

# Fall 1994 Civ Pro A Quiz 1

Civil Procedure  
Fall 1994

Bass World, a magazine which is written and published in Canada by a Canadian company, 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 the Canadian company 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, an independent company that is in the business of locating subscribers for various magazines, ending into agreements and delivering the copies through the mail. This third party is irrelevant to this lawsuit.]

The Due Process Clause of the 14th Amendment:

- a) does not permit the foreign publisher to be sued in Arkansas.
- b) permits Ralph to sue in Arkansas because his activity in bringing the magazine from Missouri to Arkansas was 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.

# Fall 1994 Civ Pro A Quiz 2

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Paula (from Pennsylvania) is in Miami, Florida on a vacation. While there, she is involved in an automobile accident with Tom (from Texas). When she returns to Pennsylvania, she sues Tom in a state court, seeking monetary damages for her personal injuries.

She commences the lawsuit by seizing the stock that Tom owns in a Pennsylvania corporation. Does the Pennsylvania court have jurisdiction over Tom in this law suit?

- a) Yes, because the seizure of personal property gave the necessary in rem jurisdiction over Tom.
- b) No, because in the absence of service upon Tom within the forum state, in personam jurisdiction can not exist.
- c) Maybe. The controlling factor (which cannot be determined) is whether Tom has minimum contacts with Pennsylvania.
- d) No, because quasi-in-rem jurisdiction is unconstitutional.
- e) Yes, because any property that a defendant possesses within the forum state may be seized at the commencement of the action and will provide a valid basis for quasi in rem jurisdiction.

# Fall 1994 Civ Pro A Quiz 3

Civil Procedure  
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Analyze the following fact patterns according to the Arkansas long arm statute.

In each instance the plaintiff is a resident of Arkansas who is injured by eating a contaminated jar of strawberry jelly. She is suing for compensatory damages in a state court in Arkansas.

In each instance the defendant is a Pennsylvania corporation that has no offices or employees in Arkansas, and does not advertise in Arkansas.

(1) The defendant owns 100 acres of Arkansas land. The defendant ships nothing to Arkansas. The plaintiff bought the jelly in Oklahoma and ate it in Oklahoma.

(2) The plaintiff bought the jelly in Tennessee and ate it in Tennessee. The defendant ships \$5000 worth of jelly to Arkansas each year.

(3) The plaintiff bought the jelly in Arkansas, but ate it in Mississippi. The defendant ships \$5000 worth of jelly to Arkansas each year.

(4) The plaintiff bought the jelly in Missouri and ate it in Arkansas. The defendant sells nothing in Arkansas.

(5) The plaintiff bought the jelly in Louisiana and ate it in Arkansas. The defendant ships \$4000 worth of hammers to Arkansas each year, but no jelly.

Which of the five are likely to come within the Arkansas long arm statute?

- a) only (1) and (5).
- b) only (3) and (4).
- c) only (3) and (5).
- d) only (2) and (4).
- e) only (1) and (3).
- f) only (2) and (5).

# Fall 1994 Civ Pro A Quiz 4

Civil Procedure  
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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.

# Fall 1994 Civ Pro A Quiz 5

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 law clerk for the plaintiff's attorney who is 22 years old. She leaves it with Florence Weber. The contract between 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 who says he is 14 years old and lives there.
- e) The attorney for the plaintiff mails the summons and the complaint to the defendant by first class mail (29¢ stamp). The defendant signs the enclosed acknowledgement form and returns it in the postage prepaid envelope.

# Fall 1994 Civ Pro A Quiz 6

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

- A) The lawsuit is a divorce action between an Arkansas wife and a Missouri husband.
- 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 is 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 is brought by a citizen of Arkansas against a citizen of Hungary who is a permanent resident of Fayetteville, Arkansas.
- F) A citizen of India sues a citizen of Canada.
- G) A citizen of the District of Columbia sues a citizen of Maryland.
- H) A citizen of Japan, permanently and legally residing in California, sues a citizen of China, permanently and legally residing in California.

# Fall 1994 Civ Pro A Quiz 7

Civil Procedure  
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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). In Count I she properly asserts jurisdiction under a federal statute and seeks damages of \$100,000.

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 to dismiss.
- C) The court has discretion whether to exercise supplemental jurisdiction in this instance.
- D) Count II falls within pendent jurisdiction and the court is required to hear Count II.
- E) Pendent jurisdiction is not satisfied because there is no diversity of citizenship, and the court must dismiss Count II.

# Fall 1994 Civ Pro A Quiz 8

Civil Procedure  
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The question has five little fact patterns. Each has a conclusion. One of the conclusions is wrong. Which one?

A) Tennessee plaintiff sues Tennessee defendant in Tennessee state court for patent infringement. Defendant removes to federal court.

CONCLUSION: Removal is proper.

B) New York plaintiff sues Massachusetts defendant in New York state court for \$55,000 for common law negligence and also seeks \$20,000 on a separate and independent claim for breach of contract. Defendant removes the negligence claim and the breach of contract claim.

CONCLUSION: Removal of the breach of contract claim is proper.

C) A citizen of Texas sues a Mexican corporation for \$55,000 in federal court in Arkansas.

CONCLUSION: Venue is proper.

D) Arkansas defendant trespasses on land in Oklahoma owned by Tennessee plaintiff. Plaintiff sues in Oklahoma federal court for \$70,000.

CONCLUSION: Venue is proper.

E) North Dakota plaintiff sues McDonald's (an Illinois corporation) for \$60,000 for injuries suffered while eating a Big Mac in the State of Florida. The law suit is filed in federal court in North Dakota.

CONCLUSION: Venue is proper.