4)

1. Does the federal court have subject matter jurisdiction?

Subject Matter Jurisdiction

A federal court must have subject matter jurisdiction over the claim before it in order to hear a case. Subject matter jurisdiction can be established through federal question or diversity jurisdiction.

Federal Question

Under federal question jurisdiction, a federal court may hear a case before it if the case arises from federal law, the U.S. Constitution, or U.S. Treaties.

Here, federal question jurisdiction is not applicable to establish jurisdiction because Peggy and Owen filed a complaint alleging negligence and that does not arise under federal law, the U.S. Constitution, or U.S. Treaties.

Thus, the court does not have subject matter jurisdiction through federal question.

Diversity Jurisdiction

Diversity jurisdiction is established when the plaintiff and defendant are domiciled in different forums and the amount in controversy is over $75,000. Domiciliary is established through a parties intent to permanently remain in the forum state. For corporations, domiciliary is established where the corporation is incorporated and has its principal place of business.

Here, diversity jurisdiction is applicable because the Peggy and Owen are both lifelong residents of California whereas Dan is a citizen of Nevada and NBL is a Nevada based company as mentioned in their corporation name "Nevada Bus Line, Inc." which indicates that the parties are diverse from one another. Additionally, the amount in controversy is met because Peggy alone is alleging damages for $100,000 and Owen is demanding $50,000 for the damage to his vehicle coupled together this equates to $150k which is more than needed to meet the amount in controversy.

Thus, the court has diversity jurisdiction over the case.

Overall Conclusion

For these reasons, the federal court does have subject matter jurisdiction over the case.

2. Does the federal court have personal jurisdiction?

Personal Jurisdiction

A court must have personal jurisdiction over the parties and property before it in order to hear a case. Personal Jurisdiction can be established through the traditional bases or modern bases.

Traditional Bases

Under the traditional bases, personal jurisdiction may be established through consent, domicile, presence when served, or waiver.

Here, the federal court may not establish personal jurisdiction through the traditional bases over Dan and NBL because they did not consent to jurisdiction. Additionally, both parties are not domiciled in California. Furthermore, Dan and NBL's presence in California was not when they were served it was when the accident took place because both parties were served in Nevada. Finally, there is no personal jurisdiction through waiver because both parties did not waive service of process by coming to California or in general.

Thus, the federal court does not have personal jurisdiction over Dan or NBL through the traditional bases.

Modern Bases

The modern bases of jurisdiction can be established through a state's long-arm statute and constitutionality.

Long-Arm Statute

A state's long-arm statute allows a federal court sitting in diversity in another state to exercise jurisdiction over a defendant. California's long-arm statute permits personal jurisdiction over a defendant that is in conformity with the constitution.

Here, while the facts do not clearly state California's long-arm statute it is well known that California's long-arm statute allows the establishment of personal jurisdiction over a defendant as far as the constitution permits.

Thus, a personal jurisdiction over Dan and NBL may be established through California's long-arm statute.

Constitutionality

Constitutionality must be met if the defendant has such minimum contacts with the forum state that exercise of jurisdiction over them would not offend traditional notions of fair play and substantial justice. Constitutionality is established through the extent of contacts, the relatedness of the contacts, and fairness factors.

Contacts

The extent of the defendant's contacts must be so continuous that they have purposefully availed themselves of the forum state and establishing personal jurisdiction over them is foreseeable.

Purposeful Availment

Purposeful availment is established if the defendant has availed themselves of the benefits and protections of the forum state.

Here, Dan and NBL have not purposefully availed themselves over the benefits and protections of the forum state because Dan is a citizen of Nevada that is employed for a bus company

within that state and was simply transporting bingo players to a bingo tournament in California. These facts indicate that Dan and NBL don't regularly come to California and were only here on this occasion for the bingo tournament.

Thus, there is no purposeful availment.

Foreseeability

The defendant's contacts must be so continuous that they can foresee being hauled into the forum state.

