

Fall 1992 Civ Pro A Quiz 1

Civil Procedure
Fall 1992

Peter Gray is a resident of Fort Smith, Arkansas. He purchased a water heater from Central Plumbing Supplies, a seller in Fort Smith. The water heater was manufactured by Acme Water Heating Co. of Pennsylvania and shipped to Arkansas. A key component is a valve, which was manufactured by Zeus Valve Co. of Ohio, which shipped it to Acme in Pennsylvania. The water heater exploded in Fort Smith, injuring Peter.

He brings a lawsuit in state court in Fort Smith, seeking monetary damages for his personal injuries. The lawsuit names as defendants Central Plumbing, Acme Water Heating, and Zeus Valve Co. Zeus files a motion to dismiss, challenging personal jurisdiction.

- a) The lawsuit is improper, because the corporations are from different states and cannot be sued in a state court.
- b) The lawsuit is proper, because it asserts in rem jurisdiction.
- c) The lawsuit is improper, because it names three defendants.
- d) The lawsuit is proper, but only if Zeus has sufficient contacts with Arkansas.
- e) The lawsuit is improper, because Zeus did not commit a tortious act in Arkansas.

Fall 1992 Civ Pro A Quiz 2

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Bass World, a magazine which is written and published in Canada, prints an article that Razorback Ralph of Rogers, Arkansas is "the most overrated and incompetent bass fisherman in the Ozarks." Ralph sees a copy of the article at the Bass Pro Shop in Springfield, Missouri and wishes to sue for the alleged libel. Bass World sells 58,000 copies a month worldwide, all by subscription; 1,000 copies are sold in Arkansas. The issues are delivered by Magazine Distributors of Ontario, an independent company that is in the business of locating subscribers for various magazines, ending into agreements and delivering the copies through the mail.

The Due Process Clause of the 14th Amendment:

- a) does not permit the foreign company to be sued in Arkansas.
- b) permits Ralph to sue in Arkansas because his activity is unilateral.
- c) does not permit Ralph to sue in Arkansas because Bass World does not purposefully avail itself of Arkansas or directly enter Arkansas.
- d) permits Ralph to sue in Arkansas because Bass World has continuous and systematic contacts with Arkansas.
- e) does not permit Ralph to sue in Arkansas because of the jurisdictional rules designed to strengthen the First Amendment guarantees.
- f) permits Ralph to sue in Arkansas because it is more convenient for the magazine to defend in Arkansas than for Ralph to sue in Canada.
- g) does not permit Ralph to sue in Arkansas because the magazine is not sold at newsstands.

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In which of the following instances is an Arkansas court likely to be able to obtain jurisdiction over the defendant?

Assume in each case the defendant is from Nevada and has never been to Arkansas in her life. Assume the plaintiff is a citizen of Arkansas.

- 1) The lawsuit involves a title dispute to Blackacre, which is located in Arkansas.
- 2) The lawsuit involves a slander claim in California. The defendant owns Greenacre, which is located in Arkansas.
- 3) The lawsuit involves a breach of contract claim, with the widgets to be shipped to Texas and the payments to be made in Texas.
- 4) The lawsuit involves an accident in Oregon. The defendant owns common stock in Southwestern Energy Company, an Arkansas corporation with its headquarters in Fayetteville.
- 5) The lawsuit involves a horse purchased in Arkansas from the plaintiff with a check that bounced.
- 6) The lawsuit involves a contract signed in Nevada for the sale of Redacre, which is located in Arkansas.
- 7) The Nevada defendant calls the Arkansas plaintiff and orders a widget, but then breaches the contract and does not pay.
- 8) The Arkansas plaintiff calls the Nevada defendant and offers to sell a widget; the Nevada defendant agrees, but then breaches the contract and does not pay.
- 9) The defendant assaults the plaintiff in Chicago, Illinois.

An Arkansas state court is likely to be able to obtain jurisdiction in:

- A) (1), (3), (5), (9) only.
- B) (2), (3), (5), (8) only.
- C) (1), (2), (5), (6), (7) only.
- D) (2), (4), (7), (8), (9) only.
- E) (1), (3), (4), (6), (7) only.
- F) (2), (4), (5), (6), (8) only.

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A Missouri statute provides that a landlord may commence an action to evict a tenant for failure to pay the rent and to collect the back rent by posting a notice on the door of the apartment.

Is this statute constitutionally valid?

- a) Yes, because this type of posting is reasonably calculated to inform the tenants of the commencement of the action.
- b) No, because posting by itself is not a reliable means of notifying parties that their rights are involved in the lawsuit.
- c) Yes, because posting is permitted in in rem actions.
- d) No, because nothing less than personal service by the sheriff will satisfy due process in in personam actions.
- e) Yes, because posting will give the tenant more immediate and personal notice than the use of the ordinary mail.
- f) No, because due process requires the use of registered mail.

