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# Jurisdiction

## Subject Matter Jurisdiction

- Constitutional Basis
  - Article III: Not self-executing, gives court power over all cases in law and equity
- Statutory Basis (Chapter 85)
  - 1331: **Federal Question**: All civil actions; constitution, laws, treaties. (p. 307)
  - 1332(a): **Diversity**: Matter in controversy must exceed \$75,000 (p. 307)
    - (b) May deny costs/impose costs on plaintiff if final judgment less than \$75,000
    - (c) Corporation's state is incorporation and principle place of business (except insurer/decedent representative).
  - 1367: **Supplemental Jurisdiction** (p. 315)
    - (a) Over all claims such that they form same 'case or controversy'.
    - (b) If basis is **diversity**, no jurisdiction over claims by plaintiffs under 14, 19, 20, 24.
    - (c) Court 'may' decline jurisdiction if claim has novel/complex state law issue; state law claim predominates; all original claims which formed basis have been dismissed; 'exceptional circumstances'.
  - (Chapter 89) 1441: **Removal** (p. 321)
    - (a) Defendants may remove when federal courts have jurisdiction.
- Issues
  - Subject Matter Jurisdiction can be raised at any time in any case/appeal
  - Must have Subject Matter Jurisdiction over every claim
  - Federal Question
    - Interpreting federal question -- does claim 'arise under' federal laws (arguable)
    - Must look at plaintiff's well-pleaded case, not defenses, in determining federal question (except in declaratory judgment).
  - Diversity
    - Corporations: 'Nerve Center' and 'Muscle Center' tests
    - People: citizenship/domicile when suit is filed
      - Intent to remain
      - Foreign citizens cannot sue each other; need some US citizen as party
    - Aggregation of Claims for Minimum Amount (p. 242)
      - Plaintiffs may not aggregate claims between them unless same claim
      - Could invoke supplemental jurisdiction if 2<sup>nd</sup> claim is less than statutory amount
  - Supplemental Jurisdiction
    - Common nucleus of operative fact; be linked to substantial federal claims; and have expectation of one judicial proceeding (for Federal Question). Judicial discretion on whether to grant supplemental jurisdiction, factors: judicial economy, whether the state claim predominates, whether claims went to jury.
    - Cannot be used by plaintiffs to add parties who could not have been party to original suit in diversity, but claims can be made over parties brought in under federal question or not by plaintiff.
  - Removal
    - Defendant cannot remove if brought in own home state.
    - Can remove entire case if federal question exists.
- Cases
  - *Louisville & Nashville Railroad v. Mottley* (1908, Supreme Court, p. 217)
    - Mottleys injured in accident; compensated with free pass. Federal law later made passes illegal. Mottleys sued for specific performance and that law was unconstitutional (5<sup>th</sup> amendment).

- Issue: Does case 'arise under' federal law?
- Answer: No. 'Well pleaded complaint' rule--federal question needs to appear in complaint, not in defenses for federal question jurisdiction. Case interprets 1331, not constitution.
- *Mas v. Perry* (1974, 5<sup>th</sup> circuit, p. 229)
  - Mas's were married in MS, Mr. Mas is citizen of France. Lived in LA as graduate students for two years, moved to IL, intended to return to LA to finish degrees, then don't know where they will live. Sued after being watched through one-way mirror.
  - Issue: Do parties have complete diversity?
  - Answer: Yes. Usually, domicile lies with husband, but would give 'absurb results' in considerig Mrs. Mas to be domiciled in France. Until new domicile is established, old domicile remains; thus Mrs. Mas is resident of MS for subject matter jurisdiction, and complete diversity exists.
- *Saadeh v. Farouki* (1997, D.C. Circuit, p. 236)
  - Suit following default on loan, both parties foreign. Defendant became US citizen during litigation.
  - Issue: Is there **diversity jurisdiction** under last sentence of 1332a (alien is citizen of state in which he is domiciled)?
  - Answer: No. **Legislative intent** was to **limit diversity** with 1332a amendment, not to expand it. Defendant is not considered resident of state for subject matter jurisdiction/diversity.
- *United Mine Workers v. Gibbs* (1966, Supreme Court, p. 244)
  - Gibbs brings a number of NLRA claims (federal question) in addition to claim for conspiracy to be put out of job (state law).
  - Issue: Does **Federal Court** have subject matter **jurisdiction** over **state law claim**?
  - Answer: Claims joined to Federal Question claims must have **common nucleus of operative fact**, be linked to **substantial federal claims**, and have **expectation** of one judicial proceeding. Interpretation of Article III 'same case or controversy'. Judicial **discretion** on whether to grant supplemental jurisdiction, factors: **judicial economy**, whether the **state claim predominates**, whether claims went to **jury**.
  - Codified in 1367(a) and (c).
- *Caterpillar, Inc. v. Lewis* (1996, Supreme Court, p. 252)
  - Case was removed to federal court without complete diversity, although complete diversity did exist by the time case went to trial because of settlement.
  - Issue: Does complete diversity need to exist at time of removal?
  - Answer: No, judicial efficiency allows case to be heard. Unlikely that a defendant would remove betting that complete diversity would exist later for personal gain.

