

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2025**

QUESTION 1 (40 POINTS)

Jill has lived in Florida (FL) since moving there as a young child. She decided that after many years of saving, she wanted to build a permanent in-home sauna. Jill hired Cedar Saunas, LLC (“Cedar”) due to its impeccable reputation in the area. Cedar is a Florida limited liability company with two members: Home Gym, Inc. and Capital Investments, L.P.

Home Gym, Inc. (“Home Gym”) is a corporation organized in Delaware (DE). All shares of Home Gym are owned by Sam, who lives in FL. Home Gym has several FL offices that generate the largest share of its revenues. Home Gym’s four senior vice presidents who oversee all daily operations and its president are in Home Gym’s Texas (TX) office. Home Gym also has manufacturing facilities in FL, TX and Mississippi (MS), with its largest being in FL.

Capital Investments, L.P. (“Capital”) is a limited partnership organized under FL law. Capital’s general partner is Easy Money, LLC (“Easy”), also a FL limited liability company. Gigi, who lives in Georgia (GA) is Easy’s sole member. The sole limited partner of Capital is Big Bank, Inc. (“Big Bank”), a GA corporation with its principal place of business in Atlanta, GA.

Cedar completed Jill’s in-home sauna on November 1, 2023. Max Smith (“Max”), a subcontractor used by Cedar, was on site and assured Jill that everything was in perfect working order. Jill wanted to use her new sauna right away, so she turned on the sauna’s heater that same day. Unfortunately, it exploded, injuring Jill and damaging Jill’s home. Jill has had to miss work and has experienced several months of serious pain and suffering due to her injuries. Max moved to Phoenix, Arizona (AZ) later that week, vowing never to return to FL.

Following the accident, Jill moved in with her sister in GA so that she could look after Jill during her recovery. Jill let her neighbor look after the home she owns in FL while she was away. Jill misses her friends in FL but has enjoyed seeing her sister every day. Jill does not think she will stay in GA.

Jill filed a petition against Cedar on January 2, 2024, in a TX state court in Tyler, Texas. Her petition, consistent with TX law, did not demand a particular amount of damages, and the petition offered no greater description of Jill’s injuries than to state that she “sustained damages and physical injuries as a result of the explosion.”

After being served, Cedar attempted to conduct discovery to learn the details about Jill’s injuries, as well as the damage to Jill’s home, but Jill requested several extensions of time and said in answers to interrogatories only that she had suffered skin damage for which she continued to receive treatment. After additional delay, Jill eventually produced her medical records to Cedar on January 2, 2025. The records showed that Jill suffered severe burns and damage to her eyes and that her treating physician told her soon after the accident that she would need expensive surgery and lengthy rehabilitation. The production of the medical records was accompanied by Jill’s settlement demand for \$375,000. Cedar, receiving this first indication that the amount in controversy would support removal, removed the case to federal district court 25 days later, on January 27, 2025.

In the meantime, Cedar’s chief crew supervisor met with an attorney to discuss a defense to the lawsuit. The attorney asked this supervisor to gather up all paperwork and records Cedar had related to the sauna heater and send them to the attorney. This supervisor later delivered the business records to the attorney along with a letter in which one of the vice presidents of Home Gym explained why he believed Cedar did not properly install the heater and explained what was included in the business records.

Jill served Cedar with a request for production of documents that asked for “all correspondence, emails, or business records of any kind that reference or are related to the sauna and heater installed by Cedar.”

TEST CONTINUES ON NEXT PAGE

Answer the following four subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 1.1 Does the federal court have subject matter jurisdiction over Jill’s complaint? Explain fully. (15 points)**
- 1.2. Describe in detail the procedure and requirements Cedar must follow to remove the case to federal court. To which federal court may the case be removed? What objections, if any, might Jill raise to the removal? Explain fully. (10 points)**

For purposes of subquestions 1.3 through 1.4 below only, assume that the case properly remains in federal court and that Cedar has timely filed its answer.

- 1.3 About two months after it filed its answer, Cedar concluded that Max installed the sauna incorrectly and that his fault is what caused the explosion. Thus, Cedar would like to file a third-party complaint alleging that Max installed the sauna incorrectly and is, therefore, responsible for the claims against Cedar. Can Max be added as a third-party defendant; and if so, how? Explain fully. (5 points)**
- 1.4 *For purposes of this subquestion 1.4 only, assume that Max was never added to the suit.* Cedar desires to take Max’s deposition in Phoenix, AZ and to have Max testify at trial, but Max does not want to testify, either at a deposition or at trial.**
- (a) What steps should Cedar take to require Max to attend a deposition in Phoenix, AZ, and are they likely to succeed? Explain fully.**
- (b) What steps should Cedar take to require Max to attend trial in Tyler, TX, and are they likely to succeed? Explain fully.**
- (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2025**

QUESTION 2 (40 POINTS)

Plaintiff is a Louisiana (LA) resident, who owns and runs a small health food grocery store in Louisiana. Plaintiff advertises to his customers that the produce he purchases is grown at hydroponic grow houses that practice sanitized farming, which exponentially reduces instances of food-borne illnesses. Plaintiff generally purchases the broccoli for his store from Defendant, a Missouri (MO) citizen who advertises speedy delivery for his hydroponically farmed broccoli in national food and health publications. Defendant sells his broccoli to customers throughout the country, as long as there is a national delivery service that generally can make deliveries from his farm in MO to the customer within less than 24 hours. Plaintiff's customers keep buying broccoli that Plaintiff obtains from Defendant, but the two have never spoken to one another and the transactions have been done entirely online.

