San Luis Obispo College of Law

Civil Procedure

Mid Term Examination

Fall 2025

Prof. M. Rivas

General Instructions:
Answer Three (3) Essay Questions.
Total Time Allotted: Three (3) Hours.

SLO
Civil Procedure
Fall 2025 Midterm Exam
Professor Melodie Rivas

Question One

In 2020, Prestige Motors (Prestige), a State X importer of luxury cars, contracted with Delano Cars (Delano), an Italian wholesaler that specializes in customizing and upgrading high-end vehicles, to purchase ten supercars priced at $800,000 each. The agreement was negotiated entirely in Italy. Before entering into this contract, Delano had never done business with Prestige.

Delano advertises and sells most of its cars to buyers in Europe. However, in 2018, Delano sold three hypercars, each worth $1 million, to a company in State X. These sales had been negotiated during a month-long sales trip to State X by Delano's president.

Delano failed to properly customize the hypercars pursuant to the agreement. Prestige sued Delano in State X, alleging breach of contract and seeking lost profits. State X has a long arm statute that extends to the limits of the constitution.

Shortly thereafter, Prestige's president learned that Delano's president would be in State X for a holiday and contrived to personally hand him the summons and complaint during his stay. Delano timely moved to dismiss the complaint on the ground that the court lacked personal jurisdiction. The court granted Delano's motion.

1. Was Delano properly served?
2. Did the court correctly decide Delano's motion to dismiss?

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Question Two

Pam and Patrick, residents of State A, traveled to State B to watch a movie at a newly opened state-of-the-art theater. While waiting in line to purchase tickets, a ceiling light fell on Pam and Patrick, causing Pam to suffer multiple fractured bones and Patrick to sustain minor injuries.

The theater is owned by Dynasty Corporation (Dynasty), which is incorporated under the laws of State C and State D, and has its headquarters in State B.

Pam and Patrick filed a lawsuit against Dynasty in the federal court in State B. In their complaint, Pam demanded damages for personal injury of $70,000 and for the damage to her luxury watch of $10,000. Patrick demanded damages of $6,000.

Dynasty corporation filed a motion to dismiss for lack of subject matter jurisdiction.

1. Should the court grant Dynasty's motion as to Pam's claim?
2. Should the court grant Dynasty's motion as to Patrick's claim?

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Question Three

Palla, a California resident, sued Diego and Dave, both residents of Florida, for breach of a multi-million dollar contract that was signed and intended to be performed in Texas. Palla filed the lawsuit in state court in California.

Subsequently, Pam's process server went to Diego and Dave's office in Florida with the summons and the complaint. The process server went through the building's lobby and knocked on Diego and Dave's office door, saying, "UPS, I have a delivery for you." When no one answered, the server went back to the lobby, put the documents into an envelope, and taped the envelope to the mailbox labeled as belonging to Diego and Dave.

Defendants filed a motion to dismiss on the grounds of improper service of process, which the court denied. Defendants then filed a motion to transfer to state court in Florida. The court granted the motion. Defendants then filed for removal to federal court in Florida, which was denied.

1. Was the court correct to deny defendants' motion to dismiss?
2. Which state's law will apply to the matter after transfer?
3. Did the court err when it denied defendants' motion to remove?

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SLO Civil Procedure
Fall 2025 Answer Outline
Professor Melodie Rivas

Question One-Answer Outline

1. Was Delano properly served?

SERVICE OF PROCESS
Service of process much be reasonably calculated to apprise the party of the pendency of the claim and provide an adequate opportunity to be heard. Service cannot be effected by a party to the action.

Here, Prestige's president was the one to serve Delano. This is invalid service because Prestige is a party to an action and therefore unable to personally effect service. Thus, service on Delano was invalid.

2. Did the court correctly decide Delano's motion to dismiss?

TRADITIONAL BASES
Under Pennoyer v. Neff, personal jurisdiction could be exercised over a defendant based upon consent, domicile within the state, or service while in the state.

There are no facts suggesting that Delano consented to personal jurisdiction in State X. In fact, Delano made a timely motion to dismiss the suit for lack of personal jurisdiction. Nor is Delano domiciled in State X, as they are an Italian company.

