

A man brought a diversity action against a woman in a federal court in State B for conversion. The man claimed that the woman stole several historic artifacts from his home in State A and sold them to a pawn shop in State B.

State A law requires that conversion be proven by a preponderance of the evidence, and its choice-of-law rules for all tort claims provide that a court must apply the law of the state where the injury occurred.

State B law requires that conversion be proven by clear and convincing evidence, and its choice-of-law rules provide that, in conversion actions, a court must apply the law of the state where the property was taken.

What body of law governs the burden of proof in this action?

- A. Federal common law.
- B. Federal statutory law.
- C. State A law.
- D. State B law.

Explanation:

Examples of procedural & substantive issues

Procedural

(processes & procedures)

- Filing deadlines
- Court rules & procedures
- Discovery practices
- Rules of evidence

Substantive

(legal rights & duties)

- Elements of claim or defense
- Burdens of proof
- Statutes of limitations

When a federal court's [subject-matter jurisdiction](#) is based on **diversity jurisdiction** (as seen here), the court must apply **federal law** to **procedural issues** and **state law** to **substantive issues**. Certain issues are clearly substantive, including the elements of a claim or defense, the statute of limitations, and the applicable [burden of proof](#). As a result, state law—not federal statutory or common law—governs the burden of proof in the man's conversion action against the woman (**Choices A & B**).

However, the federal court must still determine *which* state's law governs by applying the **choice-of-law rules** of the **state** where the **court sits**. Here, the federal court sits in State B, so it must apply State B's choice-of-law rules. Those rules provide that a court must apply the law of the state where the property was taken. Since the historic artifacts were allegedly stolen in State A, State A's law governs the burden of proof in this action (**Choice D**).

Educational objective:

In a federal diversity action, the court must apply federal law to procedural issues and state law to substantive issues. To determine which state's substantive law applies, a federal court must apply the choice-of-law rules of the state where it sits.

References

- Bank of Am. Nat'l Tr. & Sav. Ass'n v. Parnell, 352 U.S. 29, 34 (1956) (holding that a federal court sitting in diversity must apply state law to the substantive issue of burden of proof).
- Klaxon Co. v. Stentor Elec. Mfg. Co., 313 U.S. 487, 496–97 (1941) (explaining that a federal court sitting in diversity must apply the choice-of-law rules of the state in which it sits).