In 2022, Plaintiff purchased a large order of broccoli from Defendant. Two days after purchasing some of this broccoli from Plaintiff, one particular customer, Clyde, became severely ill with food poisoning after eating the broccoli raw; Clyde remained in the hospital for over a week and suffered damage to his kidneys due to severe dehydration. Clyde hired an attorney and asserted that the broccoli had been contaminated with a food-borne pathogen associated with cow manure and therefore, could not have been hydroponically grown.

Fearful of bad publicity, Plaintiff immediately agreed to settle with Clyde by paying him \$200,000 with an arrangement that allowed Plaintiff to pursue Clyde's claim directly against Defendant in an effort to obtain reimbursement, amongst other claims. Plaintiff then filed a diversity jurisdiction complaint against Defendant in LA federal court and alleged that Defendant was responsible for his customer Clyde's illness and for false advertising.

Defendant's wife is from LA, so they visit LA about twice per year to see friends and family. Defendant and his wife have informed her LA relatives on multiple occasions that they plan to retire in LA in a couple of years.

For the past several years, Defendant has also attended a week-long vegetable seminar at a LA University Ag Center in Nichols, LA. Right after Plaintiff had filed his lawsuit against Defendant, Plaintiff learned through a Facebook post that Defendant was at this conference and Plaintiff was able to get a process server to hand-serve his complaint and a summons on Defendant at the conference.

Defendant has now filed a motion to dismiss all claims against him for lack of personal jurisdiction and also a motion to dismiss under Rule 12(b)(6).

Answer the following six subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 2.1 How should the court rule on Defendant's motion to dismiss for lack of personal jurisdiction? Explain fully. (3 points)**
- 2.2 *For purposes of this subquestion 2.2 only, assume that the process server attempted, but was unable, to serve Defendant with the summons and complaint while he was in Louisiana.* How should the court rule on Defendant's motion to dismiss for lack of personal jurisdiction? Explain fully. (7 points)**
- 2.3 What legal standard is the court to apply in assessing Defendant's motion to dismiss under Rule 12(b)(6)? Explain fully. (10 points)**

TEST CONTINUES ON NEXT PAGE

For the remainder of Question 2, assume the following additional facts: The court has denied both of Defendant's motions to dismiss. Discovery has revealed conflicting evidence regarding whether the broccoli was hydroponically grown in a sanitized grow house. Defendant contends that he has never grown his broccoli in soil. Additionally, Defendant has purchase records revealing his purchase and maintenance of hydroponic farming equipment as well as a current contract with a sanitizing company that cleans and services his hydroponic farming equipment. But discovery also revealed that he regularly hired a neighboring broccoli farmer, John, another MO citizen, to tend to his broccoli farm while he and his wife were on vacation and that John only used fertilized soil at his own nearby farm. John was not a fan of hydroponic farming and would often comment to Defendant about his disdain for it. John was also seen on Defendant's security cameras to have entered Defendant's grow house without cleaning the fertilized soil from his boots or gloves before physically inspecting Defendant's broccoli, which could have resulted in cross-contamination between John's farm and Defendant's grow house. After learning about this evidence, Defendant filed a third-party complaint against John. But John died a month after he was served and filed his answer to Defendant's third-party complaint.

2.4 Since John has died, can any of his heirs or his estate be held responsible for the third-party claim against John? Who can initiate an action to accomplish this action, and what are the steps and the deadline to accomplish this action? Explain fully. (5 points)

2.5 ***For purposes of this subquestion 2.5 only, assume the following additional facts:*** The discovery process has become delayed due to conflict between the parties. Plaintiff alleged that Defendant never propounded discovery requests, so he has no duty to provide any information. Defendant alleged that Plaintiff is required to provide certain disclosures pursuant to the FRCP, even if Defendant never propounded discovery requests for those disclosures. Eventually, Defendant filed a motion to compel alleging that Plaintiff failed to make the required disclosures and asked that the Court compel Plaintiff and sanction him.

Should the federal court grant Defendant's motion to compel and for sanctions due to Plaintiff's failure to make the required disclosures? Explain fully. (10 points)

2.6 ***For purposes of this subquestion 2.6 only, assume that, before trial, Plaintiff decided that the case was taking too long and was costing too much money.*** What steps might Plaintiff take to voluntarily dismiss his case, and is the court required to issue an order dismissing the case? Explain fully. (5 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2025**

QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds to the correct answer.

- 3.1 Grounds for judgment as a matter of law
- 3.2 Scope of discovery
- 3.3 Removal
- 3.4 Subject matter jurisdiction
- 3.5 Full faith and credit; state court judgments
- 3.6 Interpleader
- 3.7 Rule 11
- 3.8 Timing of appeals; interlocutory dismissals
- 3.9 Discovery; privileges
- 3.10 Joinder of non-diverse party

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2024**

QUESTION 1 (40 POINTS)

VentureCap, Inc. (“VentureCap”) is a Delaware corporation that was begun as an investment vehicle for dentists. All of its shareholders are dentists who live in Mississippi (MS), Alabama (AL), and Tennessee (TN). Mimi, a resident of Vicksburg, MS, is VentureCap’s business manager and handles all the payroll, billing, and administrative tasks out of VentureCap’s office in Vicksburg.

