

A gas station sued a supplier for breach of contract in an appropriate federal district court located in State A. The gas station alleged that it entered into a contract with the supplier for emergency gasoline delivery as a hurricane approached, but the supplier failed to deliver the gas. The gas station claimed that it lost \$100,000 in profits as a result of the supplier's failure to deliver.

In its defense, the supplier asserted that the time frame specified in the contract was ambiguous, argued that the state of emergency excused its nondelivery, and disputed the amount of damages. The gas station maintains that the state of emergency is no defense because the contract was for an emergency delivery.

The parties submitted cross-motions for partial summary judgment on the issue of whether the state of emergency excused the supplier's failure to meet the delivery deadline. This is an issue of first impression under the law of State A, which controls this contract.

The judge ruled that the state of emergency did not excuse the supplier's failure to meet the delivery deadline. As a result, the judge granted the gas station's motion for partial summary judgment, denied the supplier's motion, and set discovery and trial dates.

The supplier immediately appealed the decision to the appropriate federal appellate court.

What is the proper response by the federal appellate court?

- A. Certify the novel legal issue to the highest court of State A.
- B. Dismiss the appeal for lack of jurisdiction.
- C. Mandate that the district court judge certify the issue for appeal.
- D. Reverse the district court judge's order.

Explanation:

Final-judgment rule

Rule Appeal only allowed after final judgment

- If multiple claims/parties, final judgment as to fewer than all claims/parties appropriate if court expressly determines no justifiable reason for delay

Exceptions Interlocutory appeals* concerning:

- Injunction (grant/denial)
- Certification by district court
- Class action certification
- Appointment of receiver
- Admiralty case
- Collateral-order doctrine
- Bankruptcy cases (certain orders)
- Mandamus (petition for writ)
- Patent infringement order (only accounting left)

Mnemonic: In Certain Circumstances, An Appeal Can Be Made Prematurely

*Appeal from trial court ruling that occurs before entry of final judgment.

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The **final-judgment rule** is a **jurisdictional requirement** that **bars federal appellate courts** from hearing an **appeal** until the district court has entered a **final judgment**. A final judgment **fully resolves a dispute** on the merits and leaves nothing for the court to do but enforce the judgment. Therefore, absent limited exceptions, an appellate court must dismiss an appeal for lack of jurisdiction if no final judgment has been entered. This promotes judicial economy and avoids undue delay caused by multiple appeals.

Here, the federal district court's ruling on the motions for partial summary judgment addressed whether the state of emergency excused the supplier's failure to meet the delivery deadline. But it did not fully resolve the dispute since the ambiguity of the contract terms and the amount of damages were not decided. As a result, the final-judgment rule requires that the appellate court dismiss the appeal for lack of jurisdiction.

(Choice A) Most states allow federal courts to certify (ie, request to assign) an unsettled issue of state law to the state's highest court, even if the decision would be an advisory opinion. But this cannot be done when, as here, the federal court lacks jurisdiction over the dispute.

(Choice C) A district court can certify (ie, approve) an issue for appeal *before* a final judgment when (1) there is a substantial difference of opinion on the controlling question of law and (2) an appeal will materially advance the ultimate termination of litigation. But an appellate court has no power to mandate that a district court do so.

(Choice D) The appellate court cannot reverse the district judge's order because the appellate court lacks jurisdiction.

Educational objective:

Under the final-judgment rule, a federal appellate court generally has no jurisdiction to hear an appeal until the district court has issued a final judgment—ie, a decision that fully resolves the dispute on the merits.

References

- 28 U.S.C. § 1291 (final-judgment rule).
- 28 U.S.C. § 1292 (exceptions to final judgment rule).
- *Lauro Lines s.r.l. v. Chasser*, 490 U.S. 495, 497 (1989) (defining final judgment).