

# Fall 1993 Civ Pro A Quiz 1

Civil Procedure  
Fall 1993

Mo, a citizen of Missouri, goes to Florida for a vacation. He is injured at Disney World when a rock falls from the roof of Cinderella's Castle. He brings a law suit in a state court in Missouri, seeking recovery for his personal injuries.

According to the Due Process Clause of the 14th Amendment, Does the Missouri court have jurisdiction over Disney World (which is a Florida corporation)?

- a) Yes, under the concept of specific jurisdiction.
- b) No, because quasi-in-rem jurisdiction is not available.
- c) Yes, because a state court has in personam jurisdiction over any defendant that is a corporation of another state.
- d) No, because Missouri is more than 1000 miles from Disney World and the burden on the defendant would be great.
- e) Yes, because Disney World is rich and would not be inconvenienced in defending in Missouri.
- f) No, because the doctrine of general jurisdiction does not apply to corporations.
- g) Yes, because Disney World probably has minimum contacts in Missouri through advertising and other sources.

# Fall 1993 Civ Pro A Quiz 2

Civil Procedure  
Fall 1993

In each of the following cases an Arkansas resident has brought an action in Arkansas state court against a Vermont defendant. The Vermont defendant has never set foot in the State of Arkansas.

In which of the following is the Arkansas court least likely to have jurisdictional power over the Vermont defendant?

- a) the defendant owns Blackacre in Arkansas; the cause of action relates to a real estate commission for obtaining a buyer for Blackacre.
- b) the Arkansas plaintiff seeks a divorce from the Vermont defendant.
- c) the defendant contacts the plaintiff and then signs a lease to rent a Beaver Lake (Arkansas) condominium for a week from the plaintiff for \$750; the defendant does not show up.
- d) the Arkansas plaintiff seeks damages from the defendant for slander; the defendant is served with a summons while flying over Arkansas (on a plane from St. Louis to Dallas).
- e) the parties met in New Orleans and the plaintiff became pregnant; the baby was born in Arkansas.

# Fall 1993 Civ Pro A Quiz 3

Civil Procedure  
Fall 1993

A Wyoming statute provides that in a replevin lawsuit to recover an automobile, the person with possession of the automobile must be notified of the commencement of the action by a notice attached to the automobile.

Further the Wyoming statute provides that while most lawsuits in Wyoming give the defendant 20 days to answer the complaint and make an appearance in court, in a replevin lawsuit the defendant only has 5 days.

In the instant case of Peter v. Debbie, the defendant was informed of the lawsuit by a notice on the car, and is given 6 days to answer and make an appearance. Is the statute as applied in this instance valid under the Due Process Clause?

- a) No. The Due Process Clause requires 20 days notice before a court hearing.
- b) Yes. The plaintiff notified the defendant of the lawsuit by the means specified by the legislature.
- c) No. Notices attached to automobiles can easily be removed and are therefore not "reasonably calculated to give notice."
- d) Yes. Because automobiles can easily be moved from one place (and even one state) to another, the Due Process requirement for a hearing does not apply.
- e) No. The Due Process Clause requires personal service, registered mail or the use of first class mail in all lawsuits that may be described as involving "in personam" jurisdiction.

# Fall 1993 Civ Pro A Quiz 4

Civil Procedure  
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Each of the following lawsuits is filed in an Arkansas state court. In which of the following is service of process invalid?

- a) The summons is served by a sheriff who leaves it with a roommate of the defendant, as the roommate is swimming in the pool in the back of the defendant's house.
- b) The summons is served by a non-party who is 22 years old. She leaves it with Florence Weber. The contract behind the plaintiff and the defendant provides that "Florence Weber is the agent for the purpose of receiving service of process." The defendant does not know Florence Weber.
- c) The summons is served by a retired police officer who has been specially appointed by the court. He leaves it with the defendant as he is consuming many beers at a bar on Dickson Street.
- d) The summons is served by a deputy sheriff who leaves it at the house of the defendant with a little child of the defendant who says he is 14 years old and lives there.
- e) The plaintiff doesn't know who claims an interest in Blackacre. He sues "John Doe, a really big guy wearing an Atlanta Braves cap at the auction". The plaintiff publishes a warning order in the newspaper.

