Civil Procedure Notes

10/1/13

**General in personam jurisdiction**

 - over individuals: methods are domicile (maybe current residence) and tagging

 -for corporations: International Shoe language = continuous corporate operations within a state that were substantial, systematic, etc. are enough to give rise to general in personam jurisdiction

**Goodyear Case**

-Bus accident outside of Paris. Suit in NC.

-There was general jurisdiction over Goodyear USA, despite it being an Ohio corporation. It had sufficient contacts with North Carolina that it could be sued in NC.

-GoodYear Turkey-general jurisdiction case because nothing that GoodYear Turkey did was reaching out to the state of NC in a way that was tied to this accident.

-Issue that was set aside by the court: Would the contacts of GoodYear USA, the parent/principal give rise to jurisdiction over GoodYear Turkey, the subsidiary/agent?

-Why did P think they had a cause of action against GoodYear USA? They were claiming GoodYear USA was the principal and GoodYear Turkey was the agent.

 -principal=can be liable for torts of the agent within the scope of employment

 -This is about liability; not personal jurisdiction. It’s a weaker argument for general personal jurisdiction in NC over the agent given the activities of the principal

 -Note that there is often specific personal jurisdiction over the principal by virtue of contacts created by the agent.

-Supreme Court is now deciding a case: DaimlerChrysler AG v. Bauman

 -Can there be general personal jurisdiction over the parent/principal if there is general personal jurisdiction over the subsidiary/agent?

 -This is the flipped version of the GoodYear case.

-Supreme Court is now deciding a case: Walden v. Fiore

 -Issue: Whether knowledge of the plaintiff’s residence/domicile of someone could be sufficient to create personal jurisdiction over the defendant in that state.

 -Specific personal jurisdiction case

**GoodYear Case**

-We get a new focus on what “contact” means for general in personam jurisdiction: “at home”

 -A corporation is at home in its principal place of business. But there can other states where a corporation is at home.

 -GoodYear Turkey wasn’t at home in NC. All it did was ship through intermediaries products to NC.

 -The “at home” standard narrows the scope of jurisdiction from “substantial systematic continuous” language in Int’l Shoe

-Curious Omission from Goodyear Case- very little attention given to the “convenience” of having this case in NC, vs. France, for both the plaintiff and the defendant. Something that was brought up in International Shoe. Also apparently irrelevant was the inefficiency of requiring two lawsuits, involving the same witnesses, in different countries because PJ over Goodyear Turkey was not possible. Why were these not brought up? Aren’t these considerations important?

**“Category” jurisdiction** (MSG’s term)

-Not specific because cause of action did not arise, even in part, in the forum state.

-Not general because not arguing that *any* cause of action can be brought in forum state – only certain categories of actions can be brought.

-Example: In GoodYear case, plaintiffs were probably arguing for category jurisdiction (causes of action about tires exploding and causing harm is the category.)

-The D Corp (a skateboard manufacturer) is incorporated and has all of its employees and factories in NY.

-It makes only one type of skateboard.

-99% of its products are sold through Amazon in Calif.

-P (domiciled in Calif.) was harmed by a defective D Corp. skateboard owned by a NC event organizer while P was competing in NC.

-The skateboard was sold to the organizer in NC.
- P sues the D Corp. in state court in Calif. Is there personal jurisdiction?

-MSG: Courts would probably find PJ (category jurisdiction).

-Concerns about burdens on plaintiff to go somewhere else and burdens on defendant to go to forum state (mentioned in Int’l Shoe)

 - These concerns don’t come into play in GoodYear case.

-Inefficiency about not having personal jurisdiction over GoodYear Turkey (There is personal jurisdiction over GoodYear USA.)

 - If you want to sue GoodYear Turkey, you have to go to Turkey or France. There is a huge cost to this because there are two lawsuits about the same thing.

 -This inefficiency is irrelevant to the question of whether there’s personal jurisdiction because efficiency can’t overcome the Constitution.

 -Another problem: Two lawsuits means the possibility of inconsistent judgments.

Sometimes it is hard to tell if a case is specific or general PJ

**Pedelahore v. Astropark, Inc.**

-A Louisiana plaintiff is injured in Astropark in Houston, Tex. Astropark is a Delaware Corp., with its principle place of business in Texas. …

-Valid personal jurisdiction exists.

-Can Astropark be sued in Louisiana?

-Is this specific or general jurisdiction?

 -General jurisdiction? Are they at home in Louisiana? No, probably not.

 -It could be specific jurisdiction if plaintiff heard the ad in Louisiana and then went to Astropark and got hurt.

