

Name: _____

KEY!!

Date: May 6, 2019

Score: 40 / 40+2 =
(42)**QUIZ 3: Venue; Summons & Pleadings; Preparation and Service of Papers (chs. 9, 10, 11, 12, 14)**

Multiple Choice! (2 points each) On the lines at the left, write the capital letter of the best answer to each question. P = plaintiff; D = defendant; all "counties" are in New York State.

(5)

- C 1. The "venue" of an action, as addressed in CPLR Article 5, is: (A) where the cause of action occurred (B) where D lives (C) the place of trial (D) the amount of damages P seeks
- D 2. Chantal, a resident of Westchester County, wants to sue Michael, of Suffolk County, for a tort allegedly committed in Albany County (not a consumer credit transaction). What venue is proper under CPLR § 503? (A) Westchester County (B) Suffolk County (C) Albany County (D) any of these (E) Westchester or Suffolk only
- E 3. By the time Chantal files the case described in question 2, she has moved to the state of Texas, and Michael still lives in Suffolk County. Now what venue is proper under CPLR § 503? (A) Texas (B) Suffolk County (C) Albany County (D) any county in NYS Chantal chooses (E) Albany or Suffolk Counties only
- D 4. Suppose that when Chantal files the case described in question 2, she lives in Texas and Michael lives in the state of Alaska. Now what venue is proper under CPLR § 503? (A) Texas (B) Alaska (C) Albany County (D) any county in NY that Chantal chooses (E) A or B only
- A or B 5. Jamillah, a resident of Bronx County, owns Jamillah's Used Cars, Inc. also in the Bronx. When Andrew, a resident of Niagara County, visits the Bronx, he buys a car from Jamillah for \$28,000 through a financing arrangement (a consumer credit transaction) they made while Andrew was in the Bronx. When Andrew fails to pay, Jamillah sues him for the cost of the car. What venue is proper under CPLR § 503? (A) Bronx County (B) Niagara County (C) Richmond County (D) any of these (E) any county Jamillah chooses
(both are correct)
- D 6. Under CPLR § 510, the court may change the venue of an action where: (A) the action has been filed in an improper county (B) there is reason to believe a trial in the proper county will not be fair (C) the change will be more convenient for witnesses and promote justice (D) any of the above
- E 7. Under CPLR R. 305(a), a summons shall include: (A) the case index number (B) the basis (reason) for the venue selected for the case (C) the date the summons was filed with the clerk of court (D) the words "consumer credit transaction" at the top, if it is that type of case (E) all of the above
- D 8. Which of the following is true regarding a summons with notice under CPLR R. 305(b): (A) It is a single document P may file to commence an action, instead of summons and complaint (2 documents). (B) It need include only a general statement of P's legal cause of action and remedy P seeks (not all the details stated in a complaint). (C) A P who files a summons with notice often must prepare a full summons and complaint to proceed with her case, so she really does not save much time or effort. (D) all of the above (E) A and B only
- A 9. A complaint is a "pleading" that must follow the requirements stated in CPLR R. 3014. (A) true (B) false

- E 10. Which of the following is not required in pleadings by R. 3014: (A) plain and concise statements (B) numbered paragraphs (C) numbered causes of action (D) one allegation per paragraph (E) topic sentence in each paragraph
- D 11. Under CPLR R. 2103(a), papers may be served by:
 (A) any party to the action (C) any non-party to the action
 (B) any party to the action age eighteen or over (D) any non-party to the action age eighteen or over
- D 12. Under CPLR R. 2103(b), papers may be served upon a party's attorney by:
 (A) personal delivery to the attorney (C) leaving with the receptionist at attorney's office, if office is open
 (B) U.S. Mail to the attorney (D) any of these methods
- C 13. Which of the following is not a "natural person" under CPLR § 308?
 (A) Prof. Coughlin (B) Donald Trump (C) The Trump Organization (D) all of these (E) all but C
- A 14. Under CPLR § 308, personal service on a D who is a natural person may be accomplished by:
 (A) delivering the documents by hand to D
 (B) delivering the documents to D's job, in an envelope with the name of P's law firm in the return address
 (C) delivering the documents to D's home, and leaving them there with D's seven year old daughter
 (D) any of the above

Short answers (5 points each): In your own words, and in complete, grammatically-correct sentences, answer each of the following questions.

A. What is the purpose of a summons?

The purpose of a summons is to give notice to a defendant that she/he/it is on the receiving end of a civil action." (CPLR p. 99)
 The defendant is being "summoned" to court to respond to the action.
 It identifies the particular court and venue where the defendant can respond, a deadline for the response, and other pertinent information

B. Why does service of a summons and complaint on a D provide the court with personal jurisdiction over D?

Service of a summons and complaint on a defendant provides a court with personal jurisdiction over the defendant because it satisfies "due process" requirements of the US Constitution. Personal jurisdiction means the court has authority to compel a defendant to obey its orders. It can only have that authority if the defendant is provided with "due process," which means

like the index number of the case

BONUS! (2 points ONLY IF you answer all other questions!) Documents filed in a NY court may be signed in ink notice (Hint: See CPLR R. 2101!) (A) blue (B) black (C) any color (D) blue or black only

Answer: B

and an opportunity to defend herself. As stated above, the summons give such notice, along with a complaint, which details the plaintiff's claim asserted against the defendant.