

QUESTION 9 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III
OR IN EXAMPLIFY ANSWER SCREEN 9

Paige, a resident of Florida, was vacationing in Michigan when she visited the Daisy Clover Horse Farm (Daisy) in River's End, Michigan. Several horses were available for hourly rental. Paige selected a horse named Cosmo to ride. One of the Daisy employees adjusted Cosmo's saddle and assisted Paige in mounting him. Suddenly, Cosmo reared up on his hind legs, throwing Paige to the ground. As a result, Paige sustained injuries to her arm and shoulder. The Daisy employee who had been assisting Paige apologized and said that Cosmo had reared up on one of his trainers earlier in the week.

Paige filed a lawsuit against Daisy in Michigan in the Wheaton County Circuit Court, alleging that Daisy was negligent in failing to warn her that Cosmo had just been involved in an incident where he suddenly reared up on a rider. Daisy filed a motion for summary disposition, arguing that the court should apply Michigan's Equine Activity Liability Act (EALA), under which an "equine activity sponsor" is not liable for injuries to persons participating in equine activities unless, among other limited (and inapplicable) exceptions, the sponsor "commits an act or omission that constitutes a willful or wanton disregard for the safety of the participant." Thus, under Michigan law, there is no dispute that Daisy would be immune from liability.

In response, Paige argues that Florida's Equine Activity Liability Statute (EALS) should apply because she is a Florida resident and was only visiting Michigan at the time of the incident. Under Florida's EALS, an equine activity sponsor may be held liable for an act or omission "that a reasonably prudent person would not have done or omitted under the same or similar circumstances." Paige argues that Daisy's motion should be denied because there is a genuine issue of material fact as to whether Daisy was negligent.

1. What factors should the court consider in reaching its choice of law decision and what law should it apply?

2. How should the court decide Daisy's motion for summary disposition?

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III*****
OR IN EXAMPLIFY ANSWER SCREEN 9