

ANSWER KEY!! to Questions from Summons and Complaint Assignment due April 3, 2019:

1. Review C&W ch. 12 (Summons) and ch. 14 (Pleadings) pp. 115-118 and 120E. In addition, locate and read CPLR §§ 3016, 3020 and 3021. Then answer:
 - A. Which subsection of CPLR R. 3016 applies to Mr. Proprietor's case? Why? What does it require or permit? *R. 3016(f), "Sale and delivery of goods or performing of labor or services," applies to Mr. Proprietor's case because his action against Ms. Consumer relates to his sale & delivery to her of the goods identified in the assignment (computer system, desk, etc.). It requires a plaintiff in such an action to file a verified complaint against defendant, and to list in that complaint the specific items that are the subject of the claim, and the reasonable value or agreed price of each.*
 - B. According to CPLR § 3020, what is a verification? *According to CPLR § 3020(a), a verification is "a statement under oath that the pleading is true to knowledge of the deponent [i.e., the individual making the verification], except as to matters alleged on information and belief, and that as to those matters he believes it to be true."* Who must verify the complaint in Mr. Proprietor's case? By what type of document/statement? *Mr. Proprietor must verify the complaint in his case by an affidavit, which is a written sworn statement made under oath.*
2. Review the Appendix in the back of your CPLR or C&W that contains sample "Civil Practice Forms" (they are similar). Identify the forms you think you should follow in this case, by numbers/letters and titles (e.g., "Form 1, Summons Served With Complaint"). Briefly state why you have chosen each one.
 - *For the summons, follow Form 2 in the back of your CPLR, "Summons Served With Complaint in an Action Based on a Consumer Credit Transaction" because this is an action based on a consumer credit transaction (i.e., Ms. Consumer received the goods because Mr. Proprietor extended credit to her).*
 - *For the complaint, follow Forms 6 or 7, "Complaint for Goods Sold, Delivered & Accepted with Itemization Under CPLR 3016(f)" (6) or "with Schedule Annexed" (7) (your choice!) because this is an action involving goods Mr. Proprietor sold and delivered to Ms. Consumer, that Ms. Consumer accepted.*
 - *For the verification that is required by CPLR R. 3016(f), follow Form 15, "Verification by a Party" because § 3020(a) requires verification of a pleading to be made by the party submitting the pleading (here, Mr. Proprietor).*
3. In what New York court(s) should Mr. Proprietor's case be commenced? Explain why. Include the particular branch (county). *Mr. Proprietor's case should be commenced in NYC Civil Court, Queens County, because the amount in controversy is less than \$25,000 and Ms. Consumer resides in Queens County (see CPLR § 503(f), venue in a consumer credit transaction case).*
4. What is a "blue back" (or "litigation back"), as that term is used in New York civil litigation? *See OpenLab "Assignments" tab for links to (a) a sample blue back and (b) C&W chapter 11, p. 96A, which discusses blue backs.*