

A small commercial airplane crashed in State A. The passengers and pilot, all citizens of State B, were killed in the crash. The airline that owned and operated the airplane is incorporated and has its maintenance facilities and principal place of business in State C.

One day before the statute of limitations on their claims would have run, the estates of the pilot and each of the passengers filed a wrongful death action against the airline in federal court in State A. The airline was served one week later and wants to prevent the State A federal court from hearing the action.

Which of the following motions is most likely to accomplish the airline's goal?

- A. A motion to dismiss the action for improper venue.
- B. A motion to dismiss the action for lack of personal jurisdiction.
- C. A motion to dismiss the action under the doctrine of forum non conveniens.
- D. A motion to transfer the action to a federal court in State C.

Explanation:

Under 28 U.S.C. § 1404, a district court can **transfer venue** for the **convenience of parties and witnesses**, and in the **interest of justice**, to any judicial district (1) where the **suit could have been originally brought** or (2) to which **all the parties have consented**. Venue is proper in a district where:

- any defendant **resides**, if all defendants reside in the same state
- a substantial part of the **events that gave rise to the suit occurred** (or a substantial part of the property that is the subject of the suit is located) *or*
- any defendant is subject to the court's personal jurisdiction (if neither of the above provisions applies).

Here, the airline was sued in federal court in State A—where the airplane crash giving rise to the suit occurred (proper venue) **(Choice A)**. But the airline can likely prevent the State A federal court from hearing the suit by filing a motion to transfer venue to State C since:

- the suit could have originally been filed in State C—the airline's state of incorporation and principal place of business (ie, residence)
- none of the parties reside in State A *and*
- State C is likely more convenient for the witnesses since the airline has its maintenance facilities there.

(Choice B) A federal court has personal jurisdiction over a defendant (eg, the airline) if the plaintiff's claim arises from the defendant's minimum contacts with the state where the court is located (ie, the forum state). Since this suit arises from the airline's minimum contacts with State A—flying and crashing its plane there—it will not be dismissed for lack of personal jurisdiction.

(Choice C) The doctrine of forum non conveniens allows a federal court to dismiss or stay a case—even when venue is proper in that court—if a state or foreign judicial system is better suited to hear the dispute (not seen here).

Educational objective:

A district court can transfer venue for the convenience of parties and witnesses, and in the interest of justice, to any judicial district (1) where the suit could have been originally brought or (2) to which all of the parties have consented.

References

- 28 U.S.C. § 1391 (venue).
- 28 U.S.C. § 1404 (change of venue).