Equipment Credit LLC (“Equipment Credit”) is an Arkansas (AR) limited liability company that was started three years ago when Leo, a lifelong resident of AR, decided that he needed a fresh start after his farming operation failed due to successive years of drought. Leo believed that he could use his knowledge of farming to successfully operate an agriculture credit business. He convinced VentureCap to join him as the second member of Equipment Credit and to provide the startup capital for the LLC. Equipment Credit opened two sales lots: one in Lafayette, LA and a second in Vicksburg, MS, and Leo became the manager of Equipment Credit and moved to Lafayette to run the operation there. Leo has decided that the Lafayette sales lot was not as profitable as he had hoped, so he decided to try to liquidate all of Equipment Credit’s equipment in Lafayette and then close its Lafayette sales lot.

Teri lives on a ranch in Texas (TX). While driving home from a week at the beach in Alabama (AL), Teri saw a sign advertising farm equipment for sale by Equipment Credit in Lafayette, LA. She stopped at its sales lot and inspected three tractors. She tried to negotiate price and terms with Leo. Teri and Leo did not reach an agreement at that time, but after Teri got home, she continued to communicate with Leo by text message and email until he agreed to sell Teri the three tractors for \$150,000, payable in monthly installments of \$15,000 at Equipment Credit’s Lafayette office. After Leo emailed a credit sales agreement to Teri at her ranch in Texas, she drove back to Lafayette, signed the final papers, and Equipment Credit then promptly shipped the tractors to her Texas ranch. She then began mailing installment payments to Equipment Credit’s office in Lafayette.

Teri soon learned that one of the tractors she purchased had arrived in need of serious repairs, which cost \$18,000. That expense and other financial difficulties caused Teri to default after making only two payments on the installment agreement. After Teri was three months in arrears, Equipment Credit filed suit against Teri in the United States District Court for the Western District of Louisiana in Lafayette for her past due installments and, under an acceleration provision in the sales contract, all remaining amounts due on the loan.

Answer the following five subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

1.1 Does the Lafayette federal court have subject matter jurisdiction over Equipment Credit’s lawsuit against Teri? Explain fully. (17 points)

ASSUME FOR THE REMAINDER OF QUESTION 1 THAT THE LOUISIANA FEDERAL COURT HAS SUBJECT MATTER JURISDICTION OVER THE LAWSUIT.

1.2 Is venue proper in the federal court located in Lafayette, Louisiana? Explain fully. (8 points)

1.3 Assume for this subquestion 1.3 only that Teri wants to have Equipment Credit’s lawsuit decided in the Texas federal court whose district encompassed her ranch. What steps should she take to seek such change, and what must she show for such a change? Explain fully. (4 points)

TEST CONTINUES ON NEXT PAGE

- 1.4** *Assume for this subquestion 1.4 only that the lawsuit remains in the Louisiana federal court. Also assume the following: Teri hired Mike the Mechanic, who lives in Texas, to make the repairs on the tractor. Shortly thereafter, Teri discovered that Mike had made several faulty repairs to the tractor, requiring Teri to seek out a new mechanic to fix the faulty repairs. The new repairs cost Teri an additional \$20,000. Can Teri properly file a claim against Mike either in the federal district court where the lawsuit against her was filed or in another federal district court? Explain fully. (5 points)*
- 1.5** *Assume for this subquestion 1.5 only that Equipment Credit files suit against Teri in Louisiana state court.*
- (a) **What procedural steps must Teri take to have the lawsuit decided in federal court? Explain fully, including what Teri must show, the process, and the timing for same. (3 points)**
- (b) **If Teri is successful in moving the action from state to federal court, what steps may Equipment Credit take to have the lawsuit returned to Louisiana state court, and when must those steps be taken? Explain fully. (3 points)**
- (6 points total)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2024**

QUESTION 2 (40 POINTS)

A Louisiana statute makes it a crime to willfully violate safety regulations of the Louisiana Department of Transportation and Development (DOTD). Pam operates a small trucking company in Louisiana, and she has supplemented her income by displaying bright, blinking election campaign signs on the rear sides of her trucks during election season.

Citing grim statistics on highway accidents from distracted drivers, the Secretary of DOTD passed a regulation that bans having blinking signs on commercial trucks traveling on Louisiana highways for the stated reason that these displays pose a safety hazard to distracted motorists. Pam believes the regulation is unconstitutional as an undue restriction on her First Amendment rights. After she continued to operate trucks with these blinking campaign signs, a local sheriff's deputy recently arrested her for violating this regulation.

Pam strongly objected to her arrest and stated that the regulation was not constitutional. She then refused the deputy's request to get into his car. To show that he would not be intimidated by this irate truck driver and to help ensure that he had the upper hand in the arrest, the deputy drew his Taser. Pam's husband, Henry, witnessed the deputy's arrest of his wife and suffered weeks of night terrors from the shock of witnessing her arrest. A felony bill of information was filed against Pam in state court.

Pam and Henry filed suit in federal court against the deputy asserting claims under both 42 U.S.C. § 1983 for civil rights violations and Louisiana tort law based on the deputy's alleged use of excessive force incident to Pam's arrest. Pam also challenged the constitutionality of the safety regulation and named the DOTD as a defendant on that claim. Henry required two therapy sessions to overcome his night terrors. The complaint also asserts state law tort and loss of consortium claims on behalf of Henry. Their attorney estimates that Pam's claims have a settlement value of \$50,000 and that Henry's claims have a combined fair value of no more than \$30,000. Pam, Henry, and the sheriff's deputy are all Louisiana citizens.

