

Personal Jurisdiction Hypothetical

Plain v. Apple et al.

Patricia Plain is a junior in college who currently lives and goes to school in Spokane, Washington (which is in the eastern part of the state and about 10 miles from the border with Idaho). She relies a lot on her electronic devices to keep herself organized. Before she left to go to college in Spokane a few years ago, she lived with her parents in San Jose, California. Recently, she married her high-school sweetheart in San Jose. While she was taking her honeymoon in Paris, France, she went to an Apple retail store to purchase a new iPhone. Even though her parents' home was less than an hour's drive from Apple's headquarters in Cupertino, California,¹ and she could have bought a phone there before departing, she bought her phone in France because the exchange rate was favorable, and it was less expensive than if she had purchased it in California. Otherwise, her new phone is identical to the iPhones sold in Apple retail stores in the United States.

Many Apple stores are located inside shopping malls, but Apple has built several stand-alone "flagship" stores in major cities such as Paris, Seattle, and Portland. The iPhone itself is manufactured globally. For example, its much-touted Face ID sensor was imagined in Florida, but manufactured in Asia by Taiwanese giant TSMC. And as most people know, many iPhones are assembled in China. Apple sells its products worldwide.

Plain brought her new iPhone with her back to Spokane and started experimenting with the Siri function of the phone. Siri is an acronym for Speech Interpretation and Recognition Interface, and is a computer program that Apple markets extensively as an intelligent personal assistant and knowledge navigator. The feature uses a natural language user interface to answer questions, make recommendations, and perform actions by delegating requests to a set of Web services. The technologies underlying Siri, including the mapping and navigation features, were developed collaboratively by many different U.S. companies and research universities. Apple touts these features extensively. An example of its nationwide marketing is a Siri commercial broadcast on television and via YouTube, which features a young man who asks Siri, "What is the traffic like here?" while he's driving a car. Apple spends millions of dollars each year on ads like this.

Not long after returning to Spokane, and while in an unfamiliar part of town, Plain realized that she needed toothpaste but didn't know where the nearest drug store was located. While driving her car, and without having to look down at her phone, Plain said, "Hey Siri, how do I get to the nearest pharmacy?" Siri responded with "Getting directions to FarmaSee" and then gave Plain driving directions. Instead of directing her to a drugstore, however, the directions took Plain to a dairy farm and petting zoo ten miles away in Idaho. Because Plain was not paying much attention, she did not realize that she had just crossed the border into Idaho. When Plain realized the mistake, she turned to go back home to Washington state. Unfortunately, before she could make her way out of the farm, a large truck driven by one of the dairy farm employees, Bobby Bleeker, hit her car and totaled it.

¹ Apple Inc. is incorporated in California.

Fortunately, Plain escaped with minor injuries, but the accident caused her to miss the first week of classes of her junior year and left her shaken for several months afterwards.

FarmaSee is a local organic dairy business located in Idaho and incorporated there. It belongs to a dairy cooperative that provides dairy products to retailers based primarily in Idaho. Although the dairy cooperative has repeatedly tried to sell more broadly, organizations such as the Washington Dairy Federation have been mostly successful at keeping non-Washington dairy out of its state. FarmaSee also advertises on an Interstate 90 billboard in Idaho, just on the other side of the Washington border, that visitors are welcome to see the cows, learn about a working farm, and play with the kittens in the barns, all for free. Unlike the Apple flagship stores in Paris, Seattle, or Portland, FarmaSee does not get thousands of visitors a week, but it does get some out of towners, many of whom are traveling on Interstate 90 on their way from the west coast to destinations elsewhere. While the farm does not keep a precise log of its visitors, it does have a guest book that visitors are welcome to sign. Over the last ten years, some of those visitors have indicated that they are from Washington. There is a small gift store in the barn that is open only during the December holiday season to sell fresh-cut trees. Because of its rural location and low pay, FarmaSee is not able to attract employees easily. Bobby Bleeker was a recent hire who has struggled most of his life with a substance abuse problem. Unfortunately, he was probably intoxicated when he hit Plain's car. Bleeker lived on the dairy farm at the time of the accident, but was previously homeless and without a fixed address.

Plain is planning to sue Apple, claiming Siri doesn't work as well in real life as it does in the company's commercials. Plain would also like to sue FarmaSee and Bleeker for negligence (leading to the injuries to her and her car). Her counsel, Erin Brockovitch, has drafted a complaint with three counts. In Count I of her complaint, Plain alleges that Bleeker was negligent by driving while intoxicated, and in Count II, she alleges that FarmaSee was negligent in hiring and supervising Bleeker. Both theories are based on common-law negligence under state law. In Count III, against Apple only, Plain alleges that the iPhone was defectively designed because of the incorrect driving directions provided by Siri, which ultimately led to the automobile collision with Bleeker. This latter claim is a products-liability claim based on state law. Plain has requested \$100,000 in compensatory damages against all the defendants. Against Apple she has additionally requested \$250,000 in punitive damages.

Assume for purposes of this question that Plain's lawyer Brockovitch is trying to decide whether it would be appropriate to file the complaint in the U.S. District Court for the Eastern District of Washington, where Spokane sits. She is particularly concerned about whether the court would have personal jurisdiction over all three defendants: Apple, FarmaSee, and Bleeker. Please advise Brockovitch whether the U.S. District Court would have personal jurisdiction over the three defendants. Assume a state long-arm statute in Washington permits courts to reach as far as due process allows.