

CIVIL PROCEDURE

Midterm Examination

Fall 2024

Prof. L. Peake

Instructions:

There are three (3) questions in this examination.

You will be given three (3) hours to complete the examination.

Question #1

Molly, a California domicile, and Alishaan, a Maine domicile, are partners in a business named “DYP” which operates in Maine making denim yoga pants with nationwide Internet advertising that contains a single reference to one state: California (“Dip your suntanned legs into DYP yoga pants, California”). DYP ships all orders to Vlad, a Kansas resident, who prepares boxes and packaging for shipments to DYP’s customers. Gloria, a California domicile, ordered a pair of the yoga pants using DYP’s website to give as a birthday gift to her best friend Esmeralda, a Kansas domicile visiting Gloria in California. DYP sent the pants to Vlad in Kansas, who packaged the pants and shipped them to Gloria in California. While in California, Esmeralda developed a serious rash from wearing the pants, then returned to Kansas when the rash resolved following medical treatment.

Esmeralda has now filed suit in Kansas state court (which has a long arm statute allowing suit against any individual consistent with due process) against Molly, Alishaan, Vlad and Gloria.

Does the Kansas state court have personal jurisdiction over each of the four defendants?

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QUESTION #2

Matt, Raul and Bea, police officers for the City of Bakersfield, each received and responded to a dispatch call of a vehicle stolen by suspected gang members. Matt stopped a vehicle having the make and color of the reported vehicle, with the license plate similar, but not quite correct. Matt called Raul and Bea for backup after pulling the vehicle over as the driver, Maggie, and three passengers, later identified as Marcus, Nia and Naomi, were all wearing identical “Sharks” tee shirts bearing the image of a violently aggressive shark. Maggie, a California domicile, explained to Officer Bea that she was a student at Bakersfield School of Law and that her three passengers, all domiciles of Nevada, were living in Bakersfield while fellow students at the law school, and that the shirts were of the school’s mascot. All four were handcuffed and transported to the basement jail at Kern County Superior Court building, but later released with no charges filed when Maggie’s story was confirmed to be correct.

Maggie, Marcus, Nia and Naomi have filed suit in Clark County, Nevada federal court in Las Vegas for violation of federal civil rights 42 USC 1983, as well as assault, battery and false imprisonment against the three officers and the City of Bakersfield.

Does the Federal court in Nevada have subject matter jurisdiction over the matter; and, if so, over which claims?

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QUESTION #3

Assume all facts from Midterm Question #2, and the following:

The four defendants sued in Clark County, Nevada federal court have jointly filed a timely FRCP 12(b)(3) motion to dismiss the four plaintiffs' suit for lack of proper venue.

How should the Federal court in Nevada rule on defendants' motion?

KCCL Civil Procedure Fall 2024 Midterm Question #1 Answer Outline

Personal Jurisdiction

1. Personal jurisdiction of Kansas state court over Molly
 - A. Traditional method
 - (1) Molly: no domicile/consent/service of process in Kansas (Calif. domicile)
 - B. Specific jurisdiction (unlimited LAS here)
 - (1) Minimum contacts as product (yoga pants) shipped directly to forum state?
 - (2) Issue of “purposeful availment” as product not shipped to customer in Kansas
 - (3) Purposeful availment present in California as product ordered there (+adv.)
 - (4) Wrongful act/harm did not occur in Kansas: occurred in California
 - (5) Unlikely that specific jurisdiction present over Molly in Kansas
2. Personal jurisdiction of Kansas state court over Alishaan
 - A. Traditional method/Specific jurisdiction: same analysis as for Molly
3. Personal jurisdiction of Kansas state court over Vlad
 - A. Traditional method
 - (1) Domicile of Kansas, so Kansas court has personal jurisdiction over Vlad
 - B. Specific jurisdiction also potentially allow imposition of PJ over Vlad?
 - (1) Minimum contacts, purposeful availment present over Vlad
 - (2) Question if claim arises from conduct in Kansas (versus California), however
4. Personal jurisdiction of Kansas state court over Gloria
 - A. Traditional method
 - (1) Gloria: no domicile/consent/service of process in Kansas, so no such basis
 - B. Specific jurisdiction
 - (1) No purposeful availment/minimum contacts by Gloria with Kansas
 - (2) Claim did not arise from Gloria’s giving of pants to Gloria in Kansas
 - (3) No personal jurisdiction of Gloria in Kansas

