

1979

Practice and Procedure

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Recommended Citation

George A. Harper, Practice and Procedure, 30 S. C. L. Rev. 132 (1979).

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PRACTICE & PROCEDURE

Determination of the Amount in Controversy

I. INTRODUCTION

Congress has long restricted the jurisdiction of the federal courts over diversity of citizenship cases by requiring that a minimum amount of money be in controversy.¹ Various justifications for this requirement have been advanced. The original purpose is said to have been to "prevent defendants from being summoned long distances to defend small claims."² Congress' stated purpose in raising the minimum amount to greater than \$10,000 was to prevent the federal courts from having to "fritter away their time in the trial of petty controversies."³ While Congress was clear on what the minimum amount would be, it did not instruct the courts on how that amount is to be measured.⁴ This issue has been left to the federal courts for resolution.

When a civil action that might have been brought in federal court is brought in a state court, Congress has given the defendant the right to remove the action to federal court.⁵ An action can be removed only if the federal court would have had original jurisdiction of the action.⁶ A troubling situation occurs when pursuant to a state long-arm statute⁷ a resident plaintiff brings suit

1. The minimum amount was first set at \$500. Act of Sept. 24, 1789, ch. 20, § 11, 1 Stat. 78. This was then raised to \$2,000. Act of Mar. 3, 1887, ch. 373, § 1, 24 Stat. 552. In 1911 the amount was again raised to \$3,000. Act of Mar. 3, 1911, ch. 2, § 24, 36 Stat. 1091. The current statute requires an amount in excess of \$10,000. Act of July 25, 1958, Pub. L. No. 85-554, § 2, 72 Stat. 415 (current version at 28 U.S.C. § 1332(a) (1970)). Exactly \$10,000 is insufficient. *Clark v. Nat'l Travelers Life Ins. Co.*, 518 F.2d 1167 (6th Cir. 1975).

2. HART & WECHSLER'S *THE FEDERAL COURTS AND THE FEDERAL SYSTEM* 33 (2d ed. 1973).

3. S. REP. NO. 1830, 85th Cong., 2d Sess. 3, reprinted in [1958] U.S. CODE CONG. & AD. NEWS 3099, 3101.

4. 28 U.S.C. § 1332(a) (1970) reads: "The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs," *Id.*

5. 28 U.S.C. § 1441(a) (1970) reads:

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

Id.

6. *Day v. Avery*, 548 F.2d 1018 (D.C. Cir. 1976), cert. denied 431 U.S. 908 (1977); *J.J. Ryan & Sons, Inc. v. Continental Ins. Co.*, 369 F. Supp. 692 (D.S.C. 1974); *Davis v. Matson Nav. Co.*, 143 F. Supp. 537 (D. Cal. 1956).

7. *E.g.*, S.C. CODE ANN. § 36-2-803 (1976).

in state court against a nonresident defendant alleging damages of \$10,000 or less and the defendant files a compulsory counterclaim⁸ for a greater amount. If the defendant had won the race to the courthouse, he could have filed originally in federal court because complete diversity of citizenship exists and the amount in controversy would exceed \$10,000. When the plaintiff already has filed in state court, the issue is whether the defendant may remove the action to federal court and satisfy the jurisdictional amount requirement with his counterclaim. This issue was faced by the United States District Court for the District of South Carolina in *Congaree Broadcasters, Inc. v. T.M. Programming, Inc.*⁹

In *Congaree Broadcasters*, a South Carolina radio station brought suit in state court against a Texas corporation. Plaintiff alleged that defendant had breached a programming contract by failing to provide suitable programming. The complaint sought rescission of the contract and the return of an \$1800 deposit that had been paid by plaintiff to defendant. Defendant removed the action to the federal district court and simultaneously filed with that court its answer and counterclaim. Defendant denied that it had breached the contract and alleged that plaintiff itself was in breach because of its failure to make timely payments. Defendant in its counterclaim sought damages of \$19,800, the unpaid balance of the contract, along with attorneys' fees, costs, and expenses. Plaintiff moved to remand the action to the state court on the ground that only \$1800 was in controversy.¹⁰

The court held that the amount in controversy requirement was satisfied. The court in its opinion touched on three separate rationales that it said supported this holding. First, the court indicated that it would look to the value of the object in controversy.¹¹ It found this amount to be \$21,600, which was the total value of the contract. Second, the court found that, under the either-party viewpoint test, defendant stood to gain or lose more than \$10,000 depending upon the outcome of the litigation.¹² Last,

8. Compulsory counterclaims are defined in FED. R. CIV. P. 13(a). Permissive counterclaims, as defined in FED. R. CIV. P. 13(b), will not be considered in this article.