Delano was served within the state, but the service was invalid because it was effected by a party to the action.

MODERN BASIS
LONG ARM STATUTE
A long arm statute is required to reach an out of state defendant.

Here, the facts state that there is a long arm statute that extends to limits of Constitution.

MINIMUM CONTACTS
In order for a long arm statute to reach an out of state defendant, it must be constitutional. Under International Shoe, exercise of personal jurisdiction must not offend traditional notions of fair play and substantial justice.

PURPOSEFUL AVAILMENT
Defendant's contacts with the forum must not be accidental. The defendant must purposefully avail themselves of the benefits of the forum state.

Here, Delano does not advertise or generally sell their cars in State X. Nor had they ever dealt with Prestige prior to the 2020 sale. However, Delano has sold their cars in State X previously and reaped the multi-million dollar benefits of selling to State X citizens. For its 2018 sale, Delano's president spent a week in State X completing negotiations.

FORESEEABILITY

It must be foreseeable that defendant would be haled into the forum court.

Delano has twice entered into financially beneficial contracts to sell multiple cars in State X. It is reasonable to believe that there could be some issue with contract performance or with their cars that would require court intervention.

FAIRNESS FACTORS

Factors to be considered are a forum's interest in protecting its citizens and convenience to the defendant and their witnesses.

While Delano is an Italian company, it is not unfair to require that they come to State X. Delano's president came to State X twice: once in 2018 to sell their cars, and once on vacation. Clearly the journey is not prohibitive. Moreover, State X has an interest in protecting its citizens from damages due to Delano's breach.

RELATEDNESS TO THE CLAIM-SPECIFIC JURISDICTION

Personal jurisdiction may be general or specific, depending on the level of defendant's contact with the forum state. If defendant's contacts with the forum are systematic and continuous, then they are essentially "at home" in the forum and may be sued for anything. If defendant's contacts are less than systematic and continuous, then suits against the defendant must be related to their contact with the state.

Delano's contacts are not systematic and continuous since they've only sold to two State X citizens and come to State X twice. Thus, there is specific jurisdiction and any claim against Delano must arise from their contact with State X. Here, Delano's contact with State X was for the sale of their cars and the suit is for breach of contract of sale of their cars.

Thus, the court was incorrect when it granted Delano's motion to dismiss.

Question Two-Answer Outline

1. **Should the court grant Dynasty's motion as to Pam's claim?**

FEDERAL QUESTION JURISDICTION

Federal courts have subject matter jurisdiction over cases that arise under federal law, which consists of federal common law, federal statutory law, treaty law, and federal administrative regulations.

Here, there are no facts to suggest Pam's claims arise under federal law.

DIVERSITY OF CITIZENSHIP JURISDICTION

Diversity of citizenship jurisdiction requires diversity of citizenship and the claim must meet amount in controversy.

DIVERSITY OF CITIZENSHIP

Every plaintiff must be of diverse citizenship from every defendant. Citizenship is determined by domicile. A person is domicile in the state in which they live and intend to remain. A corporation is domiciled in every state in which they are incorporated and in the one state that contains their principal place of business. The principal place of business is the "nerve center" of the corporation, and the place from where the business is run.

Here, Pam is a citizen of State A because Pam is a residents there. Dynasty corporation is a citizen of States C and D because those are the states in which it is incorporated. Dynasty is also domiciled in State B because that is where its headquarters is located. Because Pam and Dynasty are citizens of diverse states, there is complete diversity.

AMOUNT IN CONTROVERSY

The amount in controversy must exceed $75,000, exclusive of interest and costs. The claim must be made in good faith, and it is not necessary that the plaintiff actually win that amount.

Here, Pam's claim for medical damages is $70,000. This does not meet the amount in controversy on its own. However, Pam can aggregate their claims.

AGGREGATION

One plaintiff can aggregate his claims against one defendant to meet the amount in controversy, even if they are unrelated.

Pam can aggregate the $70,000 claim for medical costs, and the $10,000 in damages to the luxury watch. Here the claims are related to the same transaction (the fallen ceiling light), but they needn't have been. Even if the claims are deemed unrelated (injury claim and personal property damage claim), Pam could aggregate them. When Pam aggregates these claims, the total amount in controversy equals $80,000, which exceeds $75,000, exclusive of interest and costs.

