Federal Jurisdiction and Procedure: Final Examination (January 13, 1971)

William & Mary Law School
1. Congress enacted comprehensive legislation regulating common carriers engaged in interstate telephone transmission, including the Communications Act of 1934 which provides that a suit may be brought in federal court for damages resulting from a common carrier's violation of specific provisions of the Act. P Broadcasting Co., a New York corporation engaged in interstate communications, contracted with American Telephone and Telegraph Co., a New York corporation, to provide telephone communications service in connection with P broadcasting Syracuse University football games. P brought an action in a New York federal court for $100,000.00 damages for alleged negligence and breach of contract in providing the telephone services, against AT&T. AT&T filed an answer denying liability and a counterclaim for $9,000.00 due for services rendered under the contract. P filed an answer to the counterclaim denying liability. The two law clerks, Cicero and Plato, to the federal district judge were discussing the pleadings when Cicero suggested that the court should discuss the counterclaim, and Plato suggested that the court should dismiss the entire case. (1) What reasoning would each law clerk make to support his conclusion? (2) The federal district judge refused to follow the suggestions of either law clerk, and set the case for trial on the merits. What reasoning did the court use to support this conclusion?

2. D, a New York citizen, assaulted P, a California citizen, in Florida causing $25,000.00 in damages. Answer each of the following questions giving consideration to jurisdiction, venue, service and forum non conveniens: (a) May P bring an action in the U. S. District Court in New York in the district of D's residence? (b) May P bring an action in the U. S. District Court in California in the district of P's residence, assuming that California has a long arm statute? (c) May P bring an action in the U. S. District Court in Florida, assuming that Florida does not have a long arm statute and that D has returned to New York prior to the institution of the action? Continuing to make these two assumptions, how would it be possible for the case to be tried and concluded in the U. S. District Court in Florida?

3. D, a citizen of Virginia, while operating a motor vehicle in Illinois, was involved in an automobile accident in which P, a citizen of North Carolina was injured. Under Illinois law a plaintiff must allege and prove his freedom from contributory negligence whereas under Virginia law, contributory negligence is an affirmative defense of a defendant. P, in order to avoid the Illinois law, brought an action against D in the Federal District Court of D's residence in Virginia for $50,000.00 in damages because of D's alleged negligence. What courses of action, including the specific motions and pleadings, should D take in order to assure that the Illinois rule of contributory negligence will be applied as to the pleadings, and the burden of proof? Give reasons for your conclusions.
4. P and his wife and four children, who were citizens of Florida, were driving through Virginia on their way to New York when their vehicle was struck by a truck which was owned and operated by the D Corporation, formed under the laws of Virginia, but authorized to do business in Florida. P had taken business law in college; therefore, P decided that he would handle his own case and thus avoid incurring attorneys fees. P therefore wrote a narrative statement of the facts of the automobile accident, including the injuries to each member of his family, and concluded the statement with a demand for $12,000.00 damages for P, $8,000.00 damages for his wife, and $4,000.00 damages for each of his four children. P filed the statement with the appropriate federal district court in Virginia, paid the court costs, and process was served on the D Corporation. The attorney for D Corporation filed a motion to dismiss for lack of jurisdiction, for failure to allege jurisdictional facts, and for failure to allege a claim for which relief could be granted. How should the court rule? Why?

5. In the case of P vs. D, which had been properly brought in the federal District Court for the Eastern District of Virginia where jurisdiction was based on diversity of citizenship, the court entered an order which required the federal marshal to take possession of a certain automobile worth $2,000.00 which was owned by D. As a matter of fact ME, a citizen of Virginia, had a lien on the car for $2,000.00, and D was in default in making his monthly payments on the car to ME. ME wanted possession of the car in order to foreclose his lien; therefore ME brought a detinue suit in the Virginia court against the marshal. The Virginia court entered judgment in favor of ME for possession of the car whereupon the Supreme Court of the United States issued a writ of certiorari. Result? Why? What should ME have done?

6. C, a citizen of West Virginia, owed $25,000.00 to B, a citizen of North Carolina, and A, a citizen of Virginia, jointly. A was very anxious to collect the debt but B realized that if a suit were brought against C, it would ruin C's business reputation and cause C irreparable harm. A, therefore brought an action for $25,000.00 against C in a Virginia state court, and joined B as a party defendant and alleged that B was a joint creditor with A, but refused to bring the action with A. C reasoned that if he could remove the case to a federal court, it would get it away from the locality of his residence and business and thus tend to minimize harm to C. C therefore requested B (who had been served with process under the Virginia long arm statute) to join with C in a petition to remove the case to the federal district court. C had been served with process from the Virginia state court while C was traveling through Virginia on a vacation. B refused to do anything and said that he would not participate in the proceeding in any way, shape, fashion or form. What can C do to accomplish his objectives? Give reasons for your conclusions.