
You may also assume that the courts of state have the same
statute that is printed at pages 697

You may assume, if relevant, that any American state has a long-arm

The Federal Rules of Civil Procedure apply to all questions.

number on each one, and insert all others into the first one.

leave a margin on the left-hand side of the page.

please write legibly, begin each question on a new page, and

part within the question will be weighted equally.

part within a question. If there are individual parts within a question, each
accompanies the amount of time that is suggested for exam purposes in

with the amount of time that is suggested for exam purposes in

which you have brought with you other prepared by you or by

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

FINAL EXAMINATION

December 8, 2003

Mr. Martin
Civil Procedure
house where faculty and students smoked marijuana. Voice of
conference, Stanton accused the dean of hosting parties at his
conference, Stanton accused the dean of hosting parties at his

reporter for the student newspaper Voice of P’timore. At the press
reporter for the student newspaper Voice of P’timore. At the press

person to attend was Dr. Duk Bunker, a second-year student who was a
person to attend was Dr. Duk Bunker, a second-year student who was a

Professor Stanton called a press conference. The only news
Professor Stanton called a press conference. The only news

salary. The dean fired Stanton.
salary. The dean fired Stanton.

Assistant Professor to do Stanton’s job at half of Stanton’s
Assistant Professor to do Stanton’s job at half of Stanton’s

observed that, if he fired Stanton, he could hire a new
observed that, if he fired Stanton, he could hire a new

reason of over one million dollars in tuition money. The dean also
reason of over one million dollars in tuition money. The dean also

that the loss of sixty-five students would create a crisis by
that the loss of sixty-five students would create a crisis by

the dean consulted his other financial officer who advised
the dean consulted his other financial officer who advised

to give full recognition to their transfer credits.
to give full recognition to their transfer credits.

State University Law School at Stony Brook which had already agreed
State University Law School at Stony Brook which had already agreed

not fire Stanton. All sixty-five students would transfer to the
not fire Stanton. All sixty-five students would transfer to the

students’ demand went on to threaten that, if the dean didn’t
students’ demand went on to threaten that, if the dean didn’t

the yawning gates of hell.”
the yawning gates of hell.”

such as admonishing female students to cross their legs and close
such as admonishing female students to cross their legs and close

the dean, was guilty of unprofessional and unprofessional and

Professor Turgid Stanton from the faculty. Stanton, stated
Professor Turgid Stanton from the faculty. Stanton, stated

a written demand to the dean calling on the dean to dismiss
a written demand to the dean calling on the dean to dismiss

close of the last academic year, sixty-five law students presented
close of the last academic year, sixty-five law students presented

school located in an unincorporated city in upstate New York. At the
school located in an unincorporated city in upstate New York. At the

All is not well at Merrick P’timore School of Law, a small law
All is not well at Merrick P’timore School of Law, a small law

question one
2. I would like to have Stenotran tested to determine if he really can have Stenotran tested to determine mahtance, especially when it is mixed with other party.

3. I have heard a prilayer defecte to check out the existence and contents of the deteetive's written testimony. Will Stenotran be able to discover with some dirt that we can use to impach that he is the one who sold us marijuana.

2. How can we get them? Explain.

How can we get them? Explain.

2. I would like to get the names of the sources for the following information: Please tell me the best way to get the following information:

I'm writing a article for a detective for discovery.

Professor Randle. He sends you the following memorandum:

Professor Randle. He sends you the following memorandum:

The dean has asked Professor Randle to represent him in the Untied States District Court for the Northern District of New York. The dean being a resident of Vermont, suit will be brought in the United States District Court for the Northern District of New York. The dean decided to sue Stenotran and Voice of Profit for defamation. (false statement which is injurious to reputation). The dean agreed to sue Stenotran and Voice of Profit for defamation. The names be used.

The dean agreed to sue Stenotran and Voice of Profit for defamation. The dean agreed to sue Stenotran and Voice of Profit for defamation.

