

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
JULY 2022**

**QUESTION 1 (40 POINTS)**

**PART A (35 POINTS)**

Dan, a citizen of Arkansas (AR), owns Star Petroleum, Inc. (“*Star*”), a corporation organized in Delaware (DE), which is an oil field service company with its principal place of business in Shreveport, Louisiana (LA).

Gulf Coast Oil & Gas Service, LLC (“*Gulf Coast*”) is a limited liability company that is organized under LA law and operates in LA and Texas (TX). Gulf Coast has two members, each owning 50% of Gulf Coast: MakeABuck, Inc. (“*MakeABuck*”) and Opulent Investments, LP (“*Opulent*”).

Mark, who lives in New Orleans, LA, owns 100% of the stock in MakeABuck and is its president. MakeABuck is validly organized under Mississippi (MS) law and has its main office in Gulfport, MS where MakeABuck’s other two officers handle the daily affairs of the business. Mark calls in daily and visits the Gulfport office twice a month to go over reports.

Opulent is a limited partnership validly organized under LA law. Its sole general partner is Woodlands Money, LLC (“*Woodlands*”), a LA limited liability company. Randy, who lives in TX, is Woodlands’ sole member. The sole limited partner in Opulent is Billy, Mark’s younger brother. Billy lived in New Orleans all his life until he went to live in Waco, TX three years ago to attend Baylor University. Billy’s plan after graduation is to stay in Waco to get his MBA.

Star and Gulf Coast entered into an agreement last September. The agreement provided for Gulf Coast to transport material from Caddo Parish to a well Star was drilling for Dan in DeSoto Parish. One night, a driver for Gulf Coast damaged a water transfer pipe owned by Dan when he backed his truck into it and caused \$50,000 worth of property damage; this damage in turn led to Dan’s having to shut down his well while this pipe was repaired, resulting in Dan’s losing \$30,000 in profits from this well. Gulf Coast then stopped communicating with Star and failed to fulfil its remaining obligations under its agreement with Star.

Dan and Star filed a complaint against Gulf Coast in federal court in Shreveport, Louisiana (Western District). The complaint alleges a tort claim for \$50,000 in property damage to Dan’s water system, \$30,000 for lost profits from Dan’s well and \$100,000 in damages for Gulf Coast’s breach of its contract with Star and all other damages Dan or Star may be entitled to.

*Please answer the following three 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 the complaint? Explain fully. (30 points)**
- 1.2 For purposes of this Question 1.2 only, assume that more than a year after the suit is filed and after an answer has been filed and much discovery has been conducted, MakeABuck moves its main office and officers to Louisiana and that Gulf Coast promptly then filed a motion to dismiss for lack of subject matter jurisdiction arguing that Star and Gulf Coast are now non-diverse parties. Should the court grant Gulf Coast’s motion to dismiss? Explain fully. (5 points)**

**PART B (5 Points)**

- 1.3 Can the federal court in Louisiana exercise personal jurisdiction over Gulf Coast? Compare and contrast the two forms of personal jurisdiction, and generally discuss the factors that courts look to in determining whether such jurisdiction exists. (5 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
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JULY 2022**

**QUESTION 2 (40 POINTS)**

Larry is a citizen of Rayville, Louisiana and owns and operates a crop-dusting company. To supplement his income, Larry has his planes pull advertising banners during the course of their crop dusting. He mainly services farms in northeast Louisiana, including Richland Parish.

One day while crop dusting and pulling an advertising banner, the cable to the banner came unhooked from the plane and ended up falling on a car traveling on a nearby highway causing the car to cross the median and overturn. Driving the car was Cami, a California citizen and resident. Cami sustained personal injuries and damages to her car in excess of \$100,000.

Cami timely filed suit against Larry in a Rayville, Louisiana state court on April 22, 2021. Her petition, consistent with Louisiana law, did not demand a particular amount of damages, and the petition offered no greater description of Cami's personal injuries other than to state that she had "suffered physical injuries and property damage as a result of the wreck."

Cami delayed service on Larry for two months, as permitted by Louisiana law. After being served, Larry attempted to conduct discovery to learn the details about Cami's injuries, but Cami requested several extensions of time and said in answers to interrogatories only that she had suffered back injuries for which she continued to receive treatment along with damages to her car. Cami eventually produced her medical records to Larry on May 23, 2022, 13 months after suit was filed. The records showed that Cami suffered two ruptured discs 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 Cami's settlement demand for \$400,000. Twenty-seven days after receiving the medical records and receiving this first indication of the amount in controversy, Larry seeks to remove the case to federal court.

