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Civil Procedure (Quickstudy: Law)

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CIVIL PROCEDURE

<p>JURISDICTION</p> <p>SUBJECT MATTER CHAPTER 1, RULES 1-10, 20-22 AND THE TYPE OF CASE BEING FILED</p> <p>FEDERAL QUESTION (28 USC 1331) ISSUES</p> <ol style="list-style-type: none"> 1. A Federal law creates the cause of action 2. Plaintiff's right to relief depends on the resolution of a substantial question of Federal law <p>EXAMPLES</p> <ol style="list-style-type: none"> 1. Federal Statutes 2. Cause of action must come within sphere of state or subject-matter jurisdiction to apply (Section 1, LOR) 3. Admiralty cases 4. Jurisdiction over suit arising from tortious third of underlying tortious (Ripstein's Case), also Ripstein 5. Interstate Commerce, Copyrights and Patents 6. Construction of patent, including terms of an entire claim, to define whether a machine process (Shelton v. Walker) <p>EXCEPTIONS</p> <ol style="list-style-type: none"> 1. Cases within the U.S. in part 2. Common-law torts between States 3. Controversies between U.S. citizens and foreigners <p>AMENDS</p> <ol style="list-style-type: none"> 1. The plaintiff is permitted to sue not matter if there is a Federal question involved <p>DIVERSITY (28 USC 1332)</p> <p>ISSUES</p> <ol style="list-style-type: none"> 1. Controversy is between citizens of different States, or between citizens of a State and citizens or subjects of a foreign State and the action is for more than \$75,000 2. State law controls in matters involving death where defendant not covered under Federal rules (Shelton v. Walker) 3. Application of choice of law rules may be added together to apply jurisdictional amount 4. Federal courts may still decline to exercise jurisdiction 5. When defendant pleads to court Federal courts defer to State courts because of public policy of State law as presented in the relevant litigation on State court 6. When diversity is raised in response to a motion for removal of parties 7. When plaintiff brings on the State part of the suit 8. When domestic relations are matter part of the suit <p>COMPLETE DIVERSITY</p> <ol style="list-style-type: none"> 1. No one Plaintiff can be a citizen of the same State as any one Defendant 2. Plaintiff's citizenship diversity (2-part test) 3. The place you are physically located is 4. With the intent to return there indefinitely 5. Diversity must exist at the time the Complaint is filed with the Court 6. It need not exist at the time of trial or when the cause of action arose 7. Complete diversity must be met at the time judgment is entered (Shelton v. Walker) <p>Removal of Corporation</p> <ol style="list-style-type: none"> 1. State of incorporation and 2. State where principal place of business is located <p>State Actions</p> <ol style="list-style-type: none"> 1. The natural opportunities in the person whose case should be considered 2. U.S. citizens living abroad 3. Two citizens of one State, therefore, cannot sue about the jurisdiction <p>visit us at quickstudy.com</p> <p>Customer Hotline 1-800-333-8000 We welcome your feedback and we can guarantee that feedback goes unannounced.</p> <p><small>© 2008 by The McGraw-Hill Companies, Inc. All rights reserved. This publication is intended for personal use only. All other rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of The McGraw-Hill Companies, Inc.</small></p>	<p>SUPPLEMENTAL JURISDICTION [28 USC 1367]</p> <p>INCIDENTAL JURISDICTION</p> <ol style="list-style-type: none"> 1. Defendant with counter-claim, cross-motion or third-party claims may bring them in Federal court as long as Federal court has jurisdiction over original claim 2. Other claims by defendant parties who would otherwise have their right to claim or be required to raise claims in State 3. Third-party claims (DIPRA) does not apply to claims filed in Federal court against nonparty, non-Defendant in Remedy of Justice 4. Application to diversity and Federal question claims <p>Application</p> <ol style="list-style-type: none"> 1. Commerce 2. Jurisdiction of Additional Parties to Counterclaims (FRCP 13(d)) 3. Jurisdiction of Parties to Counterclaims (FRCP 13(d)) 4. Counterclaims (FRCP 13(g)) 5. Cross-claims (FRCP 13, 28 USC 1367) 6. Does not apply to 7. Personal Counterclaims (FRCP 13(b)) 8. Impleader of Third Party (Sections of FRCP 14) 9. Joinder of Claims (FRCP 18) 10. Joinder of Parties Needed for Just Adjudication (FRCP 19) 11. Joinder of Parties (FRCP 20) 12. Intervention of a Party (FRCP 24) 13. New actions in which a Federal judgment could not be enforced for a timely judgment on a person not enforceable for the judgment (Plaintiff v. Thomas) 14. Does not