

Monterey College of Law - Hybrid

Civil Procedure – Section 2

Fall 2025 Final Exam

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Instructions:

The final exam is composed of three essay questions. Each is intended to take approximately one hour to complete. Issues should be addressed in IRAC format. For each issue, your answer should clearly state the issue and the applicable rule. Then apply the law to the facts and analyze how the rule applies here. Come to a clear conclusion that directly answers the call of the question.

Total Time Allotted: Three (3) hours.

QUESTION 1

Blake Lively, who was living in New York, and Justin Baldoni, who was living in California, entered into a valid contract, agreeing to buy and sell a painting claimed to be an original Yayoi Kusma, supposedly worth \$1 million, for that amount. In a separate valid contract, Lively agreed to buy from Baldoni a parcel of California real property worth \$5 million, for that amount. Lively and Baldoni completed the purchase of the painting on June 1; they were to complete the purchase of the real property on June 30.

On June 15, Lively resold the painting, but obtained only \$200, because the painting turned out to be a fake. Lively promptly notified Baldoni of her intent to sue Baldoni for damages of \$1 million. Baldoni then informed Lively that he would not go through with the purchase of the real property.

Lively filed suit against Baldoni in federal court in California. Lively claimed fraud as to the painting, alleging only that Baldoni committed “fraud in the supposed value,” and sought \$1 million in damages. Lively also claimed breach of contract as to the real property and sought specific performance. May Buyer join claims for fraud and breach of contract in the same suit against Seller? Discuss.

- 1. Is Buyer’s allegation sufficient to state a claim for fraud involving the painting? Discuss.**
- 2. Does the federal court have subject matter jurisdiction over the suit? Discuss.**
- 3. May the federal court apply California law to decide the breach of contract claim involving the real property? Discuss.**

QUESTION 2

Twenty-year-old Pablo, a citizen of Mexico, was attending college at San Diego State on a student visa. He drove to San Francisco to attend a Bad Bunny show. While there, he bought and ate a bag of vegan snacks from Valerie, a resident of San Francisco. The snacks had been manufactured in England by AIRSNAX, a British company with its sole place of business in Manchester, England. The snacks contained a toxic substance and sickened Pablo, who incurred medical expenses in the amount of \$50,000.

Pablo filed an action as a self-represented litigant (in pro per) against Valerie and AIRSNAX in the Superior Court of California in San Diego. In his complaint, he alleged that Valerie and AIRSNAX should have known the snacks were contaminated and demanded \$50,000 in compensatory damages. California's long-arm statute provides that the California court may exercise jurisdiction on any basis not inconsistent with the Constitutions of the United States or California.

Pablo drove to San Francisco where he personally handed Valerie a summons and copy of the complaint. He sent a summons and copy of the complaint to AIRSNAX by ordinary mail to the company in Manchester, England.

- 1. Did Pablo validly serve the summons on:**
 - a. Valerie? Discuss.**
 - b. AIRSNAX? Discuss.**
- 2. Does the Superior Court of California in San Diego have personal jurisdiction over:**
 - a. Valerie? Discuss.**
 - b. AIRSNAX? Discuss.**

QUESTION 3

Paige Turner, a citizen of California, wishes to sue Dennis Dewan, a citizen of New York, who was in California with his family for a visit to Disneyland, for \$100,000 for negligence arising from an automobile accident that occurred in Los Angeles, California.

The vehicle that Dewan was driving at the time in question was a Chevy Pacer rental car owned by Cheapo-O Car Rentals ("Cheapo"). Cheapo is incorporated in California, with its principal place of business in El Segundo, California. When Cheapo rented the Chevy Pacer to Dewan, they did so without verifying that his New York State Driver's license was suspended, and accordingly he should not have been behind the wheel of the Chevy Pacer on the day of the accident. Cheapo's alleged negligence in renting the Chevy Pacer to Dewan, resulted in the same car accident that injured Paige.

