

DOWNLOAD PDF STATE LAW IN FEDERAL COURTS : BASICS OF THE ERIE DOCTRINE

Chapter 1 : Erie doctrine basics – Professor Nathenson

The Erie doctrine is a fundamental legal doctrine in civil procedure. It mandates that a federal court must apply state substantive law in diversity jurisdiction cases.

It mandates that a federal court must apply state substantive law in diversity jurisdiction cases. Tyson, allowed federal judges sitting in a state to ignore the common law local decisions of state courts in the same state, in cases based on diversity jurisdiction. The decision in Swift resulted in inconsistent judicial rulings in the same state on the same legal issue depending on whether a plaintiff brought a case in state or federal court. Plaintiff was on a path adjacent to the tracks at the time of the accident. The defendant railroad argued that the common law of Pennsylvania regarded the plaintiff as a trespasser under the circumstances. The defendant further argued that the duty imposed upon the defendant railroad is only the duty to refrain from acts of wanton negligence. Plaintiff countered that the federal diversity court was free under Swift to disregard Pennsylvania common law and to regard plaintiff as an invitee to whom defendant owed a duty of ordinary care under federal general common law. Prior to Erie, federal courts applied state statutory law, but did not feel bound to apply state common law rules in areas of general law, such as torts and contracts. Instead, federal courts created their own common law in these areas. This was not viewed as displacing state authority. Thus, federal courts were as competent as state courts to ascertain the true common law. Erie established that in federal diversity cases, matters characterized as state law would govern substantive, and federal law would govern those characterized as procedural. This became known as the substance versus procedure test. Modern Erie doctrine generally invokes the following tests depending on the circumstances of individual cases. The substance-versus-procedure test serves as a first-stage screening device in Erie analysis. An issue that clearly addresses legal rights is substantive and is to be resolved according to state law; issues that clearly pertain to the judicial process alone are procedural and invoke federal law. Where the issue derives from both substantive and procedural policies such as a statute of limitations, the outcome-determination test that is the next level of analysis of the Erie doctrine is applied. In such cases, state law controls where it serves substantive interests at least in part. Erie doctrine does not apply if a federal rule that addresses the issue at hand exists. In such cases, the federal procedural rule controls. When the issue is not sufficiently resolved by the substance-versus-procedure and modified outcome-determination tests, the policies underlying both the federal law and state law are examined. The policy of greater importance is given more weight.

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Chapter 2 : Knowledge Base: The Erie Doctrine or Federal General Common Law

The "Erie Doctrine," named after the Supreme Court case Erie Railroad Co. v. Tompkins (), states that if a federal court is hearing a case that deals with a state law issue, it should apply the state's substantive law, rather than relying on "federal common law."

In its most basic form, it asks three questions: Vertical choice of law asks: Horizontal choice of law asks: P files a diversity suit in federal court in Ohio. How will the court answer all three questions? In retrospect, this was an odd decision, since even in , federal courts recognized that in diversity cases where state law applied, that federal courts would have to apply state constitutions and statutes. But federal courts were not required to use state common law. The Supreme Court held it was unconstitutional for federal courts to create federal general common law in cases where state common law would otherwise be used. More on this last point in question 3. In the absence of controlling federal law, the federal court must use state law, regardless of whether that law is a state constitution, state statute, or state common law. Consider that many lawsuits involve people, property, and events occurring in many states. In that light, you should not assume that an Ohio court will always use Ohio law. For instance, in our fact pattern, the plaintiff is from Florida, the defendant is from Ohio, the accident was in Texas, and the lawsuit was in Ohio federal court. Texas place of accident? How do federal courts address the horizontal choice-of-law issue? In , the Supreme Court held in Klaxon Co. So if suit was filed in Florida federal court, then the court would use Florida state choice of law principles. If filed in Ohio federal court, then Ohio state court choice-of-law principles and so on. Again, the policy here is that horizontal choice-of-law analysis should be the same in a state court and its corresponding federal courts. It will do this by applying the state choice-of-law principles for the state it sits in. The Ohio federal court must apply Ohio state choice-of-law principles. Depending on the Ohio state-court principles, that may point to the use of Texas tort law, Ohio tort law, or less likely the tort law of another state. Suppose Ohio choice-of-law principles point towards using Texas tort law. So what if the Texas Supreme Court has decided this issue? If it has and has done so recently and clearly, then the federal court will likely apply the tort law as articulated by the Texas Supreme Court. But what if the Texas Supreme Court has not spoken on the issue? Ok, but what if the Texas Supreme Court has spoken on the issue, but that was a really long time ago? The Ohio federal court will research Texastort law and determine whether the Texas Supreme Court has spoken on the relevant issue. P from Florida gets into an accident in Texas with D from Ohio. Here the diversity case would have to use state common law. But what about the FRCP? Generally speaking, the FRCP is still used in diversity cases even when state common law is used. What if the scope of the FRCP rule is unclear? When is a rule of the FRCP valid or invalid? The table below shows how tremendously things have changed before and after Erie.

