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Why does postman compare watching tv to a game of peek-a-boo

45 Published pages: May 23, 2019 Written date: May 10, 2019 Below is a complete flowchart for Erie's issues. Although it differs from past efforts in many respects, perhaps the most important difference is that it satisfies all the jurisdictional contexts in which Erie's problems may arise in a federal court, not just in diversity jurisdiction. My hope is that this flowchart will help demystify Erie, demonstrating that Erie's problems are, taken together, standard problems of law choice, just like those faced by state courts. Keywords: Erie Doctrine, Law Choice, Federal Procedure, Diversity Jurisdiction, Additional Juisdiction, Bankruptcy, Federal Civil Procedure Rules C'mon, isn't Erie funny? Here is a coggle flowchart for the Erie doctrine and related issues such as REA analysis. You can also click here to see the Coggle at Coggle.it, or click here to download a PDF. To use it, start by reading the center, then making your way through the left, then through the right. Enjoy! Published June 3, 2015 In Advocacy, Civil Procedure, Communication, Humanities, Law, Legal Education & Pedagogy, Legal Research & Writing, Pedagogy, Rhetoric, Rhetoric & Communication, Semiotics, Teaching on June 22, 2011 at 12:00 pm Jonathan Board lives in Northern Appalachia with his wife and three children. He also attended Harvard Extension School, Fairmont State University and the University of Cincinnati. Beyond legal comments, he enjoys civic and community volunteering, theological and ethical discourse, technologies and athletic coaching. The Erie doctrine harasses law students year after year. For this reason, Mr. Board created this flowchart to help law students in distress through their civil procedure courses. For Erie's origins, see Network 924 Newsletter Sign up to receive the Free Entitlement Project newsletter with tips and announcements. This flowchart was based on the ideas of Examples & Explanations by Glannon. It provides a wonderful analysis of Easy Erie and Eerie Erie, which I highly recommend. ERIE – FLOWCHART Determine the applicable state law. Such a law could be: substantial, as a duty to turn a back. Procedural, as a process service method. Some murky middle ground, like a prescription. Determine potentially conflicting federal law. This could be: the Constitution, like the right to a jury trial in a federal court. A federal statute, like the statutes of the seat. A rule of procedure, such as FRCP 4. Federal court practice, as a preference federal for laches. Federal general common law, like a federal judge who creates a duty to disole himself in an illicit lawsuit that arises exclusively under diversity. Determine if there's a conflict. This is easier said than done. Note that in walker, the Court narrowly interpreted FRCP 3 to avoid a between FRCP 3 and state law. As a result, the conflict was not between an FRCP and state law (triggering the REA/Hanna I analysis), but rather between federal judicial practice and state law (triggering the RDA/Erie/Hanna I analysis). It should also be noted that in Shady Grove, the court divided over whether the conflict between state and federal law was a REA or RDA conflict. What does this mean for the student? A student may need to discuss alternatively, as the Judges did in competing arguments in Shady Grove. See also FN 7 of Scalia's opinion in Shady Grove. As a result, be ready in Part 4 (below) to assess whether the federal law in question can be characterized in different ways (parts 2 to) to 2(e), above). Analyze alternatively, Analyze conflicts. As noted above, if the scope of federal law is questionable, you may need to analyze alternatively. Below are five types of conflicts. Come to class prepared on how to do the analysis for each of the conflict scenarios below: U.S. Constitution in conflict with state law. Federal statute contrary to state law. Federal rule created under the REA in conflict with state law. Federal court practice contrary to state law. Federal general common law contrary to state law. Published on March 6, 2015 The Erie Doctrine is a fundamental legal doctrine in civil procedure. It requires a federal court to enforce substantial state law in cases of diversity jurisdiction. Swift's reign ended with the Supreme Court's decision in Erie R.R. v. Tompkins, 304 U.S. 64 (1938). Swift v. Tyson, allowed federal judges sitting in a state to ignore local common law decisions of state courts in the same state, in cases based on diversity jurisdiction. Swift's decision led to inconsistent court rulings in the same state on the same legal issue depending on whether an plaintiff filed a case in state or federal court. In the Erie case, the plaintiff was trying to recover from her injuries when she was struck by an object protruding from the defendant's passing train. The actor was on a path adjacent to the tracks at the time of the accident. The defendant railroad argued that Pennsylvania common law considered the plaintiff to be an offender under the circumstances. The defendant also argued that the obligation imposed on the defendant railway was only to refrain from unwanted negligence. The plaintiff posted that the federal diversity court was free, under Swift, to ignore Pennsylvania's common law and consider the plaintiff an invitee to whom the defendant owed a duty of ordinary disaritic under federal general common law. Prior to Erie, federal courts applied state law, but did not feel required to enforce state common law rules in areas of general law, such as wrongdoing and contracts. Instead, federal courts have created their own common law in these areas. This has not been seen as a displacement of state authority. Therefore, federal courts were as competent as state courts to establish true common law. The U.S. Supreme Court ruled in favor of the defendant and, in doing so, overturned Swift's ruling that there is no common federal general law. Erie ruled that in federal diversity cases, issues characterized by state law would regulate the substance, and federal law would regulate those characterized as procedural. This became known as a test of the substance with respect to the procedure. Modern Erie doctrine generally invokes the following tests depending on the circumstances of individual cases. The substance versus