

A woman domiciled in State A was using a rideshare program while traveling in State B when her driver from State B lost control of his vehicle and collided with a building. The woman suffered serious injuries. A police report determined that the driver was heavily intoxicated at the time of the crash.

The woman brought a diversity action against the driver in a federal district court in State A, alleging that the driver's negligence caused her \$100,000 in damages. The driver filed a motion to transfer the case to a federal court in State B, which was granted.

What law of negligence should the federal court in State B apply in this action?

- A. The court should apply the federal common law of negligence.
- B. The court should consider the negligence law of both State A and State B and apply the law that the court finds most appropriate.
- C. The court should determine which state's negligence law a state court in State A would apply and apply that law.
- D. The court should determine which state's negligence law a state court in State B would apply and apply that law.

Explanation:

When a case is transferred from one federal court to another (as seen here), the receiving court must apply the appropriate **choice-of-law rules** to determine which [substantive laws](#) govern the action. The appropriate choice-of-law rules depend on whether **venue** was **proper or improper** in the **original court**. Venue is proper in any federal district where:

- any defendant resides, so long as all defendants [reside](#) in the same state
- a substantial portion of the events occurred or the property at issue is located *or*
- any defendant is subject to the court's personal jurisdiction—but only if neither of the above provisions applies.

Here, venue was *improper* in State A (original court) because the driver does not reside there and no events occurred there. Venue is *proper* in State B because the driver resides and the events occurred there.

Next, the receiving court must determine whether the case arises under [federal-question or diversity](#) jurisdiction. This case **arises under diversity jurisdiction** because the negligence claim arises under state law, the parties are citizens of different states (States A and B), and the amount in controversy exceeds \$75,000. As a result, the **receiving court** (State B federal court) should **apply** the **choice-of-law rules** of the **forum state** (State B), determine which state's negligence law a **state court in State B** would apply, and apply that law in this action.*

*Had this case arisen under federal-question jurisdiction, federal choice-of-law rules would have applied.

(Choice A) There is no federal common law of negligence, so federal courts must adhere to state law on this substantive matter.

(Choice B) The court cannot review the negligence law of both states and select the law that the court finds most appropriate because the court would be improperly developing its own federal choice-of-law rules.

(Choice C) The choice-of-law rules of the *original* court would have applied upon transfer if venue had been proper in that court.

Educational objective:

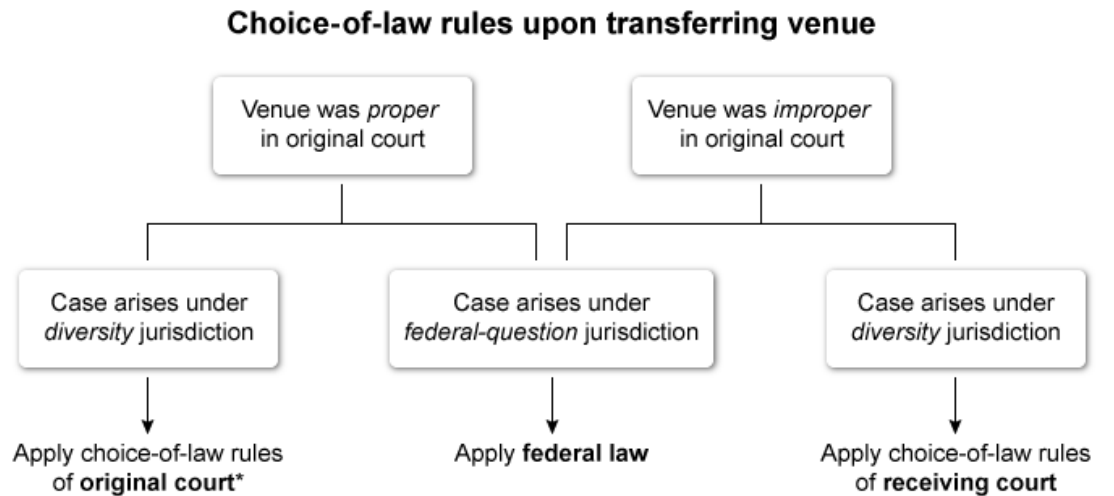
Upon transfer, the receiving court applies the forum state's choice-of-law rules when (1) venue was improper in the original court and (2) subject-matter jurisdiction arises under diversity jurisdiction.

References

- 28 U.S.C. § 1391 (venue).

- 28 U.S.C. § 1406 (transfer when venue is improper).
- 14D Charles Alan Wright et al., Federal Practice and Procedure § 3827 (4th ed. 2020) (explaining that the choice-of-law rules of the receiving court apply upon transfer when venue was improper in the original court).

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*If venue is transferred pursuant to a forum-selection clause, then the receiving court's choice-of-law rules apply.

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