GOOD FAITH CLAIM

A claim for damages can only be dismissed where it appears that there is no legal possibility of a recovery exceeding the jurisdictional amount.
Here, Dynasty is asking the court to dismiss for lack of subject matter jurisdiction. Dynasty could argue that Pam's claims are inflated and should not meet the amount in controversy requirement. However, Dynasty is unlikely to be able to show that there is no legal possibility of a recovery in excess of $75,000, exclusive of interest and costs. It is reasonable that multiple fractures could amount to $70,000 and it is also reasonable that a "luxury" watch could cost $10,000.

2. **Should the court grant Dynasty's motion as to Patrick's claim?**

SUPPLEMENTAL JURISDICTION

A court can exercise supplemental jurisdiction over a claim that arises from a common nucleus of operative fact. However, the claim must not destroy diversity.

Here, Patrick's claim arises under the same facts as Pam's claim because both are based upon the ceiling light falling on them. The facts of the accident will be a necessary part of both Patrick's and Pam's claims. It was the accident that caused Pam's injury and personal property damage and it was this same accident that caused the minor injuries to Patrick. There is no issue with the destruction of diversity here, as there is complete diversity of the parties here (see above discussion). It doesn't matter that Patrick is from the same state as Pam, since they are both plaintiffs and diversity of citizenship is only required between plaintiff and defendant.

Question Three-Answer Outline

1. What the court correct to deny defendants' motion to dismiss?

SERVICE OF PROCESS

Service of process much be reasonably calculated to apprise the party of the pendency of the claim and provide an adequate opportunity to be heard.

Here, the server left the summons and complaint in a public area, where it could be removed by anyone leaving defendants without any notice. Even if Diego and Dave had received actual notice, the issue would not be cured. Under similar facts, service was deemed unconstitutional as it was not reasonably calculated to apprise defendants of the pendency of the action.

2. Which state's law will apply to the matter after transfer?

VENUE

Venue is proper (i) in a district where all defendants reside, (ii) where a substantial portion of the action or omission took place, or, (iii) if no proper venue under (i) or (ii), in a district where personal jurisdiction over defendant exists.

Here, Diego and Dave reside in Florida, so Florida would be a proper venue under the first prong. The contract was executed and work was performed in Texas, so Texas would be proper under the second prong. There is no need to analyze the third prong because there is proper venue under both i) and ii). However, Florida would also be proper under this third prong as would Texas.

CHOICE OF LAW UPON TRANSFER

If venue in the original forum is proper, the law of the transferor court will apply. If venue in the original forum is improper, the law of the transferee state will apply.

Here, as discussed above, venue in the original forum (California) was improper. Thus, the law of the transferee court (Florida) would apply to the case.

3. Did the court err when it denied defendants' motion to remove?

REMOVAL

Defendant may remove from state to federal court, provided the federal court has jurisdiction. Removal may not be made by in-state defendants.

Here, Diego and Dave are trying to remove to Florida federal court. This will not be possible because they are residents of Florida and removal is not allowed for in-state defendants.

1)

1.) Was Delano properly served?

SERVICE OF PROCESS

Service must be reasonably calculated to apprise the party of the pendency of the claim and provide an adequate opportunity to be heard. Service cannot be affected by a party to the claim. A court will not exercise PJ over a defendant if service was affected by fraudulent means.

Here, Prestige's president learned that Delano's president would be in State X for a holiday and contrived to personally hand him the summons and complaint during his stay. While it is allowed for a corporation's representative to affect service on a party, Prestige's president is a party to the claim since Prestige as a corporation is suing Delano for breach of contract. Since service cannot be affected by a party to the claim, service of Delano was not valid.

CONCLUSION

Delano was not properly served.

2.) Did the court correctly decide Delano's motion to dismiss?

PERSONAL JURSIDICTION

Personal Jurisdiction(PJ) is the court's power over the parties to a case. PJ can be established traditionally or modernly.

TRADITIONAL BASES

Under Pennoyer V. Neff, a court may exercise PJ over a defendant if the defendant consents to PJ in the forum state, is domiciled in the forum state, and is served with process within the forum state.

