interplay between the attorneys arguing the case and the judges who must make a decision on the cases. In the end, it is the attorneys who lay out the arguments that must be weighed by the judges, and ultimately those arguments find their way into court opinions.

Most of the cases selected will be cases before appellate courts. However, from time to time you will review cases that have been decided by trial court judges. On occasion your instructor may request that you "brief" a case. Guidance on how to prepare a case briefing is provided in App. A of this textbook.

For the two cases presented in this chapter, the facts have been laid out in summary form. In later chapters, you can gain some experience "unpacking" some complex fact patterns directly from the cases.

Case 1-1 deals with a question of federal jurisdiction. See if you agree with the court's determination on the issue of whether this case can be properly submitted to federal court jurisdiction.

CASE 1-1

LUCIA V. TELEDYNE

173 F. Supp. 2d 1253 (2001)

JUDGE: Richard W. Vollmer, Jr.

FACTS: *The Plaintiff in this case owns and operates two piston engine aircraft that use crankshafts manufactured by Defendant Teledyne Continental Motors Division ("Teledyne"). On April 19, 9999, Teledyne issued a "Critical Service Bulletin" ("CSB") noted cracks found in two of eight engine crankshafts it manufactured or reworked in 1998.*

Teledyne's CSB detailed an inspection process in which eligible crankshafts would be examined in field inspections by Teledyne representatives. The inspections call for ultrasound testing of the crankshafts. If problems were revealed, the engine would be removed and sent to Teledyne's facilities in Mobile, Alabama.

On April 22, 1999, the Federal Aviation Administration ("FAA") issued a "Priority Letter Airworthiness Directive" ("AD") pursuant to its authority under 49 U.S.C. Section 44701. The AD mandated ultrasonic inspections of the covered crankshafts and approved the technical contents of Teledyne's CSB.

One day after the issuance of the AD, Plaintiff Lucia filed a claim against Teledyne in the Circuit Court of Mobile County, Alabama requesting injunctive relief in the form of "magnaflux testing" of the crankshafts in question and compensatory damages "not in excess of $70,000 per class member, attorneys' fees from the common fund, interests and costs." The four causes of action asserted in the Plaintiff's complaint are (1) Misrepresentation, (2) Negligence, (3) Strict Liability, and (4) Breach of Express Warranty.

On May 16, 1999, Teledyne filed its Notice of Removal, claiming that this case should be removed to federal court based on grounds of subject matter jurisdiction over a federal question, or *in the alternative, on the existence of complete diversity between the parties. In turn, the Plaintiff filed a Motion to Remand this case back to the state court where it was filed. The federal court now examines whether this case can be properly removed to a federal court.*

OPINION

A) Diversity Jurisdiction: The foundation for federal court diversity jurisdiction — the power to decide cases between citizens of different states — is Article III of the United States Constitution. U.S. Const. art. III, § 2 [Citation]. However, when Congress created the lower federal courts, it limited their diversity jurisdiction to cases in which there was a minimum monetary amount in controversy between the parties. [Citation.] Today, the threshold amount in controversy for diversity jurisdiction, excluding interests and costs, is $75,000. [Citation.]

In [Citation] ("*Cohen II*"), the Eleventh Circuit held that a prior panel decision by the Former Fifth Circuit, [Citation], precluded aggregating punitive damages to establish diversity jurisdiction over a class action. *See Cohen II*, [Citation]. Though not addressing precisely the set of facts at issue, the holding is in accord with the rule that, generally speaking, when a set of plaintiffs join in one lawsuit, the value of their claims may not be added together, or "aggregated," to satisfy the amount in controversy requirement for diversity jurisdiction. [Citations.]

In this matter the compensatory, or actual damages of Plaintiff (or any other hypothetical class member) appear to be relatively small. According to Plaintiff, the alleged damages suffered include those costs incident to the proper inspection and repair of the allegedly faulty crankshafts, as well as those costs attaching to the loss of use of Plaintiff's aircraft. These costs Plaintiff values to be not in excess of $70,000. *See* Complaint, *supra*. In any event, assuming *arguendo* that a class could eventually be certified in this matter, the compensatory (or punitive if pled) damages claims could not be aggregated to form the basis for federal diversity jurisdiction, since any of the claims of this hypothetical class would arise from those class members' separate and individual agreements with Teledyne. [Citation.] Though the point is somewhat moot as only Plaintiff Lucia's claims are before this Court, such claims as would arise from various class members claims as would arise from various class members could not be aggregated for amount in controversy purposes. [Citation.]

