

**Civil Procedure
Fall 2011
Prof. Brill**

Quiz # 1

Evaluate the following five fact patterns, the question, the answer, and the rationale:

Fact Pattern #1: Pennsylvania driver hits a Massachusetts pedestrian in Massachusetts. The pedestrian sues in Massachusetts. Does Massachusetts have in personam jurisdiction over the Pennsylvania driver? Yes, under the concept of general jurisdiction.

Fact Pattern #2: Maine citizen signs contract with an Illinois corporation, and sends money to Illinois. Illinois corporation has only issued one contract in Maine. Maine citizen sues over contract dispute. Does Maine has jurisdiction over the Illinois corporation? Yes, under the concept of specific jurisdiction.

Fact Pattern #3: California resident sues Florida author for defamation in California. The Florida author's column appears in 500,000 newspapers in California. Does California have jurisdiction over the Florida author? No, because a lawsuit would create an impermissible burden on free speech under the First Amendment.

Fact pattern #4: Ohio citizen signs a contract with a Florida corporation and opens a fast food restaurant under a franchise agreement. The contract is 20 years in duration and requires the Ohio citizen to send monthly payments to Florida; the Ohio citizen has come to Florida to be trained in the restaurant business. When the Ohio citizen fails to make the payments, the Florida corporation sues in Florida. Does Florida have jurisdiction over the Ohio citizen? Yes, under the concept of ancillary jurisdiction.

Fact Pattern #5: Michigan corporation is engaged in extensive activity in Texas. Texas citizen is traveling in Oklahoma and is injured by truck of Michigan corporation. Texas citizen sues in Texas. Does the Texas court have in personam jurisdiction over the Michigan corporation? Yes, under the concept of general jurisdiction.

Which of the five fact patterns have correct answers?

- A) All five have correct answers.
- B) None of the five have correct answers.
- C) Only 1 and 3 have correct answers.
- D) Only 1 and 4 have correct answers.
- E) Only 2 and 4 have correct answers.
- F) Only 2 and 5 have correct answers.
- G) Only 3 and 5 have correct answers.

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Name **PLEASE PRINT**

Answer

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

Quiz #2

Does an Arkansas court have in personam jurisdiction over the defendant in the following lawsuits?

(1) Ralph Razorback (from Arkansas) calls a hotel in Tuscaloosa, Alabama and reserves a room for the game. When he appears, his room has been rented to an Alabama fan. Ralph sues the Alabama hotel for breach of contract.

(2) Harriet Hog (from Arkansas) calls the best hotel in Nashville, Tennessee and reserves the luxury suite for the entire week of the big Vanderbilt game. She does not show up. The Nashville hotel sues Harriet for breach of contract.

(3) George Gamecock (from South Carolina) calls a hotel in Fayetteville and reserves a room for the South Carolina game. When he appears, his room has been rented to another fan. George sues the Fayetteville hotel for breach of contract.

(4) Vicki Volunteer (from Tennessee) calls a hotel in Fayetteville and reserves a room for the Tennessee game. She does not show up. The Arkansas hotel sues Vicki for breach of contract.

Does the Arkansas court have jurisdiction over the defendant?

- A) Yes, in all four instances.
- B) Only in (1) and (2).
- C) Only in (1) and (3).
- D) Only in (1) and (4).
- E) Only in (2) and (3).
- F) Only in (2) and (4).
- G) Only in (3) and (4).
- H) No, not in any instance.

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Name

Answer

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

Quiz # 3

Betty's Burgers has restaurants in all 50 states, including one in Tuscaloosa, Alabama, and one in Fayetteville, Arkansas. Andy Arkansas goes to Tuscaloosa for the big football game. While there, he slips and falls at Betty's Burgers.

He brings a lawsuit for his personal injuries in state court in Arkansas in 2011. May Arkansas exercise in personam jurisdiction over Betty's Burgers?

- a) Yes, under the Arkansas limited long arm statute and the principle of general jurisdiction.
- b) Yes, under the Arkansas unlimited long arm statute and the principle of general jurisdiction.
- c) Yes, under the Arkansas specialized long arm statute and the principle of general jurisdiction.
- d) Yes, under the Arkansas unlimited long arm statute and the principle of specific jurisdiction.
- e) No.

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Answer

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Quiz # 4

Grant is an attorney in Northwest Arkansas, maintaining a solo practice. Unfortunately, he has been sued for malpractice in Arkansas state court.

He and his wife Sarah live in an apartment complex in Fayetteville. In the middle of the complex is a lap pool.

In each of the following examples, the summons and the complaint are served. In the first five instances Sarah gives the papers to Grant a few hours later over a candlelight dinner. Has service been properly accomplished in light of the Rules and the Constitution?