KCCL CIVIL PROCEDURE FALL 2024 QUESTION #2 ANSWER OUTLINE

Subject matter jurisdiction over four Plaintiffs' suit in Federal Court

1. Federal Question subject matter jurisdiction (SMJ)

- A. A Federal Court has SMJ over cases arising from Constiution/treaties/federal statutes
 - (1) One of the claims in the Federal court complaint is for violation of federal law
 - (2) Here, allegation is for violation of federal civil rights (42 USC 1983)
 - (3) Federal court has SMJ over this claim/cause of action

2. Diversity subject matter jurisdiction

- A. Diversity jurisdiction requires both complete diversity and one plaintiff with \$75k+
- B. Here, no complete diversity as Maggie is a California domicile, as are defendants
- C. Other three plaintiffs are diverse as to domicile with defendants
- D. Marcus, Nia and Naomi are only residing temporarily in California NOT domiciled
- E. Facts do not establish, even if complete diversity was present, a plaintiff with \$75k+

3. Subject matter jurisdiction over state claims

- A. Federal court has supplemental SMJ over SOME state claims
- B. State claims must arise from same transaction(s) or occurrence(s)
- C. Here, state claims (assault/battery/false imprisonment) all arise from same occurrence
- D. Thus, Federal court in Nevada has SMJ over all claims, both federal and state claims

KCCL CIVIL PROCEDURE FALL 2024 MIDTERM QUESTION #3 ANSWER OUTLINE

Venue:

How should Federal Court in Nevada rule on defendants' motion to dismiss for improper venue

1. Venue is proper in a district where any defendant resides or a substantial part of events occ'd
 - A. Here, NO defendant resides in the Clark County, Nevada judicial district
 - B. In addition, none of the events giving rise to plaintiffs' claim occurred in Nevada
 - C. Thus, defendants' FRCP 12(b)(3) motion has meritorious basis
2. Should the court dismiss plaintiffs' suit for improper venue?
 - A. A Federal court had discretion to dismiss for improper venue
 - B. However, the court may, in the interests of justice, TRANSFER venue
 - (1) See, 28 USC 1404, 1406
 - (2) See also Goldlawn v Heiman 369 US 463 (1962)
 - C. Any transfer must be to a judicial district with personal and subject matter jurisdiction
 - D. Potential judicial district is in Federal court in California (Eastern District)
 - (1) No DIVERSITY subject matter jurisdiction, as one plaintiff domiciled there
 - (2) However, Federal claim subject matter jurisdiction here (Federal civil rights)
 - (3) In addition, supplemental SMJ over state law claims
 - (4) All four defendants reside in California
 - (5) A substantial part of the events/occurrences took place in California
 - E. Court also needs personal jurisdiction over all four defendants
 - (1) Here, all three officers and City of Bakersfield are domiciled in California
 - (2) Thus, Traditional PJ over all four defendants exists
 - (3) In addition, Specific PJ exists over all four defendants
 - (4) Here, minimum contacts/purposeful availment/claim arises from such contacts
 - F. Thus, Federal court in Nevada should deny FRCP 12(b)(3) motion to dismiss
 - (1) Nevada Federal court should order transfer of case to California Federal court
 - (2) California Federal court: both subject matter and personal jurisdiction exist

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1)

✓ DOES THE KANSAS STATE COURT HAVE PERSONAL JURISDICTION OVER ALISHAAN?

2647
Personal Jurisdiction (PJ) is the power of a court to exercise authority over a defendant. Personal jurisdiction may be established through (1) traditional bases, (2) long arm jurisdiction & "minimum contacts", (4) general or specific jurisdiction and fairness. A court needs PJ over a defendant in order to exercise authority.

