

A bank located in State A sued a homeowner who resides in State B in a federal court in State A to recover \$200,000. The bank's complaint alleges that the homeowner failed to pay his mortgage on a vacation home located in State A. The homeowner's answer admits that he completed and signed an online preapproval application for the mortgage but never finished the mortgage-application process because he decided to rent a time-share in State A instead. The homeowner claims that his signature on the mortgage was forged. The homeowner also included in his answer a motion to dismiss for lack of personal jurisdiction. The preapproval application contained a clause that states: "All disputes between the parties involved in this mortgage-application process are to be resolved in a state or federal court in State A."

How should the federal court rule on the homeowner's motion to dismiss?

- A. Deny the motion, because the forum-selection clause gives the court personal jurisdiction over the homeowner.
- B. Deny the motion, because the homeowner's time-share is in State A.
- C. Grant the motion, because forum-selection clauses are unenforceable in federal court.
- D. Grant the motion, because the homeowner resides in State B.

Explanation:

Personal jurisdiction

(court's authority over defendant)

| Type | Requirements |
|----------------------------------|--|
| Service of process | <ul style="list-style-type: none">• Serving process on defendant voluntarily in state where court is located (ie, forum state) |
| Consent | <ul style="list-style-type: none">• Express – contractual agreement (eg, forum-selection clause)• Implied – engaging in specific activity that state has substantial interest in regulating (eg, driving on public roads)• Waiver – untimely objection to personal jurisdiction• Appearance – voluntarily appearing in court to litigate merits of case |
| Specific (case-linked) | <ul style="list-style-type: none">• Plaintiff's claim arises from or is closely related to defendant's minimum contacts (ie, purposeful availment) with forum state AND• Exercise of jurisdiction complies with notions of fair play & substantial justice |
| General (all-purpose) | <ul style="list-style-type: none">• Defendant has continuous & systematic contacts with forum state so substantial that defendant is essentially "at home" (ie, defendant's domicile) |

Personal jurisdiction refers to a court's authority over the parties (or property) in a lawsuit. Since a plaintiff consents to the court's jurisdiction by filing the lawsuit, the exercise of personal jurisdiction focuses on the defendant. A defendant can **consent** to the court's jurisdiction in any of the following ways:

- **Waiver** – by failing to assert an objection to personal jurisdiction in a pre-answer motion or answer (whichever occurs first)
- **Implied consent** – by engaging in an activity that the forum state has a substantial interest in regulating
- **Express consent** – by **contractually agreeing** to the court's jurisdiction (eg, **forum-selection clause**)

A forum-selection clause is a provision in a contract that designates the location and/or court where any dispute between the parties must be adjudicated. Such clauses are generally enforceable in state and federal courts so long as a party's agreement was not induced by fraud (**Choice C**).

Here, the mortgage-preapproval application has a forum-selection clause stating that "[a]ll disputes between the parties involved in this mortgage-application process are to be resolved in a state or federal court in State A." Since there is no indication that the homeowner was fraudulently induced to complete the preapproval application, he expressly consented to personal jurisdiction in State A. Therefore, the court should deny his motion to dismiss.

(Choice B) The fact that the homeowner's time-share is in State A does not establish personal jurisdiction. This is because the claim arises from the vacation home—not the time-share (no specific jurisdiction)—and the homeowner's domicile is State B (no general jurisdiction).

(Choice D) Although the homeowner resides in State B, he expressly consented to the State A court's personal jurisdiction by signing the mortgage-preapproval application with a forum-selection clause.

Educational objective:

Personal jurisdiction can be established through the defendant's waiver, implied consent, or express consent—eg, a forum-selection clause.

References

- Nat'l Equip. Rental, Ltd. v. Szukhent, 375 U.S. 311, 316 (1964) (stating that "parties to a contract may agree in advance to submit to the jurisdiction of a given court").