A way to synthesize and approach current Personal Jurisdiction doctrine
Civil Procedure—Gómez-Arostegui—Fall 2026

I. Personal Jurisdiction

A. General Principles

1. Personal jurisdiction imposes geographical limitations on where one can sue a defendant. This limitation applies regardless of which type of court one sues in, meaning regardless of whether the lawsuit is filed in federal court, state court, or some federal or state agency tribunal.

2. A judgment is not binding and enforceable unless the court that issued it had jurisdiction over the defendant or (in some cases) the property at issue.

3. For there to be personal jurisdiction, one must apply and pass a statutory/rule step and a constitutional step. If there is no PJ under the statutory step, stop, as there is no PJ. If there is PJ under the first step, move to the constitutional step, which may allow or disallow PJ.

4. When a defendant successfully objects to personal jurisdiction during the litigation, the trial court will ordinarily dismiss the portions of the lawsuit (and sometimes the entire lawsuit) for which there is no personal jurisdiction over the defendant. This dismissal is without prejudice, meaning the plaintiff is free to file the claim (or entire lawsuit) against the defendant in question in a different state that can exercise personal jurisdiction over the defendant. If the original, faulty case was filed in federal court, a plaintiff can ask the federal court to transfer the case to another federal court in another state that can exercise personal jurisdiction, rather than dismiss the lawsuit.

B. "Statutory" Step

1. Lawsuit is filed in a Federal District Court—Rule 4(k) provides three options for asserting personal jurisdiction.

a. Look to the <u>state</u> <u>law</u> used by courts of general subject-matter jurisdiction in the forum state. If there is PJ under the state law, the statutory step is satisfied here. 4(k)(1)(A). See I.B.2 below.

i. Most common way of asserting PJ in federal court.

ii. Because this relies on state power to reach out, it is tested, under the constitutional step, against the 14th amendment due process clause, which constrains state power. See below.

b. If the defendant is a defendant to a third-party complaint, under Rule 14, or is a required defendant under Rule 19, use federal power to grab that defendant who is within 100 miles of the federal courthouse

where the action is being litigated, as the crow flies, and so long as still within the United States. This is the 100-mile bulge rule. 4(k)(1)(B).

i. Most useful in Northeast USA where state borders are close to each other and federal courthouses.

ii. Because this relies on federal power to reach out, it is tested, under the constitutional step, against the 5th amendment due process clause, which constrains federal power. See below.

c. If a federal statute associated with the claim provides for a federal assertion of personal jurisdiction, you may use that, according to whatever terms and limitations it provides. 4(k)(1)(C).

i. If Gomez wants us to actually apply such a statute, he will have to at least describe some of its terms.

ii. Because this relies on federal power to reach out, it is tested, under the constitutional step, against the 5th amendment due process clause, which constrains federal power. See below.

2. Lawsuit is filed in state court—use the rules of the forum state on personal jurisdiction, according to whatever terms and limitations they provide.

a. These are called long-arm statutes because they are typically found in statutes and because the statute empowers a court to reach its long arm outside of the forum state to hale someone into a court in the forum state. But many long-arm statutes also provide for PJ without needing to reach outside of the state because, for example, the defendant actually lives in the forum state. Note that while most state PJ rules come from state statutes or state rules of procedure, those statutes and rules have often been interpreted by the relevant state courts, which in some cases have placed additional limitations on them. Note also that in a few situations a state law allowing personal jurisdiction comes solely from state common law.

b. If Gomez wants us to actually apply such a state statute or rule, he will have to at least describe some of its terms. But we are expected to recognize and understand two general classes of state statutes:

i. Enumerated or "laundry-list" statutes. These list out a universe of circumstances where PJ applies. Oregon (see class handout) and New York (see casebook) provide examples of this type.

ii. Coextensive / coterminous statutes. These effectively tell you to go straight to the constitutional step. California is an example of this type (see casebook).

iii. Hybrid statutes. Not tested on exam.

c. Because this relies on state power to reach out, it is tested, under the constitutional step, against the 14th amendment due process clause, which constrains state power. See below.

C. Constitutional Step

NB: Don't forget that for these methods below, you need to first do the statutory step to make sure there is authorization for PJ there as well.

1. *In rem*—given how rare these types of lawsuits are, their limited nature, and how easy the PJ analysis is here, always look for this type of lawsuit first.

a. PJ comports with due process so long as the property in dispute is in the forum state. This is a traditional basis of PJ that survives *International Shoe*.

2. *In personam / quasi in rem #2 / quasi in rem #1*—For these types of lawsuits, which are basically everything else, do the following constitutional analysis.

a. General Personal Jurisdiction (a.k.a. all-purpose jurisdiction)—think about this first because it is relatively easy to apply, though not often available because of its limited reach. PJ comports with due process when the defendant is "at home" in the forum state. Defendant can be sued for any claim. No *Asahi*-factors (reasonableness) analysis.

i. Individuals are at home in the state where they are domiciled. You can only be domiciled in one state.

(a). Domiciled=the state where you reside and have an intent to remain indefinitely. More details to follow when we study diversity subject-matter jurisdiction.

ii. Corporations are at home in states where they are or have:

(a). Incorporated; and

(b). Principal place of business=typically where you hold your company headquarters. More details to follow when we study diversity subject-matter jurisdiction.