(1) Traditional Bases of Personal Jurisdiction

If any of the traditional bases of Personal Jurisdiction are established, the court in the forum state has personal jurisdiction over the defendant.

Domicile - A defendant's domicile is where they concurrently reside with the intent to remain there indefinitely. A court has PJ over a defendant who is domiciled in the forum state at the time the complaint / lawsuit is filed.

2647
Here, the facts indicate that Alishaan is a Maine domicile, Esmeralda has filed suit in the state court of Kansas. As Alishaan is not a domicile of the forum state, the court may not exercise PJ over Alishaan through Domicile.

Physical Presence - A court has PJ over a defendant who is voluntarily physically present in the forum state at the time service of process was filed. The defendant may not have been brought to the forum state for a judicial proceeding, by force or fraud in order for this condition to be met.

✓ Here, the facts do not indicate that Alishaan was served in the forum state of Kansas at the initial time that the complaint was filed. Alishaan did not have sufficient physical presence in the forum state for the Kansas state court to have PJ over Alishaan.

Consent & Waiver - A defendant consents to PJ in the forum state when they make themselves subject to the PJ of the court in the forum state. Consent can be expressed, implied, by physical presence or by corporate registration. If a defendant wishes to object to PJ in the forum state, they must do so in response to the initial complaint in a timely manner, if not, the defendant waives their right to object to PJ in the forum state.

✓ Here, the facts do not indicate that Alishaan consented to PJ in the state of Kansas. However, the facts also do not indicate that Alishaan objected to PJ in Kansas. Given the facts that Alishaan did

not specifically object to the court in the state of Kansas having PJ over Alishaan, the plaintiff may argue that Alishaan waived his rights to object to being subject to PJ in the forum state and that this is sufficient to show that Kansas has PJ over Alishaan.

If none of the traditional bases are met, the court may look to a State Long-Arm Statute, as defined below...

✓ **(2) State Long-Arm Statute**

A Long-Arm Statute (LAS) is state law that allows a court to exercise jurisdiction over an out-of-state defendant if specific criteria is established. The LAS must be in compliance with due process which is established through sufficient the defendant having "minimum contacts" with the forum state.

(1) LAS - Every state may have a different LAS and the defendant's contacts must meet the requirement of the LAS itself.

The state of Kansas has an unlimited LAS which means that if "minimum contacts" are met through due process in the forum state, that is all that is needed for the LAS to be satisfied.

(2) "minimum contacts" - In order to be in compliance with due process, the defendant conduct must have "minimum contacts" with the forum state. "minimum contacts" consist of purposeful availment, foreseeability & reasonableness, relatedness and fairness. "minimum contacts" are established through general or specific jurisdiction, defined below.

See the specific jurisdiction section below for the "minimum contacts" analysis. Through "minimum contacts" and in compliance with due process, the LAS is met and the Kansas state court does have personal jurisdiction over the out-of-state defendant.

(4a) General Jurisdiction

A court has general jurisdiction over the defendant if the defendants contact with the forum state is so "continuous and systematic" that the defendant is essentially "At home" in the forum state. The defendant also establishes general jurisdiction through corporate registration. "At home" for an individual is their domicile and "At home" for a corporation is their state of incorporation + their principal place of business (PPB). PPB is established through a nerve center test which is where the corporations high level officers direct, coordinate and control on a regular basis.

Alishaan is not a Kansas domicile as previously discussed. However, as Alishaan is a partner in the business of DYP, Alishaan may be "At-home" in the forum state if the forum state is Kansas. The

KAY- facts indicate that DYP operates in Maine making denim yoga pants with nationwide Internet advertising that contains a reference to California. The facts further state that DYP (which Alishaan is a member of) ships all orders to Vlad in Kansas, who then prepares boxes and packaging for shipments. It seems that the the preparing of boxes, and packaging of shipments may be an integral part of DYP's operations. The plaintiff may argue that because Vlad prepares and packages in Kansas that DYP is "at home" in Kansas, however this is unlikely as applying the nerve center test as previously discussed, DYP's principal place of business could arguably be Kansas because of the later activities, however it is most likely Maine as that is where the denim pants are made out of. The Kansas state court most likely does not have general jurisdiction over Alishaan.

