

## Federal FNC test

[The predicate to filing a FNC motion is the same predicate as with filing a 1404 transfer motion: the place where suit was filed is a proper forum]

### Step 1: Is there an **adequate** and **available** alternative forum?

**Adequate**—can't be corrupt; P has to have a legitimate chance at winning there

**Available**—there can't be a procedural bar that would prevent P from recovering at all

**Only if the alternate forum is adequate and available...**

### Step 2: Balancing the private and public interest factors

#### Private interest factors

Relative ease of access to sources of proof;

availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses;

possibility of view of premises, if view would be appropriate to the action;

and all other practical problems that make trial of a case easy, expeditious and inexpensive.

#### Public interest factors

the administrative difficulties flowing from court congestion;

**the "local interest in having localized controversies decided at home"; [weighing sovereign interest; this is comparing the US interest with the other country's interest];** if it were state to state FNC, then of course the compare would be between state x and state y's relative interests

the interest in having the trial of a diversity case in a forum that is at home with the law that must govern the action;

the avoidance of unnecessary problems in conflict of laws, or in the application of foreign law;

and the unfairness of burdening citizens in an unrelated forum with jury duty