GPR pg 161 – 184

In personam: jurisdiction over the person, can determine the person’s obligations

* + Create injunctive relief (can’t create injunctive relief if the jurisdiction is property)
  + Difference between ordering someone to change title (ownership has not changed)(in personam activity) vs actually changing title (in rem activity)
  + No limit on amount of liability that can be created
* In rem: determination of ownership of property that’s binding on everyone in the world
  + Anyone who might subsequently make a claim on a property is barred
  + Just need adequate notice (as far as due process) and property needs to be in the state
* Quasi in rem
* Type 1: determines ownership of the property but with respect to a finite number of litigants
  + About personal relationship between litigants, even though someone else might come in and also claim ownership
    - “between you two, one of you is the owner.”
  + Source of PJ is the presence of the property at issue within the state
* Type 2: (more commonly thought of when referring to quasi in rem)
* Plaintiff is bringing another cause of action (that could have arisen anywhere) and the source of PJ is the fact that the defendant owns property within the state
  + Quantum of power is limited by the value of the property
* Slide 9:
* 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?
  + Yes. Appearance itself is a possible source of in personam jurisdiction.
* Special appearance: the state won’t treat an appearance to challenge PJ as a source of PJ
* Slide 11:
* Mitchell sues Neff in Oregon state court. Neff has no connection to the state but does not want to default. Oregon allows special appearances. Neff appears for the purpose of challenging personal jurisdiction but also adds the defense of failure to state a claim. What result?
  + Cant challenge PJ and merits at the same time if it is a special appearance (as usually defined)
  + But notice that federal courts and some states allow (what Green calls) “über special appearance” where you can put lack of PJ and defenses on the merits together
* slide 12:
  + appearing to litigate creates in personam PJ
  + yes this is constitutional
* limited appearance: when you appear in a case in which the original source of jurisdiction was property, the court will only litigate the merits up to the value of the property even though your appearance has created in personam PJ
* Slide 14: P(NY) sues D(Germany) in federal court in NY under German law concerning a brawl they got into in Germany. P asks for $80,000 in damages. The source of PJ is $50,000 in a bank account D has in NYC. Is there SMJ under 1332(a)?
  + (NY state courts still do quasi in rem actions, an example of how Pennoyer v Neff can still apply today)
  + If this is a quasi in rem action, why might there be a problem with PJ? 🡪 Source of PJ is the bank account, which is less than the minimum amount in controversy!
  + There would be SMJ if the German appears in court and the court does not allow limited appearances
  + Default judgment would also only be for 50k 🡪 default judgment would therefore not be valid.
* Slide 15: Neff is domiciled in Oregon, but is on an extended trip in California. Mitchell sues Neff in Oregon state court for unpaid lawyers fees incurred in Alaska. He has Neff served in California. PJ?
  + §79: (before international shoe, so still under Pennoyer framework) domicile recognized as source of in personam jurisdiction
  + Yes there is PJ
* Slide 17: Neff is domiciled in California, but is spending the summer residing in Oregon. Mitchell sues Neff in Oregon state court for unpaid lawyers fees incurred in Alaska. He has Neff served in California, while he was there for a brief trip home. PJ?
  + Can residence be a source of in personam PJ?
    - Hard to define- residence doesn’t create a sense of identification/obligation to a state, and residence can be for a short amount of time.
  + Recall: Domicile relevant for diversity and PJ
* Slide 18 this is the big problem: Neff, a domiciliary of California, enters Oregon, kills Mitchell’s family, and returns to California. Neff owns no property in Oregon. Mitchell sues Neff in Oregon state court for wrongful death. PJ?
  + (not a criminal action.) Wrongful death: suing for the damages as a result of death (i.e. you kill a father and his family sues for the wages he would have made)
  + PJ? Under Pennoyer - No.
    - He is outside of the state where the unlawful conduct occurred, forum state cant “grab” him.
  + But under International Shoe, yes there is PJ. (Concerns obligation, not physical presence/power)
* Hess v Pawloski
  + Theory of implied consent
  + Driving on a state’s road 🡪 consent to the appointment of someone who is in the state as agent for service of process
    - Service upon them will create in personam PJ upon you
* Privileges and Immunities Clause
  + The right to travel freely and do business within other state
  + For many causes of action, the Hess theory would not apply (to individuals) because of this clause
* Slide 22: the D Corp., incorporated in California, has an agent go to Oregon where he sells a product to P. The product harms P. P seeks to sue the D Corp. in California state court. Is there PJ?
  + Yes, because D Corp is incorporated in California.
  + Corporation is subject to in personam jurisdiction in its state of incorporation.
* Slide 23:
* - the D Corp., incorporated in California, has an agent go to Oregon where he sells a product to P   
  - the product harms P  
  - P seeks to sue the D Corp. in *Oregon* state court  
  - is there PJ?
  + Under Pennoyer, no.
* Slide 24:
  + - would it be enough that P has the CEO of the D Corp. tagged in Oregon?
  + No.
  + Service upon the CEO of a corporation (or any official/executive) will NOT create in personam jurisdiction over a corporation. It will be sufficient to create NOTICE.
* Slide 25:
  + - the D Corp., incorporated in California, wishes to do business in Oregon  
    - to do so, Oregon requires the D Corp. to appoint the Sect. of State of Oregon as its agent for service of process  
    - the D Corp. does  
    - P is harmed by a D Corp. product and sues the D Corp in Oregon state court, serving the Sect. of State of Oregon   
    - is there PJ? Yes (analogous to Hess)
  + Allows us to overcome problem regarding past acts to some extent
  + BUT there was a problem if the corporation was engaged in interstate commerce – then requiring the corporation to appoint an agent for service of process was thought to be contrary to the Commerce Clause
  + Just know that these limits makes International Shoe necessary. Can’t keep using fictional agents for service of process.
* Slide 27:
* - the Neff Corp. is incorporated and has its principal place of business in California  
  - but it does substantial business in Oregon, selling close to 3 million pairs of shoes a year; it also has 8 employees in Oregon  
  - it has not appointed an agent for service of process, nor does Oregon have a statute claiming that by doing business in the state an agent for service is impliedly appointed  
  - Mitchell sues the Neff Corp. in Oregon state court for breach of contract (the shoes he bought in Oregon fell apart)  
    