(4b) Specific Jurisdiction

A court has specific jurisdiction over a defendant when "minimum contacts" are met as defined below. The defendants "minimum contacts" must consist of:

(1) purposeful availment - A defendant purposefully avails themselves to the benefits of the forum state when they make themselves voluntarily present in the forum state or by targeting the forum state with business activities.

Here, the facts indicate that Alishaan, a member of DYP ships orders nationwide into the stream of commerce through the internet. Alishaan did not make himself physically voluntarily present in the forum state. Alishaan also is putting the denim yoga pants on the internet, into the stream of commerce and is not necessarily targeting Kansas specifically. The plaintiff could argue the same argument above in the general jurisdiction section of Vlad being in Kansas, and it could be said that Alishaan via DYP was targeting the forum state with business activities solely because the items are being packed and shipped from Kansas.

THIS PART OF SPECIFIC PJ? OR TRADITION

(2) foreseeability & reasonableness - A court may not exercise PJ over a defendant unless the defendant could have reasonably knew or anticipated that their activities with the forum state could have foreseeably "hailed the defendant" into court there.

Here, the facts indicate that Esmeralda the plaintiff obtained the rash in California but then filed suit in Kansas. As Alishaan is selling the yoga pants into the stream of commerce, it could be arguable that Alishaan could have reasonably foreseen that these activities could hail him into court in any state as the pants are selling nation wide. Given that DYP sends all of their items to Vlad in Kansas to box up and ship, it is foreseeable that the activities taking place in Kansas could have

hailed the defendant into court there. There is a strong enough foreseeability for the Kansas state court to exercise PJ over Alishaan.

(3) **relatedness** - The claim / lawsuit must be related to or arise out of the defendants contacts with the forum state. The plaintiff's claim must directly relate to the contacts of the defendant.

Here, the facts do not indicate that Alishaan's had sufficient contacts with the forum state for the claim to be related.

and lastly (4) **fairness** - If purposeful availment, foreseeability & reasonableness and relatedness are met, the court will lastly look at fairness to ensure that exercising PJ over the defendant meets the concept of "substantial justice and fair play". Some additional fairness factors consist of the burden of the defendant, the interests of the plaintiff, the interests of the forum state and the convenience of all parties.

Here, the several of the above conditions are met and lastly the court would look at if it is fair for the court to have PJ over Alishaan. Using the concept of substantial justice, fair play, and the burden of the defendant, it would be fair for Alishaan to be hailed into court, via DYP as an integral part of DYP's business takes part in Kansas though the packing of the items before they are actually shipped out to the customers. It would also be fair for the interests of the other defendants and the plaintiff for the suit to take place in Kansas.

Conclusion: The Kansas state court would have PJ over Alishaan via targeting Kansas with foreseeable business activities.

DOES THE KANSAS STATE COURT HAVE PERSONAL JURISDICTION OVER MOLLY?

See above rule for PJ

Domicile - A defendant's domicile is where they concurrently reside with the intent to remain there indefinitely. A court has PJ over a defendant who is domiciled in the forum state at the time the complaint / lawsuit is filed.

Here, the facts indicate that Molly is a California domicile, Esmeralda has filed suit in the state court of Kansas. As Molly is not a domicile of the forum state, the court may not exercise PJ over Molly through Domicile.

✓ **Physical Presence** - A court has PJ over a defendant who is voluntarily physically present in the forum state at the time service of process was filed. The defendant may not have been brought to the forum state for a judicial proceeding, by force or fraud in order for this condition to be met.

Here, the facts do not indicate that Molly was served in the forum state of Kansas at the initial time that the complaint was filed. Molly did not have sufficient physical presence in the forum state for the Kansas state court to have PJ over Molly.