The dean agreed to sue Stenotran and Voice of Profit for defamation. The dean agreed to sue Stenotran and Voice of Profit for defamation.
the purchase, Phoebe was on a brief business trip to New Hampshire. At the time of
Hampshire, just over the Massachusetts state line. At the time of
Hampshire and has the only place of business in Salem, New
State Auto ("State Auto"). A retailer that is incorporated in New
state a Rangebuster. Phoebe had just bought the Rangebuster from State
Phoebe was driving a popular new sport-utility vehicle called
year in Andover where she attends a certain well-known law school.
Dexter. Dexter has a home in Maine but resides during the school
year in Andover where he attends a certain well-known law school.
Phoebe was seriously injured. Also injured was Rex Dexter, a
person who was knocked down and crushed by the failing utility
pedestrian, who was knocked down and crushed by the failing utility
Phoebe was seriously injured. Also injured was Rex Dexter, a
failed, she collided with a utility pole which broke off and fell.
Essex Street in Andover when her vehicle’s steering mechanism
Phoebe B. Phoebe of Andover, Massachusetts, was driving on

QUESTION TWO

Rules 9(d) and 26(d)(7) write me a memo, "Write me the memo.
Court apply this law, which seems directly contrary to federal
hear out of discovery from Burke, he exclaims, "Will the federal
You show this statute to Professor Rankle. "This shows the
published in bad faith or with malice.
Special showing on evidence, that the article was
seeks seeking such liability shall make a
a source of information for an article appearing in such
required to disclose the identity of any person who was
before any editor, reporter or other writer for any
which creates a qualified "shield" for the news media.
early in your researching you discover a New York statute

Part B.
Tell her this.

Massachusetts will collect the sales tax when stove first purchased in Massachusetts, but the salesman didn't

inform him that the stove must be registered in Massachusetts. Either the stove or the customer is liable for

the sales tax. In a case like this, the stove would have to be registered.

P. R. Cty. P. Rule 14 August 20th, 1985, seeking contribution and/or
damages and at the same time brought a third-party complaint under
and setting a defective vehicle, Abbot-Buick-Warwick filed motions to
and Abbot-Buick-Warwick, which the complainant accused of manucturing
and driving he named people whom the complainant accused of negligent driving.
Massachusetts seeking to recover from this insurance. As defendants

re X Dexter, the pedestratin, filed suit in Federal court in


Petition. Abbot-Buick-Warwick is its only customer.

Tourney, a corporation incorporated and headquartered in
Massachusetts, is a corporation incorporated by Massachusetts by Tourney, '27.

Abbot-Buick-Warwick's steering mechanism is manufactured by Tourney's, the

Rangerbuuster extensively throughout the United States. The

Rangerbuuster is advertised in England. Abbot-Buick-Warwick has advertised the

Rangerbuuster is manufactured by Abbot-Buick-Warwick, Ltd.

The Rangerbuuster was returned to Anderson where the accident occurred.

Then license plates from the descrit to the Rangerbuuster. She then

traded in her 1994 Ford Escort and switched her Massachusetts

Hampshire. Has no sales tax, please bought the vehicle. She

state line rather than from a Massachusetts dealer because New

Hampshire's the salesmen said that she should buy a Rangerbuuster from

when she told state line's salesmen that she lived in Massa-

she visited the state line showroom to look at a new Rangerbuuster.
This new third-party complaint

Produce might recover, and Tournes repeated its motion to dismiss

seeking contribution and/or indemnification for any amounts that

Alton-Buick v. the third-party complaint against Tournes,

on the facts, also the defendants filed motions to dismiss.

Produce's personal injuries and property damage to the Rangebuster.

State line, Alton-Buick, and Tournes, seeking to recover for

Call also filed suit in federal court in Massachusetts against

Produce's claim against it on jurisdictional grounds.

