

A bakery from State A sued a company from State B for breach of contract in a state court located in State A for \$1 million. The bakery alleged that the company violated the contract by selling a rival bakery's products in State C. The company does no business in State A, and the contract between the two parties was signed in State B. Each state is composed of one federal district.

After being served with process, the company removed the suit to the federal district court in State A. The company then moved to dismiss the suit for improper venue.

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

- A. Deny the motion, because the bakery is from State A.
- B. Deny the motion, because the company removed the suit.
- C. Grant the motion, because the alleged breach occurred in State C.
- D. Grant the motion, because the company is from State B and the contract was signed there.

## Explanation:

### Special rules for where venue is proper

<b>Removal</b>	<ul style="list-style-type: none"><li>• Federal district where state action was pending</li></ul>
<b>Foreign resident</b>	<ul style="list-style-type: none"><li>• Any judicial district</li></ul>
<b>Federal official sued in official capacity</b>	<ul style="list-style-type: none"><li>• Where defendant resides</li><li>• Where substantial events occurred or property is located</li><li>• Where plaintiff resides if no real property is involved in suit</li></ul>
<b>Foreign government</b>	<ul style="list-style-type: none"><li>• Where substantial events occurred or property is located</li><li>• In federal district court of Washington, D.C.</li></ul>
<b>Multiparty, multiform litigation</b>	<ul style="list-style-type: none"><li>• Where defendant resides</li><li>• Where substantial part of accident occurred</li></ul>
<b>Federal Tort Claims Act</b>	<ul style="list-style-type: none"><li>• Where plaintiff resides</li><li>• Where act/omission occurred</li></ul>

**Venue** is the geographic location of a federal district court where a case may be heard. Under the **general venue statute**, venue can be established in any of the following ways:

- Residency-based venue – a district where any defendant **resides** (but only if all defendants reside in the same state)
- Events-based venue – a district where a substantial part of the events that gave rise to the suit occurred
- Property-based venue – a district where a substantial part of the property at issue is located
- Fallback provision – a district where any defendant is subject to the court's personal jurisdiction (only applies if none of the above provisions can be established)

Venue can also be established through **special venue rules** in certain situations, including when a **suit is removed** from state court to federal court. In that situation, **venue is proper** in the federal district encompassing the state court from which the suit was removed—even if venue cannot be established under the general venue statute. This is because the defendant has consented to venue by removing the suit to that federal district court.

Here, the company (defendant) removed the suit from state to federal court in State A, so venue is proper there. Therefore, the court will likely deny the company's motion to dismiss for improper venue.

**(Choice A)** The fact that the bakery (plaintiff) is from State A does not establish proper venue since residency-based venue is predicated on the *defendant's* residence.

**(Choices C & D)** Venue could have been established in State C under events-based venue since the alleged breach of contract occurred there. It also could have been established in State B since that is where the company resides and the contract was signed. However, venue is also proper in the federal district court in State A because the company removed the suit there.

**Educational objective:**

When a suit is removed from state to federal court, venue is proper in the federal district encompassing the state court from which the suit was removed. This is true even if venue cannot be established under the general venue statute.

**References**

- 28 U.S.C. § 1391(b) (proper venue).
- 28 U.S.C. § 1441(a) (venue in removal actions).
- *Polizzi v. Cowles Magazines, Inc.*, 345 U.S. 663, 665–66 (1953) (explaining that venue is proper in the federal district court to which a suit was removed from state court).