

# Fall 1998 Civ Pro A Quiz 1

Civil Procedure  
Fall 1998  
Quiz #1

ABC Corp. makes heating elements in Maryland. They are shipped to Delaware and are sold to the General Toaster Company (GTC). GTC installs them in a toaster and ships the toaster to Betty Buyer in California. (GTC does not ship any other toasters to California.) Betty's house is damaged when the toaster starts a fire.

Seeking compensation for the damage to her house, Betty brings a lawsuit in a California state court against both ABC and GTC. Does the California state court have power under the Due Process Clause of the 14th Amendment over ABC and GTC?

- A) Yes. It has in rem power over both.
- B) No, because neither is present in California.
- C) Yes, because of their status as corporations which permits them to easily defend in another state.
- D) No, because of the burden on defendants located in distant states.
- E) Yes as to GTC, because it shipped the toaster to California.
- F) No as to ABC, because it does not have a single contact with California.
- G) Yes as to ABC, because it has systematic and continuous contacts with California.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 2

Civil Procedure  
Fall 1998  
Quiz #2

Only one of the following examples/statements is correct. Which one?

- A) Blackacre is located in the State of Oregon. A dispute has arisen over the ownership of Blackacre. Citizens of Oregon, Montana and Canada claim title to the land. An Oregon court needs in personam jurisdiction over the three citizens to resolve the dispute.
- B) The Arkansas plaintiff is injured in Texas in a car accident with a citizen of Texas. Plaintiff returns to his home in Arkansas and sues for damages. Plaintiff commences the lawsuit by seizing the stock that the defendant owns in an Arkansas corporation. The Arkansas court has properly acquired quasi-in-rem jurisdiction over the Texas defendant.
- C) A citizen of Tennessee is injured while hiking in the Tennessee woods. The land is owned by a citizen of New York. The Tennessee plaintiff sues for damages in a Tennessee court. The Tennessee court needs in rem jurisdiction over the defendant.
- D) A citizen of Michigan is slandered by a citizen of Florida. The Florida defendant has never been to Michigan, but owns Greenacre in Michigan. The Michigan plaintiff sues for damages in a Michigan court and commences the lawsuit by attaching Greenacre. The case law is uncertain as to whether quasi in rem jurisdiction has properly been acquired.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 3

Civil Procedure  
Fall 1998  
Quiz #3

Analyze the following fact patterns according to the Arkansas long arm statute. All events take place in 1998.

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.

Select from the following four examples the fact pattern in which the Arkansas court clearly does not have in personam jurisdiction over the Pennsylvania corporation. Select only one.

- A) The plaintiff bought the jelly in New York and ate it in New York. The defendant ships \$6000 worth of jelly to Arkansas each year.
- B) The plaintiff bought the jelly in Oregon and ate it in Arkansas. The defendant ships \$4000 worth of hammers to Arkansas each year, but no jelly.
- C) The plaintiff bought the jelly in Utah and ate it in Arkansas. The defendant sells nothing in Arkansas.
- D) The plaintiff bought the jelly in Arkansas, but ate it in Oklahoma. The defendant ships \$5000 worth of jelly to Arkansas each year.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 4

Civil Procedure  
Fall 1998  
Quiz #4

Harry and Wilma were married in Camden, Arkansas in 1982, but in 1988 they moved to Dallas, Texas. After three years of marital strife in Texas, she moved back to Arkansas in 1997. Harry remains in Texas. She wishes to seek a divorce and alimony.

- A) She must sue in Texas because Arkansas has no authority to grant her a divorce.
- B) She must sue in Arkansas because Texas has no authority to grant her a divorce.
- C) She will be able to maintain an action for alimony in Texas under Pennoyer and Burnham.
- D) She will be able to maintain an action for alimony in Arkansas because they were married in Arkansas in 1982.
- E) If she locates him visiting a casino in Shreveport, Louisiana and serves him with papers from a Louisiana court, she will be able to obtain both a divorce and alimony.
- F) The principle of divisible divorce permits Arkansas to award alimony.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 5

Civil Procedure  
Fall 1998  
Quiz #5

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 \$25,000.

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 about his landing. In addition, she stated 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 \$85,000 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) The court will deny the motion because it has no discretion and is required to hear Count II under pendent jurisdiction.
- B) Pendent jurisdiction is not satisfied because there is no diversity of citizenship in Count I. The court will grant the motion and dismiss Count II.
- C) The court has discretion whether to exercise supplemental jurisdiction over Count II.
- 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.

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Name Answer

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



# Fall 1998 Civ Pro A Quiz 6

Civil Procedure  
Fall 1998  
Quiz #6

Plaintiff sues defendant on two theories, one is a common law claim, and the other is a federal question claim with concurrent jurisdiction. Plaintiff is a citizen of Oklahoma; Defendant is a citizen of Arkansas and resides in the Eastern District of Arkansas. The dispute arose when the plaintiff lived in the

Eastern District of Arkansas. The relevant acts all took place in the Eastern District of Arkansas. The amounts in controversy are \$30,000 on the federal claim and \$25,000 on the common law claim. The two claims are related.

Only one of the following statements is correct. Choose it.

- A) If the action is filed in federal court, a proper venue is the Western District of Arkansas.
- B) If the action is filed in federal court, a proper venue is the federal district court for Oklahoma.
- C) If the action were filed in federal court, only the federal question claim can be properly heard.
- D) If the action were filed in state court in Oklahoma, it could be properly removed to a federal court in Oklahoma.
- E) If the action were filed in state court in Oklahoma, it could be properly removed to the federal court for the Eastern District of Arkansas.
- F) If the action were filed in state court in Oklahoma, neither the federal question nor the common law claim could be removed.
- G) If the action were filed in a state court in Fayetteville, Arkansas, it could properly be removed to the federal court for the Eastern District of Arkansas.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 7

Civil Procedure  
Fall 1998  
Quiz #7

Patsy Plaintiff files an action in federal court in Montana 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 Montana Rule of Procedure clearly permits a defendant to object to venue within 30 days after filing an answer.

Under Montana 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 Montana law on punitive damages, but is not compelled to do so because the Montana position is such a departure from the general law.
- B) must follow the Montana 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 in punitive damages and balance it against the affirmative countervailing consideration of the policy of the Seventh Amendment.

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Name Answer

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

# Fall 1998 Civ Pro A Quiz 8

Civil Procedure  
Fall 1998  
Quiz #8

Only one of the following statements is correct. Which one?

Common law pleading started with the Norman Conquest and ended with the American Revolution.

The Chancellor was appointed by Parliament.

Common law pleading was known as notice pleading.

Summary judgment was an integral part of common law pleading.

Mortgages are a creation or example of substantive equity.

The novelist Charles Dickens praised the English system of justice in the early 1800's.

The New England colonies gave a prominent role to courts of equity.

Code pleading included the rejoinder, the rebutter and the traverse.

Code pleading was known for its multiple, almost endless pleadings.

The Federal Rules of Civil Procedure are sometimes described as fact pleading.

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Name Answer

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

