and 703 of your caseworker. You may also assume that the course of
statute identified to that of 711(c) which is printed at pages 697
you may assume, if relevant, that any American state has a long-arm
number 1 on each one, and insert all others into the first one.
I of 2, "No. 2 of 2, etc." make sure that your Social Security
book. If you use more than one blue book, identify each one ("No."
use only your Social Security number to identify your blue

Please write legibly, begin each question on a new page, and
leave a margin on the left-hand side of the page.

Each part within the question will be weighted equally.

Grading purposes. If there are indentured parts within a question,
others. Each of the four questions will be weighted equally for
which you have brought with you whether prepared by you or by

This is an open-book examination. You may use any materials.

FINAL EXAMINATION

December 11, 2000

Mr. Martin

CIVIL PROCEDURE
for breach of contract and educational malpractice, seeking refunds received grades of "A." Sixteen out-of-state students sued Pitmore. A book report. All of the students
understood. There was no examination in the course. Instead, each

by Professor Toppell lectured in Sweden which none of the students
were understood to request from comparative constitutional law. Unfortunately,

1. In 1998 the course in comparative constitutional law was taught by

2. Should the judge allow this motion?

year. Pitmore filed a pre-answer motion to dismiss under Rule
charges out-of-state students $2,000 per
the United States Constitution. Pitmore charges in-state students $2,000 per
the burdens interstate commerce in violation of the commerce clause of
claiming that Pitmore's in-state tuition differentially unavailability
states district court for the northern district of New York
students from Massachusetts sued Pitmore in the united

1. Five students from Massachusetts sued Pitmore in the united

question.

Explaination counts as the remaining sixty per cent of each sub-

No," counts as forty per cent of each sub-question. Your brief
followed by a brief explanation. Your one-word answer, "Yes," or
answer each of the following sub-questions "Yes," or "No,

District court for the Northern district of New York.

A small law school located in an unincorporated city in update New

All is not well at Miami Pitmore School of Law (Pitmore).
District of New York? Ninety percent of the students at Pitmore tuition. Can this class action be maintained in the Northern demand that restrooms at all students of all of the spring term. Pitmore Court for the Northern District of New York of the class of all Pitmore students, sued Pitmore in the United States District Court in Massachusetts, as representative term examinations were given and students received no spring term for coffee in the faculty lounge. Because of the strike, no spring strike to protest the Dean's decision to start charging by the cup the United States District Court for the District of Rhode Island. In the spring semester, 2000, the entire faculty went on strike; and emotional distress damages. Can Pitmore now remove the case to Rhode Island state court for $100,000 in educational malpractice of your actual answer. Salerno countered that the plaintiff in the case of Pitmore sued Wisconsin Salerno, a student and resident of the United States District Court for the Northern District of New York, constitutional law course? Can their claim be maintained in the United States District Court for the Northern District of New York? constitutional law course? Can their claim be maintained in the United States District Court for the Northern District of New York? constitutional law course? Can their claim be maintained in the United States District Court for the Northern District of New York?
Middlesex Alliance interviewed in Professor Pittore's suit
that no openly gay person could be permitted to teach Family Law at
forced the Dean to rescind Scattergood's appointment, instigating
partner. Conservative members of Pittores Board of Trustees
called union (equivalent to marriage) with her long-time same-sex
geared with her in Vermont, recently entered into a Vermont
Scattergood, who lives in Vermont, recently entered into a Vermont
newly-endowed Pittition Chair in Family Law. Professor
specific performance of a contract. The Dean promted Professor
for the Dean, Professor Pittita. Scattergood is saying the Dean for
may be entered against him.

night, seeking their pro rate contributions to any judgment that
of the members of the GSC and the MFC who were at Ray's that
York claimsing damages in excess of $75,000. Can her suffered all
the United States District Court for the Northern District of New
her head. Ray's from Connorclcut not sing her (from New York) in
severely injured when her headstone of the MFC broke a chair over
fired and furniture. They, Ray's Foboun, a GSC member, was
Pittore Capitalist Club ("MCSC") over global warming. Temmper
caucuses into a rumble with members of the Green Student
campus. Students often repeat to Ray's after the library closes
6. Ray's Juglaca is a bar and grtille next to the Pitttore
5 New kids on the block. If you record an album under the name of one of the greats of ex-clusive use. If you record an album under the name rights of the artist. The law treats these names as trademarks and recognizes

performing groups litigate aggressively to protect their

draws audiences to clubs and concert halls.

that sells records, sells associated merchandise at all sorts, and

assists the performer or group with ever. It is the name

to name is probably the most important individual

letter's or group's name is probably the most important individual

work, is prominent. In the entertainment business, an enter-

"What's in a name? Shakespeare asked. The answer, in one

question two

Those students must rank the produce the information.

