GENERAL INSTRUCTIONS

THE ATTENTION OF ALL STUDENTS IS CALLED TO THE FOLLOWING INSTRUCTIONS:

1. The answers and the pledge are to be identified by examination number only. DO NOT WRITE YOUR NAME ON ANY BLUEBOOKS OR ANYWHERE ON THE EXAMINATION; USE YOUR EXAMINATION NUMBER INSTEAD.

2. During the course of the examination, the examination and answers may not be removed from the rooms prescribed for taking the examination as posted on the Bulletin Board.

3. This examination ends at the expiration of the time indicated, or when the examination is turned in, whichever comes first.

4. The instructor will be permitted to grade only answers that have been submitted during the examination, in the method indicated by the instructor.

5. At the conclusion of the time prescribed for the examination, students are forbidden from communicating with the instructor with reference to the final examination until the grades have been turned in to the Registrar's Office except that students may communicate with the instructor at any time concerning matters related to the Code of Student Professionalism and Conduct or the Academic Honor Code.

TIME: 4 HOURS

SPECIAL INSTRUCTIONS

1. This is a LIMITED OPEN BOOK examination. You have previously been advised as to which materials you may use during the examination. You may bring to the exam the required books for the course and any of the five (5) required handouts that were previously identified as permissible for the exam. As previously explained in class and via email, if you bring any of these 5 handouts with you, they should be printed in the same format (i.e. font size, spacing, margins, etc.) in which they were posted on the course’s TWEN site. You may consult the permitted materials and any notations you may have made in or on them during the exam. You may NOT, however, bring any other materials with you to the exam.
2. This examination consists of NINE (9) pages. You should check now that you have all the pages. You will have FOUR (4) HOURS to complete the exam.

3. The point values and suggested times for answering each question are noted at the beginning of each question. Although each question may take you more or less time than suggested to complete, you should be conscious of the overall time allotted for the exam (4 hours) and budget accordingly.

4. The examination is in TWO (2) SECTIONS:

- **SECTION I** of the examination contains FOUR (4) essay questions and is worth a total of NINETY (90) POINTS. **YOU MUST ANSWER ALL FOUR QUESTIONS IN SECTION I.** My suggestion is that you allot a total of approximately 3 hours and 35 minutes to SECTION I.

- **SECTION II** of the examination asks you to choose ONLY ONE (1) of the three (3) short answer questions listed. **YOU SHOULD ONLY ANSWER ONE OF THE THREE QUESTIONS IN SECTION II.** Your answer in SECTION II is worth a total of TEN (10) POINTS. I suggest you allot approximately 25 minutes to SECTION II.

5. Please use a blue exam book or books or a computer to answer all of the questions on the exam. Make sure to write or type your exam number on your answer, including each blue exam book you use. You may use as many exam books or type as many pages as you would like.

   If you handwrite your answers in blue books, please write on every other line and only on the front of each page (i.e. do not write on the backs of pages).

6. In forming your essay answers, you should not feel compelled to include case names or citations, but should make clear which doctrine, statute, or rule and which of the given facts you are relying on to support your analysis. Your answers should be limited to the question(s) asked, and should be organized accordingly. **Organization is an important factor in the quality of your answer, so take care in structuring your responses.** I suggest outlining your answer (however briefly) before writing. This is not required, and I will not consider your outline in determining your grade, but it can be a useful tool in structuring your answer.

7. You should assume that every lawsuit referred to in the exam has been filed in a United States District Court (i.e., a federal court) unless otherwise noted.

**END OF INSTRUCTIONS**

**GOOD LUCK AND HAVE A GREAT BREAK!**
Antelope Tractor Corporation ("Antelope") manufactures and sells tractors. Antelope is a corporation organized under the laws of Vermont. Antelope has its corporate headquarters and administrative offices in Burlington, Vermont, but has manufacturing and assembly plants in other locations. Antelope’s tractors are produced in the following places: 50% in Hartford, Connecticut; 40% in Burlington, Vermont; and 10% in Albany, New York. In addition to its production facilities, Antelope’s shipping operation has hubs in Burlington and Albany. The Burlington headquarters houses 90% of Antelope’s officers and directors as well as its entire legal, accounting and HR departments, and is responsible for nearly 100% of the company’s billing. The Hartford facility is Antelope’s second-largest employer behind its corporate headquarters, and accounts for 48% of the company’s annual revenue and 35% of its assets.

