



# CIVIL PROCEDURE

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## PERSONAL JURISDICTION

### PRINCIPLES

- Court has the power to enforce judgments on involved parties.
- Plaintiff submits to jurisdiction by serving valid, written defendant to subject to rules of resident state incorporation.

### SERVICE OF PROCESS

- Local statutes determine the type authorized.
- Federal Rule of Procedure Rule 4 governs how federal process is served.
- Federal court may use any applicable state law methods.
- Service involves informed delivery of the summons and complaint.
- May be substituted by notification without personal delivery.
- Plaintiff must include acknowledged return return in a postage prepaid return envelope.

### STATE JURISDICTION

- Long-arm statutes must meet constitutional requirements.
- Assertion of jurisdiction whenever defendant has required minimum contacts with state.

### INTERSTATE CONSPIRACY

- Offense suit for violation of due process and rights to be heard.
- Individual notice must be sent when the identity and location of the defendant is known.
- Plaintiff to knowledge of how notice is given will not suggest a violation of constitutional rights.
- Court has the power to assess the defendant that defendant is tried and no further liability will be incurred in another court.
- Alleged conspirators cannot be bound by judgment out of jurisdiction.
- Limitation on the exercise of a state's extraterritorial jurisdiction.

### FEDERAL JURISDICTION

- Without federal legislation, each federal court must refer to state's laws governing out-of-state service.
- Provisions: goes off specific federal courts of action.
- Federal courts may use long-arm statutes.
- Federal Rule 409 allows service of process within 100 miles of defendant's place for specific jurisdiction parties to action.

## STANDARDS

### EXTRATERRITORIAL

- In personal injury: State has exclusive power over all people within its borders. Court may render binding judgments in any state where plaintiff has been present in the state at the time. Defendant does not have to be a citizen.
- In real property: State has exclusive power over all in-state property. Court may render judgments concerning ownership.

### OBSTACLES TO JURISDICTION

- State property may be used to reach the defendant. May be used to recover a non-possessory claim for property or invasion of underlying right. May be used when personal rights are unconnected to property.
- Violates the state's claim of power. Ensures that enforcement of any judgment is limited.

### DEFENDANT

- Location: determining factor of state power applied to be in personal jurisdiction.
- Example: plaintiff sued whenever the stock certificates are located.

### CONTRACT

- All types, party may concede to a court's binding authority.

### EXTRATERRITORIAL JURISDICTION

- Jurisdiction depends on something that does not, and may never, exist.

### DEFENDANT CONTACT

- International: state can undertake due process applied to be in personal jurisdiction.
- Defendant should have ample minimum contacts with the state so that justice would not be impeded in the location of jurisdiction.
- Court must be fair to both so that defendant may be heard.
- Overlapping and independent requirements.
- Continuous and systematic activities involving the state.
- Worldwide: passengers case states that defendant's activity out of state that is aimed at passengers benefit, direct or indirect, then that forum will be enough.
- Forum Court must show presence of property in forum is not sufficient to confer jurisdiction.

## JUDGMENTS AND VERDICTS

### ISSUE

- Principles: Party may seek to set aside judgment and obtain a new trial. Timing: instructions may vary. Right to due process. Motion for relief. Discretion of the court to grant or deny relief.
- Procedures: Independent action on grounds of equity. Federal Rule 60(b)(3): Party moves within one year to show that judgment was rendered due to neglect on motions, new material fact or satisfies. Circumstances may have changed.
- Cross-claims: Federal Rule 60(b)(3): Party moves within one year to show that evidence exists, or should have occurred. Judgment may be deemed void or satisfied.

### VERDICTS

#### General

- Judge instructs jury on the law, which is applied to facts. Choose which party wins and what relief will be awarded.
- Advised jury decided.

#### Court

- Court renders specific findings of fact.
- Find facts to make possible. Jury cannot act on facts it ignores the law.
- Judge instructs jury on law and requests a general verdict. Specific procedures. Specialized are substituted. Ensure that the law was applied properly.

#### Impartiality

- Jury did not function properly. Judgment must be set aside. Parties may have been deprived of right to impartial jury.

### ACQUISITION

- Void: prevent the defendant from hiding or removing assets in order to prevent party from collecting the court's order.
- Procedural: voiding of bond to prevent frivolous cases that would only serve to clog the court system.

# Municipal Office Procedure Study Guide For Test

**Y Pai**

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