

## Civil Procedure

### ***Federal Subject Matter Jurisdiction***

1) federal question, 2) diversity of citizenship, 3) supplemental jurisdiction

#### **Federal Question**

claim arises under 1) federal law, 2) U.S. Constitution, 3) U.S. Treaties

#### **Diversity of Citizenship**

1) complete diversity of citizenship, 2) amount in controversy exceeds \$75,000

person: residence (presence) & intent to permanent home

corporation: principal place of business, incorporated

#### **Supplemental Jurisdiction**

arise from same case or controversy (common nucleus, same transaction or occurrence)

NG: P ⇒ TPD

### ***Removal and Remand***

#### **Removal to Federal Court (from State Court)**

Only D may, if 1) federal subject matter jurisdiction, 2) all D agree, 3) no D is resident (diversity case), 4) sought within 30 days (f service of Summons or the initial pleading)

#### **Remand from Federal Court (to State Court)**

Must: no federal subject matter jurisdiction / May: after federal claims have been decided

motion: within 30 days after the filing of Notice of Removal

### ***Venue***

#### **Venue in Federal Court**

venue is proper: 1) any D resides (& all D reside the State), 2) claim occurred, 3) property is located, 4) if no 1), 2), 3), where any D has personal jurisdiction

Residence: person=same, corporation=personal jurisdiction, alien=any district

#### **Transfer of Venue**

if proper: may transfer if 1) convenience of party & witness / interest of justice, 2) to court where action could have been brought

if improper: must dismiss or transfer

### ***Personal Jurisdiction***

Court must have personal jurisdiction over D / 1) Traditional bases, or 2) Long-Arm statute

Traditional Bases: domicile, presence when served, consent, waiver

Long-Arm: Statute & Constitutional (Due Process) (CA) = D has minimum contact (fair, reasonable)

### ***Erie Doctrine***

Diversity case, Fed. court apply federal procedural laws, and state substantive laws

### ***Pleading***

#### **Amending a Pleading (Relation Back Doctrine)**

Amending to a pleading relates back to the date of the original pleading when it arose from the same conduct, transaction, or occurrence

Change a party: notice within 90 days, new D knows action was against him without mistake

### ***Discovery***

#### **Scope of Discoverable Information**

Fed Court: 1) relevant (to claim or defense), 2) proportional to needs

Cal Court: relevant (to the subject matter)

#### **Compelled by Physical and Mental Examination**

may order if 1) motion, 2) mental/physical condition is in controversy, 3) good cause

**Motion to Compel Disclosure or Discovery**

1) on notice, 2) confer (attempt) with the person in an effort to obtain it without court order

***Motions***

**Judgement as a Matter of Law**

reasonable jury would not have a legally sufficient basis to rule for non-moving party before submitted to the jury / infer facts most favorable to non-moving party

**Summary Judgement**

1) no genuine issue of material fact, 2) entitled to judgement as a matter of law view evidence most favorable to non-moving party

***Trial***

**Right to Jury Trial in Federal Court**

7th Amendment guarantees for action at law, not action in equity  
demand: within 14 days of last pleading

***Appeals***

**Final Judgement Rule**

only appeal from final judgement (=ends the litigation on the merits)  
appeals: Fed: within 30 days / CA: 60 days

**Interlocutory Appeals**

appeal of a non-final order  
appellate court may consider if 1) severe prejudice, or 2) lose right if wait (TRO, Preliminary Injunction, collateral issue)

***Preclusion***

**Claim Preclusion (Res Judicata)**

preclude claim

1) valid & final judgement on the merit, 2) identical parties, 3) same claim (same transaction or occurrence)

**Issue Preclusion (Collateral Estoppel)**

preclude issue

1) valid & final judgement on the merit, 2) identical issues, 3) issue was actually litigated, determined, and essential, 4) full and fair opportunity to litigate issue in first action