

A woman filed a class action on behalf of thousands of individuals against an insurance company in a federal court in State A. The individuals sought to recover \$20 million in statutory penalties for the company's failure to pay claims within the time specified by State A law. The company moved to dismiss the case based on a State A statute that prohibits class actions seeking statutory penalties against insurance companies.

Will the federal court likely grant the company's motion to dismiss?

- A. No, because a state cannot prohibit class actions.
- B. No, because maintenance of a class action in federal court is a procedural issue governed by federal law.
- C. Yes, because the federal court must apply State A substantive law, and State A prohibits this type of class action.
- D. Yes, because there is no federal common law pertaining to class action requirements.

Explanation:

A federal court sitting in **diversity** must apply **state law** to **substantive** issues and **federal law** to **procedural** issues. When it is **unclear** whether an issue is **substantive or procedural**, the court must determine if a valid **federal law** (ie, federal statute, rule, or constitutional provision) **directly addresses** the issue. If so, then pursuant to the federal-rule analysis, **federal law applies** if it is arguably procedural and does not modify a substantive right.

FRCP 23 directly addresses whether a class action can be maintained in federal court. This valid rule* is arguably procedural and does not modify a substantive right **(Choice C)**. That is because it regulates the manner and means of a lawsuit (ie, who may join the suit)—not the parties' legal rights (ie, what they may sue for). As a result, the court will apply this *federal* rule and likely deny the company's motion to dismiss based on the State A statute prohibiting this type of class action.

*No FRCP has ever been found unconstitutional or invalid. This is likely because the Supreme Court reviews and sends proposed rules to Congress before they are enacted.

(Choice A) States can prohibit class actions in state courts. But federal courts must follow FRCP 23 to determine if a class action can be maintained in federal court.

(Choice D) Although there is no federal common law pertaining to class action requirements, FRCP 23 provides such requirements.

Educational objective:

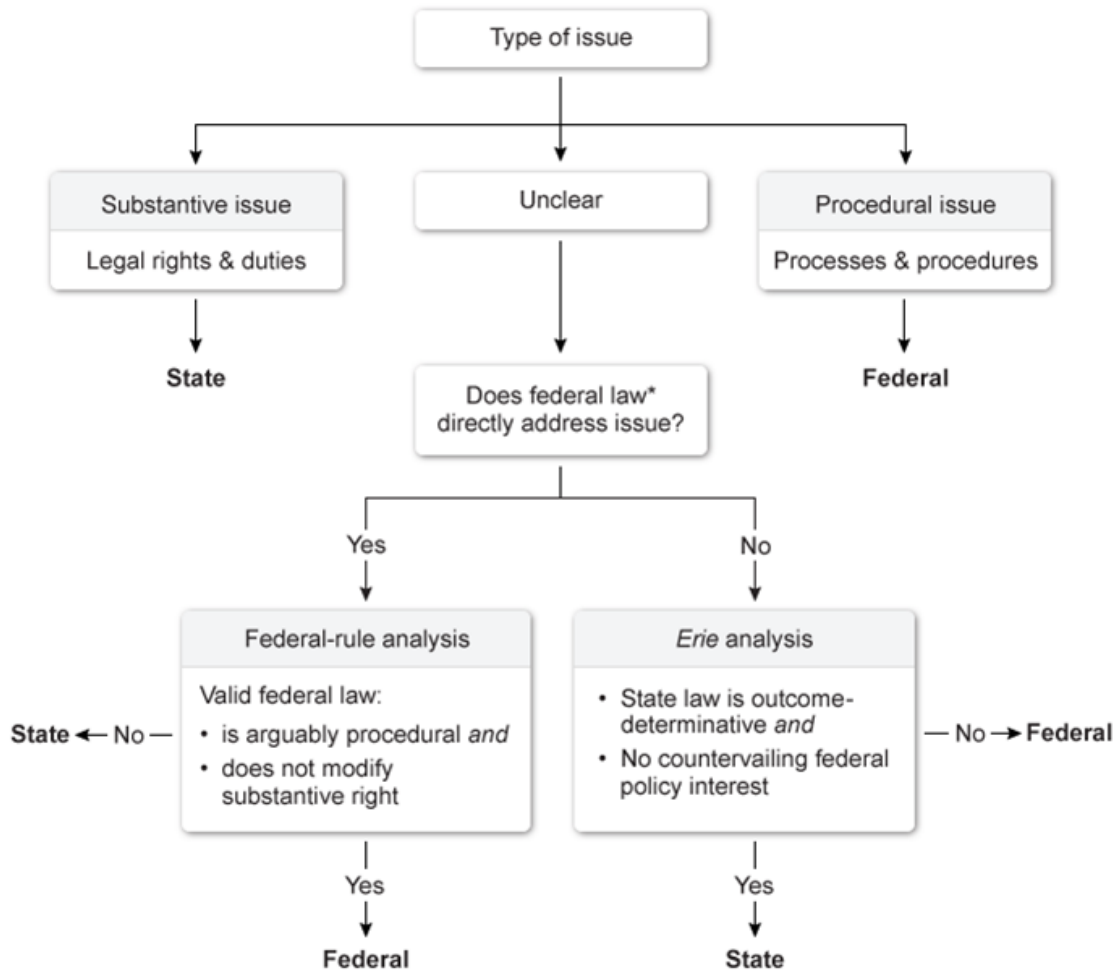
Under federal-rule analysis, a federal court sitting in diversity must apply a valid federal law that directly addresses an issue so long as the law is arguably procedural and does not modify a substantive right.

FRCP = Federal Rule of Civil Procedure.

References

- Shady Grove Orthopedics Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 407–08 (2010) (explaining that class actions in federal court are governed by FRCP 23 and not state law).
- Fed. R. Civ. P. 23 (class actions).

Choice of law in diversity cases



*Federal law includes federal statutes, rules, and constitutional provisions

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