## Civil Procedure I

## Fall 2014

## Final Exam

# Model Answers

## Question 1

### Joinder of Lopez & Baptist Services

Under FRCP Rule 20, multiple plaintiffs or defendants may be joined in an suit if: (1) the claims by/against the co-parties, arise from the same (series of) transaction(s) or occurrence(s), and (2) the claims share at least one common question of law or fact. In assessing whether claims arise from a common (series of) transaction(s) or occurrence(s), a court will consider whether the transactions or events giving rise to the claim were logically related in time, subject-matter, or other relevant respects.

Here, the claims against Lopez & Baptist Services arise from the same sequence of events: Lopez’s bringing the children from Mexico to Texas, where they were taken into ORR custody and placed under Baptist Services’ care. This satisfies the first requirement for joinder under Rule 20. The claims will also share common questions of law under ICARA, and common questions of fact concerning the circumstances under which the children were brought to the US. This satisfies the second requirement foroinder under Rule 20. Joinder of the two co-defendants is proper here.

Where a plaintiff asserts a claim against a defendant, Rule 18 permits the plaintiff to join any other claim, related or not, that the plaintiff has against that defendant Having asserted an ICARA claim against Lopez, Quinonez may join her tortious interference & IIED claims under Rule 18. As it happens, these claims arise from the same occurrence as the ICARA claims – a fact that will be relevant for subject-matter jurisdiction, but is not necessary for joinder under Rule 18.

### Personal Jurisdiction

Personal jurisdiction refers to the court’s authority to enter a binding judgment against the parties to a suit. Because personal jurisdiction protects the personal interest of a party, the requirement is waivable, either by express or implied consent, or by failure to assert a timely objection. The reach of a court’s jurisdiction is a function of both state sovereignty and due process.

The courts in each state may exercise jurisdiction over all persons and property within the state, as a matter of sovereignty. A defendant who is a legal resident of the forum state is subject to general jurisdiction within that state, regardless of whether the suit has any other connection to the state. Jurisdiction over a non-resident defendant traditionally required either personal service on the defendant (or their agent) while present in the forum, or the defendant’s consent.

The modern approach to jurisdiction over non-resident defendants is rooted in the constitutional principle of due process, which requires that a party have notice and an opportunity to be heard. A defendant must receive effective notice of a suit that has been filed, but also must be on notice of that they may be subject to suit in a particular forum, so that they may conduct themselves accordingly if they wish to avoid suit in an undesireable forum.

The modern approach no longer requires physical presence, but rather asks whether the non-resident defendant’s contacts with the forum state are such that the exercise of jurisdiction does not offend traditional notions of fair play and substantial justice. A two-part analysis applies: First, a court assesses the defendant’s contacts with the forum state, and their connection to the cause of action. These may include include any conduct by which the defendant purposefully aims its activity at, or purposefully avails itself of the benefits and protections of, the forum state. The focus is on the defendant’s conduct; mere acquiesence in unilateral acts of the plaintiff or third parties is not enough. If the defendant has minimum contacts with the forum state related to the cause of action, the court also considers whether there are circumstances making the exercise of jurisdiction so unreasonable as to offend due process. Factors include any special or unusual burden on the defendant, the plaintiff’s interest in obtaining relief, the forum state’s interest in the case, and any adverse impact on the interstate judicial system’s interest in respecting shared sovereignty.

As a Texas corporation, Baptist Services is subject to general jurisdiction there. Even if Baptist Services were not domiciled in Texas, the facts here would support personal jurisdiction based on minimum contacts. The ICARA claim against Baptist Services is based on its role as the children’s physical custodian in Texas.

Lopez is not a Texas resident, and was no longer present in Texas when the suit was filed. Jurisdiction over her is governed by the minimum contacts standard. The claims against Lopez arose out of her actions in taking the children from Mexico to Texas. It appears she did so purposefully and voluntarily. This is enough to satisfy the minimum contacts requirement. On the stated facts, there do not appear to be any circumstances that would render the exercise of jurisdiction unreasonable in this case. While it may be inconvenient for Lopez to travel from Mexico to Texas, there is no indication that it would be so burdensome as to offend due process. See Burger King (indicating that mere expense or normal invonvenience of travel to another forum is not sufficient to make jurisdiction unreasonable). The plaintiff, who is also a Mexican citizen and resident, has chosen to sue in Texas, because that is where she can obtain the relief she seeks. Texas has an interest in this case, which involves the custody and legal status of children currently within the state. No other US state has any evident interest in this case. And, since Mexico and the US are both signatories to the treaty on which the ICARA claim is based, the exercise of jurisdiction in Texas would not seem to offend Mexican sovereignty nor impair foreign relations. Compare Asahi (finding exercise of jurisdiction unreasonable where forum state’s interest was slight and exercise of jurisdiction in US could impair interests in international trade and foreign relations).