In extremely complex litigation and all of the grades awarded to

production of all of the examinations taken by all of the students

statement was the grade of "P." In discovery, Burke demanded

reputation in a New York state court. The allegedly libelous

sentence (written) false statement that is injurious to

rank for the class on extremely complex litigation. Burke sued

part rank for the class on extremely complex litigation. Burke sued

9. Student Dirk Burke received a grade of "P" in Professor

the chart?

interpreted and determine, between the moments, who is entitled to

rid of this problem, require Scatteredgood and Strenoration to

the new chair to Professor Strenoration. Can the dean, hoping to get

receiving Professor scattered good's appointment, the dean promised

chair in Family Law and the assured $150,000 salary. After

8. Professor Turgid Strenoration also covers the bit of attun-
Lucrative venues. They started talking about recording a CD.

Soon the Ohio Blue Tips were playing in larger and more
near and, second, excellent contacts in the entertainment industry.
command of the obscene lyrics that rock fans increasingly want to
Ohio Blue Tips to the top of the top 40's charts, first, effortless
Bobby Stornginger. Bobby had two talents that were to raise the

In 1997 the Ohio Blue Tips added a lead guitarist and vocalist,

et al.

against the match company. This case is called Match Co. v. Smith,

competing in the same marketplace. Plaintiff Johnson was entered

because, the court found, the two uses of the mark were not

an infringement was denied on orthodox trademark law principles

member of the group Individually). The match company's request for

agreement. Therefore the match company had to, and did, sue each

form of business organization or even a written partnership

Tips never formalized their relationship by adopting a corporate

from using this name. (Like many performing groups, the Ohio Blue

Massachusetts state court seeking an injunction to forbid the group

Ohio Blue Tips' saxophone player and drummer, a drummer. In 1995 the

Blue Tips consisted of Smith, a bass player, Smythe, a keyboard player,

local club dates in the Boston area in the nineteen-nineties. The

Ohio Blue Tips were a mediocre rock group that performed

Boston Symphony Orchestra, you can expect to receive a summons

and complaint for injunctive relief and damages.
made everybody rich.

under the name "Wotto Blue Tips" that sold ten million copies and
the group up with a great record producer. They recorded a CD
metal music but named Down, Braxton and Brouse. Bobby then hooked
they could leave the band, or he would. Smitty, Smythe and Smathers
the better instrument of their hearing. He told the three that
to produce the heavy metal sound that modern rock fans demand.
Bobby recognized that Smyth, Smythe and Smathers were not able
changed its name to the Rhode Island Red Hawks.

called Smyth, et al., v. Smoothie & Smathers. In July 1991. This case is
Smoothie, Smythe, Smathers and Smoothie et al., Smoothie & Smathers. In July 1991. This case is
found that the band name "Wotto Blue Tips" was first put in use by
the mark has the right to exclude others from using it. The judge
the mark permanently enjoined Smoothie & Smathers from using the
name. This decision was also based on the use of a mark not used.

agass at the latter group’s use of the name. The court’s factual
members of the real otto blue tips seeking an injunction
Smyth, Smythe and Smathers, as individuals, sued Smoothie and
Smathers, the sax player, said he didn’t want to be associated on a
The real otto blue tips.
other musicians with whom he started playing gigs under the name
The Otho Blue Tip Match Company grew concerned about large-scale use of its name in association with Bobby's dirty lyrics. The match company sued Bobby, Brown, Gran, and Bruno seeking an injunction to prevent the New York group from using the name. To the New York group in a state court in New York, they attached copies of the final judgments and the minutes of the final hearing at the Otho Blue Tip headquarters. They argued that there was no likelihood of confusion. They were the defendants, attatched to their motion for summary judgment. The defendants answered raising the affirmative defense of res judicata and that the judgments were final. They asserted that there was no likelihood of confusion; the name is not similar to Otho Blue Tip.
What result? Why?

cartels and defenses, on the cross-motions for summary judgment, and Smith, et al., v. Swann, et al., supported the claim that
that judgments and necessary findings in Match Co. v. Smith, et al., favor on these cartels and defenses. Each side asserted that the
collateral estoppel. Each side moved for summary judgment in these
counterparts in raising the affirmative defenses of res judicata and
the former. Bobby, Brown, Brennan, and Bruno repeated to the
an injunction to enjoin "Bobby," Brown, Brennan, and Bruno from using
estoppel. Smith, Smythe and Mathers also counterclaimed seeking
raising the affirmative defenses of res judicata and collateral
latter's use of the name, Smith, Smythe and Mathers answered
Massachusetts state court seeking an injunction to prevent the
Bobby, Brown, Brennan and Bruno sued Smith, Smythe and Mathers in a
in Boston clubs under the name "The Original Omo Blue Tips." Meanwhile Smythe, Smythe and Mathers went back to playing clubs

Part G.

Justiciable of service of process in this manner comprised by the law of service of process in the courts of New Jersey, by a chancery plaintiff in the manner prescribed by the summons and complaint of New Jersey. Speaker was served with the summons and complaint in the United States District Court for the District of New Jersey. Speaker was served with the summons and complaint in the United States District Court for the District of New Jersey.