Answer the following seven subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 2.1 Does the federal court have the authority to hear Pam's claims under 42 U.S.C. § 1983 against the sheriff's deputy? Explain fully. (5 points)**
- 2.2 To what extent, if any, does the federal court have the authority and discretion to hear (i) Pam's Louisiana tort claims and (ii) Henry's Louisiana tort claims? Explain each fully. (6 points)**
- 2.3 Has Pam properly asserted a claim to declare the DOTD's regulation unconstitutional without running afoul of the Eleventh Amendment to the U.S. Constitution. If so, why; and if not, what steps, if any, could she take to avoid running afoul of the Eleventh Amendment? Explain fully. (5 points)**
- 2.4 The deputy's attorney believes that some of the claims against the deputy are wholly unfounded and thus is considering a motion for Rule 11 sanctions against Pam and Henry. What procedure must the deputy's attorney follow to ask the court to impose sanctions for a Rule 11 violation? Explain fully. (4 points)**
- 2.5 Pam's criminal trial date in the state court is fast approaching, so she has filed a motion requesting that the federal court issue an injunction staying the state-court criminal matter until the federal litigation has been resolved. Should the federal judge issue such an injunction against the state court prosecution? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

FOR SUBQUESTIONS 2.6–2.7 BELOW, ASSUME THAT PAM AND HENRY HAVE ASSERTED NO CLAIM TO HAVE THE DOTD REGULATION AT ISSUE DECLARED UNCONSTITUTIONAL AND THAT PAM NEVER MOVED THE FEDERAL COURT TO STAY THE STATE COURT PROSECUTION AGAINST HER.

- 2.6** During the federal court lawsuit against the deputy for excessive force, the sheriff's deputy testified at a deposition that he drew his Taser but never triggered or activated it and that Pam's injuries were caused by her hysterical overreaction to the mere sight of the Taser. At another deposition, a technician who reviewed the stored memory in the Taser device testified that the sheriff's deputy was correct that the device had not been activated on the day of the arrest.

The deputy's attorney believes that she can use the testimony from the two depositions to defeat Pam's excessive force claims. To achieve that goal, which form of motion should the deputy's attorney file: a motion to dismiss for failure to state a claim under Fed. R. Civ. Proc. 12(b)(6) or instead a motion for summary judgment under Fed. R. Civ. Proc. 56?

Fully explain the differences between the two motions, including (i) the general standards the court is to apply in deciding each motion and (ii) what documents or materials (if any) may be used to support each motion. (10 points)

- 2.7** Assume that the deputy filed a Motion to Dismiss and that the federal judge entered an order granting the deputy's motion in part by dismissing Pam's § 1983 claims. Pam and Henry's state law claims then proceeded to trial.

A jury addressed all of the remaining claims and, on March 31, returned a verdict in favor of Pam and Henry for \$25,000 in damages. The judge approved the form of final judgment on April 1, and the clerk entered the judgment on April 2.

Pam believes the judge was wrong to grant the deputy's motion to dismiss her § 1983 claim before trial. She wants the appellate court to reverse that decision and reinstate the § 1983 claim (which, unlike the state-law claims, has the potential for punitive damages and attorneys' fees).

What is the latest date for Pam to file a timely notice of appeal to contest the order dismissing her federal claim against the sheriff's deputy? Explain fully. (5 points)

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2024**

QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds with the correct answer.

- 3.1 Interpleader
- 3.2 Amended claims and third-party claims; diversity jurisdiction
- 3.3 Discovery; objections; Rule 30(b)(6) depositions
- 3.4 Waiver of defenses
- 3.5 Scope of discovery
- 3.6 Rule 26 Initial Disclosures
- 3.7 Joinder of claims
- 3.8 Personal jurisdiction
- 3.9 Subject matter jurisdiction; multiple plaintiffs; aggregation of claims
- 3.10 Discovery; work product privilege

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2024**

QUESTION 1 (40 POINTS)

Colleen, a Colorado (CO) citizen and rock climber, had been training for the upcoming World Champion Rock Climbing Competition. One of her sponsors was Bigeye Drones, LLC (“Bigeye”), which created a self-directing drone designed to film live sporting events while hovering in close proximity to the individual being filmed. Under its sponsorship agreement with Colleen, Bigeye paid for Colleen’s fees and expenses for both the competition and qualifying events for the competition and was authorized to market its film footage of Colleen, and Colleen was required to wear safety harnesses approved by Bigeye.

Near the end of a recent qualifying event in which the drone was being used to film Colleen, a malfunction in the drone caused it to fly off course. Because Colleen chose not to wear any safety harnesses for the event, the distraction from the malfunctioning drone caused her to lose her grip, fall, and sustain severe injuries. Colleen was unable to participate further in the event or upcoming competition. Bigeye determined that to avoid bad publicity, it had to scrap its plans to market its earlier footage of Colleen.

Alleging a defect in the design of the drone, Colleen filed suit against Bigeye in federal court in Louisiana, seeking \$300,000 in damages.

Bigeye is a Louisiana limited liability company affiliated with a state university in Louisiana known for its engineering department. All members of Bigeye’s management and its design team are located at the university in Louisiana, where Bigeye also distributes products. Louis, a professor at the university and a Louisiana citizen, owns a 95% interest in Bigeye, and Newgen, Inc. (“Newgen”) owns the remaining 5% interest.

