* For Exam:
* Make sure that it is organized
* If you are applying a particular standard, spell out the standard
* **Intervention of Right**
* Preclusion doctrine- Congress applied this in federal civil rights cases
* Some state courts are now using the preclusion doctrine to make sure that people that know about the first lawsuit and are necessary parties or intervenors of right (in the sense that separate lawsuits would expose someone in the first suit to multiple or inconsistent obligations) and don’t intervene in the first lawsuit are precluded
  + We will discuss this when we talk about preclusion later in the semester
* **Supplemental Jurisdiction**
* U.S. Const. Article III Section 2 🡪If there is a cause of action that has a has its own source of SMJ (e.g. federal question or diversity), a cause of action that does not have its own source of jurisdiction in federal court can have supplemental jurisdiction, as a constitutional matter, if:
  + It has a common core of operative fact with the action that has SMJ OR
  + It does not have a common core of operative fact, but there is a connection between the two because the success of the one that has federal SMJ is a necessary condition for bringing the second action
    - impleaders-
      * A predicate for an indemnification action against insurance company under the insurance contract is the success of the action against you that has federal SMJ
    - I sue you under federal law and I get the judgment – I want my money so I continue my case in Federal Court to garnish your wages. This is a state law claim, but since it is triggered by the success of the federal action, it can be heard in federal court- **has to be a continuation of the same proceeding.**
    - NOTE 28 USC § 1963 allows the proceedings to be continued in a different federal court

**Hypo:**

* + P (NY) sues D1 (NJ) for brawl. P joins D2 (NY) under R20(a)
    - Pendent jurisdiction?
      * They have a common core of operative fact so it is constitutional for them to be brought together – pendent jurisdiction exists
      * but because there will not be complete diversity (1332) should not be allowed
      * Before 28 USC Section 1367, federal courts would look at the statute giving the federal court original SMJ and decide whether allowing pendent/ancillary jurisdiction would upset the purposes of the statute- in this case it would. There would not be complete diversity
* Congress did not like the outcome in Finley and Aldinger so they passed a new statute **28 U.S.C. Section 1367**

**28 U.S.C. Section 1367**

* + (a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.
  + (b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.
  + (c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if -
    - (1) the claim raises a novel or complex issue of State law,
    - (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
    - (3) the district court has dismissed all claims over which it has original jurisdiction, or
    - (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.
* **Hypo:** 
  + **A (Cal.) sues E (Nev.) (B’s employer) under state law for a battery committed by B (Cal.)   
    - E impleads B   
    - B then brings a suit against A on the harm done to B in their fight**

**A(Cal.)**

**E(Nev.) B(Cal.)**

* + - Are joinder rules satisfied? YES Under Rule 14 (a) B can join an action against A if the action is about the same transaction or occurrence and A’s action against E
    - But is there supplemental jur? YES
      * First, it is part of the same constitutional case or controversy as A’s action against E, because they have a common core of operative fact (the brawl)
      * Second, it does not fall under any of the exceptions spelled in 1367(b) because the exceptions all apply to actions brought by plaintiffs
* **Hypo:**

A(Cal.)

E(Nev.) B(Cal.)

* + This does not have supplemental jurisdiction – Why?
    - * First, it is part of the same constitutional case or controversy as A’s action against E, because they have a common core of operative fact (the brawl)
      * BUT, it falls under a exception spelled in 1367(b)
      * It is a claim by a plaintiff against a person made a party under Rule 14, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332 (because they are not diverse)
* **Hypo:**
  + **P (Cal.) sues D1(Cal.) under federal securities law and joins an action against D2 (Cal.) under state common law fraud**

**P(Cal)**

**federal state**

**D1(Cal) D2(Cal)**

* + - Sup jur exists. You have a federal question case so you don’t need to worry about the diversity exceptions and they are have a common core of operative fact
* **Hypo:**
  + **P (Cal) sues D (Cal) under federal securities laws. D joins an action against P for battery, asking for $100k**

**P(Cal)**

**federal state**

**securities battery  
  
 D(Cal)**

* + - This is a permissive counterclaim and so it is not from the same common core of operative fact and does not satisfy the constitutional requirement for supplemental jurisdiction
* **Hypo:**
  + **P (NY) sues D (NJ) for battery asking for 100k. D impleads X (NY) a joint tortfeasor for contribution**

**X bring 14(a) claims against P from damages from same accident**

**P brings compulsory counterclaim against X**

**P(NY)  
 battery  
 battery battery   
  
 D(NJ) contribution X(NY** **)**

* + - X’s action against P has supplemental jur, because the action shares a common core of operative fact with P’s action against D and none of the exceptions in 1367(b) apply - he is not the plaintiff.
    - P’s action against X is a compulsory counterclaim, but because he is the plaintiff and X was joined under Rule 14 it looks like the exception in 1367(b) applies and so no sup jur
    - Even though the plaintiff is not engaging in manipulation some courts have held he cannot bring the counterclaim under Section 1367.
* **Hypo:**
  + **P (NY) sues D1 (NJ ) for state law battery asking $100k and D2 (NJ) asking $25K.**

**P(NY)  
  
$100k $25k  
  
D1(NJ) D2(NJ)**

* + - If you could aggregate you would not need supplemental jurisdiction, but cannot aggregate here

There is no supplemental jurisdiction because it falls under the exception in Section 1367(b), because it is an action by a plaintiff against someone make a party under Rule 20 where exercising supplemental jurisdiction would be inconsistent with the jurisdictional requirements of section 1332 (amount in controversy is not satisfied)

* **Hypo: Like Allapattah**
  + **P1 (NY) sues D(NJ) under state law battery for 100k and joins with P2(NY) who sues D for 25K**

**P1(NY) P2(NY)  
  
 $100k $25k  
  
 D(NJ)**

* + - Same constitutional case or controversy: Yes
    - Under the exception in 1367 (b): No, because it is a claim made by a plaintiff, but it is against the defendant, who was not made a party under 14, 19, 20 or 24, and it is not a claim made by a person to be joined as plaintiffs under Rule 19 of such rules or seeking to intervene as plaintiffs under Rule 24 of such rules.
* **Hypo:**
  + **P1(NY) sues D (NJ) for $100k and joins with P2 (NJ) who sues D for $100k**

**P1(NY) P2(NJ)**

**$100 k $100k  
  
 D(NJ)**

* + - They are in Federal Court from diversity
    - In the Allapattah opinion Kennedy says that even though the statute might allow this at its plain meaning, this would not be allowed. He said that in the amount of controversy claim in Allapattah, the separate claim does not infect the original claim’s jurisdiction in federal court. In the non-diverse party example above, the original claim is infected by this and would not have original jurisdiction.