

**QUESTION 1**  
**(One hour)**

Peter is a resident of Santa Rosa. He traveled by bus to Oregon to visit his daughter who lived in Eugene. At a bus stop just over the border in Oregon, Peter bought a chicken sandwich from a small café, owned by Diane, which served both local customers and bus transients, but does no advertising. Several days after he returned home, Peter became quite sick and was hospitalized with a bacterial infection from the sandwich. His doctors determined that he acquired the infection from eating the chicken in the sandwich.

Peter sued the café and Diane in U. S. District Court, in San Francisco, and alleged \$1 million in damages for his personal injuries. Diane and the café both challenge the personal jurisdiction of the court in a Rule 12 motion. The court denied the motion.

During the lawsuit, Peter sent an investigator to the café to take statements from customers who described similar experiences. Diane wants to get the notes of these interviews and to depose the investigator. Some of the persons interviewed have moved from the small town and one has died.

Peter wins the lawsuit and collects \$500,000 from the café and Diane. Hearing of this, Paul, another customer, who also got sick from eating at Diane's Cafe, sued Diane in District Court in Oregon. Paul now seeks summary judgment against Diane as to her liability, based on the judgment obtained by Peter. Diane opposes this motion.

Before the motion for summary judgment is heard, Diane seeks to have the case dismissed because the plaintiff did not name and serve Acme Meat Processing, who sold the café the poisoned chicken. Paul opposes this.

ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE

1. How should the court rule on the challenge to personal jurisdiction made by Diane and the café?
2. How should the court rule on the request of Diane for discovery from the investigator?
3. How should the court rule on the motion for summary judgment brought by Paul?
4. How should the court rule on Diane's motion to dismiss?

**QUESTION 2**  
**(One hour)**

Patrick was in a low speed car accident in Los Angeles. He suffered moderate injuries and sought care at the local hospital. The other driver was Dan who lived in Reno. Patrick lives in Sacramento, when he is not traveling. Dan was driving a vehicle owned by Robert who lived in Idaho. Patrick filed suit in the U.S. District Court in San Francisco against Dan and Robert. He claimed \$50,000 in personal injury damages, \$20,000 in medical expenses and \$10,000 in damage to his car. Patrick added a cause of action for slander when he learned that Dan told the local newspaper that Patrick was drunk at the time of the accident. He sought \$10,000 for this statement.

Dan both filed a Rule 12 (b) motion to change venue to Los Angeles. Patrick opposed this request.

Assume the case is not transferred. Dan now files an Answer to the Complaint and includes the affirmative defenses of improper service and lack of subject matter jurisdiction. Receiving this Answer, Patrick files a Rule 12 motion challenging the right to bring these defenses. Patrick voluntarily dismissed Robert during the final pre-trial conference.

During the trial of the case, Dan challenges the only three jurors on the panel who appear to be of Middle Eastern decent and who all had been sued for personal injuries before. Patrick opposes this action.

Some months following the verdict in favor of Patrick, who was found to be himself responsible for 20% of the liability for the accident, Dan files suit against Patrick in state court, for injuries he sustained in the accident. Patrick seeks to have the complaint dismissed in a summary judgment motion.

**ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE**

1. How should the court rule on the motion to change venue brought by Dan?
2. How should the court rule on the Rule 12 motion filed by Patrick?
3. How should the court deal with the challenges?
4. How should the court rule on the motion for summary judgment filed by Patrick?

**QUESTION 3**  
**(One hour)**

Paula is a resident of San Francisco. She and her mother Patty went shopping in the local mall for new clothes. As Paula was exiting Delightful Dresses, a Nevada chain store, she was stopped by David, a private security guard hired by the store, who accused her of stealing. After she had been detained and as she was talking to the guard, the owner of the store next door, Darrell, came over, grabbed her, injuring her arm, and told her that he did not like thieves.

Paula filed suit in the San Francisco Superior Court against only Delightful Dresses. The clothing store immediately removed the case to the U.S. District Court in San Francisco. (Assume there is no problem with jurisdiction). Delightful Dresses filed a third party claim against David and against Darrell, the owner next to Delightful Dresses, claiming that they should be in the suit as well. Both challenged Delightful Dresses' right to bring them in, but not on jurisdictional grounds.

Delightful Dresses sought to dismiss the case, since the plaintiff had not filled out a Case Questionnaire, which was required by the local San Francisco Superior Court, but was not required in Federal Court, where the applicable rule only required the filing of a summons and complaint. The court rejected the request.

Delightful Dresses asked the court to order a mental exam with a local psychologist known for his practice of asking patients about their sex lives. Paula had admitted that she was upset about the detention and was fearful. She did not want to have the exam.

Paula obtains a verdict against Delightful Dresses for the wrongful detention. Some months later, Patty files suit against Darrell for the emotional distress she suffered watching her daughter being grabbed. She seeks summary judgment against Darrell, based solely on the judgment Paula obtained against Delightful Dresses. Darrell opposes this.

ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE

1. How should the court rule on the request by Delightful Dresses to file a Third Party Complaint against both the private guard David and Darrell, the owner of the store next door?
2. How should the court rule on the request by Delightful Dresses to dismiss the case because of the failure to file the Case Questionnaire?
3. How should the court rule on the Defendant's request that the plaintiff undergo a psychological exam?
4. How should the court rule on the Motion for Summary Judgment filed by Patty?