

Bank of the United States v.
Deveaux

(1809)

Bank of the United States v. Deveaux (1909)

“[If the corporation] is defined as mere **creature** of the law, invisible, intangible, and incorporeal....

That invisible, intangible, and artificial being, that mere legal entity, a corporation aggregate, is certainly **not a citizen**; and consequently, **cannot sue or be sued** in the courts of the United States.”

“[A corporate] name, indeed, **cannot be** an alien or **a citizen**;
but the **persons** whom it represents may be one or the other;
and the controversy is, in fact and in law, between those **persons suing in their corporate character**...and the individual against whom the suit may be instituted.”

Implications of *Deveaux*

- The Supreme Court rejects the Creature Theory of corporate personality
- The Supreme Court embraces the Group Theory of corporate personality

STRAWBRIDGE v. CURTISS
SUPREME COURT OF THE UNITED STATES
February 13, 1806, Decided

If there be two or more joint plaintiffs, and two or more joint defendants, **each of the plaintiffs** must be capable of suing **each of the defendants**, in the courts of the United States, in order to support the jurisdiction.

Party A	Party B	Can this suit be heard in a federal court?
California	California	
Arizona Nevada Colorada	New Mexico Texas	
New York North Carolina Georgia Florida	South Carolina Virgina New York	

Party A	Party B	Can this suit be heard in a federal court?
California	California	NO
Arizona Nevada Colorada	New Mexico Texas	
New York North Carolina Georgia Florida	South Carolina Virgina New York	

Party A	Party B	Can this suit be heard in a federal court?
California	California	NO
Arizona Nevada Colorada	New Mexico Texas	YES
New York North Carolina Georgia Florida	South Carolina Virgina New York	

Party A	Party B	Can this suit be heard in a federal court?
California	California	NO
Arizona Nevada Colorado	New Mexico Texas	YES
New York North Carolina Georgia Florida	South Carolina Virginia New York	NO

Louisville, Cincinnati, and Charleston R.R. Co. v. Letson (1844)

- “...we feel free to say that the cases of [Strawbridge and Deveaux] were carried too far...and the reasoning employed in the latter ought not to be followed.”
- “A corporation **created** by a state...and only suable there, though it may have members out of the state, seems to us to be a **person**, though an artificial one, **inhabiting** and belonging to that state, and therefore entitled, for the purpose of suing and being sued, to be **deemed** a **citizen** of that state.”

Implications of *Letson*

- The Supreme Court rejects the conclusions of *Deveaux* and *Strawbridge*
- The Supreme Court adopts the Person Theory of corporate personality
- However, this “decision will be short lived (only 9 years)

Marshall v. Baltimore & Ohio R.R. Co. (1853)

“The persons who...use this corporate name, may be justly **presumed** [conclusively] to be resident in the State which is the necessary habitat of the corporation

and should be estopped in equity from averring a different domicil against those who are compelled to seek them there, and can find them there and nowhere else.”

Implications of *Marshall*

The Supreme Court settles for a 'hybrid' version of corporate personality:

Person Theory + Group Theory

1. A corporation is created (i.e. 'born') in a particular state and hence is a "citizen" of that state.
2. The members of the corporation (i.e. the group) are presumed also to be citizens of that state. [a legal fiction]

Is this the end of the story for diversity of citizenship?

- Yes, so far as Supreme Court cases go.
- No, for in a federal statute (section 1332), under “Diversity of Citizenship”:
- “A corporation shall be **deemed a citizen** of any State by which it has been incorporated and of the State where it has its principal place of business.”
(1958, exactly 100 years after *Marshall*)