

FINAL EXAMINATION
CIVIL PROCEDURE I - MID-YEAR CLASS
PROFESSOR STICKGOLD
SPRING 2006
INSTRUCTIONS

1. This final examination is scheduled for **TWO HOURS AND THIRTY MINUTES (150 minutes)**.
2. This is a **closed** book exam.
3. It consists of **twenty multiple choice questions** and **one essay question**. The multiple choice questions will count for **forty percent (40%)** of this exam's grade (recommended time, 60 minutes); the essay question will account for the other **sixty percent (60%)** of this exam's grade (recommended time, 90 minutes). The FINAL EXAM counts for **75%** of your final grade; the MID-TERM EXAM counts for **25%** of your final grade.

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 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. Your exam packet should include a **multiple-choice question section** and an **essay question section**. **PLEASE FOLLOW ALL INSTRUCTIONS CAREFULLY**. You MUST return the full exam packet with your answers. Students who do not return all exam materials at the end of the exam may not be graded.

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

ESSAY QUESTION

(60 points; 90 minutes)

Jacobin is a world famous rock star. His real name is Jake Jones. He lives with his wife in Phoenix, Arizona. Recently, he has begun a business distributing the Jacobin MP-3 player (an IPOD clone). To do this, a corporation was formed named JJ, Inc. It is a Delaware corporation (District of Delaware), and has its headquarters in Oakland, California. (Northern District of California).

The MP-3 player is actually manufactured by another company which has contracted with JJ, Inc. to provide these special devices with an extra large memory chip and special Jacobin design. This company is Clone, Inc., incorporated and headquartered in Miami, Florida (Southern District of Florida). It manufactures MP-3 players and other small electronic devices. It has large facilities in Michigan and Florida, and a new small state of the art facility, just for assembling MP-3 players, in Los Angeles (Central District of California) which it hopes will be the model for its future plants down the road. It sells electronic devices to companies all over the United States and Canada, including to Target and Wal-mart, which have stores in all 50 states and a number of Canadian provinces.

After lengthy negotiations in Los Angeles (Central District of California) among Jake Jones, JJ, Inc., and Clone, Inc., they contract for Clone, Inc. to exclusively reserve certain models of the MP-3 player for the Jacobin line, label them specially, and then distribute them nationally for JJ, Inc. The core component of this device (the little computer inside), is manufactured by Innards, Inc. at a plant in Windsor, Ontario, Canada. It is a Delaware corporation (District of Delaware) and has other plants located in Canada. It has its primary corporate offices in Windsor, Ontario, and it has its U.S. distribution office in Detroit, Michigan (Eastern District of Michigan), just across the border from Windsor.

Innards, Inc. entered into a contract with Clone, Inc. to provide the core internal components specifically for the Jacobin line of MP-3 players. All the dealings on these contracts were between the Innards' Windsor office and Clone's Miami office, by email, FAX and phone. No one from Innards, Inc. ever went to Miami. Personnel from Clone, Inc., did go to Detroit, Michigan, to sign the contract at Innards' office there.

Jake Jones and his company later discover that both Innards and Clone operate sweat shops which use undocumented immigrant laborers. These workers are abused in a variety of ways, including being required to work 70-80 hours per week for as little as \$2.50 per hour. Both of these practices violate federal U.S. labor laws.

On further investigation, Jones and JJ, Inc., also discover that many of the reserved MP-3 player models manufactured or provided by Clone, Inc. and Innards, Inc., are also being provided to other companies in direct violation of the contract between JJ, Inc., and

Clone, Inc. Jones is also deeply concerned about being associated with companies who both abuse their workers, and blatantly violate contractual agreements.

Jake Jones, personally, and JJ, Inc., sue Clone, Inc., in the U.S. District Court in Oakland, California. Plaintiffs assert two types of claims. The first are based on federal labor laws, which allow any person having business dealings with a company that violates U.S. labor laws to sue that company for damages based on the alleged violations. The second are based on state law for Clone's violation of the contract with Jones and JJ, Inc., in breaching the reserve clause concerning the exclusive rights re certain models of the MP-3 player.

The plaintiffs also join Innards, Inc. in the suit, but only for various state law contract and unfair competition violations arising out of Innards' cooperation with Clone, Inc., in violating the reserve clause of the contract, alleging Innards secretly cooperated with Clone to breach the contract. There are no federal law claims against Innards, because the federal labor laws (you will assume) do not apply to workers being used outside the United States. Each plaintiff claims damages well in excess of \$75,000 against each defendant.

Clone, Inc., and Innards, Inc., file a motion to dismiss for lack of subject matter jurisdiction; and in the event that motion is denied, for a change of venue from the Northern District of California to the Southern District of Florida. You are the clerk to the federal judge in Oakland. She asks you to prepare a memo discussing the matters raised by defendants two motions. If there are any facts not provided that you think are critical to resolving either issue, state them clearly and then proceed.

END OF ESSAY QUESTION

END OF EXAM