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1) Dr's Motion to Dismiss

Personal Jurisdiction

In order to preserve this objection, a motion to dismiss for personal jurisdiction must be filed before answering.

Traditional

Traditional notions of Personal jurisdiction (PJX) allow the courts to exercise PJX over defendants who 1) consent 2) Are domiciled in that jurisdiction or 3) are served in that jurisdiction

Here, 1) the facts do not indicate that Dr consented to PJX in state court in state B because Dr. Filed for a motion to dismiss. 2) Domicile is where one lives and intends to stay indefinitely. Dr. is domiciled where he lives in practices (and presumably intends to stay), in state A, not in State B, therefore he is not domiciled in State B and 3) the facts do not indicate that Dr. was served in State B

Therefore, there is no traditional basis for PJX

Long Arm Statutes

In order to Reach Dr, St. B's long arm statute must comply with Constitutional requirements.

Constitutional Long Arm Statutes\

In order to be constitutional, the statute must provide for 1) minimum contacts and 2) traditional notions of fair play and substantial justice.

Minimum contacts

minimum contacts are satisfied if the defendant purposefully availed himself of the protections and laws of the jurisdiction in question. Here, there are no facts to indicate that Dr. has any contact with St. B. Dr.'s procedure occurred in St. A, and while he might foresee his patients traveling across st. bounds, this does not expose him to St. B sufficiently to find minimum contacts.

Fair play and substantial justice

1) hardship to defendant 2) state interest in protecting it's citizens 3) foreseeability of exposure to suit

Here, 1) the facts do not indicate that Dr. has any interaction with St. B, so it would likely pose significant hardship to him to be brought into court there. 2) St. B has a great interest in protecting it's citizens from negligent procedures and medical products, but this interest does not justify extending PJX beyond constitutional bounds, such as here, where the defendant has no contact with St. B. 3) the facts do not indicate that Dr. Could have predicted suit in court based on his procedure in State A and because he lives in State A. Absent any interaction with State B, there is no foreseeability of suit in st. B

Conclusion

There is therefore NO PJX over dr. in State court B, as there is no basis for traditional or Constitutional Long Arm PJX.

2) Valveco's Motion to Dismiss

Personal Jurisdiction

In order to preserve this objection, a motion to dismiss for personal jurisdiction

must be filed before answering.

Traditional

Traditional notions of Personal jurisdiction (PJX) allow the courts to exercise PJX over defendants who 1) consent 2) Are domiciled in that jurisdiction or 3) are served in that jurisdiction

The analysis here is much the same as it is for Dr. 1) Valveco did not consent to PJX in State B, 2) Valveco is not domiciled in State B (see corporate Domicile Below for analysis) and 3) the facts do not indicate that Valveco was served while in State B.

Corporate Domicile

Corporations are domiciled depending on the "nerve test" or the principle place of business, as well as where the heads of department or headquarters are located and state of incorporation.

Valveco is a corporation that makes heart valves. Valveco is incorporated in State C, and has headquarters in State D. Therefore, the nerve test points to Valveco's domicile being in either State c or D. Patient will argue that because Valveco designed in state B, that it should be domiciled there. however, this argument will fail because principle place of business requires more than just design, there must be incorporation, substantial business, or corporate headquarters located there, and the facts do not suggest that this is the case

Therefore, Valveco is not domiciled in State B, and there is no traditional PJX over Valvco in State B.

Long Arm Statutes

In order to Reach Valve Co, St. B'slong arm statute must comply with

Constitutional requirements.

Constitutional Long Arm Statutes\

In order to be constitutional, the statute must provide for 1) minimum contacts and 2) traditional notions of fair play and substantial justice.

Minimum contacts

minimum contacts are satisfied if the defendant purposefully availed himself of the protections and laws of the jurisdiction in question.

Here, Valveco designed the faulty heart valve in State B. Assuming Valveco has a design center in state B for it's medical products, this is sufficient for minimum contacts because the designers and products would benefit from state B law.

Fair play and substantial justice

1) hardship to defendant 2) state interest in protecting it's citizens 3) foreseeability of exposure to suit

Here, 1) there would not be significant hardship to valvco to appear in court in State B because it already has a design center, or local base in the jurisdiction. Furthermore, evidence of the design and potential faultiness would most likely be where it was designed, in State B. 2) State B has a significant interest in protecting citizens from faulty Heart Valves. 3) Valveco could probably foresee suit if anything went wrong with the designer or the design process in state B.

therefore, there is long-arm PJX over Valveco because it's design in state B meets minimum contacts and fair play requirements.

conclusion

There is PJX over Valveco in State B because if state B has a long arm statute, it

could constitutionally reach Valveco via it's design in state B. The court correctly denied Valveco's motion

3) Patient's Motion for Remand

Remand

Remand should be granted when removal is inappropriate. Therefore, first we must look to whether removal was appropriate.

Removal

Removal is appropriate when 1) all defendants agree 2) removal occurs within 30 days and 3) to anywhere the case could have originally been brought, meaning PJ and SMJ are preserved.

Here. 1) the facts do not indicate whether Dr. Agreed with valveco to remove the case. Valveco removed the case unilaterally, however, removal and agreement between defendants does not have to be simultaneous to be effective. therefore, assuming Dr. Agreed to removal in a timely manner, this element would be met. 2) the elements do not give a timeline for removal, so we will assume that Valveco made a timely motion within 30 days to remove to fed. Ct in state B.

3) The case can typically be brought anywhere all defendants reside, or any plea the court would have PJX and SMJ.

PJx

The rule and analysis for PJx for both Dr. And Valveco are Above. State B would have PJ over Valveco, because of it's design, but not Dr. because he had

no interaction with St. B other than his patient traveling there. Therefore, removal was inappropriate because there is no PJ over Dr.

SMJ

SMJ requires a federal question or diversity jurisdiction. This case is for negligent design and implanting of a heart valve, which are tort claims. Tort claims are state law, and there is therefore no federal question.

Diversity Jurisdiction

Requires 1) 75k or more in controversy and 2) complete diversity.

Here, 1) The amount in controversy against both Dr. and Valveco is 100k, well over the 75k requirement. 2) Patient is diverse from Valveco, because Patient lives in State A, and Valveco is only liable in states C, D, and B via minimum contacts (see PJ analysis above and corporate domicile above). However, both patient and Dr. are from state A, defeating complete diversity.

As such, removal was inappropriate because it defeated complete diversity.

Conclusion

Court should grant remand because removal was inappropriate because 1) no PJ over Dr, and because SMJ was not preserved in removing to St. B.

4) P's Motion for Summary Adjudication

Res judicata (issue Preclusion)

Question #1 Final Word Count = 1595