

Chapter 3—The Court System and Chapter 4—The Litigation Process

Jurisdiction over persons—a court can exercise personal jurisdiction (in personam jurisdiction) over residents of a certain geographical area. A state trial court normally has jurisdictional authority over residents of a particular area of the state. Under the authority of a long-arm statute, a court can exercise personal jurisdiction over nonresident defendants. It must be demonstrated that the nonresident had sufficient contact or “minimum contacts” with the state to justify jurisdiction.

Jurisdiction over property—a court can also exercise jurisdiction over property that is located within its boundaries. This is known as in rem jurisdiction. Suppose a dispute arises over ownership of a boat in dry dock in Ft. Lauderdale. The boat is owned by an Ohio resident. The other party to the dispute is a Nebraska resident. A lawsuit may be brought in a Florida state court based on in rem jurisdiction.

Jurisdiction over the subject matter—is a limitation on the types of cases a court can hear. In both federal and state courts, there are courts of general jurisdiction and limited jurisdiction. A court with general jurisdiction is a federal or state trial court. An example of a state court of limited jurisdiction is a probate court. A court’s subject matter jurisdiction can also be limited by the amount of damages in controversy, by whether a case is a felony or misdemeanor, etc.

Trial courts are those where lawsuits begin. In the federal court system, trial courts are called district courts. In state court systems, trial courts go by different names.

Federal district or trial courts can also exercise jurisdiction over cases involving diversity of citizenship. Such cases may arise between:

- 1. citizens of different states**
- 2. a foreign country and citizens of a state or of different states**
- 3. citizens of a state and citizens of a foreign country**

The amount in controversy (or amount of damages being asked for in a civil case) must be more than \$75K. A corporation is a citizen of both the state in which it is incorporated and where its principal place of business is located.

Pretrial publicity or other factors may require a change in venue.

The party bringing the suit must have suffered a harm or been threatened a harm by the action about which he or she complained.

Appellate courts look at questions of law but usually defer to a trial court's findings on questions of fact.

Following a case through the State Courts

Complaint—the pleading made by a plaintiff alleging wrongdoing on the part of the defendant; the document that, when filed with a court, initiates a lawsuit

Summons—a document informing a defendant that a legal action has been commenced against him or her and that the defendant must appear in court on a certain date to answer the plaintiff's complaint

If the judge grants the motion to dismiss, the plaintiff is generally given time to file an amended complaint. If the judge denies the motion, the suit will go forward.

motion for judgment on the pleadings—a motion by either party to a lawsuit at the close of the pleadings requesting the court to decide the issue solely on the pleadings without proceeding to trial. The motion will be granted only if no facts are in dispute. The judge may consider only the evidence in the pleadings.

motion for summary judgment—a motion requesting the court to enter a judgment without proceeding to trial. The motion can be based on evidence outside the pleadings and will be granted only if there is no genuine issue of material fact.

Discovery

depositions—the testimony of a party to a lawsuit or a witness taken under oath before trial. The person being deposed answers questions asked by the attorneys and the questions and answers are recorded by an authorized court official and sworn to and signed by the deponent.

At the Trial

Marconi's lawyer would introduce evidence to support Marconi's position. The defendant has the opportunity to challenge any evidence introduced and cross-examine any witnesses.

Post-Trial Motions

Motion for judgment n.o.v.—a motion requesting the court to grant judgment in favor of the party making the motion on the ground that the jury verdict against him was unreasonable or erroneous.

The Appeal

A notice of appeal must be filed with the clerk of the trial court within a prescribed time.

Anderson's attorney files with the appellate court the record on appeal, which includes the pleadings, the trial transcript, the judge's rulings on motions, and a brief. Marconi's attorney will file an answering brief.