9. 436 F. Supp. 258 (D.S.C. 1977).

10. *Id.* at 259.

11. *Id.*

12. The court stated: "This court is of the opinion, that the object sought to be accomplished by the controversy, as reflected from the plaintiff's complaint, as well as the defendant's counterclaim, was the determination of the rights of the parties under a contract, which was admittedly in excess of \$10,000." *Id.* at 261.

the court found that it was proper to utilize the amount sought in a compulsory counterclaim to satisfy the amount in controversy requirement.¹³ Because the amount in controversy requirement provokes frequent pretrial disputes in federal courts, each of these rationales deserves closer attention.

II. VALUE OF THE OBJECT IN CONTROVERSY

The first test for determining jurisdictional amount discussed in *Congaree Broadcasters* involves measuring the value of the matter in dispute. The court held that the claim and counterclaim had injected the entire contract into dispute and that the total value of the contract therefore should be used to satisfy the requirement.¹⁴ The court relied on *Smith v. Adams*,¹⁵ a nineteenth century United States Supreme Court decision. The Supreme Court held:

By matter in dispute is meant the subject of the litigation, the matter upon which the action is brought It is conceded that the pecuniary value of the matter in dispute may be determined, not only by the money judgment prayed . . . , but in some cases the increased or diminished value of the property directly affected by the relief prayed, or the pecuniary result to one of the parties immediately from judgment.¹⁶

The phrase in the statute, "matter in controversy," appears to be broad enough to encompass the result reached in *Congaree Broadcasters* by using the value of the object in controversy test.¹⁷ Use of this test when only monetary damages are being sought, however, might be inconsistent with its prior uses.

The test has typically been used by courts in suits seeking injunctive or declaratory relief.¹⁸ One of the earliest uses of this test can be found in *Mississippi & Missouri Railroad v. Ward*,¹⁹ another nineteenth century United States Supreme Court deci-

13. *Id.* at 262.

14. *Id.* at 259.

15. 130 U.S. 167 (1889).

16. *Id.* at 175.

17. Courts have interpreted "matter in controversy" broadly, holding that it includes the demands of both the plaintiff and the defendant. *Smith v. Adams*, 130 U.S. 167 (1889), *Central Commercial Co. v. Jones Dusenbury Co.*, 251 F. 13 (7th Cir. 1918).

18. See *Glenwood Light & Water Co. v. Mutual Light Heat & P. Co.*, 239 U.S. 121 (1915); *Hunt v. New York Cotton Exch.* 205 U.S. 322 (1907); *Jackson v. American Bar Association*, 538 F.2d 829 (9th Cir. 1976); *Dreyer v. Jalet*, 349 F. Supp. 452, *aff'd*, 479 F.2d 1044 (D.C. Tex. 1972).

19. 67 U.S. (2 Black) 485 (1862).

sion. A steamboat captain alleged that a railroad bridge spanning the Mississippi River was a nuisance to navigation. The complaint asked the court to order defendant railroad company to dismantle and remove the bridge. The Court did not attempt to measure the damage sustained by plaintiff. It held that "as the removal of the obstruction is the matter in controversy, the value of the object must govern."²⁰ In a more recent decision,²¹ the Supreme Court reaffirmed this use of the test by stating that "in actions seeking declaratory or injunctive relief, it is well established that the amount in controversy is measured by the value of the object of the litigation."²²

The court in *Congaree Broadcasters* also relied upon *Beacon Construction Co. v. Matco Electric Co.*²³ *Beacon*, like *Ward*, involved declaratory relief, so the court's reliance might have been misplaced. In *Beacon*, plaintiff-contractor brought suit against defendant-subcontractor, alleging that defendant had wrongfully filed mechanics' liens of more than \$300,000 upon a project being completed by plaintiff. These liens encumbered the property and prevented the release of funds to plaintiff by its construction lender. Plaintiff was forced to pay \$3516 for a surety bond to obtain the release of the funds. The suit, which was filed in federal district court, sought both an award of the \$3516 bond premium and a declaratory judgement that the liens were void.²⁴ On appeal from a summary judgment entered in favor of plaintiff, defendant asserted that only the amount of the bond premium was in controversy. The Second Circuit Court of Appeals rejected this argument, holding that "[t]he amount in controversy is not the money judgment sought or recovered, but rather the value of the consequences which may result from the litigation."²⁵ The litigation resulted not only in a judgment for plaintiff for the amount of the bond premium, but also in a declaration that the mechanics' liens were void. The court therefore held that the jurisdictional amount requirement was satisfied.²⁶

The "value of the object test" was therefore applied in an unusual setting in *Congaree Broadcasters*. Neither party sought injunctive or declaratory relief. The court's use of this test, while

20. *Id.* at 492.

