

Ten months after surgery in a hospital, a patient who had suffered complications from the surgery sued the surgeon and the hospital in federal court for medical malpractice, seeking \$750,000 in damages. Timely personal service was made on the surgeon and the hospital. Three months later, during discovery, the patient learned that the hospital was owned by a national health-care company and moved to amend the complaint to substitute the company for the hospital.

The company moved to dismiss, arguing that the forum state had enacted a one-year statute of limitations for medical malpractice actions and that the company had been served after the limitations period had expired. The company also noted that the state's highest court has interpreted the limitations statute as forbidding any relation back of amendments adding parties in medical malpractice actions. The patient argued that the Federal Rules of Civil Procedure control, and that they allow relation back under the circumstances of this case.

Which law governs whether relation back will be permitted under these circumstances?

- A. Federal law, because the Federal Rules of Civil Procedure govern over conflicting state rules that deny relation back.
- B. Federal law, because the state law on relation back is common law and federal courts are bound only by state statutory law.
- C. State law, because statutes of limitation are substantive and state law controls substantive matters.
- D. State law, because the Federal Rules of Civil Procedure authorize the use of state law for relation back.

Explanation:

When a federal court's **subject-matter jurisdiction** is based on **diversity**, the court must apply **state law** to **substantive issues** and **federal law** to **procedural issues**. When it is **unclear** whether an issue is **substantive** or **procedural**, the court must determine if a valid **federal law** (ie, federal rule, statute, or constitutional provision) **directly addresses** the issue. If so, federal-rule analysis provides that the **federal law governs** over a conflicting state law if the federal law is arguably procedural and does not modify a substantive right.

FRCP 15 directly addresses whether an amended pleading relates back to the date on which the original pleading was filed. This valid rule* is arguably procedural and does not modify a substantive right because it regulates the manner and means of a lawsuit (ie, the filing of a pleading)—not the parties' legal rights (ie, what they may sue for). As a result, this *federal* rule governs whether the plaintiff's amended complaint substituting the company as the defendant relates back to the date that the original complaint was filed.

*No FRCP has ever been found unconstitutional or invalid. This is likely because the Supreme Court reviews and sends proposed rules to Congress before they are enacted.

(Choice B) Federal courts sitting in diversity are bound by both state statutory law and common law.

(Choice C) Statutes of limitation are substantive issues governed by state law. However, whether an amended pleading relates back to avoid the expiration of a statute of limitations is a procedural issue governed by FRCP 15.

(Choice D) FRCP 15 provides that an amended pleading relates back if the state statute-of-limitations law allows relation back. However, FRCP 15 provides other avenues for relation back that govern if the state statute of limitations is silent about or prohibits relation back.

Educational objective:

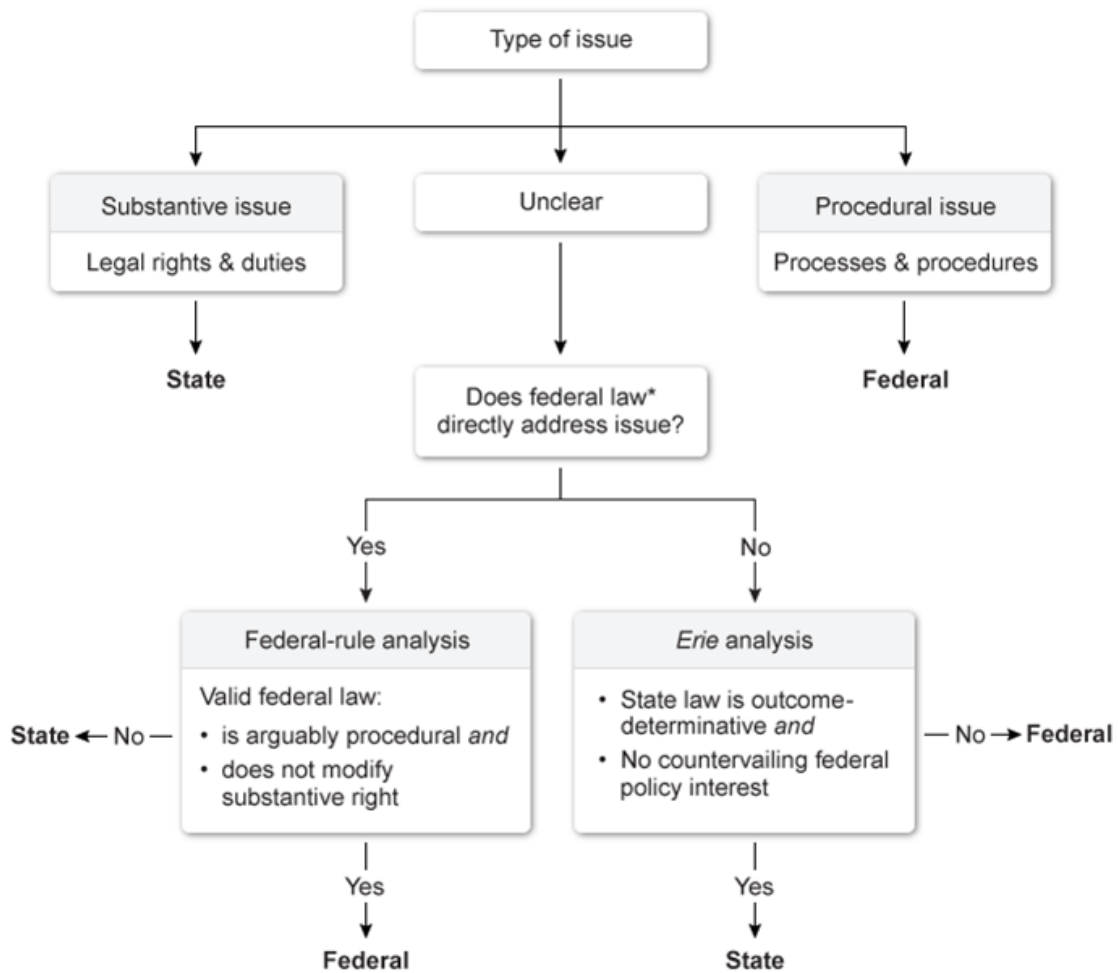
Under federal-rule analysis, a federal court sitting in diversity must apply a valid federal law that is arguably procedural and does not modify a substantive right. FRCP 15 governs the procedural issue of whether an amended pleading relates back to the date that the original pleading was filed.

FRCP = Federal Rule of Civil Procedure.

References

- *Hanna v. Plumer*, 380 U.S. 460, 471 (1965) (establishing the federal-rule analysis).
- *Burlington N. R.R. Co. v. Woods*, 480 U.S. 1, 4–5 (1987) (discussing the federal-rule analysis).
- Fed. R. Civ. P. 15 (providing the "relation back" rule for federal court).

Choice of law in diversity cases



*Federal law includes federal statutes, rules, and constitutional provisions