apply to jurisdiction over parties requirement <p>PERMISSIVE CLAIMS IN REMEDY OF JUSTICE</p> <ol style="list-style-type: none"> 1. Plaintiff with valid Federal question claims may bring along a state-based claim in Federal court 2. Must derive from common nucleus of operative fact 3. Try to court's discretion whether to hear parallel claims based on considerations of judicial economy, efficiency and fairness to litigant <p>PERMISSIVE PARTY JURISDICTION</p> <ol style="list-style-type: none"> 1. Plaintiff with valid Federal claims against one defendant may bring state-based claims against second defendant even when no independent basis of Federal jurisdiction exists 2. Must derive from common nucleus of operative fact 3. Does not apply to diversity jurisdiction <p>REMOVAL FROM STATE TO FEDERAL COURT</p> <p>REASONS FOR REMOVAL</p> <ol style="list-style-type: none"> 1. If Federal courts would have had original jurisdiction 2. Federal question jurisdiction existed at time action was filed 3. No Federal Court jurisdiction when complaint does not give Federal question law claim (Ripstein's Case) 4. Federal statute pre-emptive cause of action (Shelton v. Walker, Anderson) 5. Diversity jurisdiction existed at time action was filed 6. Issue of personal jurisdiction proceeds subject matter jurisdiction (Shelton v. Walker, Anderson) 7. State to remove is triggered by formal service of process, not by informal receipt of complaint (Shelton v. Walker, Anderson) <p>RIGHTS OF DEFENDANT'S OPTION</p> <ol style="list-style-type: none"> 1. Does not apply to Plaintiff's defending counterclaims 2. Claims that dispute in state court should be dismissed because of the Federal ruling is not basis for removal under FRCP 12 (Ripstein's Case, Ripstein) <p>MISFEASANCE</p> <ol style="list-style-type: none"> 1. If a cause of action which can be removed to court with a cause of action that has no independent claim to Federal jurisdiction, then the entire case can be removed to Federal court together <p>CASES WHERE HE IS NOT RESPONSIBLE</p> <ol style="list-style-type: none"> 1. Both under FLSA Act, State Act, Violence Against Women Act, and State workers' compensation laws (28 USC 1442) <p>OFFENSES</p> <ol style="list-style-type: none"> 1. Cannot sue "with prejudice" regarding the entire issue or lack of Federal question 2. Cases go to the "district court of the U.S. for the district in which the cause of action is filed" (28 USC 1391) 	<p>PERSONAL POWER TO BRING PARTIES BEFORE COURT AND RULE FOR IN A SUIT</p> <p>INTRODUCTORY</p> <ol style="list-style-type: none"> 1. Court has power to act upon the person or property of any 2. Offenses committed with the State and 3. Offenses committed against each jurisdiction <p>THREE TYPES OF JURISDICTION</p> <ol style="list-style-type: none"> 1. In Personam 2. In Rem 3. Quasi In Rem <p>In Personam</p> <ol style="list-style-type: none"> 1. Jurisdiction over the person or property of any 2. Jurisdiction over the person or property of any 3. Jurisdiction over the person or property of any <p>In Rem</p> <ol style="list-style-type: none"> 1. Jurisdiction over the person or property of any 2. Jurisdiction over the person or property of any 3. Jurisdiction over the person or property of any <p>Quasi In Rem</p> <ol style="list-style-type: none"> 1. Jurisdiction over the person or property of any 2. Jurisdiction over the person or property of any 3. Jurisdiction over the person or property of any <p>TRADITIONAL TEST (DUE PROCESS v. NEFF)</p> <p>PRESENCE IN FORUM STATE and</p> <ol style="list-style-type: none"> 1. Defendant's, Defendant's Cause: temporary presence in State unrelated to activity in lawsuit, with presence of suit 2. Defendant's, Defendant's Cause: temporary presence in State unrelated to activity in lawsuit, with presence of suit 3. Defendant's, Defendant's Cause: temporary presence in State unrelated to activity in lawsuit, with presence of suit <p>DEFENDANT MUST BE SERVED WITH NOTICE OF LAWSUIT AGAINST HIM/HER WITHIN 90 DAYS</p> <ol style="list-style-type: none"> 1. Case of Defendant is only within the forum State a few hours, he may be served with process there 2. Service on a plane flying over forum State is valid <p>MODERN BASIS</p> <p>DEFENDANT MUST HAVE ADEQUATE CONTACT, DEFENSE, OR CONSENT</p> <p>MINIMUM CONTACT WITH DEFENSE/CONSENT</p> <ol style="list-style-type: none"> 1. First does not offend "traditional notions of fair play and substantial justice" 2. Constitutional objections 3. Activities must be systematic and continuous 4. Defendant's, Defendant's Cause: temporary presence in State unrelated to activity in lawsuit, with presence of suit 5. 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Synopsis

