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Chapters 3 & 4

2021 Full Year | Professor Saeger | Class: Civil Procedure Section I

Submitted: July 29, 2020 at 2:40 PM EDT

Due: August 05, 2020 at 11:00 AM EDT

Time Spent:

27m

My Score:

89%

Class Average:

78%

Quiz Results

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Basic Joinder of Claims and Parties

100%

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- 2 A citizen of Indiana brings an action against her employer, an Indiana corporation, in federal dist... ✓ D
- 17 Plaintiff is injured in a crash between his car and another car and a truck on a narrow country ro... ✓ C

Complex Joinder

67%

[Collapse All Questions](#)

- 3 A citizen of Oregon was injured in an accident by a citizen of Wyoming. Before filing suit in state court, the Oregonian assigned his claim to a citizen of Wyoming on the understanding that the Wyoming citizen would transfer all proceeds recovered at trial back to the injured party in exchange for a fee for expenses and services provided. This individual then filed the suit seeking \$100,000 in damages in Oregon state court. The defendant sought to remove the case on the basis of diversity jurisdiction. ✓ A

Does the federal court have subject matter jurisdiction?

 (A) Yes, because the parties are diverse and the claim is for \$100,000. ✓

 (B) Yes, because §1359 is inapplicable.

 (C) No, because the claim arises under state law.

 (D) No, because the parties are not diverse.

Rationale:

The correct answer is **A**. The trick here is that the assignment, if collusive in intention, was made for the purpose of defeating diversity jurisdiction. Section 1359 expressly applies only to collusive joinder for the purpose of invoking federal jurisdiction. Nevertheless, the federal courts have construed §1359 to apply to collusive joinder to both invoke and defeat jurisdiction. Thus, §1359 would apply here if the assignment was collusive. Since the original claimholder retained all real interest in the claim minus a service fee, the assignment was collusive. Thus, the original claimholder's citizenship governs and there is diversity jurisdiction since the state law claim is for \$100,000.

Answer **B** is incorrect. Section 1359 expressly applies to collusive joinder for the purpose of invoking federal jurisdiction. Nevertheless, the federal courts have construed §1359 to apply to collusive joinder to both invoke and defeat jurisdiction (as is the case here). Thus, §1359 would apply here because the assignment was collusive.

Answer **C** is incorrect because federal courts have subject matter jurisdiction over state law matters when the parties can satisfy the requirements for diversity jurisdiction under 28 U.S.C. §1332. Here, the plaintiff is from Wyoming, the defendant is from Oregon, and the claim is for \$100,000. Both requirements have been met.

Answer **D** is incorrect. Under §1359, if there is collusive joinder, the original claimholder's citizenship governs. The original claimholder was from Oregon and the defendant was from Wyoming, making the parties diverse in citizenship.

Recommended Reading:

Page 225 of Yeazell, Civil Procedure, Tenth Edition

- 4 A citizen of Pennsylvania is injured in a car accident with another citizen of that same state who was not injured in the crash. The injured party was in desperate need of cash and so he assigned his cause of action to a citizen of New York for \$50,000. The New Yorker then filed the claim in federal court in New York, seeking damages in the amount of \$100,000 against the other driver. ✗ D

Does the court have subject matter jurisdiction?

 (A) No, because the parties are not diverse.

 (B) Yes, because the parties are diverse and the claim is for \$100,000. ✓

 (C) No, because this is a collusive assignment.

 (D) Yes, because Plaintiff is a citizen of New York. ✗

Rationale:

The correct answer is **B**. 28 U.S.C. §1359 states that a district court will not have subject matter jurisdiction when a party has been collusively joined for the purpose of invoking that court's subject matter jurisdiction. The question, therefore, is whether the assignment to the New Yorker was made by the original claimholder for the purpose of creating diversity-based jurisdiction. This turns on whether the original claimholder/assignor retained an interest in the claim or where other aspects of the assignment indicate that it was made solely for the purpose of invoking federal jurisdiction. Since, in this case, the original claimholder gave up all interest in the claim for a reasonable amount of money, it is clear that this was not a collusive assignment within the meaning of §1359. Thus, since the defendant and (New York) plaintiff are diverse and the claim is in excess of \$75,000, there is jurisdiction under §1332(a)(1).

Answer **A** is incorrect as the parties are diverse where Plaintiff is from New York and Defendant is from Pennsylvania. The original injured party (a Pennsylvania citizen) is no longer a part of the action and cannot destroy diversity.

Answer **C** is incorrect as this was not a collusive assignment. The question is whether the original claimholder/assignor retained an interest in the claim or where other aspects of the assignment indicate that it was made solely for the purpose of invoking federal jurisdiction. Since the original claimholder gave up all interest in the claim for a reasonable amount of money, it is clear that this was not a collusive assignment within the meaning of §1359.

Answer **D** is incorrect. The fact that the plaintiff is a citizen of the forum state is irrelevant to this question as the issue turns on whether there was a collusive assignment. Also, there is no rule which requires the plaintiff to file in their home state nor is there a rule that provides the home state plaintiff with subject matter jurisdiction in that forum.

Recommended Reading:

Page 225 of Yeazell, Civil Procedure, Tenth Edition

Diversity Jurisdiction

100%

[Expand All Questions](#)

- 8 Damien was a student attending State A University. While at school, Damien lived in a dormitory ... ✓ C
- 11 Passenger, a citizen of State L, was riding in a car driven by his friend Driver, a citizen of State T. ... ✓ B
- 12 Plaintiff and Defendant were married in State A, where both their children were also born. There... ✓ D
- 14 Plaintiff filed suit in federal district court after the Defendant refused to perform under a signed... ✓ A