

QUESTION ONE - ISSUE OUTLINE

1. The issue in this part of the question is whether the USDC has subject matter jurisdiction over the three causes of action. The student will have to recognize that this is a federal question lawsuit and that the claim for the deposit is covered under the supplemental jurisdiction statute. The third cause of action is not and should be dismissed.

2. The issue in this case deals with federal venue and a discussion of the statute and the Rule 12 motion to change venue should be discussed.

3. The issue in this part is the Erie Doctrine and the student should discuss which law would apply in federal court. If federal law applies the MSJ should be denied and the reverse is true if state law applies.

4. This issues concerns the Batson/Edmonson restrictions on the use of peremptory challenges to potential jurors. The student will have to discuss whether unmarried couples are in a protected category or not.

QUESTION TWO - ISSUE OUTLINE

1. The first issue in this question requires a discussion of the grounds for the filing of a Motion for a New Trial on three different bases and the possible problem of using a juror's declaration to support the motion.

2. The second issue in this question requires a discussion of the offensive use of non-mutual collateral estoppel. A small discussion about Summary Judgment motions is likewise required.

3. The third issue in this question concerns the use of discovery and the application of the Work-Product privilege.

4. The final issue in this question concerns the amendment of pleadings, the impleader of a third party defendant and the possible use of supplemental jurisdiction to assert a claim by a plaintiff against the new third party.

EMPIRE COLLEGE OF LAW
FINAL EXAM - APRIL 2011
CIVIL PROCEDURE
PROF. MARTIN L. SEEGER

QUESTION THREE – ISSUE OUTLINE

1. This part of the question deals with personal jurisdiction and the challenge to personal jurisdiction by the defendant.

2. This part of the questions deals with Rule 12 waiver and preservation of affirmative defenses.

3. This part of the question deals with discovery, relevance and the objections of the answering party.

4. This part of the question deals with the right to amend and the relation back doctrine.