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

- 2.1 What steps must Larry take to remove this case to federal court? Explain fully. (5 points)**
- 2.2 To which federal court may the case be removed? Explain fully. (2 points)**
- 2.3 What objections, if any, might Cami reasonably raise to the removal? Explain fully. (7 points)**
- 2.4 (a) What must Cami file to seek a return of the case to state court, and is she likely to succeed? Explain fully. (2 points)**  
**(b) What time limits, if any, does she face? Explain fully. (2 points)**

Assume for Questions 2.5 through 2.7 below that the case was removed and remains in federal court.

**2.5** A Louisiana statute provides that a party in possession of audio or video recordings of another party, such as made by an investigator, must provide them to the recorded party before that party sits for a deposition.

A second Louisiana statute provides that a plaintiff may not recover more than the “Blue Book” value of a destroyed car, even if the plaintiff can prove that her car was more valuable. The federal law does not include any such discovery requirements or damage limitations.

Cami believes that Larry has video surveillance of her and that modifications to her car made it much more valuable than the Blue Book listing.

- (a) Should the federal court in Cami’s case apply the Louisiana statute regarding video recordings? Explain fully. (4 points)
- (b) Should the federal court in Cami’s case apply the Louisiana statute regarding Blue Book values? Explain fully. (4 points)

**2.6** *Solely for this Question 2.6, also assume the following additional facts.* Larry filed a motion for summary judgment and argued that all claims against him should be dismissed because it was not his plane that was defective, but rather it was the brace that connects the banner to the plane. The brace and banner come as one component from the marketing firm that Larry contracts with, RM Marketing LLC. Larry’s motion was supported by affidavits from two expert witnesses retained by Larry. Each testified that an inspection of Larry’s plane revealed no defects but that the bracket had a weak spot and broke causing the banner to fall. Cami’s expert testified that he could find no issue with the bracket’s construction and that, in his opinion, it was Larry’s maneuvers while flying that caused too much stress on the bracket leading to its failure.

How should the court rule on Larry’s motion for summary judgment? Explain fully. (8 points)

**2.7** *Solely for this Question 2.7, also assume the following additional facts.* The case proceeded to trial before a jury. At the close of the evidence, Larry was convinced that Cami failed to prove her claims.

- (a) What steps should Larry take to seek judgment in his favor before the case is submitted to the jury? Explain fully. (3 points)
- (b) What standard should the court apply in addressing Larry’s efforts for a judgment in his favor before the case is submitted to the jury? Explain fully. (3 points)

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION  
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JULY 2022**

**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 Supplemental jurisdiction; subject matter jurisdiction
- 3.2 Interpleader
- 3.3 Timing of appeals; interlocutory dismissals
- 3.4 Removal; joining of defendants
- 3.5 Joinder of claims
- 3.6 Service of process; waiver of service; time for answering
- 3.7 Discovery; work product privilege
- 3.8 Venue
- 3.9 Res judicata
- 3.10 Pre-trial procedure

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
FEBRUARY 2022**

**QUESTION 1 (40 POINTS)**

Luke, a long-time resident of Louisiana (LA), hired United Docks and Lifts LLC (“*United*”) to build a covered boat house and a dock and install a boat lift at his new house on the lake. United is a Louisiana limited liability company that specializes in designing, manufacturing, and building custom docks, boat houses, and boat lifts. United has two members: Do Good Work, Inc. (“*Good*”) and Rich Investments, L.P. (“*Rich*”).

Good is a corporation organized in Delaware (DE). All shares of Good are owned by Mark, who lives in Mississippi (MS). Good has offices in several states but Good’s largest facility is located in Arkansas (AR). Good’s vice presidents who oversee, direct and coordinate its operations are located in Good’s MS office. Good also has manufacturing facilities in 5 other states with its two largest in LA and AR.

Rich is a limited partnership organized under Louisiana law. Its sole general partner is Green Money, LLC (“*Money*”), which is a LA limited liability company. Jack, who lives in Texas (TX), is Money’s sole member. The sole limited partner of Rich is Big Bucks, Inc. (“*Big Bucks*”), a Texas corporation with its principal place of business in Austin, TX.

