaintiff #1 (North Dakota) sues Defendant (South Dakota) in federal court, and seeks \$85,000 for common law negligence. In the same lawsuit Plaintiff #2 (South Dakota) sues Defendant, and seeks \$10,000. The claims are related. **CONCLUSION:** In view of pendent party jurisdiction, the federal court has the power to hear the entire case.

 - 2) Plaintiff (Tennessee) sues Defendant (Kentucky) in state court in Tennessee in Count One on a federal question claim and seeks \$10,000. In the same lawsuit, in Count Two, the same plaintiff sues the same defendant on an unrelated negligence claim for \$92,000. **CONCLUSION:** The Kentucky defendant may remove the entire lawsuit (both Count One and Count Two) to federal court.

 - 3) The negligence lawsuit is based on diversity jurisdiction. The plaintiff resides in the Western District of Arkansas; the defendant resides in the Eastern District of Arkansas; the accident took place in the Northern District of Mississippi. **CONCLUSION:** The plaintiff may properly sue and assert venue in the Western District of Arkansas.
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- A) All 3 conclusions are correct.
 - B) Only (1) is correct.
 - C) Only (2) is correct.
 - D) Only (3) is correct.
 - E) Only (1) and (2) are correct.
 - F) Only (1) and (3) are correct.
 - G) Only (2) and (3) are correct.
 - H) None are correct.

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Civil Procedure Fall 2014
Quiz #4

Name

Answer

If you believe this question is vague, ambiguous, misleading or unfair, please explain why.

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Quiz #5

The complaint was filed in federal court on August 1; the defendant was served on August 2; the defendant filed a Rule 12(b)(5) motion on August 22; the judge denied the motion on September 2. Then the defendant filed the answer on September 8. Finally, the defendant filed a Rule 12(b)(1) on December 7.

Were the two motions and the answer filed in a timely fashion?

- a) Yes. Both motions and the answer were timely.
- b) The motions were timely, but the answer was not.
- c) The 12(b)(5) motion was not timely.
- d) The 12(b)(1) motion was not timely.
- e) No. Both motions and the answer were filed late.

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Civil Procedure Fall 2014
Quiz #5

Name

Answer

If you believe this question is vague, ambiguous, misleading or unfair, please explain why.

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Quiz #6

The Harlan law firm of Blytheville brings a lawsuit for Randy. The claim is asserted on behalf of Randy and "the buyers of Red Bull in Arkansas and Tennessee in 2014". The lawsuit is filed in federal court in Arkansas, and the defendant, a New York subsidiary of Red Bull, is properly served.

The claim rests upon a federal statute regulating advertising of vitamin/energy drinks. Randy claims a personal financial loss of approximately \$25, as do the other purported class members (approximately 200,000). With the goal of protecting future consumers, Randy seeks only an injunction and a change in future advertising.

After a full hearing, the federal court certifies the class, and labels it a (b)(2) class. The court requires the plaintiff to notify all the class members that they may opt out of the lawsuit if they wish. Red Bull takes an interlocutory appeal.

Has this lawsuit been properly handled?

- A) No; there is no subject matter jurisdiction.
- B) No; the Tennessee consumers in the class are not subject to personal jurisdiction in Arkansas.
- C) No; it should not be a (b)(2) class.
- D) No; class members should not be allowed to opt out.
- E) No; an interlocutory appeal is not permitted.
- F) Yes

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Civil Procedure Fall 2014
Quiz #6

Name

Answer

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Quiz #8

Consider the following statements regarding juries in federal court. Are the statements correct or incorrect?

- 1) A demand for a jury is properly made after discovery is complete.
 - 2) A jury verdict in federal court is sufficient if 9 out of 12 jurors concur.
 - 3) An action to foreclose a mortgage on property for failure to pay the debt is determined by a jury.
 - 4) United States citizenship is the basis for a person to serve on a jury; neither residence in a state nor voting status is relevant.
 - 5) Money damages are a basis for a jury trial only if the request for money is a substantial part of the claim for relief.
- A) Only 1 and 2 are correct.
 - B) Only 3 and 4 are correct.
 - C) Only 3 and 5 are correct.
 - D) Only 1 is correct.
 - E) Only 2 is correct.
 - F) Only 3 is correct.
 - G) Only 4 is correct.
 - H) Only 5 is correct.
 - I) None are correct.

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Civil Procedure Fall 2014
Quiz #8

Name

Answer

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