Louis recently moved to south Texas to pursue his dream of putting robots into space, but he plans to return to Louisiana for the fall quarter of classes and has not resigned from his professorship, keeping his options open if the space venture does not work out. Newgen is a corporation organized in Delaware and owned by four shareholders who all live in Taiwan. Newgen has warehouses in Texas, Colorado, and Louisiana. More than 60% of Newgen’s products are sold in Colorado, and the majority of its employees work in the Colorado warehouse. The business office and management staff are located in the Texas facility, and it has a dispatcher in its Texas warehouse that directs all shipments from all warehouses.

Please answer the following four subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

1.1 Does the federal court in Louisiana have subject-matter jurisdiction over Colleen’s complaint? Explain fully. (20 points)

For the remainder of Question 1, assume that the case remains pending in Louisiana federal court.

1.2 More than a year after the suit had been filed and after an answer had been filed and much discovery had been conducted, Louis decided the space venture was going to work out, resigned his professorship at the Louisiana university, and moved to Texas. Bigeye then filed a motion to dismiss for lack of subject matter jurisdiction arguing that diversity no longer existed between the parties. Should the court grant Bigeye’s motion to dismiss? Explain fully. (5 points)

TEST CONTINUES ON NEXT PAGE

- 1.3** The defense attorney representing Bigeye and Louis asked Louis to gather and send all of Bigeye’s paperwork and records related to its sponsorship business. Louis later delivered the business records to the attorney along with a letter in which Louis explained why Bigeye believed the drone contained a design defect. The attorney reviewed the records and determined that they would not be useful to a defense of the lawsuit.

Subsequently, Colleen served Bigeye with a FRCP Rule 34 request for production of documents seeking “all correspondence, emails, or business records of any kind that reference or are related to Bigeye’s sponsorship business.”

- (a) Is the production of the business records that Louis delivered to the defense attorney required under FRCP Rule 26 initial disclosures? Explain fully. (3 points)
 - (b) Does the FRCP Rule 34 request require Bigeye to produce the letter Louis delivered to the defense attorney? Explain fully. (3 points)
 - (c) Does FRCP Rule 34 require Bigeye to produce the business records Louis delivered to the defense attorney? Explain fully. (3 points)
- 1.4** *For this Question 1.4 only, assume that Bigeye filed a counterclaim against Colleen to recover the \$30,000 in expenses had it incurred in sponsoring Colleen but that it would not be able to recoup in light of Colleen’s refusal to wear her safety harness in breach of her sponsorship contract with Bigeye. Does the federal court have subject matter jurisdiction over Bigeye’s counterclaim against Colleen? Explain fully. (6 points)*

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2024**

QUESTION 2 (40 POINTS)

Lindy is a famous TV cook and caterer with a thriving business in Louisiana, where she lives. Lindy's trademark meals are guaranteed to contain organic ingredients only. Lindy has found that the most flavorful vegetables come from Calvin, a California resident who is the sole owner and operator of Calvin's Truck Farm, which is located in the San Fernando Valley of California. Lindy and Calvin have never spoken to each other, and their transactions have been done entirely online. Calvin advertises in Mother Earth magazine and other health food publications and sells his vegetables to customers in all fifty states.

Calvin lived in Louisiana from 2005-2012, before he permanently relocated to California to start his vegetable business. He still comes to Louisiana about twice per year to visit friends and family and for each of the last four years has attended a week-long vegetable seminar at LSU in Baton Rouge. Calvin has informed his Louisiana relatives on multiple occasions that he plans to retire in Louisiana when the time comes.

Recently, Lindy was hired to cater a dinner at the Louisiana Governor's Mansion. She purchased a large order of avocados from Calvin to use in the salads she was going to serve. After the event, the Governor and several of his guests became severely ill with food poisoning. An investigation by the Louisiana Department of Health determined that the avocados used in Lindy's salads were contaminated with salmonella, that many farmers in California used wastewater to irrigate crops, and that this was more than likely the cause of the contaminated avocados.

Lindy immediately settled the Governor's claim and those of his guests which were asserted in state court for a total sum of \$500,000 and was subrogated to their claims against Calvin as the supplier of the tainted avocados. Lindy then filed a diversity jurisdiction complaint against Calvin in Louisiana federal court and alleged that Calvin was responsible for the illnesses of the Governor and his guests and also for damage to Lindy's business reputation.

Calvin's lawyer discovered the following information: 1) the Louisiana Governor's Office sent a complaint to the California Department of Agriculture to alert it of the contaminated avocados; 2) research conducted by the California Department of Agriculture revealed that the water used on the avocado trees at Calvin's farm was tested and approved by the FDA under emergency water rationing rules; and 3) that no salmonella had been found during the testing. Calvin's lawyer also determined that, under relevant federal law, a farmer has immunity from suit for water contamination if the water used is FDA-approved.

With this information, Calvin's attorney believes that Lindy's complaint has no basis in fact and filed a motion for sanctions under FRCP 11. Calvin's lawyer also filed a motion to dismiss pursuant to FRCP 12(b)(6).

Please answer the following five subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 2.1 May the Louisiana federal court exercise personal jurisdiction, either general or specific, over Calvin? Explain fully. (10 points)**
- 2.2 What legal standards should the court apply when assessing Calvin's motion to dismiss pursuant to FRCP 12(b)(6)? Should the court grant or deny Calvin's motion? Explain fully. (10 points)**
- 2.3 Lindy's attorney recalls that FRCP 11 includes what is commonly known as the "21-day safe harbor provision." What must Lindy do to comply with the FRCP 11 safe harbor provision? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

For the remainder of Question 2, assume that the court denied both motions filed by Calvin.

