PERSONAL JURISDICTION

Personal jurisdiction = involves the ability of a court having subject matter jurisdiction to exercise power over a particular defendant or item of property.

Statutory limitations
• States have the power to decide over whom their courts may exercise jurisdiction
• The 1st place to look to determine whether a court has properly exercised personal jurisdiction is state law

Constitutional limitations
• Due Process places 2 restrictions on personal jurisdiction
  o Parties must receive fair and adequate notice of the action
  o There must be minimum contacts with the forum state
• A state cannot exceed the constitutional boundaries but is not requires to reach the full limit of constitutional power

3 Types of Personal Jurisdiction
• In Personam Jurisdiction
  o Forum has power over the person of a particular defendant
• In Rem Jurisdiction
  o Court has power to adjudicate rights of all person with respect to a particular item of property
  o Property located within physical boundaries of the state
• Quasi-in-rem Jurisdiction
  o Court has power to determine whether particular individuals own specific property within the court’s control
  o Court can adjudicate disputes other than ownership based upon the presence of the defendant’s property in the forum

In Personam Jurisdiction
**Pennoyer v. Neff**: the authority of the tribunal is restricted by the territorial limits if the state
• Physical presence at time of personal service
  o Now only one of numerous ways to get jurisdiction
  o Does not matter how long the defendant was present within the forum state
  o Does not matter if presence was unrelated to the cause of action
  o **Burnham v. Superior Court**: divorce proceedings; husband in state for business trip
• Domicile
  o Permanent home = place chosen through presence + intention to make that place home
• Consent
  o Express consent by contract, appointment of an agent to accept service of process
  o Implied Consent when state has a substantial reason to regulate the in-state activity of a non-resident of a state
    • **Hess v. Pawloski**: non-resident motorist statute
  o Voluntary Appearance
    • Special appearances allowed—but only to state grounds for objection to jurisdiction
• Long Arm Statutes
  o Unlimited long arms
  o Specific long arms
Constitutional Limits on In Personam Jurisdiction
There are two components of the constitutional aspect: nexus (minimum contacts) and notice

Minimum Contacts
• Traditional Rule—jurisdiction was a consequence of the state’s physical power to carry out its judgment
  o Pennoyer v. Neff: exercise of jurisdiction whenever the defendant was served with process within the forum state.
• Modern Due Process Standard—Fairness
  o International Shoe: Focus became whether sufficient minimum contacts exists between the defendant and the forum so that maintenance of the suit against the defendant does not offend the "traditional notions of fair play and substantial justice"
    ▪ Minimum contacts:
      • Defendant must purposefully avail himself: Hanson v. Denckla
      • Systematic and continuous activity in the state, even if cause of action did not arise from in-state activity—GENERAL JURISDICTION
        o court will find sufficient basis for personal jurisdiction
        o Claims must be related to the defendant's activities within the state: Helicopteros
      • (Sporadic) Cause Arising from activity in the state—SPECIFIC JURISDICTION
        o McGee v. International Life Insurance: A defendant's actions may subject the defendant to personal jurisdiction. Court found that suit arising from contract was sufficient basis for jurisdiction
        o Burger King Corp. v. Rudzewicz: purposefully directed activities toward Florida
    ▪ Purposeful Availment
      o Knows or reasonably anticipates that his activities could give rise to the cause of action in the forum
        o Keeton v. Hustler Magazine
        o World Wide Volkswagen: no purposeful availment to have cars sold in NY end up in Oklahoma: must be some reasonable anticipation of being hauled into the forum state’s jurisdiction
        o Asahi: Court split on whether to extend WWV rationale
        o Kulko: A parent does not have minimum contacts with a state because he allowed a child to live with the other parent in the forum state
        o Gray: Minimum contacts with a state exist, and will bring a defendant within the jurisdiction of the courts of that state, where the defendant’s business may result in use and consumption of its products in the state, because the corporation benefits from the laws of the state.
    ▪ Reasonableness:
      • The exercise of jurisdiction must be reasonable, taking into account the litigants’ interest and the state’s interest
        o When a question of personal jurisdiction arises out of a business relationship, the underlying realities of the relationship should be examined. The defendant must then demonstrate that defending the action will subject himself to an unreasonable burden that cannot be relieved by other means. Burger King
Notice
• Due Process requires that a reasonable method be used to notify the defendant of a pending lawsuit.
• Any of the traditional methods of personal service satisfy due process notice requirements
• In cases involving multiple parties or unknown parties, every party must be notified by the best practical means available. Notice by publication to known nonresidents in inadequate because it is not reasonably calculated to reach those who could be easily informed by other means. *Mullane v. Central Hanover Bank & Trust Co.*

