

Day
Exam

To: Associate
From: Chris Pagano
Re: Petty case

NOTE: Our law firm is located in San Francisco, California in the U.S. Ninth Circuit Court. You should find the law you need in Asahi, 480 U.S. 102 (1987); Ruston, 9 F.3d 415 (5th Circ. 1993); and Cybersell, 130 F.3d 414 (1997), plus the Constitution.

Our client, George Petty, a California resident, filed a class action against the Las Vegas (Nevada) Hotel Group, for failing to provide notice of an energy surcharge imposed on hotel guests. Although these hotels conduct no business and have no bank accounts in California, they advertise heavily in California and about 35 % of their business comes from California residents who go there to gamble and see the shows. Their advertising activities include billboards in California, ads in California newspapers, and ads on California radio and TV stations. The hotels also have an Internet website, lasvegashotels.com and a toll-free number where visitors or callers may find out about prices and make reservations.

Mr. Petty reserved a room at the Dunes Hotel by Internet from his California residence. The Dunes is one of the hotels owned by the Group. He used his credit card number to reserve the room. The site stated that the room would cost \$100 per night plus tax. When Mr. Petty paid his bill at checkout, the bill included a \$10 per night "energy surcharge" that had not been mentioned on the website. Upon investigation, we have since found out that all the hotels in this group charge this surcharge, and no telephone agent is instructed to give notice of the charge to persons making reservations. There is no mention of the surcharge in other advertising. The first time customers learn of the charge is at checkout. Mr. Petty wants to file a class action against the hotels on behalf of himself and all other California residents who were charged this surcharge but never given notice of it. He complains of fraudulent and deceptive business practices and breach of contract, among other charges.

While they were staying at the Dunes, Mrs. Petty tripped on a loose piece of carpeting in the dimly lit casino. She broke her leg and cut her head when it struck a slot machine. She required 25 stitches and spent almost a month in a cast. She would like to sue the Dunes for damages in a California court.

PREPARE A MEMORANDUM OF LAW ON THE FOLLOWING ISSUES:

Prepare your memo applying the two-prong due process test of minimum contacts and fair play and substantial justice.

1. Will a California Court exercise jurisdiction over The Las Vegas Hotel Group in the class action?
2. Will a California Court exercise jurisdiction over the Dunes Hotel in Mrs. Petty's case?