

Federal Jrx = (Personal Jrx + Notice) + Subject Matter Jrx  
^ Venue ^

**Personal Jrx** – sufficient minimum contacts ... does not offend traditional notions of fair play and substantial justice

- Minimum contacts – reasonably anticipate being haled into forum
- Absolutes
  - Domiciled
    - Individual
      - Lives and intends to stay
    - Business
      - Principle place of business (headquarters or center of direction, control, or coordination)
      - State of incorporation
  - Served within the state
- **Calder Effects Test**—the proposed forum may exercise personal jurisdiction over a nonresident defendant when their conduct knowingly effects individuals in the forum.
  - Such nonresident defendant should reasonably anticipate being haled into the proposed forum state.

#### 1. Contacts

- Isolated and casual or continuous and systematic
- Purposeful availment or unilateral act
- Product placement in stream of commerce
- Contractual business relationship (not sufficient on its own)

#### 2. Relatedness

- Specific Jrx – isolated and casual contacts, related to cause of action
  - The forum state may exercise specific jurisdiction over a nonresident defendant when his “isolated or casual contacts” with the forum give rise to the claim(s).
- General Jrx – continuous and systematic, not related to cause of Action

#### • Fairness

#### 3. Reasonable

- Burden on  $\Delta$
  - State’s interest
  - $\pi$  interest in convenient and effective relief
  - interstate judicial system’s interest in obtaining the most efficient resolution of controversies
  - shared interest of the several states in furthering fundamental substantive social policies
- In rem jurisdiction measured to same standard: do not offend fair play and substantial justice

#### Notice

- Rule 4 tested and constitutional
  - Name court and parties
  - Directed to  $\Delta$
  - Name and address of  $\pi$ ’s party or unrepresented  $\pi$
  - State the time within which the  $\Delta$  must appear and defend
  - Notify the  $\Delta$  that failure to appear and defend will result in a default judgment against the defendant for the relief demanded in the complaint
  - Signed by the clerk
  - Bear the court’s seal
- Constitutional reqmnts
  - Must be reasonably calculated to reach  $\Delta$  and allow a chance to appear and be heard
  - Opportunity to appear and be heard

#### Venue

- Residency
  - Individual – domiciled
  - Business – where subject to personal jurisdiction (ppob and state of incorporation)
  - Alien – Any judicial district
- Can be waived by failure to object

Preliminary Question: is  $\Delta$  individual or business?

- Any  $\Delta$  resides, if all are in one state
- Place where the events and omissions occurred

- Residual clause: If there is no possible district in which the claim could be brought under the above two. Does not matter where the claim was actually brought, just matters where it could have been.
  - Any district where any  $\Delta$  subject to personal Jrx, only if 1 and 2 do not yield a venue
- Long arm statutes
  - Not necessarily broad as constitutionality

#### Subject Matter Jrx

- Federal Question Jrx: §1331
  - Well pleaded complaint rule
  - Original complaint must contain a federal question
- Diversity Jrx: §1332
  - Complete diversity, except supreme court
- Supplemental Jrx: §1367
  - If have subject matter jrx, can attach other related issues
  - Same case and controversy
    - Common nucleus of operative facts
- Removal Jrx: §1441, 1446, 1447
  - If starts in state court, can remove to federal
- Aggregation Rules
  - YES: Single plaintiffs against single defendant
  - NO: Multiple  $\pi$ s separate and distinct claims
  - YES: If one  $\pi$ ’s claim is enough, both may sue in federal court
  - YES: Multiple  $\pi$ s if based on common undivided interest
  - NO: Single  $\pi$ s against multiple defendants - **except joint and severally liable.**

#### Pleading Standard

- Rule 12(b) motions to challenge a complaint
- Rule 8(a) – Standards set for pleadings

#### Amendments

- Rule 15 allows amendment of a pleading once
  - Within 21 days after serving
  - 21 days after responsive pleading or
  - 21 days after a rule 12 motion

#### Ethical Pleading – Rule 11

- Representations to the court must be
  - Not presented for any improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation
  - Claims, defenses, other legal contentions warranted
    - by existing law
    - by non-frivolous argument for extending, modifying or reversing existing law
    - for establishing new law