The allegations by Teledyne that the aviation components are part of a single and distinct product line does not change the separate and distinct nature of the rights that could be asserted in this matter, assuming *arguendo* that a class could eventually be certified in this matter. [Citation.] ("Federal Rule of Civil Procedure, Rule 20 allows the joinder of parties plaintiff when there is a common question of law or fact and the claims of all plaintiffs arose out of the same transaction or occurrence. However, this joinder for convenience of the court affects in no way the entirely separate question of aggregation of claims to satisfy the jurisdictional amount."). Accordingly ... the Court finds that Teledyne has failed to demonstrate the amount in controversy for purposes of establishing diversity jurisdiction in this matter.

B) Federal Question Jurisdiction: Defendant also asserts that the Court has original subject matter jurisdiction over this case, pursuant to [Citation], because of the presence of a federal question. Teledyne argues that, since this lawsuit seeks compensatory and actual damages in an area of law which, according to Defendant, has been superpreempted by virtue of Congress' delegation to the Federal Aviation Administration, the Court therefore has proper jurisdiction. Defendant's field preemption argument operates on the assumption that any and all judicial intervention into actions even tenuously affecting issues involving the proper maintenance, repair and/or general safety regulation of aviation hardware must necessarily be of the federal type. This assumption fails to recognize, however, that the statutory grant to the FAA of exclusive federal regulatory power in the field extends only to those matters having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart." [Citation.] The Court will address this argument more fully below. Alternatively, Defendant argues that by seeking injunctive relief to be issued by a state court in order to compel Teledyne to enact safety and inspection measures beyond the scope of those specifically approved in the FAA's AD of April 22, 1999, Plaintiff has bestowed federal question jurisdiction on the Court by operation of ordinary preemption.

CONCLUSION

Plaintiff's Complaint relies exclusively on state law causes of action. It does not on its face allege any basis for federal jurisdiction. Accordingly, under the well-pleaded complaint rule, the substance of the Complaint does not permit removal to federal court. As the Court has determined, the amount in controversy sufficient to establish diversity jurisdiction has not been met in this case. Therefore, Teledyne could have properly removed this case only if Plaintiff's state law claims are rendered federal in nature under either the doctrines of complete or ordinary preemption. As demonstrated above, neither doctrine is applicable to the matter at hand.

In addition to the state law claims for negligence, misrepresentation and breach of warranty, Plaintiff's Complaint in this case seeks injunctive relief against Defendant Teledyne in the form of a mandatory request for the detailed inspection of select aircraft components manufactured by Defendant. Plaintiff does not request that the state court either review or alter the regulatory decision of the FAA as manifested in its Advisory Directive, contrary to Defendant's attempts to characterize Plaintiff's pleadings as such. Rather, any question concerning the FAA's regulatory authority in this area of law arose only from Teledyne's defensive assertion of the purported preemptive effect of the FAA's regulatory activity on Plaintiff's request for injunctive relief. As the mere existence of a federal defense, even one involving federal (ordinary) preemption, cannot serve as the basis for federal subject matter jurisdiction, it follows that Defendant has improperly removed this matter to federal court. [Citation.]

Likewise, there is simply no foundation to support Teledyne's claims that the preemption provision of the Aviation Act, [Citation], indicates that Congress has chosen to occupy the field "so thoroughly … as to make reasonable the inference that Congress left no room for the states to supplement federal law." [Citation.] As noted above, the preemption provision in this context merely creates a potential federal defense to Plaintiff's claims under state law, which the state court is more than capable of resolving under the doctrine of ordinary preemption. Further, the fact that the Aviation Act contains a provision preempting claims under state law which would affect airlines' rates, routes or services, [Citation], does not under the principles of complete preemption described above "create" removal jurisdiction. To the contrary, the Aviation Act does not contain the extraordinary preemptive force necessary to render Plaintiff's state claims federal in nature and removal proper.

Plaintiff, as the master of his claim, has successfully pleaded state law claims and is entitled to litigate his claims in state court, the forum of his choice. While his claim for injunctive relief may ultimately prove to be preempted by section 41713 of Title 49, the ordinary preemption issue is most appropriately decided by the state court and is not addressed here. [Citations.] For the foregoing reasons, the Court concludes that it lacks subject matter jurisdiction over this action. The court therefore REMANDS this matter to the Circuit Court of Mobile County, Alabama. The clerk is DIRECTED to take all steps necessary to effectuate this remand, each party to bear its own costs.

