



Lee Burgess: Welcome back to the Law School Toolbox podcast. Today, we're doing the next in our "Listen and Learn" series, on supplemental jurisdiction. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience, so you'll be the best law student and lawyer you can be.

Lee Burgess: We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the career related website [CareerDicta](#). Alison also runs [The Girl's Guide to Law School](#). If you enjoy the show, please leave a review or rating on your favorite listening app. And if you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form](#) on LawSchoolToolBox.com, and we'd love to hear from you. And with that, let's get started.

Lee Burgess: Welcome back. Here is the next episode in our "Listen and Learn" series, where we will review legal concepts and apply them to fact patterns. Today we are going to chat about civil procedure, which, let's be honest, Alison loves, but I kind of hate. If you're a Civil Procedure student, by the time you get to supplemental jurisdiction, you may be a bit jurisdictioned out. You likely have already covered personal jurisdiction, which determines whether the court has power over the defendant being sued. And you would also have made it through subject matter jurisdiction, which establishes whether the federal court has the power to hear the case at all, based on either a federal question or diversity of citizenship.

Lee Burgess: So, what exactly is supplemental jurisdiction? Supplemental jurisdiction allows the court to hear claims that, on their own, would have been outside the federal court's subject matter jurisdiction, but are related enough to the original basis of jurisdiction, that it makes sense to be heard. In its most simple terms, Supplemental jurisdiction allows a state law claim to be heard if it shares the same "nucleus of operative fact" as the federal claim that gave rise to jurisdiction. This rule, and its additional nuances, can be found in 28 USC § 1367. Section 1367 breaks out into three main subsections: (a), (b), and (c). Let's take them one at a time.

Lee Burgess: Subsection (a) grants the power described above. It's also known as pendant jurisdiction, and it allows parties to bring claims within the action that form part of the "same case or controversy" under Article III. This includes cases against joined or intervening parties, as long as – and this is super important – as long as the allowance would not defeat diversity.

Lee Burgess: That brings us on to subsection (b). Now before we get into subsection (b), when I first mentioned that this would apply to cases in which a state claim accompanied a federal claim, you may have thought, "Well, how does diversity factor in?" Remember, in cases based solely on diversity of citizenship, you're likely already dealing with state law claims, so there isn't the same need to



consider a supplemental jurisdiction in this way. However, you don't want to forget about diversity completely, because supplemental jurisdiction may be exercised over claims that fail to meet the amount in controversy as long as there is diversity between parties, and those parties are properly in federal court on a different basis. We'll look into an example of this later. Additionally, section 1367(b) imposes an important limitation on exercising supplemental jurisdiction. It tells us that parties may not use supplemental jurisdiction to bring in claims against additional defendants, if those claims would not be consistent with diversity requirements.

Lee Burgess: So, if Plaintiff sues Driver for negligence, and Plaintiff is from California and Driver is from New York, and the amount in controversy is \$80,000, then under diversity of citizenship the case can be brought in federal court. However, if the Plaintiff also wants to allege that Manufacturer was strictly liable for manufacturing a defective car, and Manufacturer is a citizen of California, then even though the claims are related, Plaintiff cannot sue Manufacturer in federal court under these facts using supplemental jurisdiction, because that would defeat diversity.

Lee Burgess: However, going back to subsection (a), the court may exercise supplemental jurisdiction if a defendant brings a crossclaim against another defendant from the same state. So, using the facts above, let's say Manufacturer is also from New York, and Driver is the one filing a claim saying that the issue is not that he was negligent, but rather that the car had faulty brakes. Then, even though Driver and Manufacturer are non-diverse, the court may still exercise supplemental jurisdiction over Driver's crossclaim. This is because at the end of the day, defendants aren't choosing to be in court in the first place, so court wants to give them some latitude in being able to defend themselves.

Lee Burgess: Finally, in subsection (c), we are reminded that the exercise of supplemental jurisdiction is not mandatory, but rather courts have discretion to decide whether it would be appropriate to consider the supplemental claims. The factors the court should consider are whether, number one, the claim raises a novel or complex issue of law; number two, the claim substantially predominates over the claims which the district court has original jurisdiction; number three, the district court has dismissed all claims over which it has original jurisdiction; or number four, in exceptional circumstances, there are other compelling reasons for declining jurisdictions.

Lee Burgess: So now that we have our rule, let's see if we can tackle a fact pattern. This is an essay question from the [July 2012 California Bar Exam](#). I've pared down the facts a bit, because it was written to cover a range of civil procedure issues. We're only going to focus on supplemental jurisdiction today.