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Chapter 3 : Erie Doctrine – Civil Procedure

The Erie doctrine is a fundamental legal doctrine of civil procedure in the United States which mandates that a federal court sitting in diversity jurisdiction (or in general, when hearing state law claims in contexts like supplemental jurisdiction or adversarial proceedings in bankruptcy) must apply state substantive law to resolve claims under state law.

Common law is law that is the result of judicial decisions rather than statutes or laws enacted by a legislature. The Erie doctrine is based on a U. Supreme Court case, Erie Railroad Co. The doctrine states that the federal courts, when confronted with the issue of whether to apply federal or state law in a lawsuit, must apply state law on issues of substantive law. When the legal question is based on a procedural issue, the federal courts should apply federal law. Choice of law questions most frequently arise in lawsuits in the federal courts that are based on diversity jurisdiction, where the plaintiff and defendant are from different states. The choice of law rules establish a method by which the courts can select the appropriate law. Procedural laws are laws that establish the steps and procedures that lawyers and courts must follow during a lawsuit. These laws establish the deadlines that legal papers must be filed with the court, the types of documents required during litigation, the manner in which they are introduced to the parties and the court, and method of obtaining documents and evidence prior to trial. Examples of procedural laws are those found in the Federal Rules of Civil Procedure. The "RDA" is a law created by Congress in that states that, in the absence of a federal law, Constitutional provision, or treaty, the courts should apply state law where it applies. It is one of the foundations of the Erie doctrine. Substantive laws are laws that create and regulate the rights and duties of people and entities. The Erie doctrine is a topic that every first-year law student must experience and grapple with. While the nuances of the rule make it one of the most confusing topics studied in Civil Procedure, its basic principles are relatively straightforward. Along with the choice of law rules in the next subchapter, the Erie doctrine is based on the interaction of differing sets of laws. Before launching into the essence of the Erie doctrine, it is important to understand the background behind the development of the doctrine. As we have discussed previously, there are two co-existing levels of government: When a lawsuit is based on a question of federal law, the federal courts implement the applicable federal laws. The plaintiff is then permitted to bring the lawsuit in federal court, which has proper jurisdiction over both the parties and the legal claim. As a recap of diversity jurisdiction, look at the following example. Joe, a resident of New York, is hunting for wild turkeys near the state line bordering Massachusetts. David, a Massachusetts resident, is enjoying the sunny fall afternoon on a leisurely hike. Joe takes aim at what he believes to be a turkey moving in some dense brush and shoots. However, instead of Joe shooting a turkey, Joe shoots David, who is admiring a rare flower blooming at the edge of the very same brush, but who is standing in Massachusetts territory. David is struck by the bullet in the leg causing permanent injury and forcing him to take a desk job at the local metal working plant. New York has laws that provide for the type of monetary relief that David seeks in his lawsuit, but there are also federal laws that would govern the same action. In the above example, David has satisfied the requirements of diversity jurisdiction to bring his lawsuit in federal court. However, one major issue is raised by the lawsuit being brought in federal court: David would argue that federal law should apply since he was the victim and was physically in Massachusetts when the bullet struck him, thus making it unreasonable to apply New York law. Joe, on the other hand, may want New York law to apply since he is a New York resident and was in New York when the accident occurred. The New York law may, for example, provide more protection for Joe by limiting the amount of the monetary damages recoverable by David than federal law. In addition, a third option for the court would be to apply Massachusetts state law. Therefore, the federal court is confronted with the quandary of selecting the appropriate law in reaching resolution of the controversy. This legal question can be resolved by the application of the Erie doctrine. The Erie doctrine assists the federal courts and attorneys in assessing the appropriate law that should be applied in diversity jurisdiction situations. Before launching into an analysis of the Erie doctrine, it is helpful to explore the legal history leading up to the inception of the

