

Subject Matter Jurisdiction

Subject Matter Jurisdiction refers to a court's power to decide the type of case before it. Federal courts are courts of limited jurisdiction. There must be a jurisdictional basis for each claim filed in federal court. The two primary bases of subject matter jurisdiction are: (1) federal question; and (2) complete diversity of citizenship [Art III § 2]. Burden is on the party seeking to invoke the jurisdiction of the federal court to make an affirmative showing that the case is within the court's subject matter jurisdiction. If there is no subject matter jurisdiction, the suit may be dismissed at anytime.

Federal Question Jurisdiction exists if the claim arises under federal law (i.e., federal statute, constitution, act of Congress). A federal question action is one that arises under the Constitution, laws, or treaties of the United States. Federal question jurisdiction is premised on the principle that the federal courts should have authority to interpret and apply federal laws.

Complete Diversity Citizenship exists if: (1) the amount in controversy exceeds \$75,000.00 (exclusive of interest and costs) and (2) no single Plaintiff is a citizen of the same state as any single Defendant, i.e., action must involve citizens of different states. Diversity is determined at the time the action is commenced. Citizenship is determined by domicile, not residence. Domicile requires presence at the time action is filed and the intent to remain indefinitely. For corporations, domicile is the state of incorporation and state where principal place of business is location.

Erie Doctrine - A federal court in a diversity case may apply its own procedural law, but must apply the substantive law and conflict of laws rules of the state in which it is sitting.

Supplemental Jurisdiction - A federal court has discretion to exercise jurisdiction over a claim based on state law if the state law claim and the federal law claim derive from a common nucleus of operative fact ("CNOF") and are such that a plaintiff would ordinarily be expected to try them all in one judicial proceeding.

Personal Jurisdiction

Personal Jurisdiction refers to a court's power to bring parties before it and bind them to its judgment. There are three primary types of personal jurisdiction: (1) in personam (power of court over Defendant); (2) in rem (power of court over a thing); (3) quasi in rem (power of court to attach or garnish property to gain jurisdiction over Defendant).

If jurisdiction in the case is in personam or quasi in rem, the court may not exercise that jurisdiction unless D has "minimum contacts" with the state and the suit does not offend traditional notions of fair play and substantial justice. Succinctly, the requirement of minimum contacts means that D has to have taken actions that were purposefully directed towards the forum state.

There are three primary bases for personal jurisdiction: (1) consent; (2) presence; (3) long-arm statutes. A long-arm statute is a statute which permits the court of a state to obtain jurisdiction over persons not physically present within the state at the time of service.

Service of Process

The method of process must be proper under the forum's rules and the method must be constitutional.

Venue

Venue refers to where a case may be tried. Under the federal rules of civil procedure, venue is proper where either: (1) any Defendant resides, so long as all Defendants reside in the same state; (2) a substantial part of cause of action arose.

An individual's residence for federal venue purposes is determined by the person's domicile.

A person is considered domiciled in the place where he has his current dwelling, if he also has the intention to remain in that place for an indefinite period.

For purposes of venue, a defendant corporation is deemed to reside in any jurisdiction in which it is subject to personal jurisdiction.

Venue can be waived unless a timely objection is made to the improper venue.

Change of Venue (*forum non conveniens*) – In the interests of justice and for the convenience of the parties and witnesses, federal courts can transfer cases to any district where the case could have originally been brought. 28 USC 1404. Accomplished through motion, consent or stipulation of the parties.

Removal - A case originally filed in a state court may be removed to federal court if: (1) the case could have originally been filed in a federal court; and (2) for cases removed on the basis of diversity, no defendant is a citizen of the state where the action is filed.

Pleadings

Well-pleaded complaint rule - For a plaintiff to invoke general federal question jurisdiction, it is necessary that the federal question appear on the face of a well-pleaded complaint.

In **Notice Pleading** jurisdictions, pleadings only need to contain sufficient information to place the adversary on notice of the claims or defenses being asserted against it; the pleadings must merely set forth a "short and plain statement of the claim showing the Plead is entitled to relief"

In **Code Pleading** jurisdictions, pleader must set forth all facts intended to be proven at trial.

Rule 12(b) Motion - Intended to attack the validity of the complaint. The Rule 12(b) motions are as follows:

1. Lack of jurisdiction over the subject matter;
2. Lack of jurisdiction over the person;
3. Improper venue;
4. Insufficiency of process;
5. Insufficiency of service of process;
6. Failure to state a claim upon which relief may be granted; and
7. Failure to join a necessary party under Rule 19.

#1 May be raised at any time, even on appeal.

#2-5 May be waived if not raised by motion or answer, whichever is first

#6-7 May be raised anytime before trial or at trial

Compulsory Counterclaim - A claim that arises from the same transaction or occurrence as the plaintiff's claim. It must be plead as a counterclaim or it will be barred.