  - is there PJ under a Pennoyer theory?
  + A certain level of activity in the state was eventually deemed enough for a corporation to be considered present. (Even under the Pennoyer theory)
  + PJ under Pennoyer? Depends if this is “enough” business/activity.
  + Independent of whether there is a “fictional agent”

Slide 28:

* + If the Corp were no longer there, (the same as a person once being in a state and then no longer being there)
  + No PJ under Pennoyer theory

International Shoe

* + Cause of Action: Washington wants Intl Shoe to pay into an unemployment compensation fund. Served an agent of international shoe in Washington and sent notice to Delaware office.
  + “service upon appellant's salesman was not proper service upon appellant”
    - objecting on the basis of NOTICE, not objecting to PJ
  + “that appellant was not a corporation of the State of Washington”
    - argument for lack of PJ under Pennoyer theory
  + “appellant is not an employer, and does not furnish employment within the meaning of the statute”
    - Claims failure to state a claim. “We are not an employer.”

interstate commerce argument against taxes? rejected  
  
due process argument against taxes? rejected

notice? This is adequate to apprise the defendant of knowledge of a lawsuit.

But main issue is PJ

Intl Shoe’s Activities in Washington?

* + Used public spaces (didn’t own property)
  + Did not make contracts in Washington,
  + Had salesmen working as independent contractors for MO office
* Redescribed what it means for a corporation to be “present” using a corporation’s CONTACTS (present and past) with a state.
  + Doesn’t necessarily have to be an “employee,” just an “agent”
  + Starts to hold entities responsible for past actions
* The idea of a state as a nation with its own sovereignty remains, but the theories about the obligations the states have to one another changes.
* E.g. Washington can reach out and drag back a citizen of MO for something they did in the past.
* the court also mentions question of convenience as relevant – is convenience enough?
* the D Corp. has its headquarters in Camden, New Jersey, a few miles from the state court in Pennsylvania  
  it has no contacts with Pa. but it would be very convenient for the D Corp. to litigate there  
  is there PJ of the D Corp. in Pa. state court?
  + No PJ
* New theory of personal jurisdictional power
  + Individual enjoys benefits from a presence in a state
    - Creation of implicit obligation
    - Not all purpose jurisdiction- can only be sued in that state for causes arising from activities in that state
* Re-characterization of cases decided under Pennoyer
  + Continuous systematic activities that gives rise to the cause of action (both Pennoyer and Shoe)
  + Single and isolated items of activitie,s cause of action unrelated – no PJ under Pennoyer or Shoe
  + \*activities are so substantial you can be sued under an cause of action (pennoyer: if corp is present in the state you can be sued for any cause of action) GENERAL
  + specific personal jurisdiction. New theory. Single or occasional cts that make corporation amenable to suit related action (YES PJ)\*\* justification for the fiction is sufficient, under pennoyer the fictional agent mattered
* (both specific and general are IN PERSONAM)
* but jurisdiction is limited to PJ related to cause of action in that state

sources of general: domicile, tagging,