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doctrine. In other words, the statute requires that the federal courts are required to apply state law in all cases except where there is an applicable federal law, Constitutional provision or treaty that speaks to the same issue. Danny, a resident of Louisiana, owns a farm that raises fish on the Gulf Coast. On September 1, , Petroleum, Inc. Danny files suit in federal court under the principal of diversity jurisdiction in Louisiana for failing to comply with federal pollution control laws that limit the discharge of petroleum to one barrel per year per entity in the Gulf and imposes strict liability for failure to comply with that limit. Louisiana statutory law, however, dictates that a refinery is not responsible for accidental discharge of petroleum in the absence of negligence. This is a classic case where, under the RDA, the federal law would apply. While a state law exists on the subject, there is a federal law that applies to the issue directly at the center of controversy: Therefore, the federal court would implement the federal law in its ruling and Danny would prevail in the case. Assume the same facts as above, except that there is no federal statute that governs the circumstances of this case. However, the state statute limiting the liability for oil spills to negligence cases does exist on point. Nevertheless, the federal court realizes that, although there is no federal statute on point, federal cases i. The court thus questions whether to apply the Louisiana statute or the federal common law. Here, the RDA steps in and dictates that the state law must apply because the state law exists on point and there is no federal statute that contradicts it. The controversy over the RDA that led to Erie was what happens when there is no federal OR state statutory law on point. In such a case, should the court apply federal common law or should the court apply state common law since there is no statutory law to determine the outcome of this case? Same facts as above Danny v. The federal court realizes that, although there is no federal statute on point, federal cases i. However, Louisiana courts have generally refused to recognize strict liability in such cases. Should the court apply Louisiana common law or federal common law? To answer this question, the U. Supreme Court ruled that, in the absence of state statutory law, a federal court may apply federal common law in resolving a legal controversy based on diversity jurisdiction even though there was state common law that spoke on the issue. S 64 , which spawned the Erie doctrine. The Erie case was based on a set of facts similar to the example below: Samantha, a resident of Colorado, was at a railroad crossing in Denver, Colorado. Unbeknownst to Samantha, CRR had recently repaired the railroad crossing, but had failed to cover up a ditch. Samantha tripped into the ditch and severely injured herself. There is a federal common law applying to personal injuries that involve railroad crossings. Which law should the federal court apply, federal law or Colorado common law? Under the Swift decision, the federal court would have applied the federal common law to the case. However, in the Erie decision, the Court held that the state substantive law should apply, even if that substantive law is in the form of common law, and not statutory law. Supreme Court in Erie took its ruling a step further. The court held that it would make a distinction between substantive and procedural laws, treating them differently. The Court held that federal courts should apply state law to substantive law issues, such as personal injury, employment discrimination, and workers compensation. These laws create the rights and duties of people and entities. The court distinguished substantive law issues from procedural law issues, such as the time deadlines for filing a complaint and the procedures for filing a motion. The courts should still apply federal law when procedural laws were in question. Same facts as above. Samantha sustained her injury on April 1, She filed her complaint to start the lawsuit in federal court on June 2, Federal law requires that a defendant must file its answer within 30 days of the filing of the complaint. Which law should the federal court apply? As established in Erie, the federal court should apply the federal law. Since CRR filed its complaint after the day deadline, the answer was filed too late. Article VI dictates that federal statutory law must triumph over state law. Carl sues in federal court in Oklahoma for monetary damages related to the injury. Oklahoma law would hold an employer liable for injuries, while Venezuelan law would prevent an injured employee from recovering any money damages. Which law should the court apply? The court in the above example should apply the law of Oklahoma, which is the law of the state in which the federal court resides. There is a direct conflict between the relief provided by Oklahoma law which would allow Carl to recover for his injuries and the Venezuelan law which would prevent Carl from any recovery. This issue is also discussed in greater depth in the next

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subchapter on choice of law. Similarly, a federal court must follow the law of the state in which the court is situated when allocating the burden of proof in a lawsuit. The burden of proof is burden the law applies to a party in a controversy to prove the elements of a lawsuit. As we will see in the next subchapter, the selection of the proper law also extends to lawsuits where a court must decide between the laws of different states. This can mean the dismissal of a case or the limitation on the type of relief that can be recovered by a plaintiff. It is important to emphasize that the Erie doctrine only applies to cases brought in federal court where there is an issue whether to apply federal or state law.

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Chapter 4 : Erie doctrine - Wikipedia

Once the federal court determines to use state common law (question # 1) and which state's common law to use (question # 2), it will determine the content of the relevant state's common law. Suppose Ohio choice-of-law principles point towards using Texas tort law.

