

MULTIPLE CHOICE ANSWER SHEET

ANSWER THE MULTIPLE CHOICE QUESTIONS BY CIRCLING THE APPROPRIATE LETTER IMMEDIATELY TO THE RIGHT OF EACH NUMBER.

Question No. Alternative Answers (Circle the correct answer)

- | | | | | | |
|-----|---|---|---|---|---|
| 1. | A | B | C | D | E |
| 2. | A | B | C | D | E |
| 3. | A | B | C | D | E |
| 4. | A | B | C | D | E |
| 5. | A | B | C | D | E |
| 6. | A | B | C | D | E |
| 7. | A | B | C | D | E |
| 8. | A | B | C | D | E |
| 9. | A | B | C | D | E |
| 10. | A | B | C | D | E |
| 11. | A | B | C | D | E |
| 12. | A | B | C | D | E |
| 13. | A | B | C | D | E |
| 14. | A | B | C | D | E |
| 15. | A | B | C | D | E |
| 16. | A | B | C | D | E |
| 17. | A | B | C | D | E |
| 18. | A | B | C | D | E |
| 19. | A | B | C | D | E |
| 20. | A | B | C | D | E |
| 21. | A | B | C | D | E |
| 22. | A | B | C | D | E |

DO NOT DETACH THIS ANSWER SHEET FROM THE REMAINDER OF THE EXAM BOOKLET. THE ENTIRE EXAM BOOKLET -- THE ANSWER SHEET AND THE QUESTIONS --MUST BE RETURNED TO THE INSTRUCTOR.

CIVIL PROCEDURE I

**PART ONE -- MULTIPLE CHOICE
(ONE HOUR)**

INSTRUCTIONS:

1. Part One consists of a series of 22 multiple choice questions. IT COUNTS FOR ONE THIRD OF YOUR GRADE SO USE YOUR TIME ACCORDINGLY.
2. Make sure that your examination number appears in the upper right-hand corner of every page (there are 28 pages).
3. DO NOT SEPARATE the pages -- leave them stapled together.
4. It is recommended that you use a pencil for this part of the examination in case you want to change an answer.
5. Each question is followed by a number of alternative answers. Select the best of the stated alternatives.
6. Answer each question by circling the appropriate letter on the answer sheet.
7. Select only one of the stated alternatives.
8. Do not qualify your answer in any way. If you think that an entire question is inherently misleading or contains an internal inconsistency, you may so state on the reverse side of the answer sheet. Identify the question by number and give your reasons. If I agree with you, I will discard the question completely for the entire class. Even if you feel that a question should be discarded, answer it anyway.
9. Scores on this part of the examination will be determined by the total number of correct answers, not "right minus wrong".
10. Do not assume facts not presented. In particular, do not assume the existence of statutes not set forth in the facts. Decide the questions solely on the basis of the facts as given. Facts in each question within a series, however, are cumulative; for example, the facts in Question 14 should be considered in answering Question 15.

1. Which is a correct statement about interstitial federal common law:

- A: it is created to fill gaps in federal statutes.
- B: it is created by federal courts to fill gaps in state law.
- C: it was abolished by Erie R. Co. v. Tompkins, 304 U.S. 64 (1938).
- D: it can only be created where the interests of the United States in a nationwide federal program are at issue.
- E: it was abolished by the Rules of Decision Act.

2. On June 6, 1992, Ms. Big, then a citizen of Ohio, files suit against Mr. Bird, a resident of Florida, in federal court in Ohio. The complaint contains two claims, one for breach of contract (for \$20,000) and one in tort for an unrelated personal injury (for \$33,000). Six months after filing the suit Ms. Big retires to Florida which she intends to make her permanent home. During trial of the action Mr. Bird for the first time raises the defense of lack of subject matter jurisdiction. Does the Court have subject matter jurisdiction?

- A: no, because the parties are no longer diverse.
- B: no, because the amount in controversy requirement is not met.
- C: yes, because the parties were diverse when the complaint was filed and the amount in controversy requirement is met.
- D: yes, because the parties are currently diverse and the amount in controversy requirement is met.
- E: yes, because defense was waived as it was not raised until trial.

