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Personal jurisdiction essay outline

PJ available over D through physical control (Burnham) or at least contacts analysis (Int'l shoes). Minimum contact analysis: Long arm statutes - does the defendant come in terms of the applicable statute of the long arm? (States have the type of proper process or proceedings) minimum contacts - does the accused at least not violate contact with the forum government in such a way as to state the jurisdiction of the proceedings clause? Useless - Has the defendant deliberately benefited himself from the privilege of carrying out activities in the forum government, thus citing the benefits and protections of state law? (Shoes - D entered the state and did business there; BK, Henson, Chalek - D arrived in Ks with residents; WWVW, Asahi - D products entered the trade stream; Kulko, Calder, Revell, Zippo - D's out-of-state conduct caused injury/effect in the state) Relatedness - Does the lawsuit arise out of or related to the defendant's purposeful contacts with the forum or, if it does not, are the defendant's forum contacts so extensive that no such relationship is necessary? (Specifically against public jurisdiction -- Perkins, Helicopteros) sensible -- would it be unfair and unreasonable to exercise jurisdiction taking into account the interests of the accused, the forum government, the plaintiff and other states that may be interested in the matter? (Asahi) Full Personal Jurisdiction Personal Jurisdiction Essential elements in personal jurisdiction Due process dictates both that the forum state must have power over the target of the action and that litigating the action there must be reasonable. (WWE VW and Burger King) While P has persuaded times as to power, it has D to demonstrate the unreasonable strength of physical strength (Pennoyer), minimal contacts (Int'l shoes), targeted benefit (Hanson v. Denckla) inquiry involved in finding out whether sufficient power is limited to whether the target relationship to the forum state constitutes minimal audiences and interests of P or people. Unreasonable Exhibition Game and Substantial Justice (Int'l Shoes) should balance D's, P's, and the public interest (McGee against Int'l Life Ins. Inc.) the convenience of litigation in the forum state, the availability of an alternative forum, the government's interest in judging the dispute association does not have to be an ideal forum just unreasonable. Very flexible and liberal test. The beginning of personal competence was used in the case law of rigid procedures of exercising jurisdiction in the original case law. These cases resolved some issues but left gaps that had to be filled. (Under certainty issues) Pennoyer v. Neff Facts - OR attorney sued CA Neff. Announcements published in or newspapers. Neff didn't show up, the lawyer has a hypothetical judgment. After the trial, the court annexed some of Neff's land in OR and gave it to Neff. Law - Court May Judgment against non-residents only if the party... That is personally connected with the process while served within the state, or owns property within the state, and that the property is connected before the litigation begins (as in pseudo-rem jurisdiction) notes - the lawyer does not have jurisdiction over Neff. This method of personal competence was too rigid. Harris v. Balk Facts - Harris, from NC, owed Balk, from NC, \$180. Buckle owed Epstein, of Amedy, \$300. Epstein sued for \$180 when they were both in MD for the amount Harris owed Buckle. Epstein made the judgment at The Amedy, and Harris paid Epstein \$180. Buckle later sued Harris for the \$180 he owed him. Rule - Sth is not a fixed person's debt but follows him wherever he goes. States should give full faith and credibility to judgments made against residents when those residents are in another state. Notes - One of the first is dealing with intangible property. Through this case, someone can owe more in character competence than owed if they gain in the same state. (Troublemaker for corporate debtors) SCOTUS saw that with the nationalization of our economy and advances in transport technology, competence should be expanded through other things. There were also problems with companies in qualification cases. Where do they exist? The next few expanded the boundaries of the personal jurisdiction. How to analyze today's personal competence test for minimum qualification calls: Does the accused come in terms of the statute applicable long arm? Does the defendant have minimal contact with the forum government in such a way that the competent statement will not violate the proceedings clause? Did the defendant deliberately benefit from the privilege of carrying out activities in the government and thus invoked the benefits and protections of state law? Does the lawsuit arise from the defendant's targeted contacts with the Assembly or is it relevant, or if he does not, are the defendant's assembly calls so widespread that such a relationship is not necessary? Would it be unfair and unreasonable to exercise jurisdiction, taking into account the interests of the accused, the Assembly government, the plaintiff, and other states that may be interested in the matter? Does the accused come with a long arm in terms of applicable statutes? Some states have operated on long-arm statutes designed/specific. Others have long-arm statutes of the kind of proceedings. (A court of this state may exercise its jurisdiction on any basis that is not incoordinate with the constitution of this state or the United States) does the defendant have minimal contact with the forum government in a way that the disqualification does not violate the clause of the proceedings? International Shoe v. State of WA Facts - Int'l Shoe was a DE-based corporation with a main office in St. Louis, MO. Had no contract for And it does not hold any warehouses of goods in WA. They have several vendor employees who lived and sold goods for the company in WA. The WA government is suing Shoes in the WA Court for unpaid donations to the state's unemployment fund. Attention was served to the seller for company in WA and through the