Permissive Counterclaim - A claim that the defendant has against the plaintiff that may be

asserted if it meets the jurisdictional requirements for filing a claim in federal court.

Rule 11- Pursuant to Rule 11, attorneys or parties representing themselves must sign all pleadings, written motions and papers, certifying that to the best of his knowledge and belief, after reasonable inquiry: (1) that the paper is not for an improper purpose; (2) the legal contentions are warranted by law; (3) the factual contentions have evidentiary support; and (4) the denials of the factual contentions have evidentiary support.

Attorneys or parties representing themselves that are found to have violated Rule 11 are subject to sanctions.

Joinder

Of Parties – Under the FRCP, defendants or plaintiffs must be joined if claim for relief arises from same transaction or occurrence, and contains a common question of law or fact.

Of Claims – Under the FRCP, a party may join any claim against opposing party if each claim has an independent basis for subject matter jurisdiction or the claim arises out of the same transaction or occurrence.

Compulsory Joinder - A party is need for just adjudication if: (1) complete relief cannot be given to existing parties in his absence; (2) disposition in his absence may impair his ability to protect his interest in the controversy; or (3) his absence would expose existing parties to a substantial risk of double or inconsistent obligations.

Class Actions - There are four requirements of a class action: (1) the class is so numerous that joinder of all members is impracticable; (2) there are common questions of law and fact to the class; (3) the named parties' interests are typical of the class; and (4) the named parties will adequately represent the interests of the absent members of the class.

An **interpleader** suit is instituted by a person in the position of a stakeholder (e.g., surety bond) to require the adverse claimants to determine which has a valid claim to the stake .

Intervention of right is available whenever the applicant claims an interest in the property or transaction that is the subject matter of the action, and the disposition of the action without him may impair his ability to protect that interest.

Discovery

Under Rule 26(b)(1), parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

Evidence must be relevant, but does not itself have to be admissible if it leads to the discovery of admissible evidence. [FRCP 26]

Parties are encouraged to exchange core information including adverse material.

Things that are not Discoverable: Privileged Information is barred from discovery if it is between: Attorney/Client; Clergy/Client; Therapist/Patient; News agency/Source; State Secrets. Any information prepared in anticipation of litigation unless the other party demonstrates that she has substantial need for the materials and cannot obtain substantially equivalent information through other means without undue hardship. Under Rule 26(b)(3), this will never include mental impressions, conclusions, opinions, or legal theories of an attorney. Limitations include irrelevant matters, confidential matters, attorney-client communications, work product.

Types of discovery include depositions [FRCP 30], interrogatories [FRCP 33], and production of documents [FRCP 34].

Discovery Against Nonparties - Under Rule 30, depositions can be used to get information from non-parties. The non-party must be served with a subpoena to compel them to appear to a deposition. Parties simply need to be notified. A subpoena duces tecum is used to obtain documents via a deposition of a non-party.

Jury Trial and Related Motions

At the end of Plaintiff's case or at the end of all evidence, a party can make a **Motion for Judgment as Matter of Law/Directed Verdict**. The Court will grant such a motion if there is no legally sufficient evidentiary basis for a reasonable jury to have found for that party with respect to that issue.

After the verdict is rendered a party can make a **Motion for Judgment Notwithstanding Verdict(JNOV)/Renewed Motion for Judgment** as a

matter of law. The Court will grant such a motion if the record lacks "substantial evidence such that fair-minded people could differ."

Judgments

A default judgment can be entered if Defendant fails to plead or otherwise defend.

A court may enter Summary Judgment if there is no issue of material fact and the party is entitled to judgment as a matter of law.

Finality and Appellate Review

Appeals: can only be taken from a final, adverse judgment as to all claims and all parties. Limited exceptions: appeals allowed from interlocutory orders granting or denying a preliminary injunction or appointment of a receiver.

Standards for Reversal:

- (1) Court orders – abuse of discretion; e.g. (a) admission of evidence; (b) discovery orders; (c) conduct of the trial, and (d) new trial motions.
- (2) Finding of fact – clearly erroneous; e.g. (a) findings of historical fact; (b) intent of the parties, and (c) credibility of witnesses.
- (3) Mistakes of law - plenary review (aka "de novo" review); examples of mistakes of law issues in civil cases subject to plenary review include: (a) summary judgment orders; (b) dismissals of complaints; (c) interpretation of statutes; and (d) directed verdicts.

Pursuant to **Res Judicata/Claim Preclusion** a claim which has been litigated to a final judgment on the merits cannot be relitigated by the parties [after final judgment on merits, Plaintiff is barred from bringing same cause of action in later suit where issue was raised or could have been raised and involves same parties or those in privity].

Collateral Estoppel/Issue Preclusion prohibits relitigation of issues of fact that were previously adjudicated.