

A woman from State A was hit in State B by a driver who is a citizen and resident of a foreign country. The driver frequently visited family in State A. Each state is composed of only one federal judicial district.

If the woman files a diversity action against the driver in the federal court in State A, which of the following is the woman's strongest argument that venue is proper?

- A. Venue is proper in any judicial district because the driver resides in a foreign country.
- B. Venue is proper in any judicial district because the Federal Tort Claims Act applies.
- C. Venue is proper in State A because that is where the woman resides.
- D. Venue is proper in State A because the driver is subject to personal jurisdiction 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 is proper in a **judicial district** where:

- any defendant **resides**—but only if all defendants reside in the same state
- a substantial portion of the events occurred or a substantial part of the property at issue is located *or*
- any defendant is subject to the court's personal jurisdiction—but only if venue cannot be established under the above provisions.

However, **special venue rules** apply in certain situations, including when a defendant is a **nonresident of the U.S.** In this situation, venue is **proper in any judicial district**.<sup>\*</sup> And since the driver is a resident of a foreign country, this is the woman's strongest argument that venue is proper in State A.

<sup>\*</sup>Additionally, when a non-U.S. resident is joined (ie, added) as a defendant, the non-U.S. resident is disregarded when determining proper venue as to the other defendants in the action.

**(Choice B)** The Federal Tort Claims Act applies to suits brought against the U.S. government for the tortious conduct of a federal employee—not suits against a nonresident for his/her tortious conduct (as seen here). But had the Act applied, venue would be proper

only in the judicial district where the plaintiff resides (State A) or where the act or omission occurred (State B).

**(Choice C)** Venue is never based on the plaintiff's residence unless the Federal Tort Claims Act applies or a federal officer or employee is sued in his/her official capacity or under color of legal authority—none of which is seen here. Therefore, the woman cannot successfully argue that venue is proper based on where she resides.

**(Choice D)** Since venue is proper in any judicial district in an action against a non-U.S. resident, personal jurisdiction has no bearing on where venue is proper.

**Educational objective:**

Venue is the geographic location of a federal district court where a case may be heard. When a defendant is a nonresident of the U.S., venue is proper in *any* federal judicial district.

**References**

- 28 U.S.C. § 1391(c)(3) (setting forth the proper venue for non-U.S. residents).