registered company headquarters at MO. Law - if a party has at least contacts in a state, that company is subject to its jurisdiction as long as it does not offend traditional announcements of fair play and significant justice. NOTES - Int'l Shoes has had minimal contact with WA because there is an ongoing relationship with the government and the practice link to activities. Minimum calls are a qualitative measure. Continuous and relevant - jurisdiction; not persistent but relevant - hard case; Persistent but un relevant - hard case; Not persistent and unsym related - has any jurisdiction benefited the defendant intentionally himself from the privilege of conducting activities in the state forum, and thus citing interests and protecting state laws? Forming an active contract forming Burger King Corp. against Rudzewicz Facts - MI Rudzewicz requested for the franchise of the FL-based BK franchise at MI. Rudzewicz had failed to pay, so BK attempted to negotiate with Rudzewicz through its FL office. After the negotiations broke down, B.K. terminated the franchise. BK complaints on FL. Law - Alone, signing a contract with a party in the forum state is not enough to meet the minimum calls required for that state forum. However, if the contract in that state is a modest step to tie up previous negotiations and the consequences of future contemplation, the party may be seen as having purposefully established minimal contact in that forum state, especially when the consequences are closely caused by activities authorized by the contract. NOTES - The FL has had no jurisdiction over de trust from its deliberately advantaged trust to privilege action in that state. FL was probably the most efficient judicial place to file a lawsuit, but that doesn't matter. The contact with FL was unilateral. Passive Chalek Formation Contract against Klein Facts - IL Chalek sells software to New York Klein. When Klein found the software satisfactory, he returned it and placed the stop payment on the check. Chalk sued for payment in IL court. Law - Entering into a passive contract with an entity in a state does not subject anyone to personal jurisdiction in that state. NOTES - This may have been a public policy concern involved with electronic ordering/internet purchases. Hanson against the facts of Denckla - PA Hanson set up a trust in DE and made changes to it at FL Cutting Sisters out of some money. The sisters sued the DE Trust in the FL court. Law - There is some practice by which the accused deliberately benefits himself from privilege Activities in the state, as a result of citing benefits and protecting its laws, are met in order to meet the minimum calls required for the jurisdiction. The state forum can only obtain jurisdiction over a state-owned company if the company has the least contact with that state forum. NOTES - The FL has had no jurisdiction over de trust from its deliberately advantaged trust to privilege action in that state. FL was probably the most efficient judicial place to file a lawsuit, but that doesn't matter. The contact with FL was unilateral. Worldwide Fulux Wagon against Woodson Facts - Robinson bought an Audi from D (Seaway Volks) in New York. After the year, Robinsons moved to AZ, passing well where they were in an accident. the car caught fire. Robinson sued the car manufacturer, importer, regional distributor, and retail dealer at OK. Regional Distributor (Global Broad Volks) and retail dealer (Seaway Volks) parties in this case in the case of competence. LAW - Jurisdiction may apply if a party delivers its products to the flow of trade with the expectation that they will be purchased by consumers in the forum state. No qualifications over VW's WWE in good. Predictably vital to the analysis of the proceedings is the mere possibility that a product will find its way into a forum state, otherwise any umbrella a company sold will be its agent for process services. It is that there is Ds conduct and communication with the forum government in such a way that he should reasonably be anticipated to halve the court. So, at least the calls were the issue here, not fair play and significant justice. Trade flow plus Asahi before the Superior Court of Facts CA-CA Zurcher lost control of the motorcycle and collided with the tractor. He was severely hurt and his wife was killed. Zurcher complained about the Korean rubber shen involving Japanese Asahi. Esahi sold the tire valve to Chenn. Zurcher sued Osahi in court at CA. Law - Mere awareness on behalf of the foreign D that its components are manufactured, sold, and delivered outside the United States to the state forum on trade streams constitutes not the minimum contacts in that state. NOTES - A significant connection between D and state associations necessary to find minimum contacts should come about targeted D action towards the administration of the forum. O'Connor said the business flow in itself is not targeted enough. Requires trade flow plus. Advertising, design for the market (it's not terribly hard to find these factors plus, according to able-made lawyers, for U.S. companies; harder for foreign companies) former Vandellone against Elevator 4B - the court found that a British manufacturer designed a component section for the worldwide American grain lift market full-back against Woodson Facts - Robinson bought audi from D (Seaway Volks) New York. After the year, Robinsons moved to AZ, passing well where they were in an accident. the car caught fire. Robinson sued the car manufacturer, importer, regional distributor, and retail dealer at OK. Regional Distributor (Global Broad Volks) and retail dealer (Seaway Volks) parties in this case in the case of competence. Law - The State Forum can exercise in the competence of the character of more than one party that behaves and communicates with the forum state in such a way that he should reasonably predict (passable) that the court there halves. Jurisdiction may apply if a party delivers its products to the trade stream with the expectation that they will be purchased by consumers in the forum state. No qualifications over VW's WWE in good. Predictably vital to the analysis