Here, the facts do not indicate that Delano consented to PJ in the forum state. Please see below for an analysis for domicile and service.

DOMICILED WITHIN THE STATE

Individuals are domiciled in the state or country where they reside and intend to permanently remain. Corporations are domiciled in every state or country where they are incorporated and the one state that contains the corporation's Principal Place of Business (PPB). PPB is the "nerve center" of the corporation which is the place from which the corporation is run.

Here, Delano Cars(Delano) is an Italian wholesaler, which is considered a corporation. Delano is domiciled in Italy. However, the facts provide that Delano advertises and sells most of its cars to buyers in Europe and in 2018, Delano sold three hypercars to a company in State X. Therefore, Delano is domiciled in Italy, the European countries where he has sold other cars, and State X. The "nerve center" of Delano's is in Italy because that is the place from which the corporation is run and where the PPB is located.

SERVED WITH PROCESS WITHIN THE STATE

A court will not exercise PJ over a defendant if service was affected by fraudulent means.

Delano's president was served with process within the state, however, he was served by a party to the claim (Prestige's president), therefore service was invalid.

~~If, however service is deemed to be valid, the court may exercise PJ over Delano under traditional bases.~~ You've already said service was invalid + you were right.

MODERN BASES

Under International Shoe, a court may exercise PJ over a defendant if there is a long arm statute that reaches the out-of-state defendant within constitutional limits, and the defendant has minimum contacts with the state.

LONG ARM STATUTE

The forum state must have a long arm statute that reaches the out-of-state defendant within constitutional limits.

Here, the facts provide that State X has a long arm statute that extends to the limits of the constitution.

Therefore, the long arm statute requirement is met.

MINIMUM CONTACTS

The court's exercise of PJ over the defendant must be constitutional and must not offend traditional notions of fair play and substantial justice. The minimum contacts analysis consists of; (1) purposeful availment (2) foreseeability (3) fairness factors, and (4) relatedness to the claim.

PURPOSEFUL AVAILMENT

The defendant's contacts with the forum state must not be accidental. The defendant must reach into the forum state and purposefully avail themselves of the protections and benefits of the laws of the forum state.

Here, Delano sold three hypercars to a company in State X. Each car sold was worth $1 million which is a significant sale. The sales were also negotiated during a month-long sales trip to State X by Delano's president. By doing business in State X, effectively contracting and selling merchandise, traveling to State X and within state (reasonably assumed), it can be inferred that Delano purposefully availed themself of the protections and benefits of the laws of State X. The laws that Delano purposefully availed themself of are traffic laws, contract laws, business laws, etc. ← you need to explain this idea a bit.

Therefore, Delano purposefully availed themself of the protections and benefits of the laws of State X.

FORESEEABILITY

The defendant's contacts with the forum state must be such that causes the defendant to know or reasonably anticipate being haled into court in the forum state.

Here, Delano, in 2018, sold three hypercars to a company in State X. Each car sold was worth $1 million which is a significant sale. The sales were also negotiated during a month-long sales trip to State X by Delano's president. By doing business in State X, effectively contracting and selling merchandise, traveling to State X and within state (reasonably assumed), it is foreseeable that the defendant would be haled into court in State X at some point. Also, by executing a contract with Prestige who is a State X importer, and Delano failed to properly customize the hypercars pursuant to the agreement, it is foreseeable that they would be haled into court in State X at some point.

It's reasonably foreseeable to be sued on the contract or for defects.

Therefore, it is reasonably foreseeable that the defendant would be haled into court in State X.

FAIRNESS FACTORS

Fairness factors to be considered when determining the constitutionality of the court's exercise of PJ over a defendant are; (1) the court's interest in protecting its citizens (2) interest in convenience for the defendant and their witnesses. there are more, but this is good for now.

Here, Delano is primarily domiciled in Italy and has not traveled to State X since 2018. The facts do not provide how far State X is from Italy but if it is located in the United States, then Delano may argue that it is inconvenient for him to be expected to travel to State X for court proceedings. Has Delano been to State X before? So they could reasonably be expected to come to State X again? Especially since they made so much $.