- 2.4** During trial, Lindy introduced evidence that the Louisiana Department of Health determined that the avocados used in Lindy's salads were contaminated with salmonella, that many farmers in California used wastewater to irrigate crops, and an expert opinion that the contaminated wastewater was more than likely the cause of the contaminated avocados. After the close of Lindy's case-in-chief, Calvin moved for a judgment as a matter of law pursuant to FRCP 50. What legal standard should the court apply when assessing Calvin's motion for judgment as a matter of law pursuant to FRCP 50, and how is the court likely to rule? Explain fully. (10 points)
- 2.5** *For this Question 2.5 only, assume that Calvin's motion for judgment as a matter of law was denied and that Calvin then proceeded to trial, that the jury returned a verdict in favor of Lindy, and that the district court entered a final judgment in favor of Lindy. What must Calvin do in order to appeal the adverse decision, and by when must he do it? Explain fully. (5 points)*

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2024**

QUESTION 3 (20 POINTS)

Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.

- 3.1 Presenting matters outside the pleadings
- 3.2 Substitution of parties; amending pleadings
- 3.3 Venue
- 3.4 11th Amendment immunity
- 3.5 Defects in removal
- 3.6 Permissive joinder of parties
- 3.7 Improper joinder to defeat diversity
- 3.8 Removal; joining of defendants
- 3.9 Amended claims and third-party claims; diversity jurisdiction
- 3.10 Pre-trial procedures

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2023**

QUESTION 1 (40 POINTS)

Lou Bryan and his two sons Greg and Adam are the members of Bryan Operations, LLC (“BOL”), a Louisiana (LA) limited liability company that owns and operates a farm in Morehouse Parish, Louisiana. Lou is a lifelong resident of LA and owns 51% of the membership interest in BOL. The remaining 49% is split equally between Greg and Adam. Greg lives in Georgia (GA) but has recently been spending considerable time in Louisiana, working on the farm, and is considering moving back permanently. Greg still owns his home in GA. Adam lives in Arkansas (AR).

BOL has a contract to purchase seed and chemicals from Farm Supply Services, Inc. (FSS) through 2025. FSS is incorporated in Delaware (DE) and maintains warehouses in Texas (TX) and AR, from which it ships all of its products for the states it serves. Each warehouse employs approximately 100 workers. FSS rents space in Jackson, Mississippi (MS) for its executive officers and staff to handle the day-to-day operation of the company. FSS does business in ten states, including GA, TX, and LA.

Over the past several months, FSS’s deliveries to BOL began arriving late or were not made at all. BOL was forced to turn to a different supplier in order to get seed and chemicals before planting time. BOL determined that it suffered \$100,000 in damages from FSS’s failure to deliver the products it had ordered.

BOL filed suit for breach of contract against FSS in LA federal court. Before answering the complaint, FSS files a motion to dismiss asserting that the federal court lacks jurisdiction to hear the case.

Please answer the following four subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

1.1 Does the federal court in Louisiana have subject matter jurisdiction over BOL’s complaint? Explain. (25 points)

Assume for the rest of Question 1 that the case remains pending in the federal court in Louisiana.

1.2 BOL and FSS disagree on whether their contract should be interpreted under the laws of LA or instead under the laws of MS. Assume solely for this question 1.2 that the MS conflict of laws provisions provide that the contract should be interpreted under the laws of the state where performance is to be made (which here is LA) but that the LA conflict of laws provisions provide that a contract should be interpreted under the law of the state where the contract was executed (which here is MS). Which state’s substantive law should apply to interpret the parties’ contract? Explain. (5 points)

1.3 Assume the following facts solely for this question 1.3. At his deposition, FSS’s CEO stated that FSS’s primary supplier is Midwestern Agriculture Inc. (“Midwestern”), which is a Nebraska (NE) corporation based solely in NE, and that Midwestern has been “encouraging” FSS to sell more seed and chemicals to “new customers” instead of to existing customers. BOL wants to include Midwestern in this lawsuit. BOL believes FSS and Midwestern conspired together to divert FSS’s sales from BOL to go instead to new customers.

What must BOL do in order to assert these new claims against Midwestern and FSS? Explain. (5 points)

TEST CONTINUES ON NEXT PAGE

- 1.4** *Assume the following facts solely for this question 1.4.* As BOL prepared for trial, its accountant determined that there was a mistake in its original damage calculation and that the total damages sustained by BOL was never more than \$70,000. BOL communicated this to FSS and offered to settle for that amount. FSS declined, thinking it had a good chance to prevail on the merits at trial. The parties agreed that neither would raise an objection on the issue so that all the time and money in the litigation would not be wasted.

What effect, if any, do these developments have on the authority of the federal court to resolve the case? Explain. (5 points)

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2023**

QUESTION 2 (40 POINTS)

Tim, a citizen of Texas (TX), was interested in purchasing several lumber mills in Louisiana (LA). He looked for investors and found Alan from Alabama (AL) and Kyle from Kansas (KS). The three investors met in Alabama for three days to finalize the terms of their agreement, which called for Alan and Kyle to make monthly capital contributions over the course of three years. Tim was to use the funds to run the lumber mills. The agreement contemplated purchasing three lumber mills across LA, with additional mill purchases to be funded by the profits if the business is successful.