✓ **Consent & Waiver** - A defendant consents to PJ in the forum state when they make themselves subject to the PJ of the court in the forum state. Consent can be expressed, implied, by physical presence or by corporate registration. If a defendant wishes to object to PJ in the forum state, they must do so in response to the initial complaint in a timely manner, if not, the defendant waives their right to object to PJ in the forum state.

Here, the facts do not indicate that Molly consented to PJ in the state of Kansas. However, the facts also do not indicate that Molly objected to PJ in Kansas. Given the facts that Molly did not specifically object to the court in the state of Kansas having PJ over Molly, the plaintiff may argue that Molly waived her rights to object to being subject to PJ in the forum state and that this is sufficient to show that Kansas has PJ over Molly.

If none of the traditional bases are met, the court may look to a State Long-Arm Statute, as defined below...

✓ **(2) State Long-Arm Statute**

A Long-Arm Statute (LAS) is state law that allows a court to exercise jurisdiction over an out-of-state defendant if specific criteria is established. The LAS must be in compliance with due process which is established through sufficient the defendant having "minimum contacts" with the forum state.

(1) LAS - Every state may have a different LAS and the defendant's contacts must meet the requirement of the LAS itself.

The state of Kansas has an unlimited LAS which means that if "minimum contacts" are met through due process in the forum state, that is all that is needed for the LAS to be satisfied.

(2) "minimum contacts" - In order to be in compliance with due process, the defendant conduct must have "minimum contacts" with the forum state. "minimum contacts" consist of purposeful availment,

foreseeability & reasonableness, relatedness and fairness. "minimum contacts" are established through general or specific jurisdiction, defined below.

See the specific jurisdiction section below for the "minimum contacts" analysis. Through "minimum contacts" and in compliance with due process, the LAS is met and the Kansas state court does have personal jurisdiction over the out-of-state defendant.

(4a) General Jurisdiction

A court has general jurisdiction over the defendant if the defendant's contact with the forum state is so "continuous and systematic" that the defendant is essentially "At home" in the forum state. The defendant also establishes general jurisdiction through corporate registration. "At home" for an individual is their domicile and "At home" for a corporation is their state of incorporation + their principal place of business (PPB). PPB is established through a nerve center test which is where the corporation's high level officers direct, coordinate and control on a regular basis.

Molly is not a Kansas domicile as previously discussed. However, as Molly is a partner in the business of DYP, Molly may be "At-home" in the forum state if the forum state is Kansas. The facts indicate that DYP operates in Maine making denim yoga pants with nationwide Internet advertising that contains a reference to California. The facts further state that DYP (which Molly is a member of) ships all orders to Vlad in Kansas, who then prepares boxes and packaging for shipments. The plaintiff may argue that because Vlad prepares and packages in Kansas that DYP is "at home" in Kansas, however this is unlikely as applying the nerve center test as previously discussed, DYP's principal place of business is also in Maine. The Kansas state court most likely does not have general jurisdiction over Molly.

SUIT FILED IN KANSAS - NO "ABOVE"

(4b) Specific Jurisdiction

A court has specific jurisdiction over a defendant when "minimum contacts" are met as defined below. The defendant's "minimum contacts" must consist of:

(1) purposeful availment - A defendant purposefully avails themselves to the benefits of the forum state when they make themselves voluntarily present in the forum state or by targeting the forum state with business activities.

Here, the facts indicate that Molly, a member of DYP ships orders nationwide into the stream of commerce through the internet. Molly did not make herself physically voluntarily present in the forum state. Molly also is putting the denim yoga pants on the internet, into the stream of commerce and is

RELEVANCE TO SPECIFIC JURISDICTION
IT CAN BE, EVEN IF NOT SERVED IN KS

not necessarily targeting Kansas specifically. The plaintiff could argue the same argument above in the general jurisdiction section of Vlad being in Kansas, and it could be said that Molly via DYP was targetting the forum state with business activities solely because the items are being packed and shipped from Kansas.

