

Final Examination
Civil Procedure I – Sections LS2 & LS3
Professor David B. Oppenheimer
Fall 2007 Exam

1. **You have two (2) hours** to complete this exam.
2. This is a **closed book** exam.
3. This exam consists of two parts.

Part I consists of 25 multiple choice questions. Each multiple choice question is worth 1 point. Please mark your answers to the multiple choice questions on the separate “ParSCORE TEST FORM” using pen or pencil, following the instructions on that form. If you change your answer, completely erase the wrong answer and mark the correct answer. A machine will score the exam, and any ambiguities will be counted as a wrong answer.

Part II consists of one essay question. The essay question is worth 50 points. These will be added to the points earned on the mid term and the multiple choice to produce a raw score, upon which the grade will be based. If using blue books, please write your responses in the blue books provided, writing clearly, using only one side of each sheet of paper, and on every other line to permit comments.

4. Write your exam number on your exam envelope. Put your correct class section and student exam number on the top of this page, each page of questions, each blue book, and the “ParSCORE TEST FORM.” **Do not** use your name, student ID number, or Social Security number on any exam materials.
5. At the conclusion of the exam, return all test materials, including blue books, “ParSCORE TEST FORM” answer sheet, scratch paper, and this exam packet to the envelope; submit it to the proctor. **Do not** seal the envelope.
6. Students who do not return all exam materials at the end of the exam may receive a grade of “F.”

Good luck!

PART TWO – FINAL ESSAY QUESTION

Pauline, a life-long resident of San Francisco, was employed by the DeeToo Corporation, a California corporation with its headquarters and major production facility in Portland, Oregon. Pauline worked in the company's sales office in San Francisco, where she was supervised by regional manager Dilbert, a life-long resident of San Francisco. Dilbert was supervised by Don, the Vice President for Sales for the DeeToo Corporation, and a life-long resident of Portland, Oregon.

Don visits the San Francisco sales office every month for one day. During his visits, he meets with Dilbert, Pauline, and several other sales persons. He speaks to Dilbert by phone nearly every day, and speaks with Pauline by phone perhaps once a week. He corresponds by e-mail with Pauline and other sales staff on a daily basis, usually with brief messages encouraging them to find their inner sales voice. Pauline often responded to these messages, suggesting that Don needed to find his inner voice through meditation.

Pauline asked Dilbert for a two month leave of absence to study meditation at an ashram in India. Dilbert passed the request on to Don. Don rejected the request, explaining that the company was too busy to grant the request at that time, but would consider it in the future if things calmed down.

Pauline quit in protest, and went to off to study in India. Upon her return to California, Pauline brought a civil action against Don and DeeToo in the Superior Court for the City and County of San Francisco.

In Count I, Pauline alleged that DeeToo violated the "Federal Private Exercise of Religion Protection Act," a federal law that prohibits employers from unreasonably interfering with the reasonable religious practices of their employees. The federal statute permits a person aggrieved under the Act to bring a civil action against a corporate employer in either state or federal court, but does not permit actions against individual supervisors. (Don't bother looking this statute up; I made it up.) In Count II, she alleged that Don and DeeToo violated the "California Religious Instruction Act," a state law prohibiting employers and employment supervisors from unreasonably interfering with an employee's religious instruction. (Don't bother looking this up either; I made it up too.) The two laws provide similar remedies (reinstatement with back pay).

Don and DeeToo were served in Oregon by certified mail in full compliance with the California statute for service of process. They immediately removed the action to the United States District Court for the Northern District of California.

Pauline moved to remand the action to state court, asserting that the federal court lacked subject matter jurisdiction. The motion was denied.

In their first responsive pleading, Don and DeeToo moved to dismiss for lack of personal jurisdiction and improper venue. The motion was denied.

Don then filed a timely counter-claim against Pauline, asserting that she had incessantly harassed him about the value of meditation, a subject on which she was totally obsessed, to the point where her harping caused him to lose his ability to concentrate. He alleged that her conduct constituted an intentional infliction of emotional distress, and demanded \$100,000 in pain and suffering damages.

Pauline moved to dismiss Don's claim for lack of federal subject matter jurisdiction. The motion was granted.

Please discuss whether the court ruled correctly on the four motions.

End of exam – Happy Holidays