A few months after United completed construction, Luke was caught in a violent storm when docking his boat under his new boat house. As Luke was attempting to secure his boat by lifting it out of the water, heavy winds caused the roof of the boat house to collapse and cause the cables of the boat lift to snap. The boat was damaged from the collapsed roof and Luke’s arm was severely injured. Luke was airlifted to a hospital for emergency surgery to his arm. Luke will require several months of physical therapy and may never regain full range of motion in his arm.

After the accident, Luke moved to MS with his girlfriend so that she can assist him in his recovery. Luke asked a friend of his to watch his house while he is gone. Luke has enjoyed the six months living in MS with his girlfriend but he has not decided if he is ready to leave his friends and family back home in LA for good.

Luke filed a complaint against United in a Louisiana federal district court. The complaint prays for an award of the property damage, medical bills and lost wages as well as any and all other damages Luke may be entitled to.

*Answer the following questions; a correct answer without an explanation or discussion will not be awarded any points.*

- 1.1. Does the Louisiana federal district court have subject matter jurisdiction over Luke’s complaint? Explain fully. (25 points)**
- 1.2. Shortly after the action was filed, Good moved its main office and executive vice presidents to LA. United promptly then filed a motion to dismiss for lack of subject matter jurisdiction on grounds that Luke and Good are now non-diverse parties.**

**Should the court grant United’s motion to dismiss? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

**1.3. Assume the following additional facts solely for this question 1.3. United had a contract with Pat, a Louisiana citizen, to supply materials for the construction of Luke's dock, lift and boat house. The contract called for specific grades of materials to be used for this project. Early discovery suggests that the lumber and cable supplied by Pat did not meet the contractual quality standards and that United was unaware that Pat supplied lower grade materials. United filed a motion for leave to file a third-party complaint against Pat, and Luke filed a motion to file an amended complaint adding Pat as a defendant.**

- a. Will the federal court still have jurisdiction if it grants United's motion?**
- b. Will the federal court still have jurisdiction if it grants Luke's motion?**

**Explain fully. (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
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FEBRUARY 2022**

**QUESTION 2 (40 POINTS)**

George, a Georgia citizen, was eating dinner at Cajun's Restaurant ("*Cajun's*") in Louisiana, when he slipped on a puddle of water. George filed a petition in a St. Landry Parish, Louisiana state court against Cajun's, a Louisiana corporation with only the single restaurant. His petition, consistent with Louisiana law, did not demand a particular amount of damages and offered no greater description of George's injuries than to state that he had "suffered physical injuries as a result of the slip and fall."

George delayed service on Cajun's for two months, as permitted by Louisiana law. After being served, Cajun's attempted to conduct discovery to learn the details about George's injuries, but George requested several extensions of time and said in answers to interrogatories only that he had suffered a knee injury for which he continued to receive treatment. After additional delay, George eventually produced his medical records to Cajun's, 13 months after suit was filed. The records showed that George suffered ligament injuries to his knee. His treating physician told him soon after the accident that he would need expensive surgery and lengthy rehabilitation. The production of the medical records was accompanied by George's settlement demand for \$200,000. Cajun's now wants to remove the case to federal court 27 days after the medical records were produced.

- 2.1. Describe in detail the procedure and requirements Cajun's counsel must follow to remove the case to federal court. To which federal court may the case be removed? (5 points)**
- 2.2. If the case is removed to federal court:**
- a. What steps must George take, and what grounds may he assert, to seek a return of the case to state court?**
  - b. What time limits, if any, does George face to take these steps to seek a return of the case to state court?**
  - c. What effect, if any, would George's delay in answering discovery have on the removability of the case?**

**Explain fully. (10 points)**

**Assume for questions 2.3 and 2.4 that the case was removed and remains in federal court.**

- 2.3. Assume the following additional facts solely for this question 2.3. Cajun's filed a motion for summary judgment that was supported by an affidavit from a Cajun's chef, who states that she saw George walk by the kitchen but did not see him fall. Cajun's also submitted an affidavit from George's former co-worker, who states that George had a drinking problem for the last several years and that George had been through at least two rehabilitation facilities. George opposed the motion and offered his own affidavit in which he states that he did slip and fall in the puddle of water and in which he suggests that the chef must have looked away before he fell.**
- a. What is the applicable standard for assessing Cajun's' motion for summary judgment? How should each party's submissions be analyzed under the applicable standard?**
  - b. How should the court rule on Cajun's' motion for summary judgment? Explain fully.**

