

## Civil Procedure

Eric M. Fink  
Elon Law School  
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# Quiz: Subject Matter Jurisdiction & Choice of Law

## Instructions

- This is an open-book/notes quiz. You may use any printed material, but no computers or other electronic devices.
- You have 30 minutes to complete the quiz.
- When you are done, return the questions and your answer sheet to the proctor.
- Include your Midterm Exam ID number, *not your name*, on your answer sheet.

## Questions

1. In which of the following cases would a federal court have diversity jurisdiction under 28 U.S.C. § 1332 (assuming all claims arise under state law)?
  - a. Abel (VA) sues Baker (NC), Charlie (TN), Davis (VA), and Edwards (SC), for breach of contract arising out of a real estate deal among the five parties. Under the applicable state law and the contract terms, the defendants are jointly and severally liable for the alleged breach. Abel seeks \$80,000 in damages.
  - b. Betty (NC) sues Dupree (VA) seeking \$50,000 in damages for fraud, alleging that a diamond ring Dupree sold her was really made of glass. In the same action, Betty also asserts an unrelated negligence claim against Dupree, seeking \$50,000 for property damage and personal injuries she sustained when a drunken Dupree crashed into Betty's car.
  - c. Neff (CA) is in possession of a painting valued at \$75,000. Pennoyer (OR) sues Neff, to recover the painting, which he claims Neff borrowed but failed to return as promised.
  - d. None of the above.
2. Perry (NC) has a homeowner's insurance policy from Dependable Ins. Co. (DE), which he bought through a local agent, Delilah (NC). Perry submits a claim for coverage after a broken water main under his front yard results in property damage costing \$50,000 to repair. Dependable denies the claim, asserting that the policy does not cover "flood damage". Perry sues Dependable for breach of contract & bad faith denial of an insurance claim under state law. He seeks \$50,000 in compensatory damages and another \$50,000 in punitive damages. If Perry files in DE state court, may the defendants remove to federal court?
  - a. Yes, provided state law would allow recovery of punitive damages.
  - b. Yes, if Dependable raises a defense based on federal law.
  - c. No, because Delilah, the Dependable agent who sold the policy, is a NC.
  - d. No, because it's uncertain whether Perry will recover punitive damages.

3. While Goldilocks (NC) is visiting her Grandmother (VA), Wolf (NC) breaks into Grandmother's house and devours her. Goldilocks manages to escape before Wolf has her for dessert. Goldilocks is named executor of Grandmother's estate. In her representative capacity as executor, Goldilocks brings a wrongful death action in federal court against Wolf on behalf of Grandmother's estate, seeking \$100,000 in damages. In the same suit, Goldilocks also asserts her own emotional distress claim against Wolf, seeking \$25,000 in damages. Which of the following is correct?
  - a. The court has have diversity jurisdiction over both claims.
  - b. The court has diversity jurisdiction over the wrongful death claim and supplemental jurisdiction over the emotional distress claim.
  - c. The court has diversity jurisdiction over the wrongful death claim, but must remand the emotional distress claim to state court.
  - d. The court must dismiss both claims for lack of subject matter jurisdiction.
4. Neff (CA) visits Oregon and is astonished to find a house on a parcel of land that Neff had purchased some years earlier from Mitchell (WA). After some investigation, Neff learns that the house was built and is currently occupied by Pennoyer (OR), who claims to have purchased the land from Mitchell. Neff brings a quiet title action in federal court against Pennoyer, seeking a declaratory judgment that Neff is the sole rightful owner of the property, which is valued at \$100,000. Under state law, Pennoyer may, in the same action, assert his own claim (a "third-party claim") against Mitchell to recover \$80,000 for breach of contract & fraud in the event the court decides the quiet title claim in favor of Neff. Under federal law, specifically Rule 14 of the Federal Rules of Civil Procedure, Pennoyer may not assert this type of third-party claim; instead he would have to bring a separate action against Mitchell following the outcome of the quiet title suit. Which law should the federal court apply to each issue?
  - a. State law, because it is in direct conflict with federal law.
  - b. FRCP Rule 14, if the court determines that it advances an important federal interest.
  - c. FRCP Rule 14, regardless of the rationale behind it.
  - d. Whichever the court determines is most equitable and efficient.
5. In which of the following instances must a federal court apply state law, rather than federal law, in a diversity case?)
  - a. Under state law, a plaintiff seeking a preliminary injunction must prove *both* that it will suffer irreparable harm if the injunction is denied *and* that this harm outweighs any harm to the defendant if the injunction is granted. In federal court, the plaintiff has the burden of it will suffer irreparable harm if the injunction is denied; the defendant then has the burden of proving it will suffer greater harm if the injunction is granted.
  - b. Under state law, a plaintiff asserting a claim for breach of a written contract must attach a copy of the contract to the complaint. FRCP Rule 8 merely requires that the complaint contain "a short and plain statement of the claim"; production of the written contract happens during the discovery process under FRCP Rule 26 and 34.
  - c. Under state law, before a civil suit may proceed to trial, the parties must participate in a court-supervised mediation process. Under federal law, mediation is voluntary and requires the agreement of all parties.
  - d. All of the above.

## Statutes

### 28 U.S.C. § 1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

### 28 U.S.C. § 1332. Diversity of citizenship; amount in controversy; costs

- (a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—
- (1) citizens of different States;
  - (2) citizens of a State and citizens or subjects of a foreign state, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State;
  - (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and
  - (4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.

[ \* \* \* ]

- (c) For the purposes of this section and section 1441 of this title—

- (1) a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of—
  - (A) every State and foreign state of which the insured is a citizen;
  - (B) every State and foreign state by which the insurer has been incorporated; and
  - (C) the State or foreign state where the insurer has its principal place of business; and
- (2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.

[ \* \* \* ]

## § 1367. Supplemental jurisdiction

- (a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.
- (b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

[ \* \* \* ]

## § 1441. Removal of civil actions

- (a) Generally.— Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.
- (b) Removal Based on Diversity of Citizenship.—
  - (1) [ \* \* \* ]
  - (2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

[ \* \* \* ]