

## EXAMINATION

### CIVIL PROCEDURE I -- LAW 212

#### Section 3A -- Siegel

Fall, 2004

#### INSTRUCTIONS

1. This is an open book examination. You may use any written materials that you have brought with you (including typewritten, printed, or published materials). Computer use is permitted.
2. You have THREE HOURS to complete the exam.
3. The exam consists of this cover page plus four exam pages numbered 1 through 4. Make sure you have all the pages.
4. There are FOUR questions. All students must answer all questions. Time allocations are:

Question One:	60 minutes
Question Two:	30 minutes
Question Three:	45 minutes
Question Four:	45 minutes
5. The weights of the questions are proportional to the time allocations.
6. Do not put your name anywhere on your answers. Do not indicate whether you are taking the class pass/fail. Do not write "Thank you for a great class" or anything similar on your exam.
7. If you are writing your answers by hand, remember to *write legibly*.
8. If, with regard to any question, you think additional facts are needed to answer the question, state clearly what facts you think are missing. Then make a reasonable assumption about the missing facts and answer the question based on your assumption. Do not change the given facts.
9. Using good judgment, address all the issues presented and assigned by the questions, even if your answers to some issues would, in real life, eliminate the need to address other issues.
10. Good luck.

## QUESTION ONE

(60 minutes)

Reliable Valves, Inc. (“RVI”), is a corporation incorporated in the state of Delaware. RVI manufactures valves. RVI’s corporate headquarters and manufacturing plant are located in the state of Georgia. RVI keeps its unsold inventory in a warehouse it owns in the state of South Carolina. Among other things, RVI sells valves to Harley-Davidson, Inc., a manufacturer of motorcycles. RVI’s valves are shipped to Harley-Davidson’s manufacturing plant in Pennsylvania, where they are incorporated into tires that are attached to Harley-Davidson’s finished motorcycles, which are then sold throughout the United States. RVI’s motorcycle tire valves are all identical.

In the summer of 2005, a series of accidents occurs in which exploding tires cause injury or death to riders of motorcycles manufactured by Harley-Davidson’s rival Honda. Investigations prove that the accidents occurred because of defects in the tires’ valves, which were manufactured by Deadly Exploding Valves, Inc. In September 2005, Harley-Davidson takes out advertisements in newspapers and on television throughout the United States that say, “Harley-Davidson does not buy from Deadly Exploding Valves! All Harley-Davidson tires have valves manufactured by Reliable Valves right here in the USA! Check for the RVI logo before buying your Harley!”

Paul Potter was born and raised in South Carolina and went to law school at the University of South Carolina. Upon graduation in June 2005, Paul is uncertain about his long-term plans, but he accepts a one-year clerkship with a judge in San Francisco, California. In October, 2005, Paul spends a weekend at a motorcycle convention in the state of Oregon. While there, he buys a new Harley-Davidson motorcycle for \$15,000, after carefully noting the RVI logo on the tire valves.

In November, 2005, Paul’s parents move from their long-time family home in which Paul grew up to a new home in Georgia.

In December 2005, Paul is riding his motorcycle in California when the rear tire explodes and he crashes into a tree. Paul requires surgery and his motorcycle is totaled. An investigation proves that the crash was caused by a defect in the tire’s RVI valve. Paul recovers from surgery, returns to his clerkship, and brings suit against RVI in the United States District Court for the District of Oregon in January 2006. He brings a \$15,000 claim for property damages, a \$20,000 claim for medical expenses, and a \$50,000 claim for damages for pain and suffering. Process is properly served. RVI moves to dismiss based on such grounds as might be expected given the above facts, but makes no arguments relating to venue.

A statute of the state of Oregon provides, “In all civil actions, the courts of this state may exercise personal jurisdiction whenever permitted by the Constitution of the United States.”

**You are the law clerk to the district judge hearing the case. Write a memorandum discussing the issues and making a recommendation as to how the judge should rule on the pending motion. (In case you missed them, be sure to read instructions 6-9 on the cover page.)**

**QUESTION TWO**  
(30 minutes)

New York State is divided into four federal judicial districts: Western, Northern, Eastern, and Southern.

Alison Appleby is a citizen and resident of New Jersey. Barbara Billings, a citizen of New York, lives in Niagara Falls, which is in the Western District of New York. Carol Collins, also a citizen of New York, lives in Lake Placid, which is in the Northern District of New York. Carol works at the Lake Placid Chamber of Commerce.

On June 10, 2005, Alison takes a bus tour of New York's Long Island. The bus tour leaves from Manhattan, New York City, which is in the Southern District of New York. Long Island is in the Eastern District of New York.

While the bus tour is temporarily stopped on Long Island and the passengers are standing outside looking at a pretty view, Alison is hit by a car. The car is owned by Barbara and driven by Carol. Alison is seriously injured.