 -But it might be category jurisdiction (all cases of Louisianans going to Astropark and getting hurt)

- Keep in mind how much follows from general jurisdiction- it gives the state power to enforce ANY cause of action.

**Specific jurisdiction**

-Definition: Activity that you’re pointing to that defendant engaged in in the forum state or was directed toward forum state, that activity gave rise to the cause of action.

**-McGee v. Int’l Life Ins. Co.**

-Plaintiff=Lulu McGee

-Defendant=International Life Insurance Co.

-Supreme Court took an appeal from the Texas trial court. McGee is suing in Texas state court for the cause of action to collect the debt created by a CA judgment. Life insurance corporation says that Calif. judgment wasn’t valid because there was no jurisdiction. This is a collateral attack.

-In the Calif. action, the cause of action was breach of contract: McGee is suing insurance company saying its breaching its contract. Insurance is saying because the decedent committed suicide, it’s not covered under the contract.

-They default because they don’t want to appear in Calif. state court. They want the Texas court to decide whether the CA court had PJ.

-They wait for plaintiff to sue in Texas, and she does. Then they make the collateral attack. This is a risky strategy because if they lose on PJ, they cannot challenge the judgment on the merits and they have to pay.

-The contacts that the defendant had with Calif.: They insured the plaintiff; Contract was sent to the insured in Calif. and he signed it and sent it back. How many of these contracts did the defendant send to Calif.? This was the only one.

-The contract upon which the plaintiff is suing in the very piece of paper that was sent to Calif. So the cause of action is directly related to the PJ contacts.

-Despite the very low level of contact, the cause of action is about that one contact. So there is specific personal jurisdiction for the cause of action.

-The SCt mentions that premiums were mailed from the plaintiff by the insured, and the plaintiff was a resident of Calif. when he died. This should make no difference to CA’s power over the defendant because the defendant didn’t do any of this; under Int’l Shoe power over the defendant always has to be tied to what the defendant chooses to do.

 - Assume that the contract was entered into in TX but then the insured moved to CA, from which the premiums were paid. Is there an argument that there is PJ over the Ins Co. because it willingly chose to maintain a relationship with a Californian? Could the company have broken off the contract under the law? Maybe every year they could have broken it off but decided instead to keep it going. This could be an argument that the defendant made a choice.

- Other considerations mentioned by the McGee court—the McGee factors:

*It cannot be denied that California has a manifest interest in providing effective means of redress for its residents when their insurers refuse to pay claims. These residents would be at a severe disadvantage if they were forced to follow the insurance company to a distant State in order to hold it legally accountable. When claims were small or moderate individual claimants frequently could not afford the cost of bringing an action in a foreign forum - thus in effect making the company judgment proof. Often the crucial witnesses - as here on the company's defense of suicide - will be found in the insured's locality. Of course there may be inconvenience to the insurer if it is held amenable to suit in California where it had this contract but certainly nothing which amounts to a denial of due process.*

These are not about what the defendant did to willingly submit to PJ. It is not up to the defendant whether the forum state has a manifest interest. (Indeed, it is odd to argue that a state’s interest in having PJ can give the state power to assert PJ). Convenience theory (more difficult for McGee to go to Texas than for the defendant to go to Calif.)

 -the arguments don’t fit an Int’l Shoe framework about the defendant implicitly choosing to submit to PJ (although convenience to the defendant was also mentioned in Int’l Shoe)

- Lots of pragmatic arguments make their way into the McGee factors- like the interest of the defendant, plaintiff, and efficiency. These are all pragmatic. This has nothing to do with what defendant did.

 -a completely new theory of personal jurisdiction: it’s simply a question of equities and where it’s a good place for the lawsuit to occur

-Power (what the defendant did to reach out to forum state that gave it power over the defendant) v. “McGee” factors

**Specific PJ in contract cases**

- Under the power theory- initiating a relationship is so important. That’s an action that can create personal jurisdiction.

 - reaching out to the P’s state to initiate the relationship can create PJ in the state to which the D reached out

-But it’s also important who the offeror is and where the offer is transmitted.

- transmitting an offer to the P’s state can create PJ in that state

-You can have specific personal jurisdiction in a number of states in contract cases.

Specific PJ in contract cases in which a product is shipped to the forum state

* Chung shows that the mere fact of shipment is not always enough

How often does the D ship to the state? If it’s not a business where he regularly does it, then it doesn’t help the personal jurisdiction argument.

**Thompson v. Chrysler Motors**

-Court found personal jurisdiction.

-Defendant chose (affirmative action) to ship the cylinder.

-Cause of action: tort

-It’s easier to get personal jurisdiction in a case in which the D shipped a product to a state that caused harm and created an action for tort there than is in a breach of contract case.