The body of Plaintiff's complaint contains **only** the following allegations concerning the defendants' alleged liability to Paige:

- "Defendant Dewan drove a vehicle in a careless and negligent manner, thereby colliding with Plaintiff's vehicle."
- "Defendant Cheapo rented the Chevy Pacer to Dewan who as an unfit driver"
- "As a result of Defendants Dewan's and Cheapo's negligent conduct, Plaintiff suffered severe physical injuries, emotional distress, and property damage in an amount exceeding \$100,000."

1. **Defendant Cheapo files a motion to dismiss under FRCP 12(b)(6) claiming lack of subject matter jurisdiction over it, and for Paige's failure to state a valid claim for relief. How should the Court rule?**

MODEL ANSWER/OUTLINE QUESTION 1

The buyer, Lively, may join her claims for fraud regarding the painting and breach of contract for the real property in the same suit against Baldoni under the Federal Rules of Civil Procedure.

1. Is buyer's allegation sufficient to state a claim for fraud involving the painting?

No, Lively's allegation is likely insufficient to state a claim for fraud.

- **Pleading Standard:** Under the Federal Rules of Civil Procedure, a party alleging fraud must state with "particularity the circumstances constituting fraud or mistake" (Fed. R. Civ. P. 9(b)). This heightened pleading standard requires the plaintiff to plead specific facts, such as the "who, what, when, where, and how" of the alleged fraud.
- **Insufficiency of Allegation:** Lively merely alleges "fraud in the supposed value." This is a conclusory statement and likely fails to meet the Rule 9(b) particularity requirement. Lively needs to provide specific details about what Baldoni said, when he said it, how he knew it was false (or made the claim recklessly), and her reliance on that specific statement. Simply stating that the value was "supposed" is not enough to demonstrate a knowing misrepresentation of fact.
- **Fraudulent Misrepresentation vs. Opinion:** A claim of fraud typically requires a misrepresentation of a material *fact*, not merely an opinion about value (unless Baldoni held himself out as an expert or used superior knowledge to take advantage of Lively). Without more specific allegations of Baldoni's actions, the claim is likely to be dismissed for failure to meet the pleading standard.

2. Does the federal court have subject matter jurisdiction over the suit?

Yes, the federal court likely has subject matter jurisdiction based on diversity of citizenship.

- **Diversity Jurisdiction Requirements:** Federal courts have subject matter jurisdiction over cases between citizens of different states if the amount in controversy exceeds \$75,000 (28 U.S.C. § 1332).
 - **Citizenship:** Lively is a citizen of New York, and Baldoni is a citizen of California. Complete diversity exists because no plaintiff shares a state of citizenship with any defendant.
 - **Amount in Controversy:** Lively seeks \$1 million for the fraud claim and specific performance for real property worth \$5 million. The total amount in controversy (\$6 million total, with each individual claim exceeding \$75,000) easily satisfies the jurisdictional threshold.
 - **Supplemental Jurisdiction:** Even if the claims were somehow intertwined differently, the federal court has supplemental jurisdiction over all claims that form part of the same "case or controversy" under Article III of the Constitution, provided the primary claim meets diversity requirements.
3. **May the federal court apply California law to decide the breach of contract claim involving the real property?**

Yes, the federal court in California will likely apply California law to the breach of contract claim concerning the real property.

- **Choice of Law Rules:** A federal court sitting in diversity jurisdiction applies the choice-of-law rules of the state in which it sits—in this case, California (per *Erie Railroad Co. v. Tompkins*).
- **California Choice of Law for Real Property:** California choice-of-law rules generally apply the law of the state where the real property is located to disputes concerning that property. This is a widely accepted principle in property law.
- **Conclusion:** Since the real property is located in California, the federal court will apply California substantive law to determine the rights and obligations of the parties regarding the real estate contract.