Massachusetts, Old Faithful responded with a motion to dismiss

conjunction with a purported place of business in Springfield,

covered under the policy. Old Faithful is a Massachusetts

Vehicle liability carrier, seeking a judgment that Produce was

agent of Old Faithful Insurance Co. ("Old Faithful"). Produce's motor

agent of Old Faithful, call filed a third-party complaint

on behalf of Produce, call filed a third-party complaint

the two executed a written contract for agreement.

the vehicle seller and manufacturer. Assured, Produce agreed and

assured, Produce agreed to sue the case if Produce would engage call on a contingent fee basis to sue

would represent Produce without a fee as a defendant in Dexter's

the firm of Callard & Rate, call told Produce that she (Callard

in Massachusetts. Assured, she consulted a lawyer, call rate of

vehicle and was not at the time of the accident property registered

because the Rangebuster was not listed on the policy as an insured

vehicle liability insurance carrier was disclaiming coverage

Produce learned to her dismay that her Massachusetts motor

filed motions to dismiss this third-party complaint.
Pursuant to the federal district court's local rule on related cases, Phoebe's suit was assigned to the same judge, Judge W. T. Bulkhead, who had previously drawn Dexter's suit. Judge Bulkhead now has before him all of the motions to dismiss. The judge asks you, his law clerk, for a memorandum containing an analysis and recommendation as to each motion. To the extent that your analysis of one motion is applicable to another, you may so indicate without needlessly repeating the analysis. Please write the memorandum (you may assume that all defendants, including overseas defendants, have been correctly served with process under Federal Rule 4).

**Bonzo Theaters, Inc., of Virginia is in the business of operating a family drive-in movie theater, one of the few remaining in the United States. Bonzo rents movies from one of another of the four movie distributors in the United States that specialize in such films. All four distributors use an identical movie rental form agreement. The agreement provides for a rental payment by the theater to the distributor based on a percentage of the theater's ticket sales. The agreement also provides that the distributors may periodically audit the theater's books to ensure compliance. Pursuant to this agreement, the distributors hired the accounting firm of Kuble, Lassie & Hammer ("MKL") to perform the audit of Bonzo's books.**
trial, Carter Kidd, Bonsal’s president, testified that Strongarm’s "clear and convincing evidence" at the non-Jury trial was shown by ordinary truth and "by way of testimony, the defense of a person must overcome the will of a person" and (3) the threat was sufficient to overcome the will of a person. As to the remaining defenses, Bonsal was required to prove that jurisdiction over cases arising under the federal antitrust laws.

An appeal to the Supreme Court on the grounds that Congress had given the federal courts exclusive jurisdiction, however, dismissed the court's claim to jurisdiction. The suit court federal antitrust claims against the defendants. The state court federal antitrust laws. Also, Bonsal counterclaimed setting forth federal antitrust laws. It was alleged in violation of 29, Bonsal sued Bonsal in a Virginia state court. In this answer, Bonsal when Bonsal defaulted on the first payment, the defendants noted in favor of the defendants.

Bonsal settled the controversy by executing a $70,000 promissory note in favor of the defendants. After extensive negotiations between the parties, it was agreed by agreement to a settlement of approximately $40,000 a year. The gate receipts by approximately $40,000 a year. Actual car count, Strongarm estimated that Bonsal was understating the discussions in Bonsal’s books. However, on the bases of the discussions at the drive-in each night. All tell that audit revealed no charge of the Bonsal audit. However, several local teams to count the charge of the Bonsal audit. The MLK partner in

During the summer of 2003 around Strongarm, the MLK partner in
823 grams of cocaine. He was sentenced to twelve years
federal court to a charge of possessing with intent to distribute
$221,439 in cash. Two months later, Duesenberg pled guilty to
and various other items of personal property. Among these was
among these was a knife, an automobile registered in Duesenberg's name,
search warrant, seizing drugs, drug paraphernalia, several
a house located in Chico. Later that day they obtained and executed
In 1998, officers of the FBI arrested Larry Dean Duesenberg at

