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**Final Examination
Civil Procedure I
Professor Stickgold
Spring 2007**

1. You have three (3) hours to complete this exam.
2. This is a closed book exam.
3. This exam consists of twenty multiple choice questions and one essay question. The *MID-TERM EXAM* counts for twenty points of your final grade in the course. These multiple choice questions counts for twenty points of your final grade in the course. This essay question counts for sixty points 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.

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

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 (double space when typing). Please do your best to write legibly.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at 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 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

Clyde Clever was thrilled to become a contestant on the nationally televised reality show, *Wilderness Survival*. It takes a group of contestants to a wilderness place for six weeks, drops them off, and assigns them a series of competitive tasks. Some are risky; some are stupid. During the competition, some contestants win a lot of money; others get sent home. Clyde, who was working in Key West, Florida (Southern District of Florida) at the time of his selection to the show, is a zoologist. Since he graduated college three years ago, he has worked on five different projects in five different states. He loved his job in the Everglades in Florida, and told co-workers that he'd love to stay a while. But before he had a chance to move all his stuff down there, he got the chance for the TV show. The thought of winning \$100,000 was too strong, and he agreed to leave Florida for the show. His last long time home was during college when he lived with his parents in New York City (Southern District of New York). In the three years since then he has told his folks, "I don't plan to live in New York. The only wild animals there are people! I will go where my karma takes me."

Wilderness Survival is owned and produced by the World Network, a New York Corporation with its primary television studios in Los Angeles, California (Central District of California). However, because of the nature of its shows, it has studios in many major cities. Many of its shows are filmed throughout California and Hawaii. The *Wilderness Survival* show on which Clyde was a contestant was conducted for six weeks in the wilds of Hawaii (District of Hawaii). The production company used by the World Network for *Wilderness Survival* is a Brooklyn, New York (Eastern District of New York), based company, Specialty Productions, Inc., specializing in making, or supervising the making, of shows involving wild animals. It is incorporated in Florida. In a meeting at World Network's L.A. office, the two companies signed a production contract setting the terms for this show. Basically Network provided the money, and had overall approval, while Specialty designed and supervised the tasks/stunts and the filming.

During the last week of the show, the contestants were supposed to catch three animal specimens of different kinds in a jungle type area. Clyde was one of three finalists. He first captured a small gekko lizard; then he trapped a colorful bird. He then came upon a brown snake. While he was trying to capture it, the snake bit him. It was a very poisonous Guamanian brown viper. It was a number of hours before he could be administered an anti-venom drug since the Specialty crew in charge of this task forgot the anti-venom drug in Honolulu. Clyde has serious permanent injuries as a result of the bite, and could not complete the show, which he was winning at the time of the accident.

In recent times there have been a number of accidents occurring on a variety of “reality” TV shows. In response Congress passed the Television Participant Protection Act (TPPA), allowing a federal civil action against television networks for injuries sustained due to negligence on any of the network’s television shows. The law provides the federal claim only against television networks, leaving claims against other parties as they were before TPPA was passed. Clyde has filed suit in the United States District Court in Miami (Southern District of Florida) stating claims against World Network under *both* the TPPA and under state contract/tort law, seeking damages of \$500,000.

Defendant World Network then does the following:

(1) Files a Motion to Dismiss for lack of subject matter jurisdiction asserting that plaintiff does not meet the requirements of section 1332 in this suit.

(2) Files a Motion to Dismiss for lack of subject matter jurisdiction asserting that plaintiff does not meet the requirements of section 1331 for this suit. It asserts as a defense that section 22 of the new federal law (TPPA) makes it applicable only to incidents occurring after the filming of this show was over. If World is correct in its interpretation of section 22, it is a valid defense against the TPPA claim. If not, the federal claim could proceed on the merits.

Discuss (1) and (2) fully.

(3) Assume for now that the above two motions are denied. Defendant World Network impleads Specialty Productions, Inc. as a third party defendant, claiming that if any negligence was committed, it was by the employees of Specialty, not World; and claiming further that there was a provision in the contract between the World and Specialty, that Specialty would hold World harmless (cover any costs) for any damages incurred as a result of matters under the supervision of Specialty. Can World join Specialty in this manner? Discuss fully.

(4) Assume for now that the court allows World to join Specialty as a third party defendant. Clyde now adds Specialty as a defendant in his case, claiming negligence on Specialty’s part. Specialty moves to dismiss Clyde’s claims against it for lack of subject matter jurisdiction. Discuss fully.

(5) Assume that the court resolves all subject matter objections in favor of federal court jurisdiction. Both defendants then move to transfer the venue of the case from the Southern District of Florida to the Central District of California. Discuss the rules governing such a motion. If the District Judge was inclined to transfer the case away from Florida, are there other proper districts where venue could be transferred and on what basis?