

Civil Litigation

A tank truck operated by the Acme Oil Freight Corp. Spilled a large quantity of oil on the farmland of Smith, which is located in Montoursville, Pennsylvania. The accident occurred when a welded seam on the tank burst. Smith sues Acme in federal court for the Western District of Pennsylvania to recover \$120,000 for crop damage and soil contamination. Smith seeks recovery by alternatively claiming under:

- (i) the Federal Oil Carriers Act, a statute recently enacted by Congress making interstate carriers strictly liable for damage caused by a carrier's leakage of oil; and
- (ii) state common law which make anyone who causes a spill of any toxic material strictly liable for resulting damage.

Acme files an answer and also files a third party complaint against Standard Welding Co., claiming that Standard should be held liable to Acme if Acme is required to pay a judgment to Smith under the Federal Oil Carriers Act. Acme alleges in the third-party complaint that the seam burst because it had been poorly welded by Standard six months before the accident. In its responsive pleading, Standard denies that it improperly welded the seam and no makes a permissive state-law counterclaim against Acme for \$5,500, the balance due for welding performed by Standard on Acme trucks. Smith then amends his complaint to add a claim for \$120,000 against Standard based on the same state common law raised in Smith's second claim against Acme.

Smith is a citizen of Pennsylvania. Acme is incorporated in Delaware and has its principal place of business in Pennsylvania. Standard is incorporated in Pennsylvania and has its principal place of business in New Jersey.

1) Please discuss whether federal subject matter jurisdiction exist concerning each of the following claims:

- A) Smith's claim against Acme under count (i)
- B) Smith's claim against Acme under count (ii)
- C) Acme's third party claim against Standard
- D) Standard's counter-claim against Acme
- E) Smith's claim against standard

2) Assume that neither Standard nor Acme have had any contact with the state of Pennsylvania other than those discussed in the story. Both companies claim that the Pennsylvania federal court has no personal jurisdiction over them. For each company, please discuss whether they are correct.

3) Under which Federal Rules (in the Federal Rules of Civil Procedure may the following claims be brought:

- A) Acme's third party claim against Standard
- B) Standard's counter-claim against Acme
- C) Smith's claim against standard

Please answer this question based on your knowledge of Civil Litigation rules, the Federal Rules of Civil Procedure (which can be viewed in its entirety at <http://www.law.cornell.edu/rules/frcp/>) and/or the National Paralegal College courseware. There is no need to use or research case law in the completion of this assignment.