

Mid-Term Examination

On a cold winter day in 2004 Alvin Arkansas was injured while splitting wood in the Ozarks Mountains of Arkansas. He was using a maul manufactured by Moose Manufacturing Company (of Maine).

Moose is a century old, family run corporation, located only in Maine. It does not advertise; its employees are only in Maine. Moose sells all its mauls to Empire Distributing Company, a regional distributor located in New York. Empire sold one truckload of mauls to Buckeye Woodworking Equipment, an Ohio corporation that supplies stores through the Midwest. Buckeye sold 25 mauls to Joplin Home Center, in Joplin, Missouri. This particular maul was purchased by Marcia Missouri (who resides in Missouri). She gave it to her boy friend Alvin for Christmas 2003. (Joplin, Missouri is 30 miles from the Arkansas border).

He has filed a lawsuit for his personal injuries in the Circuit Court of Washington County, Arkansas. The only defendant is Moose Manufacturing Company.

The summons and complaint were delivered to Federal Express, which shipped the packet to Bangor, Maine. Federal Express brought the packet to the home office of Moose. The president was absent from the plant, but his 16 year old daughter Debbie was in the office doing her calculus homework. Debbie signed the Federal Express receipt. She gave the packet to her father, the president, a few hours later.

Moose has filed Rule 12(b)(2) and 12(b)(5) motions in Arkansas state court.

You represent Alvin. You are standing in front of the Arkansas trial judge. Your task is to persuade the court that Arkansas has jurisdiction over Moose, and that service was properly accomplished. Make the best argument that you can. Be organized, be logical, be creative, develop your own arguments, refute the obvious arguments of the defendant Moose.

Notes:

- 1) See the attached court order.
- 2) Do not waste time repeating the facts at the beginning of your argument. Work them into the argument as needed and when appropriate.
- 3) You may keep this question.
- 4) This question is based generally on Parry v. Ernst Home Center, page 127 of the casebook.