Notice that in this case the defendant, Teledyne, was seeking to have the case moved from a state trial court to a federal trial court (the U.S. district court). Why, do you think, Teledyne would spend so much time and money to attempt to have the case moved to a federal court?

Teledyne raises an interesting argument that this case should be heard before a federal court because it has a potential defense based on preemption (we will discuss the issue of preemption in greater detail in Chap. 2). However, the court rejects this argument. Why does the court reject the argument? Do you think the court made the right decision?

You are encouraged to find and read the full text of this case. The full text contains a rich and full discussion of the law relating to federal jurisdiction.

The next case, Case 1-2, involves a question of personal jurisdiction. This case was deemed to be so significant that the U.S. Supreme Court elected to review the case. Just how much contact must a foreign helicopter transportation company have with the state of Texas to be subject to the jurisdiction of the Texas court system? See what the Supreme Court thinks in Case 1-2.

CASE 1-2

HELICOPTEROS NACIONALES DE COLOMBIA, S.A. v. HALL ET AL.

466 U.S. 408 (1984)

FACTS: *"Helicol", the Petitioner, a Colombian corporation, entered into a contract to provide helicopter transportation for a Consorcio/WSH, a Peruvian company closely related to a joint venture that had its headquarters in Houston, Tex., during the consortium's construction of a pipeline in Peru for a Peruvian state-owned oil company. Petitioner has no place of business in Texas and never has been licensed to do business there. Its contacts with Texas consisted of sending its chief executive officer to Houston to negotiate the contract with the consortium, accepting into its New York bank account checks drawn by the consortium on a Texas bank, purchasing helicopters, equipment, and training services from a Texas manufacturer, and sending personnel to that manufacturer's facilities for training. After a helicopter owned by petitioner crashed in Peru, resulting in the death of respondents' decedents—United States citizens who were employed by the consortium—respondents instituted wrongful-death actions in a Texas state court against the consortium, the Texas manufacturer, and petitioner. Denying petitioner's motion to dismiss the actions for lack of in personam jurisdiction over it, the trial court entered judgment against petitioner on a jury verdict in favor of respondents. The Texas Court of Civil Appeals reversed, holding that in personam jurisdiction over petitioner was lacking, but in turn was reversed by the Texas Supreme Court.*

OPINION: JUSTICE BLACKMUN delivered the opinion of the Court.

In ruling that the Texas courts had *in personam* jurisdiction, the Texas Supreme Court first held that the State's long-arm statute reaches as far as the Due Process Clause of the Fourteenth Amendment permits. Thus, the only question remaining for the court to decide was whether it was consistent with the Due Process Clause for Texas courts to assert *in personam* jurisdiction over Helicol.

The Due Process Clause of the Fourteenth Amendment operates to limit the power of a State to assert *in personam* jurisdiction over a nonresident defendant. Due process requirements are satisfied when *in personam* jurisdiction is asserted over a nonresident corporate defendant that has "certain minimum contacts with [the forum] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" [Citation.]

When a controversy is related to or "arises out of" a defendant's contacts with the forum, the Court has said that a "relationship among the defendant, the forum, and the litigation" is the essential foundation of in *in personam* jurisdiction. [Citation.]

Even when the cause of action does not arise out of or relate to the foreign corporation's activities in the forum State, due process is not offended by a State's subjecting the corporation to its *in personam* jurisdiction when there are sufficient contacts between the State and the foreign corporation. [Citations.] In *Perkins*, the Court addressed a situation in which state courts had asserted general jurisdiction over a defendant foreign corporation. During the Japanese occupation of the Philippine Islands, the president and general manager of a Philippine mining corporation maintained an office in Ohio from which he conducted activities on behalf of the company. He kept company files and held directors' meetings in the office, carried on correspondence relating to the business, distributed salary checks drawn on two active Ohio bank accounts, engaged an Ohio bank to act as transfer agent, and supervised policies dealing with the rehabilitation of the corporation's properties in the Philippines. In short, the foreign corporation, through its president, "[had] been carrying on in Ohio a continuous and systematic, but limited, part of its general business," and the exercise of general jurisdiction over the Philippine corporation by an Ohio court was "reasonable and just." [Citation.]