21. *Hunt v. Washington Apple Advert. Comm's*, 432 U.S. 333 (1977).

22. *Id.* at 347.

23. 521 F.2d 392 (2d Cir. 1975).

24. *Id.* at 394-95.

25. *Id.* at 399.

26. *Id.*

unorthodox, does not offend the purpose of the jurisdictional amount requirement. If a court, in examining the facts of a case before it, determines that the object of the controversy exceeds \$10,000, then perhaps it should accept jurisdiction regardless of the relief demanded.

III. THE EITHER-PARTY VIEWPOINT RULE

The court in *Congaree Broadcasters* also indicated that it would find the amount in controversy requirement satisfied if either party to the litigation could reasonably project a loss greater than \$10,000.²⁷ The court noted that much authority exists for the proposition that only the result to the plaintiff may be taken into account in determining the amount in controversy.²⁸ The arguments for and against the "either-party viewpoint rule" as adopted in *Congaree Broadcasters* should be discussed at some length.

The conflict between the plaintiff viewpoint rule and the either-party viewpoint rule arises only in cases the resolution of which will have a disparate financial impact upon the plaintiff and defendant. In an ordinary damages action, the gain to the plaintiff resulting from a favorable judgment will exactly equal the loss of the defendant. No need arises, therefore, to examine the result of a judgment from the viewpoint of both parties. If, however, the claim is for equitable relief, such as an injunction, the possibility that the plaintiff's gain will not equal the defendant's loss is greatly increased. For instance, if a plaintiff landowner seeks an injunction ordering a corporation to abate a nuisance caused by pollution from its factory, the monetary consequences to the corporation of an adverse ruling might far exceed any benefit to be gained by the landowner. When the plaintiff's potential gain is less than or equal to \$10,000 and the defendant's potential loss is greater than \$10,000, the decision whether to look only at the plaintiff's viewpoint or to look at the viewpoint of either party determines whether the jurisdictional amount requirement will be deemed to have been met.

The plaintiff viewpoint rule was articulated by Dean Dobie as follows: "The amount in controversy in the United States District Court is always to be determined by the value to the plaintiff of the right which he in good faith asserts in his pleading that sets

27. 436 F. Supp. 258, 260.

28. *Id.*

forth the operative facts which constitute his cause of action.”²⁹ This rule, in one form or another, has been accepted by many courts.³⁰

Proponents of the plaintiff viewpoint rule often cite as their primary authority the Supreme Court’s 1915 decision in *Glenwood Light & Water Co. v. Mutual Light, Heat & Power Co.*³¹ *Glenwood* was an action for injunctive relief. Plaintiff, an electric utility, alleged that defendant, another utility, had erected poles and wires in close proximity to those of plaintiff, with the result that plaintiff’s workmen were hampered in their efforts to properly maintain plaintiff’s facilities. Plaintiff sought an order requiring defendant to relocate the poles and wires. Defendant moved to dismiss the complaint on the ground that its costs in removing its poles and wires would be less than \$3000, the jurisdictional amount at that time. The district court dismissed the complaint, and plaintiff appealed. The Supreme Court, in reversing the decision of the lower court, held:

The district court erred in testing the jurisdiction by the amount it would cost defendant to remove its poles and wires where they conflict or interfere with those of complainant, and replacing them in such a position as to avoid the interference. Complainant sets up a right to maintain and operate its plant and conduct its business free from wrongful interference by defendant. This right is alleged to be of a value in excess of the jurisdictional amount, and at the hearing no question seems to have been made but that it has such value. The relief sought is the protection of that right, now and in the future, and the value of that protection is determinative of the jurisdiction.³²

This language does seem to lend support to those who adhere to the plaintiff viewpoint rule. One leading commentator, however, has pointed out that the holding of *Glenwood* is only that jurisdiction is present if the value to the plaintiff exceeds the jurisdictional amount.³³ The Court did not hold, and has never held, that

29. Dobie, *Jurisdictional Amount in the United States District Court*, 38 HARV. L. REV. 733, 734 (1925).

30. See, e.g., *Massachusetts State Pharmaceutical Ass’n v. Federal Prescription Serv., Inc.*, 431 F.2d 130 (8th Cir. 1970); *Breault v. Feigenholtz*, 380 F.2d 90 (7th Cir. 1967), cert. denied, 389 U.S. 1014 (1967); *Alfonso v. Hillsborough County Aviation Auth.*, 308 F.2d 724 (5th Cir. 1962).

