

Question MEE 4 – February 2025 – Selected Answer 1

1. Yes, the federal court in State A should remand the case for lack of subject matter jurisdiction (SMJ).

SMJ can be based on either federal question jurisdiction or diversity of citizenship jurisdiction. Federal question jurisdiction exists then the cause of action brought by the plaintiff--as alleged in her well-pleaded complaint-- arises under federal law. Here, Coach's claim against Fran is a tort claim in violation of state law, so there is no federal question jurisdiction.

Diversity of citizenship jurisdiction exists where no plaintiff and no defendant are domiciliaries of the same state (all plaintiffs are diverse from all defendants) AND the amount in controversy exceeds \$75,000.

Here, we have a plaintiff domiciled in State A and a Defendant domiciled in State H. As such, all plaintiff's are diverse from all defendants and therefore diversity of citizenship exists.

However, the amount in controversy, as stated in Coach's complaint, is \$74,999, which is two cents short of the necessary amount in controversy to meet the requirement for diversity jurisdiction. As such, the federal court lacks subject matter jurisdiction.

While Fran, in her notice of removal, states that the amount in controversy actually is satisfied because Coach's actual damages are \$130,000, this is insufficient to satisfy the requirements of diversity jurisdiction. In determining the amount in controversy, the federal court will look only to the plaintiff's well-pleaded complaint. While the \$130k figure comes from an affidavit affixed to the complaint, that amount is not included in Coach's prayer for relief, which will be used to determine the amount in controversy. Moreover, the facts make clear that Coach has specifically limited his recovery to less than \$75,001, which is legally binding under the laws of State A that would be applied by a federal court sitting in diversity; also, even if not binding and Coach were awarded more, federal courts look only to the allegations in the complaint to determine whether subject matter jurisdiction exists.

2.

The facts state that Fran has no contacts with State A other than attending a single basketball game in State A; personal service was affected on Fran while she was attending the basketball game in State A. This manner of service is referred to as "tag" jurisdiction.

Tag jurisdiction is a historical basis for personal jurisdiction and has been historically recognized a legitimate basis for establishing personal jurisdiction over the defendant. Using tag jurisdiction as the basis for personal jurisdiction has been explicitly permitted by the Supreme Court, though the Court has not issued any opinion in recent history affirming that this remains a legitimate basis for jurisdiction. More recent decisions dealing with the matter of personal jurisdiction focus on the question of whether the defendant has sufficient minimum contacts with the forum such that the exercise of personal jurisdiction would not offend traditional notions of fair play and substantial justice. That is to say, the Court has focused on whether the defendant has sufficient minimum contacts with the forum and asked whether the defendant purposeful availment is present. If the Court were to employ this test, it would likely find that Fran's attendance at one basketball game does not amount to sufficient contacts with the forum such that Fran should expect to be haled into court in the forum. Importantly, all of Fran's allegedly tortious conduct took place in State H, and Fran has never been involved with or availed herself of state A except by going to the basketball game.

3.

No, the court should not dismiss for improper venue. When a case is removed from state court to federal court, it is removed to the federal district that encompasses the state court from which the case was removed. As such, the district court in State A is a proper venue.

However, the federal court in State A may transfer the case to State B if it finds that State B is a more convenient forum based on the location of evidence and witnesses. Here because the tort occurred in State A, Alan could make a nonfrivolous argument that the case should be transferred.

Question MEE 4 –February 2025 – Selected Answer 2

Issue 1:

The first issue is whether the federal court lacks subject matter jurisdiction given the amount of damages alleged for diversity purposes.

A federal court is a court of limited jurisdiction. A federal court must have subject matter jurisdiction to hear a case. There is federal question and diversity jurisdiction for federal court. Federal question jurisdiction occurs when the cause of action arises under federal law looking to the plaintiffs well pleaded complaint. Here, the action is

for defamation under state law. Because the law giving rise to the plaintiff's cause of action is state law and not federal law, there is not federal question jurisdiction.

