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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 BEFORE IT	<b>SUPPLEMENTAL JURISDICTION</b> [28 USC 1367]	<b>PERSONAL JURISDICTION</b> POWER TO BRING PARTIES BEFORE COURT AND HOLD THEM IN ACCOUNT	
<b>FEDERAL QUESTION</b> (28 USC 1332) FRAMING 1. A Federal law creates the cause of action 2. Plaintiff's right to relief depends on the resolution 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 (Section 5, 5202) 2. Admiralty cases 3. Jurisdiction over suit stemming from removal filed of undisputed issues (e.g., patent's, Copyright, Patent) 4. Interstate Commerce, Copyrights and Patents 5. Constitution of patent, including some of air rights, claims, to within court's exclusive province (Section 10, 1000) 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>ADVERSE PARTY JURISDICTION</b> 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 2. Adversely affected parties who would otherwise have their right to claim or be required to answer claim in State court 3. Tolling provisions (DMD) does not apply to claims filed in Federal court against nonconsenting state (Rogers v. Sargent & Mundy) 4. Application to diversity and Federal question claim 5. 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. Does not apply to: 1. Permissive Counterclaims (FRCP 13(b)) 2. Impleader of Third Party (Section 14) (FRCP 14) 3. Joinder of Parties (FRCP 18) 4. Joinder of Parties Needed for Just Adjudication (FRCP 19) 5. Joinder of Parties (FRCP 20) 6. Intervention of Right (FRCP 24) 7. 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 (Panic v. Shuman) 8. Does not also jurisdiction over parties requirement <b>PERMISSIVE PARTY JURISDICTION</b> 1. Plaintiff with valid Federal question claims may bring along a state-based claim in Federal court 2. Must derive from common nucleus of operative fact 3. Up to court's discretion whether to hear parallel claims based on considerations of judicial economy, convenience and fairness to litigants <b>ADVERSE PARTY JURISDICTION</b> 1. Plaintiff with valid Federal claim against one defendant may bring state-based claim against second defendant over whom no independent basis of Federal jurisdiction exists 2. Must derive from common nucleus of operative fact 3. Does not apply to diversity jurisdiction	<b>INTRUSION</b> OR OBSTRUCTION OF RIGHTS 1. Court has power to act upon the person or property 2. Minimum contacts with the forum State and 3. Cause of action arising under such jurisdiction <b>THREE TYPES OF JURISDICTION</b> 1. In Personam a. Forum State claims to which up are using his jurisdiction over the Defendant's person b. Judgment in forum State is entitled to full faith and credit in other State 2. In Rem a. When Court has power over Defendant's property or status b. No action 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. Requires due to "minimum contacts" (minimum contacts) (minimum contacts) c. Judgment affects only the property seized	
<b>DIVERSITY</b> (28 USC 1332) MEANS 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. Aggregation of claims: some claims may be added together to satisfy jurisdictional amount 4. Federal courts may still decline exercise jurisdiction a. When absolute diversity is not Federal courts b. In state courts based on difficulty of questions of State law presented by the federal litigation on State court 5. When diversity is obtained from improper or defective joinder of parties 6. When parties become one the same part of the suit 7. When elements relations are neither 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 (not necessarily) 3. Diversity must exist at the time the Complaint is filed with the Court 4. It need not exist at the time of trial or when the cause of action arose 5. Complete diversity must be met at the time judgment is entered (Kane v. Lantz) 6. Citizenship of Corporation a. The State of incorporation and b. State where principal place of business is located 7. Non-resident Aliens a. The natural representative is the person whose case should be considered b. U.S. citizens living abroad c. Not citizens of any State, therefore, cannot sue their own jurisdiction	<b>REMOVAL FROM STATE TO FEDERAL COURT</b> <b>BASIS FOR REMOVAL</b> 1. If Federal courts would have had original jurisdiction 2. Federal question jurisdiction started at time action was filed 3. No Federal Court jurisdiction when complaint does not allege federal question (Hudson v. United States) 4. Federal courts preserve cause of action (Hudson v. United States, Anderson) 5. Diversity jurisdiction existed at time action was filed 6. Issue of personal jurisdiction proceeds subject matter jurisdiction (Hudson v. United States) 7. Time for removal is triggered by formal service of process, not by informal receipt of complaint (Hudson v. United States) <b>WRITING AT DEFENDANT'S OPTION</b> 1. Does not apply to Plaintiff's defending counterclaim 2. Claims that depend on state court should be dismissed because of prior Federal ruling is not basis for removal under FRCP 12 (Hudson v. United States) <b>MULTIPLE 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. Suit under FELA Act, Jones Act, Violence Against Women Act, and State defendant's compensation laws (28 USC 1445) <b>MISFEASANCE</b> 1. Cannot sue "without prejudice" 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> MINIMUM CONTACTS, FOREMOST PLACE 1. Defendant's activities in State sufficient to assert in lawsuit filed within jurisdiction of that State 2. Defendant must be served WITHIN STATE OF SUIT 3. Cause of action is only within the forum State a few times, he may be served with process there 4. Defendant on a plane flying over forum State is called	<b>MODERN BASIS</b> DEFENDANT'S MINIMUM CONTACTS, FOREMOST PLACE, OR CONSENT MINIMUM CONTACTS, FOREMOST PLACE 1. Defendant's activities in State sufficient to assert in lawsuit filed within jurisdiction of that State 2. Defendant must be served WITHIN STATE OF SUIT 3. Cause of action is only within the forum State a few times, he may be served with process there 4. Defendant on a plane flying over forum State is called

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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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## Customer Reviews

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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I love these... I am a list person. Love top 10's and all that kind of stuff, so these fit the bill. Breaks down several areas with basic/top info to know. Nice quick review in sturdy lamination.

I bought two huge supplemental textbooks, won a supplement via a Lexis raffle, and hauled around

two of the commercial outlines that Bar prep programs give away. Ultimately, it came down to this bad boy. Because of this product, my highest exam grade was in Civ Pro. Trust me, I thought I was on my way to getting a D in that course. Definitely buy!

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What these laminates do better than nearly any other resource is to give you a general overview and guide so you can understand where the material is going. Similar to the artist's technique where you have to create a vague rough sketch to understand proportion and relevance, these allow you to understand the significance of minutia and detail in the bigger schematic. Also great refresher if you are return after a long time away and your own notes don't make sense anymore. The Bad: These cannot replace the actual text or class material, though of the entire series Constitutional Law, Civil Procedure and Criminal Procedure come closest. Also, some of the case references are outdated. In particular, they do not have the 2007 amendments to FRCP which have been in effect for some time now. The Ugly: For those gunners out there, the laminate surface also makes these perfect to buy a second set to keep in the can for those "first thing in the morning" study sessions.

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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