

Question 6

Paul and Tom, both State X residents, were involved in an auto accident in State X. At the time of the accident, Tom, who was working as a delivery truck driver for Danco, was driving through State X to make a delivery to a customer located in State Y. Danco is incorporated in State Y and has its principal place of business in State Z. State Z is located adjacent to State X. Danco does no business in State X.

Paul filed a complaint against Danco in federal district court in State X on the basis of diversity jurisdiction, alleging \$70,000 in property and personal injury damages. Danco was properly served with the complaint at its principal place of business.

Appearing specially in the State X federal district court, Danco filed a motion to dismiss the complaint on the grounds that the district court lacked both subject matter and personal jurisdiction and that Paul's action could not proceed without joining Tom. The district court denied Danco's motion.

Danco then filed a counterclaim against Paul to recover \$20,000 in property damage to the truck Tom was driving at the time of the accident. Paul moved to dismiss Danco's counterclaim on the ground that the district court lacked supplemental jurisdiction to hear the counterclaim. The district court granted Paul's motion.

State X law provides that its courts may exercise jurisdiction over nonresidents "on any basis not inconsistent with the Constitution of the United States."

1. Did the district court rule correctly on Danco's motion to dismiss Paul's complaint? Discuss.
2. Did the district court rule correctly on Paul's motion to dismiss Danco's counterclaim? Discuss.

Answer A to Question 6

6)

Question 6

(1) Motion to Dismiss Paul's Complaint

Personal Jurisdiction (PJ):

Personal jurisdiction refers to the court's power to bind the person of the defendant. The traditional basis [sic] of personal jurisdiction are (1) domicile; (2) personal service in state; and (3) consent - either expressly through a forum clause or impliedly by failing to raise lack of PJ in your first response to the court. Paul filed a complaint against Danco in federal district court in State X. Danco denies that State X has personal jurisdiction over it. Danco is a corporation which is incorporated in State Y and has its principal place of business in State Z. Therefore, Danco's residence would be considered State Y and Z.

Due Process:

To have personal jurisdiction over a defendant who is not a resident of the forum, the forum state must have a long arm statute and meet the requirements of International Shoe to meet due process requirements. To have personal jurisdiction, due process also requires that defendant be given notice and have the opportunity to be heard. Defendant must be served with the summons and complaint within 120 days of filing of the complaint. In this case, Danco was properly served with the complaint at its principal place of business.

Long Arm Statute:

A long arm statute is a statute that allows the state to assert jurisdiction. States may have specific or nonspecific long arm statutes. State X has a long arm statute that provides that its courts may exercise jurisdiction over nonresidents "on any basis not inconsistent with the Constitution of the United States." This is a nonspecific long arm statute because it does not specific[y] the circumstances under which the forum may exercise personal jurisdiction. Therefore the court may exercise jurisdiction to the limits allowed by due process.

International Shoe:

To meet the test in International Shoe, the forum must show that defendant has such minimum contacts with the forum that assertion of personal jurisdiction would not offend traditional notions of fair play and substantial justice.

Minimum Contacts:

To have minimum contacts, the courts will analyze the (1) D's purposeful availment of the forum; and (2) D's foreseeability of a lawsuit.

Purposeful Availment:

In analyzing purposeful availment, the court will consider (1) the nature and quality of D's actions; (2) voluntary acts of D directed at the forum; (3) whether D intentionally placed a good in the stream of commerce; and (4) where injury is shown, jurisdiction is established. Here, Danco does no business in State X. However, at the time of the accident Danco's driver was driving through State X to make a delivery to a customer located in State Y. Danco is incorporated in State Y and has its principal place of business in State Z. State Z is located adjacent to State X. Although Danco does not do any business directly in State X, it appears that Danco must make regular use of State X's roads to conduct its business. Also, Paul was injured by a Danco driver in an accident in State X. Therefore, it appears that Danco did purposefully avail itself of State X.

