

A plaintiff from State A sued his State B business accountant in a state court in State A for breach of contract. The plaintiff sought \$100,000 in damages. The accountant promptly removed the case to the federal district court in State A. Immediately after the case was removed, the district court entered an order remanding the case back to state court on the ground that the district court lacked subject-matter jurisdiction. One day later, the accountant appealed the remand order.

Should the federal appellate court hear the merits of the accountant's appeal?

- A. No, because the appellate court lacks jurisdiction over the appeal of the remand order.
- B. No, because the plaintiff did not raise subject-matter jurisdiction in a motion to remand.
- C. Yes, because the accountant timely filed the appeal.
- D. Yes, because the district court committed clear error when it remanded the case.

Explanation:

A **defendant** can **remove a case** from state to federal court if the case falls within the federal court's original subject-matter jurisdiction. Such jurisdiction arises from either:

- federal-question jurisdiction – when a claim arises under the U.S. Constitution, a treaty, or federal law *or*
- diversity jurisdiction – when the amount in controversy exceeds \$75,000 and the opposing parties are **citizens** of different states.

A party, usually the plaintiff, can request that the federal district court return the case to state court by filing a **motion to remand** based on a lack of subject-matter jurisdiction or a procedural error in the **removal**. The federal district court may also remand a case sua sponte—but only if it concludes that it lacks subject-matter jurisdiction (as the court did here) **(Choice B)**.

A district court's **order to remand** the case is typically **not appealable** because Congress has explicitly forbidden these appeals to expedite litigation and avoid drawn-out removal disputes. As a result, federal **appellate courts lack jurisdiction** over such appeals absent limited exceptions (see image above). None of these exceptions apply here, so the appellate court should not hear the merits of the accountant's appeal.

(Choice C) The fact that the accountant timely filed the appeal within 30 days after the remand order was entered does not give the appellate court jurisdiction to review that order.

(Choice D) The clearly-erroneous **standard of review** is used to review factual findings in a bench trial—not a district court's order remanding a case back to state court (as seen here). Regardless, the appellate court lacks jurisdiction to review the district court's decision to order a remand since Congress explicitly forbade such review.

Educational objective:

A federal district court's order to remand a case to state court—whether for a lack of subject-matter jurisdiction or procedural error in the removal—cannot be appealed absent limited exceptions.

References

- 28 U.S.C. § 1447(d) (prohibition against appeal of remand order).
- 14C Charles Alan Wright et al., Federal Practice and Procedure § 3740 (4th ed. 2020) (explaining the appealability of order remanding case to state court).

Appealability of remand orders

