Lect 6 9/6/178

We have completed our study of diversity and alienage jurisdiction (28 USC 1332)!

**Federal Subject Matter Jurisdiction: Federal Question/“Arising Under” Jurisdiction**

**Art III:**

* Determines what Congress can send to federal district court
* The constitutional-scope of federal question jurisdiction (Article III, Section 2) is read broadly – any federal ingredient in the case is sufficient

**28 US** **§ 1331** Congress’s decision about what federal question cases can actually be brought in federal district court. This has been read narrowly according to the…

**Well-Pleaded Complaint Rule:**

* In order to determine whether a case arises under federal law for the purposes of §1331, you look to what a well-pleaded complaint would say.
* Well-Pleaded Complaint = Bare minimum that the plaintiff must show to get relief
  + Ex: Mottley Case cannot be brought in federal court because there wasn’t a whiff of federal law in the well-pleaded complaint. Any mention of federal law was mentioned in anticipation of the defense which is not considered.

*Hypo - What if the Mottleys (or the RR) had brought a declaratory judgment action to determine whether the federal statute overrode their contract and if it did whether it was a taking in violation of the 5th Amendment?*

* if they could get into federal court, that would be a huge end-run around the well pleaded complaint rule
* so what to do with declaratory judgment actions?
* figure out what the action would look like if it was an action for concrete relief (damages or injunctive relief) and figure out what a well pleaded complaint would look like
* that means determining the natural plaintiff, which may not be the person bringing the declaratory judgment action
* here a declaratory judgment could not be brought in federal court because a well pleaded complaint for concrete relief (by the Mottleys, who are the natural plaintiffs) would only mention Ky state law.

**Declaratory Judgement** – Not asking for relief. You have a concrete dispute and you ask a court to issue a binding judgement about the legal rights of the parties

**Counterclaims** – Federal counterclaim will be treated like a federal defense as far as arising under jurisdiction is concerned. Counterclaim under federal law will *not* qualify the case for federal jurisdiction. Will discuss more later.

**Holmes “Creation Test”** (a way of reading a well-pleaded complaint rule): Does federal law create the cause of action in a well-pleaded complaint? If yes 🡪 federal question under 1331

* Good rule of thumb but doesn’t always work

*Glannon examples*

*Larry Lawstudent borrows $5,000 from Metropolitan Bank, under a federal student loan program. Under the program, banks make loans to students under individual loan agreements with each student. The statute setting up the federal loan program includes a guarantee that, if the student defaults, and the bank cannot collect after diligent efforts, the federal government will assure payment of the outstanding balance. Larry defaults on his loan, and Metropolitan sues him for the amount due.*

Not 1331 case – suit under contract

*On the facts of the previous example, assume that Metropolitan is unable to collect from Larry and demands payment from the federal agency administering the loan program. The federal program administrator refuses payment, and Metropolitan sues the agency to collect. (Disregard the possibility  
that there is federal jurisdiction due to the fact that the United States is a party to the action*

1331 case – suit is under federal statute giving bank right to go after govt is student defaults

*Apex Company has a patent on inverse rototurnbuckles. (Patents are granted by the federal Patent Office under a federal statute.) Allied Manufacturing wants to use Apex’s rototurnbuckles as a component of a threshing machine they manufacture. Apex executes a contract that licenses Allied to do so, provided it pays Apex $10 for each turnbuckle it manufactures. Allied falls behind in its payments and Apex sues to collect the balance*

Not 1331 – suit is under licensing agreement (which is really just a contract)

*Instead of suing Allied to collect the balance due under the licensing agreement, Apex sues to enjoin Allied from continuing to manufacture the patented rototurnbuckles, arguing that making them without its permission infringes Allied’s patent.*

1331 (or really 1338) case - This is a suit under federal patent law

*Ace Tractor Company ships all its tractors via Great Northern Railroad, the only railroad that serves the area where its factory is located. Great Northern notifies Ace that it intends to raise its rates by 20 percent. Ace sues to enjoin the increase on the ground that the new rates exceed those allowed by the federal Interstate Commerce Commission.*

Tough one but appear to be a 1331 case - a suit under the ICC regs - if there is a federal regulation and it is violated it is often assumed that there is a private right under federal law to sue to compel compliance with the reg

the City of Albany (NY) sues D (NY) in New York state court for trespass - he was fired and keeps showing up for work  
D brings a counterclaim, alleging that he was fired due to his public statements, in violation of the 1st and 14th Amendments – he asks for damages and reinstatement  
may D remove to federal court?

No – well pleaded complaint does not mention federal law – this is a federal counterclaim

P (NY) sues D (NY) in NY state court for breaching their patent licensing agreement  
D brings a counterclaim for a declaratory judgment determining the patent to be invalid  
may D remove to federal court?

Under well pleaded complaint rule, no

But this is a problem because patent actions have exclusive federal SMJ

**28 U.S. Code § 1338 –**(a) The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents... No State court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents...