3. Mr. Monster sues Mr. Sesame (citizen of Texas) in federal court for two separate claims. The first claim, a federally created cause of action, alleges that Mr. Monster, a Utah citizen doing business in Texas, suffered \$1 million in damages as a result of a price fixing scheme by rival cookie maker Sesame. The second claim in tort is for common law fraud and arises out of the same activities and seeks \$100,000 in damages. The district court:

- A: has subject matter jurisdiction over the first claim under 28 U.S.C. 1331, and over the second claim under 28 U.S.C. 1367.
- B: has subject matter jurisdiction over the first claim under 28 U.S.C. 1331, but lacks jurisdiction over the second claim because it is not part of the same case or controversy.
- C: has subject matter jurisdiction over the first claim under 28 U.S.C. 1331 and over the second claim under 28 U.S.C. 1367, but the court in its discretion may decline to exercise jurisdiction over the second claim for any of the reasons listed in 1367(c).
- D: has subject matter jurisdiction over the claims under 28 U.S.C. 1331 and 1332.
- E: has subject matter jurisdiction over both claims under 28 U.S.C. 1331.

4. Bert and Ernie were two brothers who grew up together in Georgia. Bert moved East and set up home in Massachusetts. Ernie moved North and now lives and prospects for gold in Alaska. Bert wants to file suit in Georgia state court claiming that he owns a large tract of land, currently in use as a garbage dump, in the center of Georgia and name as defendants Ernie who claims that he owns half of the land and any other person making any claim to the land. Bert checks Georgia law and finds that its long arm statute authorizes Georgia courts to exercise jurisdiction to the full extent allowed by the due process clause. Bert's best method for asserting personal jurisdiction in this case is:

- A: to sue in personam.
- B: to sue in rem.
- C: to sue quasi in rem.
- D: to sue quasi in rem but first to attach the property.
- E: to sue in rem and quasi in rem.

5. Batman files a complaint against Robin for libel in federal court. Batman attempts to serve Robin himself. Batman personally takes the summons and complaint to Robin's home and leaves it with Mrs. Cat, a nanny who has resided with Robin for five years and cares for his thirteen kids. Robin returns home, is infuriated that Mrs. Cat has accepted service and fires her. Robin files a motion to dismiss for insufficiency of service of process under Rule 12(b)(5). The court should:

- A: grant the motion because service can only be made on Robin personally.
- B: deny the motion because service was made by leaving copies with some person of suitable age and discretion then residing at Robin's home.
- C: grant the motion because service was made by leaving copies with a person of suitable age and discretion, but who was not a permanent resident of Robin's home.
- D: grant the motion because service was made by Batman.
- E: deny the motion because service does not need to be made by a marshal.

6. Snoopy and Lucy get into a fight on June 15, 1991. On June 1, 1992, Plaintiff Snoopy, an Texas resident, files suit for assault in federal court in Ohio against defendant Lucy, a resident of Ohio, seeking damages in the amount of \$300,000. Lucy takes an extension of time to answer or move in response to the complaint until July 1, 1992. On June 25, 1992 prior to Lucy filing an answer, Snoopy files an amended complaint which adds the additional claims of battery and intentional infliction of emotional distress arising out of the same fight. The next day defendant Lucy moves under Rule 12(b) to dismiss the amended complaint arguing that i. leave of court or her written consent to amend was required, and neither was obtained; and ii. the two additional claims are time barred (she correctly points out that the statute of limitations on both emotional distress and battery is one year from the date of the alleged incident). The court should:

- A: deny the motion
- B: grant the motion only on ground i.
- C: grant the motion only on ground ii.
- D: grant the motion on both grounds.
- E: dismiss the case for lack of subject matter jurisdiction.

7. Plaintiff Garfield(a corporation incorporated in Delaware and with its headquarters and all but one of its plants in Illinois) filed suit for \$20 million in federal court in Illinois alleging theft of trade secrets by defendants Odie and Jon (both citizens of Ohio) who worked in one of Garfield's Illinois plants where the alleged theft of trade secret occurred. Presume that the court has personal jurisdiction over both defendants. However, both defendants move to dismiss for improper venue. Plaintiff asserts that under the federal venue statute, 28 U.S.C. 1391, venue is proper. However, Illinois state law provides that "venue is only proper in a court within a hundred miles of the defendant's residence." The Illinois federal court was not within a hundred miles of Opus or Jon's residences. The Illinois federal court should:

- A: apply state venue law and dismiss the case for lack of venue.
- B: dismiss the case for lack of subject matter jurisdiction.
- C: apply federal law and deny the motion to dismiss because venue is proper under 28 U.S.C. 1391.
- D: apply federal law, but dismiss the case as venue is not proper in Illinois under 28 U.S.C. 1391.
- E: apply state law only if the application of federal law would lead to forum shopping or unfair administration of the laws.