MODEL ANSWER/OUTLINE QUESTION 2

1. Service of summons on Valerie

- o **Invalid Service:** Pablo did not validly serve the summons on Valerie. In California, the plaintiff in a case is not permitted to personally serve the defendant with court papers. Service must be performed by a third party who is at least 18 years old and not a party to the case.
- o **Method of Service:** While the method of personal delivery was correct, as it is a valid way to serve legal papers in California, Pablo's role as the person serving the papers makes the service improper.
- o **Consequences:** The court will not have jurisdiction over Valerie and cannot make a judgment against her unless she is properly served. The service could be challenged, and the case could be dismissed as to Valerie unless she is re-served properly.

2. Service of summons on Airsnax

- o **Invalid Service:** Pablo's attempt to serve Airsnax by ordinary mail to its sole place of business in Manchester, England, was invalid.
- o **Hague Service Convention:** Since Airsnax is a British company, and both the United States and the United Kingdom are signatories to the Hague Service Convention, the convention's procedures for service of process must be followed.
- o **Proper Procedure:** The Hague Service Convention requires a formal request for service to be submitted to the Central Authority of the destination country (in this case, the U.K.). The Central Authority then arranges for service in accordance with its domestic laws.
- o **Ordinary Mail:** The use of ordinary mail is not a permissible method under the Hague Convention, making the service attempt invalid.
- o **Consequences:** Without valid service, the California court does not have personal jurisdiction over Airsnax, and any judgment against the company would be unenforceable.

3. Personal jurisdiction over Valerie

- o **Yes, Personal Jurisdiction Exists:** The Superior Court of California in San Diego does have personal jurisdiction over Valerie.

- o **Basis for Jurisdiction:** A state's courts have personal jurisdiction over a defendant who is domiciled or resides within the state. Valerie is a resident of San Francisco, California, placing her within the state's jurisdiction.
- o **Summary:** While the *service* was invalid because Pablo was the server, the California court has a proper *basis* for asserting personal jurisdiction over Valerie because she is a resident of the state and was served within its borders. The proper service of the summons by a valid process server would rectify the procedural issue and complete the court's jurisdiction over her.

4. Personal jurisdiction over Airsnax

- o **Unlikely, No Personal Jurisdiction:** The Superior Court of California in San Diego most likely does not have personal jurisdiction over Airsnax.
- o **No General Jurisdiction:** Airsnax is a British company with its sole place of business in Manchester, England. It is not "at home" in California, so general jurisdiction does not apply.
- o **Specific Jurisdiction Analysis:** For a California court to assert specific jurisdiction, three criteria must be met:
 1. **Purposeful Availment:** The defendant must have purposefully availed itself of the benefits and protections of California law. Airsnax manufactured its product in England, and while the product reached California, simply placing a product into the "stream of commerce" is not enough to establish purposeful availment. A purposeful act targeting the California market is required. The facts do not suggest that Airsnax deliberately targeted California consumers.
 2. **Arising Out of/Related to Contact:** The controversy must arise out of or be related to the defendant's contacts with California. While Pablo's injury occurred in California, it was caused by a product sold by a third party, Valerie. There is no direct link between Airsnax's conduct and Pablo's injury that would suggest a targeted California contact.
 3. **Fair Play and Substantial Justice:** The assertion of jurisdiction must comport with fair play and substantial justice. Haling a British

company into court in San Diego based on a single bag of snacks sold by an unrelated third party would likely be considered unfair.

- o **Conclusion:** Since Airsnax lacks the necessary minimum contacts with California, exercising specific personal jurisdiction over the company would likely violate the U.S. Constitution's due process requirements.

MODEL ANSWER/OUTLINE TO QUESTION 3

The court should deny Cheapo's motion to dismiss for lack of subject matter jurisdiction but grant the motion to dismiss for failure to state a claim upon which relief can be granted.

1. Motion to Dismiss for Lack of Subject Matter Jurisdiction

The motion should be denied because the court likely has supplemental jurisdiction over the claim against Cheapo.