# Personal Jurisdiction

- Constitutional Basis
  - 14<sup>th</sup> Amendment: Due process clause; state must have power over defendant and notice.
  - Article IV, Section 1: Full faith and credit shall be given in each state.
- Statutory Basis
  - Long-arm statutes: can restrict constitutional personal jurisdiction, cannot expand it
  - Rule 4: Notice, summons, service, etc.. (p. 14)
  - Rule 12: Presentation of pleadings; insufficiency of process; lack of jurisdiction.
- Issues
  - Basis for Power
    - Residence (general jurisdiction)
    - Transitory Presence (specific jurisdiction)
    - Minimum Contacts/Traditional Notions of Fair Play/Substantial Justice (*International Shoe* test, Long Arm Statute)
    - Consent (can consent to personal jurisdiction in a state)
    - Status (e.g., suit for divorce, exceptional)
  - Notice
    - Reasonably calculated to apprise the party of the suit and offer that person opportunity to present objections
- Cases
  - *Pennoyer v. Neff* (1877, Supreme Court, p. 77)
    - Lawyer Neff's land sold to Pennoyer after judgment against Neff from Mitchell; Neff claims original deed is invalid because no personal jurisdiction.
    - Question: Can court have personal jurisdiction based on notice alone?
    - Answer: No, property would have needed to be attached at time of suit, not in satisfaction of judgment.
    - Personal jurisdiction if you **appear** (consent), **found** (presence), **residence** (*in personam*), **property** (*in rem*).
    - Property needed to have been attached prior to case for *in rem* jurisdiction.
  - *International Shoe Co. v. Washington* (1945, Supreme Court, p. 95)
    - Shoe company not paying WA state unemployment compensation fund despite having salesmen in WA who exhibit samples, send orders to St. Louis, ship to consumers. Company incorporated in DE, principle place of business is St. Louis.
    - Question: Can state get jurisdiction over company consistent with Due Process Clause?
    - Answer: Yes, court sets up standard of **minimum contacts** such that suit does not offend **traditional notions of fair play and substantial justice**. For **specific jurisdiction** need **continuous and systematic contacts that give rise to the claim**. **Casual, isolated connection** is not sufficient for **general jurisdiction**. **Single, occasional acts** may be sufficient for **specific jurisdiction**. **General jurisdiction** when **continuous activities** are **substantial**. Company benefitted from contacts in state, chose to conduct activities from which it benefits, must accept jurisdiction.
  - *Shaffer v. Heitner* (1977, Supreme Court, p. 104)
    - Plaintiff shareholders attempted to get jurisdiction over present/former officers of Delaware corporation by attaching stock they own in Delaware.
    - Question: Is Delaware statute permitting jurisdiction by sequestering property constitutional?
    - Answer: No, property is one contact but not sufficient unless relevant for specific jurisdiction. Abolishes *in rem* jurisdiction (getting jurisdiction just by attaching property).
  - International Shoe Cases
  - *McGee v. International Life Insurance* (1957, Supreme Court, p. 116)
    - Decedent's representative suing Life Insurance company in Texas in California, claims