of the proceedings is the mere possibility that a product will find its way into a forum state, otherwise any umbrella a company sold will be its agent for process services. It is that there is Ds conduct and communication with the forum government in such a way that he should reasonably be anticipated to halve the court. So, at least the calls were the issue here, not fair play and significant justice. Calder v. Jones Facts - FL Calder's magazine wrote an article about CA Jones. The magazine's biggest outing at CA. Jones claimed the article was defamatory and sued in a CA courtroom. The law - A can exercise jurisdiction over D based on the effects test - states the power to exercise personal competence over a party that causes effects in a state by an act performed elsewhere according to any cause of action caused by these effects. NOTES - There is a test of Calder's effects that will allow personal competence over a party that conducts itself explicitly aimed at the forum state, knowing that harmful effects would be felt primarily, and that defendants reasonably predicted to be halved into court. The action was directed at CA, and Ds knew that it had an effect there. The Zippo sliding scale- applied effects test to the passive Internet- allows the owner to send information on the internet. No PJ. Active - Frequent online contacts with residents over the Internet. Personal competence may be appropriate. The middle between these - some interactive elements, two-way information exchange. PJ possible. Revell v. Lidov (2002) Ds (Revell and Columbia U) sued by P (TX res.) for libel over paper posted to CU journalism forum. The Fourth Circuit mixes Zippo and Calder-PJ can be applied when: the person directing electronic activity into the state with the apparent intention of engaging in business or other interactions within the state creates activity, in an individual within the state, the potential cause of the detectable practice in the CT states court ruled that the article contained no mention of TX or Revell's TX activities, directed at TX readers It wasn't, and it wasn't local. from the article or suffered damage. Internet activity must also be directed in the forum state. General v. Specific Jurisdiction- Does the lawsuit arise out of or is it related to D's purposeful contacts or, if it does not, are D's forum contacts so extensive that no such relationship is necessary? The specific/jurisdiction issue is that it is almost always the case - public jurisdiction is much more difficult to prove than the specific jurisdiction/subject matter. Perkins v. Benguet Mining (1952) P sued D for stock dividends in OH. D acted in the Philippines but had moved its essential operations to the b/c government forum of the Japanese invasion. The cause of the action did not come from activity in OH, but it was a continuous and systematic one, but limited, part of its public business at the time. The court ruled that OH could exercise jurisdiction if it wanted to, but did not have to. This was a special case - not a company/normal situation. It did not establish a clear rule for the public jurisdiction. The jurisdiction may have just been given because there was nowhere else P could see it. Helicopteros v. Hall (1984) Helicopter crash in South America, PSSUD, helicopter company, at TX. CT seeks public jurisdiction - says it's hard to do public jurisdiction unless it's a regular company headquartered there. Concerns about reaching out to the public competence. If lawyers had recently noted that the pilot had been trained in Houston and that the cause of action arose directly outside of pilot training, a different case would probably have been decided. Would it be unfair and unreasonable to exercise jurisdiction, taking into account the interests of the accused, the Assembly government, the plaintiff, and other states that may be interested in the matter? Reasonableness: Would it be unfair and unreasonable to exercise jurisdiction, taking into account the interests of D, the forum government, P and other governments? Asahi's absurdity against CA Superior CT (1987)(PART II) essentially the court agreed that, even if there was a purposeful benefit, the case should not be tried. The American Hurt (Zucher) has now been settled, and the CT lawsuit left a debt suit between the two foreign countries. The balance between interest P (now settled), Times in D (above), state interest (little to none), litigation interest (good reason not to want cases int'l) Kulko's policy concerns before the Superior Court (1978) Kulkos got divorced, the mother moved to California, the kids remained w/dad. The father buys a daughter's plane ticket to move in with the mother and visits the kids while in business at CA. The mother for divorce in CA. The court ruled there is no jurisdiction, because there will only be D internal relationship calls and finding jurisdiction there will be bad public policy since it discourages contact with the former wife of the state live. Notes: Measuring audiences is qualitative and not Measuring. The quality of the call can be measured in terms of its relationship with the subject of the claim. Post- Pennoyer in rem and quasi in rem jurisdiction Shaffer v. Heitner (1977) P sued D in a shareholder derivative suit. P filed a motion to sequester all Ds shares, since DE said the situs of the state shares where Greyhound was incorporated. The court ruled that a state cannot obtain the authority to own a non-resident party only because the property is in the forum state. The minimum contacts test applies. The court basically said that pseudo-rem is not really needed anymore; Everything must be tested under international footwear. Penvir is still applicable in the jurisdiction of the character. Burnham v. Superior Court (1990) P sued D for divorce, served him while he was in CA on business. The jurisdiction constitutes the proceedings on the basis of physical presence alone because it is one of the continuing traditions of our legal system that defines the standard of the proceedings as traditional fair play and significant fairness.

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