Facts[edit] Erie began as a simple personal injury case when the plaintiff filed his complaint in diversity in the United States District Court for the Southern District of New York. A friend of Tompkins had driven him to within a few blocks of his home, which was located on a dead-end street near the tracks. Tompkins chose to walk the remaining distance on a narrow but well-worn footpath adjacent to the tracks. A train approached in the darkness, and an object protruding from one of the cars struck Tompkins. When he fell to the ground, his right arm was crushed beneath the wheels of the train. The train was owned and operated by the Erie Railroad company, a New York corporation. The case was decided by a jury which was instructed by Judge Samuel Mandelbaum in accordance with the federal negligence standard. It found in favor of Tompkins and awarded him damages. However, in the case of *Swift v. Tyson*, 41 U. This had led to forum shopping, a litigation tactic whereby plaintiffs would seek to sue in federal court instead of state court in order to have a different substantive law applied. In light of this inequity, the Supreme Court had to determine whether federal courts should apply state common law. However, the Court did not decide whether or not the new ruling applied to equity jurisprudence. *Tyson* and determined that "in attempting to promote uniformity of law throughout the United States, the doctrine had prevented uniformity in the administration of the law of the state. The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply. Thus, where the state legislature had not passed a statute that controlled the case, a federal district court was free to make up its own common law. This was enormously significant because nearly all U. With *Swift*, Story gave federal courts the freedom to depart from the existing body of state law if they so desired. Story apparently hoped that when hearing state law claims in diversity jurisdiction, federal district courts would fashion a uniform "general law. By, as Justice Brandeis acknowledged, "the mischievous results of the doctrine had become apparent. There were two underlying issues behind this. First, as the Erie opinion noted, nothing in the Constitution actually grants jurisdiction to the federal judiciary to conduct plenary review of issues of state common law where no federal issue is present. Second, in accordance with that understanding although this latter point was not noted in the Erie opinion, Section 25 of the Judiciary Act of only authorized the Supreme Court to review those state supreme court decisions that rejected federal claims. While Congress broadened the scope of Supreme Court review in to include state supreme court decisions allowing federal claims, Congress never actually authorized the Supreme Court to conduct plenary review of the merits of state law claims and no one ever sought a constitutional amendment that would authorize Congress to do that. This meant the Supreme Court could not directly dictate uniform rules of state common law to all state courts or reverse their decisions for failing to apply such rules, which stands in stark contrast to other common law federations like Australia and Canada whose highest courts do possess such powers. Since state courts had no actual obligation to follow the "general law" independently formulated under *Swift* by federal courts, state judge-made law continued to diverge instead of converge. In turn, allowing federal courts to make up their own independent judge-made law only made the problem worse. Parties who felt disadvantaged by a state judge-made rule could create diversity jurisdiction in the federal courts by simply moving to another state or reincorporating there if a party was a corporation. In the worst cases a party who had lost in the state supreme court would simply begin all over again in federal courts; since the federal district court had its own set of common law rules, it could hold it was not bound by the state supreme court ruling. The facts of Erie itself were an example of the kind of clever forum shopping practices which the Court wished to end. Pennsylvania clearly had personal jurisdiction over the railroad because of its operations there;

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also, the accident happened there, and Tompkins was a Pennsylvania resident. Therefore, the Court felt it was time to overrule the doctrine of Swift as an unconstitutional extension of its own powers. Nothing in the Constitution of the United States permits the U. Congress to empower federal courts to create their own common law for cases that do not involve an issue of federal law. As Justice Brandeis wrote: Congress has no power to declare substantive rules of common law applicable in a state whether they be local in their nature or "general," be they commercial law or a part of the law of torts. And no clause in the Constitution purports to confer such a power upon the federal courts. Thus, although the Erie decision itself does not identify specific provisions of the Constitution violated by Swift, the language of the decision implies that Swift had stolen powers reserved to the states, in violation of the Tenth Amendment. As a result of Erie, each federal district court was required to apply the law of whichever state it was sitting in, as though it was a state court of that state. Of course, this was a very difficult decision for the Court, since overruling Swift meant that a huge number of decisions by the Court and all lower federal courts were no longer valid law. However, the Court did not declare the Rules of Decision Act itself unconstitutional. Instead, it reinterpreted the Act so federal district courts hearing cases in diversity jurisdiction had to apply the entire law, both statutory and judge-made, of the states in which they sit. He asserted the majority had completely rewritten the two questions presented in the petition for certiorari as a constitutional question, when there really was no constitutional issue. He pointed out that no one in this case had directly challenged the Swift regime, which the Court had adhered to for so long in so many cases. On remand[edit] The case was remanded to the Second Circuit for a ruling on the merits of Pennsylvania law. Erie doctrine Later opinions limited the application of Erie to substantive state law; federal courts can generally use the Federal Rules of Civil Procedure while hearing state law claims. It can be a problem for federal courts to know what a state court would decide on an issue of first impression i. In such circumstances, federal courts engage in what is informally called an "Erie guess. Alternatively, federal courts can certify questions to a state supreme court, so long as the state itself has a procedure in place to allow this. For example, some federal district trial courts can certify questions to state supreme courts, but other states allow only federal courts of appeal circuit courts to do so. In the latter situation, an Erie guess would be the only option available for the federal court attempting to apply state law.

