

Test for Supplemental Jurisdiction

1. Is the claim one for which there is an independent ground for subject matter jurisdiction? I.e. is there diversity jurisdiction or federal question jurisdiction over the claim?

If yes, stop. Then there is subject matter jurisdiction. You need not concern yourself with supplemental jurisdiction and 1367.

If no, go on to step 2.

2. Is the claim part of the same "case or controversy" (i.e. part of the "same transaction or occurrence") as the original claim?

If yes, go on to step 3.

If no, stop. There is no supplemental jurisdiction.

This part is based on 1367(a)

3. Is the original claim within the subject matter jurisdiction of the federal court only because of diversity?

If yes, go on to step 4.

If no, stop. There is supplemental jurisdiction under 1367(a). 1367(b) does not apply

4. Is the claim brought by the plaintiff in the original claim?

If no, stop. There is supplemental jurisdiction under 1367(b)

If yes, go on to step 5.

5. Was the defendant first made a party to the case by FRCP 14 or 20?

If no, there is supplemental jurisdiction under 1367(b).

If yes, there is no supplemental jurisdiction. See 1367(b).

Notes:

"The claim" is the claim over which you are trying to determine whether the federal courts have subject matter jurisdiction. Each claim must be analyzed separately.

"The original claim" is a claim to which "the claim" is joined and for which subject matter jurisdiction has already been established without resort to supplemental jurisdiction.

28 U.S.C. § 1367 is a very complicated, very ambiguous statute. This handout is my interpretation of it, but you should recognize that there are other interpretations and that there are some situations not covered by this handout. Can you see where my interpretation could be contested? Can you think of hypothetical not covered by this handout or for which this handout produces ambiguous answers? Does this handout ever give you results different from Glannon?