

CIVIL PROCEDURE

I. United States Constitution (USC)

USC creates federal courts of limited jurisdiction (USC Art. III, §2)

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies in which the United States shall be Party; to Controversies between two or more States between a State and Citizens of another State; between Citizens of different States between Citizens of the same State claiming Lands under Grants of different States and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

II. Federal rules of civil procedure (FRCP)

III. United States Code (28 USC)

ORIGINAL SUBJECT MATTER JURISDICTION

-SCOPE-

1. USC limitations make federal courts "courts of limited jurisdiction" (Drexel *Equipment & Leasing Company v. Karpis*)
2. State courts are generally presumed to have subject matter jurisdiction over a case, except if it is an exclusive federal
3. Federal courts have the authority to determine whether it has jurisdiction (United States v. Rife and United States v. Rife, *Western of America*)
4. Federal court is presumed to lack subject matter jurisdiction
5. Every pleading federal jurisdiction from the burden of persuasion. (Hoffmann v. Greenleaf Life Insurance Company of America)
6. Subject matter jurisdiction is an Article III as well as a statutory requirement (Shawmut Corp. of Indiana v. Campagna Inc. *Shawmut de Calais*) and no action of the parties can confer subject matter jurisdiction
 - a. Party cannot confer subject matter jurisdiction
 - b. Principles of waiver are inapplicable (Hoffmann v. Greenleaf Life Insurance Co. Inc. *Rife*)
 - c. Cannot be waived by failing to timely challenge
7. Subject matter jurisdiction: Power of a court to adjudicate a particular type of matter and provide the remedy demanded. Litigants may retroactively challenge the validity of a judgment where subject matter jurisdiction is lacking
8. A motion to dismiss for lack of subject matter jurisdiction is considered a demand for judgment and may be raised at any point in the litigation process for court not aware (FRCP 12(b)(3))
9. Congress may limit the subject matter jurisdiction of certain courts
 - a. US Tax Court subject matter jurisdiction is limited to cases related to taxation
 - b. *Hamfield Concrete*: Presence of constitutional standing, the standing requirement, as governed by USC Art. III, permits federal courts to adjudicate only cases or controversies. A case or controversy must comprise an actual injury, which is ascertainable as a defendant and susceptible to judicial redress (Lujan v. Defenders of Wildlife)
 - c. Federalism is an essential component in the jurisdictional division between state and federal tribunals

PERSONAL JURISDICTION

-CONSTITUTIONAL ELABORATIONS-

1. Activities must be systematic and continuous (Hoffmann v. Greenleaf Life Insurance Company of America, *Shawmut de Calais*)
2. Activities must be purposefully directed towards the forum state (Lombard *Medical Machinery Company v. Imperial Canal*)
3. Defendant must purposely avail himself of the privilege of the forum state (Hoffmann v. Greenleaf)
4. Feasibility of litigation must be foreseeable (Hoffmann v. Greenleaf Life Insurance Company of America, *Shawmut de Calais*)
5. There must be a connection between litigation, Defendant, and forum state
 - a. The mere presence of property is not enough unless Defendant had necessary "minimum contact" (Shawmut de Calais)

-SUBJECTIVE DUE PROCESS-

1. Constitutional requirement that a Defendant have certain minimum contacts with the forum in which the court sits so that suit may proceed prior over the Defendant (Shawmut de Calais, *Hamfield Concrete*)
2. Forum state must have granted power to the courts to exercise jurisdiction over the Defendant

SUPPLEMENTAL JURISDICTION

-CONCEPTS-

1. Allow a federal court to adjudicate a claim, even which it would not have subject matter jurisdiction independently, on the basis of that claim's connection to a related claim over which the federal court does have jurisdiction (28 USC § 1367)
 - a. Plaintiff not satisfying the minimum amount-in-controversy requirement where at least one Plaintiff owns such registered claims (Hoffmann v. Greenleaf Life Insurance, Inc.)
2. Aggregation of Claims: Claims may be added together to satisfy jurisdictional amount
3. Federal courts may still decline to exercise jurisdiction
 - a. Under abstention doctrine: Federal courts decline to state courts based on the difficulty of the questions of state law presented on the related litigation in state court
 - b. When diversity is obtained from improper or collusive joinder of the parties
 - c. When parties move for the main part of the suit
 - d. When domestic relations are the main part of the suit
4. **ADDITIONAL JURISDICTION**
 1. Defendant with counterclaims, cross-claims, or third-party claims may bring them to federal court as long as the federal court has jurisdiction over the original claim
 - a. Allow claims by defendant parties who would otherwise forfeit their right to claims or be required to remove the claims to state court
 - b. Tolling provisions (28 USC § 1367(d)) does not apply to claims filed in federal court against noncontroversial claims (Hoffmann v. Greenleaf Life Insurance, Inc.)
 2. Applies for the diversity and federal question claim
 3. Applies to:
 - a. Compulsory counterclaims (FRCP 13(a))
 - b. Joinder of additional parties to counterclaims (FRCP 13(b))
 - c. Cross claims (FRCP 13(c))
 - d. Interpleaders (FRCP 22, 28 USC § 1335)
 4. Does not apply to:
 - a. Permissive counterclaims (FRCP 13(b))
 - b. Impleader of third party defendants (FRCP 14)
 - c. Joinder of claims (FRCP 18)
 - d. Joinder of parties needed for just adjudication (FRCP 19)
 - e. Joinder of parties (FRCP 20)
 - f. Interventions of right (FRCP 24(a))
 - g. New actions in which a federal judgment creditor seeks to impose liability for a money judgment on a person not otherwise liable for the judgment (Hoffmann v. Greenleaf)
5. Does not abridge jurisdiction over the parties' requirement

-PERMISSIVE CLAIMS JURISDICTION-

1. Plaintiff with valid federal question claims may bring along a state-based claim in federal court
 - a. Must derive from the common nucleus of operative fact
 - b. It is the court's discretion whether to hear the permissive claim based on the considerations of the judicial economy, convenience, and fairness to litigants
2. **PERMISSIVE PARTY JURISDICTION**
 1. Plaintiff with a valid federal claim against one defendant may bring a state-based claim against the second defendant even where no independent basis of federal jurisdiction exists
 - a. Must derive from the common nucleus of operative fact
 - b. Does not apply to diversity jurisdiction
 2. The defendant is present in the forum where served
 3. The defendant is domiciled in the forum
 4. The defendant consented to jurisdiction in advance, by filing an action, by appearing, or consents voluntarily to court
 5. The state's long arm statute provides for jurisdiction
 6. Generally, whenever a party appears in a court without objecting to the court's lack of jurisdiction over it, the objection is waived (28 USC § 1332(d))

-PERMISSIVE CONTACTS TEST (International Shoe, Burger King)

1. Does Defendant have such minimum contacts with the forum state so that the exercise of jurisdiction does not offend traditional notions of fair play and substantial justice?
 - a. Determined by:
 - i. Purposeful availment, such that the Defendant's voluntary act to reach-out into the forum state was the cause proximate to suit
 - ii. Putting goods into the stream of commerce, using the forum state's highways, or taking advantage of the state's corporate law
 - b. Foreseeability: Defendant knew or should have known that it could get sued in the forum state
 - c. Balance of the following factors
 - i. The defendant is present in the forum where served
 - ii. The defendant is domiciled in the forum
 - iii. The defendant consented to jurisdiction in advance, by filing an action, by appearing, or consents voluntarily to court
 - iv. The state's long arm statute provides for jurisdiction
 - v. Generally, whenever a party appears in a court without objecting to the court's lack of jurisdiction over it, the objection is waived (28 USC § 1332(d))

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