Therefore, it would be inconvenient for Delano to travel from Italy to State X for court proceedings. ↳ unconstitutionally so?

RELATEDNESS TO THE CLAIM

A court's exercise of PJ over a defendant is may be general or specific depending on the nature and quality of the defendant's contacts with the forum state.

GENERAL JURISDICTION

If the defendant's contacts with the forum state are systematic and continuous, such that the defendant is essentially "at home" in the forum state, then the defendant can be sued for anything in the forum state.

Here, for past business Delano made sales within State X, and traveled to State X for business purposes. However, these contacts are not considered systematic and continuous since there were years before the subject action action with Prestige and the agreement with Prestige was completely negotiated in Italy. Delano's contacts with State X also do not imply that they are essentially "at home" in the forum state because of sales that took place on one occasion several years ago.

Therefore, the court may not exercise PJ over Delano under general jurisdiction.

SPECIFIC JURISDICTION

If the defendant's contacts with the forum state are less than systematic and continuous, then the defendant can only be sued for matters directly related to their contacts with the forum state.

Here, Delano's contacts with the forum state are less than systematic and continuous, therefore they can only be sued for matters directly related to their contacts with the forum state. Delano's previous contacts with the forum state are not directly related to his claim with Prestige Motors, however his current contact with State X is with Prestige Motors since their corporation is domiciled in State X. Additionally, the contract agreement was negotiated entirely in Italy, and since State X is an importer of luxury cars, it is uncertain, and undisclosed in the fact pattern, what states or countries those luxury cars provided by Delano were intended to be sold. they made a contract w/a sblex co. + are being sued for that contact = spec. juris.

~~Therefore State X does not have PJ over Delano under specific jurisdiction.~~

CONCLUSION

The court correctly decided to grant Delano's motion to dismiss ~~since State X cannot constitutionally exercise PJ over them.~~

END OF EXAM

2)

1.

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction is the court's power over the case.

FEDERAL JURISDICTION

Federal courts have jurisdiction over cases that arise under federal question or diversity jurisdiction.

FEDERAL QUESTION

Federal courts have jurisdiction over cases that arise under federal law, federal common law, federal statute, federal regulations, admiralties, and treaties. ✓

No facts indicate a federal question so Pam's claim must fall under diversity jurisdiction.

DIVERSITY JURISDICTION

Federal courts can have diversity jurisdiction when there is complete diversity of citizenship of the parties and meets the amount in controversy.

the claim

DIVERSITY OF CITIZENSHIP

Every plaintiff must have diverse citizenship over every defendant. Citizenship is based on domicile. Domicile is where the party lives and intends to remain. Add the rule for corps here.

The facts state that Pam is a resident of State A and no facts indicate she intends to leave.

A corporation is domiciled in the state where they are incorporated and the state of their primary place of business (PPB). PPB is the "nerve center" of the corporation, where high-level officials make decisions regarding the business.

Dynasty Corp. is incorporated in State C and D and headquartered in State B. The fact the accident took place in State B is irrelevant to subject matter jurisdiction. so why mention it here?

Based on Pam's State A citizenship and that Dynasty is a resident of State B, C or D, there is diversity of citizenship.

AMOUNT IN CONTROVERSY

The amount in controversy must be over $75,000, exclusive of costs and interest.

Pam's damages for injuries are $70,000 and damage to her watch is $10,000.

AGGREGATION

A plaintiff may aggregate multiple claims against the defendant in order to meet the amount in controversy, even if the claims are unrelated. How many plaintiffs vs how many defendants? it matters.

Pam's claims total $80,000, therefore they meet the amount in controversy requirement.
GOOD FAITH CLAIM

CONCLUSION

~~Because Pam is a resident of State A and of diverse citizenship than Dynasty states of incorporations and headquarters B, C, and D, and her claim is for $80,000, federal court subject matter jurisdiction in State B is appropriate.~~ Dynasty's motion to dismiss should be denied.

2.

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction is the court's power over the case.

FEDERAL JURISDICTION

Federal courts have jurisdiction over cases that arise under federal question or diversity jurisdiction.

FEDERAL QUESTION

Federal courts have jurisdiction over cases that arise under federal law, federal common law, federal statute, federal regulations, admiralties, and treaties.