Diversity jurisdiction arises when there is complete diversity of citizenship between parties and the amount in controversy is over 75,000 exclusive of costs and interests. A person's citizenship is their state of domicile. Here, the facts indicate that Fran is a domiciliary of State H making her a citizen of state H, and Coach a domiciliary of state A making her a citizen of state A. Thus, there is complete diversity as both are citizens of different states.

The issue is whether the amount in controversy is met. The amount in controversy is established by looking to what a plaintiff has pled in good faith. A court will ignore the amount in controversy if the defendant to prove to a legal certainty the injury is more than 75K. Here, there does seem to be an element of bad faith or maybe improper motive by Coach filing a claim for just under 75K, 74,999 when the injuries in lost wages exceeds 130,000. Because that affidavit is sworn, it would appear that Fran can prove to a legal certainty that the injuries are more than 75,000. However, federal courts such as the 5th circuit have held that a plaintiff can make a valid disclaimer of recover and damages above 75,000 that will defeat jurisdiction and prevent removal if such disclaimer is sworn, and submitted in the state court action prior to removal. Here, the disclaimer is sworn to by Coach. Furthermore, it was given prior to the removal of the lawsuit.

Additionally, the state law of state A holds such disclaimers valid and binding. Under Erie, a federal court in diversity will apply the substantive state law. Here, the state law enforced and binds parties to such stipulations. As such, this would also prevent Fran from proving to a legal certainty under state law that she would recover more than 75,000, because under state law this disclaimer is binding to ensure she cannot seek or recover over 75,000.

Therefore, the Court does lack subject matter jurisdiction and should remand the case to the state court.

Issue 2:

The Court should not dismiss the case for lack of personal jurisdiction. Personal jurisdiction can occur when a party is "tagged" or served with process in the forum, when they satisfy the minimum contacts analysis under the constitution, waive personal jurisdiction, or subject themselves to the court jurisdiction.

Here, Fran removed the case from state court to federal court. This act of removal is a subsection of a party to personal jurisdiction. This often is seen as plaintiff cannot object to personal jurisdiction as they waive such an argument upon filing a case. Likewise, a defendant who removes a case subjects themselves to the jurisdiction of the court regardless of whether the court would normally have personal jurisdiction.

Regardless of that fact, the state court had personal jurisdiction which would make the federal court have jurisdiction upon removal as well. To exercise jurisdiction, the court must have a state long arm statute and comply with it and meet the due process requirements. Here, the long arm statute does permit this type of service and acquiring of personal jurisdiction by tagging the defendant with service when they are present within the territory. This is also constitutional as the Supreme Court has acknowledged presence in the forum and receiving service is sufficient for personal jurisdiction. This is recognized in the minimum contacts test where the Court has said "Due process requires that in order to subject a defendant to a judgment in personam, *if he be not within the territory of the forum*, he have certain minimum contacts..." Thus, presence and service upon the defendant is constitutional.

Thus because of the waiver of personal jurisdiction by subjecting herself to the court's jurisdiction, the court should deny the motion to dismiss for personal jurisdiction.

Issue 3:

The court should not dismiss for improper venue. The removal statute provides that a defendant can remove an action to the federal district court embracing the state court from which a case is removed. This provision makes venue proper in that federal district court even if venue would not normally be proper under the traditional federal venue rules. Here, the district court is the federal district court in state A and is the court that embraces the state court territorially in state A. Because Fran removed the case to this federal court, venue is proper under the removal statute and the court should not dismiss for improper venue.

Question MEE 4 – February 2025 – Selected Answer 3

Subject matter jurisdiction. A federal court must have subject matter jurisdiction over a case in order to hear it. A federal court has subject matter jurisdiction through either federal question jurisdiction or diversity jurisdiction. Federal question jurisdiction arises when the plaintiff's complaint arises under federal law. Diversity jurisdiction arises when the plaintiff and defendant are completely diverse in citizenship (i.e., citizens of different states) and the amount in controversy exceeds

\$75,000. Individuals are citizens in the state in which they are domiciled. The amount in controversy is based on what the plaintiff alleges in good faith in their complaint.

