* The *Pennoyer* Framework- (Actually preexisted *Pennoyer*)
  + What amounts to personal jurisdiction is broader now than it was at the time of this case, due to Int’l Shoe
  + What is in the state that is exerting personal jurisdiction **at the initiation of the suit?**
    - Person (tagging); or
    - Property
      * Without one of these two, you have no personal jurisdiction even if the events leading to cause of action existed in the forum state.

3 Ways to get personal jurisdiction:

1*. In personam:* tagging

2. *In rem:* source of PJ is presence of property at initiation of suit (quiet title action, binding on everyone)

3. Quasi in rem:

* + - * Source of PJ is D’s property in state at initiation of suit, but suit does not concern ownership of property
        + Although if P wins, D’s property may be used to execute judgment, serves a dual purpose
      * Or, suit concerns ownership of property but only between parties, not binding to everyone. (binding only on named parties)
* **Challenging Personal Jurisdiction**
* DIRECT:
  + Go to court asserting PJ and say there is no PJ, should be dismissed;
  + Default by not showing up, then go to rendering court and ask for judgment to be set aside.
* INDIRECT: collateral attack
  + Defendant defaults, then plaintiff sues to collect in another court where defendant has assets (judgment could come up in connection with another suit, this is just the most common example). This second lawsuit is a new lawsuit and must satisfy all requirements of PJ also
    - P sues D in CA state court
    - P gets default judgment
    - P sues on default judgment in NY state court, where D has assets
    - D challenges CA judgment for lack of PJ
    - But why does New York court have power over defendant? Because of *quasi in rem* (at least, not knowing if he was tagged there or not), defendant has assets in New York and suit concerns ownership of the assets between them
      * New York state court will be the court determining if CA state court had PJ
  + You could be so confident that there was no PJ in first court that you allow default judgment and wait to challenge PJ when plaintiff sues to collect.

(state court cannot *sua sponte* say there is no personal jurisdiction over you, because you can waive this right to personal jurisdiction)

* **Art IV, §1 Full Faith and Credit**: Mere fact that there was personal jurisdiction is not enough to compel another state to respect that judgment. The only reason states have an obligation to respect sister state judgments is the full faith and credit clause.
* Federal courts have a statutory obligation to respect state court judgments under Full Faith and Credit Statute - 28 U.S.C. § 1738.

State courts have obligation to respect federal court judgments, probably under the **Supremacy Clause**

*Pennoyer* Examples and take-aways

* + P (CA) sues D (CA) under federal law in federal court in CA. D appears and loses. P then sues on the judgment in federal court in NY, where D has assets. D makes a motion to dismiss second lawsuit for lack of SMJ. What happens?
    - No SMJ, **a suit to enforce a federal judgment (even if the judgment was in a federal question case) is still just a suit to collect a debt which is under state law**. Does not have its own source of SMJ. In this case, also cannot get suit to collect in federal court under diversity.
    - But under 28 USC § 1963 a federal judgment can be sued upon in another federal court as a continuation of the first suit, concerning which it has supplemental jurisdiction
  + Mitchell, an Oregon resident, sues Neff, a California resident, in Oregon state court for unpaid lawyer’s fees that Neff incurred in Oregon while he was a resident of Oregon. There is in-hand service upon Neff while he is in Oregon on a brief business trip.
    - Oregon court has *in personam* jurisdiction, **tagging is enough to establish PJ even if D has no other connection with state**
  + Pennoyer, an Oregon resident, sues Neff, a California resident, in Oregon state court in order to quiet title property in Oregon that each claims he owns. Service is in-hand in CA
    - Jurisdiction over land (*in rem*)
  + Pennoyer, an Oregon resident, sues Neff, a California resident, in Oregon state court for breach of a contract Neff entered into to sell Pennoyer property in California. Pennoyer gave Neff the money but Neff has not given Pennoyer the property. Pennoyer asks for an injunction ordering Neff to transfer title to Pennoyer. Service is in hand on Neff in Oregon
    - Not *in rem,* property is in California. The source of PJ is fact that there was in hand service on Neff in Oregon, *in personam* (tagging).
      * **It does not matter if the cause of action is about property outside the jurisdiction. The court is not acting on the property it is acting on the defendant** (in this case, requiring him to exchange the title).
        + Don’t look at the cause of action to decide if there is PJ under the Pennoyer regime, determine if there is person or property in forum state.
      * If the Pennoyer asked the court to transfer the title, instead of requiring defendant to do so, the property must be located in borders of the state (*in rem* case)
  + Mitchell, an Oregon resident, brings an action against Neff in Oregon state court concerning $253.14 in legal fees that were incurred in Alaska. Neff resides in California. The Oregon state court attaches property in Oregon owned by Neff worth $300 at the beginning of the suit.
    - Is there proper jurisdiction? Yes, *quasi in rem* jurisdiction. We don’t know where he was tagged, but even if it was in Alaska (no *in personam)* it’s okay. He has assets in Oregon. It is not about ownership of the property but it is the source of jurisdiction and will probably be used to execute the judgment.
    - However, **if the property within the jurisdiction was not valued high enough to cover the suit PJ would not exist for the whole suit.** **The court only has value over the property in its jurisdiction. There is no limit if *in personam* jurisdiction exists**.
      * Plaintiff would have to file a new lawsuit to get any value over the value of the property.