No facts indicate a federal question so Patrick's claim must fall under diversity jurisdiction.

DIVERSITY JURISDICTION

Federal courts can have diversity jurisdiction when there is complete diversity of citizenship of the parties and meets the amount in controversy.

DIVERSITY OF CITIZENSHIP

Every plaintiff must have diverse citizenship over every defendant. Citizenship is based on domicile. Domicile is where the party lives and intends to remain.

The facts state that Patrick is a resident of State A and no facts indicate he intends to leave.

A corporation is domiciled in the state where they are incorporated and the state of their primary place of business (PPB). PPB is the "nerve center" of the corporation, where high-level officials make decisions regarding the business.

Dynasty Corp. is incorporated in State C and D and headquartered in State B. The fact the accident took place in State B is irrelevant to subject matter jurisdiction.

Based on Patrick's State A citizenship and Dynasty is a resident of State B, C or D, there is diversity of citizenship.

AMOUNT IN CONTROVERSY

The amount in controversy must be over $75,000, exclusive of costs and interest.

Patrick's demand for damages is $6,000 for sustaining minor injuries.

AGGREGATION

A plaintiff may aggregate multiple claims against the defendant in order to meet the amount in controversy, even if the claims are unrelated. However, plaintiffs may not aggregate their claims together to meet the amount in controversy if they do not have the same cause of action. unless enforcing a single title or right.

The facts don't expressly state if Patrick is asking for any other damages other than the $6,000.

Patrick's claim total is $6,000, therefore he does not meet the amount in controversy requirement.

SUPPLEMENTAL JURISDICTION

CONCLUSION

Though Patrick is a resident of State A and of diverse citizenship than Dynasty states of incorporations and headquarters B, C, and D, his claim is only for $6,000. Federal court subject matter jurisdiction in State B is inappropriate. Dynasty's motion to dismiss should be granted.

END OF EXAM

3) SERVICE OF PROCESS

1.

Service of process must reasonably calculated to apprise the party of the claim and provide adequate opportunity to be heard. Service cannot be effected by a party to the claim.

The process server did not correctly serve process because they left the documents in an envelope taped to the mailbox. Case law has articulated that leaving service documents taped to peoples front doors does not adequately apprise parties to a claim because there are any number of ways for the documents to not reach the intended party. Because the server left the documents in a public lobby taped to a mailbox where they could be stolen, fall, or be taken mistakenly by someone else Palla did not adequately apprise Diego and Dave of the claim.

The server was required to personally hand Diego and Dave the complaint. If Palla was serving their company the process server could have handed the complaint to an officer of the company or a manager with decision making power.

Conclusion

The court was incorrect to deny the motion because service was improper.

2. **Choice of Law Upon Transfer**

If venue was proper in the original forum the laws of the transferor state will apply. If venue was improper in the original forum the laws of the transferee state will apply.

Venue is proper in (1) any district where any defendant resides if all defendants reside in the same state. (2) any district where a substantial part of the events or omissions

occurred or where a substantial part of the property is located. If neither 1 or 2 are satisfied any district where the courts have personal jurisdiction over the defendants.

Here because venue was improper in California because (1) both Diego and Dave reside in Florida, (2) the signing of the contract and failure of performance of the contract occurred in Texas, and (3) Diego and Dave do not have minimum contacts with California. ~~the law of Florida will apply~~.

So...
So...

Yes, but flesh it out more.
Who is the transferor court?
Who is the transferee court?

Conclusion

The law of Florida will apply because venue was improper in California.

3. **Removal**

A case may be removed from state to federal court when it could have originally been filed in federal court because it presents a judicial question or meets the requirements for diversity jurisdiction. All defendants must consent to removal. An in state defendant cannot remove in their or to their own state. A request for removal must be filed within 30 days of the complaint being filed.

1 yr. for diversity cases.

Because Diego and Dave are residents of Florida they will not be able to remove the case to Federal court in Florida. The courts do not allow in state defendants to remove cases to federal court to prevent forum shopping.

Conclusion

The court did not err when it denied Diego and Daves motion to remove because they are in state defendants.

END OF EXAM