

A man domiciled in State A died from complications during surgery at a hospital incorporated and with its principal place of business in State A. The medical license of the surgeon performing the operation was suspended at the time the surgery was performed. The man's legal representative, who was domiciled in State B, sued the hospital on behalf of the man's estate in a state court in State B. The complaint asserted a negligence claim to recover \$60,000 and a breach-of-contract claim to recover \$40,000. The hospital removed the case to a federal court in State B. The representative filed a motion to remand.

Under State B law, claims for negligence and breach of contract survive the death of a person.

How is the federal court likely to proceed?

- A. Remand the case, because the amount-in-controversy requirement is not satisfied.
- B. Remand the case, because the parties are not diverse.
- C. Retain the case, because the case was properly removed to federal court.
- D. Retain the case, because the federal court has supplemental jurisdiction over the claims.

Explanation:

A defendant has the power to remove a case from state court to federal court if the case falls within the federal court's **original subject-matter jurisdiction**. If such jurisdiction does not exist, the federal court must **remand** the case back to state court. Original jurisdiction can be established through federal-question jurisdiction (not seen here) or **diversity jurisdiction**, which requires:

- an **amount in controversy** exceeding \$75,000 *and*
- complete **diversity of citizenship** between the opposing parties.

Citizenship is usually determined by the domiciles of the named parties to the suit. However, the citizenship of a legal representative is **determined by** the **domicile of** the **minor, legally incompetent** person, or **decedent** on whose behalf the legal representative acts.

Here, the deceased man's legal representative sued the hospital on behalf of the man's estate in state court. The hospital removed the case to federal court. The representative is a citizen of State A because that is where the man was domiciled. The hospital is also a citizen of State A because it is incorporated and has its principal place of business there. Since the opposing parties are both State A citizens, the court lacks diversity (and subject-matter) jurisdiction. Removal was therefore improper, and the federal court will likely remand the case (**Choice C**).

(Choice A) To satisfy the amount-in-controversy requirement, a single plaintiff can aggregate (ie, combine) claims asserted against a single defendant. Here, the legal representative's complaint satisfies this requirement because the aggregated claims amount to \$100,000 (\$60,000 for negligence + \$40,000 for breach of contract).

(Choice D) When a dispute involves multiple claims and only some fall within the court's original subject-matter jurisdiction, **supplemental jurisdiction** may exist over the remaining claims. Here, no claim satisfies original subject-matter jurisdiction, so supplemental jurisdiction is irrelevant.

Educational objective:

For purposes of diversity jurisdiction, the citizenship of a legal representative is determined by the domicile of the minor, legally incompetent person, or decedent on whose behalf the legal representative acts.

References

- 28 U.S.C. § 1332(c)(2) (citizenship of legal representative).
- 28 U.S.C. § 1441 (removal requirements).
- 28 U.S.C. § 1447(c) (remand requirements).

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