

A poet living in State A sued a publisher from State B in a federal court in State B for failing to pay the poet \$150,000 in royalties. The publisher joined an agent to the suit through third-party practice, claiming that the agent sold the poems to the publisher without disclosing that the poet was the true author.

The federal court in State B is located within 50 miles of the State C border. The agent was served with process at her home in State C, which is located 75 miles from the federal court. The agent filed a motion to dismiss the publisher's third-party complaint for lack of personal jurisdiction.

State B has a long-arm statute that gives its courts personal jurisdiction over out-of-state defendants that are served with process within its borders.

Is the court likely to grant the agent's motion to dismiss?

- A. No, because a court does not need personal jurisdiction over an impleaded party.
- B. No, because the court has personal jurisdiction over the agent.
- C. Yes, because personal jurisdiction cannot be established through the State B long-arm statute.
- D. Yes, because the publisher must file a separate lawsuit against the agent in State C.

Explanation:

Due process requires that a court have **personal jurisdiction** over *all* the parties in a dispute **(Choice A)**. Federal courts have the same jurisdictional reach as the courts of the state in which they sit. Additionally, Federal Rule of Civil Procedure (FRCP) 4(k) provides a special rule—the "**100-mile bulge rule**"—for federal courts to acquire personal jurisdiction over a party:

- **added** to the suit through **impleader** (ie, third-party practice) or **required joinder** *and*
- served with process **within 100 miles of the federal court** where the suit is pending—even if the party is served in another state.*

Here, the publisher joined the agent to the suit through third-party practice. The agent was served with process at her home in State C, which is 75 miles from the federal court in State B. As a result, the "100-mile bulge rule" establishes personal jurisdiction over the agent, and the court will likely deny her motion to dismiss.

*FRCP 4(k) contains another special rule granting a federal court personal jurisdiction over a defendant served with process outside the forum state when (1) the plaintiff's claim arises from federal law, (2) the defendant is not subject to personal jurisdiction in any state, and (3) the exercise of jurisdiction complies with the U.S. Constitution and federal laws.

(Choice C) A long-arm statute is a state statute that gives courts within the state (including federal courts) personal jurisdiction over nonresident defendants. But federal courts can also establish personal jurisdiction in other ways—eg, through the "100-mile bulge rule" (as seen here).

(Choice D) Since the federal court in State B has personal jurisdiction over the agent through the 100-mile bulge rule, the publisher need not file a separate suit in State C.

Educational objective:

The "100-mile bulge rule" establishes personal jurisdiction over a party (1) added to the suit through impleader or required joinder *and* (2) served with process within 100 miles of the federal court where the suit is pending.

References

- Fed. R. Civ. P. 4(k)(1)(B) (100-mile bulge rule).

Personal jurisdiction through 100-mile bulge rule