Here, Dan and NBL could not have foreseen being hauled into litigate a matter in federal court in Los Angeles because it is presumed that they do not usually drive on this route and were simply there for this tournament in particular.

Thus, there is no foreseeability.

Relatedness

Relatedness is established through general jurisdiction and in the absence of general jurisdiction, specific jurisdiction.

General Jurisdiction

General jurisdiction is applicable when the defendant has such continuous and systematic contacts with the forum state that they are essentially at home.

Here, Dan and NBL do not have continuous and systematic contacts with California that they are essentially at home because they are both domiciled in Nevada and were driving on this route for a tournament which is a one time event not a regular route.

Thus, there is no general jurisdiction over Dan and NBL.

Specific Jurisdiction

Specific jurisdiction is applicable when the cause of action occurs or the property in dispute is located in the forum state.

Here, the court does have specific jurisdiction over Dan and NBL because the cause of action, the bus accident, took place in Los Angeles, California.

Thus, the court does have specific jurisdiction over Dan as the driver of the bus and NBL as the employer of the bus driver.

Fairness Factors

The exercise of jurisdiction over a defendant is subject to fairness factors the court will look at: 1) burden on defendant in appearing in the forum state, 2) the plaintiff's relief interest, 3) the forum state's interest in adjudicating the matter, 4) shared interstate policies.

Here, the burden on the defendants in appearing in the forum state is not high because both defendant's are residents of Nevada and it is the state just right of California so they should not

have too much trouble traveling hear for case related matters. The plaintiff's relief interest is high because Peggy sustained injuries for a broken wrist that resulted in $100,000 worth of medical expenses and pain and suffering whereas Owen's car is beyond repair. Additionally, California's interest in the adjudicating the matter is high because the accident took place in their forum state and involves their own residents. Finally, the shared interstate policies are high because Nevada and California are so closely related and if Nevada residents arrive in the state again for tournaments or other events California would want to ensure their residents are safe whereas Nevada would want to ensure their residents are not causing further accidents.

Thus, the exercise of jurisdiction over Dan and NBL meets the fairness factors.

Overall Conclusion

For these reasons, the court has personal jurisdiction over Dan and NBL.

3. Was Dan properly served?

Service of Process

Service of process is properly served if personally served on the defendant at their home and the service is left with them or a resident of suitable age and discretion, service is left with a designated agent at the defendant's place of employment, or through first class mail.

Here, Dan was not properly served because Larry the lawyer did not personally hand Dan the service of process papers as they were slid under the front door of Dan's house. Additionally, while Larry might argue that Dan was not at home and he wanted to ensure that Dan did receive the complaint Larry could have mailed the papers instead of sliding them under the door because it could have been the wrong house or a child of not suitable age and discretion could have thrown the papers away upon seeing them.

Thus, Dan was not properly served.

4. How should the court rule on Plaintiffs' motion to compel?

Scope of Discovery

The scope of discovery must be in proportion to the needs of the case and must not exceed the scope by asking for privileged information. Privileged information is only permitted when it is not accessible by any other needs.

Here, the scope of discovery is in proportion to the needs of the case because the plaintiffs are requesting to see if NBL driver's have gotten into any other car accidents in order to prove a pattern of vicarious liability.

Thus, the scope of discovery is in proportion to the needs of the case.

Motion to Compel - Rule 64

A motion to compel may be filed with a court if after the parties meet and confer in good faith and one party refuses to turn over documents that are essential to the opposing parties case.

Here, the plaintiff's motion to compel will not be overruled because the plaintiff's met and conferred with NBL in good faith in an effort to resolve the matter out of court, because the defendant's are still refusing to turn over information that would be pertinent to the plaintiff's case the court will most likely compel NBL to turn over this information.

Thus, the court will not overrule the Plaintiff's motion to compel.

Question #4 Final Word Count = 1572

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