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# Civil Procedure (Quickstudy: Law)

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**CIVIL PROCEDURE**

<b>JURISDICTION</b> <b>SUBJECT MATTER</b> COURT'S POWER TO HEAR AND THE TYPE OF CASE BEING IT	<b>SUPPLEMENTAL JURISDICTION</b> [28 USC 1367] 1. Defendant with counter-claim, cross-claim or third-party claim may bring them in Federal court as long as Federal court has jurisdiction over original claim. a. Allows claims by additional parties who would otherwise lose their right to claim or be required to raise claim in state court. 2. Telling provision (D/M) does not apply to claims filed in federal court against nonconsenting state (Rogers v. Sargent & Mundy). 3. Applies to diversity and Federal question claims. 4. Applies to: a. Compulsory Counterclaims (FRCP 13(a)) b. Joinder of Additional Parties to Counterclaims (FRCP 13(b)) c. Counterclaims (FRCP 13(c)) d. Joinder of Parties (FRCP 14) e. Impleader of Third Parties (FRCP 14) f. Joinder of Claims (FRCP 18) g. Joinder of Parties Needed for Just Adjudication (FRCP 19) h. Joinder of Parties (FRCP 20) i. Intervention of Right (FRCP 24) j. 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 (Planch v. Thomas). 5. Does not allow jurisdiction over parties requirement.	<b>PERSONAL</b> POWER TO BRING PARTIES BEFORE COURT AND BRING THEM TO JUDGMENT
<b>FEDERAL QUESTION (28 USC 1332)</b> 1. A Federal law creates the cause of action. 2. Plaintiff's right to relief depends on the violation of a substantial question of Federal law. <b>EXAMPLES</b> 1. Federal Statutes a. Cause of action starts cause within section of statute the subject-matter jurisdiction to apply (Brennan v. Gorb). 2. Admiralty cases 3. Intellectual property: Patents, Copyrights, Trademarks, Unregistered Copyrights, Copyrights and Patents. 4. Construction of patent, including issue of an invalid claim, to which court's exclusive process (Mitsubishi v. Chrysler). 5. Statutes 6. Cases where the U.S. is a party 7. Controversies between U.S. citizens and foreigners. <b>ADVERSE</b> 1. The amount in controversy does not matter if there is a Federal question involved.	<b>PERSONAL PARTY JURISDICTION</b> 1. Plaintiff with valid Federal question claims may bring along a state-based claim in Federal court if: a. That claim has common nucleus of operative fact. b. It is to court's discretion whether to hear parallel claims based on considerations of judicial economy, convenience and fairness to litigants. <b>PERSONAL PARTY JURISDICTION</b> 1. Plaintiff with valid Federal claims against one defendant may bring state-based claim against another defendant even when no independent basis of Federal jurisdiction exists. a. Must derive from common nucleus of operative fact. b. Does not apply to diversity jurisdiction.	<b>INTRJUNCTION</b> OR RESTRAINING ORDER PROHIBITS 1. Court has power to act upon the person or property. 2. Plaintiff must show: a. Irreparable harm to the person or property. b. Plaintiff's right to relief depends on the violation of a substantial question of Federal law. 3. Types of Injunctions 1. In Personam a. Federal court has power to act upon the person or property of the defendant's person. b. Injunction in personam is enforceable in all states and courts in other states. 2. In Rem a. Where Court has power over Defendant's property or status. b. In rem actions to quiet title to property; dissolution of marriage. 3. Quasi In Rem a. Power of Court to attach or garnish property to gain jurisdiction over Defendant (Shaffer v. Heitner). b. Plaintiff must show "minimum contacts" (nexus) of Defendant (Shaffer). c. Injunction affects only the property seized.
<b>DIVERSITY (28 USC 1332)</b> <b>SCOPE</b> 1. Controversy is between citizens of different States, or between citizens of a State and citizens or subjects of a foreign State and the action is to more than \$75,000. 2. Action for contract to marriage, wrongful death where defendant not covered under Federal statute (Shelton v. California). 3. Application of claims: some claims may be added together to satisfy jurisdictional amount. 4. Federal courts may still decline exercise jurisdiction: a. When absolute bar exists to suit - Federal court order to that effect based on difficulty of questions of State law presented by the related litigation on State court. b. When diversity is obtained from improper or unlawful joinder of parties. c. When parties litigate in the state court of the suit. d. When elements of claims are matter part of the suit. <b>COMPLETE DIVERSITY</b> 1. No one Plaintiff can be a citizen of the same State as any one Defendant. 2. Plaintiff's diversity (2-part test) a. The party you are physically located in. b. The state you are a citizen of (domicile). 