- 1) The sheriff serves Sarah at the swimming pool at the apartment complex.
- 2) The sheriff serves Sarah at the local Starbucks.
- 3) Federal Express brings the papers to the apartment and Sarah signs for them.
- 4) The mailman brings the papers in a certified mail envelope to the apartment and Sarah signs the certified mail receipt and receives the papers.
- 5) The mailman delivers the papers and an acknowledgment form to the apartment mailbox. He gives the papers to Sarah who is just arriving from her office. The envelope is first class mail and no signature is required.
- 6) The Sheriff calls Grant and reads him the papers over the phone; the papers are then faxed to Grant at his office.

In which instances has service been properly accomplished?

- A) All of them. In each instance Grant received actual notice in a timely fashion. The constitutional standard of reasonableness has been satisfied.
- B) Only 1 and 2.
- C) Only 1 and 5.
- D) Only 2 and 4.
- E) Only 3 and 4.
- F) Only 3 and 5.
- G) None of them. Only the golden standard works. The Rules do not permit anything else.

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Answer

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

Quiz # 5

Which of the following cases are properly in federal court?

- 1) Arkansas plaintiff sues Tennessee defendant for \$4000 in medical bills, \$25,000 in lost wages, and \$65,000 in pain and suffering caused by an automobile accident.
 - 2) Missouri husband seeks \$50,000 for medical bills and Missouri wife seeks \$50,000 for medical bills from a Kansas defendant in an automobile accident.
 - 3) Florida man sues Florida sheriff for violation of his civil rights as guaranteed by federal law and seeks \$10,000; and in addition seeks \$45,000 for assault and battery damages caused by the Florida sheriff in the same incident.
- A) All three are properly in federal court.
 - B) Only 1 and 2 are properly in federal court.
 - C) Only 1 and 3 are properly in federal court.
 - D) Only 2 and 3 are properly in federal court.
 - E) None are properly in federal court.

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Answer

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Quiz # 6

Paul the patient in January lived in Madison County. He saw Doctor Defendant for medical treatment at her office in Benton County. Her residence was in Washington County.

In July Paul moved to Sebastian County, and Doctor Defendant moved to Crawford County.

Paul sues in November in Arkansas circuit court, alleging medical malpractice by Doctor Defendant.

Where is venue proper?

- a) Madison County.
- b) Benton County.
- c) Washington County.
- d) Sebastian County.
- e) Crawford County.
- f) Madison and Washington Counties.
- g) Sebastian and Crawford Counties.

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Name

Answer

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

Quiz # 7

It was deer season. The rut was in full swing. 300,000 Arkansans in orange and camouflage were in the woods, looking for Bambi's big brother to shoot. By accident, while tracking a 10 point buck through her 3x9 Leopold scope and her 308 Mossberg rifle, Harriet Hunter fell from her tree stand, which was located in the forest near Flippin, Arkansas.

She alleges that the stand was defectively designed and manufactured by Tiger Tree Stand, Inc., a Missouri corporation located in Joplin, Missouri. Harriet sues in federal court, under diversity jurisdiction.

The Arkansas constitution provides that a civil plaintiff prevails in a jury with 9 of 12 jurors voting in her favor. Federal courts traditionally have required a unanimous verdict for jury verdicts under the Seventh Amendment.

The plaintiff's attorney asks the Federal Judge Fred to abide by the Arkansas constitution provision. The attorney believes that the 9/12 provision will assist in obtaining relief for Harriet.

Is Federal Judge Fred obligated to apply state law? Select the best answer.

- A) Yes, according to York.
- B) No, according to Byrd.
- C) Yes, according to Hanna, Part I.
- D) No, according to Hanna, Part II.
- E) Yes, according to Stewart.
- F) No, according to Gasparini.
- G) Yes, according to Shady Grove.

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Answer

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

Quiz # 8

In 2010 Plaintiff resided in Kansas. Defendant resided in Texas. They collided in Oklahoma while traveling to a football game.

In 2011 Defendant moved to Missouri. Plaintiff has now sued in Missouri in federal court. Subject matter jurisdiction, personal jurisdiction and venue have been properly established.

On the issue of negligence in operating a motor vehicle, which law does the federal court apply?

- a) Kansas law.
- b) Oklahoma law.
- c) Texas law.
- d) Missouri law.
- e) General federal common law.
- f) The law that a state judge in Kansas would apply.
- g) The law that a state judge in Oklahoma would apply.
- h) The law that a state judge in Texas would apply.
- i) The law that a state judge in Missouri would apply.

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Name

Answer

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