

A consumer brought a federal diversity action in State A against a manufacturer, asserting products liability claims under State A law. The consumer sought to bring the action on behalf of a nationwide class. State A law prohibits such class actions.

Which law applies to determine whether the action may proceed as a class action?

- A. Federal law, because the issue of whether the action may proceed as a class action is governed by the Federal Rules of Civil Procedure.
- B. Federal law, because there is a substantial federal interest in resolving matters that involve consumers from across the United States.
- C. State A law, because not applying State A law will be outcome-determinative.
- D. State A law, because the action arises under State A law.

Correct

Collecting Statistics

02 mins, 19 secsTime Spent

2023Version

### Explanation:

A federal court sitting in diversity must apply **state law** to **substantive issues** and **federal law** to **procedural issues**. If it is **unclear** whether an issue is **substantive or procedural** (as seen here)—and if there is a conflict between federal and state law\*—then the court must determine if a valid **federal law directly addresses** the issue. If so, then pursuant to the federal-rule analysis, federal law applies if the law is **arguably procedural** and **does not modify a substantive right**.

Here, state and federal law conflict on this issue because State A law prohibits class actions while **FRCP 23** allows class actions if certain requirements are met. FRCP 23 is a valid procedural rule that does not modify a substantive right because it regulates the manner and means of a lawsuit (ie, who may join the suit)—not the parties' legal rights (ie, what they can sue for). Therefore, *federal* law applies to determine whether the consumer's federal diversity action may proceed as a class action.

\*If there is no conflict, then the analysis need not proceed any further because the court can harmoniously apply both laws to the issue.

**(Choice B)** There may be a substantial federal interest in resolving matters that involve consumers from across the United States. But the reason that federal law applies here is that FRCP 23 directly addresses whether an action may proceed as a class action in federal court.

**(Choice C)** Under the Erie analysis, a federal court sitting in diversity will apply state law when (1) not applying state law would be outcome-determinative and (2) there is no countervailing federal interest. But Erie does not apply when, as here, federal law directly addresses the issue.

**(Choice D)** Although the consumer's products liability action arises under State A substantive law, the determination of whether the action may proceed as a class action in federal court arises under federal procedural law.

### Educational objective:

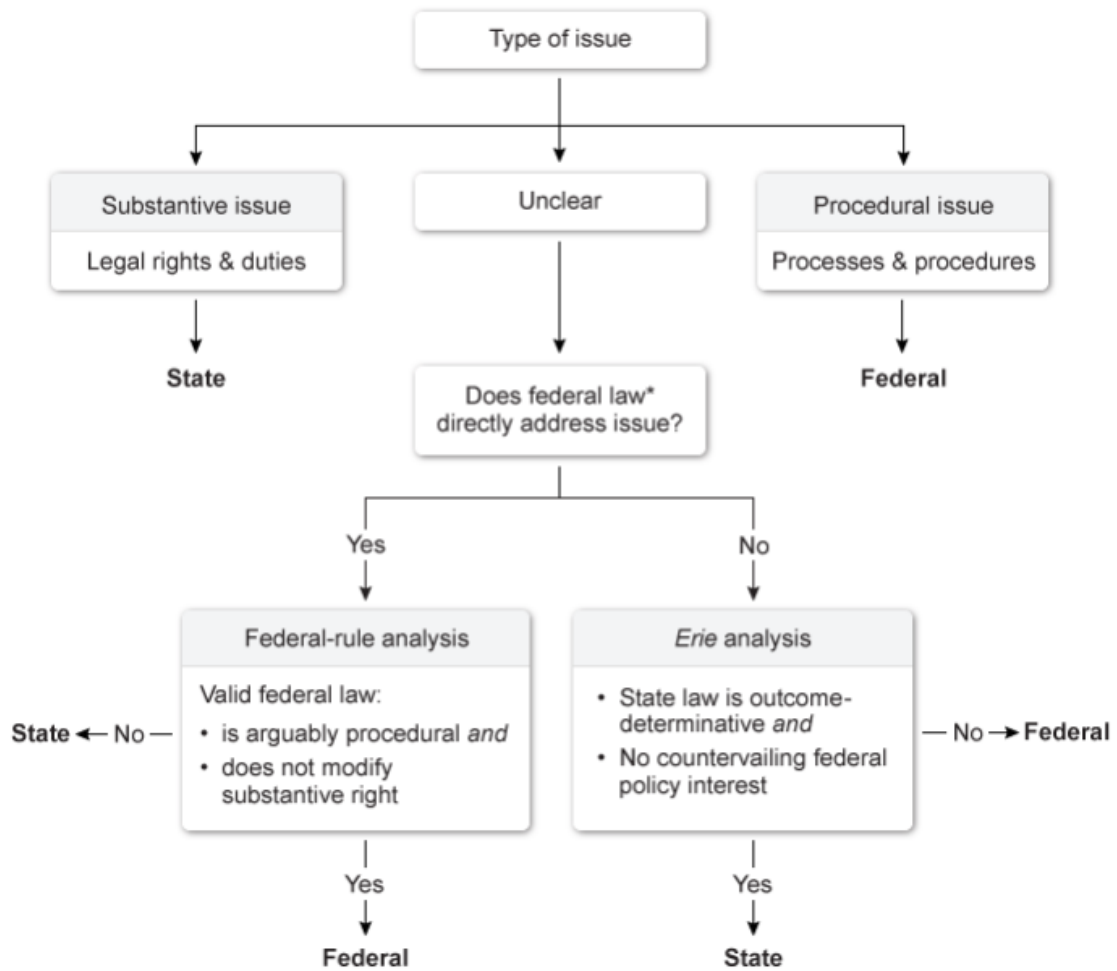
Under federal-rule analysis, a federal court sitting in diversity must apply a valid federal law that directly addresses an issue so long as the law is arguably procedural and does not modify a substantive right.

**FRCP** = Federal Rule of Civil Procedure.

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## Choice of law in diversity cases



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