FYI: when court attaches property it still belongs to defendant but it stops them from being able to sell or move around this property. They lose control over it to stop them from hiding it from plaintiff basically.

* + Mitchell lures Neff to Oregon with a story that Neff has won a contest. While he is in Oregon, Neff is served for a suit brought by Mitchell in Oregon state court concerning unpaid lawyers fees. Neff chooses to default. Under Oregon law someone can be submitted to PJ on the basis of tagging in the state even when the tagging is the result of fraudulent inducement. Mitchell then brings a suit in California state court to execute the Oregon judgment. Under California law someone cannot be submitted to personal jurisdiction on the basis of tagging in the state when the tagging is the result of fraudulent inducement . Neff argues that the earlier Oregon judgment is void.
    - Is this constitutional? Yes, the mere fact that defendant is in the forum state, no matter how he got there, gives PJ. But, most states choose not to do this (don’t have to assert all the power the constitution gives them).
    - Oregon law here is constitutional, the judgment would be valid even if it is executed in a state with a different law on PJ
  + Mitchell sues Neff in Oregon state court. Neff has no connection to the state but does not want to default. He appears solely for the purpose of challenging personal jurisdiction. May the Oregon court nevertheless take Neff’s presence (including through his lawyer) to create *in personam* jurisdiction?
    - Constitutionally permissible. To avoid submitting himself to PJ, the **defendant would have to take a default judgment** and, when the plaintiff tries to sue to collect in another jurisdiction, defendant would collaterally attack.
      * Risky because if second court determines the first court did have personal jurisdiction, you lose with no chance to argue on the merits of the case.
* This example gives rise to **Special Appearances,** which are not required by Constitution
  + Allow you to show up and argue that there is no PJ without this presence in court establishing PJ
  + Special appearance means that D cannot bring up the merits of the case while he is there to argue against PJ. If the defendant mentions the merits of the case, he is implying that the court has power over him.
    - Those states say that if you litigate on the merits, in personam jurisdiction will be created.
* Compare to **Limited Appearances**
  + If only source of PJ is D’s property, allows defendant to appear litigate up to the value of the property in that jurisdiction without the presence in court establishing *in personam* jurisdiction for the entire value of the suit. Admitting some PJ.
    - May seem unfair to not allow limited appearances; on the other hand, limited appearances can be inefficient and result in too many lawsuits in different jurisdictions.

If a state does not allow limited appearances it is saying: “Give up your money or come here to litigate for entire value.”

* **Many states say that some who are in state only for litigation purposes cannot be tagged for a new lawsuit (“immunity from service of process”) – although this is not a constitutional requirement**
  + What about a lawyer, can he be served while he is in a state for litigation? Technically this is no different than someone else being in town for their own business (which tagging would create *in personam* jurisdiction), but for some reason **lawyers sometimes protected**. Makes sense for witness and parties because we want to encourage them to come to court but makes less sense for lawyers.
* **Domicile** creates *in personam* jurisdiction