

Civil Procedure
Fall 2003

Quiz #1

Plaintiff Paul is moving from New Jersey to Texas. He purchased an automobile from Garden State Motors for the long trip. He told the dealer he was moving, and the dealer responded that his warranty was good in all 50 states.

Two weeks later he is injured in a one car accident as he enters Texas. He is convinced that his car was defective, and that the dealer was at fault. He sues Garden State Motors in Texas. Garden State Motors does business only in New Jersey.

Does the Texas court have in personam jurisdiction over Garden State Motors?

- a) Yes, under the concept of general jurisdiction
- b) No, because Garden State has no minimum contacts in Texas
- c) Yes, because Garden State could foresee he was moving to Texas.
- d) No, because it is not convenient for Garden State to defend there.
- e) Yes, because under the stream of commerce theory..

TEAR OFF

Fall 2003
Quiz #1

Name

Answer

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

Quiz #2

Does an Arkansas court have in personam jurisdiction over the defendant in the following lawsuits?

(1) George Gator (from Florida) calls a hotel in Fayetteville and reserves a room for the Florida game. When he appears, his room has been rented to another fan. George sues the Fayetteville hotel for breach of contract.

(2) Alma Auburn (from Alabama) calls a hotel in Fayetteville and reserves a room for the Auburn game. She does not show up. The Arkansas hotel sues Alma for breach of contract.

(3) Ralph Razorback (from Arkansas) calls a hotel in Oxford, Mississippi and reserves a room for the game. When he appears, his room has been rented to a Mississippi fan. Ralph sues the Mississippi hotel for breach of contract.

(4) Harriet Hog (from Arkansas) calls the best hotel in Lexington, Kentucky and reserves the luxury suite for the entire week of the big Kentucky game. She does not show up. The Kentucky hotel sues Harriet for breach of contract.

Does the Arkansas court have jurisdiction over the defendant?

- A) Yes, in all four instances.
- B) Only in (1) and (2).
- C) Only in (1) and (3).
- D) Only in (1) and (4).
- E) Only in (2) and (3).
- F) Only in (2) and (4).
- G) Only in (3) and (4).
- H) No, not in any instance.

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Fall 2003
Quiz #2

Name

Answer

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

Quiz #3

Frances Forrest (a resident of Forrest City, Arkansas) travels to Starkville, Mississippi. She has an encounter with Billy Bulldog at his residence at 612 Elm. She returns to Arkansas. Nine months later, she gives birth to a baby boy. She sues Billy in Arkansas, seeking a determination that he is the father and an award of monetary child support. Billy has never visited Arkansas in his life and has no plans to come.

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

- a) Arkansas has in personam jurisdiction over Billy because the baby was born in Arkansas
- b) Because this is an in rem lawsuit, publication in the Starkville paper is sufficient to satisfy the Due Process Clause..
- c) Due process requires that Billy receive personal service by a sheriff. Anything less than that is inconsistent with the requirements of the fourteenth Amendment.
- d) Billy is entitled to a hearing on the allegations against him. If the Arkansas judge calls Billy on the telephone and conducts a hearing Due Process is satisfied.
- e) Under these facts, Frances has no option but to sue Billy in Mississippi.

TEAR OFF

Fall 2003
Quiz #3

Name

Answer

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

Quiz #4

In September 2003 Phyllis Plaintiff sues David Defendant in an Arkansas state court. Has service of process been properly accomplished in the following situations? In all six instances David received the papers promptly. Do not assume any other facts.

1) The sheriff leaves the papers with the wife of the defendant when he sees her in the parking lot at the mall.

2) The sheriff leaves the papers with the 15 year old daughter of the defendant at the family vacation home.

3) The law clerk for the law firm serves the papers on the defendant at the football game.

4) The attorney for Phyllis uses Federal Express to deliver the summons and complaint to the defendant at his business. David signs the Federal Express receipt.

5) The attorney for Phyllis uses first class mail to send the summons and complaint to the defendant at his residence.

6) The attorney for Phyllis uses registered mail, to deliver the papers to David at his place of work. David signs the receipt.

In which situations is service valid?

- A) only 1, 2, and 3
- B) only 1, 4, and 5
- C) only 1, 4, and 6
- D) only 2, 3, and 5
- E) only 2, 4, and 6
- F) only 3, 5, and 6
- G) They are all valid, because they satisfy the Due Process standard as set forth in Mullane.

TEAR OFF

Fall 2003
Quiz #4

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

Quiz #5

Evaluate the following possible lawsuits. Which ones fall within federal diversity jurisdiction? (Do not consider personal jurisdiction. Do not consider venue; that is, the question of which federal court is appropriate).

