ERIE: Determination of State Law

A citizen of Oklahoma is a student at the University of Arkansas and resides in an off-campus apartment. He is assaulted in his apartment by a stranger (who does not reside in the apartment complex). He sues the landlord, alleging that the landlord negligently failed to provide safe living quarters. The action is filed in federal court in Fayetteville, relying on diversity jurisdiction. See pages 466-475.

In each of the following instances, what is the obligation of the Arkansas federal judge with regard to the governing law? What is the authority?

1) An Arkansas statute forbids actions by tenants against landlords because of the criminal acts of strangers.

2) A decision of the Arkansas Supreme Court forbids such actions.

3) A decision of the Arkansas Court of Appeals forbids such actions.

4) A decision of the circuit court for Union County forbids such actions.

5) An 1888 decision of the Arkansas Supreme Court barred a restaurant diner from suing the owner when a stranger had assaulted the diner in the restaurant.

6) Arkansas has no law of any type on such actions.

7) Three months ago the Arkansas legislature passed a comprehensive statute regulating apartments and establishing the standard of care of landlords.

8) Assume that all the facts are the same, except the assault took place just across the border

at a Missouri apartment. The Oklahoma plaintiff again sues the Arkansas defendant in Arkansas federal court. What additional task does the Arkansas federal judge have? See Klaxon, page 466.

9) Suppose a law suit involves injuries to hundreds of people from a defective product and the injuries took place in all 50 states. See # 3, page 492.

10) In light of this worksheet:

a) what can the Arkansas federal judge do to answer the questions? See #5, p. 472.

b) how could Congress solve the problem? See #11, page 475.

11) Let's now go to state court: Suppose the federal court in #6 above hands down a decision in 1995. Now the same issue comes before the Arkansas Supreme Court in 2004. Is the state Supreme Court bound to follow the federal court's prediction of the law? Compare Bartley v. Sweetser, 319 Ark. 117, 890 S.W.2d 250 (1994) with Jackson v. Warner Holdings, Ltd., 617 F.Supp. 646 (W.D. Ark. 1985).

12) Same as (11), but the issue comes before an Arkansas state trial judge in 2005. Is the state trial judge bound to follow the federal court's interpretation of the law?

13) Same as (11), but it is now 2009. The same issue is before an Arkansas federal judge. What is her obligation?

09/18