QUESTION POUR

raised by the defense, and assess the chances of success.
re-iterating the matter of the alleged threat. Discuss the issues
as a result. The defendants answered the bond as forecasted from
a threatened group boycott and that Bondzal suffered economic harm
by a "preponderance of the evidence." In the present action, Bondzal must prove (but only
indirectly). In the present action, Bondzal must prove (but only
action against the distributors, against MRK, and against Strongarm
Bondzal now files, in federal district court, a civil antitrust
of the note, plus interest and attorneys' fees.
the distributors and entered judgment against Bondzal in the amount
the trial judge ruled in favor of
suggested that he had ever used such
attorney laws). Strongarm denied that he had ever used such
agree to rent motel to Bondzal, would be illegal under the federal
(a group boycott, meaning that none of the four distributors would
By threatening Bondzal with a group boycott it kiddd did not
it's

CRING on behalf of the distributors, procured the promissory note

CRING on behalf of the distributors, procured the promissory note
Five years later, Busenberry commenced a civil action to administratively foreclose. These facts are undisputed. Noticees within the time allotted, and so decreed the seven
Busenberry's mother. The PFI received no response to these notices where Busenberry's residence was then incarcerated to the address of the
Michigan, where he was then incarcerated, to the address of the
case of the Federal Correctional Institution (PFI) in Milan,
to forward the cash and the car by certified mail to Busenberry
publication according and sent letters notifying of the intention
public notice. In the district in which the property was seated, the PFI
intention for three weeks in a newspaper of general circulation in
have an interest in the property, and to publish notice of its
intent to forward the seated property to each person who appears to
the statute requires the PFI to send written notice of its
property.

The property, without intention to foreclose and sell, or otherwise dispose of the property, within 20 days after the government publishes notice
does not exceed $100,000, and if no person claims an interest in
without initiating judicial proceedings if the property's value
pursuant to the controlled substances act, 21 U.S.C. § 801 et seq.,
Federal drug laws permit the PFI to dispose of property seized
administratively for the automobile and the cash.

Impersonation. Two years later the PFI began the process of
Part A.

For summary judgment.

Write the argument in support of the motion for summary judgment.

Part B.

For summary judgment.

Write the argument in support of the motion for summary judgment.

Part C.

Summary Judgment.

Write the argument in support of busenbery's motion for summary judgment.

Part B.

For summary judgment.

Related property and therefore should not be forfeited. He could have proven that the cash and the car were not dry-n.

Lawyer to contest the forfeiture, and (3) given the opportunity, he would have taken appropriate steps (though this has never been notified, he would have taken appropriate steps (though.

he never received any notice whatsoever of the seizure, (2) had he accompanying his motion to busenbery's own affidavit stating (1)

Busenbery cross-moves for summary judgment in this favor.

Destroying the logbooks one year after they are closed.

Because of the federal bureau of prisone policy exists. But, says lawson's affidavit, a paper trial no longer acceptable, taking and delivering certified mail addressed to

Busenbery. He also explains the procedures within PCL's kitchen for

lawson (stated the certified mail receipt for the PCL's notice to be

lawson at the relevant time, lawson's affidavit stated that he is an affidavit from James lawson, the imnate mail officer at PCL moves for summary judgment in the favor. Accompanying this motion

After answering and appropriate discovery, the United States
END OF EXAMINATION

the judge allow and, if your opinion, why?

motion and deny the United States’ motion, which motion should
motion and deny Bushenbery’s motion, or else allow Bushenbery’s
for summary judgment is going either to allow the United States’ record, the judge hearing the two motions (called “cross-motions”) treat will not bring out any more evidence than is already in the type against the United States. For this reason, and because a Federal law provides no right to jury trial in a claim of this

Part C counts as twenty percent of this question. Part C