1) A citizen of Canada attending law school in Arkansas sues a citizen of Arkansas. She seeks \$82,000 in damages.

2) A citizen of the District of Columbia attending school in Virginia sues a citizen of Virginia. He seeks \$40,000 in medical bills, \$35,000 in lost wages, and \$50,000 in pain and suffering.

3) A corporation that is incorporated in Arkansas and has its principal place of business in Oklahoma sues a corporation that is incorporated in Texas and has its principal place of business in Arkansas. The claim is for \$42,000 on a tort claim and \$45,000 on a totally unrelated contract claim.

4) A citizen of Tennessee sues a citizen of Italy, who is admitted for permanent residence and living in Kentucky. The plaintiff asserts a claim for damages for \$35,000. He sues on theories of express contract, contract implied in fact and contract implied in law.

5) A prominent citizen of Arkansas claims that her privacy will be invaded and her reputation permanently ruined by the publication of embarrassing photographs in an adult magazine published in Texas. She seeks an injunction to stop publication.

6) A citizen of Japan admitted for permanent residence and living in California sues a citizen of California. She seeks \$88,000 for defamation and \$100,000 for punitive damages.

Which ones fall within federal diversity jurisdiction?

- a) Only 1, 2 and 3
- b) Only 4, 5 and 6
- c) Only 1, 2 and 5
- d) Only 3, 4 and 6
- e) Only 1, 5 and 6
- f) Only 2, 3 and 4

TEAR OFF

Fall 2003
Quiz #5

Name

Answer

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

Quiz #6

Two individuals are injured in a bus accident. One lawyer brings a single lawsuit, with Counts #1 and #2. They sue the bus company (a Georgia corporation) in South Carolina state court. Plaintiff #1 (South Carolina) sues for \$20,000. Plaintiff #2 (Georgia) sues for \$90,000. The claims are related. The lawsuits are for common law negligence.

Can the lawsuit, in whole or in part, be removed to federal court by the Georgia bus company?

- a) Yes. The bus company has a right to remove the entire lawsuit.
- b) No. No part of the lawsuit can be removed.
- c) The bus company has a right to remove Count #1. The trial judge has discretion to take Count #2 under #1441(c).
- d) The bus company has a right to remove Count #1. The trial judge has discretion to take Count #2 under #1367(a and c).
- e) The bus company has a right to remove Count #1. However, the trial judge cannot take Count #2 because #1367 does not apply to removed cases.
- f) The bus company has a right to remove Count #2. The trial judge has discretion to take Count #1 under #1441(c).
- g) The bus company has a right to remove Count #2. The trial judge has discretion to take Count #1 under 1367(a and c).

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Civil Procedure
Fall 2003
Quiz #6

NAME _____

ANSWER _____

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

Quiz #7

Below are descriptions of five lawsuits to be filed in the Arkansas State Courts. Only one of them may properly be brought in Washington County. Which one?

- a) The dispute involves the partition of real property. The plaintiff is a resident of Washington County; the defendant a resident of Miller County; the land is in Desha County.
- b) The dispute involves legal malpractice. The plaintiff is a resident of Washington County; the defendant is a lawyer who resides in Benton County.
- c) The dispute involves the official actions of the Governor. The plaintiff resides in Washington County; the Governor resides in Pulaski County.
- d) The dispute involves damage to an automobile that was parked on a street in Sebastian County. The owner of the automobile resides in Washington County; the defendant resides in Sebastian County.
- e) The dispute involves an injury to real property in Madison County. The plaintiff resides in Madison County; the defendant resides in Washington County.

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Civil Procedure
Fall 2003
Quiz #7

NAME _____

ANSWER _____

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

Civil Procedure
Professor Brill
Fall 2001

Quiz #8

Patsy Plaintiff (a student from Pennsylvania) is injured when a brick falls from her apartment and hits her. She sues her landlord Larry, a citizen of Arkansas.

The lawsuit is filed in federal court in Arkansas under diversity jurisdiction.

- a) The Arkansas federal judge is obligated to apply the rules of code pleading as required by federal courts.
- b) The Arkansas federal judge is obligated to apply the rules of code pleading, because that would be done by Arkansas state courts.
- c) The Arkansas federal judge is obligated to apply Federal Rules of Civil Procedure, also commonly known as fact pleading.
- d) Under the principles of horizontal conflicts, The Arkansas federal judge is obligated to apply Arkansas state law.
- e) Under the principles of vertical conflicts, The Arkansas federal judge is obligated to apply Arkansas state law.
- f) Under principles of general conflicts, the Arkansas federal judge is obligated to apply the best law.

TEAR OFF

Fall 2001
Quiz #8

Name

Answer

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