

ISSUE SHEET
Civil Procedure
May, 2012

Question 1

Motion for Summary Judgment

Rule 56

No triable issue of material fact

May use affidavits, discovery materials. Personal knowledge/admissibility

All inferences favor non-movant

Burden shifting

Discovery standard...."Reasonably calculated to lead to admissible evidence"

Rule 26(b)(1)

Rule 26(b)(3) May not discoverunless substantial need, cannot obtain by other means

Hickman v Taylor Protected work product absolute vs. qualified

Preclusion Doctrines

Claim preclusion requirements

Issue preclusion requirements

Mutuality vs non-mutuality

Was SEC action actually litigated.....application to fraud cause of action

Jury exclusion

Jury from a cross-section of community

No arbitrary exclusion of a class or group

Kaiser or Leesville

Question 2

Removal

1441

1331 and 1332

Well pleaded complaint /Motley

Motion to Dismiss

Rule 12(b)(6)

Rule 15 (a) amendments

Rule 15(c) Relation back

Judgment as a Matter of Law

Rule 50(a)

“Reasonable jury would not have legally sufficient basis”

Plaintiff’s testimony with that of her Dr., if credible, is sufficient

Motion for New Trial

Rule 59

“For any reason a new trial has heretofore been granted”

List examples