Foreseeability of Lawsuit:

The court must also determine whether Danco could reasonably foresee that its actions could lead to a lawsuit, i.e., it being hauled into court in State X. It appears that Danco drivers regularly traveled State X's roads to conduct business. Therefore, it would be reasonable for Danco to foresee that one of its drivers may get into an accident while in State X and cause damage.

Traditional Notions:

The court must balance the minimum contacts of defendant against traditional notions of fair play and substantial justice. This means that the court will look at (1) the relatedness between the claim and D's conduct; (2) P's interest in obtaining relief; (3) D's burden v. benefit; and (3) the state interest. Here, Danco's driver drove through State X and this conduct led [sic] to the car accident, P has a high interest in seeking relief for his injuries and property damage, D benefits from being able to drive on State X roads and it would not be a heavy burden to require D to be responsible for any accidents which this may cause, and finally State X has a strong interest in holding drivers who cause accidents on its roads, especially to State X citizens, responsible.

Conclusion: The district court was correct in its decision to deny D's motion because State X may assert PJ over D.

Subject Matter Jurisdiction:

Subject matter jurisdiction refers to the court's power to hear the kind of claim being

brought. P filed a suit against D on the basis of diversity jurisdiction, alleging \$70K in property and personal injury damage. For diversity jurisdiction, plaintiff must show that (1) amount in controversy (AIC); and (2) complete diversity.

AIC:

To meet the AIC requirement, plaintiff must have a good faith claim exceeding \$75K. Here, P is only seeking \$70K. Therefore, he has not satisfied the AIC requirement. If P were seeking some sort of injunction, the value of the injunction could be added to the AIC requirement. However, it does not appear that P is seeking an injunction. Therefore, P has failed to satisfy the AIC requirement.

Complete Diversity:

Complete diversity requires that no plaintiff and defendant be from the same state. This will depend on where the parties were domiciled at the commencement of the lawsuit. P was domiciled in X. As discussed above, D was domiciled in Y and Z. Therefore, there appears to be complete diversity.

Conclusion: The court erred in denying D's motion as to lack of SMJ. State X does not have SMJ to hear this claim because P has not satisfied the AIC requirement. Also, the federal court does not have any other SMJ over this case because it does not involve a federal question (it is a personal injury action) and it is not a matter within the federal court's exclusive jurisdiction.

Joinder:

P claims that the matter cannot proceed without joining Tom. Under compulsory joinder of parties, the court will first look to see if the party is a necessary party. A party is necessary where the court cannot afford complete relief without the party or there is a danger that the absentee will be harmed, there may be an inconsistent judgment or there may be a possibility of double liability. Here, it is arguable whether Tom is a necessary party because although he may be liable to Danco for the accident, P may get a judgment solely against D for the accident because Tom was an agent of D when the accident occurred and because the accident was within the scope of Tom's employment, D will be liable for Tom's negligence.

However, if Tom is a necessary party, the court will next determine whether he is an indispensable party. An indispensable party is one whose joinder will destroy diversity. Here, Tom's joinder will destroy diversity because Tom is also a State X resident and this would destroy complete diversity because P is also from State X. Where the party is indispensable, the court may dismiss the case or proceed without the party. The factors the court will use to determine that are the following: (1) alternative forum; (2) likelihood of prejudice; (3) chance of inconsistent judgment. Here, State X appears to be the best forum

for the case because the claim arose here and it would be highly inconvenient to require P to travel to State Y or Z. Also, there is not a high chance of prejudice because State X will likely fairly administer its laws. There is also not a chance of inconsistent judgment because as discussed, P can sue D alone for her damages. Therefore, the court may continue the case without joining Tom.

Conclusion: The court was correct in denying D's motion for failure to join. Had the court had SMJ, it could proceed with the case without joining Tom.

(2) Motion to Dismiss Danco's Counterclaim:

D filed a counterclaim against P to recover \$20K in property damage to the truck Tom was driving at the time of the accident. Paul moved to dismiss D's counterclaim on the ground that the district court lacked supplemental jurisdiction to hear the counterclaim.