So the action cannot be removed but it also has to be in federal court…

Congress fixed this by statute

28 U.S.C. § 1441(a)  
the Holmes Group fix…

Can be removed. This is a statutory exception to the well pleaded complaint rule

**Well-Pleaded Complaints w/ State & Federal Issues:**

What if a well-pleaded complaint (*just one cause of action)* must refer to both federal and state law?

two different types of problems

First: It could be that although a case satisfies the “Creation Test,” because federal law creates the cause of action, you cannot get into federal court because the federal action incorporates state law and state law will be what is really at issue in the case

* Example: Shoshone Mining (US 1900) – A federal statute created a cause of action to determining mining right (without specifying whether the action can be brought only in federal, in federal and state, or only in state court). The cause of action used local mining customs and statutes.
  + SCOTUS concluded there should *not* be federal SMJ under 1331
  + Very rare

Second: What if a well-pleaded complaint must refer to both federal and state law because the cause of action created by state law necessarily raises federal issues?

* Example: I am a beneficiary of a trust and sue the trustee (under state law) because he has invested in illegal securities in violation of the trust. The securities are illegal because they are in violation of federal law
  + similar to Smith v. Kansas City Title & Trust Co. (US 1921)
  + SCOTUS concluded that the case *does* have “arising under” jurisdiction even though the creation test is not satisfied
  + we can call cases where state law creates the cause of action but a well pleaded compliant necessarily refers to both federal and state law “Smith” cases
  + which Smith cases get into federal court?

**Discussion of Gunn v. Minton (2013):**

* Minton sues in federal court for patent infringement but his patent is determined to be invalid because he had licensed it to someone for over a year
* then sues his lawyer in Tex state court for malpractice, saying that had the lawyer brought up the experimental use argument his patent would have been held valid
* on appeal the Tex SCt holds no SMJ in Texas state court because the action had exclusive federal SMJ
  + if it arises under federal patent law state courts do not have SMJ because of:
  + 28 US Code §1338 – “district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to parents… no state court shall have jurisdiction over any claim for relief arising under any Act of Congress relating to patents…”
* US SCt reverses - it does not arise under federal patent law
* this is a case like Smith – state law creates the cause of action but a well-pleaded complaint refers to both state and federal law
  + federal law has been absorbed into the issue of causation under state malpractice tort law
* The US SCt offer the following standard for determining whether there is arising under jurisdiction (under 1331 or 1338) for Smith cases
* Grable & Sons v. Darue Engineering 🡪 Grable Rule: arising under for 1331 (and 1338) if the federal issue is
  + Necessarily Raised (satisfied in this case)
  + Actually Disputed (satisfied in this case)
  + Substantial (not satisfied in this case)
  + No disruption of congressionally approved balance of federal and state judicial responsibilities (not satisfied in this case)
* Why not substantial?
  + “[I]t is not enough that the federal issue be significant to the particular parties in the immediate suit… The substantiality inquiry under Grable looks instead to the importance of the issue to the federal system as a whole.”
  + this is not important to the federal system
  + it is important to the federal system that the validity of patents are litigated in federal court
  + BUT Minton is precluded concerning the validity of the patent – No relitigation of validity of patent after the federal action - that has already been settled.
  + The validity of the patent was NOT going to be decided by this state court case. The patent would continue to be invalid no matter the case’s outcome. If Minton had won, he would have received damages from his lawyer to compensate for his loss of the patent. He would never have gotten the patent back.

Why is the “congressionally approved balance of federal and state judicial responsibilities” requirement not satisfied?

* state law malpractice actions are the sort of things that state courts have an especial interest in

*Hypo -*

*The LMRA completely preempts state contract law concerning collective bargaining agreements between unions and employers and replaces the whole area of state law with federal law. The union sues the employer under state contract law in state court. Employer removes on ground that the cause of action of really federal.*

* This is an example where the Mottley argument doesn’t work. While it is true that the issue of federal preemption is a defense, because federal law *completely preempts* the whole area of state law, the case has been determined to have federal subject matter jurisdiction under 1331 – it is essentially a federal action that the union sues the employer under
* this exception to Mottley has been found in LMRA (Labor Management Relations Act) and ERISA (Employee Retirement Income Security Act – which preempts the field of state law having to with pension plans)
* In Mottley, the preemption of state law by federal law was much smaller – just the issue of free passes

*Hypo -*

*P sues a municipality in federal court for damage under 42 USC* §*1983 for violations of his civil rights. The US Supreme Court has never decided whether a municipality can be sued under* §*1983. The federal court concludes that municipalities cannot be sued under* §*1983. How is the case dismissed?*

* It arises under federal law (and so has federal SMJ) but P fails to state a claim under federal law
* so a case can arise under federal law (as far as SMJ is concerned) even though there really is no federal law for the P to successfully sue under (which is why it is dismissed for failure to state a claim)

does that mean you can always just chose a federal law under which you fail to state a claim to get into federal court? if you could then getting into federal court would be easy

– also if the federal action got in (even if it was later dismissed for failure to state a claim) other state law actions could have supplemental jurisdiction.

*Hypo -*

*P and D get into a fight. P wants to sue D in federal court. So P sues D for violating federal securities law by hitting him in the face.*

* won’t work
* Dismissed for lack of federal SMJ - NOT for failure to state a claim
* where do you draw the line?
* fuzzy but depends upon frivolousness of federal action and whether the federal action is simply an attempt to gin up federal SMJ

*Hypo -*

*P (NY) sues D (NY), a state officer, in federal court for violating his federal civil rights in the course of an arrest. P joins a state-law battery action against the officer.*

* This is not a Smith/Gable/Gunn type case.
* these are separate causes of action – the first clearly satisfies the creation test and the second clearly doesn’t (but will have supplemental jurisdiction)