**Explain fully. (20 points)**

TEST CONTINUES ON NEXT PAGE

- 2.4. *Assume the following additional facts solely for this question 2.4.* The owner of Cajun's met with an attorney to discuss a defense to the lawsuit. The attorney asked the owner to gather up all paperwork and records Cajun's had related to the restaurant's maintenance and clean-up procedures and send them to the attorney. Cajun's owner later delivered the business records to the attorney along with a letter in which the owner of Cajun's explained why he believed Cajun's did not follow proper procedures the day of the accident and explained what was included in the business records. The attorney reviewed the records and determined that they would not be useful to a defense of the lawsuit. George served Cajun's 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 maintenance and clean-up procedures implemented by Cajun's."

In response to the request, must Cajun's produce:

- a. the letter from Cajun's owner to its attorney?
- b. the business records Cajun's delivered to its attorney?

Explain fully. (5 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE



**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
FEBRUARY 2022**

**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. Substitution of parties; amending pleadings
- 3.2. Rule 11
- 3.3. Waiver of defenses
- 3.4. Initial disclosures under FRCP 26
- 3.5. Appeal
- 3.6. Personal jurisdiction; timing of raising objections
- 3.7. Res judicata
- 3.8. Class actions
- 3.9. Interpleader
- 3.10. Rule 4; service

[End of Question 3]

[END OF FEDERAL JURISDICTION AND PROCEDURE TEST]

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
JULY 2021**

**QUESTION 1 (100 POINTS)**

Lonnie, a citizen of Louisiana, purchased a replacement roll-up door for his moving truck from Marty Movers (“Movers”), a Mississippi citizen doing business as a sole proprietor. The door was manufactured by Rollie Door Company (“Rollie”), a citizen of Texas, and installed by Movers in MS.

After Lonnie picked up his moving truck from Movers, Lonnie stopped to buy a large load of antique furniture with the intent to then deliver the furniture to his home in New Orleans. Lonnie was driving on the highway in Tangipahoa Parish, when one of the springs on the newly installed roll-up door suddenly popped, causing a loud sound. Lonnie pulled to the shoulder of the highway to make sure the roll-up door had not opened. Once Lonnie confirmed the roll-up door was closed, he got back into the cab of the truck. Before he drove off, his moving truck was struck by a large pickup truck driven by Albert, a citizen of Alabama. Lonnie suffered more than \$150,000 in property and personal injury damages.

Lonnie filed a suit in state court in Tangipahoa Parish on January 4, 2021, against Rollie, Movers, and Albert. Long arm service was made on Rollie on February 10, 2021 and on Movers on March 16, 2021. Lonnie’s initial attempts to serve Albert were unsuccessful, but Lonnie continued his efforts. Rollie and Movers discussed the matter and decided that they would prefer the case be heard in a federal court. Rollie and Movers were nervous that a deadline might be missed if they waited to hear from Albert, so Rollie and Movers took action on April 9, 2021 to remove the case to federal court.

- 1.1 What procedure and requirements should Movers and Rollie have followed to remove the case to federal court? To which federal court may the case be removed? Explain fully. (20 pts)**
- 1.2 Lonnie believes there are procedural defects in the removal. What must Lonnie file to seek a return of the case to state court? What time limits, if any, does Lonnie face? Explain fully. (7 pts)**
- 1.3 Lonnie timely submitted a proper filing to raise objections to the removal. Lonnie claims that the removal was defective because (1) Albert did not join in the removal, (2) the removal was untimely, and (3) the removal was improper because the plaintiff is a citizen of the forum state. Is each of these objections valid? Explain fully. (30 pts)**

TEST CONTINUES ON NEXT PAGE

*For the remaining questions 1.4 – 1.7, assume the case remains in federal court.*