Antelope also has a network of independent dealers throughout the northeastern United States and Georgia. Antelope sells its tractors to these dealers, which then sell the tractors directly to consumers. Antelope’s dealer in Valdosta, Georgia ("Valdosta dealer") contacted Antelope in the Fall of 2006 about broadening its sales market to include customers in Florida (Valdosta is approximately 15 miles from the Georgia-Florida border). In a December 4, 2006 letter to Antelope’s CEO, the Valdosta dealer explained that it “intended to do everything in its power” to “immediately begin seeking and pursuing opportunities for Antelope tractor sales in Florida.” Antelope quickly responded by suggesting that the Valdosta dealer start right away and by offering “whatever assistance [Antelope] can provide in promoting sales of Antelope tractors in Florida.” Antelope also sent two of its business development executives to Florida in the Spring of 2007 to research locations for future dealerships and marketing campaigns. Despite these efforts, Antelope has yet to establish any dealerships or ad campaigns in Florida, and sales of Antelope tractors in Florida have yet to increase significantly.

Antelope gets many of the component parts for its tractors from subcontractors, including Wilson & Co. ("Wilson"). Wilson is a corporation organized under the laws of Connecticut with its principal place of business in New Haven, Connecticut. Wilson provides Antelope with all of the transmissions used in Antelope’s tractors. Wilson refused, however, to enter into any sort of indemnity agreement with Antelope. Instead, Antelope bought an insurance policy from Green Mountain Insurance Co. ("Green Mountain"). Green Mountain is a corporation organized and with its principal place of business in Vermont. The Green Mountain policy insured Antelope against liability resulting from the negligence of any of Antelope’s subcontractors, including Wilson.
Antelope’s business has so far largely been the result of word of mouth. More recently, as markets for tractor sales have become more competitive, Antelope developed a plan to enter into advertising agreements with local advertisers in certain promising markets. Antelope’s first such agreement was with Hood Advertising (“Hood”) in Valdosta, Georgia. Antelope had never done business with Hood prior to entering into the advertising agreement, and the two companies have not done any business since.

Hood is a sole proprietorship owned and operated by Harold Hood, who currently lives in Valdosta. It has printing equipment and facilities in Valdosta, and some additional equipment in a rented storage space near Mr. Hood’s former residence in Ocala, Florida. Prior to permanently relocating to Valdosta two years earlier, Mr. Hood ran his printing business from his garage in Ocala. When he moved to Valdosta, Mr. Hood sold his home in Ocala and moved the printing equipment from his garage to the nearby storage space, which was rented by Hood Advertising. Mr. Hood has not used the stored equipment since he moved to Valdosta, and is currently trying to sell it online.

Seeking to target the Georgia peanut farmer market, Antelope contracted with Hood to produce print advertising brochures. Mr. Hood did no research regarding Antelope’s tractors, and in fact had never ridden on or even seen an Antelope tractor before creating the advertisement. The brochures included the contact information for Antelope’s Valdosta dealer, as well as information regarding how useful Antelope tractors can be for peanut farmers, in part because they “run far and fast, like an antelope.”

The agreement between Antelope and Hood only called for distribution of the ads in Valdosta and the surrounding area. Hood therefore limited its distribution points to locations in and around Valdosta. In an effort to show Antelope how effective its brochures could be, however, Hood made sure that the brochures were available at truck stops and rest areas on major interstate highways, particularly those heading south into Florida. Hood was hopeful that this approach would be an inexpensive way to spread its ads into the Florida market, thus showing Antelope the benefits of a broader ad campaign. Antelope was not aware that Hood was pursuing this strategy, or even that it was attempting to circulate its brochures outside of Valdosta. To date, Antelope has not done any additional advertising, or entered into any other advertising agreements.

In the Summer of 2007, Suzy Greenburg, a resident of Ocala, Florida, was considering getting into the peanut farming business. When she raised the issue with one of her farmer friends who was visiting from Georgia, her friend showed her a brochure produced by Hood Advertising, which suggested that Antelope tractors are great for peanut farming, as they will “run far and fast, like an antelope.” Suzy’s friend had taken the brochure from a free advertisement kiosk in a rest area in Valdosta, Georgia and brought it with her to Florida.
Based on the brochure, Suzy contacted Antelope’s Valdosta dealer and purchased an Antelope tractor to start a peanut farm in Ocala. Relying on the brochure, Suzy drove the tractor at top speed for long stretches. One day in the fall of 2007, while Suzy was riding her Antelope tractor at top speed around her farm in Ocala, there was an explosion from the area near the transmission. Suzy was thrown out of the driver’s seat, resulting in serious back and leg injuries. Suzy’s medical expenses totaled $85,000. After the accident, Suzy contacted the local media, claiming that Antelope knowingly manufactured tractors that are defective and dangerous and that the advertisements produced by Hood “are all lies.” Suzy’s story and her comments about Antelope and Hood appeared on the local news broadcast and in the Ocala paper the next day.

