

CIVIL PROCEDURE FIRST ASSIGNMENTS

Professor Robin K. Craig

Fall 2009

NOTE #1: I intend the Study Questions included on the Syllabus to orient you to the issues that we will be discussing that day. While we will not mechanically proceed through the questions, answering the questions before class should help to prepare you for the day's class discussion.

NOTE #2: If I have assigned a Problem, either from the text (Spencer) or from *Problems in Civil Procedure (Problems)*, we WILL discuss that problem. Therefore, before class, you should see if you can apply the law and rules from the reading to the facts of the problem assigned.

NOTE #3: I have several travel commitments this semester that require me to cancel 3 classes. Rather than subject you to 3 full make-ups, our class will instead meet an extra 6-7 minutes per day – from 8:00 a.m. until 9:22 a.m., rather than 9:15. These extra minutes will eliminate the need for make-up classes.

DAY 1 **Introduction to Civ Pro, or, What the Heck Is This Course All About,**
M 8/24 **and What Does Professor Craig Expect Me to Understand?**

Spencer pp. 1-20

BLACKBOARD: Handout Case: *United States ex rel. Mayo v. Satan and His Staff*

STUDY QUESTIONS:

1. Read *U.S. ex rel. Mayo v. Satan* carefully. Part of your job as a lawyer is to advise your client regarding whether a lawsuit is worth the time and expense of bringing that lawsuit. If Mr. Mayo had walked into your law office, what advice would you have given him? (HINT: Why do you suppose that Mr. Mayo is proceeding without a lawyer?)
2. What is the Western District of Pennsylvania? Are we in federal court or state court? How can you tell?

3. What level of court is the Western District of Pennsylvania – trial court, court of appeals, or supreme court? How can you tell?
4. What statutes is Mr. Mayo relying on? Are those federal statutes or state statutes? How can you tell?
5. This is your first (admittedly limited) encounter with 42 U.S.C. § 1983, which allows a private litigant to sue state and local governmental officials and municipalities for violations of the individual's constitutional rights. If this case had been resolved on the merits, would you foresee a problem with Mr. Mayo's choice of a **cause of action**?
6. What does Mr. Mayo *most immediately* want from the court – *i.e.*, what **motion** is Judge Weber actually deciding in this opinion? What does Mr. Mayo *ultimately* want from the court?
7. How does Judge Weber use **civil procedure** to get rid of this case? Why would Judge Weber want to resolve this case early in the litigation process, rather than proceed to the merits?

DAY 2
W 8/26

PERSONAL JURISDICTION: Introduction and the *Pennoyer* Rule

Spencer pp. 21-36

PROBLEM: Hypo 2.1, Spencer p. 32

AID & COMFORT: Unfortunately, Civil Procedure starts with two VERY difficult cases. Take comfort in the fact that I *know* that they are difficult and will be structuring class discussion accordingly. For your part, take your best shot at understanding them, and trust that we'll hash it out in class!

STUDY QUESTIONS:

1. What rule does the Supreme Court establish in *Pennoyer v. Neff*? Why?
2. Personal jurisdiction is at its most basic an exercise of power – the power of courts to bind individuals to judgments. As a result, as a matter of fairness (and in legalese, due process), we don't want courts to be issuing random judgments against a person who either: (1) didn't know he or she was being sued (the notice problems we'll get to later); or (2) had no reason to think that this jurisdiction had any power over him or her. However, notions of fairness and due process can change over time. Did the *Pennoyer* rule make sense in 1877? Why or why not? Does the *Pennoyer* rule make sense in 2008? Why or why not?

3. How is the *Hess v. Pawloski* Court attempting to deal with the uncomfortable “fit” of the *Pennoyer* rule in the 20th century? What solution does it come up with? Does this solution seem very practical, in your opinion?
4. Why does the personal jurisdiction analysis focus on the court’s jurisdiction over the *defendant*? Why don’t we worry about the plaintiff?

ADDITIONAL OPTIONAL READING: *A Student’s Guide* §§ 1.1, 1.2

DAY 3: PERSONAL JURISDICTION: Modern Personal Jurisdiction Doctrine

Th 8/27

Spencer pp. 37-45

PROBLEMS: Hypo 2.2, Spencer p. 45

Hypo 2.3, Spencer p. 45

STUDY QUESTIONS:

1. What is the modern rule regarding when a court can exercise personal jurisdiction over a defendant, according to *International Shoe*? Why did the U.S. Supreme Court change the *Pennoyerrule*?
2. Who does the *International Shoe* rule help more, plaintiffs or defendants? Why?

ADDITIONAL OPTIONAL READING: *A Student’s Guide* §§ 1.3, 1.4

DAY 4 PERSONAL JURISDICTION: Specific Jurisdiction: State Long-Arm Statutes & Constitutional Minimum Contacts

M 8/31

Spencer pp. 45-59

BLACKBOARD HANDOUT: Florida’s Long-Arm Statute

PROBLEM: Hypo 2.4, Spencer p.58

STUDY QUESTIONS:

1. What is a state long-arm statute?
2. What is the relationship between state long-arm statutes and constitutional personal jurisdiction under the *International Shoe* minimum contacts rule?
3. What did the U.S. Supreme Court decide about the existence of personal jurisdiction in *McGee*? What facts did it emphasize regarding the requisite minimum contacts?
4. What did the U.S. Supreme Court decide about personal jurisdiction in *Hanson v. Denckla*? How did the facts of this case differ from the facts in *McGee*? Did those factual differences matter? Why or why not?

ADDITIONAL OPTIONAL READING: *A Student’s Guide* § 1.5

DAY 5
W 9/2

PERSONAL JURISDICTION: Specific Jurisdiction: Moving Products

Spencer pp. 60-73

PROBLEM: *Problems*, p. 7: *Nowak v. Tak How Corporation*

STUDY QUESTIONS:

1. Why did the Oklahoma Supreme Court decide that personal jurisdiction existed in *Worldwide Volkswagen*?
2. Did the U.S. Supreme Court agree? Why or why not?
3. What was the relationship between the Oklahoma long-arm statute and constitutional personal jurisdiction in this case?
4. What is the role of foreseeability in the personal jurisdiction analysis? How did the foreseeability factor play out in *Worldwide Volkswagen*?
5. Would the outcome of this have been different if the Robinsons had tried to sue the other driver in the accident instead of Audi and Worldwide Volkswagen? Why or why not?

THURSDAY, SEPTEMBER 3: CLASS CANCELLED AS PROFESSOR CRAIG PARTICIPATES IN A U.S. FISH & WILDLIFE SERVICE/NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION CONFERENCE ON FISHERIES AND CLIMATE CHANGE

MONDAY, SEPTEMBER 7: LABOR DAY HOLIDAY: NO CLASS