REMOVAL

Examining Section 1441 of the Judicial Code and the casebook material on pages 350-362, which of the following actions may be removed to federal court? (Unless otherwise indicated, each action is for $85,000.)

1) Plaintiff (Oklahoma) sues Defendant (Kansas) in Oklahoma state court for personal injuries.

2) same as (1), but in a Kansas state court.

3) Plaintiff (Oklahoma) sues Defendants (North Dakota and South Dakota) in South Dakota state court for personal injuries based on their combined negligence.

4) same as (3), but for $8000 for violation of the federal truth-in-lending statute, (which provides for concurrent jurisdiction).

5) Plaintiff (Iowa) sues Defendant (Iowa) in state court for defamation. Defendant defends by arguing that the published statement is protected under the First Amendment to the United States Constitution.

6) Arkansas plaintiff sues Oklahoma defendant for $10,000 in state court for breach of contract. Oklahoma defendant counterclaims for $82,000. Can defendant remove? Can plaintiff remove?

7) Pennsylvania railroad worker sues his employer, an Ohio corporation (the B and 0 RR), for injuries suffered on the job in Pennsylvania state court. 28 U.S.C. 1445(a)(c).

8) A citizen of Missouri sues Volkswagen, a German corporation, for $25,000 in Missouri state court.

9) A citizen of Missouri sues the Government of Iran on a breach of contract claim for $35,000 in Missouri state court. Iran does not have sovereign immunity.

10) Plaintiff sues Defendant for $9000 for infringement of a federal patent in Arkansas state court. See 1338(a).

11) New York plaintiff sues New York defendant in state court for breach of two contracts and truth-in-lending violations. The claims arise from entirely unrelated facts and seek separate recoveries.

12) Same as (11), but the contract claims and the truth in lending claims arise from the same basic facts. Read Borough of West Mifflin, page 356.

13) New York plaintiff sues California corporation in New York state court for truth in lending violation for $5,000 and breach of contract for $15,000. The claims are related.

14) Same as (13), except the claims are for common law fraud for $1,000,000

and breach of contract for $15,000.

15) Two unrelated individuals are injured in a hospital. The claims arise from entirely unrelated facts and seek separate recoveries. Plaintiff #1 (from Texas) sues the hospital on a federal statute, which gives concurrent jurisdiction. Plaintiff #2 (from Oklahoma) sues the hospital based on common law negligence. The hospital is a Texas corporation. One lawyer brings a single lawsuit, with Count 1 and Count 2.

(a) The Texas plaintiff and the Oklahoma plaintiff each sue for $85,000 in Oklahoma state court. Can the Texas hospital remove (in whole or in part) to federal court?

(b) Same as (a), but in Texas state court.

(c) Same as (a), but the Oklahoma plaintiff only sues for $30,000.

16) Same facts as (15), but both claims are based on common law negligence. The claims are unrelated.

(a) The Texas plaintiff and the Oklahoma plaintiff each sue for $85,000 in Oklahoma state court. Can the Texas hospital remove to federal court?

(b) Same as (a), but in Texas state court.

(c) Same as (a), but the Oklahoma plaintiff only sues for $30,000.

17) Same basic facts as (15) and (16), but the claims are related. They are based on common law malpractice.

(a) The lawsuit is in Oklahoma state court. The Oklahoma plaintiff sues the Texas hospital for $100,000 and the Texas plaintiff sues for $30,000.

(b) The lawsuit is brought in a Texas state court.

Note: (18), (19), and (20) are similar to (15), (16) and (17), but the law suits begin in federal court. (These questions are for review). Should the federal court hear these cases, in whole or in part

18) Plaintiff #1 (from Tennessee) sues the hospital on a federal statute, which gives concurrent jurisdiction. Plaintiff #2 (from Alabama) sues the hospital based on common law negligence. The hospital is a Tennessee corporation. One lawyer brings a single lawsuit, with Count 1 and Count 2. Unlike (15), here each party sues for $30,000, the claim is brought in federal court, and most importantly, the claims are factually related.

19) Same as (18), but both claims are based on common law negligence.

20) Same as (19), but the Alabama plaintiff sues for $82,000.

21) Oregon plaintiff sues California defendant and Arizona defendant alleging joint and several liability. Can the defendants remove from state to federal court?

22) Same as (21), except that the plaintiff does not allege joint and several liability, and seeks $85,000 from the California defendant and $30,000 from the Arizona defendant. The claims are separate and independent.

23) Pete Rose (a citizen of Ohio) sues Commissioner Bart Giamatti (a citizen of New

York) and the Cincinnati Reds (Ohio) and Major League Baseball (New York), alleging he has been denied a fair hearing. The law suit is filed in state court. Can the defendants remove? See #11, page 284.

24) What special removal provisions govern the situation in which 75 persons have died in a single accident? See #6, page 353.

25) What special removal provisions govern class actions involving at least $5 million? See #6, page 353.

26) The plaintiff plans to sue in state court. What can the plaintiff do to prevent removal by the defendant? See pages 352-355.

(a)

(b)

(c)

(d)