- 1.4** Lonnie learned that Marty, the sole proprietor of Movers, purchased a new home in Louisiana shortly before Lonnie filed suit. Lonnie believes that this means there is a lack of complete diversity among the parties. On June 15, 2021, Lonnie filed a motion to challenge the removal for lack of complete diversity. The defendants contend that Lonnie’s arguments are untimely. How should the court rule on the defendants’ argument that Lonnie’s motion is untimely? Explain fully. (10 pts)
- 1.5** A Louisiana statute provides that a party in possession of audio or video recordings of another party, such as made by an investigator, must provide them to the recorded party before taking a deposition of the recorded party. A second Louisiana statute provides that a plaintiff seeking to recover damages for antique furniture damaged by another party may not recover more than the “Kovels’ Antiques and Collectibles Price Guide” value of the furniture, even if the plaintiff can prove that the furniture is more valuable. No federal law includes any such discovery requirements or damage limitations.
- Lonnie believes that the defendants have video surveillance of him and that his newly purchased furniture was much more valuable than the Kovels’ listing. Should the federal court apply either of the two state statutes in Lonnie’s case? Explain fully. (15 pts)
- 1.6** Albert believes that the only reason his truck struck Lonnie’s was that Albert was forced to the shoulder of the highway by an 18-wheeler owned and operated by Cajun Transportation, Inc. (CTI), a Louisiana corporation. What pleading should Albert file to assert a claim against CTI, and would the federal court have subject-matter jurisdiction over the claim? Explain fully. (10 pts)
- 1.7** Lonnie, on learning from Albert that CTI may have contributed to his damages, would like to assert his own claims against CTI. May Lonnie amend his complaint to add CTI as a defendant? Explain fully. (8 pts)

[End of Federal Jurisdiction and Procedure Test]

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
FEBRUARY 2021**

**QUESTION 1 (100 POINTS)**

**PART A  
(70 Points)**

Fun Stuff, Inc. (FSI) develops and brings to market creative consumer products. FSI is incorporated in New York (NY) and registered to do business in Texas (TX), Louisiana (LA), and Mississippi (MS). Ann, who lives in LA, owns 75% of FSI stock. One minority shareholder owns the other 25%, and he lives in California (CA).

FSI's manufacturing facilities are in MS, and they generate about 80% of the company's revenues. The facilities employ more than 50 workers. An accountant and her assistant handle payroll, taxes, and personnel matters from an office in Bentonville, Arkansas (AR). They occasionally encounter a difficult issue and look to Ann for guidance to resolve it.

FSI's latest invention is a new process for coating silk neckties with a material that does not affect their appearance or feel but makes them repel food and water so that they will not stain. FSI's facility is not equipped to produce ties with the new process, so FSI contracted with Klutzy, LLC (Klutzy) to produce the ties, and distribute them to retailers.

All of Klutzy's management team and manufacturing facility are located in AR, and it is licensed to do business in TX, LA and MS, where it also distributes products. Klutzy is a limited liability company organized under Delaware (DE) law and has two members. Tim, who lives in TX, owns a 90% interest in Klutzy. Pete, who owns the remaining 10%, has lived in Georgia (GA) his entire life but moved to Florida (FL) eight months ago to care for his ailing father. Pete decided not to sell his home in GA but leased it to a friend for one year, subject to possible renewal. He returns every six weeks or so to check on things, but he has registered his automobile in FL and votes in FL. He is not sure whether he will return to GA, and he is undecided whether he will continue to live in FL after his father recovers or passes away. Physicians say it will be several more months before his father's health matter is resolved, and Pete is determined to stay at least until that resolution.

The contract between FSI and Klutzy requires that Klutzy keep the coating process confidential and not use it on any other line of neckties. FSI learned that Klutzy was nonetheless using the process on a line of ties that it marketed under the name Hipster Neckwear. FSI demanded that Klutzy cease production of the Hipster Neckwear, and Klutzy did so because it did not want to disrupt its otherwise profitable contractual arrangement with FSI.

TEST CONTINUES ON NEXT PAGE

FSI was not satisfied and filed suit in LA federal district court against Klutzy and prayed for recovery of the \$73,000 in profits Klutzy earned from sales of the Hipster Neckwear plus attorney fees under a Louisiana statute that allows an award of reasonable fees to the prevailing party in a case where a trade secret has been misappropriated.

