



## ESSAY QUESTION ONE

1. Farmer brought a class action lawsuit in federal district court in Alabama, alleging that the defendant, Truckco, marketed a line of pickup trucks with defective shock absorbers. Farmer's complaint identified the members of the class as 100,000 individuals nationwide who had bought the trucks from 2005-2010 and suffered losses as a result of the defective shock absorbers. The alleged losses ranged from the \$250 cost of replacing the shock absorbers to serious personal injuries suffered in accidents alleged to have been caused by the defective shock absorbers. The only claim personal to Farmer was the \$250 replacement cost claim. Farmer properly asserted that federal jurisdiction was based on a breach of warranty claim under a recently enacted federal automobile safety statute.

Farmer moved to certify the class. Opposing this motion, Truckco submitted court papers from lawsuits brought in several states by individual owners who claimed to have suffered a wide variety of personal injuries as a result of accidents said to have resulted from the failure of the defective shock absorbers during the years in question. Truckco also noted that Farmer had previously filed (and still has pending) a class action against Truckco in a state court in Mississippi. In the Mississippi case, which was premised on state-law warranty claims, Farmer sought relief similar to the relief sought in the federal action and asked to represent the same class of plaintiffs. Finally, Truckco pointed out that Farmer's lawyer in both actions was a recent bar admittee who had not previously handled class action litigation.

How should the federal trial judge rule on the request for class certification? Discuss carefully and thoroughly. Use appropriate authorities.

NOTE: This question comes from the July 2003 Arkansas Bar Exam (MEE).

## ESSAY QUESTION TWO

2. The Zingers are described, kindly, as a dysfunctional Arkansas family. Mary (68) is educated and financially comfortable. Daughter Zoe (45) has been a rebellious child, a drug user, and a primarily unemployed single mother. Granddaughter Fanny left home at 16, moved to Texas with another family, graduated from high school and the University of Texas. Now 27, she has a management position with a oil company and is a part of the Houston community.

Last year Zoe, desperate for money, set fire to her mother's home in Bald Knob, Arkansas. Unfortunately Mary was asleep in the home and died. Zoe was charged with second degree murder, and the jury convicted her of the charge.

Mary had a life insurance policy with Arkansas Life Association (ALA), which was to pay \$60,000 to her beneficiary. The policy listed Zoe as the primary beneficiary and her daughter Fanny (who is a citizen of Texas) as the secondary beneficiary. ALA is a citizen of Arkansas.

Answer each of the following questions separately. Be precise and brief (usually one or two paragraphs).

- a) If ALA brings an interpleader action and names Zoe and Fanny as the claimants, does the Arkansas federal court have subject matter jurisdiction? (2 points)
- b) If the action is in federal court, can Zoe require a witness to answer interrogatories during discovery? (2 points)
- c) Assume the federal trial judge refuses to allow discovery of the mental health records of Zoe, saying the records are both irrelevant and privileged. May the disgruntled litigant immediately seek review of the discovery ruling from a higher court? (2 points)
- d) Must the federal court grant a jury trial if requested by Zoe? (2 points)
- e) Twelve days after the judge issued a ruling, the losing party sought reconsideration based on a corporate document found in the files of ALA. How should the trial judge respond? Why? (3 points)
- f) Assuming there was no jury, how will the factual findings of the trial judge be evaluated on appeal? Why? (2 points)
- g) Will the federal court give preclusive effect to the conviction in the Arkansas state court? (2 points)