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===== Start of Answer #1 (1010 words) =====

**1. Doctor's Motion to Dismiss**

Personal Jurisdiction

Personal jurisdiction is a courts power to exercise judicial authority over an individual. There are three basis by which a court can exercise personal jurisdiction: 1) Traditional Basis, 2) Statutory Basis, and 3) Constitutional Basis.

Traditional Basis

Traditional basis of exercising personal jurisdiction requires that: 1) person be domiciled in the state, 2) be present and served in the state, or 3) consent. Here, D is not domiciled in State B because is a resident of State A, where he lives and practices his profession as a surgeon. P sued D in State B court but there are no facts that indicate that D was ever present or served in that state. Lastly, D did not consent to jurisdiction. Therefore, traditional basis fails.

Statutory Basis

Modernly, states rely on a long-arm statute to reach beyond its borders to exercise jurisdiction. Here, there is no mention in the facts that State B has a long -arm statute, but assuming they do it could be a basis for exercising Jx or D, if they also comply the Constitutional limitations. Therefore, statutory Jx diction depends on State B's long-arm statute, if they have one, and whether it complies with the Constitution.

Constitutional Basis

The Constitutional basis of jurisdiction requires: 1) minimum contacts and 2) that

ID: [REDACTED] (CALBAR\_7-15\_Q1-3) July 2015 California Bar Examination

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jurisdiction no offend the traditional notions of fair play and substantive justice.

### Minimum Contacts

Minimum contacts requires purposeful availment and foreseeability.

Here, there is no purposeful availment because at no time did D ever avail himself to that state. D performed the heart valve surgery on P in State A and that's where he lives. Also, at no time did D ever benefit from any protections of laws by State B because he was never there. The only contact between State B and D, if there was some is that fact that he's being sued there. Therefore, this element fails.

Also, it was not foreseeable that D would be haled into court there. The fact that D works and lives in State A and has no contact with State B other than being sued there makes it almost impossible that he could foresee ever being hauled into court there. Therefore, this element also fails.

### Conclusion

The state court properly granted D's motion to dismiss.

## **2. Valco's Motion to Dismiss**

### Personal Jurisdiction

See rules above.

### Constitutional Basis

The Constitutional basis of jurisdiction requires: 1) minimum contacts and 2) that

jurisdiction no offend the traditional notions of fair play and substantive justice.

### Minumum Contacts

Minimum contacts requires: 1) purpusful availment and 2) foreseeability.

Here, there was purposeful availment because V was able to design his valve in State B. The fact that V was able to design his valve there means that V availed him self to all the protections of the state that come with the ability to do that. For example, if another company tried to rip off V design for that valve, State B would protect their intellectual property rights in the design of that valve. Also, all other legal protections that come with designing a valve were available to V and V benefited from those protections. Therefore, this element succeeds.

Also, there was foreseeability and V could foresee being haled into court there because the value was designed there and their was the possibility that there was a defect in that design and that defect would cause an individual harm, as was here, and that person would want to sue V because of the defective design of their valve. Therefore, this element is met.

### Fair Play and Substantive Justice

Fair play and substantive justice require that there be a relatedness between the plaintiff's injury and the defendant's conduct. Here, there is relatedness because the value was designed in the state and P suffered heart problems that could have been the result of a defective value while visiting in the state. Therefore, this element is met.

### Conclusion

The state court properly denied V's motion to dismiss.

### **3. Patient's Motion for Remand**

#### Removal

A defendant is allowed to remove a case from state court to federal court if the federal court has jurisdiction there.

#### Subject Matter Jurisdiction

Subject matter jurisdiction requires complete diversity or a federal question. There is no federal question involved, so the basis of jurisdiction has to be complete diversity. Complete diversity requires that both parties be from different states and the amount in controversy exceed \$75,000. Here, there is diversity of citizenship because P is a resident of State A, where she lives. The only reason she's in State B is for health reasons and it is likely that once she gets her health together she will return to State A. The fact that V designed his valve in state B does not make him a resident there. V's citizenship is determined by his place of incorporation or principal place of business. V is incorporated in C and has its principal place of business in D. So, there is diversity of citizenship. Lastly, the amount in controversy is \$100, well above the \$75,000 limit. Therefore, there is complete diversity.

#### Remand

Remand back to state court requires jurisdiction not be proper in federal court. Here, based on the above, the federal court has subject matter jurisdiction. Therefore, remand fails.

#### Conclusion

The federal court properly denied P's motion for remand.

**4. Patient's Motion for Summary Adjudication**

Collateral Estoppel (Issue Preclusion)

Under federal law, collateral estoppel, also known as issue preclusion, requires: 1) a valid final judgment on the merits, 2) the issue was essential to the judgment, and 3) the same parties. Here, element one is met because another patient sued for the same thing and won. Element two is met because the determination that the valve was defective was essential to getting a judgment in her favor. However, element three is not met because the parties are not the same and federal law does not allow "strangers" to make use of issue determinations. There, collateral estoppel fails.

Conclusion

The federal court improperly granted P's motion for summary adjudication.

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Question #1 Final Word Count = 1010

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