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Civil Procedure (Quickstudy: Law)

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CIVIL PROCEDURE

JURISDICTION SUBJECT MATTER CAN IT BE BROUGHT IN COURT AND THE TYPE OF CASE BEING IT	SUPPLEMENTAL JURISDICTION [28 USC 1367] 1. Defendant with counter-claim, cross-claim or third-party claims may bring them in Federal court as long as Federal court has jurisdiction over original claim. 2. Plaintiff with claims against parties who would claim more favor than their right to claim or to be required to answer claim in State court. 3. Telling provision (DMD) does not apply to claims filed in Federal court against nonconsenting state (Rogers v. Sargent & Lundy). 4. Apply 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. Counterclaims (FRCP 13(c)) d. Does not apply to: 1. Permissive Counterclaims (FRCP 13(b)) 2. Impleader of Third Parties (FRCP 14) 3. Joinder of Claims (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 (Frank v. Frank). 8. Does not also jurisdiction over parties requirement.	PERSONAL POWER TO BRING PARTIES BEFORE COURT AND BRING THEM TO JUDGMENT
FEDERAL QUESTION [28 USC 1332] 1. A Federal law creates the cause of action. 2. Plaintiff's right to relief depends on the violation of a substantial question of Federal law. EXAMPLES 1. Federal Statutes a. Cause of action starts cause within section of statute the subject-matter jurisdiction to apply (Rosen v. CIR). 2. Admiralty cases 3. Jurisdiction over suit stemming from receipt of undisclosed income (Rohde v. Canal Zone Board). 4. Invention, Copyright, Copyright and Patent. 5. Constitution of patent, including issue of air rights claim, to which court's exclusive jurisdiction (Shelton v. Barber). 6. Cases where the U.S. is a party. 7. Controversies between U.S. citizens and foreigners. ADVERSE 1. The amount in controversy does not matter if there is a Federal question involved.	PENITENT CLAIM JURISDICTION 1. Plaintiff with valid Federal question claims may bring along a state-based claim in Federal court if: a. They derive from common nucleus of operative fact. b. It is to court's discretion whether to hear state claim based on considerations of judicial economy, convenience and fairness to litigants. PENITENT PARTY JURISDICTION 1. Plaintiff with valid Federal claims against one defendant may bring state-based claim against another defendant even when no independent basis of Federal jurisdiction exists. a. Must derive from common nucleus of operative fact. b. Does not apply to diversity jurisdiction.	INTRUSION OR OBSTRUCTION OF PROPERTY 1. Court has power to act upon the person or property of another. 2. Plaintiff cannot sue with the issue of State and Federal courts concerning such jurisdiction. THREE TYPES OF JURISDICTION 1. In Personam a. Some State claims in which we are using his jurisdiction over the Defendant's person. b. Judgment in State Court 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. In State actions 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" standard of International Shoe. c. Judgment affects only the property seized.
DIVERSITY [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. State law controls in matters involving death where defendant and covered under Federal rules (Shelton v. Barber). 3. Application 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 due to their courts based on difficulty of questions of State law presented by the Federal litigation on State court. b. When diversity is obtained from improper or defective joinder of parties. c. When parties have one the same part of the suit. d. When elements of claims 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. Plaintiff's diversity (2-part test) a. The party you are physically located in. b. Is the State in which they are domiciled. 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 (Kane v. Lantz). 4. Citizenship of Corporations a. The State of incorporation and b. State where principal place of business is located. 5. Domicile a. The natural representative is the person whose citizenship is considered. b. U.S. citizens living abroad c. Two citizens of one State, therefore, cannot sue in that jurisdiction.	REMOVAL FROM STATE TO FEDERAL COURT BASES FOR REMOVAL 1. If Federal courts would have had original jurisdiction: a. Federal question jurisdiction started at time action was filed. b. No Federal Court jurisdiction when complaint does not allege federal question (Hudson v. Spillane). c. Federal courts preserve cause of action (Hudson v. Spillane, 5th Cir.). 2. Issue of personal jurisdiction proceeds subject matter jurisdiction (Hudson v. Spillane, 5th Cir.). 3. Time for removal is triggered by formal service of process, not by informal receipt of complaint (Hudson v. Spillane, 5th Cir.). WRITING AT DEFENDANT'S OPTION 1. Does not apply to Plaintiff's defending noncontrolling. 2. Claims that depend on state court should be dismissed because of prior Federal ruling is not basis for removal under FRCP 12 (Rosen v. Sargent & Lundy). MISFEASANCE CLAIMS 1. If a cause of action which can be removed in joint 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 I AM NOT RESPONSIBLE 1. In suits under FELA Act, Jones Act, Violence Against Women Act, and State defendant's compensation laws (28 USC 1445). MISFEASANCE 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. International Brotherhood of Teamsters).	TRADITIONAL TEST (OPENCOVER V. NEFF) PRESENCE IN FORUM STATE AND 1. Defendant's, Defendant's, Defendant's temporary presence in State essential to activity in lawsuit filed within jurisdiction of court. DEFENDANT MUST BE SERVED WITH NOTICE OF SUIT IN AGAINST HIM WITHIN FORUM STATE 1. Court of jurisdiction is only within the forum State a few times, he may be served with process there. 2. Service on a plane flying over forum State is valid. MODERN BASIS DEFENDANT MUST HAVE ADEQUATE CONTACT, DOMICILE, OR CONSENT MINIMUM CONTACTS (INTERNATIONAL SHOE V. WASHINGTON) 1. Court does not offend "traditional notions of fair play and substantial justice". 2. Constitutional considerations a. Activities must be systematic and continuous. b. Defendant's, Defendant's de Colombia, S.A., Hall. c. Activities must be purposefully directed towards forum State (Hall v. Shell International Oil Co., Superior Court). d. Defendant must purposefully avail himself of privileges of the forum State (Hanson v. Denckla). 3. Reasoning of Supreme Court by International Shoe, Inc. v. Washington, Wash. State. 4. Minimum contacts of property is not enough unless Defendant had necessary "minimum contacts" with forum State (Shaffer v. Heitner). MINIMUM CONTACTS 1. Jurisdiction over person domiciled within forum State, even if temporarily not within State. 2. Defendant - contact involving place. 3. Contact to individuality contacts a. They are directly at a time. b. Contact must intend to make the place his home, for the time or long. CONSENT 1. Jurisdiction over person by contract, even if no contacts with forum State. 2. Consent by filing an action a. Consent to be sued against original Plaintiff and by counter-defendant directed to the action. 3. Voluntary Appearance a. U.S. law contract, depending on agent. 4. Voluntary Appearance in Court.

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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.

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 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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