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Chapter 5 : What is the Erie Doctrine? - Rottenstein Law Group LLP

The doctrine states that the federal courts, when confronted with the issue of whether to apply federal or state law in a lawsuit, must apply state law on issues of substantive law. When the legal question is based on a procedural issue, the federal courts should apply federal law.

Scope[edit] There are two main objectives of the Erie decision: Broadly speaking, the second objective is sometimes referred to as "vertical uniformity" and is rooted in the idea that in a given state, the outcome of the litigation should not be grossly different just because a litigant filed a claim in a state court rather than a federal court or vice versa. The Erie doctrine today applies regardless of how the federal court may hear a state claim. Whether the federal court encounters a state law issue in diversity jurisdiction, supplemental jurisdiction, or bankruptcy jurisdiction, the federal court must honor state common law when deciding state law issues. Constitution does not control and Congress has not legislated or cannot legislate on a topic, then the laws of the states necessarily govern and state judge-made rules are equally binding on the federal courts as state statutes. If so, the state law or court ruling must be followed. The determination is called an Erie guess, though the term "guess" is a misnomer as the federal court must make a reasoned determination in its ruling. Origin[edit] The Erie case involved a fundamental question of federalism and the jurisdiction of federal courts in the United States. Thus, a federal court in Texas , hearing a case based on diversity as opposed to a federal question , has to follow the laws of the applicable state in resolving a case before it. Tyson had defined the laws of the state as meaning only laws passed by legislatures of that state though Justice Joseph Story writing for the court suggested that federal courts should pay special attention to how the "local tribunals" of a state would resolve a dispute. Aftermath of Swift[edit] The decision in Swift resulted in inconsistent judicial rulings in the same state on the same legal issue depending on whether a plaintiff brought a case in state or federal court. In one case, for example, Black and White Taxicab Co. Brown and Yellow Taxicab Co. Brown and Yellow dissolved itself, reincorporated in Tennessee , and executed the agreement there, where such an agreement was legal, bringing suit against Black and White in a Kentucky federal court to prevent them from soliciting passengers. The federal court upheld the agreement, citing Swift, and arguing that under general federal common law, the agreement was valid. If Brown and Yellow had brought suit in a Kentucky state court, the agreement would not have been upheld. Erie[edit] The decision in Erie involved a railroad accident. An open door struck him and knocked him under the train, severing his arm. In most states, Tompkins could sue for negligence of the railroad and recover monetary damages for his loss. In Pennsylvania, however, Tompkins would have been considered a trespasser. He was not to recover for an ordinary negligence claim in the state court of Pennsylvania, because under the law of that state, a claimant had to show "wanton" negligence on part of the Defendant to recover. Thus, Tompkins brought his case in federal court to avoid the unfavorable state law. However, on appeal the Supreme Court held, in an opinion drafted by Justice Brandeis, that such decisions and inconsistent rulings based on a general federal common law were unconstitutional , and that decisions by a state supreme court were "laws" that federal courts were bound to follow under the Rule of Decision Act. Brandeis noted that the Court felt that Swift allowed federal courts to make unconstitutional modifications of the substantive law of a state. He noted that it violated the right to equal protection under the law, although he did not mean it in the sense of the Fourteenth Amendment. The Court overturned Swift on its own initiative, since the parties in Erie did not ask the Court to do so. Speaking generally, there are two approaches in determining whether a federal court will apply a state law: Byrd-Erie[edit] This approach suggests that unless there is a major countervailing federal policy that trumps the state practice, if ignoring the state law would lead to forum shopping by plaintiffs and unequal administration of the laws like in Yellow Cab above , the court should apply the state law. The main goal of the Erie decision was to prevent " forum-shopping ," a practice where plaintiffs choose a legal forum simply because of the probability of a more favorable ruling. The main problem with the decision is that sometimes