8. The Rules Enabling Act, now set out at 28 U.S.C. 2072 is a federal statute which:

- A: enables the federal court to exercise personal jurisdiction.
- B: requires the federal courts to apply state law when it is not in conflict with the Constitution, laws or treaties of the United States.
- C: enables the federal courts to have subject matter jurisdiction in any case where the federal rules are at issue.
- D: provides the rules enabling the federal courts to declare statutes unconstitutional.
- E: authorizes the Supreme Court to promulgate the Federal Rules of Civil Procedure.

9. Grover signs a contract to purchase from Animal the exclusive copyright to record the song "I've got an Erie feeling today". However, Grover discovers that Animal's copyright maybe invalid as Animal allegedly committed a fraud on the Copyright Office in violation of federal copyright law. Grover refuses to pay. Animal sues in federal court alleging breach of contract and asking for a declaratory judgment that the copyright is valid under federal law. Does the court have subject matter jurisdiction?

- A: yes, because the complaint on its face states a federal question.
- B: yes, because an issue of federal law is necessarily involved in the litigation.
- C: no, because any claim for declaratory relief must be ignored in determining if federal question jurisdiction exists.
- D: no, because when the claim for declaratory relief is recast as a coercive claim, the complaint raises no federal question.
- E: yes, because when the claim for declaratory relief is recast as a coercive claim, the complaint raises no federal question.

10. Bugs, an Ohio resident, works at Bunny's Columbus, Ohio carrot factory. He is devastated when a his boss Bunny comes to Columbus and after three days of meetings tells Bugs that Bugs will not be promoted to manage Bunny's Columbus carrot factory. Bugs believes that Bunny's decision is based solely on Bugs' sex. Bugs knows that this states a cause of action created by federal law and wishes to sue Bunny in federal court for \$250,000. His research shows that Bunny is subject to personal jurisdiction in Colorado (where Bunny is resident) and in Ohio and Idaho (where Bunny has significant and substantial contacts). Where is venue proper?

- A: In Colorado, Ohio and Idaho.
- B: Only in Ohio
- C: Only in Colorado
- D: Only in Idaho
- E: In Colorado and Ohio.

11. Linus files a diversity action against Sally in federal district court in California . The suit concerns a tort allegedly committed in New Mexico. Sally moves to transfer the case to Ohio federal court under the appropriate federal statute, 28 U.S.C. 1404. In deciding whether the case should be transferred the California federal district court should apply:

- A: New Mexico law, because the cause of action arose there.
- B: California law, because it is the state in which the court is sitting.
- C: Ohio law, because it is the state to which transfer is sought.
- D: Federal law.
- E: Ohio's choice of law rules.

12. The California federal court grants the transfer motion and the case is transferred to federal district court in Ohio. To determine which tort law should govern the merits of the case, the Ohio federal court should look to:

- A: California's choice of law rules, because that is where the case originated.
- B: Ohio's choice of law rules, because that is where the court now sits.
- C: Federal choice of law rules
- D: New Mexico's choice of law rules, because the cause of action arose there.
- E: Both California and Ohio's choice of law rules.

13. Hobbes (an Idaho resident) loans Calvin (also from Idaho) \$50,000. Watterson, a New Englander, wishes to sue Hobbes in tort for \$50,000 in New England a state with which Hobbes has apparently no connection. On June 3, 1992, Calvin is vacationing in New England. Watterson immediately files a garnishment suit against Hobbes in New England state court and serves Calvin in person in New England with a writ of attachment. Calvin consents to the entry of judgment by the New England court and pays up the \$50,000. (You may presume that the state statute allows New England courts to exercise personal jurisdiction to the full extent allowed by the due process clause.)

On Calvin's return to Idaho, Hobbes sue Calvin demanding repayment of the loan of \$50,000. Calvin admits he borrowed \$50,000 but pleads that he has already paid \$50,000 for Hobbes pursuant to the New England court's judgment. What should the Idaho court do?

