

Mid-Term Examination

David Davis is a resident of Shell Knob, Missouri. He experienced chest pains and went to Table Rock Hospital in Missouri. He was diagnosed with costochondritis and received a steroid injection. He did not improve. Subsequently it was actually determined that he was suffering from pneumonia, and steroids were the inappropriate treatment.

Because his home is approximately 15 miles from the Arkansas border and because he has traditionally used an attorney in Arkansas, he brings his lawsuit for medical malpractice in a state court in Carroll County, Arkansas. His attorney practices and resides in Arkansas.

Table Rock Hospital (TRH) is a corporation created under the laws of Missouri. Its only place of business is in Missouri. TRH does have a registered agent in Arkansas; Alan Agent resides in Little Rock.

The summons and complaint are delivered to the sheriff in Little Rock. The sheriff goes to the office of Alan Agent. Alan is absent, but the sheriff leaves the papers with a 21 year old part-time secretary, Pam. Pam gives the papers to Alan when he returns in the afternoon. The following day Alan mails the papers to TRH in Missouri.

You represent the hospital, TRH. You have filed Rule 12(b)(2) and Rule 12(b)(5) motions to dismiss. Plaintiff David has argued that in light of International Shoe, Hess, Perkins, Worldwide, Burger King, Mullane, and other cases and authorities, the motions should be denied.

You are standing in front of the Arkansas state trial judge. Make the best argument you can on behalf of your client, TRH. Be organized, be logical, be thorough. Use authority. Be an advocate. Refute the obvious opposing arguments of the defendant.

NOTE: This fact pattern is based generally on Davis v. St. John's Health System, Inc., 348 Ark. 17 (2002).