

1954

## Federal Jurisdiction and Procedure: Final Examination (January 1954)

William & Mary Law School

---

### Repository Citation

William & Mary Law School, "Federal Jurisdiction and Procedure: Final Examination (January 1954)" (1954). *Faculty Exams: 1944-1973*. 52.  
<https://scholarship.law.wm.edu/exams/52>

FEDERAL JURISDICTION AND PROCEDURE

Final Examination

January, 1954

I

Virginia Administrator brings action on a policy of life insurance in a Federal District Court in Virginia against New York Insurance Company. Company has notice of the assignment of the policy to a New York assignee. The policy was issued and the assignment made in New York, under which law there was no lack of insurable interest in the assignee. The District Court permitted Company to implead Assignee under the Federal Interpleader Act and, holding that Assignee had no insurable interest under Virginia law, gave judgment for Administrator. Would an appeal by Assignee be warranted on grounds of (a) lack of diversity, (b) improper venue (assuming no waiver), or (c) misapplication of the Erie R.R. doctrine by the Court?

II

Manufacturer, a resident of North Carolina, had entered into a contract with Retailer, a resident of and doing business in the Western District of Virginia, under which Retailer was to be the only Virginia outlet for Manufacturer's goods and was not to handle any products of that type other than Manufacturer's. Inducer Corporation, organized under Delaware law and with offices conducting business in the Western District in Virginia, sought to convince Retailer that his contract with Manufacturer was unenforceable and that Retailer should handle Inducer Corporation's products. Retailer advised Manufacturer of these circumstances and that he was contemplating taking on Inducer's merchandise. Plaintiff Manufacturer commenced action against defendant Inducer Corporation in the Federal District Court for the Eastern District of Virginia, praying for a declaratory judgment that the contract with Retailer was valid and enforceable, and that defendant Inducer Corporation be enjoined from any further efforts to induce Retailer to breach it. Process was served in the Western District of Virginia upon an agent designated by the defendant to receive service of process in suits in the courts of the State. Manufacturer brought the action in the Eastern District because the place of trial was so much more convenient to him. What disposition should the Court make upon each of the following motions made by defendant?

(a) To dismiss for the Court's lack of jurisdiction as to subject matter, (b) person, and (c) venue.

(d) To dismiss for nonjoinder of Retailer as a defendant.

Ⓒ To transfer the action to the District Court for the Western District of Virginia.

III

M, a citizen of Maryland at that time, brought action in the Federal District Court in Virginia to recover \$10,000 damages against V, a Virginia resident, for injuries resulting in the alleged negligent operation of V's automobile which had collided with M's. Judgment was granted defendant V on the merits. Subsequently M moved to Virginia permanently and V commenced a timely action against him for \$2,000 damages, alleging M's negligence as the cause of the accident. M consults you as to whether he has any alternative to defending V's action in the Virginia State Court on the merits. What would you advise?



## IV

Virginia Administrator commenced wrongful death action in the Federal District Court in Maryland against Maryland Tort Feasor under a Maryland statute which provided that such action must be brought within one year from date of death. Defendant moved to dismiss for lack of capacity of Virginia Administrator to bring suit in Maryland. Plaintiff asked for and was granted time in which to have a Maryland administrator appointed and substituted as plaintiff. The appointment and substitution by amended complaint was effected after the running of the one year statute. Defendant again moved to dismiss upon the grounds that the action was not timely commenced under the Maryland statute, contending that amendment after running of the statute was forbidden by Maryland law. Plaintiff opposes, contending (1) that the State statute of limitations, being of a remedial character, is not controlling in the Federal Courts and (2) that Federal Rule 15(c), under which amendments relate back to the date of original pleadings, should govern, in which case the action would be timely commenced. How should the Court rule?

Substantive S/L

~~Klaxon Case~~ Ragan Case.

## V

Railroad Corporation was incorporated by Special Act of the State legislature that included a provision for exemption from taxation. Subsequently the State Constitution was amended to provide that "All exemptions from taxation heretofore granted in corporate charters are declared to be henceforth null and void." State Revenue Commissioner is threatening to act pursuant to this amendment by proceeding against Railroad for the collection of ad valorem taxes in the sum of \$5,000. Railroad claims that this threatened taxation would be contrary to its legislative charter and would impair the obligation of contract between Railroad and the State, contrary to the Federal Constitution. [Railroad sought injunctive and declaratory relief in the State Court which held that Railroad's proper course of action was to pay the tax and then apply to the State for its consent to be sued for refund. Railroad thereupon commenced action in the Federal District Court within the State, on behalf of itself and all other corporations similarly incorporated by Acts granting tax exemption, to enjoin Commissioner from assessing or collecting ad valorem taxes contrary to its legislative charter and in violation of plaintiff's rights under the Federal Constitution.

(a) Defendant Commissioner has moved to dismiss the complaint for lack of jurisdiction in the Federal District Court to hear and determine an action against a State. Should a single District Court Judge entertain the motion? NO If he does so and grants it, what review is available to Railroad? Considering the merits of the Commissioner's contention, is the review warranted?

(b) Assume the (a) motion is denied. Transit Corporation, also incorporated under a similar exemption provision and threatened with assessment of taxes in the amount of \$2,000, seeks to intervene. Transit did not seek injunctive relief in the State Court as did Railroad. Should intervenor be permitted?

(c) If Transit is not permitted to intervene, and a judgment is subsequently granted plaintiff Railroad on the merits, could such judgment be properly pleaded as res judicata in any independent action commenced by Transit against Commissioner in the State Court?

(d) Railroad asks for and is granted leave to dismiss its complaint without prejudice. Assuming that Transit was permitted to intervene in (b), will the Court retain the suit?

Waiving your must fail.