

Mid-term Examination

Tom Tennessee is a graduate of the University of Arkansas and a loyal supporter of the Razorbacks. He frequently attends academic and athletic events in Fayetteville. But to his dismay, two of his children, Tina and Tony, attend the University of Tennessee. To finance their education, he borrowed money from the Big Red Bank of Arkansas. He signed the contract at his home in Tennessee and mailed the contract to Arkansas. The loan documents state that "they will be interpreted according to the laws of Arkansas." For the first year he regularly mailed the monthly payments to the Bank in Arkansas. However, he has failed to make the payments since then and has fallen into default on the contract.

The Bank has sued Tom in state court in Arkansas for the amount due on the contract. A Tennessee deputy sheriff left the papers with Tom's 15 year old son, Terry, at the family residence in the middle of Tennessee. At the moment of service, Terry was standing on the county road at the family mail box across the road from the entrance to their 3 acre property. He gave the papers to his father three evenings later when Tom returned from New York.

The attorney for Tom has filed Rule 12(b)(2) and Rule 12(b)(5) motions to dismiss with the Arkansas trial judge. Tom's motion relies on cases such as Worldwide Volkswagen, Hanson, Helicoptersos, CDI Contractors, and Jagitsch, and relevant procedural rules and authorities.

You are the attorney for the Bank. You are standing in front of the Tennessee judge. Make the best argument you can. Be organized, be thorough, be creative, and be an advocate!

Note: This question is suggested by Glenn v. Student Loan Guar. Foundation, 53 Ark. App. 132, 920 S.W. 2d 500 (1996).