procedure test acts as a first-stage screening device in the Erie analysis. An issue that clearly addresses legal rights is substantial and needs to be resolved under state law; issues that clearly only affect the judicial process are procedural and invoke federal law. Where the issue stems from both substantive and procedural policies such as prescribing, the results determination test is applied which is the next level of analysis of the Erie doctrine. In such cases, state law controls when substantial interests are needed at least in part. The Erie doctrine does not apply if there is a federal rule addressing this issue. In such cases, the federal procedural rule controls. When the problem is not sufficiently solved by the substance tests with respect to the procedure and the determination of the modified results, the policies underlying both federal and state law are examined. The most important policy has more weight. Scheme of Civil Procedure - Erie Doctrine In cases of diversity in federal court, the court must apply federal procedural law but substantive state law, including the common law created by the state ... Mainly, (Erie and RDA) Traces of analysis... State law against federal statute (authority of the supremacy clause)/FRCP (rea authority 2072)... Is the Statute/FRCP broad enough to control the matter before the court? Does he occupy the camp? Is it broad enough to control the matter before the court? (Walker, Stewart) If so, does the Statute/FRCP represent a valid exercise of congressional authority under the Constitution? (Hanna) For the FRMPs, is it probably procedural and will it not use a bridge, an enlargement or a change in a substantive right? (REA, used in Sibbach) If all these questions pass, the Statute/FRCP checks. State law against federal procedural law (laches, upsets conscience)(authority 1652)... Is the federal rule made by the judge broad enough to cover the circumstances? (the rules are often interpreted restrictively to avoid conflict, Gasperini, Walker) Lol Follow the status rule. Yes. Is the federal rule at least likely procedural (and in line with federal statutes and rules)? Lol Follow the status rule. Was. Would following the federal rule be crucial to results and encourage forum-shopping? (refined result test, twin aims of Erie, by Hanna) Yes. Would federal policy win state law enforcement under byrd balancing (compensatory factors, Byrd)? Yes. Apply the federal rule made by the judge. Lol Apply the status rule. Lol Apply the federal rule made by the judge. **Full Erie** Pre-Erie The Rules of Decision Act If a federal statute, constitutional provision or treaty is applied, it will provide the law of government. Otherwise, federal courts should enforce the relevant state law. Swift v. Tyson The RDA refers only to state statutes, not state court common law decisions. In cases where a federal statute or state statute does not apply, courts do not have to rely on state common law decisions; they can look at the common law of any state or even negotiate for authority. Problems Federal courts in diversity cases could make their own decisions about the correct rule in common law cases, even if those conclusions contradicted the jurisprudence of the state in which they found themselves. An out-of-state party in state action has a distinct advantage. If the out-of-state law favored the out-of-state party, they could sue in that state court. The defendant in the state cannot remove in diversity cases (1441(b)), so they are stuck in that state court. If federal courts enforce a more favorable rule, the out-of-state party could sue in federal court. There is no right to be heard from federal to state court. Therefore, the out-of-state party has a choice of different rules since it has a choice of two different judicial systems. Erie Holding SCOTUS found swift's interpretation of the RDA to lead to an unconstitutional assumption of power by federal courts as they were doing state law through these diversity cases. The RDA must be interpreted to require federal courts to enforce not only state statutes, but also the state's common law in a case of diversity. In federal application cases, if a state complaint is filed through additional jurisdiction, the federal court must still apply state law to such a request, even if federal law will apply to the federal complaint. Questions precondo How should a federal court enforce state law if there are conflicting state court decisions on the matter in question? SCOTUS has ruled that district courts should use the Predictive Approach of the Supreme Court; Judges should try to predict what the state high court would say. Very rarely should a federal judge make the prediction that a state Supreme Court case would be overturned. How should a federal court proceed if there is no precedent on the matter? Similarly, the court should try to predict what state appeals courts would say. Apart from that, if the issue comes after the diversity ruling, the state court is not obligated to follow the federal judge's decision; the state court take it into account in his decision, but he is not obliged to follow him. What state law should use a federal court in diversity cases? Each state has rules of choice of law to deal with this problem. From Klaxon, federal diversity courts should use the rules of choosing the law of the state in which it sits. Therefore, a federal court in New York should enforce any substantive state law that the New York State Court would apply to the case. This reasoning was based on the fact that Erie had imposed that the case be published in the same way in federal cas as in the state court where the federal court was located. This could create forum-shopping as a party could choose federal court in a state with a provision of choice of law that would benefit them. Klaxon's court recognized this risk, but shook his mind as inevitable. Post Erie Changes Guaranty Trust Co. v. New York Outcome-determinative test The choice of state or federal court in a diversity case should not affect the outcome of the case. Therefore, if federal practice differs from state practice, the court should determine whether the case would be presented differently if it applied its own rule. If so, a federal diversity court would have to use the state rule instead. Problems with York York required compliance with state law even in areas