

A driver from State A was texting and driving when she hit a pedestrian from State B in a crosswalk in State B. The pedestrian suffered multiple injuries and sued the driver for gross negligence in a federal district court in State B. In his complaint, the pedestrian sought compensatory damages of \$75,000 for lost wages and medical expenses, \$10,000 for attorney's fees, and \$100,000 for punitive damages.

At the conclusion of trial, the jury awarded the pedestrian \$35,000 for lost wages and medical expenses and \$30,000 for punitive damages. The driver immediately moved to dismiss the case, arguing that the amount in controversy was insufficient to establish subject-matter jurisdiction.

State B permits the recovery of punitive damages but not attorney's fees in a gross negligence action.

Should the court grant the driver's motion?

- A. No, because the total amount in controversy was \$185,000.
- B. No, because the total amount in controversy was \$175,000.
- C. Yes, because the total amount in controversy was \$75,000.
- D. Yes, because the total amount in controversy was \$65,000.

Explanation:

Subject-matter jurisdiction is established when a case satisfies either federal-question jurisdiction (not seen here) or diversity jurisdiction. **Diversity jurisdiction** exists when the opposing parties are completely diverse—eg, the plaintiff and defendant are **citizens** of different states—and the **amount in controversy exceeds \$75,000**.

The amount in controversy is **determined at the time** the plaintiff files the complaint and includes all amounts asserted in good faith except interest, costs, and damages that are not legally recoverable. As a result, the following sums may be included in the amount in controversy:

- **Compensatory damages** – money sought to compensate the plaintiff for his/her actual loss or harm (eg, pain and suffering, lost wages) that is **always included** in the amount in controversy
- **Punitive damages** – money sought to punish and deter outrageous, malicious, and evil conduct that is included **if permitted by state law**
- **Attorney's fees** – amount billed to a client for legal services provided that is included **if permitted by state law or contract**

Here, the complaint requested \$75,000 in compensatory damages, \$100,000 in punitive damages, and \$10,000 in attorney's fees. State B permits the recovery of punitive damages but not attorney's fees in this gross negligence action, so the amount in controversy was \$175,000 (\$75,000 + \$100,000). Therefore, the amount-in-controversy requirement was met and the driver's motion should be denied (**Choices A & C**).

(Choice D) The fact that the jury awarded the pedestrian only \$65,000 is irrelevant in calculating the amount in controversy. The reason is that this amount is determined at the time the complaint is filed—not by later events.

Educational objective:

Diversity jurisdiction exists when the opposing parties are completely diverse and the amount in controversy exceeds \$75,000. The amount in controversy always includes compensatory damages and includes punitive damages (if permitted by state law) and attorney's fees (if permitted by state law or contract).

References

- 28 U.S.C. § 1332 (diversity jurisdiction).
- 32A Am. Jur. 2d Federal Courts § 952 (2020) (explaining that punitive damages are included in the amount in controversy if permitted by law).
- 32A Am. Jur. 2d Federal Courts § 960 (2020) (describing that attorney's fees are included in the amount in controversy if permitted by law or contract).

Calculating amount in controversy

