

Multistate Bar Exam Outlines

CIVIL PROCEDURE

- I. **PERSONAL JURISDICTION** – jurisdiction over the parties in the state. Must satisfy a state statute and due process under the constitution.
 - a. **Long Arm Statutes** – Used to assert a state’s jurisdiction over non-residents. (2 types)
 - i. **General** – permit a state court to exercise jurisdiction over any party as long as it is constitutionally permissible.
 - ii. **Enumerated** – Narrow and provide that only certain acts will warrant jurisdiction.
 - b. **In Personam** – Jurisdiction over the person based on **contacts** with the forum state
 - i. **Traditional Basis**
 1. **Consent**.
 2. **Personally Served with process** within the state, (if not tricked or forced into forum) or
 3. **Domiciled** within the state.
 - ii. **Minimum Contacts** – “Whether the D has such **minimum contacts** with the forum so that exercise of jurisdiction does not offend traditional notions of **fair play and substantial justice**”
 1. **Contact** – There must be a **relevant tie** between the D and the forum state.
 - a. **Purposeful Availment** – “Purposely availed himself to the benefits and protections of the forum state”
 - i. i.e. trying to make money, using roads, causing effect in state.
 - ii. Internet – Interactive websites are sufficient, passive websites are not.
 - b. **Foreseeability** – “Reasonably likely to be hauled into court there”
 2. **Fairness** – “fair play and substantial justice”
 - a. **Relatedness** between the contact and plaintiff’s claim.
 - i. **Specific** – Does P’s claim arise from the D’s contact with the forum state?
 1. IF so only **minimal** contacts are required.
 2. D can only be sued there for a claim arising from those activities
 - ii. **General** – Does P’s claim NOT arise from D’s contact with the forum state?
 1. IF so need **continuous, substantial and systematic** contacts with the forum. (i.e. doing business, domicile, incorporation)
 2. D can be sued there for a claim that arose anywhere in the world
 - b. **Convenience** – The forum is OK unless it puts D at a **severe disadvantage** in the litigation. (very hard standard to meet)
 - c. **State’s Interest** – In providing the forum to its citizens
 - c. **In Rem** – A court possesses the power to determine the status of property within its state with respect to all possible interest holders in that property.
 - d. **Quasi In Rem** – Proceeding against a person based on the presence of that person’s property within the state. Modernly must meet a **minimum contacts analysis**.
 - i. **Note** – Jurisdiction is limited to the amount of property.
- II. **SUBJECT MATTER JURISDICTION (Power over the CASE)**
 - a. **Diversity of Citizenship**

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Albert A Gayle



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