(2) foreseeability & reasonableness - A court may not exercise PJ over a defendant unless the defendant could have reasonably knew or anticipated that their activities with the forum state could have foreseeably "hailed the defendant" into court there.

Here, the facts indicate that Esmeralda the plaintiff obtained the rash in California but then filed suit in Kansas. As Molly is selling the yoga pants into the stream of commerce, it could be arguable that Molly could have reasonably foreseen that these activities could hail him into court in any state as the pants are selling nation wide. Given that DYP sends all of their items to Vlad in Kansas to box up and ship, it is foreseeable that the activities taking place in Kansas could have hailed the defendant into court there. There is a strong enough foreseeability for the Kansas state court to exercise PJ over Molly.

W/IT
(3) relatedness - The claim / lawsuit must be related to or arise out of the defendants contacts with the forum state. The plaintiff's claim must directly relate to the contacts of the defendant. *FOR IMPDS IT*
OF SPECIFIC P.J.

Here, the facts do not indicate that Molly's had sufficient contacts with the forum state for the claim to be related.

and lastly **(4) fairness** - If purposeful availment, foreseeability & reasonableness and relatedness are met, the court will lastly look at fairness to ensure that exercising PJ over the defendant meets the concept of "substantial justice and fair play". Some additional fairness factors consist of the burden of the defendant, the interests of the plaintiff, the interests of the forum state and the convenience of all parties.

ENIF
Here, the several of the above conditions are met and lastly the court would look at if it is fair for the court to have PJ over Molly. Using the concept of substantial justice, fair play, and the burden of the defendant, it would be fair for Molly to be hailed into court, via DYP as an integral part of DYP's business takes part in Kansas though the packing of the items before they are actually shipped out to the customers. It would also be fair for the interests of the other defendants and the plaintiff for the suit to take place in Kansas. *FINANCE*
ID?

Conclusion: The Kansas state court would have PJ over Molly via targeting Kansas with foreseeable business activities.

DOES THE KANSAS STATE COURT HAVE PERSONAL JURISDICTION OVER VLAD?

See above rule for PJ

Domicile - see above rule.

Vlad is a domicile of Kansas which is the forum state. The court would have PJ over Vlad as he intends to remain in Kansas indefinitely.

- FACTS: HE'S A "RESIDENT" ... FACTS DO NOT STATE VLAD'S A "DOMICILE"

Physical Presence - see rule above

Vlad was physically present in the forum state when the plaintiff filed the suit. In addition to being domiciled in the forum state, Vlad is also physically present.

As one or more of the traditional bases are met, there is no need to apply the LAS.

The Kansas state court has Personal Jurisdiction over Vlad.

DOES THE KANSAS STATE COURT HAVE PERSONAL JURISDICTION OVER GLORIA?

Domicile - Gloria's state of domicile is California per the facts which is different than the forum state.

Physical presence - Gloria was not physically present in the forum state per the facts.

Consent & Waiver -

Here, the facts do not indicate that Gloria consented to PJ in the state of Kansas. However, the facts also do not indicate that Gloria objected to PJ in Kansas. Given the facts that Gloria did not specifically object to the court in the state of Kansas having PJ over Gloria, the plaintiff may argue that Gloria waived her rights to object to being subject to PJ in the forum state and that this is sufficient to show that Kansas has PJ over Gloria.

LAS - see rule above.

General Jurisdiction - see rule above

Gloria is not "at home in the forum state" nor is domiciled in the forum state.

Specific Jurisdiction - see rules above

Purposeful availment - see rule above.

Gloria did not purposefully avail herself in the forum state per the facts.

Foreseeability & reasonableness - see rule above

Esmeralda was visiting her best friend Gloria in California. Gloria knew that Esmeralda was from Kansas and that she would be returning to Kansas after she left California. Gloria is the one who gave Esmeralda the pants and Esmeralda had a rash in California. (As these facts exist, there does seem to be sufficient contact with the forum state for Gloria to be hailed to Kansas just because she gifted Esmeralda with these who is a domicile of Kansas.) It may be argued that it was reasonable and foreseeable as Esmeralda just came to visit Gloria and the rash would not have been caused if not for Gloria's gift. *No.* ?