*Questions 1.1 – 1.3 are based on the facts set forth above.*

**1.1 Does the federal district court have subject-matter jurisdiction over FSI's claims against Klutzy? Explain fully. (40 points)**

***FOR QUESTIONS 1.2-1.3, ASSUME THAT THE FEDERAL COURT HAS SUBJECT-MATTER JURISDICTION OVER FSI'S CLAIMS AGAINST KLUTZY.***

**1.2 Klutzy, in the course of investigating its relationship with FSI, determined that Klutzy had inadvertently overpaid FSI \$25,000 in royalties on tie sales. Klutzy wants to attempt to recover that amount from FSI without having to file a separate suit.**

**What procedural device should Klutzy use to assert its claim against FSI in the federal suit? Explain fully. (12 points)**

**1.3 Tess, a citizen of Texas, is a former employee of FSI who was primarily responsible for inventing the silk coating process. As part of her severance package, FSI gave Tess a 10% interest in FSI's profits from the use of the silk coating process on neckties. Tess would like to assert a claim against Klutzy for her share of proceeds from the Hipster Neckwear sales.**

**What procedural device should Tess use to assert her claim against Klutzy in the federal suit? Explain fully. (18 points)**

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**PART B**  
**(30 points)**

Tabitha, a citizen of Tennessee, opened a needlepoint supply store in a Louisiana (LA) town where there were three competing stores. The other stores began holding frequent sales, which caused Tabitha's store to struggle. She believed the other owners, all LA citizens, had conspired against her in violation of the Louisiana Unfair Trade Practices Act (LUTPA). She filed suit against the three competing owners in LA federal court based on diversity jurisdiction.

In addition to containing sufficient allegations as to subject-matter jurisdiction and venue, Tabitha's complaint alleged:

- (1) Plaintiff opened a needlepoint supply store and priced her goods at a fair markup.
- (2) Competing stores in town began holding sales, one after the other, so that one of them always offered the same goods for a lower price.
- (3) Plaintiff is of the belief that the three defendant owners conspired to structure their sales in the manner most harmful to Plaintiff's business, in violation of LUTPA.

The defendants' lawyers filed a motion to dismiss pursuant to Rule 12(b)(6) on the grounds that the complaint failed to state a claim on which relief may be granted. The defendants acknowledged that a person may state an actionable claim under the LUTPA based on an unfair conspiracy to restrain trade, but they argued that Tabitha's complaint was too conclusory to plead such a claim.

*Question 1.4 is based on the facts set forth above.*

**1.4 What legal standards should the court apply when assessing defendants' motion? Should the court grant or deny defendants' motion? Discuss. (30 points)**

[End of Federal Jurisdiction and Procedure Test]

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
OCTOBER 2020**

**QUESTION 1 (100 POINTS)**

**PART A (40 POINTS)**

Todd who lives in Austin, Texas (TX), and Luke, who lives in Houma, Louisiana (LA), are artists who jointly design and create paintings and sculptures with a Louisiana theme. They sell the items to stores and galleries.

When the two artists began their business relationship, they talked to Todd's sister, a Delaware (DE) lawyer, and she organized for them a DE limited partnership named ToLu, LP, with Todd and Luke as limited partners. Todd's sister is listed as the agent for service, and her DE law office address is listed as the partnership's registered office. The general partner is Everyday Art, Inc., a New York (NY) corporation, the shares of which are owned 50/50 by Todd and Luke. The corporation engaged in no activity except to hold the general partnership interest in ToLu, LP. Todd takes care of Everyday Art's few tax records and corporate records from his home office in Austin.

Todd and Luke, operating as ToLu, LP, were approached by Gabby, the owner of Bizart, Inc. (Bizart) about a large purchase of their artwork. Bizart is a DE corporation that operates a chain of stores in LA, Mississippi (MS), and Alabama (AL). Gabby, who lives in Lafayette, LA, owns 100% of the stock in Bizart, and she makes all the important decisions. She commutes three times a week to Bizart's office in Bay St. Louis, MS. The office has three employees who handle payroll, taxes, and the general business operations of the three-state chain of stores. Five of Bizart's nine stores are in LA, and the LA stores account for about 75% of sales.

ToLu, LP and Bizart, Inc. entered into a contract that calls for Bizart to purchase from ToLu a large quantity of artworks, for which Bizart is to pay \$2,000 per month for 60 months. During that five-year period, the contract prohibits ToLu from selling any similar artworks to another dealer.

Soon after the contract was signed, Luke had a stroke. He was hospitalized in Houma for a week, then transferred to a Jackson, MS rehabilitation facility, where he has been for the past several months. Luke's physicians say his recovery is uncertain, but Luke says he is determined to make a comeback, and he has continued to pay the mortgage on his Houma home so that it is ready for him when he is well.

