

Two tourists from State A planned a trip to a foreign country. Before leaving, one of the tourists saw a television advertisement for a guided hike in the foreign country. The tourist called the company responsible for the advertisement, which is incorporated and has its principal place of business in the foreign country. During the phone call, the tourist told the company's representative that neither of the tourists had ever been on a professional hike. The representative ensured the tourist that all of the company's guides were properly trained. The tourist then hired a guide from that company.

In the foreign country, the guide led the tourists on a steep and dangerous mountain trail meant for expert hikers. During the hike, the tourists fell into a deep ravine and died. Another group of hikers, all of whom reside in the foreign country, witnessed the event.

The deceased tourists' personal representatives joined together to sue the company in federal court in State A for false advertisement and wrongful death. The company wants the suit to be heard in its own country instead of State A.

Which of the following motions gives the company its best chance to achieve its goal?

- A. A motion to dismiss the lawsuit for improper venue.
- B. A motion to dismiss the lawsuit for lack of personal jurisdiction.
- C. A motion to dismiss the lawsuit under the doctrine of forum non conveniens.
- D. A motion to transfer the lawsuit to a court located in the foreign country.

Explanation:

Doctrine of forum non conveniens

Definition	<ul style="list-style-type: none">• Power of federal court to dismiss or stay lawsuit when state or foreign judicial system is better suited to hear case
Private interest factors	<ul style="list-style-type: none">• Accessibility of evidence• Availability of witnesses• Burden on defendant• Enforceability of judgment
Public interest factors	<ul style="list-style-type: none">• Ability to comprehend substantive law• Choice of law• Interest of jury/community• Functionality of foreign judicial system

The **doctrine of forum non conveniens** allows federal courts to **dismiss or stay** a lawsuit if a **state or foreign judicial system** is **better suited** to hear the case. This is permitted even when [subject-matter jurisdiction](#), personal jurisdiction, and venue are proper—but should rarely be applied. As a result, the court must consider several **private and public interest factors**, including the accessibility of the evidence and the witnesses.

Here, the foreign company wants the lawsuit to be heard in its own country instead of in State A. Several factors weigh in the company's favor since much of the evidence and all the witnesses are in the foreign country. Therefore, the company's best chance to have the suit heard in its own country is to file a motion to dismiss under the doctrine of forum non conveniens.

(Choices A & B) [Venue](#) is proper in any federal district where a defendant [resides](#) as long as all the defendants reside in the same state. A defendant business resides in every district where it is subject to [personal jurisdiction](#). Here, the company is subject to personal jurisdiction in any State A district since its minimum contacts with State A—the advertisement, business phone call, and agreement—gave rise to the tourists' claims. Therefore, motions to dismiss for improper venue or lack of personal jurisdiction would fail.

(Choice D) A federal court can only transfer a suit to another *federal* court. Therefore, a suit can only be moved to a state or foreign judicial system if the federal court dismisses or stays the suit under the doctrine of forum non conveniens so that the plaintiff can refile the suit in an alternative judicial system.

Educational objective:

Under the doctrine of forum non conveniens, a federal court can dismiss or stay a lawsuit if a state or foreign jurisdiction is better suited to hear it. When making this decision, the court will examine several factors, including accessibility of evidence and witnesses.

References

- *Am. Dredging Co. v. Miller*, 510 U.S. 443, 447–48 (1994) (explaining the doctrine of forum non conveniens).
- *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508–09 (1947) (listing private and public interest factors to consider in a forum non conveniens analysis).

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