31. 239 U.S. 121 (1915).

32. *Id.* at 125.

33. 14 C. WRIGHT, A. MILLER & E. COOPER, FEDERAL PRACTICE AND PROCEDURE § 3703 (1976) [hereinafter cited as C. WRIGHT].

the jurisdictional amount requirement can never be met by examining the impact the particular relief sought will have upon the defendant.

Proponents of the plaintiff viewpoint rule assert two general justifications. First, they point out that the plaintiff viewpoint rule is consistent with the authority requiring a plaintiff to show federal jurisdiction in the complaint.³⁴ Second, they assert that utilizing only the plaintiff's viewpoint will avoid the confusion and complications that might arise if the defendant's viewpoint is also taken into consideration.³⁵

The either-party viewpoint rule, as accepted by Judge Hemphill in *Congaree Broadcasters*, appears to be gaining increasing support in the lower federal courts.³⁶ An early decision of the Tenth Circuit, *Ronzio v. Denver & R.G.W.R. Co.*,³⁷ is perhaps the prime example of the application of the either-party viewpoint rule. *Ronzio* arose out of a battle between a farmer and a railroad over water rights. The farmer, in a state court action, sought to quiet title to his water rights. The parties stipulated that the value of plaintiff's asserted rights was less than the jurisdictional amount as it existed at that time.³⁸ Defendant railroad sought to remove the action to federal court; it claimed that the value to it of the water in dispute was much more than the jurisdictional amount. Plaintiff did not contest this claim,³⁹ but he nevertheless moved to remand the action to the state court on the ground that the amount in controversy requirement was not met. The appellate court, in affirming the order of the district court sustaining jurisdiction, held in part: "In determining the matter in controversy, we may look to the object sought to be accomplished by the plaintiff's complaint; the test for determining the amount in controversy is the pecuniary result to either party which the judgment would directly produce."⁴⁰ A large number of courts have followed this rule as enunciated in *Ronzio*.⁴¹

34. 1 MOORE'S FEDERAL PRACTICE ¶ 0.91[1] (2nd ed. 1978).

35. *Id.* See also Dobie, *supra* note 29, at 752.

36. 14 C. WRIGHT, *supra* note 30, at § 3703.

37. 116 F.2d 604 (10th Cir. 1940).

38. *Id.* at 605.

39. *Id.*

40. *Id.* at 606 (footnotes omitted).

41. See, e.g., *Committee for G.I. Rights v. Callaway*, 518 F.2d 466 (D.C. Cir. 1975); *Hartridge v. Aetna Cas. & Sur. Co.*, 415 F.2d 809 (8th Cir. 1969); *Government Employees Ins. Co. v. Lally*, 327 F.2d 568 (4th Cir. 1964). For an exhaustive listing of cases supporting both the plaintiff viewpoint rule and the either-party viewpoint rule, see Annot., 30 A.L.R.2d 602 (1953).

The either-party viewpoint rule seems to be more desirable than the plaintiff viewpoint rule. It adequately serves the purpose of the jurisdictional amount requirement—to screen trivial cases out of the federal court system—without excluding cases that will undeniably have more than a trivial impact upon the defendant.⁴² The facts of *Congaree Broadcasters* demonstrate well this function of the rule. Plaintiff sought rescission of the contract and the return of the \$1800 previously paid by it to defendant. If the court had applied the plaintiff viewpoint rule, it would have had to ignore the fact that granting plaintiff the equitable relief it requested would result in a loss to defendant of an amount exceeding the \$10,000 jurisdictional amount—that is, the \$19,800 unpaid balance due defendant under the contract. By adopting the either-party viewpoint rule, the district court has fallen into line with the other courts that value economic reality over a hard-and-fast rule that can lead to results inconsistent with the reasoning behind the jurisdictional amount requirement.

