Civil Procedure, Green, 8/30/17

What is the source of the law we’re learning?

* So far, mostly 28 U.S.C. 1332 - attempting to interpret it, e.g., what is a citizen of a state (domicile), what does it mean for a case to involve citizens of different states (complete diversity req.), what makes a corporation a citizen of a state
* All about division of authority btwn fed & state courts

Probate/family law exception to diversity jurisdiction:

* A Californian dies, leaving his estate to another Californian. A New Yorker challenges the will, claiming to be the sole beneficiary. Does it go to federal court?
	+ No, because an exception to diversity jurisdiction for such cases has been read into 1332
	+ probate/divorce/child custody are thought to be matters that should be litigated in state court even if they involve diverse parties and the amt in controversy is satisfied

St. Paul Mercury test:

* Helps decides whether amount-in-controversy (AIC) requirement is satisfied
* It has to be legally possible for P to get >$75,000 in damages
* Ex. *Diefenthal v C.A.B.* (1982): why didn’t their lawyer fix the complaint by alleging damages other than that occurring on the plane? E.g. offer proof of reputational damage, therapy needs as a result of mental stress, etc.
	+ the lawyer was probably wrongly focused on the worry about whether the complaint stated a claim, not whether the amount in controversy was satisfied
	+ it was amended only to make it clear it was an action for intentional infliction of emotional distress
	+ would have been easy to allege damages to get above the AIC
* If the court felt the action was failed to state a claim, could they have claimed the AIC was not satisfied?
	+ If you fail to state a claim, then it is legally certain that you’re not getting something…
	+ But then federal court doesn’t have jurisdiction over it, i.e., they don’t even have the power to dismiss the action for failure to state a claim
	+ ERGO: don’t worry about whether or not the facts of the action might make it unlawful; just evaluate how much they could reasonably get for it – that is, focus on the allegations concerning damages
* What if the plaintiffs had alleged that their reputation had been ruined, even if they did so without evidence?
	+ Court will assume that what you allege is true for purposes of deciding AIC
		- sometimes looks to evidence but that is generally to determine how much you can get given the allegations
	+ Why not lie then? Well, it’ll make trouble for you later on (rule 11 sanctions lawyers for frivolous factual allegations)
		- also 28 USC § 1332(b) discourages overstating damages to satisfy the jurisdictional minimum
			* in general if you win the other side pays your costs
				+ costs include filing fees, costs associated with witnesses etc.
				+ costs do NOT include atty fees – each side still bears own atty fees (generally)
			* BUT if you win and get less than the AIC (in a diversity/alienage case), the court is permitted to refuse allow you to get costs from the other side and can even make you pay the other side’s costs
* An individual P can aggregate claims (even unrelated claims) against a single defendant to get above the AIC, but:
	+ Multiple plaintiffs can’t aggregate claims against a single or multiple defendants
	+ A single plaintiff can’t aggregate claims against multiple defendants
		- but there is no aggregation when a plaintiff is claiming that multiple defendants are jointly liable
			* P is beaten up by D1 & D2; damages are $80,000 in total, $40K caused by D1 and $40K by D2
			* if they are **jointly liable**, amount-in-controversy is satisfied
			* D1 can be sued for the entirety of 80K and D2 can likewise can be sued for the entirety of 80K
	+ When a plaintiff sues multiple co-defendants using diversity, the AIC must be satisfied with respect to each defendant
	+ BUT when co-plaintiff sues a defendant the AIC requirement does not have to be satisfied with concerning all plaintiffs if it is satisfied concerning one
		- this is due to the SUPPLEMENTAL JURISDICTION STATUTE: If you have multiple plaintiffs and one meets the AIC but the other does not, you may be able to still litigate together in federal court (provided that the complete diversity requirement is satisfied)
		- This doesn’t work for a plaintiff and multiple defendants
	+ **Common & undivided right exception to the no-aggregation rule**–
		- if theplaintiffs necessarily recover only if they all recover together, then aggregation is possible
		- this is rare
		- usually one plaintiff can win even if the other loses
		- there must be some sort of legal quality/financial arrangement that would prevent a plaintiff from recovering damages unless the other did so too
	+ Injunctions and AIC
		- how do you determine the AIC concerning injunctions?
			* disagreements out there among fed cts
				+ value to P
				+ cost to D
				+ either, whichever is larger
				+ cost to D if D is removing and value to P if P is suing in federal court?
		- what about aggregation?
			* if an injunction cannot be tailored and, by the nature of its grant, benefits all plaintiffs equally, then aggregation may be possible

Constitutional Scope of Diversity Jurisdiction

* Complete diversity requirement is read into 1332, but it is not read into the Constitution
* Constitution requires only minimal diversity/alienage, & Congress sometimes takes advantage of this
	+ E.g., Class Action Fairness Act: federal courts have jurisdiction if there is minimal diversity (@ least one person on one side is from a different state from at least one person on the other side) or minimal alienage (at least one person on one side is a citizen of a State and at least one person on the other a citizen or subject of a foreign state) and the aggregated amount-in-controversy is >$5 million
		- Congress passed this Act because they didn’t like the fact that state courts were certifying lots of class actions – they thought the federal courts would be more pro-defendant

Federal Question Jurisdiction (“arising under” jurisdiction)

* Why have it?
	+ is it just natural that lower federal courts hear actions under federal law?
		- the problem with this theory is that it is constitutionally possible for all federal actions to be brought in state court (with US SCt providing appellate review)
		- that was how it generally was until after the Civil War
		- Congress then allowed for federal question jurisdiction in district courts because they worried that southern state courts would not readily enforce federal civil rights law
	+ best theory of federal question jurisdiction is probably that Congress should have the ability to allow lower federal courts to entertain actions arising under federal law if state courts are hostile to it
* Constitutionally, what does this mean? What type of actions can Congress allow federal courts to entertain
	+ Must have a federal ingredient of any sort in the case
	+ Read very broadly
	+ that is important because Art III arising under jurisdiction is also binding on the US SCt, not just lower federal courts – it cannot take a case that does not fall under the judicial power of the United States in Art III
* But what about arising under as it applies to 28 U.S.C. 1331 – which determines the original jurisdiction of federal district courts?
	+ Read narrowly (perhaps to help prevent inundation of the federal court system)
	+ according to *well-pleaded complaint rule*

*Louisville & Nashville RR Co. v Mottley* (1908)

* Requesting **specific performance** – we entered into a settlement agreement w/ railroad under which railway promised to give us free passes for life
* railroad refused to give free passes because of a federal statute outlawing such passes
* Mottleys sued in federal court
* won, and appealed to US SCt
* Kicked out by Supreme Court because federal court didn’t have jurisdiction in the first place
* a well-pleaded complaint (that is, one that mentioned only what is necessary for justifying relief without considering possible defenses) would mention only Ky state contract law
* notice that even though federal trial courts didn’t have jurisdiction, the action can be brought on appeal to SCOTUS after it goes through state court system
	+ in fact that is exactly what happened in the case
	+ SCt decided the case on appeal after it was refiled in Ky state court
	+ Why is the USSCt appellate jurisdiction constitutional? Because the case has a federal ingredient (the defense calls up questions of federal law)
* Congress could change this interpretation of 1331 & make it possible for federal courts to hear cases involving a federal defense
* What if the Mottleys had brought a declaratory judgment action to determine the federal questions at issue in the case?
	+ Declaratory judgment – a prospective defendant or plaintiff brings the action asking the court to declare what each party’s rights are