

Fall 1996 Civ Pro A Quiz 1

Civil Procedure
Fall 1996
Quiz #1

Paula Plaintiff has never travelled outside of Pennsylvania in her entire life. She was caught in an embarrassing situation and photographed by Dan Defendant (a citizen of Texas). The photograph has appeared in a national tabloid published by a Texas corporation.

She wishes to sue the magazine and Dan Defendant for invasion of privacy, but a lawsuit in Pennsylvania would be barred by the statute of limitation. Her lawyer therefore brings the lawsuit in West Virginia. 10,000 copies of the tabloid are shipped to West Virginia on a weekly basis.

Does the West Virginia court have in personam jurisdiction over the parties?

- A) No, because the magazine does not have minimum contacts with West Virginia.
- B) No, because Paula has no minimum contacts with West Virginia.
- C) No, because such an assertion of jurisdiction would violate the First Amendment rights of Dan Defendant.
- D) No, because Paula has no legitimate reason to sue in a state in which she does not reside.
- E) No, because it is not reasonable and convenient for the defendants to be sued and to be compelled to defend in West Virginia.
- F) Yes. West Virginia has general jurisdiction over the magazine and specific jurisdiction over the photographer.
- G) Yes. West Virginia has direct jurisdiction over the magazine and indirect jurisdiction over the photographer.

Name Answer

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

Fall 1996 Civ Pro A Quiz 2

Civil Procedure
Fall 1996
Quiz #2

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 does the Arkansas court have jurisdictional power over the Vermont defendant?

(1) the defendant owns Blackacre in Arkansas; the cause of action relates to a real estate commission for obtaining a buyer for Blackacre.

(2) the defendant has a bank account in Arkansas; the cause of action is a suit for personal injuries suffered when the plaintiff slipped and fell down a well on defendant's land in Oklahoma; the plaintiff commences the action by seizing the bank account at the commencement of the action.

(3) the defendant owns stock in Tyson's, an Arkansas corporation; the plaintiff sues for assault and battery committed at the Sugar Bowl in New Orleans; the plaintiff commences the action by seizing the stock at the commencement of the action.

(4) the defendant owns nothing in Arkansas; he contacts the plaintiff and makes a written reservation to rent a Beaver Lake condominium in Northwest Arkansas for a week from the plaintiff for \$750; the defendant does not show up; the owner sues for \$750.

(5) the defendant has a deed of questionable validity to Greenacre in Arkansas; the plaintiff wishes to clarify who is the owner of the land.

Personal jurisdiction over the defendants exists in:

A) only (1) and (2).

B) only (3) and (5).

C) only (1), (4) and (5).

D) only (3), (4) and (5).

E) only (1), (2) and (3).

F) all five instances.

G) in none of the instances.

Name Answer

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

Fall 1996 Civ Pro A Quiz 3

Civil Procedure
Fall 1996
Quiz #3

Under Oklahoma law upon the death of a decedent, the probate court approves the estate. A notice is published in the newspaper, telling all creditors that they have 60 days to file a claim against the estate or the claim is forever barred.

Danny Decedent died in January. On his death he owed \$1000 to a local business. The probate estate was opened in February. Ed the Executor was aware of the claim of the local business. Pursuant to state law, Ed published the notice in the local paper. The local business did not file a claim within 60 days.

The local business has now brought a lawsuit for the \$1000. Ed the executor defends on the basis that the business did not respond to the published notice within 60 days. The local business says it never saw the notice in the newspaper.

Will the business be able to assert its claim now, even though it did not respond in 60 days? Was the probate proceeding with the publication valid? In other words, who wins on this issue?

- A) Ed wins, because he complied with the statutory notice.
- B) Ed wins, because this probate proceeding was in rem and publication is sufficient.
- C) Ed wins, because the probate proceeding rested on necessary jurisdiction.
- D) The business wins, because Ed knew of the claim by the local business and should have given better notice to the local business.
- E) The business wins, because Ed should have been required to use personal service by the sheriff on the business in order to bar the claim of the business.
- F) The business wins, because the probate action was in personam.

Name Answer

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

Fall 1996 Civ Pro A Quiz 4

Civil Procedure
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Quiz #4

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 (32¢ stamp). Roy receives the letter in Fayetteville.

Which of the following statements correctly states the method of making challenges? (It is irrelevant whether the challenge will ultimately prevail).

- A) If Roy ignores the Virginia law suit, he may still object to the use of first class mail when the Virginia default 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 to jurisdiction in Arkansas when the Virginia default judgment is registered.
- C) If Roy ignores the Virginia lawsuit, he can object to the amount of the default judgment 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.

Name Answer

If you believe that this question is vague, ambiguous, misleading or otherwise unfair, explain.

Fall 1996 Civ Pro A Quiz 5

Civil Procedure
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Quiz #5

All of the following lawsuits involve a breach of contract action for \$100,000. Which ones can be heard in federal court?