Relatedness - see rule above

The same facts apply as foreseeability and reasonableness for Gloria's contact with the forum state.

Fairness - see rule above

Although it may not be fair for Gloria to have to travel to Kansas, (with the matter of convenience for the plaintiff and one or more of the defendants,) it would be fair to be hailed into the state court of Kansas.

↓ *No, NOT DUE PROCESS FOR GLORIA.*

The Kansas state court has Personal Jurisdiction over Gloria.

The Kansas state court does have personal jurisdiction over each of the four defendants through waiver, Long-Arm jurisdiction, amongst other variables that each of the defendants are subject to.

2)

(Main issue) Does Nevada have subject matter jurisdiction over this claim?

Rule: State court are authorized by the state legislature to take on almost any case with very few exclusions bankruptcy, USMJ, etc., because state courts are courts of general jurisdiction. Federal courts, on the other hand, have a limited SMJ. A federal court can only hear cases that either present a federal question of the law, or Diversity of citizenship lawsuit.

✓ Sub issue: if this case based on Federal question?

Sub rule: For the federal question to exist the plaintiff must be asking the court in a "well-pleaded" complaint to enforce (some sort of) federal law. If the federal question requirement is satisfied then diversity of citizenship is not required.

Analysis: here, all plaintiffs are asserting a 1983 lawsuit to enforce their civil rights, rather than some sort of regulatory rule that is not typically enforced by some regulatory agency assuming that their claim is filed in the well pleaded complaint the federal court had SMJ here (although this appears to be the wrong venue).

NOT AN ISSUE W/ CAL OF THE QUES

Thus, the Federal Court had SMJ over the 1983 Lawsuit.

✓ Sub issue Does the fed court have SMJ over state claims of assault, battery and false imprisonment?

✓ Supplemental jurisdiction:

Rule: federal court may exercise supplemental jurisdiction over additional claims, if there is already a claim that satisfies SMJ, and the additional claims arise out the same nucleus of facts, same transaction, contact, contract, etc., AVOID "ETC."

Analysis: Here, the main claim is based on federal enforcement of civil rights defined under USC. Although the claims of assault battery and false imprisonment are usually state tort claims, the federal court may nonetheless exercise supplemental jurisdiction over the state claims. The federal court would likely need to apply state law to those claims based on Hannah and Erie doctrines.

BECAUSE ???

Conclusion: thus, the federal court may exercise supplemental jurisdiction over the assault, battery, and false imprisonment claims.

Q100 IN THE ALTERNATIVE: if 42 USC 1983, is not a fed question or enforcement of right:

Does the feds have SMJ over this claim under Diversity of citizenship?

Rule: Diversity of citizenship law suits require complete diversity of citizenship between opposing parties and the amount of claim must exceed \$75,000.00.

Here Diversity is not satisfied because Maggie is a plaintiff and live on the California and she is domiciled in the state where the defendant is also domiciled. ^{WHO? A DEFENDANT? ALL DEF'S?} The facts here also do not indicate how much the claim is for but based of the allegations presented in the complain it appears that the is a good faith argument the claim would exceed \$75,000.00 for each and unless the City of Bakersfield has a good argument as to why the claim cannot be legally possible to be asserted a worth of \$75,000.00, the amount in controversy would be satisfied. Another possibility if Marcus, Nia and Naomi were to file a separate lawsuit against city of bakersfield and the officers with out Maggie there would likely be diversity of citizenship assuming that the \$75,000.00 amount is satisfied.

Conclusion: Thus the court does not have diversity of citizenship claim here unless Marcus, Naomi, and Nia refile a separate lawsuit with out Maggie.

Thus, thus the Fed court in this situation would be likely have a better SMJ under a federal question theory which does not require diversity of particular amount of claim.

