

# FINAL EXAMINATION

## CIVIL PROCEDURE I

NOVEMBER 30, 2006

## PROFESSOR STICKGOLD

### INSTRUCTIONS

1. You have three (3) hours to take this exam.
2. This is a closed book exam.
3. This exam consists of **twenty multiple choice questions** and **one essay question**. The multiple choice questions will count for **twenty five (25%)** of your final grade in the course; the essay question will account for **fifty percent (50%)** of your final. The MID-TERM EXAM counts for **twenty five percent (25%)** of your final grade in the course.

Please mark your answers to the multiple choice questions **on the separate ParSCORE TEST FORM** using pen or pencil and following the instructions on that form. If you change an answer, please fully erase your first answer. If more than one answer is marked you will receive no credit for the question.

Please write your essay in the blue book(s) provided, or word processed.

Write/type on only one side of each page and on every other line. Please use double spacing when typing. Please do your best to write legibly.

On the essay question, I recommend that you spend time carefully reading the question and outlining your answer before you begin writing.

4. Write your exam number on your exam envelope. Put the correct class section and student exam number in every location where it is called for. **DO NOT** use your name or Social Security number.
5. At the conclusion of the exam, return all test materials, including blue books, ParScore answer sheet, scratch paper, and this exam packet to the 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 have their exams graded.

*Breathe deeply! You'll do fine! Good luck!*

**ESSAY QUESTION** (suggested time 120 minutes)

Arthur Brown is the owner and trainer of a number of highly trained dogs that are used in movies and television shows. He travels all over the world. He maintains his home in Beverly Hills, California (Central District of California), but his business and training facilities are in San Diego, California (Southern District of California). He is currently working on a movie with Acme Movie Co., incorporated in Delaware. It has a large movie studio in Los Angeles, California (Central District of California), and a similar studio in Austin, Texas (Eastern District of Texas). The CEO and Board have their offices in a high rise L.A. building. The contract between Brown and Acme was concluded in Los Angeles, California.

As part of this joint effort, a number of dogs recently used in New York City (Southern District of New York) for a TV show have to be transported to the Austin, Texas studio for work in the movie. Brown arranges with Interstate Animal Transfer (IAT), a Texas corporation that transports animals, to transport the dogs from New York to Austin, Texas. IAT has major trucking hubs in New York City, Los Angeles, CA., and Houston, Texas (Western District of Texas). It receives its greatest profit out of the L.A. hub, but the corporate offices are in New York City. While the dogs are perfectly healthy when they board the truck in New York City, they arrive in Austin, Texas, dead. Brown is devastated by the loss of his valuable dogs, and he loses the movie deal. Acme incurs substantial expenses because of the delay in production of the movie.

**READ ALL PARTS OF THE QUESTION BEFORE ANSWERING**

- A.** Brown and Acme file a law suit against IAT in the New York state court raising numerous state law tort and contract claims. They each claim \$1,000,000 in damages. IAT removes the case to the federal district court and moves to dismiss the suit for lack of subject matter jurisdiction. Discuss.
- B.** Assume the case was started in the federal court in the first place. IAT then joins as a third party defendant, Airtemp Corp., the company that supplies and maintains the cooling and air circulation systems in IAT's animal transport trucks. It alleges that Airtemp provided faulty equipment on the truck used in the Brown dog move. Airtemp is a Texas corporation with its principle place of business in Houston, Texas. Airtemp moves to dismiss this third party claim by IAT for lack of subject matter jurisdiction. Discuss.
- C.** Assume that when the case was originally brought in the New York state court, Brown asserted, in addition to his state law claims, a claim under the Federal Interstate

Shipment of Animals statute, a new law which provides damages for a shipper of animals when the shipping company violates certain federally set safety standards. IAT then adds Airtemp as a third party defendant as mentioned in Part B. Would this modify any of your discussion concerning the removal and motion to dismiss filed by IAT (see Part A) and the motion to dismiss filed by Airtemp (see Part B)? Discuss.

- D.** Assume the case as set forth in Part C is removed by IAT to the United States District Court for the Eastern District of Texas (which covers Austin, Texas). Can the Eastern District of Texas be a proper venue in this case? Explain. IAT, however, desires to transfer venue away from the Eastern District of Texas, where it fears great sympathy for Brown and Acme. What districts, if any, are available for proper venue and why?

END OF EXAM