- A: enter judgment in favor of Hobbes for \$50,000 because the full faith and credit clause does not apply to state courts.
- B: enter judgment in favor of Calvin because full faith and credit must be given to the New England judgment because that court had in personam jurisdiction over Calvin as he was served in the state.
- C: enter judgment in favor of Calvin because full faith and credit must be given to the New England judgment which had jurisdiction because Hobbes' property interest, Calvin, was attached by the New England Court.
- D: enter judgment in favor of Hobbes for \$50,000 because the New England court lacked personal jurisdiction because Hobbes does not have minimum contacts with the state.
- E: enter judgment in favor of Hobbes for \$50,000 because the New England court lacked personal jurisdiction because quasi in rem jurisdiction was abolished by Shaffer v. Heitner, 443 U.S. 186 (1977).

14. Lois Lane (a citizen of New York) is involved in a car crash in New York with Clark Kent (a citizen of Texas) who is vacationing in New York. They exchange addresses and drive off. Lois sues Clark for the \$70,000 of damage to her car in New York state court. As authorized by New York statute, she attempts service by mailing the summons and complaint to the Texas address Clark gave her, but it is returned stamped "return to sender: addressee unknown." Lois checks the phone book and finds a Marge Kent and a Tim Kent listed in the phone book for the Texas town Clark Kent listed in the address she gave her. She also publishes a notice in the local Texas paper and in U.S.A. Today. Any or all of these steps constitute proper service under the New York statute. Clark's aunt (Marge Kent) gets one of the letters and forwards it to Clark (who has now settled in California) about the lawsuit. Clark makes a special appearance (solely to challenge service of process) and moves to dismiss arguing that the service of process is constitutionally insufficient. The New York court should:

- A: deny Clark's motion because he got notice.
- B: deny Clark's motion because he made an appearance in the lawsuit.
- C: deny Clark's motion because the method selected was a method reasonably certain to inform Clark.
- D: deny Clark's motion because although the method selected was not reasonably certain to inform Clark, there was no better method.
- E: deny Clark's motion for the reasons set out in A and C.

15. Presume the above facts with two changes: Lois files suit in New York federal court and ten days later after learning of the suit from his aunt, Clark files a Rule 12(b)(5) motion challenging the sufficiency of service of process. The federal court denies this motion the same day. Two days later Clark files a Rule 12(b)(2) motion arguing that New York lacks personal jurisdiction over him. You may presume that New York's long arm statute allows its courts to exercise personal jurisdiction to the full extent permitted by the due process clause. The Court should:

- A: deny the motion because the federal court cannot utilize the state's long arm statute.
- B: deny the motion because the defense of lack of personal jurisdiction has been waived.
- C: grant the motion because the federal court is permitted to use the state's long arm statute and specific jurisdiction is proper over Clark.
- D: deny the motion because although the federal court is permitted to use the state's long arm statute specific jurisdiction is not proper over Clark.
- E: deny the motion because it is untimely as filed more than ten days after the complaint was filed.

16. Mr. Roger is the pest control warden for the City of Powell, Ohio. Ohio statute provides that "if a member of the public suspects that any person holding a public office [pest control warden is a public office] has acted outside the scope of their powers", the citizen may file a civil suit seeking the dismissal of that official and damages if applicable. The statute defines "acting outside the scope of their powers" to include "any act in violation of federal law or the United States constitution." Ms. Disney files suit in federal court under the Ohio Statute alleging that Mr. Roger acted outside his powers in that he shut down her rabbit farm in violation of her federal constitutional right to own property and seeks \$40,000 in damages. Does the federal court have subject matter jurisdiction?

- A: Yes, because federal law furnishes a necessary ingredient of the claim even though this is antecedent and uncontested.
- B: No, because the complaint does not assert a cause of action created by federal law.
- C: Yes, because the complaint does assert a cause of action created by federal law.
- D: Yes, because although the complaint contains a state created cause of action, the complaint requires the determination of federal law.
- E: No, because the complaint does not assert a cause of action created by federal law and because the complaint does not require the determination of federal law.

17. Scooby, a citizen of California, is crossing High Street in Barbara, California when Doo, a citizen of Texas, runs a stop sign and hits her. Scooby files suit in state court in Texas for \$50,001. Doo seeks to remove under 28 U.S.C. 1441 to federal court in Texas.

- A: the state court should grant removal because the action is one over which the district court would have original jurisdiction.
- B: the state court should deny removal because defendant Doo is a citizen of Texas.
- C: the federal court should remand the action because Doo is a citizen of Texas.
- D: the federal court should remand the action because the amount in controversy seems contrived.
- E: the federal court should exercise jurisdiction because the action is one over which the district court has original jurisdiction.