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1. The plaintiff sues an Arkansas dentist personally for negligence committed in the operation of a private motor vehicle. The action is filed in Arkansas circuit court. The process-server may validly serve the defendant by:

- (1) serving the summons on the dentist at church on Sunday morning.
- (2) leaving the summons at the defendant's office with a receptionist.
- (3) leaving the summons with the dentist's partner at a dental meeting.
- (4) serving the dentist while she is working on a patient.
- (5) leaving the summons with the spouse of the defendant at the country club.
- (6) leaving the summons with the defendant's 14 year-old daughter on the tennis court in the backyard of the family home.
- (7) serving the summons by Federal Express.
- (8) serving the summons by regular mail.

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

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Defendant Roy Razorback signs a contract agreeing to purchase computer software from Plaintiff Mary Cavalier in Charlottesville, Virginia. The contract provides that the contract is to be interpreted by the laws of Virginia and that Roy submits to jurisdiction in Virginia for all claims arising out of the contract.

Roy is dissatisfied with the software and refuses to pay the entire purchase price, claiming breach of warranty. Plaintiff Mary sues in state court in Virginia, seeking \$3000 in damages. Pursuant to a Virginia statute, Mary notifies Roy by first class mail (29 cent stamp). Roy receives the letter in Fayetteville.

- A) If Roy ignores the Virginia law suit, he may still object to the use of first class mail when the judgment is registered in Arkansas.
- B) If Roy ignores the lawsuit in Virginia, he has waived any objection to the contractual language consenting to jurisdiction in Virginia, and cannot object in Arkansas when the judgment is registered.
- C) If Roy ignores the Virginia lawsuit, he can object to the amount of the default judgment (if it is issued in Virginia) when the judgment is registered in Arkansas.
- D) If Roy participates in Virginia and objects to jurisdiction, but loses on the jurisdictional issue, he may raise his arguments on the merits of the warranty claim in Arkansas when the judgment is registered.

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All of the following cases are suits involving at least \$55,000. Which one can be brought in federal court under diversity jurisdiction?

- A) A divorce action between an Arkansas woman and a Missouri man.
- B) The plaintiff is a citizen of Arkansas; the other party to the contract was also a citizen of Arkansas, but he died in an accident in Texas six months ago. He was in Texas looking for a new home. The executor of his estate is his brother, a citizen of Texas.
- C) A citizen of Delaware attending the University of Illinois sues Wal-Mart, Inc. (a Delaware corporation with its principal place of business in Arkansas).
- D) A breach of contract action brought by plaintiffs who are citizens of Arkansas, Missouri and Oklahoma, against defendants who are citizens of Arizona, Texas and Oklahoma.
- E) An assault and battery claim brought by a citizen of Arkansas against a citizen of Hungary who is a permanent resident of Fayetteville.
- F) A citizen of Panama sues a citizen of Canada.
- G) A citizen of the District of Columbia sues a citizen of Maryland.
- H) A citizen of France sues a citizen of Alabama.

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Plaintiff Paula (from Arkansas) was injured while landing her airplane at the Fayetteville airport. In federal court in Arkansas she sues the air traffic controller Andy (also from Arkansas), properly asserting jurisdiction under a federal statute and seeking damages. In Count II of the same lawsuit she sues Andy for defamation, alleging that the next day he told his friends at the racquetball club that "Paula is an incompetent pilot who should not be allowed near any airport. She has injured people in the past with her crazy flying." She seeks \$75,000 in damages to her reputation.

Andy has filed a Rule 12(b)(1) motion challenging subject matter jurisdiction and seeking dismissal of count II.

How WILL the court rule on the motion?

- A) Because there is a common nucleus of operative facts, Count II falls within ancillary jurisdiction and the court must hear the defamation claim.
- B) Count II does not fall within ancillary jurisdiction and the court must grant the motion.
- C) The court has discretion as to whether to exercise ancillary jurisdiction in this instance.
- D) The court is obligated to exercise removal jurisdiction because it falls within the original jurisdiction of the federal court.
- E) Count II falls within pendent jurisdiction and the court is obligated to hear Court II.
- F) Pendent jurisdiction is not satisfied because there is no diversity of citizenship.
- G) None of the above statements are correct.

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Plaintiff, an Arkansas citizen, is injured when struck by a truck operated by a citizen of Missouri. The plaintiff's lawsuit is based on negligence and seeks property damage.

- A) If the action is brought in an Arkansas state court, it must be brought in the county where the defendant has an office. Any other county is improper venue.
- B) If the action is brought in an Arkansas state court, it may be brought in the county where the plaintiff votes. Any other county is improper venue.
- C) If the action is brought in federal court under diversity jurisdiction, the court must apply state statutory law and federal common law.
- D) If the action is brought in an Arkansas state court, it must be brought in the county where the plaintiff resided at the time of the accident. Any other county is improper venue.
- E) If the action is brought in an Arkansas state court, it must be brought in the county where the plaintiff resided at the time the lawsuit is filed. Any other county is improper venue.
- F) If the action is brought in federal court under diversity jurisdiction, the court must apply state common law and state procedural rules.
- G) None of the above statements are correct.