- Lee Burgess: "Pam and Patrick are residents of State A. While visiting State B, they were hit by a truck owned and operated by Corporation, a freight business. Corporation is incorporated under the laws of Canada and has its headquarters there. Pam and Patrick jointly filed a lawsuit against Corporation in federal district court in State A. In their complaint, Pam demanded damages for personal injury totaling \$80,000. Patrick demanded damages in the amount of \$6,000. After trial, it entered a judgment for Pam and for Patrick. Corporation has appealed on the grounds of lack of subject matter jurisdiction."
- Lee Burgess: So, those are our facts. And for the purpose of using them, let's also say that Corporation properly filed a motion to dismiss based on lack of subject matter jurisdiction before the trial, and that the motion was denied. So this objection has been properly reserved for appeal.
- Lee Burgess: Now, before we get to supplemental jurisdiction, the first step is to identify the original basis of jurisdiction. We don't seem to have subject matter jurisdiction based on federal question, because Pam and Patrick are suing under a state law tort claim for personal injury damages. Therefore, in order to proceed in federal court, we have to see if Pam and Patrick meet the requirements for diversity jurisdiction.
- Lee Burgess: Now first, they would both have to be completely diverse from the defendants in terms of citizenship. Here we have Pam and Patrick as citizens of State A, and Corporation has its corporate citizenship of Canada. So, all plaintiffs are diverse from all defendants, which checks the first box of subject matter jurisdiction based on diversity.
- Lee Burgess: Second, the amount in controversy has to exceed \$75,000. Here, Pam is suing for \$80,000, so that's a check for Pam and her case can be heard in federal court. Patrick, however, is only suing for \$6,000. So this is where we can ask, can the court exercise supplemental jurisdiction over Patrick's claim?
- Lee Burgess: Let's go to our first subsection. Does Patrick's claim share the same nucleus of operative facts as Pam's claim, which is the claim that got us into federal court in the first place? Well, he is suing based on being in the same car during the same accident, so yes, we can definitely say that his claim shares a nucleus of operative fact, under the language of [United Mine Workers v. Gibbs](#). Using the statutory language, we can also safely say that this arises out of the same case or controversy as the claim that originally gave the court its jurisdiction. That would be Pam's claim.
- Lee Burgess: However, because this is a diversity of citizenship case, we still have to contend with subsection (b). Would the inclusion of Patrick's claim defeat diversity? He, like Pam, is from State A, and the defendants are from Canada. So diversity remains intact. On these facts, things are looking good for Patrick. But just to be



completely sure that supplemental jurisdiction would be appropriate, we want to move through subsection (c) and see if the court would be better off exercising its discretion and declining jurisdiction.

Lee Burgess: First, does the claim raise a novel or complex issue of state law? Now from the facts in front of us, this seems to be your run of the mill tort claim. So, without any complicating factors, I think we say it does not. Second, does the claim substantially predominate over the claims over which the district court has original jurisdiction? Well, it seems like with or without Patrick's claim, Pam is safely in federal court. So we can say no to that as well. Third, has the district court dismissed all claims over which it has original jurisdiction? Nope. Pam won her case, so we are good to go there. Finally, are there other compelling reasons for declining jurisdiction? We haven't been given any in the facts, and your professors will generally caution you not to assume facts not in evidence. So, the court would have been right to exercise supplemental jurisdiction over Patrick's claim.

Lee Burgess: Now, this fact pattern happened to deal with a diversity case, but the steps could look just about the same if the original jurisdiction arose from a federal question. In that case, you wouldn't have been so concerned with subsection (b) unless you're dealing with multiple defendants, in which case you would want to be on the lookout for diversity issues.

Lee Burgess: That's our introduction to supplemental jurisdiction. Feel free to practice on some more fact patterns, to get more familiar with this broadening of the federal court's power to hear cases that wouldn't otherwise make the cut.

Lee Burgess: And with that, we are out of time. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. We have future "Listen and Learn" episodes coming out. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at [lee@lawschooltoolbox.com](mailto:lee@lawschooltoolbox.com) or [alison@lawschooltoolbox.com](mailto:alison@lawschooltoolbox.com). Or you can always contact us via our website [contact form](#) at LawSchoolToolbox.com. Thanks for listening, and we'll talk soon!

## **RESOURCES:**

[Start Law School Right course](#)

[California Bar Examination – Essay Questions and Selected Answers, July 2012](#)

[United Mine Workers of America v. Gibbs, 383 U.S. 715 \(1966\)](#)

[Podcast Episode 215: Listen and Learn – The Commerce Clause](#)

[Law School Toolbox blog: 1L Tip Sheets – Civil Procedure Terms](#)

[Law School Toolbox blog: First-Hand Guide to 1L Courses – Civil Procedure](#)