

# CIVIL PROCEDURE AND CONFLICT RESOLUTION

Fall 2009 Mid-Term Question  
Professor Coyne

**Use only your exam number on this examination and blue book.**

**Please answer fully the short answer questions beginning on page two first in the space provided on this examination.**

Do not follow where the path may lead. Go instead where there is no path and leave a trail.

Ralph Waldo Emerson

---

## Question One

Please review this question, reflect on it and consider solutions to the problem. 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.

Goanywhere, Inc., a corporation headquartered and incorporated under New Jersey law, manufactures the Goanywhere GPSNavigator at its plant in Bumsrush, New York. It calls itself the largest manufacturer of the Goanywhere GPSNavigator in the New York area in its online advertisements. Goanywhere Inc. sells the devices only over the internet at [www.Goanywhere.com](http://www.Goanywhere.com) through a distributor called Goanywhere.com, Inc., a Delaware corporation.

On his Facebook page ([www.facebook.com](http://www.facebook.com)) on September 1, 2007, Kelly Nichols saw that her next door neighbor, Jobe Johnson, had purchased a Goanywhere GPSNavigator. Jobe's posting said that it was a great product. Nichols asked Jobe what he liked about it. Jobe commented back, "EVERYTHING." Kelly followed the link Jobe posted on his Facebook page and purchased the product for \$200 at [www.Goanywhere.com](http://www.Goanywhere.com). She ordered Federal Express shipping for an extra \$25 so Federal Express would deliver it overnight to her home in Massachusetts. She used the Goanywhere GPSNavigator for a brief period before it exploded destroying her new car. Nichols was not seriously injured and missed only 2 weeks of work as a lawyer but her cat Fluffy was seriously injured. After a lengthy series of treatments at the Veterinarian's office, Fluffy succumbed to her injuries.

As a result of its investigation of this incident, the National Highway Transportation Bureau found that the Goanywhere GPSNavigator was poorly designed and a dangerous product. Their investigation also revealed violations of federal law in that the product was not labeled properly for consumers, the instructions were inaccurate and it was a violation of federal law to ship the product across state lines. The product has since been recalled.

Nichols consults you on this matter. What is your advice? How would you proceed and why?



**Injunctive Relief** \_\_\_\_\_

**Well Pled Complaint Rule** \_\_\_\_\_