- **Diversity Jurisdiction:** The claim between Paige (CA citizen) and Dennis (NY citizen) meets the requirements for federal diversity jurisdiction: the parties are from different states and the amount in controversy exceeds \$75,000.
- **Supplemental Jurisdiction (28 U.S.C. § 1367):** The claim against Cheapo (CA corporation) does not independently satisfy diversity jurisdiction (both Paige and Cheapo are CA citizens). However, 28 U.S.C. § 1367 allows federal courts to exercise supplemental jurisdiction over claims that lack an independent jurisdictional basis if they "form part of the same case or controversy" as the claims that do have jurisdiction.
- **Same Case or Controversy:** The claims against both Dewan and Cheapo arise from the same automobile accident and allegedly negligent conduct, meeting the "same case or controversy" requirement. Furthermore, the claim against Cheapo does not fall under any of the exceptions for supplemental jurisdiction specified in § 1367(b) for cases founded solely on diversity jurisdiction, as the party to be added (Cheapo) is a defendant and not a plaintiff attempting to defeat diversity jurisdiction.

Therefore, the court has subject matter jurisdiction over the claim against Cheapo.

2. Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted (FRCP 12(b)(6))

The motion should be granted because the plaintiff has failed to state a valid claim for relief against Cheapo that meets federal pleading standards.

- **Federal Pleading Standards:** Under Federal Rule of Civil Procedure 8(a)(2), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." The Supreme Court, in cases like *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*, clarified that a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." This requires more than just "labels and conclusions" or "formulaic recitation of the elements of a cause of action."
- **Insufficient Allegations:** The complaint's allegation concerning Cheapo is: "Defendant Cheapo rented the Chevy Pacer to Dewan who as an unfit driver." This is a conclusory statement and a "bare assertion" without supporting facts. It does not provide sufficient detail to make the claim of negligence plausible. For example, it doesn't mention *how* Cheapo knew or should have known Dewan was unfit (e.g., the specific details of the suspended license and the failure to verify it). The complaint essentially only recites a potential element of negligent entrustment or a similar cause of action without any supporting "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."
- **Conclusion:** The plaintiff has not provided enough factual detail to nudge the claim against Cheapo "across the line from conceivable to plausible" The court cannot reasonably infer that Cheapo was negligent based solely on the provided statement.

The court would likely dismiss the claim against Cheapo *without prejudice*, allowing the plaintiff an opportunity to amend the complaint to include the necessary factual allegations

1)

BL= Blake Lively (NY)

JB=Justin Baldoni(CA)

YK=Yayoi Kusma

SMJ=Subject matter jurisdiction

b/c=because

FQ=Federal question

DoC=Diversity of citizenship

1) May BL Join Claims for fraud and breach of contract in the same suit against JB?

Under permissive joinder of claims a plaintiff may, at the courts discretion, join as many claims as they wish against a defendant regardless of if the claims are related in any way.

So long as the court decides that it would be proper to hear these cases together in 1 trial BL may join her claims against JB within the same case.

2) Is BL's allegation sufficient to state a claim for fraud involving the painting?

Does this claim meet the plausibility Standard?

Rule 8(a) of the FRCP requires that a complaint consist of a brief statement of facts, the basis for SMJ and a request for the relief sought. This complaint will be judged under the plausibility standard. Under this standard the judge will strip away all conclusions of law

and look only to the statements of fact which will be presumed to be true. If when viewing only these statements of fact the complaint provides more than the mere possibility that the defendant acted as described causing the plaintiff injury then the case will be allowed to move forward.

Here BL has failed to provide any statements of fact and has failed to state the basis for why the federal court has SMJ over the case. Instead BL has only provided the conclusion of law that JB has "committed fraud in the supposed value" and the request for relief sought.

Accordingly as BL does not state a claim upon which relief can be granted under the plausibility standard, her case should not be allowed to proceed by the court.

Does this claim meet the heightened pleading standard?

When a claim is for fraud rule 9 of the FRCP requires that the claim meet the heightened pleading standard. Under this standard the plaintiff must state with specificity the who, what, when, where, why, and how of the claim in order for the case to be allowed to move forward.

