

**Part I**  
**(90 minutes)**

1. (30 minutes)

The following are the slightly edited opening paragraphs of a recent federal district court opinion. Your job is to complete the opinion:

Plaintiff Gallup was a research scientist employed by defendant Radiant Research, Inc. She lost her job in a corporate downsizing when Radiant closed its Kansas facility. After she was fired, she attempted to secure other employment or research contracts but she encountered difficulties.

Plaintiff filed a petition in the district court of Wyandotte County, Kansas on December 21, 2004, alleging breach of contract against Radiant. Radiant filed a notice of removal in federal court on January 10, 2005, based on diversity of citizenship. Radiant is incorporated in Delaware and has its principal place of business in California.

On January 27, 2005, before Radiant filed an answer, plaintiff filed an amended complaint, where in addition to the breach of contract claim contained in the original petition, plaintiff alleged that Radiant and Kathy Scott-Dawdy, a Kansas citizen, as an employee of Radiant and in her individual capacity, tortiously interfered with plaintiff's employment contracts and business expectancy and defamed her. She added Scott-Dawdy as a defendant, alleging that Scott-Dawdy made derogatory statements about her to other potential employers who called Scott-Dawdy for references.

This matter is currently before the court on plaintiff's motion to remand for lack of complete diversity between the parties.

(See *Gallup v. Radiant Research, Inc.*, 2005 U.S. Dist. LEXIS 7118 (D. Kan. 2005))

2. (30 minutes)

Plaintiff Mike Biggs, a wildlife photographer who operates his business from his home in Fort Worth, Texas, filed a copyright infringement action in federal court in Texas against Defendants Bass Pro, Incredible Technologies, Inc. ("Incredible"), and Play Mechanix, Inc. ("Play"). Plaintiff claims the Defendants infringed upon his copyrights by copying, distributing, and displaying certain images of deer and turkey, images which Biggs allegedly authored and owned, for use in the video games "Big Buck Hunter," "Big Buck Hunter: Shooter's Challenge," and "Big Buck Hunter II: Sportsman's Paradise" (collectively, the "BBH Games").

Defendant Bass Pro is a Missouri limited liability company registered to do business in many states, including Texas. Bass Pro operates retail sporting good stores throughout the United States, including one in Grapevine, TX, in which Plaintiff alleges Bass Pro operates two coin operated BBH Games displaying the allegedly infringing images. Defendant Play is the software developer responsible for designing the BBH Games' software. Defendant Incredible is the company responsible for manufacturing, selling, and marketing the BBH Games around the United States, including in Texas. Both Play and Incredible are Illinois corporations and have filed motions to dismiss asserting that the court lacks personal jurisdiction over them. Defendant Bass Pro does not contest personal jurisdiction.

You represent Biggs and want to have the motions to dismiss deferred pending discovery. You should prepare a memorandum indicating how you will make this request to the court, what information you would want, by what methods you would attempt to obtain it, and how it would be related to the legal issues presented by the motions to dismiss.

(See *Biggs v. Bass Pro World, LLC* (N.D. Tex. 2005))

3. (30 minutes)

Following are the slightly edited opening paragraphs of a not-very-recent opinion from the North Carolina Court of Appeals. Your job is to finish the opinion.

Grace Hospital, Inc. (Grace) and Piedmont Medical Imaging, P.C. (P.M.I.) appeal from the denial of their motions for summary judgment.

On 1 October 1990, Dr. Philip Howerton filed suit against Defendants in United States District Court seeking monetary and injunctive relief based on: (1) federal and state antitrust violations; (2) violations of Grace's bylaws; (3) violations of the bylaws of the medical staff of Grace; and (4) a conspiracy by Defendants to exclude Plaintiff from the radiology facilities of Grace. Defendants filed answers denying the allegations of the complaint. On 26 January 1993, Plaintiff voluntarily dismissed, in the federal court, their state claims (all the claims filed in the federal court except the federal antitrust claim) without prejudice. Defendants stipulated to this dismissal. Pursuant to Defendants' motions for summary judgment the federal trial court on 7 July 1995 dismissed the federal antitrust claim.

On 25 September 1992, Plaintiff filed suit against Defendants in state superior court alleging, inter alia: (1) breach of the bylaws of Grace; (2) breach of the bylaws of the medical staff of Grace; and (3) conspiracy to injure Plaintiffs "by committing illegal acts."

On 31 March 1997, P.M.I. moved for summary judgment on the state claims on the ground of claim preclusion, and on 15 April 1997, Grace moved for summary judgement on the state claims on the grounds of claim preclusion and issue preclusion. The state superior court denied Defendants' motions for summary judgment on 8 August 1997. Defendants immediately appealed to this court.

(See *Howerton v. Grace Hosp., Inc.*, 130 N.C. App. 327 (N.C. Ct. App. 1998))