where there was constitutional authority to make a separate federal rule. Article III, Section 2 of the Constitution, together with the necessary and correct clause, requires federal courts to apply their own rules of procedure, such as the method of notifying the process. York, however, has also called for compliance with state law on litigation as part of the decisive test of the results. Where the federal court could constitutionally enforce its own rule and is making a discretionary policy decision on state law enforcement to ensure consistent outcomes, the court can balance that policy of uniformity with other policies. Byrd vs. Blue Ridge Other policies could outweigh the policy of uniformity envisaged by Erie and York. In the cases that led to Byrd, diversity courts had also applied state rules in matters that have to do with litigation proceedings under the crucial test of results, but have the constitutional authority to follow a separate federal practice. York's policy of uniform results must be seen in conjunction with other policies, which could sometimes take precedence over the policy of uniformity. For example, the division of functions judge and jury in federal cases, under the influence of the 7th Amendment, was an important consideration in support of the use of federal procedure in federal cases in diversity cases. Since state law was not bound by the rights and obligations of the parties (in which case the federal government should have referred it), the Court could consider an affirmative countervailing Byrd did not bypass York, but merely said that a balance was needed in matters relating to the procedure. Only if important federal policies would be compromised under state rules could the federal court choose to follow a federal procedural rule in the face of a contrary state rule. Hanna v. Plumer Court recognized two different tracks. Conflicts between state law and federal court practices (not a federal statute or federal rule) York dealt with the judicial practice of applying laches; Byrd took care of the judicial practice of getting the jury to decide all factual matters. There was no federal rule involved. Of course, in matters of pure merit or related to substantive rights, state law must apply. For gray areas, Hanna prescribed a more targeted version of the York result test to decide between state law and federal court practices that are not part of the FRCP. The court should consider whether applying the federal approach rather than the state rule would lead to (1) forum shopping and (2) unigitous administration of laws (significantly different litigation opportunities for stakeholders for diversity than those who have to proceed in state court). The Court has stated that the question of fair administration should be viewed prospectively. In other words, would the party before filing the case have a better chance of litigation in federal court if that court followed its own practice instead of state law? In the present case, the Court stated that, if the service rule in question were a judicial practice and is not part of the FRCP, state law should not be used as the federal approach would require only the P to serve the process slightly differently, a difference too slight to influence its choice of forum or provide unfair advantages to different Ps over non-different Ps. This analysis was, however, dictated, because hanna's question directly concerned a NPC rule. Conflicts between state law and federal civil procedure regulation Federal rules were adopted by SCOTUS, under the authority delegated to it by Congress in the Rules Enabling Act (28 USC 2072). The REA requires that the rules created by the Court are likely to be procedural and do not shorten, extend or change any substantive rights. For conflicts involving a federal rule, the question is whether the Court had the power to adopt the article. It must be largely procedural (under Sibbach) and must not alter substantive rights. If it satisfies this two-part test, the rule is valid and will apply, even if it leads to result different from what the P would get in state court. Thus, if the conflict involves a federal judicial practice, the decisive test of the modified outcome of Hanna I applies, if it involves a conflict between state law and an FRCP rule, the question under Hanna II is whether the Court had the power to write the rule (i.e. (i.e. and not alter substantive rights). Clarifications on Hanna (requirement of direct conflicts with FRCP rules) Walker v. Armco Steel Corp. Under FRCP Rule 3, an action is initiated by filing a complaint with the court. If Rule 3 requires the filing of the complaint to meet the limitation period, an action may be prohibited by state law but timely under federal law. The Court avoided this problem by providing that Article 3 of the FRCP did not directly address the issue of compliance with the limitation period and did not affect the state statutes of limitations. Therefore, since there has been no direct collision between the state rule and rule 3 of the FRCP, Hanna I analysis is applied through the determined test of the modified result. It seems likely that if there is a limiting logical construction that avoids direct conflict, the court will move toward that construction (and Hanna I's analysis). Gasperini against. The Center for Humanities SCOTUS considered that the standard used by judges to review damages created a conflict between state procedural law (materially deviates from reasonable compensation) and federal common procedural law (shock conscience), does not fall under Rule 59; therefore, an analysis of track 3 is required. Plot three analyses - Is the rule made by the judge broad enough to cover the circumstances? No. Follow the status rule. Yes. Is it at least likely procedural (and in line with federal statutes and rules)? No. Follow the status rule. Yes. Would following the rule be crucial to results and encouraging forum-shopping? Yes. Would federal policy win state law enforcement based on byrd balance? Yes. Apply the rule made by the judge. No. Apply the status rule. No. Apply the judge's rule. The Court found that following the common federal procedure would be decisive for the outcome and would encourage the shopping of the forum (Hanna). Because federal policy would not have maned state law enforcement (Byrd), the state standard was used. Used.