- decedent didn't commit suicide. Mailed to and from California, received payments.
- Question: Are there sufficient minimum contacts consistent with traditional notions of fair play and substantial justice?
- Answer: Yes, **contacts** are **sufficient**. 'Fundamental transformation of national economy'. 'Much **less burdensome** for a party sued to defend himself in a State where he **engages in economic activity**.'
- *Hanson v. Denckla* (1958, Supreme Court, p. 117)
  - Woman with trust in Delaware moves to Florida, dies. If Florida has jurisdiction, trust goes to one daughter; in Delaware, all three split it equally.
  - Question: Does the domicile of the beneficiary of a trust comply with *International Shoe* test?
  - Answer: No. Trustee did not **perform any acts** in Florida, **no office** in Florida, did not **solicit business**.
- *World-Wide Volkswagen Corp. v. Woodson* (1980, Supreme Court, p. 119)
  - Car crash victims sued manufacturer, importer, regional distributor, dealer. Distributor and dealer contest personal jurisdiction of Oklahoma Courts.
  - Purpose of *International Shoe*: Protect defendants, state sovereignty.
  - Must have both minimum contacts and fair play/substantial justice.
  - Five factors in fairness: burden on defendant, states' interest, plaintiff's interest, interstate judicial efficiency, shared interest of several states in substantial social policy.
  - No jurisdiction over regional distributor or dealer. Need to 'personally avail oneself to privilege of conducting business within state.'
- *Asahi Metal Industry Co. v. Superior Court* (1987, Supreme Court, p. 129)
  - Valve manufacturer contesting personal jurisdiction of California court. Is awareness that product might reach forum state sufficient basis?
  - Split decision. Either 'stream of commerce' test, or 'purposefully directed' products.
  - Fair play and substantial justice may be separate prong of test or dominant prong.
- *Burger King Corp. v. Rudzewicz* (1985, Supreme Court, p. 137)
  - Burger King wants Florida jurisdiction over franchisee in Michigan.
  - Sufficient contacts established. 'Fair warning', 'purposefully directed'. Fair play/substantial justice: defendant is businessman, knew what he was getting into. Evaluate on case-by-case basis.
- General Jurisdiction
- *Washington Equipment Manufacturing Co. v. Concrete Placing Co.* (1997, Wash. App., p. 148)
  - Is certificate of authority in state sufficient for General Jurisdiction? No; certificate did not constitute consent/knowledge. Activities not substantial or continuous.
- *Burnham v. Superior Court* (1990, Supreme Court, p. 150)
  - Is presence sufficient? Split: presence means you don't need to look at fair play/substantial justice. Plurality: fair play/substantial justice met in this case. Power over defendant in divorce case.
- Consent
- *Carnival Cruise Lines, Inc. v. Shute* (1991, Supreme Court, p. 169)
  - Is forum selection clause on cruise line ticket enforceable (i.e., does plaintiff give up other possible forums)? Yes, depending on notice. Burden too great if defendant can be sued everywhere; judicially efficiency if there is no confusion about suits; no bad faith motive.
- Notice
- *Mullane v. Central Hanover Bank & Trust Co.* (1950, Supreme Court, p. 175)
  - Bank trust pool. Notice must be 'reasonable under the circumstances'.
- Long Arm Statute
- *Gibbons v. Brown* (1998, Fl. Dist. Ct. App., p. 192)
  - Car crash due to wrong directions. Florida Long-Arm Statute restricts to contacts that are 'substantial and not isolated', more restrictive than *International Shoe*. Thus, no jurisdiction.

