

3.4: Jurisdiction and Venue

Jurisdiction

As noted in [Chapter 2](#), for a court to adjudicate a case, in addition to the plaintiff having standing, the court must have jurisdiction: **both** subject matter jurisdiction and personal jurisdiction. The court must dismiss a case if it lacks either form of jurisdiction. Review [Chapter 2](#) for a refresher on subject matter jurisdiction. **Personal jurisdiction**, relates to the authority of a court *over a particular defendant*.

Specifically, personal jurisdiction relates to the power of the court to compel a defendant to appear before that court and be subject to its judgment. *First*, states—and thus their courts—inherently have personal jurisdiction over its residents, regardless of whether the resident is a natural person, business entity (for profit or not-for-profit), or political body.

Second, personal jurisdiction is an additional concern for those to travel out of state and/or engage in interstate or international commerce. For example, a state may also exercise personal jurisdiction over *nonresident* defendants under various circumstances. The implication for individuals and businesses is that—depending on the circumstances—a court in one state may compel a defendant from a different state to appear before it and subject the nonresident defendant to its judgment.

A court can have personal jurisdiction over a defendant in multiple ways. First, a court has personal jurisdiction over the residents of that state. Second, a defendant can consent to personal jurisdiction. In a business context, this frequently occurs when a contract contains a clause in which the parties agree to a particular court having jurisdiction. For example, a contract might include language such as this:

Any dispute arising under or related to this Agreement shall be resolved exclusively in the state courts of Wisconsin, and each party hereby consents to the personal jurisdiction in Wisconsin, thus waiving any objection to personal jurisdiction or any claim that such venue is inconvenient.

Third, a court obtains personal jurisdiction over a defendant if they are served with process while the defendant is physically in the state (i.e., the summons and complaint) or otherwise waives the right to service of process. **Service of process** is the procedure by which a defendant is notified that it is being sued. Service of process typically requires a copy of the notice to appear before a court to be personally delivered to the defendant or the defendant's agent. In the case of businesses, service of process is usually delivering a copy of the notice to appear to their registered agent. Service can be more challenging with individuals.

Fourth, most states have a **long-arm statute** that establishes a procedure by which out-of-state defendants can be required to appear before a court. These statute provide for how service of process occurs.

Long-Arm Statute

See Wisconsin's long-arm statute here: [Wis. Stat. § 801.05](#)

Because a court is a government entity, it has constitutional limitations on its authority, which includes prohibiting courts from arbitrarily (a) subjecting others to its state's laws and (b) compelling a nonresident to travel from one state to another to defend themselves. In short, compelling someone to appear before a court and be subject to its judgment must be reasonable such that it would "not offend traditional notions of fair play and substantial justice."^[1] Based on this principle, procedural laws exist to establish when a party may be subjected to another state's jurisdiction.

Personal jurisdiction requires litigants to have some form of "minimum contacts" with the state where the case is filed. Personal jurisdiction seeks to avoid litigation in a particular court, even if the case has merit.

Obtaining personal jurisdiction over the defendant requires some connection between the defendant and the state where the court is located. Businesses that incorporate, have a physical location, or do business in a state create personal jurisdiction through their actions within the state. Owning property in a state also creates personal jurisdiction.

Case in Point

In *World-Wide Volkswagen v. Woodsen*,^[2] Kay and Harry Robinson had purchased a new Audi in New York from Seaway Volkswagen, a local car dealer, and they left New York for their new home in Arizona. But as they passed through Oklahoma, another car struck their Audi in the rear, causing a fire which severely burned Kay and her two children. They had not yet reached Arizona, so since the accident occurred in Oklahoma, the Robinsons filed a products liability lawsuit in an Oklahoma state court; the defendants were Seaway Volkswagen, the dealer's regional distributor, World-Wide Volkswagen, and two other defendants.

Seaway was incorporated and had its principal place of business in New York, and World-Wide was incorporated and had its business office in New York. World-Wide had distributor contracts with car dealers in New York, New Jersey, and Connecticut. Other than this car accident, there was no evidence of Seaway or World-Wide having engaged in any activity in Oklahoma. There was no evidence that they regularly sold cars to Oklahoma residents, or that they indirectly, through others, served or sought to serve the Oklahoma market. They did not close sales or perform services there, and they did not solicit business there, either through salespersons or through advertising reasonably calculated to reach Oklahoma.

Given the evidence, it would not have been reasonably foreseeable that cars sold by Seaway or World-Wide would travel to and might cause injury in Oklahoma. As opposed to mere foreseeability, to determine whether allowing Oklahoma to exercise personal jurisdiction would satisfy constitutional due process, the foreseeability is based on **whether the defendant's conduct and connection with the forum are such that he should reasonably anticipate being haled into court there**. In this case, Seaway's and World-Wide's lack of activity or connections with Oklahoma was such that they could not reasonably anticipate being haled into court in Oklahoma. Thus, allowing Oklahoma to have personal jurisdiction would violate due process (i.e., Oklahoma did not have personal jurisdiction over Seaway or World-Wide).

Basis of Personal Jurisdiction	Description
Consent	<ul style="list-style-type: none">• A business or individual agrees to the jurisdiction of the court
Residence	<ul style="list-style-type: none">• A business or individual resides in the state
Service of Process	<ul style="list-style-type: none">• The defendant is served a summons and complaint within the state
Long-arm Jurisdiction (via a long-arm statute)	<ul style="list-style-type: none">• A resident business or individual was involved in an incident in another state; or• A non-resident business or individual was involved in an incident within the state

Venue

Venue is the proper geographic location of the court to hear a case because the place has some connection with the events that give rise to the lawsuit. While multiple courts may have subject matter and personal jurisdiction over a dispute, only a few may be the proper venue. For example, by doing business in Colorado a company is subject to the jurisdiction of Colorado courts. However, the court in the county where the plaintiff was injured or where the business maintains an office would be the proper court to hear the dispute.

5. Jurisdiction and Choice of Law Combined

"This Agreement shall be governed by and construed in accordance with the laws of the State of [State], without regard to its conflict of laws principles. ."

Notes

1. *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). ↩
2. 444 U.S. 286 (1980). This case is also sometimes referred to as *Robinson v. Audi*. ↩

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