

In a federal court diversity action by a beneficiary against an insurance company on an insurance claim, a question arose regarding whether the court should apply a presumption that, where both husband and wife were killed in a common accident, the husband died last.

What body of law determines whether this presumption should be applied?

- A. Federal statutory law.
- B. The federal common law.
- C. The law of the state whose substantive law is applied.
- D. Traditional common law.

Explanation:

When a federal court's **subject-matter jurisdiction** is based on **diversity jurisdiction** (as seen here), the court must apply:

- **federal procedural law** – for issues regarding **processes and procedures** (eg, to determine the deadline for filing an answer) *and*
- **state substantive law** – for issues regarding **legal rights and duties** (eg, to determine the elements of a claim or affirmative defense).

The presumption at issue here states that, where both husband and wife were killed in a common accident, the husband died last. Since this suit concerns the beneficiary of an insurance claim, the presumption affects a legal right (ie, whether the plaintiff is a rightful beneficiary). Therefore, applicability of the presumption is a substantive issue that must be determined by state law—not federal law (**Choices A & B**). The federal court will then look to the choice-of-law rules of the state where the court sits to determine which state's substantive law applies.

(Choice D) A federal court hearing a diversity case must apply the current substantive law of the appropriate state—not traditional common law.

Educational objective:

In a federal diversity action, the court must apply (1) federal procedural law for issues regarding remedies and procedures and (2) state substantive law for issues regarding legal rights and duties.

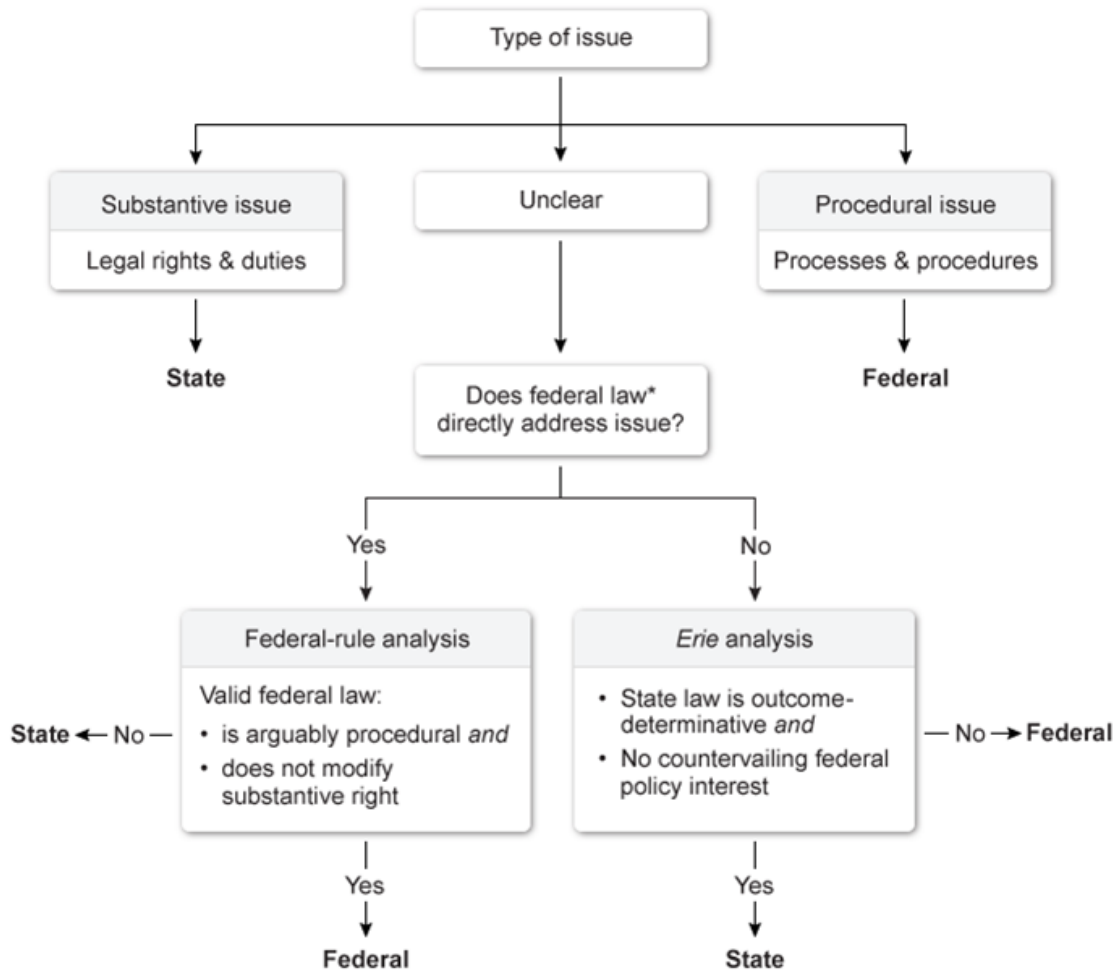
References

- 28 U.S.C. § 1652 (federal court must apply state substantive law in diversity cases).

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Choice of law in diversity cases



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

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