Three other bouts in the United States after fitting total, in contracts to several new American clients. Speaker also fought New Jersey. Speaker earned $1,000,000 for the defense of one title 1999 Speaker successfully defended his control title in Atlantic City.

How to assert this claim against a chancery defendant. In 1995 Speaker et al., total and hired a new manager. Total contracts, Speaker contested to these arrangements, having recovered and the contract not been breached, amounting to}

$250,000. Damages the percentage of Speaker's earnings which he would have received and the contract not been breached, amounting to

40% of the contract as for any breach of the contract. He claims as damages for the co-management agreement, and that he is entitled to damages for enforcement. Total, however, claims that his firing was a breach of the co-management agreement with American Boxing.
United States District Court for the District of New Jersey.

Based on the grounds for asserting that jurisdiction is proper in the federal court in New Jersey, both as a forum non conveniens ground and under 28 U.S.C. § 1391(c), the defendant argues that the court lacks jurisdiction. The plaintiff argues that the court lacks personal jurisdiction over the defendant, who is a foreign national.

The plaintiff argues that the court has personal jurisdiction over the defendant because he was present in the United States at the time the alleged breach of contract occurred. The defendant disputes this argument, stating that personal jurisdiction over a foreign defendant is proper only if there is a substantial connection between the defendant and the state in which the court is located.

The court finds that the plaintiff has established prima facie evidence of personal jurisdiction, but the defendant has raised significant arguments that should be considered by the court in determining whether personal jurisdiction exists.

GO ON TO THE NEXT PAGE
Product liability claims sought punitive damages on the pendant negligence and strict state law and Magnuson-Moss Warranty Act claims, the Malarkyes add to compensatory damages for breach of warranty on their complaint to the consequences of poor customer relations. In

The Malarkyes thought that they should teach a

"supplemental" jurisdiction. A jury trial was demanded.

state law claims are within the federal court's pendant (now called

state law claims are within the federal court's jurisdiction) and breach of warranty. The negligence, strict product liability and breach of warranty, the defendant's West Dakota state law claims of the federal court for the district of West Dakota under the United States district court for the district of West Dakota under the federal jurisdiction. The Malarkyes could take it to no longer. They sued overwater in the service representatives were sly and unresponsive. Finally, the representatives for the defects. In addition, overwater's customer

deadwater to have some new glitch fixed. Overwater denied it. It seemed, the Malarkyes were taking the fast boy back to the

 abreast position. The handle fell off the dishwasher. Every

the open position. The handle fell off the dishwasher. Every

pressurized tank won't keep the beer cold. The sofa bed jammed in the pressurized tank. Then the pressurized water tank de-

controller won't keep the water at the right pressure. The fast boy was nothing but trouble. First the air

Fast boy made by the overwater coach Co. ("overwater") of overwater, Mr. and Mrs. Malarkyes bought a recreational vehicle called a

QUESTION FOUR
Massachusetts is one of the exceptions.

A statement containing unproven or exaggerated claims
that a plaintiff can be prosecuted for perjury if he or she tells
reasonsable basis for the plaintiff's claim. The court shall have found that there is a
damages, and the court shall have found that there is a
prove, would entitle the defendant to recover punitive
repealed for a statement "on oath" means
filed in court a statement on oath of facts which, if
and any court of this state until the plaintiff shall have
no claim for punitive damages shall be accepted in

Due to the following special requirements:

Punitive damages for $10,000 or more, net worth, and
-Punitive damages to three times actual damages, imposed restrict-
In the 1998 tort reform and insurance act, West Dakota
West Dakota.

Years restricting punitive damages. One of these jurisdictions is
Several American jurisdictions have enacted legislation in recent
although it hasn't said exactly what those limitations are.
Limitations on the states' laws authorizing punitive damages,
Court has found that there are constitutional due process
punitive damages are dysfunctional. The United States Supreme
manufacturing and insurance interests. Economists argue that
agenda that has been promoted for the past decade by American
especially in product liability actions. As high on the tort reform
American states. Abolition of curtailment of punitive damages,
Punitive damages in tort are available in all but four or five
END OF EXAMINATION

Marlakey's, pending state law claims? Why?

How should the judge rule on overwritter's motion to dismiss the

Amendment.

The argument for overwritter's motion to dismiss is a precursor to
denying the motion because the West Dakota statute amounts to
26[b][t], and that restrictions on awards of punitive damages
discovery of defendant's net worth contrary to R. Civ. P. Rule
court cases in West Dakota, specifically that restrictions on
to other arguments that the court in this or other federal
cases in West Dakota, specifically that restrictions on

Rules 8(a)(2), 8(a)(3), 8(a)(8), and 9(a).

a special pleading requirement that is contrary to R. Civ. P. a.
should deny the motion because the West Dakota statute amounts to
for want of this statement. The Marlakeyes argue that the court
so, overwritter moves to dismiss the Marlakeyes' pending state claims
federal district court nor, on the facts set out above, can they do
Mr. and Mrs. Marlakeye have not filed this statement in the

Mr. and Mrs. Marlakeye have not filed this statement in the