

## Final Examination

### Question 1 \_\_\_\_

#### Subject Matter Jurisdiction

- Limited SMJ of federal courts
- Never waived

#### Diversity: § 1332

- Citizens of Different States
  - Complete diversity
  - Individual: Domicile
    - Residence with intent to remain indefinitely
  - Corporation: State of Incorpor. & PPB
    - Nerve center test
- Amount in Controversy Exceeds \$75,000
  - Legal certainty test

#### Analysis

- Citizenship
  - Harold: CA
  - Whispering Glades: PA
- Amount in Controversy
  - Monetary Loss: \$500
    - Treble Damages = \$1500
  - Emotional Distress
    - Unclear if available under statute
  - Attorney's Fees
    - Unlikely to be enough

### Question 2 \_\_\_\_

#### Erie

- Source of federal rule is not FRCP or statute
- Substance v. Procedure
  - Outcome determinative
  - Forum shopping & inequitable admin. of the laws
- Countervailing federal interest

#### Hanna

- Source of federal rule is FRCP or statute
- Direct conflict between state and federal rule
- Valid under REA

#### Analysis

- Applicable FRCP: Rule 8 & 35
- Direct conflict: Inconsistent provisions
- Valid under REA: Time & manner of presenting evidence

### Question 3 \_\_\_\_

#### Rule 8(a)(2)

- Short and plain statement showing entitlement to relief

#### Rule 12(b)(6)

- Insufficient allegations to establish elements
- No such claim

#### Twombly/Iqbal

- Distinguish factual allegations from legal conclusions
- Assume factual allegations are true
- Factual allegations must plausibly state a claim
  - Inferences
  - Plausibility

#### Analysis

- Elements & Allegations
  - Seller advertised goods or services
    - Paras. 7 & 12
  - With intent not to sell them as advertised
    - Para. 12: conclusory
  - Seller did not provide goods or services as advertised
    - Paras. 9 & 13
  - Plaintiff lost money or property as a result
    - Paras. 8 & 13