Introduction to Jurisdiction

We will spend almost two months on the topic of “Jurisdiction,” which involves a number of sub-topics. This document is designed to give you a big-picture view of what we are about to get into.

I. What is Jurisdiction and Why Does it Matter?

II. Introduction to Jurisdiction Topics
   A. Subject Matter Jurisdiction (SMJ)
   B. Personal Jurisdiction (PJ)
   C. Venue
   D. Notice and Service
Jurisdiction – An Overview

I. What is Jurisdiction and Why Does it Matter?

The term jurisdiction means power. When we say a court has “jurisdiction” over a case it means that the court has the power (is authorized) to hear that case.

Jurisdiction tells us where a case can be properly heard. For example, cases are sometimes, but not always heard where a dispute arose. In addition, even if a case were to be heard where it arose, a plaintiff may be able to choose whether the case should be heard in federal or state court. Although all courts may seem equally good choices to start a lawsuit, most attorneys have preferences about where to file a lawsuit. There may be tactical reasons to sue in different courts or in different states that involve what legal claims can be made, the size of an award, as well as the applicable rules that apply in the case. Attorneys and clients like having choices. Similar to law students wanting a choice in what law school to attend (even though each could give the same degree), attorneys also want choices.

From a practical perspective, jurisdiction likely covers a significant part of a civil procedure course. Why is it so important? The reason it is given so much attention is that as a practical matter, if you pick the wrong court your case will be thrown out. As a lawyer you must get jurisdiction “right”! In addition, a lot of jurisdiction is constitutional law in disguise: it asks tough policy questions like what cases belong in state versus federal court; or when should courts have the power to hear a case and enter an enforceable judgment against a party.

So, what is Jurisdiction?

Now that we’ve established that jurisdiction is important, we will turn to exploring what the term jurisdiction means. Most courses focus on two types of jurisdiction: subject matter jurisdiction and personal jurisdiction. In addition, many would consider the concept of venue and issues about how a party is “served” or given notice about the case to be related. The next section provides a brief overview of each of these concepts. The three concepts can be conceived as follows:

- subject matter jurisdiction (SMJ): Can I file this case in federal or state court (or both)?
- personal jurisdiction (PJ): What state(s) can I file this case in (Ohio? New York?)
- venue: Which specific court (within the federal or state system) should I file in?
- service: How do I tell the defendant that I have sued him?
II. Introduction to Jurisdiction Topics

This Part will briefly introduce you to each unit that is tied to jurisdiction (i.e. where a case can be heard).

A: Subject matter jurisdiction

Subject matter jurisdiction relates to the type of case that a court has the authority (i.e. power) to hear. If the court lacks SMJ, it cannot properly hear the case, such that it will be dismissed. In fact, SMJ is so important that courts can raise lack of SMJ on their own to dismiss a case, even if no party raises this issue.

The overall subject (or type) of a case will often determine whether a case can be heard in federal or state court. Federal courts can only hear (i.e. have subject matter jurisdiction over) certain limited types of cases. The scope of federal subject matter jurisdiction and especially what federal district (trial) courts can hear is a major focus of Civil Procedure classes.

At this point, an analogy might be helpful. For example, assume that you want to talk to your civil procedure professor about getting an excused absence for missing your Torts class. Most likely, your civil procedure professor would say that she lacks any authority to do anything about that — even if it is something that someone else (your Torts professor) might have authority over. On the other hand, if you wanted to discuss your absence from a civil procedure class, or your grade in the class, that would be something that she would have “power” over.

B. Personal Jurisdiction

Personal Jurisdiction focuses on whether a specific court has power over the parties before it, i.e., the plaintiff and the defendant. In general, a court has personal jurisdiction over the plaintiff because when a plaintiff files a law suit in a given court she is considered to consent to the court’s power over her. However, a defendant is by definition someone who was brought involuntarily into a case. Lack of personal jurisdiction can be an important defense (it may lead to dismissal and/or the case being re-filed somewhere that does have proper personal jurisdiction).

Whether or not a court has personal jurisdiction over a defendant generally involves understanding state statutes in conjunction with constitutional cases about the proper boundaries of personal jurisdiction. Often, there may be multiple states that have personal jurisdiction over a defendant in a given suit. In such cases, a plaintiff may be able to choose which state to file suit in.

Let’s return to an analogy to give a rough sense of what personal jurisdiction means. Power over a defendant generally means that the court has power to require a defendant to do things, including obey a judgment to pay the plaintiff. If you return to the analogy about your civil procedure professor, consider whether your professor (who teaches section A) has the
power to give grades to students who are enrolled in a civil procedure class with another professor (section B). Your gut instinct is likely that your professor has no power over students in another section and that instinct is the gist of personal jurisdiction – even if the actual rules are a bit more complex. If a court has no jurisdiction over a defendant, it has no power to require the defendant to act and this is a ground for dismissing the case. Similarly, if a professor attempts to give grades to students over whom she has no power, those grades would not be valid.

C. Venue

The topic of venue has to do with convenience. In other words, even if you’ve decided what state and which system (federal or state) has power over your case, there are often still a number of choices of courts. Venue rules further limit where a case can be filed – they try to select a court (or courts) that is convenient. Let’s try another analogy for venue. Assume that there are 90 students in your civil procedure class. If all the students asked questions at the same time in class, chaos might ensue. So your professor might indicate where certain questions should be asked: if you have questions about today’s assignment, ask it in class; if you have questions about the class quiz, post that question online; or if you have questions about your exam, please see me during office hours. Note that all the questions are appropriate (the professor has subject matter and personal jurisdiction over all these issues) but that for reasons for convenience and efficiency she assigns a different “venue” for answering each question.

Although the specific venue rules are more complicated, this analogy should underscore the idea that venue is about allocating cases based on convenience among courts that have equal authority to hear them.

D. Notice and Service

The topic of service (or constitutional notice) has to do with when and how a defendant finds out that he is sued. Although it may not seem important how a defendant finds out, there are actually constitutional requirements about how a defendant can be fairly informed. In fact, if service is not done properly, that is ground for having the case dismissed.

An analogy might be helpful. For example, most students would likely agree that before expulsion, a student should be notified and given some right to contest potential expulsion. Posting an announcement in a random classroom would not likely give the student proper notice; this is essentially what the constitutional requirement of due process for notice attempts to prevent.