

July 2011 Civil Procedure & Evidence Comments

1. Almost all examinees knew Pat must serve Plus through the Texas Secretary of State. Few knew that, to acquire subject matter jurisdiction over Plus, Pat had to allege Plus was a foreign corporation with no principle place of business and no registered agent.
2. Almost all examinees knew Plus had to file a special appearance before any other pleading. Few also knew the special appearance had to be filed before the answer date.
3. Almost all examinees knew Bexar County (where defendant resides) and Comal County (county of accident) were counties of proper venue.
4. Almost all examinees knew Green's objection to Pat's jury demand on the motion to transfer venue should be sustained because venue is a determination to be made by the court.
5. Almost all examinees knew Green was not entitled to an interlocutory appeal. Many examinees also knew improper venue is reversible error.
6. Almost all examinees knew the court should sustain the objection to the interrogatories because only 25 are allowed. Few also stated the objection to the requests for admissions should be overruled because there is no limit on requests for admissions.
7. Almost all examinees knew Green should file an objection to the discovery request on the grounds that the attorney notes were privileged and the court should sustain the objection. Most examinees also knew Green would have to produce the names and addresses of persons interviewed because they were persons with knowledge of relevant facts.
8. Almost all examinees knew Pat should file a request for disclosure to obtain information on insurance coverage. Few examinees also knew Pat could file interrogatories.
9. Few examinees knew the court should deny Green's motion regarding depositions in Bexar County because, absent an agreement, party depositions are held in the county of suit.
10. Few examinees knew Plus needed to file an amended answer asserting an affirmative defense at least seven days before trial.
11. Almost all examinees knew the court should deny the motion to withdraw the case from the jury docket. Most examinees knew that such a withdrawal was proper only with the consent of all parties.
12. Almost all examinees knew Pat should file a motion in limine.

13. Few examinees knew Green and Plus should file a motion to add Tom as a Responsible Third Party.
14. Almost all examinees knew Pat should file special exceptions. Few examinees also knew Pat should ask the court to require the defendants to replead their case with specificity or, in the alternative, strike their pleadings.
15. Almost all examinees knew Plus should file a no-evidence motion for summary judgment. Few knew Plus could also file a traditional motion for summary judgment.
16. Almost all examinees knew the court should instruct Plus not to discuss insurance or its financial status because such information was not relevant to the case.
17. Almost all examinees knew the court should overrule Pat's objection to Tom's testimony. Most knew the court should do so because Pat's statement to Tom was an admission against interest.
18. Almost all examinees knew Green's objection to the mediator's testimony should be sustained. Most examinees explained the court should sustain the objection because mediation statements are confidential.
19. Almost all examinees knew Green and Plus should file a motion for a directed verdict, asserting there was legally insufficient evidence to support a verdict or judgment against them.
20. Most examinees knew the court should grant Green and Plus's motion for a \$30,000 verdict. Few knew the court should do so because past medical expenses are limited to those expenses paid or incurred.