Civil law is extending into areas undreamt of just a few years ago, and our study guide helps you stay informed. Â

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Customer Reviews

well, the idea is great. Having something so clearly written out and easy to read is awesome. My only problem is that it is outdated, therefore some of the information is outdated and incorrect, which is a big issue.

What BarCharts are NOT: a comprehensive study guide. You cannot do well on a law school exam or bar exam relying solely upon BarCharts. That is not their purpose. What BarCharts ARE: a condensed overview of the black letter law. Use them as a quick reference to understand the material during the semester. Use them as a REVIEW of the material you (should) have already studied for the exam. In law school, BarCharts were the last thing I skimmed over before taking an exam. It's a good refresher. Same with the bar exam. I skimmed over my BarCharts both nights before the exam.

I love these... I am a list person. Love top 10's and all that kind of stuff, so these fit the bill. Breaks down several areas with basic/top info to know. Nice quick review in sturdy lamination.

I bought two huge supplemental textbooks, won a supplement via a Lexis raffle, and hauled around

two of the commercial outlines that Bar prep programs give away. Ultimately, it came down to this bad boy. Because of this product, my highest exam grade was in Civ Pro. Trust me, I thought I was on my way to getting a D in that course. Definitely buy!

We own a series of Quick Study guides. These guides are clearly not a substitute for 500-page study books, but are generally very useful quick references. We routinely consult the Quick Study guides when we need to write something with a legal slant, on a scientific topic, or merely a flawlessly punctuated document. This is a generic review, as one could always argue what each Quick Study guide should contain or shouldn't contain. As a general, basic reference, the sturdy guides are excellent, well-organized, and concise.

What these laminates do better than nearly any other resource is to give you a general overview and guide so you can understand where the material is going. Similar to the artist's technique where you have to create a vague rough sketch to understand proportion and relevance, these allow you to understand the significance of minutia and detail in the bigger schematic. Also great refresher if you are return after a long time away and your own notes don't make sense anymore. The Bad: These cannot replace the actual text or class material, though of the entire series Constitutional Law, Civil Procedure and Criminal Procedure come closest. Also, some of the case references are outdated. In particular, they do not have the 2007 amendments to FRCP which have been in effect for some time now. The Ugly: For those gunners out there, the laminate surface also makes these perfect to buy a second set to keep in the can for those "first thing in the morning" study sessions.

go and simple easy to follow and understand. a great companion to have in your brief case at all times. Excellent for a Pro Se

SUPER easy and convenient chart. When I was studying for the Civ Pro final, this chart really brought things together and put it in a format that was easy to study. I would recommend it for anyone taking Civil Procedure, or studying for the bar.

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