Here BL will be held to the heightened pleading standard of specificity b/c she is claiming that JB committed fraud against her. In her complaint she only state who committed fraud (JB) and potentially what the case is about (fraudulent pricing of a painting). BL has failed to state, where this occurred, when it occurred, why it occurred or how it occurred.

Accordingly BL has also failed to state a claim upon which relief could be granted under the heightened standard of specificity required in fraud cases.

3) Does the federal court have SMJ over the suit?

Federal courts are courts of limited jurisdiction. This means that they must have SMJ over that type of case in order to hear it. This generally comes either in the form of federal question (FQ) or diversity of citizenship (DoC).

FQ

for a federal court to have jurisdiction under FQ the plaintiff's claim must either assert or defend a right that arises out of federal law, the constitution, federal judicial precedence, or international treaties. When analyzing if a case may be heard under FQ the judge will apply the well pleaded complaint rule. Under this rule the judge will strip away any foreseen defenses that may be raised in defense of the claim and will only look to the claims made by the plaintiff against the defendant. The case will only be heard under FQ if the right the plaintiff is asserting arises out of federal law and will not be heard if the only federal right is found in the defendant's defense to the claim.

Here there is no federal right being asserted by BL. This claim arises out of a breach of contract. Contracts between individuals are based in state law.

Thus the court will not gain SMJ over this case through FQ. ✓

DoC

For a federal court to gain jurisdiction under DoC there must be complete diversity of citizenship between opposing parties and the amount in controversy requirement must be met.

Is there Complete diversity of citizenship between opposing parties?

This means that no plaintiff may be a citizen of the same state as any defendant. For individuals citizenship is based on where that person is domiciled. A person is domiciled in the state where they reside and intend to remain indefinitely.

Here BL is living in NY and there are no facts in the prompt which tie here to another state or show that she does not intend to remain in NY. JB is living in CA and there is likewise no indication that he is from another state or intends to return there. Accordingly it would appear that BL is domiciled in NY and is thus a citizen of NY. Similarly it would appear that JB is domiciled in CA and is thus a citizen of CA.

As BL and JB are citizens of different states, there is complete diversity of citizenship between opposing parties. ✓

IS the amount in controversy requirement met?

✓ To meet the amount in controversy the plaintiff must, in good faith, plead damages in excess of \$75k excluding costs and interest. This amount will only be able to be challenged by the defendant if it can be shown to a legal certainty that the plaintiff cannot recover over \$75k.

Here BL has claimed damages of \$1million. This amount exceeds \$75k. Additionally there is nothing to suggest that BL will be legally barred from recovering over \$75k.

Thus the amount in controversy requirement is met.

DoC conclusion

The federal court has DoC jurisdiction over this case. ✓

4) May the federal court apply CA law to decide the breach of contract claim involving the real property?

Under the Eerie doctrine the federal courts are required to apply the substantive law of the state where the case was brought and federal procedural law unless there is a federal statute on point in which case that statute will control. Law is considered substantive if its application would be outcome determinative or promote forum shopping.

Here there is not a federal law on point to apply in the place of the state contract laws. Federal contract law exists but is only used in very specific instances when the US government enters into a contract. To apply these rules may very well change the outcome of the case. Additionally this may lead to forum shopping if these laws are more favorable to a plaintiff than the state law.

Therefore the federal court should apply CA law in the claim for real property b/c contract law is substantive and the case was brought in CA court.

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1. **Did Pablo validly serve the summons on Valerie and Airsnax?**

✓ **Issue:** Was the summons properly served to the two defendants in the case, Valerie and AIRSNAX?

