

1973

Federal Jurisdiction and Procedure: Final Examination (January 15, 1973)

William & Mary Law School

Repository Citation

William & Mary Law School, "Federal Jurisdiction and Procedure: Final Examination (January 15, 1973)" (1973). *Faculty Exams: 1944-1973*. 356.
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FEDERAL JURISDICTION AND PROCEDURE

(Final Examination)

January 15, 1973

1. Place a T or an F before each of the following statements to indicate whether the statement is true or false.

- ___ 1. The federal district courts and courts of appeal were created by Congress, but the Supreme Court was created by the Constitution.
- ___ 2. The federal courts are courts of general jurisdiction, but the state courts are courts of limited jurisdiction.
- ___ 3. Federal jurisdiction extends to all cases in which an alien is a party.
- ___ 4. Congress cannot expand the original jurisdiction of the Supreme Court.
- ___ 5. The words "case or controversy" limit the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process.
- ___ 6. A United States taxpayer does not have sufficient interest as such to establish a case or controversy even where the taxpayer alleges that a federal expenditure violates a specific constitutional right of the taxpayer.
- ___ 7. Even though the Constitution provides federal jurisdiction for cases arising under the laws of the United States, Congress did not provide by statute for such general jurisdiction until approximately one hundred years after the adoption of the Constitution.
- ___ 8. The ingredients theory established by Chief Justice Marshall in the Osborn case has been expressly overruled and repudiated by the Supreme Court.
- ___ 9. The Federal Rules of Civil Procedure provide that the district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds \$10,000, and arises under the Constitution, laws, or treaties of the United States.
- ___ 10. The federal law that will support federal question jurisdiction may be the Constitution, a statute of the United States, an administrative regulation, or a treaty.
- ___ 11. Where title to land is in doubt because of some matter of federal law, there is federal jurisdiction to entertain a suit to quiet title, but not a bill to remove a cloud on the title.
- ___ 12. Since the Federal Rules of Civil Procedure permit anticipatory pleading, federal jurisdiction is accordingly enlarged by virtue of the fact that the plaintiff can allege an anticipated defense arising under federal law.
- ___ 13. A person who is a citizen of the United States but domiciled abroad cannot sue or be sued in a federal court on the ground of diversity of citizenship or on the ground of alienage jurisdiction.
- ___ 14. Federal jurisdiction extends to the residents of the District of Columbia because the Supreme Court has held that the District of Columbia is a state within the meaning of Article III of the U. S. Constitution.
- ___ 15. The Federal Courts have exclusive jurisdiction of all cases arising under the patent, *may be the subject matter of the controversy.*
↓ laws, but not of all questions in which a patent
- ___ 16. Where a plaintiff alleges a claim arising under federal law as well as a claim arising under state law, a federal court has ancillary jurisdiction of the claim arising under state law.
- ___ 17. If the federal courts have exclusive jurisdiction of a certain suit, but the suit is brought in a state court, the state court should transfer the suit to the nearest federal district court.

- ___18. If diversity of citizenship existed at the commencement of a case, but one day thereafter the defendant pursuant to bona fide plans not related to the litigation, becomes domiciled in the state of which the plaintiff is a citizen, then the court no longer has jurisdiction.
- ___19. In determining whether complete diversity exists, the citizenship of all parties including nominal and formal parties must be considered.
- ___20. All citizens of the United States are citizens of one of the fifty states but not more than one.
- ___21. United States Steel Company can take advantage of diversity jurisdiction, but it is impossible for the United Steel Workers of America, AFL-CIO to be a party to a proceeding in a federal court.
- ___22. Since 1938 there is no longer any difference in the substantive law applied in a federal court from the law applied in a state court in which the federal court is sitting in diversity cases.
- ___23. A party cannot create diversity where it would not otherwise exist by aligning the parties in the pleadings contrary to their real interests, since the court will realign the parties to determine the jurisdictional basis.
- ___24. A party can gain access to a federal court by changing his domicile to another state to create diversity of citizenship.
- ___25. The Constitution makes no requirement that any particular amount be in controversy in order to invoke the jurisdiction of the federal courts.
- ___26. In determining jurisdictional amount, the courts do not look solely to the amount that the plaintiff asks for and likewise do not look solely at the amount which the plaintiff will ultimately recover.
- ___27. If a single plaintiff has two entirely unrelated claims against a single defendant, each for \$6,000, he may sue in federal court since the aggregate of the claims exceeds \$10,000.
- ___28. If two plaintiffs have separate and distinct claims for \$6,000 each against a single defendant, they may not aggregate their claims even though the claims involve a common question of law or fact.
- ___29. If plaintiff sues in a state court for less than \$10,000, and defendant counterclaims for more than \$10,000, the case cannot be removed to the federal court even though there is diversity of citizenship.
- ___30. The future operation of a judgment by way of collateral estoppel does not establish the determinative jurisdictional amount.
- ___31. The right to remove a case from a state to a federal court is a constitutional right not dependent on the will of Congress.
- ___32. Removal jurisdiction is narrower than original jurisdiction.
- ___33. For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.
- ___34. In dealing with statutory forum non conveniens, the federal courts consider plaintiff's venue privilege and place the burden on the defendant to establish that another forum would be more convenient and just.
- ___35. Congress has the power to give the federal courts exclusive jurisdiction of matters falling within the judicial power of the United States.
- ___36. A state can bar removal of cases from a state court to a federal court by foreign corporations since the state has the power to provide the conditions under which a foreign corporation can transact intrastate business within the state.