# Fall 1993 Civ Pro A Quiz 5

Civil Procedure  
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Defendant Ralph Razorback signs a contract agreeing to purchase computer software from Plaintiff Terry Longhorn in Austin, Texas. The contract provides that the contract is to be interpreted by the laws of Texas and that Ralph submits to jurisdiction in Texas for all claims arising out of the contract.

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

- A) If Ralph ignores the Texas law suit, he may still object to the use of first class mail when the judgment is registered in Arkansas.
- B) If Ralph ignores the lawsuit in Texas, he has waived any objection to the contractual language consenting to jurisdiction in Texas, and cannot object in Arkansas when the judgment is registered.
- C) If Ralph ignores the Texas lawsuit, he can object to the amount of the default judgment (if it is issued in Texas) when the judgment is registered in Arkansas.
- D) If Ralph participates in Texas 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.

# Fall 1993 Civ Pro A Quiz 6

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Ted (a citizen of Texas) and Alice (a citizen of Arkansas) are not relatives, but they met while attending a seminar at the Fayetteville office of a national stockbroker, which is incorporated in Texas and has its main office in Texas. Following the presentation, Ted purchased \$20,000 of XYZ stock, and Alice purchases \$65,000 of XYZ stock.

XYZ has now declined in value. Both Ted and Alice are discouraged and they are convinced the stockbroker was engaged in fraudulent activities. On their behalf, an attorney files a lawsuit in Arkansas circuit court, seeking \$20,000 for Ted in Count I and \$65,000 for Alice in Count II. The complaint alleges common law fraud as defined under the common law of Arkansas.

The Texas defendant has filed a petition in federal court to remove.

- A) The federal court must take both Count I and Count II.
- B) The federal court must take Count I, and has discretion to take Count II.
- C) The federal court must take Count II, and has discretion to take Count I.
- D) The federal court cannot take either Count I or Count II.

# Fall 1993 Civ Pro A Quiz 7

Civil Procedure  
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Sam Seller owns a sailboat, fondly called Dark Wind. The boat is moored in Florida. Betty Buyer orally agrees to pay \$65,000 for the sailboat. Betty writes a check for the boat and mails it to Sam. But she has second thoughts. She calls her bank and tells it not to honor the check. The check bounces. Sam is upset.

Sam brings a lawsuit for breach of contract for \$65,000. Sam is from Georgia and Betty is from Connecticut. Therefore Sam sues in federal court in Florida under diversity provisions. Betty argues that the Statute of Frauds bars a suit because the contract was not in writing. Sam responds: "Part performance. You mailed the check."

- A) The lawsuit was improperly brought in Florida under Section 1391 and should be dismissed under the doctrine of forum non conveniens.
- B) The federal court is obliged to apply the statutory versions of the Statute of Frauds, but should ignore the state common law versions of the Statute of Frauds.
- C) The federal court must transfer the case to Connecticut under Section 1404.
- D) According to Erie Railroad v. Tompkins, the court must examine and follow both the common law and statute versions of the Statute of Frauds.
- E) The lawsuit was improperly brought in Florida under Section 1391 and should be transferred to Georgia under Section 1404.

# Fall 1993 Civ Pro A Quiz 8

Civil Procedure  
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Patsy Plaintiff files an action in federal court in Idaho under diversity jurisdiction, alleging breach of contract by Dan Defendant. Dan files an answer to the lawsuit, and a week later he files an objection to venue.

Under Federal Rule of Civil Procedure 12 the defendant is permitted to file an objection to venue before or simultaneously with an answer. The defendant is not permitted to file an objection to venue after filing an answer. In contrast, the Idaho Rule of Procedure clearly permits a defendant to object to venue within 30 days after filing an answer.

Under Idaho law punitive damages may be awarded in breach of contract actions if the breach is egregious. This view is contrary to the view prevailing in almost every other jurisdiction.

The federal trial judge:

- A) may follow the Idaho law on punitive damages, but is not compelled to do so because the Idaho position is such a departure from the general law.
- B) must follow the Idaho rule on objections to venue because the rule affects the outcome.
- C) must apply the federal rule of procedure because there is a controlling federal rule and a clear conflict between it and the state rule.
- D) must evaluate the extent of the state interest and balance it against the affirmative countervailing consideration of the policy of the Seventh Amendment.