#### $\Delta$ ’s response(s) and $\pi$ ’s reply

- Rules 55, 12, 8(b)

#### Discovery

- Rule 16 and 26-37
  - 16: discovery conference
  - 26(b)(2)(C): Court must limit discovery when
    - Unreasonably duplicative
    - Party has had ample opportunity
    - Burden or expense of the proposed discovery outweighs its likely benefit
  - 27: depositions
  - 28: who is present during depositions
  - 29: modifications to discovery procedure (local rules)
  - 30: when can take oral depositions
  - 31: when can take written depositions
  - 32: Using depositions in court
  - 33: Interrogatories
    - Max 25
    - Not redundant or unnecessary
  - 34: what documents can be requested
  - 35: physical and mental examinations
    - When harm in controversy
  - 36: Requests for admission
  - 37: Sanctions

#### Joinder

- Rules – same transaction or occurrence
  - Joinder of claims
    - 13 – Counter and cross ( $\Delta$  against  $\pi/\Delta$ ,  $\pi$  against  $\pi$ )
    - 14 – Impleading ( $\Delta$  against 3<sup>rd</sup> party  $\Delta$ )
      - Can implead if 3<sup>rd</sup> party could be sued by  $\Delta$  in a second suit for  $\Delta$ 's losses in this one.
      - Relationship that creates liability
    - 18 –  $\pi$  claims against  $\Delta$ s
  - Joinder of parties
    - 19 – required joinder
    - 20 – permissive joinder ( $\Delta$  against 3<sup>rd</sup> party  $\Delta$ s), at least one common question of fact or law
- Analysis
  - First, joinder rule
    - What rule governs this individual claim?
  - Second, Jurisdiction
    - Independent? FedQ or Div?
    - Supplemental?
      - 1367(a)
      - If diversity, 1367(b)?

### Resolution without Trial

- ADR
  - Voluntary withdrawal not binding unless contained in judicial order
- Summ Judgment
  - 30 after close of discovery
  - Cannot be brought sua sponte, however can be pointed out to parties by judge
- JMOL
  - $\Delta$  goes after  $\pi$  rests
  - $\pi$  or  $\Delta$  goes after  $\Delta$  rests
  - if raised JMOL before, can raise Renewed JMOL after verdict

### Preclusion

- Precluded if
  - Case 1 + 2 brought by same claimant against same  $\Delta$
  - Case 1 must have ended in valid final judgment
  - Case 1 + 2 based on same claim
- Virtual representation: only barred if
  - Agreement by parties by prior action
  - Preexisting substantive legal relationships (preceding and succeeding owners of property)
  - Adequate representation by someone with the same interests who was a party
  - Party assuming control over prior litigation
  - Party who loses an individual suit then suing again as a class representative
  - Special statutory schemes such as bankruptcy and probate proceedings
- Valid final judgment on the merits
  - Valid
    - SMJ and Personal JRX
  - Final
    - Nothing for the court left to do
  - On the merits
    - Went to trial
    - Sum judgment
    - Default judgment
  - Not on the merits
    - Voluntary dismissal not on the merits unless order stipulates otherwise
    - Dismissal due to procedure
    - Dismissal for improper behavior

### Claim preclusion

- “If the facts are related closely in time, space, origin or motivation and whether taken together they form a convenient unit for trial purposes as well as whether treating them as a single

claim will be consistent with the expectations of parties and businesses”

- Test
  - ~~Was the issue decided in the prior adjudication identical with the one presented in the action in question~~
  - Was there a final judgment on the merits? Divorce decree constitutes final judgment
  - Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?
    - Define “privity” – person so identified in interest with another that he represents the same legal right, which includes mutual or successive relationship to rights in property
    - Application – the property interest arose before the commencement of the first action ... cannot be regarded as in privity and subject to the judgment. Furthermore, ... partners are co-owners of specific partnership property which is directly opposite to successive interests
  - ~~Was the issue in the first case completely, fully, and fairly litigated?~~

### Removal

- Cannot remove from your own state in diversity jurisdiction

### Summary Judgment

- Rule 56
- Can ask for more time if facts not yet available
- Burden on party with burden at trial

### Other Note

- Supp. Jrx
  - Same case and controversy
    - Common nucleus of operative facts
- Joinder
  - Same transaction or occurrence