On July 1, 2005, Alison brings suit against Barbara and Carol in the United States District Court for the Southern District of New York. She seeks \$250,000 in damages from each defendant.

Alison hires a process server who, on November 1, 2005, personally serves Barbara with a summons and a copy of the complaint. On the same day, the process server also takes a summons and a copy of the complaint to Carol's office at the Lake Placid Chamber of Commerce. Carol is out to lunch, so the process server leaves the summons and complaint with Carol's secretary, who gives them to Carol upon Carol's return.

Barbara and Carol answer Alison's complaint. They deny liability and assert the defense of improper venue. A month later, Barbara and Carol both move to dismiss for improper venue. Also, Carol (but not Barbara) moves to dismiss for insufficient service of process.

A statute of the state of New York provides, "In all civil actions, process may be served upon a defendant who is a natural person by personally delivering a summons and a copy of the complaint to the defendant."

**You are the law clerk for the district judge trying the case. Write a memorandum discussing the issues and advising the judge as to how to rule on the pending motions.**

### QUESTION THREE

(45 minutes)

[Note: This question uses some facts from Question One. But you don't need to re-read Question One because all the relevant facts are repeated.]

Reliable Valves, Inc. ("RVI"), is a corporation incorporated in Delaware that manufactures valves, which it sells to Harley-Davidson, Inc. ("Harley"), for use in motorcycle tires. Since the events of Question One, RVI has closed its South Carolina warehouse, so now RVI's only place of business is located in Georgia. Harley is a corporation incorporated in Delaware and having its principal place of business in Wisconsin.

As you will recall from Question One, an accident occurred in which a defective RVI valve caused the tire of a Harley-Davidson motorcycle to explode. Following this accident, many owners of Harley-Davidson motorcycles with RVI tire valves naturally wanted new tires. Replacing the tires would cost such owners \$200. Harley and RVI refuse to pay for these replacement tires.

Pedro Perez, a citizen of New York, owns a Harley-Davidson motorcycle with tires that have the RVI valves. He discovers that 10,000 other people throughout the United States are in a similar position. He brings a class action against Harley and RVI in the United States District Court for the Eastern District of Pennsylvania on behalf of all the owners of Harley-Davidson motorcycles containing tires that use the RVI valves. He seeks damages of \$200 per each such owner.

The district judge trying the case certifies the case as a class action. The defendants then move to dismiss the case for lack of subject-matter jurisdiction.

**A. You are the law clerk to the judge trying the case. Write a memorandum addressing the defendants' motion to dismiss. (Note: do not discuss the issue of class certification. Just address the motion to dismiss.)**

Possibly following your advice and possibly ignoring it, the judge denies the motion to dismiss. Subsequently, Harley seeks to add a claim against RVI for indemnification for any damages Harley is made to pay to the plaintiffs, because, Harley asserts, any damages owed are ultimately RVI's fault. Thereafter, RVI seeks to add a claim against Harley. RVI claims that Harley has stopped buying valves from RVI and is now making valves itself. RVI claims that Harley's valves violate a patent owned by RVI that is protected under the federal patent laws. RVI seeks \$10,000,000 in damages from Harley for this alleged patent violation.

Each defendant then seeks to have the other defendant's claim against it dismissed for lack of subject-matter jurisdiction and for misjoinder.

**B. You are still the law clerk to the judge trying the case. Write a memorandum addressing the pending motions.**

**QUESTION FOUR**  
(45 minutes)

In the year 2100, scientists perfect a teleportation device that permits instantaneous transportation between any two points. The U.S. government buys the rights to the device and runs it as a free public service. Teleport stations are quickly established in many convenient locations in every community in the country. The result is that travel from anywhere in the U.S. to anywhere else in the U.S. becomes free and instantaneous.

Thereafter, the state of Florida amends its enumerated long-arm statute to provide that Florida's courts may assert personal jurisdiction over "any citizen or permanent resident of the United States" (in addition to the other bases of personal jurisdiction that the statute previously permitted).

A case then arises in which Peterson, a citizen and resident of Florida, asserts that, while Peterson was in Idaho on vacation, Davis, a citizen and resident of Idaho, punched Peterson in the nose during a bar-room argument. Peterson brings a tort action for battery against Davis in a state court in Florida. Davis is not alleged to have any connection with Florida other than having punched one of Florida's citizens in the nose. Davis appears specially and challenges the court's personal jurisdiction. The court denies Davis's motion to dismiss, the case proceeds to trial by jury, and Davis loses. The Supreme Court of Florida affirms the judgment.

Davis then takes the case to the Supreme Court of the United States and presses his personal jurisdiction argument.

**You are the Chief Justice of the United States. Write a thoughtful opinion deciding the case.**

**END OF EXAM**