Federal question is not at issue here as Coach's complaint is for a defamation claim arising under state law. Therefore, at issue is whether diversity jurisdiction is met, specifically whether the amount in controversy is met.

Here, Coach is domiciled in State A and Fran is domiciled in State H. Therefore, there is complete diversity of citizenship. Coach's complaint seeks damages in the amount of \$74,999 which does not exceed \$75,000. However, Coach submitted a sworn affidavit attached to the complaint asserting that she had lost \$130,000 in wages due to Fran's defamatory statements, but she stipulated that she would not seek or accept damages in excess of the amount sought in her complaint. This stipulation is binding under State A law and, even if it wasn't, it is the amount of damages claimed in the complaint that control for determining the amount in controversy. Thus, the amount in controversy is only \$74,999.

Therefore, the federal court should remand the case back to the state court in State A because there is no diversity of citizenship because the amount in controversy does not exceed \$75,000.

Note, however, that if Coach amends her complaint in violation of her stipulation to seek the full \$130,000 then Fran will likely be given another 30 days to file a motion for removal (even if Coach amends her complaint after 1 year has passed) because it will likely be found that Coach acted in bad faith to defeat diversity jurisdiction.

Personal jurisdiction. At issue is whether a federal court can exercise personal jurisdiction over a defendant that was served in the state. Personal jurisdiction ensures that the defendant has such minimum contacts with the forum state that exercising personal jurisdiction over the defendant comports with fair play and substantial justice. To have personal jurisdiction over a defendant there must be a statutory basis and it must be constitutional.

The statutory basis stems from the state's long-arm statute. Here, State A grants personal jurisdiction over persons who are served with process while physically present in the state, without regard to whether they have any other connection with the state. Fran was personally served with process while she was physically present in the State A. Thus, the exercise of personal jurisdiction satisfies the state long-arm statute.

To satisfy the constitutional aspect of personal jurisdiction, the defendant must have such minimum contacts with the state such that the exercise of personal jurisdiction comports with fair play and substantial justice. This requires an analysis of the defendant's contacts, whether the defendant's contacts relate to the case, and whether it would be fair to have the defendant litigate in the forum.

Minimum contacts are established if the defendant purposefully availed themselves of the forum state such that it was reasonably foreseeable that they could be haled into court there. Here, it is possible that Fran purposefully availed herself of State A if she was aware that the news reporter that visited her in State H was a news reporter for State A and that the news reporter was going to use her comments to publish a piece in State A. If Fran was aware of this then the court will likely find that she purposefully availed herself of State A and that it was reasonably foreseeable that making comments about Coach using illegal drugs could cause her to be haled into court there.

Additionally, Fran's minimum contacts are related to the case such that the court could exercise specific jurisdiction over Fran. Specific jurisdiction occurs when the minimum contacts of the defendant are related to the case. Here, Fran's comments to the news reporter are related to the defamation case as the newspaper repeated the comments that Fran made.

Lastly, it is likely fair for Fran to litigate in State A. In determining fairness court's consider the burden on the defendant, the plaintiff's interests, and the interests of the forum state. A defendant's burden must be such that it puts them at a substantial disadvantage in the litigation, mere inconvenience or lack of funds is not enough. Here, Fran likely does not have a compelling burden argument as her argument would be based on mere inconvenience. Additionally, Coach has an interest in litigating in her home state and the forum state has an interest in providing a court for its citizens that have been wronged. Therefore, the exercise of personal jurisdiction is fair.

Accordingly, the federal court does have personal jurisdiction over Fran under the traditional analysis. It is also important to note that federal courts also recognize personal jurisdiction over a defendant that was personally served within the forum state. Therefore, because Fran was served while in State A, that is a separate reason for the court to have personal jurisdiction over Fran.

Venue. When a case is removed from state court to federal court the proper venue is the federal district that embraces the state court. Therefore, when the case was removed from State A state court to federal district court, the proper venue was the federal district court for the district of State A because that is the court that embraces

the State A state court. It does not matter whether venue was initially proper in State A.

Accordingly, the federal court should dismiss the case for improper venue because the federal district court for State A is the proper venue that embraces the State A state court.