# Venue

- Statutory Basis
  - 1391: Venue generally (p. 315)
    - (a) Diversity: residence, where events took place, **or** where defendant subject to personal jurisdiction.
    - (b) otherwise: residence, where events took place, where defendant may be found.
    - (c) Corporations, (d) Aliens (anywhere), (e) US official, agency, (f) foreign state
  - 1392: Action involving property in different districts of same state--any district (p. 317)
  - 1404: Change of venue, for convenience/interests of justice, motion/stipulation/agreement (p. 318)
  - 1406: Wrong venue, can dismiss or transfer if in interest of justice (p. 318)
  - 1631: Interest of justice, transfer for lack of subject matter jurisdiction (p. 325).
  - Rule 12 Motion--Improper Venue
- Issues
  - Venue needs to be connecting with substantive claim.
  - Look for state venue statute
  - Forum Non Conveniens: Even if court has power to hear a case, for reasons of justice or efficiency, should not do so. Reasons could include local prejudice or preponderance of witnesses who will have to travel long distances to testify.
- Cases
  - *Dee-K Enterprises, Inc., v. Heveafil Sdn. Bhd.* (1997, E.D. Va., p. 199)
    - Antitrust/price-fixing case involving a number of rubber manufacturers. Plaintiffs include Virginia and North Carolina Corporations. Defendants include Indonesian, Malaysian, Thai, and American. Is venue proper for foreign defendants, and domestic defendants?
    - Foreign defendants can be sued anywhere under 1391(d); although state seems proper for domestic defendants, case remanded for them to demonstrate Eastern District met 1391(c).
  - Forum Non Conveniens
    - *Piper Aircraft v. Reyno* (1981, Supreme Court, p. 204)
      - Representatives of decedents from airplane crash in Scotland file suit against manufacturer (Pennsylvania) and parts-maker (Ohio). Defendant moves for transfer to Pennsylvania, then for dismissal for forum non conveniens.
      - District court grants motion, Third Circuit reverse (Forum Non Conveniens should not be used when alternative forum's law is less favorable to plaintiff), supreme court reinstates dismissal (not 'clear abuse of discretion').
      - Balance public and private factors from *Gulf Oil Co. v. Gilbert*
        - Private: relative ease of access to proof, ability to bring in witnesses, possibility to view premises, all other practical problems, including ease, expense, speed
        - Public: court congestion, local interest, in diversity cases laws that govern, avoidance of conflict of law, unfairness of burdening citizens with jury duty.
      - Court rejects 'less favorable to plaintiff' standard; only will show deference when law is 'so clearly inadequate or unsatisfactory that there is no remedy at all.'

# Preclusion

## Claim Preclusion

- Statutes
  - 1738: Use state law to determine whether there is preclusive effect (p. 327).
- Issues
  - Efficiency, finality, avoidance of inconsistency; one chance to litigate.
  - Claims that **were brought** or **could have been brought** are precluded (whether or not they were litigated).
  - Must have **judgment** on the **merits**.
  - Requires **mutuality** of parties: same parties or in privity. Can only be **bound to judgment** to which you were a party (on in privity)
    - **Substantive legal relationships**: successive owners, express agreements, procedural representation
    - **Express agreements** to be bound
    - **Procedural/virtual representation**.
  - Counterclaims also barred by claimed preclusion, unless settlement occurs before answer or counterclaim would undo prior judgment.
  - Appeals: Judgment generally 'final' even if appeal in pending. (See also Rule 60(b)(5): judgment may be relieved if the judgment upon which it is based has been reversed/vacated).
- Cases
  - *Frier v. City of Vandalia* (1985, 7<sup>th</sup> Circuit, p. 799)
    - Plaintiff refused to move car, was fined, cars towed. Sued in state court to recover cars (replevin), loses, then files in Federal Court under §1983 (state action violating federal law).
    - Question: Is Federal Due Process claim barred by claim preclusion?
    - Answer: Yes. Majority says process of taking (facts) were same in both cases, same parties, could have brought claim in original complaint. Concurrence: plaintiff loses, but not because of claim preclusion. Replevin is about seizure (ownership and illegal taking), due process is about state action depriving property without notice and opportunity for hearing. 'Same evidence' test vs. 'same transaction' test.
  - *Martino v. McDonald's System, Inc.* (1979, 7<sup>th</sup> Circuit, p. 811)
    - Martino brothers broke agreement with McDonald's to not be involved in competing franchise (Martino gave son money to purchase Burger Chef). Ending up settling before filing answer, forced to sell franchise for below market value.
    - Martino's claim **not** barred as compulsory counterclaim, since no answer was filed, but barred because it would be inconsistent with previous settlement which court views as judgment on the merits.
  - *Searle Brothers v. Searle* (1978, Utah, p. 818)
    - Brothers suing mother to get share of property following divorce case.
    - Question: Is there privity between the father and the sons?
    - Answer: No. Sons barred from joining earlier case because of diversity, father did not represent their mutual/future interests. (Dissent: sons participated in divorce case, had notice, should have been in privity).
  - *Gargallo v. Merrill, Lynch, Pierce, Fenner & Smith* (1990, 6<sup>th</sup> Circuit, p. 830)
    - First case to try to collect on loan; counterclaim on securities violation; counterclaim dismissed with prejudice for failure to comply with discovery. State Court did not have jurisdiction over counterclaim, however; Ohio law says there is no preclusive effect to claims where court had no jurisdiction. Thus claim can be brought in new case in Federal Court (**could not have been brought** in State Court).

