4)

1. Does the Federal Court have subject matter jurisdiction?

Subject Matter Jurisdiction

Federal courts are courts of limited jurisdiction. A federal court has subject matter jurisdiction in the case of a Federal Question, Diversity jurisdiction and also in the case of Supplemental Jurisdiction.

__Federal Question Jurisdiction

A Federal Question exists if the controversy arises from the US Constitution, Federal laws and treaties by the United States.

Here, the controversy does not arise from the US Constitution, Federal laws or treaties of the United States.

Thus, there is no Federal Question jurisdiction .

__Diversity Jurisdiction

Diversity jurisdiction exists if the litigants are diverse (domiciled in different states) and the Amount in Controversy is greater than $75k.

Here, Dan (defendant) and Peggy and Owen (plaintiffs) live in different states with Dan coming from Nevada and Peggy and Owen domiciled in California. The amount in controversy is $100k.

Thus, the Federal Court has Subject Matter jurisdiction based on Diversity.

__Supplemental Jurisdiction

A Federal court may include state claims if these have a common nucleus of operative fact with the main federal claim.

Here, Owen's claim of $50k for damage of his car may be tacked onto Peggy's claim for 100k for her broken wrist because the damage to Owen's car and Peggy's broken wrist arise out of the same transaction and occurence.

Thus, there also exists Supplemental Jurisdiction.

2. Does the federal court have personal jurisdiction ?

Personal Jurisdiction

In order for the court to exercise jurisdiction over the litigants, it must have In Personam Jurisdiction (IPJ). There are two main classes of IPJ, the traditional and the modern bases of jurisdiction.

__Traditional Bases

The traditional bases of jurisdiction include consent, presence when served, domicile and waiver.

__Modern bases of Jurisdiction

The modern bases of jurisdiction include the Long Arm statues and Constitutionality

Long arm statues

Most states have long arm statues to be able to exercise IPJ over out of state citizens. California has a long arm statute that it can exercise to the full extent of the Constitution.

_Constitutionality

In order to exercise IPJ under constitutionality, there must exist some minimum contacts in the forum state so as not to offend the traditional notions of fair play and substantive justice.

_Contacts.

In evaluating contacts, a court will evaluate whether the contacts were purposeful, foreseeable and whether the exercise of jurisdiction would be fair.

Purposeful

The contacts were purposeful if the defendant availed himself of the protections and benefits of the forum state's laws.

Here, Dan availed himself of the protections and benefits of California's laws because he drove a bus through California.

Thus, Dan's contacts in California was purposeful.

_Foreseeable

The contacts were foreseeable if the defendant could foresee being hauled to court based on his contacts in the forum state.

Here, it was foreseeable that Dan could be hauled into court because he was driving a bus in California and could run into an event that will bring him to court.

Thus, the court's exercise of jurisdiction over Dan's was foreseeable.

Relatedness

The court will evaluate the relatedness of the contacts to the cause of action to determine

whether general or specific jurisdiction exists.

General Jurisdiction

General jurisdiction exists if the contacts were so continuous and systematic that the defendant was practically at home in the forum state.

Here, Dan's contacts were not continuous and systematic because he merely drove through California and his contacts were merely incidental.

Thus, General Jurisdiction did not exist.

Specific Jurisdiction

Specific jurisdiction may exist if General jurisdiction does not, and the court will evaluate whether the act will give rise to a cause of action.

Here, since General Jurisdiction does not exist and Dan's act of driving through California could give rise to a cause of action even if it were not systematic and continuous.

Thus, specific jurisdiction exists.

Fair Play and substantial justice

In evaluating the fairness of the exercise of jurisdiction, the court will look at 1) the defendants burden 2) the state's interest 3) the plaintiffs relief interest 4) inter-States interest in efficiency and 5) Shared social policy interests.

Defendant's Burden

The court will evaluate the burden on the defendant in deciding whether the exercise of jurisdiction would be fair.

Here, the burden on Dan is slight as he lives in Nevada, which is just across the border from California. It would not be too burdensome for Dan to be tried in Los Angeles.

Thus, the burden on the defendant is reasonable.

State's Interest

The court will evaluate the State's interest in evaluating whether the exercise of jurisdiction would be fair.

Here, California has an interest in giving Peggy and Owen a forum to litigate for their damages.

Thus, California has an interest in the exercise of jurisdiction.

Plaintiffs relief interest

The court will also include the plaintiff's relief interest in its evaluation of whether the exercise of jurisdiction would be fair.

Here, Owen and Peggy have a strong interest in getting relief because Peggy suffered from a broken wrist and Owen's car was damaged beyond repair.

Thus, the Plaintiff's relief interest is compelling.

Inter-States interest in efficiency

The court will include in its evaluation the states interest in efficiency in dealing with the action.

Here, California and Nevada will not have a problem of inefficiency caused by the action because the two states are close to each other.

Thus, the Inter-States interest in efficiency is met.

Shared social policy interests

The court will also include in its evaluation the shared social policy interests between two possible forum states in determining whether the exercise of jurisdiction would be fair.

Here, we will assume that there are no shared social policy interests between California and Nevada because the facts do not indicate so.

Conclusion

The federal court in California has IPJ based on the theory of Constitutionality.

3. was Dan properly served ? Discuss.

Manner of Service

Service may be performed by personal service (direct delivery to the defendant), delivery to the residence and left with a person of suitable age that resides there, or in the case of waiver of service, by mail.

Here, neither personal service or delivery to the residence and left with a person of suitable age that resides there, or service by mail was present because Larry drove to Dan's residence and slid the copy of the complaint under the front door of Dan's house and no other means are indicated in the facts.

Thus, there was no proper service to Dan.

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

Discovery

Discovery includes all relevant evidence that is material to the claims of a party that are not priviledged. Discovery must not be so burdensome as to cost more than the original claim.

Here, the documents requested by the Plaintiffs are not privileged because the claims for injuries and property damage caused by NBL's drivers was not prepared in preparation for litigation. It is also highly unlikely that compiling these documents would cost more than $150k. This information will arguably be helpful in determining whether NBL is negligent in the hiring and training of it's drivers as the amount and frequency of claims against NBL will bear this information out, and is arguably relevant to Peggy and Owen's case.

Thus, the court should grant the Plaintiff's motion to compel.

Question #4 Final Word Count = 1215

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