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1.a. Did Paul validly serve the summons on Valerie?

In order to initiate the filing of a case in a California state court, a valid process must be served. Process contains the complaint and the summons. California rules allow service of process personally to the defendant as well as mailing of the process via certified mail to the defendant's address.

Here, Paul filed the case with the state court in San Diego. Paul drove to San Francisco and handed the summons and the copy of the complaint to Valerie. Personally serving the complaint is a valid way of delivery of process. Therefore, Paul validly served the process on Valerie.

1.b. Did Paul validly serve the summons on Meyer Corp.?

Meyer Corp. is a German company and its sole place of business is in Germany. To properly serve the defendant via mail permitted by California rules, the process must be sent via certified mail to the place of the defendant's business. The facts here indicate that Paul mailed the summons and the complaint to the company in Germany via ordinary mail. Ordinary mail is likely construed as a regular, not certified mail. Paul failed to serve the process on the German company properly.

2. Does the Superior Court of California in San Diego have a personal jurisdiction over Valerie?

Personal Jurisdiction is the jurisdiction of the court over the Defendant. The rules of personal jurisdiction (PJ) in California follow the federal rules. In order for a court to have PJ, the court must have either traditional jurisdiction or follow the state court's long arm statute. Traditional jurisdiction is established by D's consent to be sued in the state, personal service of process in the state or

domicile of the Defendant (D). Alternatively, California long arm statute allows PJ to the extent allowed by US constitution. To comport to the long arm statute, the defendant must have minimum contacts within the state and the exercise of PJ must not offend traditional notions of fairness and substantial justice.

### **PJ over Valerie.**

Valerie resides in San Francisco, therefore she is domiciled in San Francisco. Because she is domiciled in the state of California and was personally served by Paul in San Francisco, state court in California will have PJ over Valerie. The different district that Valerie resides in will not affect the state court's ability to exercise PJ over Valerie.

### **PJ over Merer, Corr (M)**

M is a German company with its place of business in Germany. Hence, it is not domiciled in CA. Paul did not serve M in CA, neither obtained consent to be sued in CA. Therefore, traditional PJ does not apply.

#### *Minimum Contacts*

In the analysis of the minimum contacts, the court will determine if M has purposefully availed itself to the benefits of doing business in CA and whether it is foreseeable that M would be haled in court in CA.

#### *Purposeful availment*

the facts indicate that the snacks that Paul ate were produced in Germany. There are no indications of M specific travel to CA or taking any particular steps to avail itself of benefits of doing business particularly in CA. They are producing snacks. It can be inferred that the snacks can be bought and sold by a variety of vendors from all over the world. M will argue that there is no specific availment

to the benefits in CA as a producer of a mass market item. Paul will argue that the presence of the snacks in CA are an indication that M intended to benefit from being in the state. Paul's argument is likely to fail because of the purposeful availment.

*Foreseeability of suit*

When the merchant does business in a particular state with the intent of benefiting from the business in the state, the merchant can be deemed as to foresee a suit in the state. M produces snacks. The snacks end up in CA, as they probably end up in a large part of the world as well. Unless Valerie specifically contracted with M to specifically ship the snacks exclusively or in a limited manner to her only, it will not be foreseeable that M will be haled in court in CA. Paul will argue that the defective product shipped anywhere, especially food, should be allowed to be litigated anywhere the food ends up. Although generally true, it will probably not rise to the level of foreseeability to be haled in court in CA.

Because M will succeed in demonstrating that there is no purposeful availment or foreseeability to be sued, minimum contacts will not be established.

*Fairness*

If the court finds that M had minimum contacts within the state, fairness of PJ over M in state court will need to be analyzed.

*Relatedness: Specific v General jurisdiction*

Specific jurisdiction is established on the basis of minimum contacts to see if there is significant exposure to the state based on the contacts by the Defendant. If minimum contacts are established, the court will probably establish

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specific jurisdiction over M because of the presence of the snacks. M's arguments under purposeful availment and foreseeability will also be valid here to counter P's arguments.

If there is specific jurisdiction, the court will further assess the fairness of suing M in CA. Here, the court will determine the relative hardship of litigation in CA, the interest of the state to provide venue and the interests of Paul. M will argue that it is unfair to bring the suit in CA because M is a German company with the sole place of business in Germany. The production plant, employees involved in the production of the snacks, management and all possible witnesses are likely in Germany and the difficulty of litigation in CA will create a major hardship for M. However, if they argue that the suit will need to be tried in Germany, the hardship on Paul, an individual, would be greater because of the relative availability of resources of a person versus a company. Furthermore, Paul will argue he is the one who suffered the \$50,000 damage because of the toxic substance contained in the snack and that his interest in fairness in the local court would be better served. The state will have an interest in providing venue for its citizen to bring a suit and address the damages suffered. In total, the court will likely find that it would be fair to sue M in CA.

General Jurisdiction is exercised if the extent of involvement of the company in the state is such that it feels essentially "at home" in the state. M is a German company and there are no facts to support the involvement of the company in CA to such an extent as to construe its presence in CA as being "at home". For that to happen, M would probably need to have plants, stores and employees in CA, which it does not.

In conclusion, the court in CA will probably not find PJ over M.

3. Does Venue properly lie in Superior court of California in San Diego?

Venue is proper where all defendants reside or where the events leading up to the suit occurred. Further, in CA, additional venue is available where contract took place and in the case of products liability, where products were produced. Valerie resides in San Francisco. It is within the same state as where the events occurred. However, M is a German company. So, federal court venue will not be proper in San Diego. San Diego is where Paul resides. Because it is within CA, but a different district, the state court will hear the case and may transfer the case to the district where San Francisco is for judicial fairness.

4. Is Paul's action properly removable to the federal court?

To be removable, the case must meet federal court Subject matter jurisdiction (SMJ). The case will either have to be based on a federal question or must satisfy diversity SMJ.

*Federal question*

This is a tort case, based on state law. There are no federal questions raised. Therefore, not federal question jurisdiction.

*Diversity*

To satisfy diversity, all plaintiffs must be citizens of different states from all defendants. Alienage jurisdiction is satisfied if a defendant is a citizen of a foreign country. Here, both Paul and Valerie are citizens of California. Although the alienage between Paul and M is satisfactory based on alienage, the fact that Paul and Valerie are not citizens of different states takes this case out of diversity SMJ. Furthermore, the amount in controversy is \$50,000, which is less than the required amount of more than \$75,000 needed for diversity jurisdiction.

The case is not removable to the federal court for the lack of SMJ.

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