IV. THE AMOUNT OF A COMPULSORY COUNTERCLAIM

As a third basis for finding the jurisdictional amount requirement satisfied, the court in *Congaree Broadcasters* included the amount of the compulsory counterclaim in calculating the jurisdictional amount. Courts are clearly split on whether this use of compulsory counterclaims is proper. Some courts have held that a counterclaim may be considered, arguing that the plaintiff should not be “entitled to reduce the controversy to the mere amount of damages he claims because the controversy inseparably involves not just whether he can recover any damages but whether he is answerable to the defendant for the damages which the plaintiff inflicted on the defendant.”⁴³ The other line of cases denies the use of a counterclaim to satisfy the jurisdictional amount requirement.⁴⁴ This split in the lower federal courts has been caused largely by the ambiguity of the leading Supreme

42. See Note, *Federal Jurisdictional Amount: Determination of the Matter in Controversy*, 73 HARV. L. REV. 1369, 1375 (1960).

43. National Upholstery Co. v. Corley, 144 F. Supp. 658, 662 (M.D.N.C. 1956). See also Rosenblum v. Trullinger, 118 F. Supp. 394 (E.D. Ark. 1954); Lange v. Chicago, R.I. & P. R.R. Co., 99 F. Supp. 1 (S.D. Iowa 1951); McLean Trucking Co. v. Carolina Scenic Stages Inc., 95 F. Supp. 437 (M.D.N.C. 1951).

44. Cabe v. Pennwalt Corp., 372 F. Supp. 780 (W.D.N.C. 1974); West Va. State Bar v. Bostic, 351 F. Supp. 1118 (D.W. Va. 1972); Burton Lines Inc. v. Mansky, 265 F. Supp. 489 (D.N.C. 1967); Rudder v. Ohio State Life Ins. Co., 208 F. Supp. 577 (E.D. Ky. 1962).

Court decision, *Horton v. Liberty Mutual Insurance Co.*⁴⁵

In *Horton*, plaintiff originally claimed \$14,035 in benefits before the Texas Industrial Accident Board and was awarded \$1050. The defendant, an insurance company, brought suit in federal court to overturn the Accident Board's award. Defendant alleged diversity and maintained that the amount in controversy was the original claim of \$14,035, not the award of \$1050. Horton brought suit in state court for \$14,035, moved for dismissal in federal court because the amount in controversy was only the final award of \$1,050, and filed a contingent compulsory counterclaim for \$14,035. The majority of the Court held that "no matter which party brings it into court, the controversy remains the same; it involves the same amount of money and is to be adjudicated and determined under the same rules. Unquestionably, therefore, the amount in controversy is in excess of \$10,000."⁴⁶

The leading commentators have found it impossible to state the principle for which *Horton* stands.⁴⁷ The possibilities range from a holding that *Horton* allows good faith allegations in the complaint of what the defendant will claim to be considered in determining the amount in controversy,⁴⁸ to a holding that *Horton's* applicability is strictly limited to the peculiar nature of Texas Workmen's Compensation Law.⁴⁹ Because the Supreme Court has not yet shed further light on this opinion, the lower federal courts have split in their interpretations of how it affects the use of counterclaims in determining the amount in controversy.

Courts that have held that counterclaims cannot be used to satisfy the jurisdictional amount requirement⁵⁰ have advanced, either separately or together, three arguments based on statutory

45. 367 U.S. 438 (1961).

46. *Id.* at 354.

47. "Unless further light is shed on this case by later decisions, it is difficult to the point of impossibility to state the principle for which *Horton* stands." 14 C. WRIGHT, *supra* note 33, at § 3706. See also 1 MOORE'S FEDERAL PRACTICE ¶ 0.93[5-3] (1978).

48. 14 C. WRIGHT, *supra* note 33, at § 3706.

49. *Insurance Co. of No. America v. Keeling*, 360 F.2d 88, 90-91 (5th Cir. 1966), *cert. denied*, 385 U.S. 840 (1966) limited *Horton* to the fact that the workman was claiming \$14,035 in state court and also conditionally claiming the same amount (pending his motion for dismissal) in federal court. See *Gordon v. Dargle*, 230 F. Supp. 819, 822 (W.D. La. 1964).