3. Diversity must exist at the time the Complaint is filed with the Court. a. It need not exist at the time of trial or when the cause of action arose. b. Complete diversity must be met at the time judgment is entered (Kane v. Lantz). 4. Citizenship of Corporations a. The State of incorporation and b. State where principal place of business is located. 5. Domicile a. The natural representative is the person whose claim should be considered. b. U.S. citizens living abroad c. Not citizens of any State, therefore, cannot sue in that jurisdiction.	<b>REMOVAL FROM STATE TO FEDERAL COURT</b> <b>BASIS FOR REMOVAL</b> 1. If Federal courts would have had original jurisdiction: a. Federal question jurisdiction started at time action was filed. i. No Federal Court jurisdiction when complaint does not allege federal question (Hudson v. Utopia). ii. Federal statute preempts cause of action (Hendrickson v. Buehler, Anderson). b. Diversity jurisdiction existed if time action was filed. 2. Issue of personal jurisdiction proceeds subject matter jurisdiction (Hudson v. Utopia, Hamilton v. O'Neil). 3. Time for removal is triggered by formal service of process, not by informal receipt of complaint (Hendrickson v. Buehler, O'Neil). <b>WRITING AT DEFENDANT'S OPTION</b> 1. Does not apply to Plaintiff's defaulting counterclaim. 2. Claims that depend on state court should be dismissed because of prior Federal ruling is not basis for removal under FRCP 12 (Rosen v. Brigham Bank of LA). <b>MISFEASANCE CLAIMS</b> 1. If a cause of action which can be removed is joined with a cause of action that has no independent claim to Federal jurisdiction, then the entire case can be removed to federal court together. <b>CASES WHERE I AM NOT RESPONSIBLE</b> 1. In suits under FELA Act, Jones Act, Violence Against Women Act, and State defendant's compensation laws (28 USC 1445). <b>OTHER BASIS</b> 1. Cannot sue "without abating" disputing the existence or lack of Federal question. 2. Cases go to the "district court of the U.S. for the district and division embracing the place" (Note the State v. ...)	<b>TRADITIONAL TEST (OPENNER V. NEFF)</b> <b>PRESENCE IN FORUM STATE AND</b> 1. Defendant's, Defendant's LEGAL temporary presence in State essential to activity in lawsuit filed within jurisdiction of forum state. <b>PRESENCE MUST BE SERVED WITH NOTICE OF SUIT IF AGAINST HIM WITHIN FORUM STATE</b> 1. Court of jurisdiction is only within the forum State a few times, he may be served with process there. 2. Service on a plane flying over forum State is valid. <b>MODERN BASIS</b> <b>DEFENDANT MUST HAVE ADEQUATE CONTACT, DOMICILE, OR CONSENT</b> <b>MINIMUM CONTACTS (INTERNATIONAL SHIPBUILDING)</b> 1. Court does not offend "traditional notions of fair play and substantial justice". 2. Constitutional considerations a. Activities must be systematic and continuous. b. Defendant's, Defendant's de Colombia, S.A., Hall. c. Activities must be purposefully directed towards forum State (World Shipyards Industry Co. v. Superior Court). d. Defendant must purposefully avail himself of privileges of the forum State (Hanson v. Denckhoff). 3. Possibility of litigation must be foreseeable (World Shipyards Industry Co. v. Superior Court). 4. There must be connection between litigation, Defendant and forum state. 5. Where presence of property is not enough unless Defendant had necessary "minimum contacts" with forum State (Shaffer v. Heitner). <b>MINIMUM CONTACTS</b> 1. Jurisdiction over person domiciled within forum State, even if temporarily not within State. 2. Domicile - current dwelling place. 3. Contact to individuals remotely a. They are directly at a party. b. Forum state must make the place his home, for the time or season. <b>CONSENT</b> 1. Jurisdiction over person by contract, even if no contacts with forum State. 2. Consent by filing an action a. Consent to be sued against original Plaintiff and by counter-defendant directed to the action. 3. Voluntary Consent a. U.S. law contract, depending on agent. 4. Voluntary Appearance in Court.

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## Synopsis

Civil law is extending into areas undreamt of just a few years ago, and our study guide helps you stay informed. Â

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well, the idea is great. Having something so clearly written out and easy to read is awesome. My only problem is that it is outdated, therefore some of the information is outdated and incorrect, which is a big issue.

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go and simple easy to follow and understand. a great companion to have in your brief case at all times. Excellent for a Pro Se

SUPER easy and convenient chart. When I was studying for the Civ Pro final, this chart really brought things together and put it in a format that was easy to study. I would recommend it for anyone taking Civil Procedure, or studying for the bar.

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