✓ **Rule:** Courts do not have personal jurisdiction over defendants until they are properly provided a summons and complaint under proper service of process. There are five important rules of service, all five of which must be met for service to be proper:

1. **Served By:** The summons must be served by a person over 18 who is not a party to the suit.
2. **Served To:** The summons must be served to the individual being sued, or to the proper business representative in the case of a business. This can be an owner, manager, or any other individual who is legally bound to accept service or who the business has delegated to accept service.
3. **Documents that Need to be Served:** A copy of the summons and complaint need to be served.
4. **Timeliness:** The time required to serve the summons depends on the specific statutory requirements in each state. In California, it is typically 90 days after the complaint is filed.
5. **How can the documents be served:** In general, there are three acceptable methods of service: a. Personal service: The documents are served directly to the accused party; b. Substituted service: The documents are left at the residence of the accused party with a person of suitable age and competence, and then sent via certified mail to the last known address on file; c. Service by mail: documents are sent very certified mail to the last known address on file.

Service by mail is analyzed under the Mullane standard, which requires the plaintiff ensure the defendant receives service in a manner that allows them sufficient time to become aware of the suit and file an answer / defense. If the whereabouts / address of the defendant are known, personal or substituted service are preferred. If the last known address of the defendant is unknown and unascertainable, the court may allow service by publication in a newspaper

✓ **Analysis for Valerie's Service:** Pablo personally handed Valerie the summons and copy of the complaint. This is not permitted; the accusing party is not allowed to directly serve documents to the party they are suing. Service to Valerie was not valid.

Analysis for AIRSNAX's Service: Since AIRSNAX is located in England, in person or substituted service was not practical. Service by mail is supposed to be sent via certified mail as a general rule. However, it is possible the certified mail option was not available for service out of the country (it is possible not all countries have the same mailing options as the United States). If there is not an equivalent to certified mail in England, Pablo can successfully argue that he served AIRSNAX appropriately.

✓ **Conclusion:** Pablo's service to Valerie was not valid - he delivered it himself, which is not permitted by a party to the suit under the FRCP. Assuming there was no option to send the summons to AIRSNAX in England via certified mail, Pablo's service via mail to AIRSNAX was valid.

198 **2. Did the Superior Court of California in San Diego have personal jurisdiction over Valerie and Airsnax?**

✓ **Issue:** Does the San Diego Superior Court have personal jurisdiction over Valerie and over AIRSNAX based on the state's long-arm statute and the parties' constitutional right to due process?

Rule: Personal jurisdiction is the federal court's ability to render a binding judgement over a party. In order to assert personal jurisdiction (PJ) over a party, the state must have both a valid long-arm statute granting it PJ over an out-of-state resident, and the defendant must have sufficient contacts with the forum state such that their constitutional right to due process is not violated.

Long Arm Statute: A state's long arm statute specifies how it may exercise jurisdiction on out of state residents. If a person or business is not covered under the state's long-arm statute, they are not subject to personal jurisdiction in that state, and there is no need to continue with the analysis.

Contacts with Forum State: If a party does meet the long-arm statute, the courts then assess whether the party has sufficient contacts to the forum state to be governed by its laws. These contacts must be regular and ongoing. The court first addresses whether they have general jurisdiction over the party. If they do not, the courts can still exercise personal jurisdiction over the party if they have specific jurisdiction.

General Jurisdiction: Courts can exercise general jurisdiction over a person in three ways:

✓ 1. **Applies if the defendant resides in the forum state.** For individuals, this means the person has a permanent place of residence there and intends to remain there in the future. Businesses are considered residents if they were incorporated in the state or have their primary place of business within the state; 2. **Applies if the defendant consents to personal jurisdiction in the state;** 3. **Tag jurisdiction: Applies if the defendant is served the summons while in the forum state.** The third method of general jurisdiction from personal service is invalid if the defendant was fraudulently coerced to enter the state for the purpose of serving them with a lawsuit.

If the court has a long-arm statute that includes the defendant and general jurisdiction over the defendant, this satisfies the personal jurisdiction requirement. If not, the state will analyze whether it has specific jurisdiction.

Specific Jurisdiction analyzes whether non-residents have sufficient ties to the state such that they avail themselves to the laws and protections of the state. The courts perform a three-part test to make this determination: 1. **Purposeful availment:** Has the defendant availed himself to the laws and protections of the state by virtue of their involvement within the state? Are the defendant's contacts within the state continuous and significant?; 2.

