

**Civil Procedure II: Spring 2020**  
The University of Oklahoma College of Law  
Kit Johnson, Associate Professor of Law  
**FINAL EXAMINATION**

**Instructions:**

1. Your response must be submitted as a .doc, .docx, or .pdf file. The document must conform to U.S. letter dimensions (8.5 by 11 inches) with 1-inch margins all around using 13-point Century Schoolbook font with single-line spacing.
2. This is an open book examination in that you may use your own notes and the readings from this course, whether printed or electronic, to help formulate your response. You may not, however, use any materials from outside this class (printed or electronic) to assist you in responding to this examination.
3. During the exam: You may not collaborate with anyone or get anyone's help in composing your response except to the extent you are getting technical help with regard to using software as necessary to do your response and turn it in.
4. After the exam: Communicate nothing about the exam, including even vague impressions or characterizations, to any member of the class who has not yet taken it.
5. The duration of this exam is eight hours.
6. Please note the word limits for each of the four problems. The phrase “\_\_\_ words” should be the first thing noted in response to each problem, where the blank is replaced by the word count for the words appearing in your response to the problem. The word count for the response does not need to include the two words represented by the word count report itself. Any response that goes over the word count will be heavily penalized in grading and may be given zero points in my discretion. I will be independently checking word counts. Inaccurate self-reported word counts will presumptively be treated as academic misconduct.
7. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems within the scope of this course's subject matter. It is upon these bases that you will be graded.
8. Base your exam answer on the general state of U.S. law, including all rules, procedures, and cases discussed in class.
9. Organization counts.
10. Feel free to use reasonable abbreviations.
11. Do not write your name on any part of the exam response or identify yourself in any way, other than to use your examination I.D. number appropriately. Self-identification on the exam may result in disciplinary action.

**Question 1** (150 words maximum—please note your word count at the start of your response) Draft one single hypothetical involving all of the following Federal Rules of Civil Procedure: 13(a), 14, and 20.\* This hypothetical must be of your own invention. You may not directly copy any of the hypotheticals used in class, cases read for class, or outside materials.

**Question 2** (350 words maximum—please note your word count at the start of your response) Draft a response to the hypothetical you drafted in response to question 1. Do not discuss issues of personal or subject matter jurisdiction.

**Question 3** (150 words maximum—please note your word count at the start of your response) Draft a hypothetical involving specific personal jurisdiction. This hypothetical must be of your own invention. You may not directly copy any of the hypotheticals used in class, cases read for class, or outside materials.

**Question 4** (350 words maximum—please note your word count at the start of your response) Draft a response to the hypothetical you drafted in response to question 3. Do not discuss issues of joinder or subject matter jurisdiction.

**Question 5** (150 words maximum—please note your word count at the start of your response) Draft a hypothetical involving supplemental subject matter jurisdiction. This hypothetical must be of your own invention. You may not directly copy any of the hypotheticals used in class, cases read for class, or outside materials.

**Question 6** (350 words maximum—please note your word count at the start of your response) Draft a response to the hypothetical you drafted in response to question 5. Do not discuss issues of joinder or personal jurisdiction.

**Question 7** (500 words maximum—please note your word count at the start of your response) Provide legal analysis for the following:

In 2019, Prospective Parents (PP), an independent nonprofit foster care agency in Norman, OK, filed a federal lawsuit against Dewhitte & Duncan (DD), a nationwide accounting firm incorporated in Delaware with its principal place of business in New York City. PP alleged that DD’s auditors acted negligently when they completed their annual assessment of PP’s finances and when they issued a clean auditor’s report, indicating that PP’s records were in full compliance with generally accepted accounting principles. In reality, PP’s office

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\* One note about drafting hypotheticals. I recommend utilizing names that start with P for any plaintiff, names that start with D for any defendant, names that start with I for any implied party, names that start with N for any necessary party, and so forth.

manager, Mary Margell, had been defrauding PP of significant sums of money over the year that DD audited. Had DD truly audited PP's records, instead of accepting the paperwork provided by MM, DD would have discovered these accounting irregularities. Had PP be alerted to the problem, the agency would have fired MM before she disappeared with every penny of a \$1 million donation PP received from a new donor. By the time the police found MM many months later, she had lost every penny she had stolen to her gambling addiction.

PP sued DD for professional negligence and sought \$1 million in damages.

Sixty-one days after serving their answer to the complaint, DD filed a motion for judgment on the pleadings under Fed. R. Civ. P. 12(c). DD argued that PP's complaint must be dismissed pursuant to Oklahoma's 2018 statute titled Professional Insights on Negligence or PIN. PIN was one part of a series of tort reforms passed by the Oklahoma legislature and signed into law by the state's governor. The goal of the reforms was to "strike an equitable balance between upholding an individual's right to sue and reigning in spurious nuisance suits." PIN requires litigants in any professional malpractice case to submit, within 60 days of the defendant's answer, an affidavit from an "appropriately licensed professional attesting that there exists a reasonable likelihood that the skill exercised in the work that is the subject of the complaint fell outside of acceptable professional standards." Failure to follow this requirement results in dismissal with prejudice.

PP did not file a professional affidavit consistent with PIN.

Should DD's motion be granted? Why or why not?