

A woman brought a diversity action against her former employer in a federal district court in State A. In her complaint, the woman alleged that she contracted a lung disease at work due to her employer's negligence. The employer moved to dismiss the woman's action for failure to state a claim. The court granted the motion because State A does not recognize claims for occupational diseases. The woman appealed.

While the woman's appeal was pending, the highest state court in State A issued a ruling that, for the first time, recognized claims for occupational diseases.

Is the appellate court likely to overturn the dismissal?

- A. No, because federal law permits a dismissal for failure to state a claim.
- B. No, because State A did not recognize claims for occupational diseases at the time the action was dismissed.
- C. Yes, because the district court committed clear error when it dismissed the action.
- D. Yes, because the recent ruling by State A's highest court controls.

### Explanation:

All federal courts sitting in **diversity** must apply federal law to procedural issues and state law to substantive issues. Issues concerning the elements of a claim or defense are clearly **substantive** and therefore determined by **state law**. Since the elements of a claim or defense are a pure legal issue, the appellate court will review the district court's interpretation of state law **de novo**.

Under this **standard of review**, the appellate court gives no deference to the district court's interpretation and decides the issue anew. However, the appellate court **must follow** any **rulings issued** by the **state's highest court** while the **appeal was pending**.

Here, the district court properly applied State A law when it dismissed the woman's action for failure to state a claim because State A did not recognize her claim at that time. However, while the appeal was pending, the highest state court in State A issued a ruling that recognized the woman's claim. Since the appellate court must follow that ruling, it will likely overturn the dismissal of the woman's action **(Choice B)**.

**(Choice A)** Federal law provides *procedural* devices to dismiss an action for failure to state a claim. However, a federal court must apply state substantive law to determine if a claim was adequately stated. As a result, State A law governs whether the woman adequately stated a claim for relief.

**(Choice C)** A district court's *factual findings* in a bench trial are reviewed for clear error. Under this highly deferential standard of review, a district court's findings of facts will only be reversed if no reasonable judge would have made such a finding. But here, this pure *legal issue* will be reviewed de novo.

### Educational objective:

Federal courts sitting in diversity must apply federal law to procedural issues and state law to substantive issues (eg, the elements of a claim or defense). An appellate court reviewing a district court's interpretation of state law must follow any rulings issued by the state's highest court while the appeal was pending.

### References

- *Vandenbark v. Owens-Ill. Glass Co.*, 311 U.S. 538, 543 (1941) (holding that federal appellate courts must follow any rulings issued by the state's highest court while the appeal was pending).

## Choice of law