All parties to the present case concede that respondents' claims against Helicol did not "arise out of," and are not related to, Helicol's activities within Texas. We thus must explore the nature of Helicol's contacts with the State of Texas to determine whether they constitute the kind of continuous and systematic general business contacts the Court found to exist in *Perkins*. We hold that they do not.

It is undisputed that Helicol does not have a place of business in Texas and never has been licensed to do business in the State. Basically, Helicol's contacts with Texas consisted of sending its chief executive officer to Houston for a contract-negotiation session; accepting into its New York bank account checks drawn on a Houston bank; purchasing helicopters, equipment, and training services from Bell Helicopter for substantial sums; and sending personnel to Bell's facilities in Fort Worth for training.

The one trip to Houston by Helicol's chief executive officer for the purpose of negotiating the transportation-services contract with Consorcio/WSH cannot be described or regarded as a contact of a "continuous and systematic" nature, as *Perkins* described it, [Citation], and thus cannot support an assertion of *in personam* jurisdiction over Helicol by a Texas court. Similarly, Helicol's acceptance from Consorcio/WSH of checks drawn on a Texas bank is of negligible significance for purposes of determining whether Helicol had sufficient contacts in Texas. There is no indication that Helicol ever requested that the checks be drawn on a Texas bank or that there was any negotiation between Helicol and Consorcio/WSH with respect to the location or identity of the bank on which checks would be drawn. Common sense and everyday experience suggest that, absent unusual circumstances, the bank on which a check is drawn is generally of little consequence to the payee and is a matter left to the discretion of the drawer. Such unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction. [Citations.]

The Texas Supreme Court focused on the purchases and the related training trips in finding contacts sufficient to support an assertion of jurisdiction. We do not agree with that assessment, for the Court's opinion in [Citation] makes clear that purchases and related trips, standing alone, are not a sufficient basis for a State's assertion of jurisdiction.

The defendant in *Rosenberg* was a small retailer in Tulsa, Okla., who dealt in men's clothing and furnishings. It never had applied for a license to do business in New York, nor had it at any time authorized suit to be brought against it there. It never had an established place of business in New York and never regularly carried on business in that State. Its only connection with New York was that it purchased from New York wholesalers a large portion of the merchandise sold in its Tulsa store. The purchases sometimes were made by correspondence and sometimes through visits to New York by an officer of the defendant. The Court concluded: "Visits on such business, even if occurring at regular intervals, would not warrant the inference that the corporation was present within the jurisdiction of [New York]." [Citation.]

This Court in *International Shoe* acknowledged and did not repudiate its holding in *Rosenberg*. [Citation.] In accordance with *Rosenberg*, we hold that mere purchases, even if occurring at regular intervals, are not enough to warrant a State's assertion of *in personam* jurisdiction over a nonresident corporation in a cause of action not related to those purchase transactions. Nor can we conclude that the fact that Helicol sent personnel into Texas for training in connection with the purchase of helicopters and equipment in that State in any way enhanced the nature of Helicol's contacts with Texas. The training was a part of the package of goods and services purchased by Helicol from Bell Helicopter. The brief presence of Helicol employees in Texas for the purpose of attending the training sessions is no more a significant contact than were the trips to New York made by the buyer for the retail store in [Citation].

We hold that Helicol's contacts with the State of Texas were insufficient to satisfy the requirements of the Due Process Clause of the Fourteenth Amendment. Accordingly, we reverse the judgment of the Supreme Court of Texas. It is so ordered.

Students should note that in this case the U.S. Supreme Court determined that the Texas Supreme Court incorrectly ruled that the contacts of Helicol were sufficient to assert jurisdiction over the corporation. This case was not easily decided (as evidenced by the disagreement between the Texas Supreme Court and the U.S. Supreme Court). In fact, there was a dissenting (minority) opinion published by Justice Brennan in this case. In his dissenting opinion, Justice Brennan states: "… I believe that the undisputed contacts in this case between … Helicol … and the State of Texas are sufficiently important, and sufficiently related to the underlying cause of action, to make it fair and reasonable for the State to assert personal jurisdiction over Helicol.…" Justice Brennan goes on to state that "… maintenance of this suit in Texas courts 'does not offend traditional notions of fair play and substantial justice,'" citing *International Shoe Co v. Washington*[4] as the basis for his dissent.

The *International Shoe* case is a landmark case on the issue of personal jurisdiction. Find the case and read the opinion. After reading the opinion, do you still agree with the opinion of the majority in this case or do you side with Justice Brennan and the Texas Supreme Court?