In Rem
Quasi In Rem
• Quasi in Rem jurisdiction may only be asserted when the defendant has the minimum contacts with the forum state that would satisfy the requirements for in personam jurisdiction as defined by *International Shoe. Shaffer v. Heitner*

SUBJECT MATTER JURISDICTION
DIVERSITY OF CITIZENSHIP JURISDICTION

§ 1332: Diversity of Citizenship; Amount in Controversy

Diversity Among the Parties
• Complete Diversity When the Action Commenced
  o *Strawbridge v. Curtis*: the requirement of complete diversity is not a constitutional requirement, but a judge-made interpretation of §1332.
  o Jurisdiction must be proper for each plaintiff with respect to each defendant
    ▪ Federal Interpleader (§1335)—minimal diversity: diversity between any 2 of the claimants
    ▪ Federal Rules Interpleader (Rule 22)—complete diversity

• Question of Citizenship
  o Domicile—physical presence + intention of remaining there
    ▪ If a person, by moving, meets the test of domicile in his new state of residence, it is immaterial for diversity purposes that he moved in order to create or destroy diversity. But—the move must be made before the commencement of the action
  o Corporations—§1332(c)
    ▪ Principal place of business
      • MUSCLE TEST: Where a corporation has its executive offices in one state and its physical operation wholly or predominately in another state, the principal place of business is where the physical operations are conducted
      • NERVE TEST: Where the corporation performs its operational activities in many states, the courts have applied a "home office" or "nerve center" test and held that the principal place is the state where the executive offices are.
  o Class Actions
    ▪ Diversity is based upon the domiciliary of the named members

• Ancillary (Supplemental Jurisdiction)
  o Court given discretion to hear most claims (that could not be joined by themselves because of lack of diversity) if they arise from the same transaction or occurrence as the underlying suit

• Subsequent Addition of Parties
  o Joinder of Additional Parties:
    ▪ Necessary→Rule 19(a), 19(b)
    ▪ Permissive→Rule 20(a)
Intervention of Right
- Rule 24(a)

Permissive Intervention
- Rule 24(b)
- Intervener’s action and the main action has a claim or defense involving a common question of law or fact
- Must be supported by independent grounds of jurisdiction—if no federal question, there must be required amount in controversy and complete diversity

Substitution of Parties
- Rule 25

Third Party—Impleader
- Rule 14
- The joinder by the defendant in the original action (3rd party Π) of another person not originally a party to the action (3rd party Δ), in which the 3rd party Π seeks recovery in whole or in part against the 3rd party Δ for the liability the 3rd party Π has to the orginal plaintiff
- No need for diversity or amount because there is supplemental jurisdiction

Cross-Claims
- Rule 13(g)
- Allows co-party to claim against another person on his “side”
- In A vs. B & C, B can cross-claim against C if the claim relates to the transaction or property involved in the original action

Jurisdictional Amount: In Excess of $75,000
§1332
The amount is determined from the plaintiff’s viewpoint—there must be a good faith allegation (A.F.A.)

- Controversy
  - Collateral consequences of a judgment may not be considered
  - Attorney’s fees may be considered part of the matter in controversy
  - Interest that constitutes a part of the claim itself, as distinguished from interest payable by virtue of a delay in payment, is part of the jurisdictional amount

- Aggregation of Separate Claims
  - Plaintiff may aggregate all claims against a single defendant
  - A plaintiff may aggregate claims against several defendants if the defendants are jointly liable to the plaintiff
  - Several plaintiffs may aggregate claims only where they are seeking to enforce a single title or right
    - But the Court in Zahn v International Paper suggests that in the ordinary, non-class action situation, each plaintiff must independently meet the amount required.
    - But supplemental jurisdiction allows the aggregation of several plaintiffs.

- Counterclaims
  - A defendant’s counterclaim cannot be combined with the plaintiff’s claim in order to reach the jurisdictional amount
    - Compulsory Counterclaims does not need to meet the jurisdictional amount because there is ancillary jurisdiction
    - Permissive Counterclaims must have an independent jurisdictional basis and therefore must meet the jurisdictional amount requirement
    - Weight of authority holds a defendant who must assert a compulsory counterclaim in the state may not remove the action even though the counter claim meets the diversity requirements— but there is a growing trend allowing removal
Rules of Decision Act—Constitution and federal law is supreme. The RDA also clearly provides that in the absence of a federal constitutional or statutory provision on point, the federal courts must follow state constitutions and statutes.

