

A passenger domiciled in State A has brought a federal diversity action in State A against a railroad, seeking damages for injuries suffered when the railroad's train, which the passenger boarded in State A, derailed in State B. The railroad is incorporated and has its principal place of business in State B and operates in States A and B. Several other passengers were also injured and have brought individual actions in State B federal court.

The railroad has moved the State A federal court to transfer the action to the State B federal district court. State B has only one federal district.

What is the railroad's best argument in support of the motion?

- A. The accident occurred in State B and many witnesses are located there. (45%)
- B. The action involves common questions of fact with similar actions pending in State B. (14%)
- C. The railroad is incorporated and has its principal place of business in State B. (6%)
- D. Venue is not proper in State A. (33%)

Correct

45% Answered correctly

44 secs Time Spent

2023 Version

## Explanation:

### Venue

#### Proper venue

Case may be brought in any federal district where:

(28 U.S.C. § 1391)

any defendant resides, if defendants all reside in same state  
substantial part of events giving rise to claim occurred or  
property at issue is located  
any defendant is subject to court's personal jurisdiction (if  
neither of the above provisions applies)

#### Transfer from proper venue

When venue is proper, district court may transfer case to any  
other proper venue for convenience of parties/witnesses & in  
interest of justice

(28 U.S.C. § 1404)

#### Transfer or dismissal from improper venue

When venue is improper, district court must either:

dismiss case

(28 U.S.C. § 1406)

transfer case to proper venue (if interest of justice requires)

A district court with proper venue 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 parties have consented**. Venue is proper in any 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 passenger sued the railroad in State A, and the railroad moved to transfer venue to State B. A substantial part of the events giving rise to the suit occurred in State A (where the passenger boarded and first rode the train) and State B (where the accident occurred). As a result, venue is proper in both states **(Choice D)**. But since the accident occurred in State B and many witnesses are located there, it is likely the most convenient venue for the parties and witnesses. Therefore, this is the railroad's best argument to support its motion.

**(Choice B)** Whether an action involves common questions of fact with similar actions is relevant to a court's **certification** of a class action—not its determination to transfer venue.

**(Choice C)** The suit could have been brought in State B because that is where the railroad is incorporated and has its principal place of business—and therefore resides. But to best

support its motion to transfer venue to State B, the railroad should argue that State B is the most convenient venue for the parties and witnesses since the accident occurred and the witnesses are located there.

**Educational objective:**

A district court can transfer venue for the convenience of the 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 parties have consented.

**References**

28 U.S.C. § 1391 (describing when venue is proper).

28 U.S.C. § 1404 (explaining when a transfer of venue is appropriate).

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