

A woman from State A contacted an attorney after she developed a lung disorder, which she claims was caused by e-cigarettes. After researching the woman's claim, the attorney discovered that other individuals across the country developed similar lung disorders from the use of the same brand of e-cigarettes manufactured by a company incorporated and with its principal place of business in State B.

The attorney filed a class action in federal court in State A on behalf of 70 individuals against the company. The woman was the only named plaintiff. Each class member's claim amounted to \$100,000, and the damages on behalf of the entire class amount to \$7 million. Ten of the unnamed plaintiffs live in State B.

The company filed an answer denying responsibility. Twenty days later, it filed a motion to dismiss the class action for lack of subject-matter jurisdiction.

How will the court likely rule on the company's motion?

- A. Deny the motion, because diversity jurisdiction exists.
- B. Deny the motion, because the company waived its claim for lack of subject-matter jurisdiction by filing its motion after its answer.
- C. Grant the motion, because members of the class and the company are citizens of State B.
- D. Grant the motion, because the class only contains 70 members.

Explanation:

Subject-matter jurisdiction in class actions

Type	Requirements
Federal question	<ul style="list-style-type: none">• Class action arises under U.S. Constitution, treaty, or federal law
Diversity	<ul style="list-style-type: none">• Amount in controversy for any named plaintiff's claim exceeds \$75,000* <i>and</i>• named opposing parties are citizens of different states
Class Action Fairness Act	<ul style="list-style-type: none">• Class contains ≥ 100 members• at least one class member & one defendant are diverse <i>and</i>• amount in controversy for aggregated claims exceeds \$5 million

*A federal court can acquire subject-matter jurisdiction over class members' claims that do not exceed \$75,000 through supplemental jurisdiction.

A **class action** is a suit filed by one or more named plaintiffs (ie, class representatives) on behalf of similarly harmed unnamed plaintiffs. As in any other lawsuit, a federal court can obtain **subject-matter jurisdiction over a class action** through either:

- federal-question jurisdiction – when the class action arises from the U.S. Constitution, a treaty, or federal law (not seen here) *or*
- **diversity jurisdiction** – when the **named opposing parties** are **citizens** of different states (ie, are **diverse**) and the **amount in controversy** for any named plaintiff's claim **exceeds \$75,000**.*

Here, the woman from State A (named plaintiff) and the company incorporated and headquartered in State B (named defendant) are diverse. The fact that 10 *unnamed* plaintiffs are also citizens of State B does not destroy diversity (**Choice C**). Additionally, the woman—and every other class member—asserted a claim for \$100,000, which satisfies the amount-in-controversy requirement. Therefore, the federal court has diversity jurisdiction and will likely deny the company's motion to dismiss.

*A federal court can acquire subject-matter jurisdiction over class members' claims that do not exceed \$75,000 through **supplemental jurisdiction**.

(Choice B) Under Federal Rule of Civil Procedure 12(h), a defendant **waives** certain defenses if they are not asserted in a pre-answer motion or an answer—whichever occurs first. But a defense based on lack of subject-matter jurisdiction is *never* waived and can be asserted at any time.

(Choice D) The Class Action Fairness Act provides an alternate basis for subject-matter jurisdiction when (1) the class contains at least 100 members, (2) any member is diverse from at least one defendant, and (3) the aggregated amount in controversy exceeds \$5 million. This Act does not apply here because the class has only 70 members, but the court still has subject-matter jurisdiction based on diversity.

Educational objective:

A federal court has diversity jurisdiction over a class action when (1) the *named* opposing parties are citizens of different states and (2) the amount in controversy for any *named* plaintiff's claim exceeds \$75,000.

References

- Fed. R. Civ. P. 23 (class actions).
- 28 U.S.C. § 1332(a) (diversity jurisdiction).
- Supreme Tribe of Ben-Hur v. Cauble, 255 U.S. 356, 366 (1921) (holding that only the named opposing parties in a class action need to be diverse to satisfy diversity jurisdiction).