TEST CONTINUES ON NEXT PAGE

Bizart made timely payments of \$2,000 a month for 12 months, but the payments stopped and Bizart became three months in arrears. When ToLu made demand for payment, Bizart responded through its attorney that similar pieces of art produced by ToLu had been seen in competing galleries and thus that Bizart considered ToLu to be in breach of the contract and thus did not intend to make any additional payments to ToLu.

ToLu has just filed a complaint against Bizart in a Louisiana federal district court for damages from a breach of contract by Bizart and for a declaration that the contract continues to be in effect.

Bizart has filed a proper objection to the court's diversity subject matter jurisdiction.

- 1.1 Is Bizart's objection to diversity subject matter jurisdiction likely to succeed? Explain fully. (40 points)**

**PART B (30 POINTS)**

Missy, a Mississippi (MS) citizen, purchased a prescription drug from Magnolia Pharmacy, Inc., a MS corporation. Missy soon suffered liver damage, which she blamed on the drug. Two weeks ago, she filed suit in a MS state court against both Magnolia Pharmacy and Pharma, Inc., the New Jersey (NJ) manufacturer of the drug. Missy's state court petition alleges a claim against Pharma under MS's products liability act on the grounds that the drug was unreasonably dangerous in composition. The petition alleges that the unreasonableness is demonstrated by the fact that the manufacturing tolerances allowed by Pharma did not comply with federal drug safety regulations.

Missy's petition was just served on Pharma. Pharma's attorney has reviewed MS law and finds that it provides that a retailer may not be liable unless it knew or should have known of the dangerous potential of a product. Missy's petition does not include any such allegations against Magnolia Pharmacy.

- 1.2 Does Pharma have a basis to remove the case to federal court under diversity jurisdiction? Explain fully. Set forth the applicable standard the federal court is to apply in determining whether to permit the removal. (18 points)**
- 1.3 Does Pharma have a basis to remove the case to federal court under federal question jurisdiction? Explain fully. (12 points)**

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**PART C (30 POINTS)**



Pam has filed a complaint in federal court alleging that defendant, Dan, ran a red-light traffic signal, crashed into Pam's car, and caused more than \$200,000 in property and personal injury damages. Pam and Dan are citizens of different states.

Dan has filed a motion for summary judgment. The motion is supported by Dan's affidavit, in which Dan testifies that he was watching the traffic signal and saw that he had a green light when he entered the intersection. Dan asks for summary judgment on the grounds that the evidence shows he was not at fault in causing the accident.

Pam, in turn, filed a memorandum in opposition to Dan's motion for summary judgment. In support, Pam also filed her own affidavit testimony. Pam testified that she had no recollection of the accident, but that her passenger, Will, was by Pam's bedside when Pam awoke in the hospital, and that Will immediately told Pam that Will distinctly saw that Pam had a green light at the intersection.

**1.4           Should the court grant the motion for summary judgment? Set forth the applicable standard for assessing a motion for summary judgment and analyze the submissions of both Pam and Dan under the applicable rules in coming to your conclusion. (30 points)**

[End of Federal Jurisdiction and Procedure Exam]

**LOUISIANA STATE BAR EXAMINATION  
FEDERAL JURISDICTION AND PROCEDURE  
AUGUST 2020**

**QUESTION 1 (100 POINTS)**

Sturdy Sheds, LLC (Sturdy Sheds) is a Louisiana limited liability company that specializes in the design, manufacturing and sales of packages for assemble-yourself, unconstructed sheds for residential use. A Sturdy Sheds shed package contains all the parts for the shed and detailed instructions for assembling and erecting the shed, but the purchaser is responsible for assembling and erecting the shed.

Fifty percent (50%) of Sturdy Sheds is owned by Barn Doors, Inc. (Barn Doors), which is incorporated in Delaware (DE). All shares of Barn Doors are owned by Joseph, an individual who lives in New York (NY). Barn Doors' executive office is located in NY, but Barn Doors' vice presidents who oversee all daily operations are in Barn Doors' Florida (FL) office. Barn Doors has manufacturing facilities in FL, Alabama (AL) and Mississippi (MS).

The other 50% of Sturdy Sheds is owned by Bucks, L.P., a limited partnership organized under Louisiana law. Its sole general partner is Tex, who has always lived in Houston, Texas (TX); its sole limited partner is Cal, who has always lived in San Diego, California (CA).

