

Final Examination

Civil Procedure II

Professors Ramo

Fall 2007

INSTRUCTIONS

1. You will have a total of two **(2) hours** to complete this exam.
2. This is a closed book exam.
3. This exam consists of two parts, divided as follows:
 - a. **Part I** is **twenty** (20) multiple choice questions. You will have **fifty minutes** to complete Part I, the multiple choice questions. If you finish early, please double check your answers. You will **not** be permitted to move on to Part II of the exam until the end of the 50 minute period. Once the 50 minute period is over, please put the multiple choice questions and answer sheet in your exam envelope. You are **not permitted** to go back to Part I once the 50 minute period is over and the essay portion of the exam has started.
 - b. **Part II** is one essay question. You will have a total of one **(1) hour, 10 minutes** for the essay question. Please be sure to fully answer *all parts* of the essay question.
 - c. **Each part** of the exam **has equal weight** in determining **your final grade**.
4. Please answer the essay question in the blue books provided to you, unless you are using a computer. Write only on the right hand side of the page (skipping a page each time) and double-space your work. Please write legibly.
5. Write your exam number on your exam envelope. Put your student **exam #** at the top of this page, each page of questions, each blue book and your ParScore answer form. **Do not** use your name, student ID number or Social Security Number on any exam materials.
6. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. **Do not** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

GOOD LUCK!

Part II: Essay Question

One Hour, 10 minutes

Essay: One hour and 10 minutes

A cargo ship owned by Shipping Inc. crashes into the Bay Bridge in the San Francisco Bay, sending tens of thousands of gallons of fuel oil into the water. The spill affected both the San Francisco Bay and the nearby California coast. As a result of the spill, hundreds of fishing boats have been damaged by oil and had to delay fishing for six months and numerous cities have had to expend money cleaning up local beaches. The shipping boats that have been damaged include both small fishing boats that harvest crabs and various different kinds of fish and large commercial boats that handle ten times the amount of fish harvested by the smaller boats. Shipping Inc. is a multi-national company with billions in assets.

John Smith, a recent graduate of Golden Gate University School of Law who just passed the bar exam, sees a huge opportunity to make a difference in the world, and make some money. John finds a friend, Mary Jones, who works on one of the small fishing boats and files a class action with her, and the owner of the boat, Bill Angler, as class representatives. The class action based upon a negligence claim seeks \$100 million in compensation for property damage, lost wages, and lost profits for everyone who works on or owns a fishing boat and \$500 million in punitive damages.

Shipping calls up Smith and asks Smith what his clients really want. Smith says Jones really is more concerned with lost wages than anything else, and Angler wants his boat cleaned and repaired. Shipping offers to settle the class action by paying \$100,000 to Jones, \$2 million to Angler, \$1.5 million to Smith for attorneys' fees, and creating an \$11.4 million fund for claims for lost wages, property damage to boats and lost profits for boat owners. \$15 million is the value of Shipping Inc.'s insurance policy covering such events.

A motion for class certification is filed together with a motion to approve the proposed settlement. The trial judge grants the motion for class certification, does not require any notice to class representatives, but denies the motion to approve the settlement and orders the case to proceed.

At this point, the City of San Francisco moves to intervene. The City argues that it has suffered extensive damages to its beaches requiring it to spend \$20 million in clean up activities. It seeks reimbursement of this money as a result of the negligence of Shipping Inc. It argues that 1) it ought to be able to intervene as of right; and in any event, 2) it ought to be permitted to intervene. The trial judge denies the motion to intervene.

Please discuss whether the trial judge made the correct decision on each of the following motions:

1. The Motion for Class Certification;
2. The Motion to Accept the Settlement;
3. The Motion to Intervene.

END OF ESSAY QUESTION

END OF EXAM