

# Civil Procedure

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## Erie Doctrine

The Carbolic Smoke Ball Company (incorporated and having its principal place of business in the State of Mendacity) runs an ad in the Pall Mall Gazette. The ad claims that the company's Carbolic Smoke Ball is "clinically proven to prevent colds and flu when used as directed." In fact, the product does nothing at all, other than emit foul-smelling smoke, and the company never conducted any tests, clinical or otherwise.

After reading the ad, Carlill (domiciled in the State of Euphoria) buys a Carbolic Smoke Ball and uses it as directed three times a day for several weeks. She is chagrined when she contracts the flu anyway. It turns out to be an especially bad case of the flu, requiring hospitalization and expensive medical treatment.

Carlill sues the Company for fraud under Euphoria state law. Her complaint alleges that the Company's ad made false claims about the health benefits of the Carbolic Smoke Ball, that the Company knew those claims were false, and that the Company made those claims with an intent to induce consumers to buy the product. In the complaint, Carlill requests the following relief:

- \$80,000 in punitive and compensatory damages, and - a permanent injunction prohibiting the Company from continuing to run ads making fraudulent claims about the Carbolic Smoke Ball's health benefits.

Carlill files her suit in the U.S. District Court for the District of Euphoria, which has subject matter jurisdiction based on diversity of citizenship.

## Question 1

FRCP Rule 8(a)(3) provides that a complaint must include "a demand for the relief sought, which may include relief in the alternative or different types of relief." Under this rule, a

plaintiff may request both legal remedies (usually money damages) and equitable relief (such as an injunction) in the same complaint.

In contrast, under Euphoria state law, a plaintiff who seeks both legal remedies and equitable relief must file two complaints, one seeking the legal remedy and another seeking the equitable relief. Both complaints will go to the same court, which will treat them as a single action for most purposes. If (either on summary judgment or at trial) the defendant is found liable, the court will then hold a separate hearing to determine whether the plaintiff is entitled to the injunction or other equitable relief sought.

The Company objects that Carlill's request for both money damages and a permanent injunction in the same complaint is improper under Euphoria law. Carlill argues that federal law, not state law, governs whether she may seek both types of relief in the same complaint. How should the court rule?

## **Question 2**

Under Euphoria state law, a consumer asserting a fraud claim based on an allegedly false advertisement must plead and prove the following elements: - The defendant made false claims about the product - The defendant knew the claims were false - The defendant made the claims with the intent to induce consumers to buy the product - The plaintiff reasonably relied on the claims in deciding to buy the product.

In contrast, under federal law, an advertiser is liable for false advertising even if it was unreasonable for a consumer to have relied on the defendant's false claims.

The Company moves to dismiss Carlill's complaint for failure to state a claim, because the complaint fails to allege that Carlill reasonably relied on the claims in the ad regarding the supposed health benefits of the Carbolic Smoke Ball. In ruling on that motion, should the federal court apply state or federal law on the issue of whether Carlill must allege and prove reasonable reliance?