

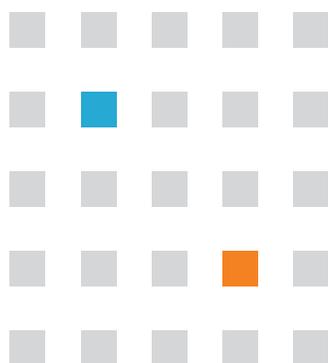
Estimating the Impact of a Minimal Diversity Standard on Federal Court Caseloads

Executive Summary



What Is Diversity Jurisdiction?

Diversity jurisdiction is one form of federal subject-matter jurisdiction, under which federal courts may hear lawsuits based on state law. To invoke diversity jurisdiction under the traditional diversity statute, the lawsuit must involve “a controversy between citizens of different states or between a



citizen of a state and an alien,” and the amount in controversy must exceed \$75,000. Either a plaintiff or defendant can invoke diversity jurisdiction.



The traditional diversity statute has long been interpreted by the courts to

require “complete diversity”; that is, there cannot exist a common state citizenship between any plaintiff and any defendant. However, Article III of the U.S. Constitution only requires a “minimal diversity” standard for federal diversity jurisdiction: at least one plaintiff and one defendant must be diverse in state citizenship.

Why Did the Founding Fathers Create Diversity Jurisdiction?

The traditional justification for diversity jurisdiction is that it protects out-of-state residents from potentially biased state courts. To promote interstate commerce, the Founding Fathers sought to ensure that commercial cases would be heard in an impartial forum to protect foreign litigants from local bias.



Supporters of diversity jurisdiction assert that bias against out-of-state litigants and corporations persists today. Indeed, surveys of attorneys indicate that bias based on residency status or corporate status continues to be the primary rationale for seeking a federal forum over a state forum in diversity cases.

What Would Be the Impact of Restoring Minimal Diversity Jurisdiction?

This report explores the consequences of replacing the complete diversity standard with a minimal diversity standard in all civil cases. As the primary criticism of expanding federal diversity jurisdiction is the impact on federal court caseloads, the study empirically estimates the impact on caseloads of moving to a minimal diversity standard. This analysis reveals that moving to a minimal diversity standard would increase federal district court caseloads by approximately **7.7 percent**.

7.7%

Estimated increase in federal district court caseloads

✓ Conclusion

Returning to the minimal diversity standard required by the Constitution would extend protection against bias to all out-of-state litigants with only minimal impact on federal court caseloads.