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1. Venue for Negligence claim

Venue is proper in any district where D resides or where the substantial part of the claim arise. The court must have PJ and SMJ over the parties and claims.

Domicile

Individual

An individual is citizen where he/she currently resides, with the intent to stay there and not move elsewhere in the foreseeable future.

Corporate

A corporation is citizen where it is incorporated or have its principle place of business.

Here, Jiff is domiciled in Truckee,CA because he is a resident there. The facts state that Shearer is a citizen of Nevada who owns an operates a salon business in Reno, NV. In order for Shearer to bring a claim against Jiff in federal court, there must be SMJ.

Subject Matter JXN

State courts have general subject matter JXN and can hear any type of case, unless federal court have been granted exclusive SMJ. The federal courts have limited jurisdiction and can only hear certain cases cased on diversity or cases involving federal questions.

Federal Question

Federal questions are claims arising under the U.S. Constitution, federal laws or statutes, or treaties.

Here, the case is a negligence claim so it does not fall under federal question.

Diversity

There must be complete diversity of citizenship between the parties and the claim alleges a good faith allegation of damages exceeding \$75K.

As stated above, Jiff is a citizen of CA and Shearer is a citizen of NV. There is complete diversity between the parties in the suit and the claim can be brought into fed court based on SMJ. The claim is for damages of a \$100K vase, so the amount in controversy is met.

Personal Jurisdiction (PJ)

PJ is the ability of the court to exercise power over a particular defendant or item of property. There are three types: In personam, in rem, and quasi in rem.

It must comply with due process requirement of state and federal constitution such that the defendant is not called into jxn that is unfair or unforeseeable.

Traditional basis

States usually have PJ statute that authorizes PJ on defendant that is:

- 1) domiciled in the forum state
- 2) personally served in the forum state, or
- 3) expressly or implied consent to jurisdiction in the forum state.

Here, Shearer is not domiciled in the forum state. The facts do not state that Shearer was served in the forum state. Jiff will argue that Shearer impliedly consented to jurisdiction in the forum state by entering into a contract of business dealings with someone who is domiciled in CA. However, Shearer will argue that the contract was formed in NV and that the negligence breaking of the vase was done in NV, so there is not express or implied consent. The issue now turns to whether there is an applicable long arm statute in CA that will make venue proper in the Eastern District of CA.

Long Arm Statute

State authorizes that exercise of PJ over non-resident D on any basis not consistent with the Constitution of the United States, complying with the 14th Amendment Due Process.

Constitutional Limitations

In order to comply with the constitutional limits, there must be:

- 1) Minimum Contacts with the forum state
- 2) Exercising PJ would not offend traditional notions of fair play and substantial justice.

Minimum Contacts with the forum state

Minimum contacts with the forum states will turn to whether D had continuous and systematic contacts with the forum state. It will also turn to whether D availed itself to the laws and

protections of the forum state (CA). If Shearer did avail itself to the laws and protections of the forum state, then venue is proper in CA where the Eastern District court can reach out and "grab" and hale Shearer into court.

Here, the contract was signed in NV and the cause of action of breaking the vase was in the salon in Reno, NV. Shearer will argue that he did not have any physical contacts with the forum state. Additionally, he did not step foot in the forum state. Shearer's only relation to the forum state is that he signed a contract with a citizen of the forum state.

Exercising PJ would not offend traditional notions of fair play and substantial justice.

- 1) relation to the claim
- 2) convenience of the parties
- 3) the forum state's interest in hearing the case.

Here, the relation of the claim to the court is not direct in that the negligence act did not arise out of the forum state. Jiff will argue that it is more convenient for him as a plaintiff to sue Shearer in district court in CA. Shearer will argue that there is an inconvenience for him to travel to the Eastern District of CA to litigate the case. Shearer has a strong argument in that the cause of action and witnesses stem from NV, so the convenience in hearing the case in CA is not justifiable. CA has an interest in hearing the case because Jiff is a citizen of CA. However, because the contract was signed in NV and because the negligence took place in NV, the interest in another venue hearing the case is stronger

Conclusion

Because the negligence cause of action and the convenience and interest of the parties weighs heavily against CA, venue was likely not properly laid.

2. Motion to Compel

In a civil suit, a party may compel nonprivilege documents that are not protected by attorney client privilege or work product privilege. The party must show that the need for the compelled documents is essential to the case. And that there is a showing that the party requesting cannot get the documents themselves without compelling.

Here, Shearer is compelling Jiff to turn over evaluations from other customers. Shearer wants to use this in his negligence case to likely show that if Jiff was negligent or had bad reviews from other customers, it is likely that he was negligent in breaking the vase that was worth \$100K. Jiff will argue that the evaluations from the other customers is not relevant to the current

case, such that the other customers do not have the same contract or even the same work that was done by Jiff.

Business Records not privilege

Jiff will argue that it is also not a business record and should not be turned over under that theory because the evaluations were made by the customers and not by Jiff to keep business records of any sort. They are merely for his personal records on how he can improve his business and work ethic.

Jiff will argue that turning over the evaluations might be substantially prejudicial.

Conclusion

The court did not err in denying the motion to compel production of evaluations completed by Jiff's customers in the past year.

3. Judgment in first suit / second suit

Res Judicata - Claim preclusion

This bars relitigation of the same claims by P if judgement is rendered in favor of P in the prior suit. This requires that P is a party in the prior suit, that the claim could've been brought in the prior suit. It also requires that the parties are the same in the prior suit as the present suit, same claim, and final judgment on the merits.

Here, the parties are the same parties in the present suit as the prior suit. There was final judgment on the merits in that the jury returned a general verdict in favor of Jiff. However, the judgment was not rendered for Shearer in the negligence claim suit. The breach on contract claim is not the same claim as the negligence claim in the prior suit.

Collateral estoppel - issue preclusion

This bars relitigation of the same issue, and has the same requirements as claim preclusion but it also requires that the issue brought in the current suit was actually litigated and essential to the prior suit, with a final judgment on the merits.

Here, the issue of the breach claim was not actually litigated in the prior suit, so Shearer might be able to bring the issue now

Conclusion

Shearer might be able to bring the breach of contract claim but since there was already a

judgment in favor of Jiff and Shearer did not timely appeal, he will likely be barred from bringing the suit.

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