Supplemental Jurisdiction:

Where the court has original jurisdiction over a matter, the court may also assert supplemental jurisdiction over other claims that are so related that they form the same case or controversy as the original claim. The same case or controversy means that the claims arose out of the same transaction or occurrence and arise out of a common nucleus of operative facts.

Same transaction/occurrence:

D is bringing a counterclaim to recover for property damage it suffered in the accident between P and Tom. The initial claim by P is for damages suffered as a result of the accident between P and Tom. Therefore, the counterclaim arises out of the same transaction or occurrence as the original claim.

Common Nucleus Operative Facts:

As discussed above, D's counterclaim relates to the accident between P and Tom and P's initial claim is for the same accident. Therefore, the counterclaim arises out of the same common nucleus of operative facts.

Counterclaim:

In cases where a counterclaim arises out of the same transaction or occurrence as the original claim, the counterclaim is considered compulsory and must be brought or it will be waived. Here, D had to assert the counterclaim or it would have been waived because the counterclaim arose out of the same transaction or occurrence. As discussed above, where a counterclaim is compulsory because it arises out of the same transaction or occurrence, the court will assert supplemental jurisdiction. The claim need not have an

independent basis for SMJ.

Conclusion: The court erred in granting P's motion because the district court had supplemental jurisdiction to hear the counterclaim.

Answer B to Question 6

6)

Personal Jurisdiction in Federal Courts

Personal jurisdiction is the court's power over the individuals in the case: the power to compel them to appear and to bind them to its judgment. The federal court's personal jurisdiction applies to state law (of the state it's in) regarding domicile of the defendant, where the defendant was served (whether in state or not), and whether the defendant consented, either expressly or impliedly, to the jurisdiction of the court.

A corporation is a resident of every state in which it is incorporated and the state of its principal place of business.

Here, Danco (D) was incorporated in Y and its principal place of business is in Z. Thus, it is not domiciled in X. D was served in Z.

D filed a motion challenging personal jurisdiction pursuant to rule 12b prior to filing an answer. A 12b motion can allege, inter alia, improper personal jurisdiction, subject matter jurisdiction, process, service of process, as well as failing to state a claim upon which relief can be granted. By filing a 12b motion challenging personal and subject matter jurisdiction, a party does not consent to that jurisdiction by the appearance. Thus D did not consent to personal juris in X by filing the 12b motion.

Minimum Contacts

Personal juris may also be had over a defendant if he had minimum contacts w/ the forum state. The minimum contacts test states that the exercise of personal jurisdiction cannot offend traditional notions of fair play and substantial justice and must be reasonable. In applying this test, the court will look to whether the defendant had systematic and continuous presence in or contact w/ the forum state; whether the cause of action arose in the forum state; whether the defendant could reasonably have foreseen being sued in and being subjected to personal jurisdiction in the forum state; and whether the defendant purposefully availed himself of the privilege of doing business in the forum state.

Here, D's delivery driver was driving through the forum state, X, in order to make a delivery in Y. However, D does no business in X. Furthermore, the facts do not indicate any contact by D w/ X except this driver driving through X to go to Y. While D is incorporated in Y, the facts do not indicate a large amount of business w/ Y requiring D's employees to regularly cross through X. On the facts given, D has had 1 contact w/ X. This is not systematic and continuous contact. However, the cause of action arose in X. If D's trucks were in X at all (which they were on at least 1 occasion), D could foresee an

accident requiring it to defend a lawsuit in X. D didn't purposefully avail itself of doing business in X, but it did purposefully avail itself of the use of the roads of X. And not just a little bit of roadway use, but D's driver was going all the way through X to get to Y. This is a close call, but given that the accident occurred in X and that D's truck was purposefully driving through X it would not offend traditional notions of fair play and substantial justice to subject D to personal jurisdiction in X.

State Z abuts X. Thus, it would be convenient for D to defend the suit in X. Also, X has a strong interest in protecting its citizens from injuries and negligent drivers. In addition, it would be easier for a corporation (with more assets and personnel) to defend in the neighboring state than it would be for an individual (P) to prosecute the claim in another state. Thus, it is reasonable to subject D to personal juris in X.