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there is simply no state law or practice on which a federal court may defer. Federal judges are left to guess how a state court would rule on a given legal question, and a state court is in no way bound by a federal decision interpreting their own state law. Justice Frankfurter in *Guaranty Trust Co. v. York*, U. In essence, the intent of that decision was to ensure that, in all cases where a federal court is exercising jurisdiction solely because of the diversity of citizenship of the parties, the outcome of the litigation in the federal court should be substantially the same, so far as legal rules determine the outcome of a litigation, as it would be if tried in a State court. One way that equal protection is intentionally disregarded would be through "forum shopping," but the reduction of inequality was the main target of the doctrine. Hanna[edit] Under the approach in *Hanna v. Plumer*, the federal court of a state hearing a case based on diversity jurisdiction should apply state law in the event of conflict between state and federal law if the state law deals with substantive rights of state citizens. The Supreme Court has defined substantive rights as, "rights conferred by the law to be protected and enforced by the adjective law of judicial procedure. If the state law is merely procedural, or relating merely to the form and mode of judicial operations, then the federal court does not have to apply the conflicting state law. However, the substance-procedure distinction is a generality as the Court rejected any test based upon "litmus paper criterion. The Court announced a modification of the "outcome-determinative" test in *York*, whereby the test must be applied in light of the twin aims of *Erie*, which are the discouragement of forum-shopping and avoidance of inequitable administration of the laws. Under this rule, state procedural law would not supplant federal procedural law if the differences in the outcome are nonsubstantial or trivial, fail to raise Equal Protection concerns, and are unlikely to influence the choice of forum. *Center for Humanities v. U. Gasperini* is a post-*Hanna* decision addressing a conflict between state and federal law for review of jury verdicts. The plaintiff, a well-known artist and photographer from New York, sued a New York museum in federal court in New York, for damages arising from the loss of some photographs and slides he had loaned the museum. A jury found in his favor and awarded damages. The defendant appealed, and the U. Court of Appeals for the Second Circuit reduced the damages award on appeal. *Gasperini* appealed to the U. The New York state provision, a "tort reform" measure, allowed reviewing appellate courts to overturn a jury verdict if it "deviates materially from what would be reasonable compensation. *Gasperini*, and another recent *Erie*-area case, *Semtek International Inc.* This is quite frustrating for those who wish to have a black-letter rule that will point them to the answer. However, the possibility of blending in *Erie* does not open up an infinitude of possibilities. In both *Gasperini* and *Semtek*, the common thread is that the blending is done in a way that is calculated to advance the aims of *Erie* and *York*: *Gibbs v. U. United States*, U.

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Chapter 6 : Erie Doctrine and Choice of Law – Choice of Law - LawShelf Educational Media

Under Erie, in diversity cases the federal courts must apply state judge-made law ("common law") on any substantive issue where there is no federal statute on point. Reasons for Doctrine a.

From the Incident through the System Legally: January 16, Faculty on the Site. We considered it too complex for an undergraduate moot court problem. But our judges disagreed. In , Judge Tucker brought it up in final rounds. The students asked about it afterwards, and we discovered that they understood it. So we left it in, in honor of Judge Tucker, who still sits on our final panels. The doctrine concerns state versus federal control. As you will know from your political science classes, the federal government was constituted to hold the thirteen struggling colonies together after the revolutionary war. Individual rights of governance were zealously guarded. The federal government was seen as focussed on the "commerce clause. Over the intervening centuries the states have continued to zealously guard their rights. But both the federal government and the commerce clause have expanded beyond early expectations. Our founding fathers created federal courts so that citizens from the different colonies could be assured of fairness in the courts when they had a suit against someone in another colony. The federal courts have continued to fulfill this "diversity of citizenship" function, and increasing areas of law have fallen into federal jurisdiction under the expanding commerce clause. In , a person injured by a railroad car missed a statute of limitations deadline for filing. Personal injury has nothing to do with federal law like the commerce clause and so is governed by state law. Since the railroad was a "citizen" for legal purposes of another state, the injured person took advantage of "diversity of citizenship" to file the case in federal court. Federal law had no statute of limitations on this cause of action. But the United States Supreme Court held in the Erie decision that the federal courts are bound by state common law on issues that are governed by state law. Everything that is not specifically federal law is governed by state law. That includes criminal law, tort law, property law, corporate law, contract law, etc. One way of expressing the Erie doctrine is to say that there is no federal common law. That means that federal courts may not interpret state law issues as they see fit, just because the case is being heard in federal court on diversity of citizenship. The federal judges must be guided by state common law, the decisions of state law judges, and state practice. How does this esoteric doctrine fit into our moot court problems? About like a tennis ball bounces back and forth in a volley. Our problems always deal with private citizens who are arguably acting under color of law. In our primary teaching case, the search and seizure is conducted by private security guards. Under California state law, private security guards have been held to be a threat to privacy rights because they appear to be and act like police. Under California state law, Zelinski, evidence illegally seized by private security guards must be suppressed. Californians passed an amendment to the California constitution saying that no greater constitutional protections against illegal search and seizure shall be granted by California courts than is granted under the federal constitution. That sends you to the federal constitution to decide whether illegally seized evidence should be suppressed. The ball has now volleyed out of the state court into the federal court. What about the danger of private security guards in a state where there are more of them than there are police? Is it not a state issue as to how such private individuals will be controlled? Shall we consider private security guards police for the purpose of protection of privacy rights? The ball volleys back into the state court. The courts are not agreed on where the ball will land finally. Is the "color of law" phenomenon of the private security guard a state issue, even if the proper admission or exclusion of evidence is limited by the federal standard? Zelinski is still good law in California. But there are California appellate courts, including our own district, that believe that federal common law should apply, not state law, and thus, not Zelinski.

