

# I. PERSONAL JURISDICTION

## A. General Principles

1. Defined: Personal jurisdiction is the power of a court to enter a judgment that ***binds all parties*** to the lawsuit. Concern is about the ***power over the defendant***.

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## B. Historical Development

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## C. Modern Personal Jurisdiction: Specific Jurisdiction

1. General Principles

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2. Basic Flowchart

- a. Statutory: Does the state's long-arm statute allow for personal jurisdiction (limited to attract business)? *If no, STOP*
- b. Constitutional Q: Does the due process clause allow personal jurisdiction?
  - i) Did the defendant have minimum contacts with the forum state?
    - (1) Purposeful Availment / Foreseeability
    - (2) What was the quality/quantity of the contacts? (facts to facts)
  - ii) Would personal jurisdiction be reasonable (fair play & substantial justice)?
  - iii) Does the court have specific jurisdiction or general jurisdiction?
    - (1) General: someone who lives in the state or is present in the state, state of incorporation, principle place of business (consider the continuum between general and specific)
- c. What type of case?
  - i) Internet
  - ii) Stream of Commerce
    - (1) Brennan: Foreseeability is enough.
    - (2) O'Connor: Foreseeability is not enough; purposeful availment
  - iii) Contract, Tort, Etc.

3. **Minimum Contacts**: A court has personal jurisdiction over an entity if the entity has such ***minimum contacts*** with the state that requiring the entity to defend a lawsuit in that state would not offend traditional notions of fair play and substantial justice. International Shoe, p.42 (relying on "doing business" as a proxy for presence; Kulko extended to individuals).

- a. International Shoe
  - i) ***Continuous and Systematic Contacts***: marketing to customers, displaying products, selling to residents, paying residents, state interest in the issue, renting space, flow of goods. N15
  - ii) Lack of Contacts: sales made in another state, no permanent base, incorporated and main office in another state, paying independent contractors (commissions), only one set of product in the state. N15

- iii) Justification: The company is benefiting from the laws of the state, so it should be subject to suit for certain things—reciprocity argument.
  - b. Result: The court shifts from looking at D's presence or absence to the **relationship** between D and the forum. Courts will consider the **quality and nature** of the contacts, reasonable expectation, burden of litigating, whether the suit arises out of the contacts. N15, 44
4. Other Cases Applying Minimum Contacts
- a. McGee, p.50: CA resident bought an insurance policy from AZ company; policy was sold to TX company. TX company sent a new policy to CA; CA resident continued sending payments. CA courts had personal jurisdiction over TX company. Personal jurisdiction based on a **single act**.
  - b. Hanson, p.51: PA resident constructed trust in DE; PA resident moved to FL. FL court does not have personal jurisdiction over the DE bank because it was the **unilateral act of the plaintiff** that created the connection between DE and FL. D must **purposefully avail** itself of conducting activities in forum state.
  - c. Gray, p.52 (STATE COURT): IL resident sued OH company for negligently constructing a valve used in a water heater made by PA company. OH company had never done business in IL. IL court had personal jurisdiction because OH company could have **reasonably anticipated** being called to IL; received benefit from selling products nationally.

## Intentional Fault: Intentional Torts

### a. Prima Facie Case: *Intent, Impact, Harm*

#### i. Transferred Intent:

1. Did D intend to commit one tort but commit another?
2. Did D intend a tort on one person but commit one against another?

#### ii. Battery: *Intent, Contact/Act, Harm*

1. Defined: Battery is the intentional infliction of a harmful or offensive bodily contact.
2. Intent
  - a. Intent modifies the contact/act for trespassory torts. Garratt
  - b. Intent modifies the harm. Van Camp
3. Contact
  - a. Contact is offensive if it would offend the *personal dignity* of a reasonable person. Physical harm is not required. Snyder, Cohen
  - b. Contact can be satisfied if particulate matter touches the P or if the contact is with an extension of the person. Leichtman
  - c. Contact is satisfied if a person starts a chain of events *substantially certain* to cause contact. Garratt
  - d. Awareness of contact is not required.
4. Harm
  - a. The wrongful act is a harmful or offensive contact.
  - b. An *expansive view of harm* is adopted to satisfy our goal of compensation.
  - c. Anger is not a legally cognizable harm.

