

QUESTION ONE – 1 HOUR

Alice lives in Stockton and owns numerous apartment buildings. She has very strict moral views, which she insists her tenants honor. She advertises vacancies in single page flyers which she distributes in Northern California. Bob lives in San Francisco and finds one of these flyers placed on windows of cars parked in his neighborhood. He reads the flyer and sees an ad for an apartment in San Francisco that sounds good. Bob has a long time girlfriend, but neither are interested in marrying. Bob and his girlfriend send a check for the first month's rent (\$1,000) to Alice, with a completed application,. Upon determining that Bob and his girlfriend are unmarried, but co-habiting, Alice rejects the application and tells Bob that he forfeits the deposit for his "sins."

Bob files suit in the US District Court in the Northern District of California (San Francisco) alleging violation of the federal Civil Rights Act for discriminating against he and his girlfriend. He adds a tort cause of action for conversion of the deposit. He also adds a cause of action for creation of a public nuisance for allowing the fliers to be scattered around San Francisco.

Alice timely files a motion to change venue from the Northern District, where it is filed, to the Eastern District (Sacramento). The motion is denied.

Alice then files a motion challenging the subject matter jurisdiction of the court over the claims in the Complaint. That motion is denied as well.

California state law requires that landlord/tenant disputes like this one be mediated before a lawsuit can be filed. Federal law has no such requirement. Bob did not mediate before filing suit and Alice seeks in a Summary Judgment motion to have the case dismissed. That motion is denied as well.

At trial, Alice moves to disqualify the only two jurors who are unmarried. Bob objects to this use of Alice's peremptory challenges.

ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE

QUESTION ONE

ANSWER THE FOLLOWING QUESTIONS:

1. Was the Court's ruling on the motion to change venue correct?
2. Was the Court's ruling on the challenge to its subject matter jurisdiction correct?
3. Was the denial of the Motion for Summary Judgment correct?
4. What should the Court do about the objection to Alice's use of her peremptory challenges?

QUESTION TWO – 1 HOUR

Allen and Betty were both driving their own cars northbound on US 101. They changed lanes simultaneously, without looking, and collided with each other. The CHP determined that both were equally at fault. Betty had a passenger Denise, who was asleep in the back seat.

Allen sues Betty in Sonoma County Superior Court. At the end of the trial, the judge forgot to read a jury instruction on comparative negligence that Betty had asked for. The jury returned a verdict against her in the amount of \$100,000. Betty learns that, during deliberations, one juror called a retired CHP officer to ask for advice. Betty claims the amount of the jury award is too great and files a Motion for a New Trial for all three reasons.

Learning of the verdict against Betty, Denise now files suit in US District Court against her. Denise now lives in Reno and Betty lives in California. Denise moves for summary judgment against Betty on the liability issue alone.

During the litigation of Denise's claim against Betty, Denise seeks to get the notes and pictures of the accident scene taken by Betty's lawyer showing the skid marks and the damaged cars. The cars are still available, but the skid marks are long gone. Betty objects claiming that the photos and notes are private and contain her attorney's thoughts about what he saw.

During the pretrial phase of the case, Betty decided to join Allen into the lawsuit since he was partially responsible for the accident. Allen also lives in California. Denise decides that, since Allen is already in the suit, she should amend her Complaint and serve him. Allen objects to both actions.

ANSWER FULLY THE QUESTIONS ON THE NEXT PAGE

Empire College School of Law
Professor Seeger
Civil Procedure – Final
Tuesday, April 19, 2011

Student ID# _____

QUESTION TWO

ANSWER THE FOLLOWING QUESTIONS:

1. How should the Court rule on Betty's Motion for a New Trial?
2. How should the Court rule on Denise's Motion for Summary Judgment?
3. How should the Court rule on the discovery motion?
4. How should the Court rule on Allen's objection to both being brought into the suit by the defendant and also being sued by Denise?

QUESTION THREE – 1 HOUR

Adeline lives in San Francisco. Her \$100,000 Ferrari is totally destroyed when the brakes fail on a hill near her home, causing her to crash. She sues Brian, the mechanic who last serviced the brakes, in the US District Court in San Francisco. Brian only does repair work in a small shop along the highway in Bend, Oregon. Adeline was having trouble with the brakes on her way from Seattle to San Francisco and stopped for help.

Brian challenges the jurisdiction of the Court over him, by way of Rule 12 motion. Unfortunately, the motion is denied. Brian now files an Answer containing affirmative defenses which, among others, claim that Adeline's check for the repair work bounced and also that the Court doesn't have personal jurisdiction over him. Adeline moves to dismiss these two affirmative defenses.

As part of his Answer, Brian, also claims that Titan Brake Shoe Co., in Modesto, California, should be joined in the action because it made a defective part that contributed to the failure and therefore is a necessary party. Adeline claims Brian has no right to assert this as an affirmative defense, either.

During the discovery stage of the case, Adeline sends Brian a request that he identify the names and addresses of all of his customers over the last 5 years. Brian objects to doing this.

Following some initial discovery, Adeline believes that she has a good case for fraud and files a motion to amend her complaint to add a claim for fraud against Brian. Brian objects, claiming that the statute of limitations has expired.

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QUESTION THREE

ANSWER THE FOLLOWING QUESTIONS:

1. How should the Court rule on Brian's motion challenging personal jurisdiction?
2. How should the Court rule on Adeline's challenge to Brian's three affirmative defenses?
3. How should the Court rule on Brian's objection to the discovery request?
4. How should the Court rule on the request by Adeline to amend and Brian's objection?