Alan is a lifelong citizen of AL, but has owned a condominium in Shreveport, LA for more than 10 years and stays in it less than 10 weeks a year. Kyle was born in LA but permanently relocated to KS several years ago. He does not have any business connections in LA other than the mills, but spends the holidays with his family in Lafayette, LA every year. Both Alan and Kyle have extensive investments in TX and visit TX often to tend to those businesses. They are not involved in the day-to-day operations of the mills.

Two years into the arrangement, the mills were not doing well. Alan and Kyle accused Tim of breaching their agreement by not producing timely financial reports, and they stopped making monthly payments. Tim would like to sue Alan and Kyle in federal court for \$100,000 each, representing the remaining payments due under the agreement.

Please answer the following four subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

2.1 Would venue for Tim’s proposed federal civil action against Alan and Kyle be proper in the appropriate district in each of AL, KS, LA, and TX? Explain. (10 points)

Assume for questions 2.2-2.4 below that venue is proper in a LA federal court.

2.2 Tim filed the complaint against Alan and Kyle in a federal court in LA. May the LA federal court exercise either (a) general personal jurisdiction or (b) specific personal jurisdiction over Alan and Kyle? Explain. (10 points)

2.3 Assume solely for this question 2.3 that the process server could not find Alan, so he delivered the papers to Alan’s 12-year-old son at Alan’s home. Prior to filing his answer, Alan timely filed a motion to dismiss for insufficiency of service of process. Should Alan’s motion for insufficiency of service be granted? Explain. (5 points)

TEST CONTINUES ON NEXT PAGE

2.4 Kyle admitted during his deposition that he did not pay the \$100,000 called for by the agreement, but he raised the defense that he was not obligated to make the payments because Tim had first breached the agreement by not providing timely financial reports. Tim filed a motion for summary judgment against Kyle. Tim supported it with Kyle's answer and Kyle's deposition testimony in which he and a competing business had a financial arrangement that was contingent on the failure of the mills. Tim asserted that this conflict of interest was Kyle's actual motivation for stopping payments. Tim also argued that all financial reports had been timely provided. Tim supported that argument with an affidavit from his office manager in which the manager testified that all financial statements had been timely prepared and mailed to investors by certified mail within two days of issuance.

Kyle filed a memorandum in opposition to Tim's motion. Kyle supported it with his own affidavit in which he testified that he never received the last three monthly financial reports that were due before his default. He added that he did stand to make a great deal of money through his arrangement with the competing company, but he swore that those facts did not affect his decision not to pay Tim.

Set forth the applicable standard for assessing Tim's motion for summary judgment, assess the submissions by the parties under the applicable standard, and explain how the court should rule on the motion. (15 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
JULY 2023**

QUESTION 3 (20 POINTS)

Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.

- 3.1 Rule 26 Initial Disclosures
- 3.2 Rule 11
- 3.3 Service of process; waiver of service; time for answering
- 3.4 Amended claims and third-party claims; diversity jurisdiction
- 3.5 Removal
- 3.6 Interpleader
- 3.7 Full faith and credit; state court judgments
- 3.8 Subject matter jurisdiction; multiple plaintiffs; aggregation of claims
- 3.9 Class actions
- 3.10 Subject matter jurisdiction; defects

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2023**

QUESTION 1 (40 POINTS)

Beauty Supply, LP (Beauty) is a limited partnership organized under Mississippi (MS) law. It operates cosmetic supply stores in Louisiana (LA) and Texas (TX). Its general partner is GP, Inc. (General), which is incorporated in Arkansas (AR) and serves as a general or managing partner for a number of other entities that do business in MS, LA and TX. Most of General's efforts focus on its LA operations, which comprise the bulk of General's revenue. Most employees of General work in LA, but the management team in TX makes the decisions about hiring, firing, and the direction of the business. The sole limited partner in Beauty is Amy, who is a life-long resident of AR.

Mindy operates a sole proprietorship known as Mindy's Nails (Nails). The sole function of Nails is to manufacture nail polish at a factory in LA. The business holds licenses and trademark registrations in LA. Mindy was born and raised in MS, where she lives in a home she owns. She travels three times a week to a business office in LA, where she makes all important business decisions about Nails.

Nails purchased chemicals, dyes and other supplies from Beauty on an open account. After years of a good relationship, Nails stopped paying and left a balance of \$90,000. Beauty was unable to get Nails to pay. So Beauty filed a suit in a LA federal court against Nails and prayed for recovery of the amount due on the account. Two weeks later, but before the complaint was served on Mindy, Amy took advantage of a job opportunity and moved to MS, where she plans to live and work.

Please answer the following four subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

1.1 Does the federal court in Louisiana have subject-matter jurisdiction over Beauty's complaint? Explain fully. (25 pts)

Assume for the rest of Question One that the case remains pending in the federal court in Louisiana.

1.2 Nails believes that the chemical compounds contained in the dye Beauty delivered to Nails differed from what was specified in Nail's purchase orders with Beauty and that these unauthorized chemical compounds caused the nail polish created by Nails to fade and chip quickly. Beauty provided no notice of any change in chemical compounds used in its dyes. Nails began receiving numerous complaints and orders for its polish greatly diminished. Nails estimates resulting losses at \$25,000. Nails wants to assert a state-law claim against Beauty and attempt to recover that amount from Beauty without having to file a separate suit.