- A federal court, in the exercise of its diversity jurisdiction, is required to apply the substantive law of the state in which it is sitting.
  - **Erie v. Tompkins:**
    - Rules of Decisions Act intended to include state common law
    - There is no federal general common law. Congress has no power to declare substantive rules of common law applicable in a state.
    - Does not affect procedural rules→Enabling Act
  - **Erie** problems:
    - Ascertainign law when there is no state statute or high court decision→The general principle is that the federal court must try to determine how the state’s highest court would determine the issue if the case arose before it today.
    - Determining what is substantive and what is procedural.
  - **Klaxon:** Conflict of laws rules of the state where the federal court sits must be followed.

- Federal courts apply federal procedural law in diversity cases
  - Generally, federal statutes or rules dealing with procedural matters will be applied over contrary state law. **Hanna v. Plumer**
    - Removed the Federal Rules of Civil Procedure entirely from the scope of the Erie decision.
    - Rule 4(d)(1) is in harmony with the Enabling Act→Rules that are valid are not overridden by state policies or laws. The Erie doctrine is not controlling when a valid Federal Rule is in conflict with state common-law policy.
  - State law controls the question of when and whether the statute of limitations is satisfied

- When it is unclear whether a state law rule is substantive or procedural, courts often use the outcome determinative test: a state law rule that substantially determines the “outcome” of the litigation must be applied. **Guaranty Trust v. York.**

### FEDERAL QUESTION JURISDICTION

§ 1331—jurisdiction extends to all civil actions arising under the Constitution, laws, or treaties of the United States (similar to Article III, §2)

A case arises under federal law if the plaintiff is alleging a right or interest that is substantially founded on federal law, which consists of federal common law, federal constitutional law, federal statutory law, treaty law, and federal administrative regulations.

- Federal question must appear as part of the plaintiff’s cause of action
- Federal law will be the source of the cause of action
  - Copyright or trademark violation
Federal question must be part of a well pleaded complaint
- *Louisville & Nashville RR v. Mottley*: It is not sufficient that a complaint mentions some anticipated defense and asserts that the validity of the defense is governed by federal law. The federal statute must be essential to the plaintiff’s cause of action.

Although there may be no diversity, the federal court has discretion to exercise pendent jurisdiction over the claim based on state law if the two claims derive from a common nucleus of operative fact and are such that the plaintiff would ordinarily be expected to try them all in one judicial proceeding. *United Mine Workers of America v. Gibbs.*
- This it the rule under supplemental jurisdiction—§1367(a)

There is no amount in controversy requirement in federal question cases.

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**SUPPLEMENTAL JURISDICTION**

§1367—established the doctrine of supplemental jurisdiction
In any civil action of which the district courts have original jurisdiction, the district shall also have supplemental jurisdiction over all other claims that are so related to claims in the action...that they form part of the same case or controversy.

- Where the original claim comes from the court’s federal question jurisdiction, because the federal court had jurisdiction over the 2 parties, it will adjudicate a state-created claim between those same parties even though it would have no jurisdiction if the claim were brought separately (§1367a)
- Where the original claims is based solely on diversity, §1367b generally allows claims to be added with restrictions:
  - No jurisdiction over claims by plaintiffs made party under Rule 14, 19, 20, or 24.
  - *Owen v. Kroger*: Where the core claim is founded solely on diversity, additional claims asserted by defendants are within the Court’s supplemental jurisdiction, but additional claims (or the addition) of new parties by plaintiffs are severely restricted.

<table>
<thead>
<tr>
<th>Claims Not Allowed</th>
<th>Claims Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims against 3rd party Defendants→Rule 14a</td>
<td>Compulsory counterclaims→Rule 13a</td>
</tr>
<tr>
<td>Compulsory joinders (plaintiffs)→Rule 19a</td>
<td>Cross-claims→Rule 13g</td>
</tr>
<tr>
<td>Claims by plaintiffs against parties (defendants) permissively joined→Rule 20</td>
<td>Impleader (not claims by original plaintiff against 3rd party Δ)→Rule 14</td>
</tr>
<tr>
<td>Claims by prospective plaintiffs who try to interevene→Rule 24</td>
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Supplemental jurisdiction does not eliminate the requirement of jurisdiction over the parties. It speaks solely to the question of subject matter jurisdiction.

