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===== Start of Answer #1 (1457 words) =====

1. Did the state court properly grant Doctor's motion to dismiss?

A motion to dismiss is granted when there is no genuine issue of material fact.

Personal Jurisdiction

Personal jurisdiction refers to the ability of the court to render a binding decision over the plaintiff.

A. Traditional

Traditionally courts had personal jurisdiction (PJ) over the following: (i) persons domiciled in the state (ii) served in forum (iii) consent.

(i) persons domiciled in the state

Persons are domiciled in the forum state if they reside with an intent to remain permanently.

Here, Doctor (D) was domiciled in State A where the surgery took place.

Therefore D was not domiciled in State B/

(ii) served in forum

A person is served in the forum if they are present in the forum and are served with a summons and complaint.

Here, there is no information to indicate D was in the forum there he was not served in the forum.

Therefore D was not served in the forum.

(iii) consent

A person consents to personal jurisdiction by assenting to be governed by the court's decision.

Here, there is no information that D consented to PJ.

Therefore no consent can be found.

Therefore the court does not have traditional jurisdiction over D.

B. Long Arm Statute

Courts have enacted long arm statutes which allow a court to haul in a party from another state if certain safeguards are met to meet the constitutional due process. In order for the long arm statute to apply, the party must have (i) minimum contacts with the forum and (ii) PJ must not offend traditional notions of fair play.

(i) Minimum Contacts

Minimum contacts require that the party purposefully avail himself in the forum and that PJ be foreseeable.

(a) Purposeful Availment

Purposeful availment requires that the party benefit from the contact with the forum and avail himself of the laws within the state.

Here, D did not have contact with State B. At the time of the surgery both Patient (P) and D were in State A and both were at that time domiciled in State A.

Therefore D did not purposefully avail himself.

(b) Forseeability

Was it foreseeable that the party would be hauled into court?

Here, since D did not have contact with the forum by availing himself, he will successfully argue that it was not foreseeable.

Therefore it is likely that the court would find that it was not foreseeable that D would be hauled in to the forum.

(ii) Fairness

Fairness looks to the courts interests and the availability of witnesses.

Here, although the court has an interest in protected its residents, the evidence is not within the state.

Therefore it would not be fair for the court to have PJ.

General Jurisdiction

General jurisdiction refers to when a party has maintained continuous and systematic contacts with the forum.

Here, D did not maintain any contact with state B.

Therefore no general jurisdiction.

Specific Jurisdiction

Specific jurisdiction arises if the cause of action arose from contract with the

forum.

Here, the cause of action did not arise from the contact.

Therefore no specific jurisdiction.

Conclusion: The court was correct in granting the motion to dismiss.

2. Did the state court properly deny Valvco's motion to dismiss?

The facts state that the court denied V's motion to dismiss for lack of personal jurisdiction.

Personal Jurisdiction

See above

A. Traditional

Here, there is no basis for traditional jurisdiction because V was not domiciled, did not consent nor was he served in the forum.

Therefore was no traditional jurisdiction.

Long Arm Statute

See above.

Minimum Contacts

See above

Purposeful Availment

see above

Here, V designed the value in State B therefore he probably took advantage of the laws within the state to manufacture the value. V benefitted from employees from the state, from employment laws, from building codes allowing him to work within the state. He most likely used the roads to get to work.

Since P benefitted from State B, he availed himself to the forum.

Foreseeability

P will argue that since V was working in State B that it was foreseeable that his actions could possibly lead him to be sued within the forum. It is possible that his employees could have sued him for wage issues or if someone was injured during the manufacturing of the valve, he would have been soon. Similarly, if someone were injured due to his defective design within the forum, it is very foreseeable that he would be hauled into the forum where the product was designed because that is where the defect occurred.

Therefore, the it is likely that it was foreseeable.

Fairness

General Jurisdiction

Here, we are not told if V had continuous contacts within the forum even when he designed the valve.

Therefore we will assume he did not.

Specific Jurisdiction

The cause of action arises specifically from V's work within State.

Therefore the court will have specific jurisdiction.

Conclusion: The court properly denied D's motion to dismiss because the court has PJ.

3. Did the federal court properly deny Patient's motion for remand?

Removal

Removal is a motion by the Defendant to remove a case from state court to a federal court that has proper subject matter jurisdiction.

Motion to Remand

A motion to remand is a request that the court return the case to a court because removal was improper. Removal is based on the federal court having federal question or diversity of citizenship over the parties.

To determine if the motion was properly denied we need to determine if the federal court lacked SMJ.

Subject Matter Jurisdiction (SMJ)

SMJ refers to the court's ability to enter a binding decision over the case. A

federal court has exclusive SMJ over patent, bankruptcy and patent cases. The federal court also has SMJ over (i) federal law questions (ii) Diversity of citizenship.

(i) Federal Law

A federal law case is one that arises from a federal law issue.

Here, the case is about products liability. There are no facts to indicate that there is a federal law on negligence that P is attempting to argue.

Therefore federal law is not the basis for SMJ.

(ii) Diversity of Citizenship

Diversity of citizenship requires that the parties be over different states and that the amount in controversy exceed \$75,000.

(a) Diversity among the parties

Diversity requires that the Plaintiff be of a different state than any defendant.

Domicile of P

Domicile requires residence with an intent to remain indefinitely or permanently.

Here, P is domiciled within State B. At the time of the surgery she was domiciled in State A. Citizenship is determined at the time of the filing of the case. Here, P was domiciled in State B.

Therefore P was domiciled in State B.

Domicile of D

A corporation is a citizen of each state in which it is incorporated and within its principal place of business.

(i) Incorporation

A corporation can be incorporated in more than one state.

Here, V was incorporated in State C.

(ii) Principal Place of Business

A principal place of business is where the corporation's high ranking officers make decisions over the business.

Here, V's principal place of business as stated within the facts was in State D.

Therefore Diversity of Citizenship existed because P was a citizen of State B and D was a citizen of both C and D.

(b) Amount in Controversy must exceed \$75000

Damages asserted by the Plaintiff must exceed \$75,000 even if her recovery is less than \$75000.

Here, P asserted that her damages were \$100,000.

Therefore the amount in controversy is met.

Conclusion: The court properly denied P's motion to remand

4. Did the federal court properly grant Patient's motion for summary adjudication?

Motion for Summary Adjudication

This motion asks the court to look at the facts favorable to the plaintiff and render a decision.

Here, since V had a prior lawsuit against him for products liability and it was granted. The court can use that decision to show that D in fact defectively designed the value and therefore grant a summary adjudication.

Collateral Estoppel

CE refers to claim preclusion. Where a claim was previously litigated it cannot be subject to relitigation. Traditionally, the courts would not allow a 3rd party to bring the claim but modernly a 3rd party can use it to prove that the D was negligent or is liable under products liability for a defective product.

Res Judicata

Res judicata refers to issue preclusion. It applies where the parties are the same, the issue was litigated and the issue was essential to the judgement.

Here, since P was not a party to the prior case, res judicata does not apply.

Conclusion: The court properly granted the motion.

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