

EXAMINERS' ANALYSIS OF QUESTION NO. 9

This question calls for a Michigan choice-of-law analysis. Under Michigan law, Daisy is immune from liability because there is no indication that it committed an act or omission in "willful or wanton" disregard for Paige's safety. But under Florida law, there is an argument that by failing to warn Paige that Cosmo had just recently reared up on someone, the Daisy employee did not act as a "reasonably prudent person would . . . under the same or similar circumstances."

"In tort cases, Michigan courts use a choice-of-law analysis called 'interest analysis' to determine which state's law governs a suit where more than one state's law may be implicated." *Hall v General Motors Corp*, 229 Mich App 580, 585 (1998). Under this analysis, Michigan courts "will apply Michigan law unless a 'rational reason' to do otherwise exists." *Id.* See also *Frydrych v Wentland*, 252 Mich App 360, 363 (2002).

In performing the interest analysis, the court first examines whether any foreign state has an interest in having its law apply. *Hall*, 229 Mich App at 585. "If no state has an interest, the presumption that Michigan law will apply is not overcome." *Id.* "If a foreign state does have an interest in having its law applied," the court uses a "balancing approach" to determine "if Michigan's interests mandate that Michigan law be applied, despite the foreign interests." *Id.*

Here, the only connection with Florida is that Paige is a resident there. "[T]he plaintiff's residence, with nothing more, is insufficient to support the choice of a state's law." *Sutherland v Kennington Truck Serv, Ltd*, 454 Mich 274, 287 (1997) quoting *Allstate Ins v Hague*, 449 US 302, 313 (1981). Michigan, on the other hand, has a strong interest in having its law applied. The incident occurred in Michigan, Daisy resides in Michigan, and the Michigan legislature has enacted a statute that directly applies in determining Daisy's liability. Under the facts of this case, Michigan has an interest in regulating "conduct within its borders," *Frydrych*, 252 Mich App at 364, that clearly outweighs Florida's minimal interest. As a result, Michigan law applies, and Daisy's motion for summary disposition should be granted.