The constitution sets the outer limits of personal jurisdiction, but each state is free to limit the jurisdiction of its own courts based on state policy interests. The Texas long-arm statute simply incorporates the federal constitutional standard. Since jurisdiction is proper under the constitutional minimum contacts standard, it is also proper under the long-arm statute.

### Subject Matter Jurisdiction

Subject matter jurisdiction refers to a court’s authority to decide the claims asserted in a suit. The subject matter jurisdiction of the federal courts is limited to the types of cases identified in Article III, § 2 of the Constitution. Congress has further authorized and limited federal subject matter jurisdiction by statute. A federal court may decide a case only if it fits within the limits of both the Constitution and an applicable statute. The limits on federal subject matter jurisdiction protect the institutional interests of the federal system and its relationship to state government under federalism, and are not waivable by the parties to a suit.

Federal courts have constitutional and statutory subject matter jurisdiction over all cases arising under federal law. While the wording of the Constitution and statute (§ 1331) are similar, the Supreme Court has interpreted the latter more narrowly, to authorize jurisdiction only where a federal question arises on the face of a well-pleaded complaint, and not where a federal question arises only by way of an affirmative defense or counterclaim. Where federal law itself creates the plaintiff’s cause of action, the statutory is normally satisfied. Federal question jurisdiction under § 1331 does not require any amount in controversy, and does not depend on the citizenship of the parties.

Quinonez has sued both defendants under ICARA, a federal statute. As such, her claim raises a federal question on its face, and is within the federal court’s subject matter jurisdiction under both the Constitution and § 1331. The fact that both Quinonez and Lopez are citizens of Mexico is immaterial, as is the fact that Quinonez seeks injunctive relief for which it may be difficult to determine an “amount in controversy”.

The tort claims against Lopez arise under state law. Federal courts have subject matter jurisdiction over state-law claims between citizens of different states, or between a citizen of a state and a citizen of a foreign state. The diversity statute (§ 1332) requires “complete diversity” (i.e. no common citizenship between any plaintiff and any defendant) and an amount in controversy exceeding $75,000. Here, both Quinonez and Lopez are citizens of Mexico. Thus, the federal court would lack diversity jurisdiction under § 1332, regardless of the amount in controversy (which is not stated in the facts).

Federal courts may also exercise supplemental jurisdiction over state-law claims that are related to other claims over which the court has original jurisdiction. The supplemental jurisdiction statute (§ 1367) requires that the supplemental claims and the underlying jurisdictional claim(s) form a single constitutional case or controversy, i.e. arise from a common nucleus of operative fact. Where the court has original jurisdiction based on a federal question, supplemental jurisdiction over related state-law claims is permitted without regard to the citizenship of the parties and amount in controversy.

The ICARA claim and the state-law tort claims share a common nucleus of operative fact, i.e. Lopez’s bringing the children from Mexico to Texas and their subsequent detention by ORR. Because the court has original jurisdiction over the ICARA claim under § 1331, the limitations under § 1367(b) do not apply, so the fact that Quinonez and Lopez are both citizens of Mexico will not preclude the exercise of supplemental jurisdiction.

b. ORR as Party Required to be Joined

1. Nature of interest

2. Prejudice to ORR or existing parties

c. Intervention by Sanchez Children

1. Nature of interest

2. Inadequate representation by existing parties

## Question 2:

a. Subject Matter Jurisdiction Over Allstate's Claim

1. Citizenship of unincorporated organization

2. Amount in controversy

b. Counterclaim by Stonestreet

1. Compulsory counterclaim

2. SMJ: Supplemental jurisdiction

c. Third-Party Claims Against Weybosset

1. Contribution/Indemnification: Rule 14

2. Breach of Contract: Rule 18

3. SMJ: Supplemental jurisdiction

d. Claim by Allstate Against Weybosset

1. Joinder under Rule 14

2. SMJ: No diversity or supplemental jurisdiction