1. Two Simon alums, who live in Texas and Virginia respectively, meet for a drink in New York City while on business trips. Over drinks, they agree to partner in an enterprise to place Internet kiosks in a string of California coffee houses. Each agrees to invest $35,000. They write a contract on a cocktail napkin and both sign it. Subsequently, one of the alums refuses to make the agreed investment and proceed with the deal. Discuss the feasibility of lawsuits over this dispute in Texas, Virginia, New York, and California – both state and federal courts.


4. “Judges of state courts must follow applicable federal law.” Agree or disagree? Explain.

5. Under what circumstances must federal judges apply state law?

6. Which of the following is a correct result of stare decisis:
   - A court must always follow its own earlier decisions on a particular matter.
   - A lower court in a state must always follow the decisions of a higher state court in its jurisdiction.
   - A California Supreme Court decision must be followed by a trial-level court in Las Vegas.
   - A NY trial court must follow a 1992 decision of NY’s Court of Appeals (NY’s highest court) even though the NY legislature enacted a statute covering the same matter in 1997.
   - Same facts as question above. What if the NY Court of Appeals found the statute unconstitutional in 1998?

7. Suppose it costs a disreputable customer of your business $500 to file a frivolous lawsuit that seeks $50,000 in damages, and it costs you $1000 to employ a lawyer and respond to the complaint by formal answer or motion. Suppose further that if you ignore the lawsuit and do not respond you will suffer a default judgment in the amount of $50,000! Would you be willing to settle even though you know that the suit is frivolous and that the plaintiff will drop the suit if you make a formal response? Does your business strategy (and answer) change if all of your customers have complete information?
8. You’ve just received a letter from a customer’s lawyer, threatening to sue your company for $1,000,000 in damages resulting from the malfunction of your company’s product. You are trying to decide whether to defend the lawsuit vigorously. The customer’s lawyer has offered to settle for $600,000 if you accept this offer within 48 hours. After that, there will be no further settlement discussion. You learn from your lawyer that it would cost $100,000 to defend this action through trial and that you have a 30% chance of winning (i.e., avoiding liability). On the other hand, there is a 50% chance that a jury will award the plaintiff $1,000,000 in damages, and a 20% chance that you will convince a jury that you are responsible for $300,000 in damages. Should you settle or go to trial, assuming there are no game theory issues with settlement?

9. Thelma and Louise are executives of Endrun Corp. They have been involved in a pattern of securities laws violations for sometime. Today, both Thelma and Louise have been arrested on warrants obtained by the local federal prosecutor. They are being held in separate cells, and are not allowed to communicate with each other. The federal prosecutor meets with Thelma and Louise separately and makes the following offer to each of them:
   • “Confess and cooperate with us. If your testimony helps us convict your partner in crime and get a 10 year sentence for her, we will recommend a 1 year sentence for you.”
   • “If you don’t confess, and your partner testifies against you and helps us get a conviction, you’ll get 10 years!”
   • “However, if you and your partner both confess, I can only get you a 5 year sentence.”

Both Thelma and Louise know that if neither of them decides to help the federal prosecutor, it is likely that they will be convicted of a lesser crime and get 3 year sentences. What will Thelma and Louise do?
1. Federal Court subject matter jurisdiction requires exclusively Federal Matter, Federal Question, or Diversity of Citizenship. There is no exclusively Federal matter nor Federal Question here as this is a simple contracts issue, most often resolved by state law. But, clearly, there is diversity here (alums live in Texas and Virginia). However, diversity jurisdiction also requires that the matter in controversy exceeds $75k. So, action could not be brought in Federal Court. As to State Court lawsuits, action could be brought in New York state courts (contract made in NY), maybe in California (if real property in California involved), but not in Texas or Virginia (assuming no contacts in those states by the non-domiciliary party).

2. Agree. The US Constitution imposes specific limits on business (e.g. interstate commerce regulation) and confers specific rights on individuals (e.g. Bill of Rights) that businesses cannot infringe.

3. Disagree. Congress pre-empts state law and regulates in many areas, such as admiralty, bankruptcy, antitrust, patent, trademark, and copyright.

4. Disagree. Certain matters (such as property rights, torts, contracts, agency, most crimes) are exclusively state-governed rights/obligations. Consequently, the federal government does not generally have authority over these areas, and there is no federal law covering these areas.

5. If Congress does not provide for exclusive federal jurisdiction over an area, jurisdiction over disputes arising in this area is shared with the state courts – this is called concurrent federal jurisdiction. This arises in 2 instances: (a) when there is a federal question over which the Federal courts do not have exclusive jurisdiction; or (b) diversity of citizenship and amount in controversy exceeds $75k.

6. (a) A court may decide not to follow its own earlier decisions on a particular matter (effectively overruling these earlier decisions).
   (b) A lower court in a state must always follow the decisions of a higher state court in its jurisdiction – the heart of stare decisis.
   (c) No. A California state Supreme Court decision is not binding upon the courts of any other state, only those of the state of California.
   (d) No. A state’s legislature can effectively overrule existing common law on a matter, shortcircuiting stare decisis.
   (e) State courts can review the constitutionality of a statute. The subsequent NY Court of Appeals opinion is precedent that must be followed from that point on.

7. Yes. Settle for up to $1k. But the strategy changes if other customers would have complete information of this action and settlement. In that instance, it may make more sense to litigate and set a public example.