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Civil Procedure (Quickstudy: Law)

Quick Study LAW

AMERICAN LEGAL REFERENCE CHART

CIVIL PROCEDURE

JURISDICTION

SUBJECT MATTER
COURT'S POWER OVER CASE AND THE TYPE OF CASE BEFORE IT

FEDERAL QUESTION (28 USC 1332)
BASIC

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

EXAMPLES

1. Federal Statutes
a. Cause of action arises under statute of statute the subject-matter jurisdiction to apply (Brennan v. United States)
2. Admiralty cases
a. Jurisdiction over suit involving loss recovery of lost or damaged goods (Eg. *Robertson v. General Electric*)
3. Interstate Commerce, Copyrights and Patents
a. Construction of patent, including terms of an estate, claim, or within court's exclusive power (Brennan v. United States)
4. Cases where the U.S. is a party
a. Controversy between U.S. citizens and foreigners

ADJUDICATION

1. The amount in controversy does not matter if there is a Federal question involved

DIVERSITY (28 USC 1332)
EXCEPTION

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 for more than \$75,000
a. Action for contract in shipping wrongful death claims and covered under Federal statute (Brennan v. United States)
2. Jurisdiction over claims: some claims may be added together to satisfy jurisdictional amount
3. Federal courts may still decline to exercise jurisdiction
a. When abstention doctrine is used - Federal courts defer to state courts based on difficulty of questions of State law presented by the relevant litigation on State court
b. When diversity is obtained from improper or collusive joinder of parties
c. When parties have the same part of the suit
d. When domestic relations are matter part of the suit

COMPLETE DIVERSITY

1. No one Plaintiff can be a citizen of the same State as any one Defendant
2. Diverse defendants diversity (2-part test)
a. The party you are previously found to be
b. Is the same as the party you are suing
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 (See *Waller v. Lewis*)
4. **Removal of Corporation**
a. The State of incorporation of the corporation
b. State where principal place of business is located
5. **New Actions**
a. The named representative is the person whose case should be considered
b. New claims of any State, therefore, cannot use diversity jurisdiction

OTHER INSIS

1. Cannot sue "artificial plaintiff" alleging the existence or lack of Federal question
2. Cases go to the "district court" of the U.S. for the district and division in which the case is filed (the State is not a factor in this determination)

SUPPLEMENTAL JURISDICTION (28 USC 1367)
ANCILLARY JURISDICTION

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. Plaintiff's claims by defendant parties who would otherwise have their right to claim or be required to sue in Federal court
b. Tolling provision (DIPRA) does not apply to claims filed in Federal court against noncontroversial states (Rogers v. Republic of Mexico)
2. Applies to diversity and Federal question claims
3. 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. Intervenor (FRCP 22, 28 USC 1332)
e. Does not apply to:
a. Permissive Counterclaims (FRCP 13(b))
b. Impleader of Third Parties (Schlesinger v. Wechsler)
c. Joinder of Parties (FRCP 14)
d. Joinder of Parties Needed for Just Adjudication (FRCP 17)
e. Joinder of Parties (FRCP 20)
f. Intervention of right (FRCP 24)
g. New actions in which a Federal judgment creditor seeks to enforce liability for a money judgment on a person not otherwise liable for the judgment (Pascucci v. Shuman)
3. Does not allow one jurisdiction over parties requirement

PERMISSORY CLAIM JURISDICTION

1. Plaintiff with valid Federal question claims may bring along a state-based claim in Federal court
a. Must derive from common nucleus of operative fact
b. Up to court's discretion whether to hear parallel claims based on considerations of judicial economy, convenience and fairness to litigants

PERMISSORY PARTY JURISDICTION

1. Plaintiff with valid Federal claim against one defendant may bring state-based claim against another defendant over whom no independent basis of Federal jurisdiction exists
a. Must derive from common nucleus of operative fact
b. Does not apply to diversity jurisdiction