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**REMOVAL**

§1441

General rule: any action brought in state court of which federal courts would have had original jurisdiction may be moved by the defendant to federal district court.
- In diversity cases, the action is removable only if no defendant is a citizen of the state in which the action was brought. §1441(b)
- In federal question cases, the case may be removed by the defendants regardless of citizenship or residence of parties. §1441(b)

- Removal is not allowed by a plaintiff
• Certain types of cases are not removable (workers comp cases)

Removal of multiple claims
• §1441(c) whenever a separate and independent claim or cause of action within the federal question jurisdiction is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein.
  • P→D: 2 state court claims, one removable, one not. The entire case may be removed
• §1441(c) does not apply to diversity cases
• §1441(c) does apply to allow removal of the entire controversy where one of the separate and independent claims is based on federal question jurisdiction

VENUE

§ 1391
• Venue provisions for federal question cases govern
• Residence is determined by person’s domicile
• Corporation is deemed to reside in any district where it is subject to personal jurisdiction
• An action can be brought in a judicial district in which a substantial part of the events or omission giving rise to the claim occurred.
  o Bates: receipt of a collection notice is substantial part of events

Transfer
• §1404(a) allows transfer to another district where the action might have been brought even though venue has been properly laid in the court before which the motion to transfer is made
  o Policy: while venue may be correct, the parties or witnesses might be greatly inconvenienced by the trial in the original forum
• §1406(a) is designed for situations where the venue is improper and the alternative to transfer is dismissal of the action.
  o The standard is “the interest of justice”
  o Transfer is more appropriate than dismissal except in extraordinary circumstances

PLEADING

Purpose of federal pleading is to give notice of the claim (or defense) to the adversary, so that he may make effective discovery requests and trial preparation.
• NOTICE GIVING

• Complaint
  o Action commenced by the filing of the complain: Rule 3
  o Elements of complaint: Rule 8(a)
    • Jurisdiction
    • Statement of claim
      • Level of factual details required is not high—gaps usually remedied through discovery
        o Garcia v. Hilton Hotels: slander case. The person who is in the best position to prove should be the one to bring forth the proof. But most state hold that the defendant must come forth with the proof. Why? It would be burdensome to bring forth proof for all the affirmative defenses.
• Plaintiff only need state the facts, not the legal theory
  o *Dioguardi v. Durning:* it is sufficient that the plaintiff gives
    his adversary enough information about the claim to allow the
    latter to frame an answer and to commence discovery

  • Relief
  o Money damages
  o Injunction
  o Declaratory judgment
  o Doesn’t matter if wrong relief us requested

• Motions against the complaint
  o Defenses that may be raised
    ▪ Rule 12 defenses
  o Motion to dismiss for failure to state a claim: Rule 12(b)(6)
    ▪ No recovery is possible under any legal theory, no set of facts in support of
      the claim
    ▪ Made before defendant files answer
    ▪ Sovereign immunity clauses
    ▪ If the complaint is dismissed, the plaintiff will almost always have the
      opportunity to amend it (dismissal without prejudice)—see Rule 15(a)
  o Motion for judgment on the pleadings: Rule 12(c)
    ▪ Challenge sufficiency of the complaint after defendant files answer
  o Motion for a more definite statement: Rule 12(e)
    ▪ Complaint so vague or ambiguous that the defendant cannot reasonably be
      required to frame a responsive pleading
    ▪ Plaintiff will be required to repled complaint in a more detailed or clear
      manner
    ▪ Plaintiff may also make similar motion with respect to the defendant’s
      counterclaim
  o Motion to strike: Rule 12(f)
    ▪ Matter which is redundant, immaterial, impertinent, or scandalous should be
      stricken from the record

• Answer: Rule 8(b)
  o General denial: defendant denies each and every allegation in the plaintiff’s complaint
    ▪ Should be used only if the defendant is prepared to contest every single
      allegation in the complaint: *Zielinski v. Philadelphia Piers*
  o Specific denial: defendant denies all of the allegations of a specific paragraph
  o Affirmative Defenses: Rule 8(c)

• Reply
  o Where the answer contains a counterclaims

• Rule 11—make sure a pleading or any other document is not frivolous

• Amendments: Rule 15
  o Amendment as of right
  o Amendment by leave of court—Rule 15(a)
    ▪ Leave to amend should be denied only if it would cause actual prejudice to
      the other party. *Beeck v. Aquaslide*
  o When a pleading has been amended, if the claim or defenses asserted in the
    amended pleading arose out of the conduct, transaction or occurrence set forth or
    attempted to be set forth in the original pleading, the amendment relates back to the
    date of the original pleading. Rule 15(c)
    ▪ Important for statute of limitations reasons—so plaintiff doesn’t fund himself
      out of luck when he amends

  o