Relatedness: Is the suit being brought against the defendant related to his contacts within the state?; 3. **Justice and fair play:** Is subjecting the defendant to the laws of the forum state aligned with principles of justice and fair play?

If the court determines they have a long-arm statute covering the defendant and either general or specific jurisdiction over the defendant, the court has established personal jurisdiction and can make a binding ruling in a case the defendant is a part of.

✓ **Analysis: PJ over Valerie.** Valerie is a resident of San Francisco. As an in-state resident, California's long-arm statute does not apply, and as a general rule, the Superior Court of California in San Diego could exercise general jurisdiction over her. However, since she was not properly served with the summons, personal jurisdiction has not yet been established. Until and unless she is properly served, the court does not have personal jurisdiction over Valerie.

Analysis: PJ over AIRSNAX: AIRSNAX has its sole place of business in England. The fact pattern does not specify that AIRSNAX has any specific or continuous or ongoing contacts with the state of California, or that there have been any sales of its product other than the single one made by Valerie to Pablo at the Bad Bunny show.

California's long-arm statute allows CA courts to exercise jurisdiction on any basis not inconsistent with the CA and US constitutions. This statute would extend to AIRSNAX.

The court does not have general jurisdiction over AIRSNAX; ✓ the company does not reside in CA, it did not consent to PJ, and it was not served process while in the state.

The court also does not have specific jurisdiction over AIRSNAX. There is no indication that the company has taken any action to subject itself to the rules and protections of California. It does not do business in the state, it does not have any regular or ongoing contacts in the state. It is entirely plausible that Valerie bought a bag of vegan snacks while in England, and is reselling it in the US without the company's permission. The company has not purposefully availed itself to the state of California.

✓ Without either general or specific jurisdiction over AIRSNAX, the court does not have personal jurisdiction over the manufacturer.

Conclusion: The San Diego Superior court does not have personal jurisdiction over Valerie since she has not been properly served a summons and complaint. The court also does not have personal jurisdiction over AIRSNAX, since the company is not subject to general jurisdiction in the state and has no continuous contacts with the state.

3)

SMJ:

Does subject matter jurisdiction exist with regard to Defendant, Cheapo? Subject matter jurisdiction exists in a court of limited jurisdiction when (i) a federal question is at issue, or (ii) complete diversity of citizenship exists. The action in question arises out of negligence allegations which is not a federal issue. The Court must next examine whether complete diversity exists. Diversity of citizenship exists when (i) no defendant is a citizen of the same state as any plaintiff, and (ii) the amount in controversy is greater than \$75,000.00. Plaintiff is suing for an amount exceeding \$100,000 which satisfies the minimum amount in controversy. However, the plaintiff is a resident of California. In order for complete diversity of citizenship to exist, none of the defendants can be citizens of California. Unfortunately for Plaintiff, Defendant Cheapo is incorporated in California and therefore considered a citizen of California for the purposes of determining subject matter jurisdiction. The action does not meet the standards for subject matter jurisdiction, therefore the trial court will grant Defendant, Cheapo's, motion to dismiss under the FRCP, section 12(b)(6) for lack of subject matter jurisdiction.

Stating a Valid Claim:

Does the Plaintiff fail to state a valid claim for relief? The FRCP states in section 12(b)(6) that for a plaintiff to state a valid claim for relief, the claim must be made clearly and specifically in a way that is not conclusory. In her claim, Plaintiff states that "Defendant Cheapo rented the Chevy Pacer to Dewan who is an unfit driver" and "[a]s a result of Defendants Dewan's and Cheapo's negligent conduct, Plaintiff suffered severe... injuries..." While negligence is a claim upon which relief can be granted, the terms "unfit" and "negligent" are conclusory and do not actually state clearly what actions were negligent or why they are negligent. For this reason, the claim is not properly stated under 12(b)(6) of the FRCP, therefore the Court will likely grant Defendant Cheapo's motion to dismiss for failure to state a valid claim.

END OF EXAM