18. Charlie sued Brown for a federal antitrust violation in federal court in Ohio. The Ohio federal court lacked personal jurisdiction over Brown and venue was not proper in Ohio. Pursuant to the appropriate federal provision, the Ohio court transferred the case to federal court in New York where Brown was subject to personal jurisdiction and venue was proper. The New York court dismissed the transferred case, citing the transferring court's lack of personal jurisdiction and venue. This dismissal is appealed. The court of appeals should:

- A: reverse the dismissal because the transferring court under 28 U.S.C. 1406 need not have personal jurisdiction and venue.
- B: reverse the dismissal because the transferring court under 28 U.S.C. 1404 need not have personal jurisdiction and venue.
- C: uphold the dismissal because the transferring court under 28 U.S.C. 1404 must have personal jurisdiction and venue.
- D: uphold the dismissal because the transferring court under 28 U.S.C. 1406 must have personal jurisdiction and venue.
- E: uphold the dismissal because the transferring court under 28 U.S.C. 1406 must have personal jurisdiction, even though it need not have venue.

19. Which of the following is a true statement about service of process under Rule 4 of the Federal Rules of Civil Procedure:

- A: service on an infant may be made under 4(c)(2)(C).
- B: service on a corporation must first be attempted under 4(c)(2)(C) and if this fails may then be made by personal service in the manner set out in 4(d)(3).
- C: if service is attempted under 4(c)(2)(C)(ii)[i.e. by mail] and no acknowledgement of service is received by the sender within 20 days, the sender can attempt service by mail a second time.
- D: if service is attempted under 4(c)(2)(C)(ii)[i.e. by mail] and no acknowledgement of service is received by the sender within 20 days, the sender must then attempt service by a U.S. Marshall.
- E: service upon an incompetent individual can be made only in the manner prescribed in 4(d)(2).

20. Opus is on a whirlwind tour of the West. He accidentally collides with Bill while in Seattle, Washington. He leaves the scene and drives on to visit Portland, Oregon, a state he has never visited or had any contacts with previously. On his second day in Oregon, he is personally served with process in a suit filed in Portland in Oregon state court the previous day by the irate Bill. Does the Oregon court have personal jurisdiction over Opus? You can presume that Oregon's long arm statute grants Oregon courts personal jurisdiction to the full extent permitted by the due process clause.

- A: Yes, because Opus was personally served in the state.
- B: Yes, because transient jurisdiction has a venerable historical pedigree.
- C: No, because Opus has no minimum contacts with the state.
- D: No, because Bill has insufficient minimum contacts with the forum state.
- E: No, because neither Opus nor Bill has the requisite minimum contacts with the forum state.

21. The phrase "the same case or controversy under Article III" in 28 U.S.C. 1367(a) requires:

- A: that there be a substantial federal claim.
- B: that there exist a common nucleus of operative facts between the state and federal claims such that we would expect the plaintiff to try the claims together.
- C: that there is no novel or complex issue of state law.
- D: Both A and B.
- E: A, B and C.

22. The Doonesbury Corporation is headquartered and all its operations and employees are in Scotland, where it manufactures a single malt whiskey which is exported to the U.S.A. From 1985 to date, Doonesbury has sold over \$1 million worth of whiskey in California each year but has no other contact with California. Doonesbury has no agents or stores of its own, but sells its products to Scotch Importers, a California corporation, which then distributes the product to local liquor stores throughout California. Mr. Zonker, while celebrating the end of his Civil Procedure exam, consumed a glass of Doonesbury's single malt whiskey which he had purchased at the corner liquor store near his home in San Francisco, California. He suffered serious injury and his doctor determined that the whiskey Zonker drank was laced with cyanide. Zonker files suit in California state court against the Doonesbury Corporation. Presume that the court has subject matter jurisdiction and venue is proper, and that the California long arm statute grants personal jurisdiction to the full extent permitted by the Due Process clause. Does the court have personal jurisdiction over Doonesbury Corporation?

- A: Yes, the court has general jurisdiction over Doonesbury Corporation.
- B: Yes, the court has specific jurisdiction over Doonesbury Corporation.
- C: Yes, the court has both general and specific jurisdiction over Doonesbury Corporation.
- D: No, the court lacks specific jurisdiction over Doonesbury Corporation.
- E: No, the court lacks both specific and general jurisdiction over Doonesbury Corporation.

