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1)

===== Start of Answer #1 (1437 words) =====

1) Service of the Complaint

a. Valerie

Personal Service

In order for the court to obtain personal jurisdiction over a party, service of process must be served on the defendant. Service of process includes the summons and complaint. Personal service is where a non-party serves the defendant personally.

Here, Paul (P) filed an action pro se against Valerie (V) and Meyer Corp. (M). After filing the suit, P drove up to San Francisco where V lived and personally handed the summons and complaint to V. Since P is the plaintiff in the suit, P cannot personally serve V.

Therefore, P did not serve V properly.

b. Meyer

Substitute Service

In addition to the personal service, a party may also serve by substitute service. This is where a non-party serves the defendant of suitable age and discretion at the person's abode. Further, where the party is a defendant, a person who is apparently in charge may also be served.

Here, M will argue that personal service was not established because M was not served rather M was just mailed a copy of the summons and the complaint.

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P will argue that P sent a summons and complaint to M by ordinary mail to M's ordinary place of business. However, P's argument will fail since no-one served M in person to someone apparently in charge.

Waiver

A waiver to service is where a party mails the summons and complaint to the abode or ordinary place of business. The party being served has the option to either waive personal service but then receives 60 days to file a responsive pleading. Alternatively, the party being served may decide not to waive service, but then they are obligated to pay costs of the service.

Here, P mailed by ordinary mail the summons and complaint to M in Germany. Further, since M has its sole place of business in Germany and its snacks are manufactured in Germany, we can infer, that its personal place of business is in Germany. Further, since P mailed the summons and complaint to Germany, M has the option to either waive service, or decline service. If M declines to waive personal service, M will be liable for P's costs of service of process.

Therefore, M may waive personal service but M is not required to .

2.

Personal Jurisdiction

Personal jurisdiction is the power of the court to issue a binding judgment by having jurisdiction over the parties. There are two ways a court may establish personal jurisdiction: a) traditional and b) minimum contacts.

a. Traditional

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Traditional jurisdiction is established by a person residing in the forum state, consent, or being served within the forum state.

Reside

A residence is determined by the physical intent to remain and the presence in the forum.

Here, V is a resident of San Francisco. Since San Francisco is in California, and the action was brought in California, the court has personal jurisdiction over V.

Therefore, the court has personal jurisdiction over V.

Service of Process

A court obtains personal jurisdiction over a defendant if the defendant is personally served within the state.

Here, as discussed above, V was served improperly.

P will argue that since V was served in the California that the court has personal jurisdiction over V when P personally served to V when he drove up to San Francisco. However, since V was served improperly since service was accomplished by a party, the court cannot assert personal jurisdiction on the basis of service within the forum.

Therefore, the court cannot obtain personal jurisdiction over V on the basis of service within the forum.

b. Meyer

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Traditional

Please see the rule above. A corporation has two residences, the place of incorporation, and the principle place of business.

Principle Place of Business/Place Of Incorporation

Here, M was a German corporation with its sole manufacturing plant and place of business in Germany. It is likely that all of the decisions are made in Germany since that is where its only place of business is. Therefore, it is likely that its principle place of business in Germany.

Therefore, the court cannot establish personal jurisdiction on residency.

Non-Traditional

A court may assert jurisdiction over a non-resident defendant if the long arm statute permits it, and there is minimum contacts.

Long Arm Statute

The long arm statute in California provides that the court may assert personal jurisdiction over a non-resident defendant if it does not offend the US constitution.

Therefore, we move to minimum contacts.

Minimum Contacts

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This is determined by seeing if the defendant personally availed themselves to the benefits of the forum state and if it is foreseeable.

Personal Availment

This looks at the nature, the quality, and to the extent the defendant availed themselves to the forum state.

Here, M will argue that it is a German corporation that exports its snack products and that it did not establish a permanent presence in the US since its products and headquarters are in Germany.

P will argue that M knew that its products were exported to other countries since its sole manufacturing plant is in Germany. However, P will be unable to establish sufficient contacts with out more than M is an exporter of snacks.

Foreseeability

Here, M is an exporter of snacks. It is not foreseeable that each place someone might consume its snacks to be haled into court. There is no indication that M purposefully targeted San Francisco for its snacks.

Therefore, it is not foreseeable for M to be haled into court.

Fair Play Substantial Justice

This looks at alternative forums, and the interests in having the acted heard in the present venue.

M will claim that all of the witnesses regarding any defect in the manufacturing process of its snacks is in Germany. And that this should be heard in a

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German Court.

P will argue that CA has an interest in having the action tried in CA because the forum has an interest in protecting its citizens, However, the court will likely find the action violated fair play because there is not sufficient ties to M in California.

Therefore, the action violates fair play and substantial justice.

Therefore, the court will not be able to have personal jurisdiction over M.

3. Venue

Venue is the forum of the action. Venue is proper if 1) consent of the parties, 2) the injury occurred in the venue or 3) any place where the defendant resides.

Here, the venue is currently San Diego. There does not appear to be consent of the parties. The injury occurred in San Francisco at the music festival not in San Diego. The only place that has jurisdiction over the defendant (as discussed above) is San Francisco.

Therefore, venue is improper.

4. Removal to Federal Court

Removal is where an action is initially filed in state court. Then removed to federal court. Removal action must occur within 30 days of service of process. Where there are multiple defendants, each defendant needs to consent. Further there needs to be subject matter jurisdiction.

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Timing

Here, we are not aware of the timing. Further, M has 60 days to waive service. Assuming that both M and V consent to removing the action to federal court, and that it is removed within 30 days of the service, the timing requirement may be met.

Therefore, the timing element may be met.

Subject Matter Jurisdiction.

A fed court is a court of limited jurisdiction and needs to have subject matter over an action in order to hear it. This can be accomplished by a federal question or diversity.

Federal Question

Where the basis of the claim is based upon a federal statute or cause of action that also provides a remedy.

Here, the action was based upon a negligence manufacturing of defective snacks. Negligence is a state claim. Therefore, there is no federal question.

Diversity

This is were there diversity (no P and not D from the same state) of the parties and the amout of controversy is in exess of \$75,000.

Please see the rules above for residences.

Here, P is a citizen for Mexico and he intends to returen to Mexico since he has

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a student visa despite P being physically present in CA.
Therefore P is domiciled in MX.

Here, V is a resident of CA since her residence is in San Francisco.

Here, as discussed above, M is a domiciled in Germany.

Therefore, there are the parties are diverse.

Amount in controversy.

Here, P claimed \$50,000 in compensatory damages.

Therefore, the amount in controversy is not met.

Therefore, the action may not be removed to fed court

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