Plaintiff, a long-time resident of Lafayette, Louisiana (LA), recently decided to purchase and construct a Sturdy Sheds shed in his back yard to protect his five-year old tractor, which he had personally customized over the past several years with various improvements. Plaintiff ordered a shed package from Sturdy Sheds over the internet for \$10,000, and Sturdy Sheds then had a common carrier deliver the shed package to Plaintiff's home. Plaintiff promptly assembled and erected the shed. Shortly thereafter, while Plaintiff was sitting on his tractor in his new shed, heavy winds caused the roof to cave in and severely injure Plaintiff. The shed was completely destroyed. The damage to Plaintiff's tractor is estimated at \$45,000. His medical bills will total \$15,000. Plaintiff has also suffered several months of serious pain during his recovery, and his doctors say he will have lifelong knee pain because of the accident.

Following the accident, Plaintiff moved in with his son in FL so that his son could look after him during his recovery. Plaintiff let a friend look after his home in LA. Plaintiff was able to work from his son's home, so he did not suffer any lost wages. Plaintiff found prospects for a great job in FL and has enjoyed having his son care for him during the first six months of recovery. Doctors state that Plaintiff will be recovered enough to care for himself soon, but Plaintiff is undecided where he will live after that.

TEST CONTINUES ON NEXT PAGE

Plaintiff has filed a complaint against Sturdy Sheds in a Louisiana federal district court. The complaint identifies the cost of the shed, the estimated dollar amount of the damage to Plaintiff's tractor and the amount of his medical bills, but it does not describe the nature or extent of his personal injuries. The complaint prays for an award of all damages to which Plaintiff is entitled.

*Answer the following questions; a correct answer without an explanation or discussion will not be awarded any points.*

- 1.1 Does the federal district court in Louisiana have subject matter jurisdiction over Plaintiff's complaint? Explain fully. (25 points)
- 1.2 Does the federal court in Louisiana have personal jurisdiction over Sturdy Sheds? Would your answer change if Plaintiff, rather than accepting delivery of the shed package at his home in LA, drove to Sturdy Sheds' facility in MS to select and purchase the shed package and then personally drove it back to his home? Explain fully. (15 points)

**FOR ALL OF THE REMAINING QUESTIONS, ASSUME THAT THE LOUISIANA FEDERAL DISTRICT COURT HAS SUBJECT MATTER JURISDICTION OVER PLAINTIFF'S COMPLAINT AND PERSONAL JURISDICTION OVER STURDY SHEDS.**

- 1.3 *For question 1.3 only*, assume that a Louisiana statute provides that a plaintiff may not recover more than the "Agricultural Blue Book" value of a destroyed tractor even if the plaintiff can prove that the tractor was more valuable; that federal law does not include any such damage limitations; and that Plaintiff believes that modifications to his tractor made it much more valuable than the Agricultural Blue Book listing. Should the federal court apply the Louisiana statute in Plaintiff's case? Explain fully. (10 points)
- 1.4 *For question 1.4 only*, assume that more than a year after the suit was filed and after an answer has been filed and much discovery has been conducted, Barn Doors moved both its executive office and its vice presidents to LA and that Sturdy Sheds promptly then filed a motion to dismiss for lack of subject matter jurisdiction. Should the court grant Sturdy Sheds' motion to dismiss? Explain fully. (10 points)
- 1.5 *For questions 1.5 and 1.6 only*, assume that the suit was originally filed by Plaintiff in Louisiana state court. What procedure and requirements must Sturdy Sheds follow to remove the case to federal court; and to which federal court may the case be removed? Explain fully. (25 points)

TEST CONTINUES ON NEXT PAGE

**1.6** *For question 1.6 only, assume that the case is removed as described in question 1.5 above, but that the removal occurred within thirty days after Plaintiff answered discovery which first disclosed that his damages would exceed \$75,000, but these discovery answers were provided after much delay by Plaintiff, more than a year after the suit was filed.*

- a) What steps must Plaintiff take to seek a return of the case to state court?
- b) What effect, if any, would the delay of Plaintiff in answering discovery have on the removability of the case?
- c) What is the effect, if any, on Plaintiff's action if he takes steps to return the case to state court 40 days after the removal?

**Explain fully. (15 points)**

[End of Federal Jurisdiction and Procedure Test]