

An artist from State A filed a federal diversity suit in State B against an art collector from State B for conversion. The complaint alleges that the collector stole a painting from the artist 50 years ago and requests a jury trial on this issue. The statute of limitations for conversion, measured from the time the plaintiff learns that the defendant possesses the property at issue, is 25 years in State A and 10 years in State B.

During discovery, the collector deposed the artist. At her deposition, the artist stated that she knew that the collector had purchased the painting 20 years ago at an auction, but she did not try to recover the painting at that time because she did not want the hassle of a court case to distract her from creating art. However, due to her advancing age, she now seeks to reclaim her painting.

The collector immediately moved for summary judgment. The collector stipulated to all of the facts alleged by the artist at her deposition and attached a transcript of her deposition testimony to the motion. The artist did not respond.

Is the federal court likely to grant the collector's motion?

- A. No, because the collector failed to attach an affidavit to the motion.
- B. No, because the statute of limitations has not expired.
- C. Yes, because the artist did not respond to the motion.
- D. Yes, because the collector is entitled to judgment as a matter of law.

Explanation:

Motion for summary judgment

(FRCP 56)

- | | |
|---------------------------|--|
| Time to file | <ul style="list-style-type: none">• Motion may be filed until 30 days after close of discovery OR time set by local rule or court |
| Burden of proof | <ul style="list-style-type: none">• Movant has initial burden to establish standard<ul style="list-style-type: none">– may support by relying on pleadings, affidavits, declarations, discovery, or other materials containing admissible facts• If initial burden is met, burden shifts to nonmovant to either:<ul style="list-style-type: none">– show specific disputed facts through affidavits, declarations, discovery, or other materials containing admissible facts (cannot rely on pleadings) <i>or</i>– request postponement for additional discovery & support with affidavit or declaration |
| Standard for grant | <ul style="list-style-type: none">• No genuine dispute as to any material fact AND movant entitled to judgment as a matter of law<ul style="list-style-type: none">– evidence must be viewed in light most favorable to nonmovant– all doubts must be resolved in nonmovant's favor |

FRCP = Federal Rule of Civil Procedure.

A motion for **summary judgment** is a request that the court enter judgment without a full trial. A court may grant summary judgment if the movant shows that:

- there is **no genuine dispute of material fact** *and*
- the **evidence is legally insufficient** for a reasonable jury to find in the nonmovant's favor, so the movant is entitled to **judgment as a matter of law**.

Here, there is no genuine issue of material fact because the collector stipulated to all of the facts alleged by the artist at her deposition. The artist testified that she learned that the collector purchased the painting 20 years ago. Since the federal court must apply the **substantive law** of the state in which it is located, her claim was filed after State B's 10-year statute of limitations had expired **(Choice B)**. As a result, the collector is entitled to judgment as a matter of law, and the court should grant his motion for summary judgment.

(Choice A) The collector did not need to attach an affidavit to his motion. That is because he can rely on **pleadings, discovery materials**, and other materials containing admissible facts to support his request for summary judgment.

(Choice C) The artist is not required to respond to the motion since the collector has the burden to prove that he is entitled to judgment as a matter of law.

Educational objective:

A court should grant summary judgment if the movant shows that there is no genuine issue of material fact and he/she is entitled to judgment as a matter of law (eg, because the statute of limitations has expired).

References

- Fed. R. Civ. P. 56 (summary judgment).

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