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1. Proper venue in the Eastern District (ED) of California?

Venue

Venue arises in a place where any district of a state which all defendants reside or where a substantial matter of claims arose there. If either one is not satisfied, venue applies to any district subject to personal jurisdiction of the forum state.

Here, Shearer(S) sued Jiff(J) as a defendant. Since J is the only defendant and he resides in Truckee, the ED of California, S's suit against J for negligence in the US District Court for the ED of California is proper venue. J may argue that the facts that the contract was signed in Reno and J's breaking the antique vase in S's beauty salon, indicate that Reno, Nevada is the place where substantial matter of claim arose. Thus, Reno, Nevada is more proper for venue, and S's venue is improper.

However, venue can arise in either place above. It's up to a plaintiff to choose. Here, S chose the suit in the ED of California for venue and it is proper as reasoned above.

Therefore, the venue was proper.

2. Did the court err in denying Shearer(S)'s motion to compel?

Work product

Work product is made in anticipation of litigation and may not discover unless there is a hardship to obtain and substantial need.

Here, the evaluations completed by J's customers in the past year were for the purpose of J's monitoring the customers' satisfaction, rather than made for anticipation of litigation.

Therefore, the evaluations are not work product and thus, the court erred in denying S's motion to compel.

3. Claim preclusion (CP)

CP applies when there is a same configuration in the suits, valid judgment for the claims, and same transactions or occurrences arising out of the claims. In California, under the primary right rule, a plaintiff can sue a defendant for another claim although same transactions or occurrences arising out of the claims in the first suit.

Here, S sued J for negligence first and sued J again for breach of contract. This shows there is a same configuration in both suits because there were same plaintiff and defendant in both suits. Further, the fact that the jury returned a general verdict in favor of J and the court entered judgment on the verdict shows that there was a valid judgment for the claims under the circumstance that S did not even appeal.

Furthermore, S's first suit for negligence and second suit for breach of contract are arising out the same transactions or occurrences. Since the elements are all met, CP applies under the ABA rule.

However, in California rule, S may sue J for breach of contract in the second suit under the primary right rule.

Issue Preclusion(IP)

IP applies

Question #1 Final Word Count = 458

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