- (1) A citizen of China living in Arkansas on a three month visa vs. a citizen of Arkansas.
 - (2) A citizen of China living in Arkansas on a three month visa vs. a citizen of Japan living in Arkansas on a three month visa.
 - (3) A citizen of China living legally and permanently in Arkansas vs. a citizen of Arkansas.
 - (4) A citizen of China living legally and permanently in Arkansas vs. a citizen of Japan living legally and permanently in Arkansas.
 - (5) A citizen of China living illegally in Arkansas vs. a citizen of Arkansas.
 - (6) A citizen of China living illegally in Arkansas vs. a citizen of Japan living illegally in Arkansas.
- A) Only (1), (2) and (3) can be heard in federal court.
 - B) Only (1), (5) and (6) can be heard in federal court.
 - C) Only (2), (4) and (5) can be heard in federal court.
 - D) Only (3), (4) and (6) can be heard in federal court.
 - E) Only (1) and (5) can be heard in federal court.
 - F) Only (2) and (4) can be heard in federal court.
 - G) Only (3) and (6) can be heard in federal court.

Name Answer

If you believe that this question is vague, ambiguous, misleading or otherwise unfair, explain.

Fall 1996 Civ Pro A Quiz 6

Civil Procedure
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Quiz #6

Plaintiff Pete (from Arkansas) was injured while landing his airplane at the Fayetteville airport. In federal court in Arkansas he sues the air traffic controller Anne (also from Arkansas). In Count I he properly asserts jurisdiction under a federal statute and seeks damages of \$100,000.

In Count II of the same lawsuit he sues Anne for defamation, alleging that the next day she told her friends at the racquetball club that "Pete is an incompetent pilot who should not be allowed near any airport. He has injured people in the past with his crazy flying." He seeks \$75,000 in damages to his reputation.

Anne 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) Count II falls within pendent jurisdiction and the court is required to hear Count II.
- B) Pendent jurisdiction is not satisfied because there is no diversity of citizenship, and the court must dismiss Count II.
- C) The court has discretion whether to exercise supplemental jurisdiction in this instance.
- D) Because there is a common nucleus of operative facts, Count II falls within ancillary jurisdiction and the court must hear the defamation claim.
- E) Count II does not fall within ancillary jurisdiction and the court must grant the motion to dismiss.

Name Answer

If you believe that this question is vague, ambiguous, misleading or otherwise unfair, explain.

Fall 1996 Civ Pro A Quiz 7

Civil Procedure
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Quiz #7

Plaintiff Patty is a citizen of Arkansas. While traveling in Arizona, she is injured by a citizen of Canada. The Canadian citizen has visited Arizona and New Mexico, but has never had any contact with the state of Arkansas.

The Canadian citizen is driving a car rented by an Arizona corporation. The corporation does business only in Arizona and has no contacts with any other state.

Of the following seven statements, only one is correct. Which one?

- A) If Patty sues the Canadian citizen for \$100,000, she may properly bring the action in federal court in Arkansas.
- B) If Patty sues the Canadian citizen for \$30,000, she may properly bring the action in federal court in Arizona.
- C) If Patty sues the Canadian citizen for \$100,000, she may properly bring the action in federal court in New Mexico.
- D) If Patty sues the corporation for \$100,000, she may properly bring the action in federal court in New Mexico.
- E) If Patty sues the Canadian citizen in Arizona state court for \$30,000, the Canadian citizen may remove to federal court.
- F) If the plaintiff sues the corporation in Arizona state court for \$100,000, the corporation may remove to federal court.
- G) If Patty sues both defendants in Arizona state court for \$100,000 alleging joint liability, the corporation may by itself petition for removal.

Name Answer

If you believe that this question is vague, ambiguous, misleading or otherwise unfair, explain.

Fall 1996 Civ Pro A Quiz 8

Civil Procedure
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Quiz #8

Tina Tenant (a student from Tennessee) is assaulted in her apartment in Fayetteville. She claims that Larry the Landlord (an Arkansas citizen) had a duty to provide adequate protection to tenants and breached that duty. She sues in federal court in Arkansas on grounds of diversity jurisdiction.

- A) Under the principles of vertical conflicts, the federal court must apply Arkansas law.
- B) Under the principles of horizontal conflicts, the federal court must apply Arkansas law.
- C) If the only Arkansas law is an 1899 decision of the Arkansas Supreme Court, the federal court has no choice but to follow it.
- D) If no Arkansas law exists, the federal court is permitted to select the law that it feels is the "best law" and apply it.
- E) A decision by the federal court interpreting Arkansas law is binding upon future decisions of the Arkansas Supreme Court.

Name Answer

If you believe that this question is vague, ambiguous, misleading or otherwise unfair, explain.