Suzy brought suit in the United States District Court for the Middle District of Florida (Ocala Division). She filed state tort claims against Antelope for products liability and negligence, and against Hood for negligence and false advertising. Suzy ensured that both defendants were properly served. Antelope received service in Vermont, and Hood was served in Georgia. Suzy sought damages of $85,000 from each defendant to cover her medical expenses.

You are a new associate in the law firm of Fee, McGrupp, and Harpua. Your senior partner has represented Suzy Greenburg in the past and has come to you to do the initial analysis of Suzy’s case. Suzy completed two years of law school before leaving to become a farmer, so she is a particularly demanding client. The senior partner thus asks you to answer each of the following questions in their entirety, explaining your answers in as much detail as possible, regardless of whether you think the answer to one question may render any of the others moot.

**Question 1 (30 Points)**  
(Suggested Time: 1 hour and 10 minutes)

Does the court have personal jurisdiction over Antelope and Hood?

(To the extent you find it useful, the Florida Long-Arm Statute is attached)
In response to Suzy’s claim, Antelope filed a $50,000 claim against Suzy for defamation, as well as a negligence claim against Wilson for the amount of Suzy’s medical expenses ($85,000) and a claim under its insurance policy with Green Mountain for the same amount ($85,000).

Your senior partner has asked you to answer BOTH of the following questions in their entirety, explaining your answer in as much detail as possible, regardless of whether you think the answer to one question may render any of the others moot.

A. Are Antelope’s claims permitted under the rules of joinder?

B. Does the court have subject matter jurisdiction over Antelope’s claims?
Antelope next filed a motion to transfer the case from the Ocala Division of the Middle District of Florida to the Tampa Division.

Thrilled by your previous work on the case, your senior partner comes to you yet again, asking you to answer each of the THREE following questions in their entirety, explaining your answer in as much detail as possible, regardless of whether you think the answer to one question may render any of the others moot.

For purposes of this question, assume that none of the parties object to personal jurisdiction in the original action.

A. Under what authority should Antelope bring its transfer motion? Why?

B. Is Antelope likely to be granted a transfer? Why or why not?

C. Why may Antelope want such a transfer?
Question 4 (13 Points)
(Suggested Time: 30 minutes)

Suzy learned during her pretrial investigation that, as early as 2004, product testing by Antelope had revealed a problem in its tractors’ performance at high speeds. Suzy also learned that, about a year before her accident and in response to the product test results, Antelope’s general counsel conducted an additional investigation into potential problems with the performance and safety of Antelope’s tractors when run at high speeds. As part of that investigation, Antelope’s general counsel interviewed every person who had lodged a complaint about an Antelope tractor in the last 3 years, asking them to describe the circumstances under which the problem occurred and the damage that resulted.

Now that you are in litigation with Antelope, your senior partner wants you, his new favorite associate, to get as much information about those interviews as possible. At minimum, he wants you to obtain the following:

- The name and contact information of every person interviewed by Antelope’s general counsel;
- Any recordings (written or otherwise) of the interviews;
- Antelope’s general counsel’s notes or impressions regarding the interviews; and
- Any reports to Antelope’s management by its general counsel regarding the potential legal consequences to the company of the interviews.

A. How would you plan to go about getting access to this information?

B. What objections, if any, would you anticipate Antelope may make to producing this information and what do you think is the likelihood that any such objections will be successful?
SECTION II (10 Points)

(Suggested time: 25 minutes)

PLEASE ANSWER ONLY ONE (1) OF THE FOLLOWING

State whether (and WHY) you agree or disagree with any ONE of the following three statements.

1. After Twombly, the rules of pleading in federal court have been changed such that “notice pleading” is no longer sufficient under FRCP 8.

2. After Burnham, an individual that is served with process within the boundaries of a State will always be subject to jurisdiction in that State by virtue of that service, and this result is entirely consistent with the notions of Due Process first articulated in International Shoe.

3. The supplemental jurisdiction statute, 28 U.S.C. § 1367, is a thorough and effective means of regulating subject matter jurisdiction in the federal courts.

ON MY HONOR, I HAVE NEITHER GIVEN NOR RECEIVED AID ON THIS EXAMINATION.