

**Monday, October 5, 2020** (Intro class 11 of 30!)

**Today:** *doing Civ Pro!* Jurisdictional bases cont'd:

- Personal jurisdiction
- New York's Long Arm Statute (CPLR § 302)

**End of today:** Final resume & cover letter due by email!

**For Wed. Oct. 7** (Intro—*really!*):

- Read M&M ch. 3.
- Read the 2 retainer agreements posted on OL. By 10am reply to the post noting something interesting, a question, response, etc. about either/both.

**For Fri. Oct. 9** (Civ Pro):

- Read *Leuthner v. Homewood Suites* case on OL. By 1pm post a thoughtful reply: something interesting, a question, response, etc.
- (Re)read C&W ch. 4.
- *For Intro:* Timekeeping assignment due by end of day (to be discussed Wed.).

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**Personal Jurisdiction** = court's authority to require a person to comply with its decision

- "in personam jurisdiction"
- "*person*" = human, business, other entity

**A court only has** ("may only exercise") **personal jurisdiction** over a person if that person has been provided **due process** *as required by the . . .*

**US Constitution – 14<sup>th</sup> Amendment** (1868)

" . . . No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

**Due process requires:** (1) notice → *that you might be deprived of life, liberty, or property* **AND** (2) an opportunity to be heard → *on why you should not be deprived, etc.*

. . . **ONLY THEN** may a court exercise personal jurisdiction over you! (require you to comply with its order)

**New York's Long Arm Statute** *In this course, we will focus on CPLR § 302(a):*

**CPLR § 302. Personal jurisdiction by acts of non-domiciliaries.**

(a) Acts which are the basis of jurisdiction.

As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any non-domiciliary, or his executor or administrator, who in person or through an agent:

1. transacts any business within the state **or** contracts anywhere to supply goods or services in the state; **or**
2. commits a tortious act within the state, except as to a cause of action for defamation of character arising from the act; **or**
3. commits a tortious act without the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from the act, **if he**

- (i) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, **or**
  - (ii) expects or should reasonably expect the act to have consequences in the state **and** derives substantial revenue from interstate or international commerce; **or**
4. owns, uses or possesses any real property situated within the state.

*The reasons for these particular requirements are based on the case of:*

***International Shoe v. State of Washington*** (U.S. Supreme Court 1945):

"[D]ue process requires only that, in order to subject a [non-resident] defendant to a judgment *in personam*, . . . he have certain **minimum contacts** with [the state] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."

***This means . . .***

A court may **only** exercise personal jurisdiction over non-domiciliaries who have "minimum contacts" with the state.

- "Minimum contacts" show they have "purposefully availed" themselves of the state's benefits . . . *so it's fair* to make them comply with our laws!
- NYS legislature determined that the acts in CPLR § 302(a) are sufficient "minimum contacts" to satisfy due process (make it fair to exercise personal jurisdiction).

***Let's try it!!***

**Under CPLR § 302(a), may a NY court exercise personal jurisdiction over . . .**

- Hasani, an artist from Hawaii, who sells his artwork to galleries in NY? ***Yes, under CPLR § 302(a)(1) ("transacts any business in the state").***
- Ninmah, a nut-seller from North Dakota, who contracts in Nebraska to sell nuts in NY? ***Yes, also under CPLR § 302(a)(1) ("contracts anywhere to supply goods or services in the state")***
- Carmen, from California, who owns an apartment in Canarsie, Brooklyn that she rents out—then, while she's in Connecticut, she commits a tortious assault on Casimir, who lives in Queens? ***Yes, under CPLR § 302(a)(3)(i) ("commits a tortious act without the state [outside the state—in this case, in Connecticut] causing injury to person or property within the state [Casimir, a resident of Queens, NY, even though he was in Connecticut when the incident happened]. . . [and] regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state" [Carmen earns money by renting out the apartment she owns in Canarsie, Brooklyn])***
- Michelle, of Mississippi, who spends every summer at her parents' home in Montauk, NY? ***Yes, under CPLR § 302(a)(4) ("owns, uses or possesses any real property situated within the state").***
- Fatou, of Florida, who defamed the character of Samara from Staten Island? ***No, under CPLR § 302(a)(2) or (3) (commits a tortious act within [or without] the state, except as to a cause of action for defamation of character arising from the act)***