#### iii. Assault: *Intent, Apprehension, Harm*

1. Defined: Assault is the intent to place another person in imminent apprehension of harmful or offensive contact.
2. Intent
3. Apprehension
  - a. The apprehension must be *imminent* (likely to occur at any second or immediately), and *mere words* are insufficient. Cullison
  - b. Conditional threats are not imminent and are mere words.
  - c. Fear is not required.
  - d. Apprehension must precede the battery for assault. Koffman
4. Harm
  - a. The wrongful act is a wrongful touching of the mind.

#### iv. False Imprisonment: *Intent, Confinement, Harm*

1. Defined: False imprisonment occurs when D intentionally confines P within a fixed boundary, and P's will to leave is overcome in a way that would overcome the will of a reasonable person.
2. Intent
3. Confinement
  - a. Confinement must be involuntary, no confinement if P is free to leave at any time.
  - b. Mere exclusion is not confinement.
  - c. Must be within a boundary *fixed by D* for *any appreciable length* of time.
  - d. P must be *aware* of confinement or *actually injured*.
  - e. D must use implicit or explicit *threats of force*, but actual force not necessary.
  - f. False assertion of legal authority.
  - g. Holding valuable goods of P.
4. Harm
  - a. Wrongful act is the restriction of freedom.

#### v. Intentional Infliction of Emotional Distress: *Intent, Extreme & Outrageous, Distress, Harm*

1. Defined: The intentional or reckless infliction, by extreme or outrageous conduct, of severe emotional or mental distress, even in the absence of physical harm
2. Intent
  - a. Intent cannot be transfer, except to someone who is present.
3. Extreme and Outrageous Conduct
  - a. Beyond the bounds of decency.
  - b. Repeated action or carried out over time.
4. Distress
  - a. Physical or mental distress, but mere insults are not enough to establish distress.
5. Harm
  - a. The wrongful act is the infliction of severe or debilitating emotional distress.

## Standing

**Issue: Whether a court can hear a case. Whether the injury would be more appropriately addressed by a political branch of government.**

**Rule:** When the party bringing the suit is the direct object of government action, they have standing. Lujan v. Defenders of Wildlife (1992) p.11, p.97 (no standing because injury was not imminent)

Article III (Constitutional) Requirements: (1) **Personal injury** that is actual or imminent; (2) **Causation** that is fairly traceable to a government action (but for cause); and (3) **Likely redressed** by a favorable ruling of the Court.

Prudential Requirement: Allen v. Wright (1984) p.11, p.92 (Bickel suggests this is an exercise of passive virtues)

- (1) **Zone of Interest:** The complaint must be within the zone of interest protected by the law invoked.
- (2) **Injury cannot be too generalized:** Generalized grievances are more appropriately addressed by the other branches of government. (Ex: suing as a taxpayer or citizen)
- (3) **Not litigating another person's rights**

Allen v. Wright: A **stigmatic injury is too general** to satisfy the injury element. In cases of discrimination, a personal showing of being denied equal treatment is required. Asserting the right to have the government act in accordance with the laws is not sufficient to grant standing.

Lujan v. Defenders of Wildlife: Congress **cannot abandon the Article III requirement** of injury in fact through the enactment of a citizen suit provision. Congress can broaden the class of injuries that are recognized. Kennedy concurrence argues that a nexus may exist, but Congress must define more clearly the type of injury that is being protected.

Sierra Club v. Morton p.12: Specific parties to the case must have been injured. Aesthetic or environmental interests can suffice.

United States v. SCRAP p.12: A **remote injury** will sometimes serve to satisfy the standing requirement.

City of LA v. Lyons p.12: A **real injury**, rather than a threatened injury is required. A future injury must be imminent.

Schlesinger p.12: **Widely diffuse harm** does not satisfy the prudential standing requirement of an injury that is not too generalized. Generalized injuries are better remedied by the political branches of government.

United States v. Richardson p.12: An injury that is suffered by all **taxpayers** is too generalized.

Other Constitutional Experiences: Individuals can take cases directly to the highest court. Standing exists for third parties, especially when no one else is coming forward.