

CIVIL PROCEDURE



PERSONAL JURISDICTION

BASIS

- Court has the power to enforce judgments on involved parties.
- Plaintiff submits to jurisdiction by seeking relief, while defendant is subject to rules of resident state.
- Corporations subject to jurisdiction under laws of incorporation.

SERVICE OF PROCESS

- Local statutes determine the type authorized.
- Federal Rule 4 governs how federal process is served.
- Federal courts may use applicable state law methods.
- Service involves in-hand delivery of the summons and complaint.
- May be substituted by notification without personal delivery.
- Plaintiff must include acknowledgment form in a postage prepaid return envelope.
- Constructive service by publication, where defendant's location is unknown.
- Means cannot cause defendant to accept service, nor can it invite defendant into the jurisdiction for sole purpose of service to state.
- Those deemed immune include participants involved in proceedings, referees, parties, witnesses in unvisited action, and persons in the state discussing out-of-court settlements.

STATE STATUTES

- Long-arm statutes must meet constitutional requirements.
- Assertion of jurisdiction whenever defendant has required minimum contacts with state.

CONSTITUTIONAL CONSIDERATIONS

- Divorce suit for violation of due process and right to be heard.
- Individual notice must be sent when the identity and location of the defendant is known.
- Flaw in formalities of how notice is given will not suggest a violation of constitutional rights.
- Court has the power to ensure the defendant that judgment is final and no further liability will be incurred in another court.
- Absent parties cannot be bound by judgment out of jurisdiction.
- Limitation on the exercise of a state's substantial jurisdiction.

FEDERAL COURTS

- Without federal legislation, each federal court must refer to state's laws governing out of state service.
- Procedures part of specific federal causes of action.
- Federal courts may use long-arm statutes.
- Federal Rule 4(e) allows service of process within 100 miles of federal courthouse for specific additional parties to action.

STANDARDS

SOVEREIGNTY

- In personam** State has exclusive power over all people within its borders.
 - Court may render binding judgments in any suit. • Defendant must have been present in the state at the time. • Defendant does not have to be a citizen.
- In rem** State has exclusive power over all in-state property. • Court may render judgments concerning ownership.
- Quasi in rem** State property may be used to reach the defendant. • May be used to secure a preexisting claim to property. • Involves an uninvolved to property.
- Attachment** Validates the state's claim of power. • Ensures that enforcement of any judgment is fulfilled.

REASONABLE

- Location, determining factor of state power.
- Example: stocks exist wherever the stock certificates are located.

CONTACT

- At any time, party may accede to a court's binding authority.

EXTRINSIC DECISIONS

- Jurisdiction depends on something that does not, and may never, exist.

MINIMUM CONTACT

- International Shoe case underlines due process approach to its personal jurisdiction.
- Defendant should have ample minimum contact with the state so that justice would not be precluded in the assertion of jurisdiction.
- Court must be fair to state so that defendant may be heard.
- Overlapping and independent requirements.
- Continuous and systematic activities involving the state.
- Worldwide Volkswagen case states that deliberate activity out of state that is aimed at obtaining benefit, direct or indirect, from that forum will be enough.
- Butler Court states mere presence of property in forum is not sufficient to confer jurisdiction.

JUDGMENTS AND VERDICTS

RELIANCE

- Principles** Party may seek to set aside judgment and obtain a new trial.
- Procedures** Timing restrictions may vary. • Right to due process.
- Grounds**
 - Independent action on grounds of equity.
 - Federal Rule 60(b) • Party moves within one year to show that evidence exists, or fraud occurred or mistake, new material need or settled. • Circumstances may have changed.

REPRESENTS

- General** Judge instructs jury on the law, which is applied to facts. • Choose which party wins and what relief will be awarded. • Minimal jury control.
- Special** Court requests specific findings of fact. • Trial process is more precise. • Jury cannot act on law or ignore the law.
- Interrogatories** Judge instructs jury on law and requests a general verdict. • Specific non-check questions are submitted. • Ensure that the law was applied properly.
- Impeachment** Jury did not function properly. • Judgment must be set aside. • Parties may have been deprived of right to impartial jury.

REQUIREMENT

- Want prevent the defendant from hiding or moving assets in order to prevent party from defying the court's order.
- Procedure: posting of bond to prevent frivolous cases that would only serve to clog the court system.

Guide To The Federal Rules Of Civil Procedure

LP Steffe



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The Top Books of the Year Guide To The Federal Rules Of Civil Procedure The year 2023 has witnessed a noteworthy surge in literary brilliance, with numerous engrossing novels enthralling the hearts of readers worldwide. Lets delve into the realm of top-selling books, exploring the fascinating narratives that have captivated audiences this year. Guide To The Federal Rules Of Civil Procedure : Colleen Hoover's "It Ends with Us" This poignant tale of love, loss, and resilience has captivated readers with its raw and emotional exploration of domestic abuse. Hoover masterfully weaves a story of hope and healing, reminding us that even in the darkest of times, the human spirit can triumph. Uncover the Best : Taylor Jenkins Reids "The Seven Husbands of Evelyn Hugo" This captivating historical fiction novel unravels the life of Evelyn Hugo, a Hollywood icon who defies expectations and societal norms to pursue her dreams. Reids captivating storytelling and compelling characters transport readers to a bygone era, immersing them in a world of glamour, ambition, and self-discovery. Discover the Magic : Delia Owens "Where the Crawdads Sing" This evocative coming-of-age story follows Kya Clark, a young woman who grows up alone in the marshes of North Carolina. Owens weaves a tale of resilience, survival, and the transformative power of nature, captivating readers with its evocative prose and mesmerizing setting. These bestselling novels represent just a fraction of the literary treasures that have emerged in 2023. Whether you seek tales of romance, adventure, or personal growth, the world of literature offers an abundance of captivating stories waiting to be discovered. The novel begins with Richard Pape, a bright but troubled young man, arriving at Hampden College. Richard is immediately drawn to the group of students who call themselves the Classics Club. The club is led by Henry Winter, a brilliant and charismatic young man. Henry is obsessed with Greek mythology and philosophy, and he quickly draws Richard into his world. The other members of the Classics Club are equally as fascinating. Bunny Corcoran is a wealthy and spoiled young man who is always looking for a good time. Charles Tavis is a quiet and reserved young man who is deeply in love with Henry. Camilla Macaulay is a beautiful and intelligent young woman who is drawn to the power and danger of the Classics Club. The students are all deeply in love with Morrow, and they are willing to do anything to please him. Morrow is a complex and mysterious figure, and he seems to be manipulating the students for his own purposes. As the students become more involved with Morrow, they begin to commit increasingly dangerous acts. The Secret History is a brilliant and suspenseful novel that will keep you wondering until the very end. The novel is a warning tale about the dangers of obsession and the power of evil.

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