REMINDER: LAW SCHOOL HONOR CODE

The School of Law's Honor Code applies to this examination and all work done in this course. The Honor Code prohibits plagiarism (regardless of intent to deceive, misrepresent, or gain unfair advantage) and violation of oral or written instructions concerning this examination in order to gain an unfair advantage over other students or under circumstances which a reasonable law student would know were likely to result in unfair advantage.

UNIVERSITY OF MISSOURI-COLUMBIA
SCHOOL OF LAW

CIVIL PROCEDURE II -- SECTION 2
DEAN DESSEMM

May 8, 2008

INSTRUCTIONS

1. This is the first part of your two-hour final examination. Please be sure that you have both pages of this portion of the examination.

2. You will have one hour to take this portion of the final examination. During this examination, you are permitted to have with you any written or printed materials. However, you are not to look at materials brought by others, speak with anyone concerning the examination during the examination period, consult materials outside the exam room, attempt to access materials electronically, or bring materials into the exam room once the examination has begun.

3. Take sufficient time to think through and organize your answers before beginning to write.

4. Explain your answers and, if any assumptions of law or fact are necessary for any answer, set forth such assumptions.

5. Don't belabor the obvious in your answers, but focus on the more difficult aspects of the question.

6. This entire examination consists of the following essay question and a series of multiple choice questions. The essay question will count for approximately one-half of your grade, as will the set of multiple choice questions. The subparts of the essay questions will not necessarily be worth an equal number of points. After one-hour, you are to turn in your examination booklet and answer to this portion of the examination in order to receive the multiple choice questions.

7. Your examination number should be placed on your bluebook, as well as on your examination booklet (which must be handed in at the end of the first-portion of the exam along with your bluebook). Please write legibly and only on one side of each page.

________________________
EXAMINATION NUMBER
Randy Reckless drives trucks for Trux R Us (“Trux”), and he and his truck are involved in a major accident on I-70 outside Columbia. The accident involves seven cars, including cars driven by Peter Driver (in which Polly Passenger was a passenger), Tommy Texan, and Kathy Kansas. Trux R Us is incorporated and has its principal place of business in Missouri.

As a result of this crash, Trux is sued in the following actions:

1) Peter Driver, a citizen of Colorado, sues Trux for the personal injuries he suffered in the crash in California state court, which action is dismissed for lack of personal jurisdiction.

2) Tommy Texan, a citizen of Texas, sues Trux in the United States District Court for the Eastern District of Missouri, and, after trial, a jury returns a verdict for Trux. However, 30 days after the verdict is returned, Tommy moves for judgment as a matter of law and for a new trial. The trial judge denies the motion for judgment as a matter of law and grants the motion for a new trial.

3) Kathy Kansas, a Kansas citizen, sues Trux in the United States District Court for the District of Kansas. Trux serves on Kathy a request to allow a physician to examine Kathy to determine the extent of her injuries and to permit another examination of her eyes (for which she wears corrective lenses). She refuses to allow these examinations, after which the case goes to trial, the jury returns a verdict for $250,000 in Kathy’s favor. After judgment is entered on that $250,000 verdict, Trux appeals the judgment, which appeal is still pending.

4) The United States brings a criminal prosecution against Trux in United States District Court for the Eastern District of Missouri. Relying on Trux records that indicate that the truck that crashed had never had a safety inspection and that Randy had had numerous other driving accidents, the jury convicts Trux under the Federal Highway Truck Safety Act, which requires a finding that the trucking company acted in a “criminally negligent manner on the nation’s highways.”

5) Polly Passenger, a citizen of Colorado and the wife of Peter Driver (who brought lawsuit #1), sues Trux in state court in Missouri seeking damages for the injuries she suffered in the crash.

Please answer the following questions:

I) Can Trux make use of judgment #1 in Passenger’s current action (#5)?

II) Can Trux make use of judgment #2 in Passenger’s current action (#5)?

III) Should Trux have been able to obtain the examinations of Kathy Kansas in lawsuit #3?

IV) Can Passenger make use of judgment #3 in her current lawsuit (#5)?

V) Can Passenger make use of judgment #4 in her current lawsuit (#5)?

Note that the answers to some of these subsections may require greater analysis than others.