- a. What procedural device might Nails use to assert its claim against Beauty in the federal suit? Explain fully.**
- b. Would the federal court have subject-matter jurisdiction over Nails' claim? Explain fully.**

(5 pts)

1.3 Nails also has an account with Bottles, Inc. (Bottles), an Oklahoma citizen. Nails believes Bottles has been billing for more polish bottles than were actually delivered, and an audit indicates Nails has been overbilled by \$80,000. Nails would like to assert a claim against Bottles for such overbilling. Can Nails properly assert its proposed claim against Bottles in the same federal suit as the Beauty suit? Explain fully. (5 pts)

TEST CONTINUES ON NEXT PAGE

- 1.4 Assume Nails elected not to assert any claims against Beauty or Bottles in this suit. Nails instead filed a general denial answer that raised no defenses. The same day Nails filed its answer, it served two requests for production on Beauty: one for a copy of all Beauty's receipts, ledgers, and other documents related to the allegedly unpaid account; and one for a copy of all correspondence between Beauty and its attorneys that make reference to the payment dispute.**

What two objections might Beauty properly assert in response to these two requests for production? Explain fully. (5 pts)

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2023**

QUESTION 2 (40 POINTS)

Leo is a citizen of Louisiana (LA). He purchased a new car from Gator Automotive in Florida (FL). Gator Automotive is a sole proprietorship owned by Fred Fredricks, a FL citizen. The tires on the new car were manufactured by Easy Rider, an Alabama (AL) citizen.

Leo was driving his new car home to Covington, LA. As soon as he crossed the state line into LA, one of his tires suddenly went flat. He pulled to the side of the interstate where his car was soon struck by Tex, a citizen of Texas (TX). Leo suffered more than \$150,000 in property and personal injury damages.

Leo believes that the tire failed because of a manufacturing defect. He filed suit in state court in Covington, LA on January 4, 2022 against Easy Rider, Gator Automotive, and Tex. Long-arm service was made on Easy Rider on February 10, 2022, and on Gator Automotive on March 15, 2022.

Easy Rider and Gator Automotive decided they would prefer to be in federal court but they were nervous that a deadline might be missed if they waited to hear from Tex, who had not yet been served with a copy of Leo's complaint.

Please answer the following six subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 2.1 a) Describe in detail the procedural requirements that removing defendants must follow to remove the case to federal court. b) Assuming the case is removable, to what federal court may the case be removed? Explain fully. (8 pts)**
- 2.2 Easy Rider and Gator Automotive removed the case to federal court on April 4, 2022, before Leo served Tex with a copy of his complaint. Leo believes there are procedural defects in the removal. a) What filing should Leo file to seek a return of the case to state court? b) What time limits, if any, does Leo face to file this filing? (4 pts)**
- 2.3 Leo timely made the proper filing to raise objections to the removal. He objected that the removal was improper because: (1) Tex did not join in the removal; (2) the removal was untimely; and (3) the plaintiff is a citizen of the forum state. How should the court rule on each of Leo's objections? Explain fully. (9 pts)**
- 2.4 The case remained in federal court. During discovery, Leo learned that Fred Fredricks, the owner of Gator, had purchased a new home in Louisiana shortly before Leo filed the suit. Leo believed that this means there is a complete lack of diversity among the parties. He filed a motion on June 15, 2022 to challenge the removal on those grounds. In response to the motion, the defendants argued that Leo's arguments are untimely. How should the court rule on the defendants' argument that Leo's motion is untimely? Explain fully. (5 pts)**
- 2.5 The case remained in federal court. Leo finally found a current address for Tex in Texas and mailed him a copy of the complaint, two copies of a request for waiver of service form, and a prepaid return envelope and satisfied the other requirements of Fed. R. Civ. Proc. 4(d) regarding requests for waiver of service.**
 - (a) Tex refused to sign the waiver of service because he did not want to waive what he believed is a valid objection to the state court's personal jurisdiction over him. Is Tex's concern is well founded? Explain fully. (3 pts)**
 - (b) Shortly after Tex refused to sign and return the waiver of service, Leo had formal service papers delivered personally to Tex. What financial penalties, if any, does Tex risk incurring because of his refusal? Explain fully. (3 pts)**

TEST CONTINUES ON NEXT PAGE

2.6 The case remained in federal court. Gator Automotive and Easy Rider filed a motion for summary judgment and argued that all claims against them should be dismissed because the tire was not defective. The motion was supported by affidavits from three expert witnesses retained by Easy Rider from local engineering universities. Each testified that an inspection of the damaged tire revealed no manufacturing defects and thus that the deflation must have been caused by a puncture. Leo opposed the motion with an affidavit from a single expert engineer, whom Leo is paying \$750 per hour for his work. Leo's expert testified that he could find no evidence of a puncture in the tire; that, in his opinion, the tire's poor-quality air-valve allowed the air to leak from the tire; and that his testing demonstrated such leaking. He has testified for plaintiffs more than a dozen times in similar tire failure cases and earned a great deal of money doing so.

- (a) What standard for assessing the motion for summary judgment should the court use? Explain fully.
- (b) How should the submissions of the parties be analyzed under the applicable standard? Explain fully.
- (c) How should the court rule on the motion? Explain fully.

(8 pts)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2023**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Improper joinder to defeat diversity
- 3.2 11th Amendment immunity
- 3.3 Grounds for judgment as a matter of law
- 3.4 Supplemental jurisdiction; subject matter jurisdiction
- 3.5 Scope of diversity
- 3.6 Rule 11
- 3.7 Substitution of parties; amending pleadings
- 3.8 Res judicata
- 3.9 Class actions
- 3.10 Pre-trial procedure

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST