

**Part I  
(1.5 hours)**

**Question 1 (1 hour):**

Alessandro Delgado is the wealthy heir of a landowning family in the Rio Grande Valley, owning valuable farm and ranch land in both the U.S. and Mexico. Although he maintains a residence in Laredo, Texas, and is a U.S. citizen, he has spent the majority of his time over the last thirty years across the river (approximately 15 miles from Laredo) in Mexico. Over the past few years, he has become affiliated with a conservative group called Traditional Values Inc. (TVI), which is opposed to the liberal reformers in Mexico and Central America. TVI, which is incorporated in Delaware and has its headquarters and all of its operations in Laredo, Texas, has begun telecasting “news” programs both on-air and over the web into places with reform movements. The programming is generally slanted to present a negative picture of reformers and a positive picture of the traditional landowners and affluent classes. TVI also has a fundraising arm that raises money for political candidates and causes in other countries.

At a meeting in Laredo in January 2006, Delgado agrees to fund the construction of a new telecast facility for TVI. Through a formal contract, he agreed to guarantee \$3 million in return for the right to dictate programming on the network for one hour per week over the next three years.

As part of the \$3 million funding effort, Delgado meets with Carlton Sheetz, of Ogden, Utah, in Salt Lake City on February 15, 2006. At that meeting, Sheetz agrees that in exchange for broadcasting infomercials for Sheetz’s real estate program, “Making You Rich With No Money Down,” during Delgado’s one hour of dedicated programming on TVI each week for the next five years, Sheetz agrees to pay TVI \$1 million immediately (a check is sent by courier to TVI in Laredo at the signing) and another \$2.0 million in 5 years. Sheetz also agrees to pay Delgado \$1 million on June 1, 2006. The contract also provides that if Sheetz is unable to broadcast on TVI for any reason, Delgado will pay the \$3 million owed to TVI.

On March 1, 2006, however, Sheetz hears from a friend, Jeff Holbrein, now in private practice but who was in the U.S. Attorney’s Office in Salt Lake City, that one of the recipients of TVI’s fundraising efforts is the United Self-Defense Forces of Colombia (AUC). The AUC is listed by the U.S. State Department as a “foreign terrorist organization” (FTO). In the State Department literature it is described as:

an umbrella group formed in April 1997 to organize loosely affiliated illegal paramilitary groups that emerged to retaliate against leftist guerillas fighting the government and the landed establishment. The AUC quickly discarded its counter-guerilla mission, however, electing instead to involve itself in the illegal drug trade.

One of the consequences of being listed as an FTO is that anyone who provides “material

support” to an FTO is guilty of a federal offense punishable by up to life in prison. See 18 U.S.C. § 2339B. Not surprisingly, after discovering this, Sheetz notifies TVI that he is canceling his remaining contract for \$2.0 million and wants nothing further to do with TVI’s operations. In fact, Sheetz notifies the Wall Street Journal of TVI’s affiliation with AUC and the federal law ramifications of such an affiliation, which leads to a very negative article about TVI, costing the company about \$50,000. Sheetz also refuses to pay Delgado \$1 million.

TVI decides to file suit this month against Sheetz for breach of contract and a federal claim for “business defamation” based on falsely accusing TVI of violating federal law. Your law firm has been hired to represent Sheetz. Note that Laredo, Texas is in the Southern District of Texas and that the Texas long arm statute provides as follows:

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

Questions:

a. (20 minutes) Is this suit properly filed in the federal court in the Southern District of Texas?

b. (10 minutes) Suppose now that instead of filing against just Sheetz, TVI sues both Delgado and Sheetz in the original action. Could that suit be brought in the federal court in the Southern District of Texas?

c. (10 minutes) Assume that TVI is only suing Sheetz, that the filing is proper in the Southern District of Texas, and that the case remains there. Can Sheetz implead Delgado?

d. (10 minutes) Assume based on the facts above that Delgado is properly impleaded. Delgado believes TVI “tricked him” about their operations by not revealing their affiliation with AUC. Can Delgado assert a state law fraud claim against TVI seeking \$3 million in damages? Must he assert that claim in order not to lose it?

e. (10 minutes) Same facts as in the question above: Can Delgado assert a claim for breach contract because Sheetz has failed to pay him the \$1 million he had promised him? Must he assert that claim in this litigation in order not to lose it?

