

CIVIL PROCEDURE AND CONFLICT RESOLUTION

Fall 2007 Mid-Term Question
Professor Coyne

I have spent all my life under a Communist regime, and I will tell you that a society without any objective legal scale is a terrible one indeed. But a society with no other scale but the legal one is not quite worthy of man either.

Alexander Solzhenitsyn

Please answer the short answer questions on pages two and three first.

Please review this question, reflect on it and consider solutions to the problem. Please address the issues and propose a solution to this problem.

Use only your social security number on this examination and blue book. Please answer this problem in no more than five handwritten pages. I will evaluate your answer on your knowledge of the law, ability to recognize issues and your analysis of these issues.

E-Phone, Inc., a corporation headquartered and incorporated under Pennsylvania law, manufactures the E-Phone at its plant in Atlantic City New Jersey. The E-phone is billed as the last electronic device you will ever need, as it is a minicomputer, organizer, phone, GPS, and music player in a portable device. It advertises in *USA Today* and *The Boston Business Journal*, two newspapers distributed in various parts of the country. E-Phone Inc. sells the phones through retail stores in Chicago, Illinois, Los Angeles California, New York, New York, Groton, Pennsylvania and Providence, Rhode Island and at www.E-Phone.com through the distributor, NothelPhone, Inc., a Bermuda corporation. NothelPhone, Inc is the sole E-Phone distributor in the United States and ships product to the E-Phone retail stores as well as web purchasers who accept the E-Phone contract on line.

On April 1, 2007, Paula Plaintiff purchased an E-Phone for \$2,000 at the Providence Place mall. She later returned to her at her dorm room at State U. in Maine where she was studying pre-law. She used it during her Property law class and since the battery was running low, she plugged it into the nearby outlet.

Shortly after plugging it into the outlet, Plaintiff became lightheaded and noticed a few students around her began to doze off. Since it was property class, she did not think it was unusual until she noticed that a smoky haze had enveloped the room. Just then, she saw her esteemed professor, Cara Corsair, fall and slam her head against the podium where it split open spilling blood on the students seated in the front row. Blood continued to pour from the wound as the smoke detectors sounded an alarm. After a lengthy and painful hospitalization, Corsair passed away. Plaintiff and a number of the students passed out from the noxious gas that the E-Phone produced. The students were hospitalized in order to receive treatment for their injuries.

