

A bus passenger from State A was injured when a bus owned by a company incorporated and headquartered in State B negligently collided with another vehicle on a road in State A. The passenger agreed to release the company from liability in exchange for a free lifetime bus membership valued at \$60,000. Two years later, Congress passed a law that prohibited bus companies from providing free lifetime bus memberships, so the company revoked the passenger's membership.

The passenger sued the company in federal court for breach of contract. In his complaint, the passenger stated that the company would likely argue that its breach was necessary to comply with the federal statute. The passenger claimed that this defense is invalid because the statute violates the U.S. Constitution.

The company filed a motion to dismiss the passenger's suit for lack of subject-matter jurisdiction before filing an answer.

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

- A. Deny the motion, because the company failed to challenge subject-matter jurisdiction in its answer.
- B. Deny the motion, because the passenger's claim presents a federal issue.
- C. Grant the motion, because state courts have exclusive jurisdiction over state-law claims.
- D. Grant the motion, because the court lacks subject-matter jurisdiction.

## Explanation:

Subject-matter jurisdiction is a court's authority to hear a case on the merits. The party seeking to invoke a federal court's subject-matter jurisdiction (generally the plaintiff) has the burden to prove by a preponderance of the evidence that the court has either:

- **diversity jurisdiction** – when the parties are **citizens** of different states and the amount in controversy *exceeds* \$75,000 (not \$60,000, as seen here) *or*
- **federal-question jurisdiction** – when the plaintiff asserts a cause of action that arises under the **Constitution**, a **treaty**, or a **federal law**.

For federal-question jurisdiction to be invoked, the federal issue must appear on the face of the plaintiff's **well-pleaded complaint**—not the defendant's answer or counterclaim. The jurisdictional statement in the complaint must show that the **federal issue** is a **necessary element** of the plaintiff's **cause of action**.<sup>\*</sup> Merely mentioning a federal issue that may be asserted in the defendant's answer is insufficient.

Here, the passenger's complaint asserts a breach of contract claim. It also states that the company would likely argue that it breached the contract to comply with a federal statute, which the passenger alleges is unconstitutional. Since this federal issue arises from an anticipated defense—not the cause of action—the complaint fails to establish federal-question jurisdiction **(Choice B)**. Therefore, the court will likely grant the company's motion.

<sup>\*</sup>In rare situations, the complete-preemption doctrine allows a state-law claim to be considered a federal-law claim when Congress clearly intended for a federal statute to completely preempt (ie, supersede) state law.

**(Choice A)** A party or the court can challenge subject-matter jurisdiction at any time, including in a pre-answer motion.

**(Choice C)** State and federal courts have concurrent (ie, shared) jurisdiction over most state-law claims. The only substantive areas over which state courts have exclusive jurisdiction are probate matters (eg, authenticating a will) and domestic relations (eg, issuing a divorce).

## Educational objective:

Federal-question jurisdiction exists when the face of the plaintiff's well-pleaded complaint asserts a claim arising under the Constitution, a federal law, or a treaty. A complaint is well-pleaded when its jurisdictional statement shows that the federal issue is a necessary element of the plaintiff's cause of action.

## References

- 28 U.S.C. § 1331 (federal-question jurisdiction).

- Louisville & Nashville R.R. Co. v. Mottley, 211 U.S. 149, 152 (1908) (establishing the well-pleaded complaint rule).
- 32A Am. Jur. 2d Federal Courts § 854 (2020) (explaining that anticipated defenses cannot be the basis for federal-question jurisdiction).

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### Well-pleaded complaint rule (for federal-question jurisdiction)

Federal issue  
= element of plaintiff's claim

Federal issue  
≠ anticipated defense, counterclaim, answer

George Smith's Denim Coat  
or Co.  
Has the a District of Texas  
Dallas Division

John Smith, Plaintiff,  
vs.  
Jane Doe, Defendant.

Case No. 0:17-cv-00000  
JURY TRIAL DEMAND

COURT FILED: 11/15/2017

#### I. Basis for Jurisdiction

1. *Plaintiff asserts* that defendant committed trademark infringement in violation of the Lanham Act, 15 U.S.C. § 114.

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#### I. Basis for Jurisdiction

1. *Defendant will contend* that the state law violates the 14<sup>th</sup> Amendment of the U.S. Constitution.

Plaintiff, John Smith

1. The Plaintiff seeks a \$100,000 in compensatory damages.

Entered the 12<sup>th</sup> day of December 2019.

\_\_\_\_\_  
John T. Schmeck  
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Plaintiff, John Smith

1. The Plaintiff seeks a \$100,000 in compensatory damages.

Entered the 12<sup>th</sup> day of December 2019.

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