***Short answer questions (30 minutes).***

*Each of the 6 questions below is worth five (5) points. You have 30 minutes (5 minutes per question) to answer them. Please EXPLAIN all of your answers and include citations to relevant rules and statutes as time allows.*

**Question 2:** Cameron, a citizen of Virginia, and Tom, a citizen of Maryland, are old college buddies. They are out one night at a Washington, DC, bar and begin arguing over whether the Washington basketball team should have changed its name from the Bullets to the Wizards. This then leads to an airing of all the grievances, past and present, between the two, including the fact that while they were in school, Tom stole Cameron’s girlfriend. Tom responded that Cameron had never repaid the \$85,000 that Tom had loaned him to cover his school expenses. Eventually the two come to blows and Cameron is severely injured.

Cameron sues Tom in the federal court in the District of Maryland, asserting a state law battery claim and seeking to recover \$90,000. Tom would like to assert his claim for the unpaid debt against Cameron. Cameron has never been to Maryland other than to file this suit. Is it proper for Tom to assert this claim in this action? Explain.

**Question 3:** Roger, a resident of Nevada, files suit against Jimmy, a citizen of California, for serious injuries he sustained in a car accident with Jimmy while both were vacationing in Park City, Utah. Roger filed suit in the United States District Court for the District of Nevada. The court dismisses the case under Rule 12(b)(1) for lack of subject matter jurisdiction, concluding that Roger had not satisfied the amount in controversy, and under 12(b)(2) for lack of personal jurisdiction over Jimmy. There is no appeal. Can Roger now file the same claims in Nevada state court? Explain.

**Question 4:** Suppose instead that Roger appeals and the appellate court concludes that there is subject matter jurisdiction over the action in federal court but affirms the dismissal on the ground that there was no personal jurisdiction over Jimmy. Can Roger file the same claims in Nevada state court now? Explain.

**Question 5:** Jake sues Zack in federal court (assume that the suit is properly filed there) for injuries he alleges he sustained when Zack assaulted him. Jake testifies that he could not see the person who assaulted him because the alley was dark and he passed out shortly after being hit. He claims that it was Zack, however, because Jake complained about Zack's service the last time Zack waited on him at Chili's. Zack's counsel moves for directed verdict after Jake's counsel closes his case, arguing that Jake has failed to provide any evidence that it was Zack who assaulted him. The district court denies Zack's motion. Zack then presents his case, which includes evidence (1) that Zack was attending a class when the assault took place, and (2) that Randy, to whom Jake owed \$200, was seen running from the place of the assault immediately after the assault. Both sides then rest. After the jury renders a verdict for Jake, Zack moves for j.n.o.v. and a new trial. Should the district court grant Zack's motions? Explain.

**Question 6:** While on vacation in Mexico, Stan and Fran Tanner, from New Mexico, got into an accident with Tom Watts from Chicago, Illinois. The Tanners both suffer serious injuries and each has a bill of over \$100,000 from the Mexico hospital where they both stayed for several days. The Tanners decide to file suit against Tom in the federal court in the District of New Mexico, and have Tom served with process while he is on a business trip in Santa Fe, New Mexico. Is this suit properly before the federal court in New Mexico? Explain.

**Question 7:** Kelly, Erin, and Melissa, each driving three separate cars, were involved in a car accident. Kelly was most seriously injured and sues Erin, who is much wealthier than Melissa, for negligence in federal court (assume it is properly filed there). Erin claims that the accident was Melissa's fault, not hers. Can Erin bring in Melissa as a defendant to the action? Explain.