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Chapter 7 : Federal common law - Wikipedia

The Erie doctrine is a fundamental legal doctrine which mandates that a federal court sitting in diversity jurisdiction must apply state substantive law to resolve claims under state law.

Choice of law questions most frequently arise in lawsuits in the federal courts that are based on diversity jurisdiction, where the plaintiff and defendant are from different states. The choice of law rules establish a method by which the courts can select the appropriate law. Forum shopping is a legal term of art used to describe a scenario in which a party sues in a particular jurisdiction for the purpose of attaining the most favorable result. First, it is important to note that a choice of law scenario can arise in state court while the application of the Erie doctrine is limited to disputes in the federal courts. In a conflicts scenario, the laws of two or more states are evoked, and there must be a significant difference in the outcome of the case based on which law is applied. As a matter of fact, the plaintiff and defendant may be from the same state. The conflicts issue can arise because the legal controversy may have occurred in another state. All of these scenarios will be explored in greater depth later in the subchapter. But before examining these distinctions in more detail, it is important to understand the context in which these choice of law rules are triggered and the reasons why the courts regulate them. George, a resident of California, is a store clerk in San Diego, California. George sues Matt in California state court for negligence and destruction of property. George argues that California law should apply, while Matt argues that Arizona law should apply. What should the court rule? The example described above is a typical example of a choice of law scenario. Two parties argue that a state court should apply the law of their jurisdiction. Nevertheless, there is a choice of law problem. George, the plaintiff, clearly would want to recover the largest monetary relief available under the California law. On the other hand, Matt, the defendant, would want to limit his liability and implement the Arizona law. The outcome of the lawsuit will be determined, in large part, by which law the court applies. On which law should the state court base its decision? One response that would seem to make the most sense would be for the state court to apply the law of its own jurisdiction; i. However, this is not always the rule. Forum shopping refers to a situation where a party commences a lawsuit in a particular jurisdiction where the party will reap the greatest reward. Forum shopping is discouraged in the judicial system and has a negative connotation. Therefore, if the state court always applied the law of its jurisdiction, plaintiffs would flock to a particular jurisdiction if it is known to allow the greatest monetary rewards for a particular legal controversy or because it has the fewest restrictions. The courts strongly disfavor forum shopping for this reason. Another reason that the rule that a state court should apply the law of the state where the court sits has not been adopted is that the law may have little to do with the legal controversy. Pamela purchased the car in Bismarck, South Dakota. Pamela sues in South Dakota state court for monetary damages. What law should the state court apply? North Dakota law or South Dakota law? In this example, it would make little sense to apply the South Dakota law because it has little contact with either of the parties or the legal controversy. To resolve these issues, the courts have adopted choice of law rules to facilitate application of the proper state law in these controversies. One significant problem with the choice of law rules: Therefore, it is essential to check the case law and local rules of your particular jurisdiction. Another problem that stems from the lack of uniformity in applying the choice of law rules among different jurisdictions is that it is impossible to cover all of the possible permutations and variations of the rules. However, in an attempt to demonstrate the principles that are associated with applying these choice of law rules, the remainder of this section will highlight some of the basic choice of law rules that apply in many states. One general principal of which attorneys must be mindful is that for any party to invoke the laws of a state, it must come under the jurisdiction of that state. Therefore, a party to the lawsuit must be a resident or more formally, domiciled in the particular state in question or have some minimum contacts with the state in order to attempt to invoke the rules of that jurisdiction. Note also that the conflicts rules respect rules of foreign countries just as they do rules of the various states. Some jurisdictions analyze different areas of the

