

Fall 1997 Midterm (Civil Procedure A)

Mid-Term Examination
Fall 1997
Prof. Brill

Paula Plaintiff purchased fireworks from a seller in Fayetteville. The fireworks exploded prematurely, injuring her.

She filed a complaint in Washington County Circuit Court on May 1st. The defendant is Nationwide Fireworks, Inc. (NFI). It is a California corporation. NFI has no agent or employees or property in Arkansas, and is not licensed in Arkansas. NFI sells its products only in California, but it knows that the buyers of the fireworks (who are retailers) then distribute the products in all 50 states to be sold at different stands. Approximately \$45,000 of its products are re-sold annually in Arkansas through the buyers.

In addition, NFI has a listing on the Internet. (Individuals in all 50 states and throughout the world who have computer access can read the homepage of NFI to learn about the history of the corporation and its products). It does not sell any products on the Internet, nor does it advertise in any specific matter. The Internet site is not interactive; that is, it does not permit readers to send electronic messages to NFI.

Fred Fireworks, Jr. is the Vice-President of the Corporation with responsibility for international sales. He came to Arkansas for a personal vacation. While in Fayetteville on October 9th he was served with a summons by a 22 year old secretary for the plaintiff's law firm.

You are an attorney in the law firm that has been hired by NFI to represent it in Paula v. NFI. Your senior partner has asked you to evaluate all procedural defenses that in good faith might be raised to this lawsuit. Be objective in your analysis and your conclusions. The senior partner wants your opinions and conclusions.

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