- ___ 37. Where a plaintiff has one in personam claim against one defendant, and commences two actions simultaneously, one in a federal court and one in a state court, the federal court has the power to enjoin the state court from proceeding, but the state court does not have the power to enjoin the federal court from proceeding.
- ___ 38. The "three-judge court" statute does not apply to suits against local officers, or state officers performing acts of purely local concern, but it does apply to local officers performing a state function that embodies a policy of statewide concern.
- ___ 39. Although the Erie doctrine applies only in diversity cases, the federal courts in certain instances apply state law even though jurisdiction is not based on diversity.
- ___ 40. Even though the FRCP provide that a civil action is commenced by the filing of a complaint, all other acts necessary to constitute tolling of the statute of limitations under state law must be accomplished in diversity cases to toll the statute of limitations.
- ___ 41. If service of process is made on a managing or general agent of a corporation within the state in which the federal court issuing the process is situate, the defendant corporation is precluded from thereafter raising the issue of personal jurisdiction.
- ___ 42. The state method of service of process is limited to diversity cases or to cases in which state law governs amenability to process, to civil cases in the federal courts.
- ___ 43. The FRCP requires that the complaint state the grounds for jurisdiction, a short and plain statement of the cause of action, and a demand for judgment.
- ___ 44. A complaint is not subject to dismissal unless it appears to a certainty that no relief can be granted under any set of facts that can be proved in support of the allegations contained in the complaint.
- ___ 45. In order for a defendant to file a third-party complaint, the defendant must obtain leave of court, but a defendant does not have to obtain leave of court to file a counter-claim or a cross-claim.
- ___ 46. It is not a valid objection to discovery that the party seeking discovery already knows the facts as to which he seeks discovery.
- ___ 47. The right of jury trial in the federal courts is governed entirely by federal law.
- ___ 48. Where judgment is rendered by a federal court, the substance of the judgment cannot be different from or in excess of that demanded in the pleadings of the parties.
- ___ 49. The FRCP provide that summary judgment should be immediately entered in any case where there is no genuine issue of law.
- ___ 50. The FRCP apply to civil actions removed to the United States district courts from the state courts and govern procedure after removal.

II. (a) Explain the following statement, "The declaratory judgments procedure does not enlarge federal jurisdiction."

(b) P, a citizen of Virginia, sued D, a citizen of North Carolina and John Doe (an unknown motorist in accordance with the Uninsured Motorist Act) for \$50,000 damages in a Virginia state court. Under what circumstances can D remove the case to a federal court?

(c) Distinguish the following cases: (1) A produce company converts apples that belong to three different apple growers. No one of the growers has a claim that meets the jurisdictional amount requirement, although the three taken together would do so. Held: no federal jurisdiction. (2) A bank held a lien on the crops of the three apple growers. The amount of the lien is in excess of the jurisdictional amount requirement. Bank v. Produce Company. Held: federal jurisdiction.

(d) Identify and explain the following statement, "Outcome-determination analysis was never intended to serve as a talisman."

(e) List five methods of discovery which can be used under the FRCP.