REMOVAL FROM STATE TO FEDERAL COURT

BASES FOR REMOVAL

1. If Federal courts would have had original jurisdiction
a. Federal question jurisdiction existed at time action was filed
i. No Federal Court jurisdiction when complaint does not allege Federal question (see *Chen v. United States*)
ii. Federal statute preempts cause of action (See *United States Bank v. Anderson*)
2. Diversity jurisdiction existed at time action was filed
3. Issue of personal jurisdiction procedure subject matter jurisdiction (Brennan v. United States)
4. Time to remove is triggered by formal service of process, not by informal receipt of complaint (See *Black v. Michael*)

EXEMPT TO DEFENDANT'S OPTION (Black v. Michael)

1. Does not apply to Plaintiff defending uncontested claims that dispute in state court should be dismissed because of prior Federal ruling is not final for removal under FRCP 12(e) (Black v. Michael)

MULTIPLE CLAIMS

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

CASES WHERE ARE NOT REMOVABLE

1. In suits under FELA Act, Jones Act, Violence Against Women Act, and State anti-bullying compensation laws (28 USC 1445)

OTHER INSIS

1. Cannot sue "artificial plaintiff" alleging the existence or lack of Federal question
2. Cases go to the "district court" of the U.S. for the district and division in which the case is filed (the State is not a factor in this determination)

PERSONAL
POWER TO BRING PARTIES BEFORE COURT AND HOLD THEM TO ACCOUNT

INTRODUCTION

DEFENSITIVE DEFENSES

1. Court has power to act upon the person or property

THREE TYPES OF JURISDICTION

1. **In Personam**
a. Federal State (State in which we are suing) has jurisdiction over the Defendant's person
b. Defendant is from State to which is suit filed and could be in that State
2. **In Rem**
a. Where Court has power over Defendant's property or status
b. 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. Plaintiff has to "touch" or "affect" "minimum contacts" (minimum of International Shoe)
c. Defendant affects only the property seized

TRADITIONAL TEST (PENNINO V. NEFF)

PRESENCE IN FORUM STATE AND

1. Defendant's, Plaintiff's, or Defendant's temporary presence in State connected to activity in lawsuit falls within province of law

DEFENDANT MUST BE SERVED WITH NOTICE OF SUIT AGAINST HIM WITHIN FORUM STATE

1. Court of Defendant is only within the forum State if defendant, he may be served with process there
2. Service on a plane flying over forum State is valid

MODERN BASIS
DEFENDANT MUST HAVE MINIMUM CONTACTS, DOMESTIC OR FOREIGN

MINIMUM CONTACTS (INTERNATIONAL SHOE CO. V. BARRETT)

1. Defendant must be "purposefully directed" towards forum State
a. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
b. Defendant must purposefully avail himself of privileges of the forum State (See *Shaffer v. Heitner*)
c. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
d. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
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v. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
w. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
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y. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)
z. Defendant must be "purposefully directed" towards forum State (See *Shaffer v. Heitner*)



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.

What BarCharts are NOT: a comprehensive study guide. You cannot do well on a law school exam or bar exam relying solely upon BarCharts. That is not their purpose. What BarCharts ARE: a condensed overview of the black letter law. Use them as a quick reference to understand the material during the semester. Use them as a REVIEW of the material you (should) have already studied for the exam. In law school, BarCharts were the last thing I skimmed over before taking an exam. It's a good refresher. Same with the bar exam. I skimmed over my BarCharts both nights before the exam.

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!

We own a series of Quick Study guides. These guides are clearly not a substitute for 500-page study books, but are generally very useful quick references. We routinely consult the Quick Study guides when we need to write something with a legal slant, on a scientific topic, or merely a flawlessly punctuated document. This is a generic review, as one could always argue what each Quick Study guide should contain or shouldn't contain. As a general, basic reference, the sturdy guides are excellent, well-organized, and concise.

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 car 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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