**PART TWO - ESSAY QUESTIONS
(TWO HOURS)**

INSTRUCTIONS:

1. Part Two consists of TWO fact patterns, each fact pattern is followed by FOUR questions. IT COUNTS FOR TWO THIRDS OF YOUR GRADE.
2. WRITE YOUR ANSWERS ONLY ON THE LINES PROVIDED. DO NOT WRITE IN THE MARGINS, ON THE REVERSE SIDE, etc. You have limited space so **THINK** before you write. Points will be deducted for lack of organization and illegibility.
3. Please do not use pencil to write the examination.
4. Do not take the exam out of the room. **DO NOT SEPARATE THE PAGES LEAVE THEM STAPLED TOGETHER AND TURN IN THE ENTIRE EXAM.**
5. Do not assume facts not given, and do not change the facts. Do not presume the existence of statutes.
6. Discuss each issue fairly raised by the fact pattern, even if your conclusion on one issue seems to make discussion of another issue unnecessary. For example, if you conclude a defendant lacks minimum contacts, it would nonetheless be prudent to also discuss fair play.

FIRST FACT PATTERN

On June 20, 1992 Douglas Fairbanks left his home in Wine (located in western part of California) and drove twenty miles to Tahoe, in the neighboring state of Nevada in order to pick up a Red Ferrari Testa Rossa from Imports-Are-Us, a car dealer. Imports-Are Us is a corporation incorporated in California, with its sole place of business in Tahoe, Nevada.

Fairbanks had been trying to purchase a Ferrari for over two months but all the California dealers had long waiting lists for the model he desired. Growing desperate he began to call dealers in adjacent states searching for the car of his dreams.

On April 3, 1992 he talked to a saleswoman, Ms. Glib, at Imports-Are-Us who told him that she believed she could special order the car from the Italian manufacturer and it would arrive within 1 month. Fairbanks left his name and home number, and the next day Glib called back and explained that she could order the car, but that it would take two months to arrive because a lot of Californians were ordering cars from their dealership given the long delays California dealers were experiencing. She added, "In fact almost half our sales seem to be to Californians these days, despite the fact that we don't even advertise in California."

After an additional seven phone calls (most of which were initiated by Imports-Are-Us) Fairbanks and Glib struck a deal as to the terms. Glib then mailed a purchase contract to Fairbanks' home, which he signed and returned with a check for partial payment. Glib called and informed Fairbanks that the Ferrari was ready for pick up. Fairbanks drove out to Tahoe to pick up the car, and while there Fairbanks signed a few additional papers (transferring title and finalizing the payment schedule). At this time Glib offered Fairbanks a long term service contract on the car guaranteeing that an Imports-Are-Us mechanic would come to Fairbanks home for free for eight years to correct any problems which occurred in the next eight years. Fairbanks decided not to purchase this extended service contract and drove off in his new Ferrari.

Two weeks later Fairbanks was killed as he exited a drive-in movie in his home town of Wine. Tests on the Ferrari indicated that its brakes were defective and had caused the crash.

Fairbanks' mother, Judy Fairbanks, a life long Florida resident, is appointed executor for her son's estate and files suit on behalf of the estate in Federal District Court for the Eastern District of California (the district encompassing Wine, Douglas Faribanks' home town). She names Imports-Are-Us as the defendant. The suit alleges that Imports-Are-Us is liable under Californian contract and tort law, and seeks \$50 million in damages (an amount 5 times the maximum amount ever awarded in any similar case).

ANSWER ALL OF THE FOLLOWING QUESTIONS [YOU SHOULD REVIEW ALL THE QUESTIONS BEFORE ANSWERING AS POINTS WILL NOT BE GIVEN IF AN ANSWER IS GIVEN IN RESPONSE TO THE WRONG QUESTION].

QUESTION 1: DOES THE FEDERAL COURT HAVE PERSONAL JURISDICTION OVER IMPORTS-ARE-US ?

The only relevant California statute provides as follows:

"A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of the United States"

QUESTION 4: HOW WOULD YOUR ANSWER TO QUESTIONS 1 AND 2 CHANGE IF THE SALES CONTRACT SIGNED BY FAIRBANKS INCLUDED THE FOLLOWING PARAGRAPH:

"Both parties to this contract agree that all disputes and matters whatsoever arising under, in connection with or incident to this contract shall be litigated, if at all, in and before the Federal District Court for the Western Division of Nevada, U.S.A. ("the designated court") to the exclusion of all courts of any state or country. The parties also agree that any objections to the personal jurisdiction and subject matter jurisdiction of the designated court are hereby waived."