3)

✓ Whether the Federal court in Nevada should dismiss the suit for lack of proper venue.

Maggie, Marcus, Nia and Naomi vs. Matt, Raul, Bea and City of Bakersfield

Venue

2/24/24
Venue is the geographical location of the federal district court that has both PJ and SMJ over all parties and claims. Proper venue is determined: (1) for multiple defendants, if all defendants are from the same state, then any of the districts that a defendant resides, or (2) the judicial district where a substantial portion of the events or omissions occurred that led to the claim. If no proper venue could be determined from (1) or (2), then (3) a fall-back venue would be any judicial district that has PJ over the defendants.

Personal Jurisdiction

2/24/24
A federal district court must have power over a defendant's person or property under statutory basis and it must be constitutional for it to have personal jurisdiction over that defendant. Statutory limitations to PJ include (1) whether Def has been personally served while present in the forum state, (2) whether Def has consented to PJ in the forum state, (3) whether Def is domiciled in the forum state, (4) whether Def has waived any contest to PJ, and (5) the extent to which the forum state has any long-arm statute (LAS) to have PJ over out-of-state Def. Constitutional limitations to PJ include whether the Def has received proper Notice through service of process, whether the Def had any minimum contacts in the forum state, and whether subjecting the Def to PJ in forum state would violate traditional notions of fair play and substantial justice.

Whether the federal court in Nevada has PJ over Matt, Raul, Bea and City of Bakersfield

6/10/00!
PJ - defined above. Here, the Defendants have waived any contest to be subject to PJ as they did not also file an FRCP 12(b) motion to dismiss for lack of PJ. All pre-answer motions must be filed together to be considered by the court.

The federal court in Nevada has PJ over all four defendants.

Whether the federal court in Nevada has SMJ over Matt, Raul, Bea and City of Bakersfield

Subject Matter Jurisdiction

Federal district courts are courts of limited jurisdiction and must have authority over claims in order to have SMJ. A federal district court can have SMJ over claims involving either federal question (where the claim is based on a violation of a right under the U.S. Constitution, or a federal statute or regulation) or diversity of citizenship (where the controversy is between parties of different states and the amount in controversy exceeds \$75,000).

See Question 2 analysis for SMJ.

DIAM

The federal court in Nevada has SMJ over the matter filed by all four plaintiffs.

Improper Venue

Venue - defined above.

→ ONE BASIS

Here, even though all defendants are residents of the same state and all events leading to the claim occurred in Bakersfield, California, the suit was filed in Nevada. For purposes of venue, a defendant who is a natural person has their residency determined by their domicile. Matt, Raul and Bea are natural persons, and absent any other facts, their domicile would be in California. For purposes of venue, a defendant that is an entity has their residency determined by wherever they would be subject to PJ. The City of Bakersfield is an entity and they would be subject to PJ in the Nevada court (see PJ analysis above). Because the Plaintiffs could have filed their suit in a proper venue under 28 U.S. Code §1391(b)(1) or (b)(2), they could not have used fall-back venue option under (b)(3).

desired

BY WH
CONJEN

The Federal court in Nevada should dismiss the suit for lack of proper venue.

Transfer of Venue

At the court's discretion, for the convenience of parties and witnesses and in the interest of justice, a federal court can transfer a case to a proper venue, as long as the transferee venue has PJ and SMJ over the parties and claims. The transferor court would take into consideration public factors (such as effect on the community of transferee court, administration of justice, etc.) and private factors (such as location of witnesses and evidence) to make this decision.

Here, the Federal court in Nevada could transfer the case to the judicial district in California where any of the Defendants reside or where the incident basis for the claims occurred. The parties would have to consent. Although three of the four plaintiffs are domiciles of Nevada, they had been living in Bakersfield to go to law school, so transferring the case would not be inconvenient for them.

4?

Because the transferor Federal court in Nevada was an improper venue to begin with, the transferee federal court in California would adopt the choice of law rules from California.] TRUE, BUT NOT ACTUALLY PART of CAU OF QUESTIO

END OF EXAM
