

Memorandum

To: Civil Procedure Students
From: Professor Seeger
Date: Thursday, December 13, 2018
Re: Midterm Examination

Your answer should demonstrate your ability to analyze the facts in question, to tell the difference between material facts and immaterial facts, and to discern the points of law and facts upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem. Your exam consists of one essay question and 17 MBE questions. The total test time is **two-hours (2 hours)**. You will have one hour to complete the essay question. After a short break, during which all exams must be turned-in at the Law School office, the whole class will be given the MBE questions. You will have one hour to complete the MBE questions.

Good Luck!

QUESTION 1
(One hour)

Peter is a citizen of California who was visiting his brother in Seattle, Washington. On his way home, his old car died and he literally rolled into Dan's Used Car lot in Salem, Oregon. Peter told Dan that he needed a car to get home and was sold an old Jeep. Unfortunately, the Jeep burst into flames in the mountains just north of the California border and burned Peter. When he recovered, Peter sued Dan for personal injuries in the U.S. District Court in San Francisco. Dan challenged the personal jurisdiction of the court in a Rule 12 motion.

Assume the case remains in the U.S. District Court. Peter added, as a defendant, Jeep USA, a US importer of jeeps all over the country, alleging a violation of the Federal Automobile Safety Act. Jeep USA is incorporated in New Jersey and has a large assembly plant in Los Angeles. Jeep USA filed its own Rule 12 motion challenging venue

Peter adds, as a second cause of action, a claim for recovery of his \$5,000 payment for the jeep. Dan files a second Rule 12 motion to challenge the court's jurisdiction over that claim.

Dan seeks to discover Peter's prior work history, thinking that there might be evidence that he had pre-existing injuries. Peter is not, however, seeking recovery of lost wages and objects to providing this information. The federal court would not allow this discovery, under these circumstances, but the state discovery statutes would.

ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE

ANSWER THE FOLLOWING QUESTIONS

1. How should the court rule on Dan's Rule 12 motion to challenge personal jurisdiction?
2. How should the court rule on Jeep USA's Rule 12 motion challenging venue?
3. How should the court rule on Dan's second Rule 12 motion challenging the jurisdiction of the court over the refund claim?
4. How should the court rule on Dan's request for information about Peter's work history, as it relates to the application of the Erie doctrine?