Because D meets the minimum contacts requirements, the court had proper personal jurisdiction over D and this part of D's motion should be denied.

Subject Matter Jurisdiction

Subject matter jurisdiction is the court's power of the subject matter of the lawsuit. In federal court, subject matter jurisdiction can be based on a federal question properly plead [sic] in the complaint or on diversity jurisdiction. For diversity jurisdiction to be proper, there must be complete diversity (all plaintiffs diverse from all defendants) and the plaintiff must in good faith (subject to Rule 11) plead damages of more than \$75,000. (Diversity is where 1 plaintiff resides in a different state from 1 defendant.)

Here, P resides in X. As stated above, D resides in Y and Z. Thus, there is complete diversity. However, P only alleged \$70,000 in damages in his complaint. This does not meet the \$75,000 minimum. The fact that D counterclaimed for \$20,000 doesn't matter; the 2 can't be added to cross the \$75,000 minimum. Thus, the court does not have subject matter jurisdiction over the case. That part of D's 12b motion should be granted.

Compulsory Joinder/Indispensable Parties

An indispensable party is one which a current party alleges must be included in the case 1) to grant complete relief; or 2) because the current party's interests would be prejudiced if it was forced to defend the case w/o the indispensable party. The current party can force the indispensable party to join the case through compulsory joinder. By doing so, the current party is alleging the indispensable party is the one responsible to the plaintiff (not the current party). First, the current party must meet 1 of the above 2 requirements. Second, the joinder of the indispensable party cannot destroy diversity in the case. The rationale for this requirement is that defendant should not be allowed to torpedo the plaintiff's proper diversity jurisdiction by bringing in a non-diverse party.

Here, D wants to join T. T is an employee of D. Through the doctrine of respondeat

superior, D can be held liable for T's actions that were in the scope of and during the course of T's employment. Thus, whether T is joined or not, P will be suing D and attempting to collect his judgment (should he win) against D, the party with the deep pockets. Complete relief can be granted to P w/o T's presence. D is not going to sue its own employee and obtain relief from him. D may need T as a witness in the case, but it will suffer no damage if T is not a party to the case. Furthermore, T is a state X resident. By joining T, D would destroy diversity because P is a state X resident. Thus, the court should deny D's motion regarding joinder of T.

Counterclaims

A counterclaim is when the defendant asserts a claim against the plaintiff that is suing him. Compulsory counterclaims are claims against the suing party that arise out of the same conduct, transaction, or occurrence. Compulsory counterclaims must be plead [sic] or the claim is lost. (The defendant cannot sue on that claim later as a plaintiff.)

Here, D alleges that P damaged its truck as a consequence of the same accident P is suing for. This is the same transaction and occurrence. Thus, D's counterclaim is compulsory.

Supplemental Jurisdiction

Supplemental jurisdiction is the federal court's power to hear cases associated with the main claim (the plaintiff's claim which must meet all jurisdictional requirements) even though the associated claims may not meet all jurisdictional requirements. For a plaintiff w/a valid federal case, the federal court can hear a plaintiff's state claim if it comes from the same common nucleus of operative facts and has a common question of law or fact. Supplemental jurisdiction also covers a state law claim by the defendant against the plaintiff if the defendant's claim arose out of the same conduct, transaction, or occurrence. In a diversity case, supplemental jurisdiction includes compulsory counterclaims. The rationale is that it would not make sense to make a defendant sue in state court on a claim that arose from the same conduct, transaction, or occurrence for which the plaintiff is suing in federal court. It would help the parties and serve judicial economy to hear both claims at one time.

Here, D's counterclaim is compulsory. Thus, the federal court has supplemental jurisdiction to hear that claim.

However, P's claim will be dismissed from federal court due to D's 12b motion, as above. Once that happens, the federal court will not hear D's counterclaim because it is no longer associated w/a plaintiff's valid complaint. D's counterclaim would have to meet its own jurisdictional requirements, which it does not. So the court will, after dismissing P's claim, dismiss the whole case.