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law, such as torts, real property, and contracts, with specific choice of law rules. In the area of tort law, the traditional rule is that the case will be governed by the specific laws of the particular jurisdiction where the injury to the plaintiff occurred. American Youth Hostels, Inc. For instance, let us revisit an earlier example, George, a resident of California, is a store clerk in San Diego, California. Therefore, under the rules for choice of law for tort actions, the California state court should select California law, since the injury took place within the state. This is a straightforward application of the choice of law rules. However, there are exceptions to this rule. In a case where the tort actually occurred in one state, but where that state does not really have as strong an interest in the case as does another state, a court can apply the law of a state in which the tort did not take place. The plane was manufactured by Flying Solo, Inc. What law should the Kansas state court apply? The best answer would be for the state court to apply Kansas state law. Both of the parties are based in Kansas, while Iowa was the unintended site of the accident. Therefore, the state court would probably find that Kansas has greater contact with the lawsuit than Iowa. Thus, Kansas law should apply. In such a case, the court will consider various factors in determining which law to apply. Included among these factors is to what extent the various states involved have an interest in seeing their law apply to the particular case. Thus, in a case, such as in the above example where accidents between citizens of one state happen in a second state, the law of the state of citizenship of the parties will often control. Sabrina, who is contracted to perform more lucrative work for a Fortune company, determines that she cannot do work for both of her clients, and tries to cancel the contract with Sign-A-Way, Inc. The two states have laws that provide different outcomes. Which law should the state court apply? The best answer is the Delaware state court should apply New York law because the express choice of law clause requires the implementation of New York law. These factors include the residence of all parties involved, the place where the contract was negotiated, the place where the contract was executed, and the place where the contract was to be performed. For example, Jill, a resident of Texas, makes handmade jewelry from her home in Dallas. She receives a phone call from Joe, owner of Chic Shop, a large department store in Atlanta, Georgia, who saw samples of her jewelry and wishes to sell it in his store. Jill, interested in seeing her business gain more customers and publicity, thinks it would be great for Chic Shop to carry a supply of her jewelry. Joe invites Jill to come to Atlanta to meet with Joe and other representative of Chic Shop and to negotiate a contract. Jill flies to Atlanta, where she is wined and dined. During these meetings, she negotiates the terms of her contract and finalizes the deal. She agrees to ship the agreed merchandise to Chic Shop within 30 days of the execution of the contract. However, when Jill returns to Dallas, she realizes that she only has half of the inventory that she promised. Chic Shop files a lawsuit in Georgia state court. Jill argues that Texas state law should apply, while Chic Shop argues that Georgia law should apply. The best answer is that the Georgia state court should apply Georgia state law. Even though the parties are from different states the defendant is a Georgia-based corporation, one can argue that a majority of the contacts between the parties occurred in Georgia, including the negotiations and the execution of the contract. Therefore, Georgia law should apply. Choice of law rules for property are largely determined by the location or site of the property in dispute. Will contacts the owner of the chateau, Stan, a resident of Nevada, to negotiate the purchase of the chateau, and tries to arrange to visit it before purchasing it. A month later, Will goes to Lake Tahoe to see the chateau, when he realizes that the condo he bought is really an uninsulated shack on the side of the mountain. Will contacts Stan and tells him he wants his money back. Stan refuses, and Will sues Stan in New York state court. Stan argues that the court should implement Nevada law, while Will argues that California state law applies. Which law should the New York state court apply? The best answer is the state court should apply California state law because that is where the real property is located. This rule regarding real property is the most straightforward rule among the choice of law rules. Remember that this general overview of choice of law principles is not applicable in every jurisdiction. It is therefore important to research and check the rules of your jurisdiction before proceeding with a lawsuit in cases in which these issues may arise.

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are at stake, the basic Erie requirement of deference to state substantive law is, in the great majority of diversity cases, still binding upon the federal courts.

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doctrine which compels a federal district court, on issues not governed by federal law, to apply the conflict of laws rules of the state in which it sits. The purpose is to appraise some of the good and, it is submitted, some.