



### Essay Question #1

Patsy Plaintiff is a citizen of Minot, North Dakota. [Its proud slogan is “Why not Minot?”]. The night before the opening of modern gun deer season, she was multi-tasking. While watching and enjoying a You Tube performance of “Bad Romance” by Lady Gaga, she was cleaning her 30.06 Remington rifle in preparing for her weekend in the woods. Unfortunately the rifle accidentally discharged, and she was injured in the foot.

She brings an action for \$85,000 in federal court in North Dakota against the York Rifle Company (YRC) of New Haven, Connecticut. She alleges defective design and manufacture.

YRC files a single document, raising two points: a) the North Dakota federal court lacks personal jurisdiction over YRC, and b) on the merits of the lawsuit, YRC denies liability, arguing instead user modification and misuse of the rifle.

Patsy Plaintiff has moved to strike the objection to personal jurisdiction, arguing that under North Dakota statute § 44 the defense of lack of personal jurisdiction is waived unless raised in a pre-answer motion. In response, YRC contends that the objection to personal jurisdiction has been properly presented according to Federal Rule 12(b), and should be heard on the merits.

You are the law clerk to the federal judge. She instructs you: “Do I hear the defense objection to personal jurisdiction or not? I need a clear answer. In addition, I need a limited discussion of the rationale for your conclusion. Be clear, be organized, present appropriate authority. But I am not interested in a lengthy historical discussion or a review of every single case that some long winded academic would discuss. And remember, the only issue is whether to hear the objection, not how to rule on the objection. I do not want to hear about minimum contacts.”

## Essay Question #2

Factual Background: Mom and seven year old Daughter Debbie both live in Fayetteville, Arkansas. They made a Thanksgiving trip to see relatives in Rapid City, South Dakota. While there, they visited Mount Rushmore to see the Presidents. [They were disappointed not to see their heroes Presidents Reagan and Clinton]. They were in an automobile accident with Winnie . They both suffered personal injuries.

Winnie is a citizen of Winnipeg, Manitoba (Canada); she was legally visiting the United States for a two week vacation in South Dakota and Colorado. She was driving her own vehicle with Manitoba license plates.

Mom files a personal injury lawsuit in the federal court in South Dakota, and she files pro se. The complaint reads as following:

<b>IN AMERICAN COURT IN SOUTH DAKOTA NEAR MOUNT RUSHMORE</b>	
<b>MOM AND DEBBIE</b>	
v.	
<b>WINNIE</b>	
<b>CHARGE</b>	
1. I am Mom and live in Arkansas. Baby Debbie and me are both true Hogs. Winnie is a foreigner.	
2. Winnie drives too fast. She hit me and Debbie.	
3. We are suffering real badly.	
4. I need money for doctors and pills. I cannot work.	
Please give me \$100,000 in American money; no foreign money because it is no good.	
I promise this is all true, so help me God.	
Signature _____	

Your law firm represents the defendant Winnie. You are a law clerk, having finished one year of law school. Your supervising attorney says to you: "Write a memo; use whatever format you wish. How should we attack this complaint? I want to defend the lawsuit, but I don't want to waste time or Winnie's money on foolish matters; I certainly don't want to have foolish motions, but neither do I wish to skip anything. What could we file? What is the rationale? Do you have authority? If a motion is possible, but not wise, tell me. If it is a strong motion, tell me why. I fully recognize that you could write a book, but I do not want a book. Be organized; be precise; be clear; be brief, give limited authority to support your position. Remember we are paying you \$10 an hour, and I don't want to run up expenses."