(c). Possibly some other state where the defendant's contacts are so systematic, continuous, and substantial

as to fairly be called at home. This examines the defendant's activities in the forum state and compares them to its activities everywhere else (including outside the United States). So even if a company has 1,000 employees in the forum state, and does $50,000,000 a year in business there, if that is only 1% of its commercial activity worldwide, you cannot claim it is at home in the forum state. Super narrow option, practical availability remains unclear.

b. Tag/Transient Jurisdiction—Try this next because the analysis is also straightforward and easy. PJ comports with due process when an individual defendant is personally served while in the forum state. Defendant can be sued for <u>any</u> <u>claim</u>. No *Asahi*-factors analysis.

   i. This cannot be used against a defendant which is an entity, like a corporation. Can only be used against individual persons who are named as defendants.

c. Consent—PJ comports with due process when a defendant consents to PJ in the forum state because the due process right is waivable and forfeitable. The scope of the consent and the context determine which claims are covered (*i.e.*, one is not necessarily consenting to be sued for any and all claims under the sun). No *Asahi*-factors analysis.

   i. During the lawsuit—a defendant can consent to PJ or waive or forfeit a right to object to lack of PJ in ways to be studied later in our course.

   ii. During the lawsuit—a <u>plaintiff</u> implicitly consents to PJ in the forum state on any counterclaims brought against them (as counterclaim defendants) in the lawsuit by a defendant.

   iii. In advance of the lawsuit—forum-selection clauses in agreements are presumptively valid and enforced, unless fundamentally unfair. And so if you have a valid one, then you have consented to PJ in the state or states listed in the forum-selection clause. Typically your consent extends only to claims that relate to the agreement between the parties.

   iv. In advance of the lawsuit—truly voluntary and unconditional appointment of an agent to accept service of process in the forum state. Due process allows suits for <u>any</u> <u>claim</u>.

   v. In advance of the lawsuit—involuntary appointment of an agent to accept service of process in the forum state, or simply involuntarily agreeing to be amenable to suit in the forum state, usually by requiring a company to register with

the forum state in order to conduct business there. By "involuntary," I mean that the consent happens by operation of some law. Due process allows suits for any claim.

(a). Due process likely requires that the statutory step give the defendant reasonable notice as to the personal-jurisdiction consequences of the involuntary consent.

(b). Things that are under-reasoned in the cases: How fictional is the consent? That is, how involuntary is it really? And do we care, so long as there is notice?

(c). An open issue is whether state statutes, rules, or decisions creating this consent by operation of law violate the Dormant Commerce Clause of the Constitution. You will study the Dormant Commerce Clause in Constitutional Law I.

d. Specific Personal Jurisdiction (a.k.a. claim-linked jurisdiction)—If none of the above methods work to secure constitutional PJ, then apply the minimum contacts test of *International Shoe*, using this three-step framework. Plaintiff bears the burden on the first two steps, and if she succeeds, then the burden shifts to the defendant to show the third step. But truth be told both sides will argue all three steps.

i. Search for contacts that show defendant's purposeful availment or purposeful direction in:

(a). the forum state, when using state power to assert PJ. This is what we have been talking about in our first three classes, focusing only on the forum state.

(b). the United States as a whole, when using federal power under a federal statute to assert PJ.

(c). unclear, when using federal power under the 100-mile bulge rule. Some courts say contacts must be with the forum state or with the 100-mile bulge outside the forum state where defendant served; others say contacts must be with the state where served; and others say with the United States as a whole. Rule not used often enough for Supremes to opine on this.

Which contacts count:

(a). The defendant's contacts or contacts of others acting on behalf of the defendant (like agents) with the place in question (forum state, if state power, &c).

(i). A defendant (or its agents) causing a product to be shipped to or delivered in the relevant area, even if through other intermediaries (like the postal service or Fedex) counts.

(b). The contacts can have both a quantitative (how many) and qualitative (how important) component, so consider both.

(c). The defendant's contacts with the plaintiff, standing alone, do not count; what matters are the defendant's contacts with the relevant area.

(d). The plaintiff's contacts with the relevant area, standing alone, do not count. In other words, the plaintiff cannot be the defendant's only link to the relevant area.

(e). Only contacts that are purposeful or are expressly aimed count.

(i). Where a defendant knows or foresees that its product will or could end up in the relevant area, mere knowledge of that fact, standing alone, will not suffice. But the knowledge is relevant and will be thrown in the mix.

(ii). Where a defendant knows or foresees that its conduct will injure someone in the relevant area, mere knowledge of that fact, standing alone, will not suffice. But the knowledge is relevant and will be thrown in the mix.

ii. The plaintiff's claim must arise out of or relate to the defendant's contacts. This is why the analysis must be undertaken on a claim-by-claim basis under *International Shoe*.

(a). Every lawsuit can have more than one claim in it. I might sue you for battery and breach of contract in the same complaint, for example. It is possible for there to be PJ on some claims but not others.

iii. Apply the *Asahi* factors on reasonableness to assess whether exercising PJ would comport with fair play and substantial justice, except possibly in cases where using federal power, in which case some circuits use rules on venue and the like to

deal with a forum inconvenient to the defendant. Under *Asahi*, the factors to consider and balance include:

(a). the burden on the defendant;

(b). the forum state's interest in the dispute (greater when its laws or policies are at stake or πs are citizens);

(c). the importance of the chosen forum to the plaintiff's interest in obtaining relief;

(d). the most efficient forum for judicial resolution of the dispute (considering the location of witnesses and evidence); and

(e). the shared interest of the several States in furthering fundamental substantive social policies (are there other states whose substantive policy interests are more at stake?)