50. *National Upholstery Co. v. Corley*, 144 F. Supp. 658, 662 (M.D. N.C. 1956). See also *Rosenblum v. Trullinger*, 118 F. Supp. 394 (E.D. Ark. 1954); *Lange v. Chicago, R.I. & P. R.R. Co.*, 99 F. Supp. 1 (S.D. Iowa 1951); *McLean Trucking Co. v. Carolina Scenic Stages, Inc.*, 95 F. Supp. 437 (M.D.N.C. 1951).

construction of different sections of the Judicial Code to justify their holding. One section provides that a plaintiff who recovers less than \$10,000 can have costs assessed against him.⁵¹ Because there is no corresponding provision to assess costs of an action against a defendant whose counterclaim is used to satisfy the amount requirement, Congress, it is argued, did not intend a counterclaim to be used.⁵² The second argument is premised upon the removal section,⁵³ which gives only defendants the power to remove. If Congress intended counterclaims to be used to satisfy amount requirements it would have also given plaintiffs the power to remove an action after the defendant files a sufficient counterclaim.⁵⁴ Proponents of the third argument advanced observe that prior to the 1948 revision of the Judicial Code, the same conflict arose over use of counterclaims.⁵⁵ If Congress had desired to grant a defendant (or a plaintiff) the right to remove basing the jurisdictional amount upon a counterclaim, it would have done so. They argue that because the basis for federal court jurisdiction is wholly statutory, and because these statutes should be strictly construed,⁵⁶ the courts should avoid doing judicially what Congress has refrained from doing statutorily.

Courts which have upheld the use of compulsory counterclaims to satisfy the jurisdictional amount requirement have done so by focusing on the statutory language "matter in controversy" and concluding that this language is broad enough to include both plaintiff's claim and that which must be litigated with it, a compulsory counterclaim.⁵⁷ To hold otherwise would encourage persons with small claims who might be subject to a claim by a nonresident for a large amount to race to state court and thus deprive the nonresident the right to resort to federal courts.⁵⁸

51. 28 U.S.C. § 1332(b) (1970).

52. *Cabe v. Pennwalt Corp.*, 372 F. Supp. 780, 782 (W.D.N.C. 1974).

53. 28 U.S.C. § 1446(b) (1973).

54. *Cabe v. Pennwalt Corp.*, 372 F. Supp. 780, 782 (W.D.N.C. 1974); *Rudder v. Ohio Life Ins. Co.*, 208 F. Supp. 577, 578-79 (E.D. Ky. 1962); *Lange v. Chicago, R.I. & P. R.R. Co.*, 99 F. Supp. 1 (S.D. Iowa 1951).

55. *Collins v. Faucett*, 87 F. Supp. 254, 255 (N.D. Fla. 1949).

56. *Healy v. Ratta*, 292 U.S. 263 (1934); *Lee v. Volkswagen of America, Inc.*, 429 F. Supp. 5 (W.D. Okl. 1976); *West Va. State Bar v. Bostic*, 351 F. Supp. 1118 (D.W. Va. 1972); *Dowling v. J.C. Penney Co.*, 30 F. Supp. 307 (W.D. Pa. 1969).

57. *National Upholstery Co. v. Corley*, 144 F. Supp. 658, 662 (M.D.N.C. 1956). See also *Rosenblum v. Trullinger*, 118 F. Supp. 394 (E.D. Ark. 1954); *Lange v. Chicago, R.I. & P. R.R. Co.*, 99 F. Supp. 1 (S.D. Iowa 1951); *McLean Trucking Co. v. Carolina Scenic Stages Inc.*, 95 F. Supp. 437 (M.D.N.C. 1951).

58. See Note, *Federal Jurisdictional Amount: Determination of the Amount in Controversy*, 73 HARV. L. REV. 1369, 1378-80 (1960).

Without clarifying opinions from higher courts, the district court split will remain unresolved. This split undesirably serves to promote the litigation of threshold jurisdictional issues. Paradoxically, the minimum amount in controversy requirement, whose purpose was said to be to conserve the federal courts' resources, has instead been the subject of considerable litigation.

V. CONCLUSION

The importance of *Congaree Broadcasters* for practitioners in South Carolina is not to be underestimated. The court, in a single, relative short opinion, has apparently settled the controversies over whose viewpoint a court should look at and how compulsory counterclaims should be treated in determining the presence of the jurisdictional amount. Judge Hemphill has wisely kept in mind the purposes behind the amount in controversy requirement and, as a result, has created strong precedent to allow a judge to look at the totality of the circumstances surrounding a case to determine if the jurisdictional amount requirement is met.

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