

Civil Procedure: Section 4 (weeks 1 and 2)

- I. Introduction
 - a. Other classes: the case is pictured as an inverted triangle, we start big (with the broad facts of the case) and narrow it down to a single holding, which we then use to analyze other cases.
 - b. In this case, we start small (at the point of the triangle) with the statute, and expand out into all the different facts and materials to which the statute can apply.
 - c. Discussion leaders: these are the people who will be called on (typically) for the material. "Didn't get to the reading" will not be an acceptable answer.
 - d. Use the assignment sheet as a roadmap for the outline
 - e. The first half of this court will be finding the right courthouse. Sometimes there is more than one option, and the right courthouse is a strategic course.
- II. Introduction to the court systems
 - a. Basically a triangle: at the base, trial courts that handle the vast majority of cases. In the middle level, Intermediary appellate courts. At the top, with the lowest case load, the highest courts/courts of last resort.
 - b. Appeal to the intermediary appellate court is typically a right. An appeal to the court of last resort is typically discretionary (court can decide for itself whether or not to hear your case).
 - c. Federalist system makes things complicated, because we have powers divided between two systems: state and federal. Each state court has a model like the one above. Then, there is overlap with the federal district courts (trial court, jurisdiction in special cases), circuit court of appeals, and SCOTUS. SCOTUS also has review over state supreme courts.
- III. Subject Matter Jurisdiction:
 - a. Jurisdiction: the power to decide an outcome in a certain case. Nothing that happens at trial counts without jurisdiction. Lack of jurisdiction is always a defense to a claim against you.
 - b. State courts: general jurisdiction. They can hear almost anything, unless there is a specific statute that takes that power away from them.
 - c. Federal courts: limited jurisdiction. They have only the power that is delegated/given to them by the constitution, as it is further limited by the laws of congress. Usually diversity jurisdiction and federal question jurisdiction.
 - d. NOTE: the casebook is "dead-ass wrong" on the description of the Iowa Court System. Refer to the supplemental materials.
- IV. Federal Jurisdiction
 - a. Art III Sec 2 Cl 1 of the constitution: the judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the US, and treaties made, or which shall be made, under their Authority;...etc etc. Describes over which cases (broadly) federal courts will have jurisdiction over. This is further subject to any limitations or exceptions Congress shall create through legislation. There are 3 main types of jurisdiction (once you add in Congress' limitation): subject matter (federal question), diversity jurisdiction, and amount in controversy jurisdiction (must *exceed* 75,000 dollars).
 - b. Personal Jurisdiction/Diversity Jurisdiction

- i. Personal jurisdiction is the authority to pronounce judgment against the persons involved in the suit. Federal courts have original jurisdiction (authority to hear the trial first) when there is diversity citizenship (by state) of those involved in the suit. This is known as diversity jurisdiction.
- ii. Diversity jurisdiction includes alienage jurisdiction, where a citizen of a foreign state can sue a citizen of the United States. Federal District Courts have original jurisdiction to hear these cases.
- iii. The first jurisdiction given to the federal district courts was diversity jurisdiction. Congress was concerned that controversies between persons of different states can create an implicit bias on one side or the other for the resident of the state in which the trial takes place. Because federal district judges have lifetime tenure, they do not need to worry about re-election and can more fairly decide cases involving residents of their would-be electorate body.
- iv. System can be gamed as far as selecting federal or state jurisdiction by carefully choosing parties. (residency, incorporation/headquarters of business, representative of estate/infant/incompetent person)
- v. At this point in the class, Professor Bauer wants you to know that a civil action is commenced by filing a complaint with the court (FRCP 3). A claim for relief *must* contain: (1) a short and plain statement of the grounds for the court's jurisdiction; (2) a claim showing the pleader is entitled to relief; and (3) a demand for the relief sought (FRCP 8). The RS book also contains a series of forms demonstrating the language one would use to create this complaint. In response to this complaint, the defendant must file an answer with/in 21 days (3 weeks) (FRCP 12). Penalty for failing to answer *could* lead to a default judgment against the defendant. Lack of subject matter jurisdiction, personal jurisdiction, and amount in dispute jurisdiction are always always always valid defenses in a pleading. Motion for dismissal for lack of ____ jurisdiction is filed with the court. For the majority of jurisdiction questions, defense must be raised in the response to the case. Lack of subject matter jurisdiction can be raised at any time.
- vi. Gordon vs. Steele
 1. The timeline
 - a. 2/25/72: p's injury
 - b. 6/16/72: emancipation Act
 - c. 8/9/72: off to college
 - d. 4/13/73: suit
 - e. 1/21/73: motion to dismiss
 - f. 5/31/74: decided.
 2. Gordon is suing Steele in federal court. Steele is a college student who lives in Idaho, who does not live a home with her parents, and plans to keep supporting herself although it is not certain how long she will stay in Idaho. Defendant responds to the suit by claiming lack of diverse citizenship. This shifts the burden to the plaintiff to prove that she is a citizen of Idaho, once that claim is challenged by the defendant. In civil

matters, she only has to prove this by a preponderance of the evidence (51%).

3. Issue: Is Diver an Idaho citizen at the time of the injury? Maybe. Ultimately, she passes the domicile test. The court declared that she was an Idahoan, because of her intent to stay in Idaho and not return to her parents' home (Pennsylvania) other than for the purpose of visiting/getting medical treatment. Defendant was based in Pennsylvania. Therefore, diversity jurisdiction is granted.
 4. On appeal, issues of fact (where her home is for the purposes of their place that she lives without any indication/intent of moving) are reviewed deferentially. Appellate Courts don't care much for looking at evidence they see it as questions of law or fact. This means that on appeal (was there one?) the decision would not be addressed other than on an abuse of discretion standard. (we are looking at the judges' order on the motion, pre-trial, not an appellate decision).
 5. The domicile test looks at the animus manendi of the plaintiff. Animus manendi—will or intention manifested (to stay in one place for the purpose of the domicile test). Where the person lives determines their citizenship for the purposes of this person. Need not be a permanent stay in the state, just an indefinite one. Date for determining diversity is at the time of filing the complaint.
 6. Final judgment rule (28 USC section 1291): circuit court of appeals has appellate jurisdiction over all final decisions of the district courts. In this case, this is important because the motion to dismiss for lack of jurisdiction was denied, and therefore the entire trial took place until it was decided (in plaintiff's favor). Defendant was not allowed to appeal until it was over. May have had a different outcome if the motion to dismiss had been granted—that would be considered a final decision and plaintiff could then appeal.
 7. Diversity issues honestly arise more for corporations rather than people. It is pretty easy to figure out where people are domiciled for the purposes of state citizenship.
 8. Did the court get it right? Hard to say. Domicile is more of a state of mind. Residency is defined differently for different purposes (such as in-state tuition).
 9. There can be no "gaps in time" in domicile. You don't lose your old domicile until you get your new domicile. If you are traveling from Iowa to California, never intending to return, you are domiciled in Iowa until you establish a domicile in California.
- vii. Mas v. Perry, 489 F.2d 1396 (5th Cir. 1974).
1. Facts: Appellees Jean Paul Mas (a citizen of France) and his wife, Judy Mas, were graduate assistants at LSU. An apartment they rented in Baton Rouge from the defendant contained a 2 way mirror, which the landlord/defendant Perry used to spy on them. They sued in federal court in Louisiana, claiming diversity citizenship and the requisite