1. 
   a. False - Congress can contract subject matter jurisdiction more or less at will, but can only expand it to the constitutional limits

   b. False - Well pleaded complaint rule requires matters to be raised in complaint

   c. True - various other bases for personal jurisdiction - notice, consent, in rem, International Shoe

   d. False - Requires state substantive; silent on procedural

   e. False - implicit incorporation, in sense that must include facts that are relevant to the claim, which is a writ/code based concept

   f. False - called that because courts of equity in England handed out this kind of relief

   g. False - Generally accurate statement of American rule, but fee-shifting statute can move around.

   h. False - Require reasonable investigation; Empty head, pure heart not enough

   i. False - Designed to get rid of cases where no genuine dispute of material fact -- not evidentiary burden issue

   j. True or False acceptable - has authority to compel presence at pretrial conference which can include settlement discussions and can sanction failure to participate in good faith, but unclear that sanctioning power extends to "good faith" settlement discussions

   k False - Generally need pre-notice deprivation, but certain circumstances where don't (likely to destroy, exigent circumstances

   l True - this is the intended (and unintended) purpose of discovery

   m True - this was settled hundreds of years ago in England

   n False - Misstates the standard - irreperable injury and likely to prevail, or serious questions and balance of hardship

   o False - prevailing plaintiff only (not Defendant), unless frivolous or for harassment

   p False - first filing/motion - which doesn't have to be answer

   q True - forum non conveniens

   r False - There are due process limitations on both amount and procedures - although the Court has yet to strike down an award because of its amount.

   s. False - Could have been removed if brought in Vermont, but not in Virginia. See
t. False - Must specifically allege affirmative defenses.

2.

A. What to do: litigate/try and work something out. Stalling raises some rule 11 problems - although whether you'll be detected is a separate question. If want to litigate, personal jurisdiction is your best (but not only) bet. Could also try venue or forum non conveniens, neither of which are likely to work. Smartest thing is to execute waiver, (getting her the extra time she wants) and contest personal jurisdiction in the Answer. Alternatively, she can play hide-and-go seek with a process server - which will probably make her job search much harder and expose her to the costs of service. Finally, could do a default judgment, with hope that either will be able to pay by the time they get around to enforcement, or can contest jurisdiction just as easily in a later proceeding.

Personal jurisdiction requires one to talk about the case law at some length. Although DD learned of Oriole Mortgage through roundabout means, they did have a direct avenue into Toon Town. The mortgage listed Oriole's address - and DD was supposed to send checks to them in Baltimore. On the other hand, DD called an 800 number, the question doesn't say where she sent the application into, she never sent a check to Baltimore, and the question is silent as to whether there is a forum selection clause in the contract. Balancing International Shoe, Szhukhent and Burger King, personal jurisdiction is likely to be found - although these are very favorable facts for the opposite result.

b. You have to respond unless you want to lose, and you can't simply rest on the pleadings. Thus, you need to find a genuine dispute of material fact left open by the affidavits, or submit an affidavit of your own. Among others, you could argue that your deal with the inspector was that he would exercise greater than ordinary care and caution - which is why you paid him more than the going rate. The use of the X-ray machine cuts against the inspector on this point. You might argue that the X-ray machine could have detected the problem if done correctly - although you need a factual basis to do so. Alternatively, you can present your own affidavits that boring was unnecessary to find the problem, that boring is part of the routine practice of home inspection, or that any competent inspector would have found the problem.

3. This was not an opportunity to download your outline on Erie into the bluebook. The question was has Erie and its progeny improved things or made them worse. Addressing this required you to present the evils of Swift, show the flow of the caselaw since then, and then discuss the extent to which the evils of Swift (forum shopping/inequitable administration of the law) were solved (or not) by Erie - and whether any new evils were created.

4. There are many possible examples of process affecting outcome - statute of limitations, Erie, remedies, financing of legal expenses, etc. Indeed, almost anything we talked about in class could be worked into this response. Too many people failed to organize their answer or just said things like "upstream decisions affect downstream ones," "remember the funnel," and the like without providing a discussion of the issues.

Scores tracked the amount of time. Grades were determined based on curved results on the exam, and then combined with the graded writing assignments, and participation. Everyone did a respectable job on the discovery game memos.