# Issue Preclusion

- Issues
  - Must have had **actual litigation and determination** of identical issues (of law **or** fact).
  - Issue must be **essential to judgment**.
  - If earlier case had two independent grounds for judgment:
    - Restatement (First): **Both** grounds should be precluded.
    - Restatement (Second): **Neither** should be precluded (party might not appeal even if they thought there was an error in judgment on one of the issues, since they would still lose on other issue). But if issues are appealed/upheld, then issue preclusion is possible.
  - Must have **final judgment**.
  - Can only be used against someone who was **party** to earlier case (or in privity).
  - **Non-mutual defensive** preclusion is more likely to be permitted than **non-mutual offensive** preclusion (policy considerations).
  - No preclusion if result was from jury compromise; if there is newly discovered evidence; if defendant had no incentive to appeal.
- Cases
  - *Illinois Central Gulf Railroad v. Parks* (1979, Ind. App., p. 836)
    - Husband and wife injured in train wreck; sue together for injuries and loss of consortium. Wife wins but husband doesn't, could be for contributory negligence or for failure to prove damages. Jury does not specify.
    - Question: Is husband barred from relitigating issue of contributory negligence?
    - Answer: No, because jury decision did not give basis for earlier verdict. Defendant could not prove that earlier judgment would not have been rendered without contributory negligence, thus no preclusion.
  - *Parklane Hosiery Co. v. Shore* (1979, Supreme Court, p. 845)
    - SEC case against Parklane for misleading proxy: judgment against Parklane, affirmed by Appeals Court.
    - Shareholders seek to preclude issue of whether proxy was misleading (partial summary judgment).
    - Question: Can plaintiffs use non-mutual offensive issue preclusion?
    - Answer: Yes--*Blonder-Tongue* case abandoned mutuality requirement for issue preclusion. Defensive preclusion encourages judicial efficiency (encourage plaintiff to join as many parties in original suit as possible). Offensive preclusion could increase litigation, however. Courts have discretion to allow non-mutual offensive issue preclusion, based on:
      - **Could plaintiffs** have **joined** in earlier case? (if not, more likely to **allow** preclusion)
      - **Did defendants** have **full** and **fair** opportunity to defend themselves?
  - *State Farm Fire & Casualty Co. v. Century Home Components* (1976, Oregon, p. 855)
    - Many cases out of negligently-caused fire. Inconsistent results.
    - Question: Can defendant be precluded from relitigating an issue if previous outcomes are inconsistent?
    - Answer: No. Not a 'balancing test', simply no preclusion with inconsistent adjudication.