Lee Burgess: Welcome back to the Law School Toolbox podcast. Today, we have another episode in our series "Law Every 1L Should Know", and this one is on civil procedure. 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. 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.

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Lee Burgess: Welcome back! If you're new to this series, "Law Every 1L Should Know" is designed for incoming 1Ls – students who are getting ready for law school and want a head start on the law they're about to spend the next year learning. Each episode gives you a simplified overview of one of the core 1L subjects. We're not trying to cover every doctrine or every exception. We want to give you the framework, so that when you walk into class on day one, you already have mental shelves to put the new material on. And if you want to go deeper on any of the specific topics we mention today, our podcast also has a series called "Listen and Learn". Those episodes take one specific legal concept, review the rules in more detail, and apply the law to a fact pattern. We'll link to relevant "Listen and Learn" episodes in the show notes.

Lee Burgess: Today, we're talking about civil procedure. Civil Procedure is, by reputation, the hardest of the first-year subjects, and it's also the one that feels most different from anything you've encountered before. Torts and Contracts are about how the law treats certain kinds of disputes. Civil Procedure is about how those disputes actually get resolved in court – the rules of the road for litigation – who can sue whom, where, when, on what theory, and what the court can do about it. Civ Pro is a huge subject, and we're not going to cover all of it. We're going to focus on one of the very first things you'll learn in your Civ Pro class, and one of the most heavily tested topics on both 1L exams and the bar: personal

jurisdiction. That's the question of whether a particular court has the power to make a binding decision over a particular defendant. We'll walk through the framework, and then we'll apply it to a short fact pattern at the end. Subject matter jurisdiction, the Erie doctrine, joinder, class actions, claim and issue preclusion – all of those will get their own future episodes. As quick reminder, especially if you're listening to this before law school starts – don't try to memorize everything. Just let it wash over you. The goal is recognition. When your professor says "minimum contacts" or "purposeful availment" in class, those words should already have a shape to them. So with that, let's dive in.

Lee Burgess: So, what is civil procedure? Well, in plain English, civil procedure is the body of rules that governs civil lawsuits – lawsuits between private parties or between a private party and the government over civil claims, as opposed to criminal cases. The rules will tell you things like which court can hear the case, how the lawsuit has to be started, what the defendant has to do in response, how evidence gets gathered before trial, how the case gets decided. Most of your law school course will focus on the rules in federal court. Those are the Federal Rules of Civil Procedure, but a lot of the principles also apply in state court. You can think of a civil lawsuit as a journey and civil procedure as the map. Before the case can even start, the court has to have the power to hear it. It has to have power over the kind of dispute – that's called subject matter jurisdiction. And it has to have power over the defendant – that's called personal jurisdiction. Both have to be there. If either is missing, the case gets dismissed before anyone even looks at whether the defendant did anything wrong.

Lee Burgess: Personal jurisdiction is what we're focusing on today. The basic question is: When can a court tell a particular defendant, "You have to come defend a lawsuit here"? It feels like a small question, but it's a constitutional one. The Due Process Clause of the Fourteenth Amendment requires that a defendant have a meaningful connection to the place where they're being sued. The Constitution does not let a court in, say, Wyoming, drag a defendant who has never been to Wyoming and has nothing to do with Wyoming into a Wyoming courtroom. There has to be a reason. Personal jurisdiction is the body of doctrine that answers what counts as a good enough reason.

Lee Burgess: This was not always such a complicated question. The foundational early case on personal jurisdiction is *Pennoyer v. Neff*, decided in 1878, and it set out a very simple territorial rule: A court has personal jurisdiction over a defendant who is physically present within the state's borders, or who consents to the court's jurisdiction, or who owns property in the state and is being sued in connection with that property.

Lee Burgess: *Pennoyer* worked fine for a horse-and-buggy economy, but it broke down once people and businesses started routinely operating across state lines. The modern framework was built by a 1945 case called *International Shoe v. Washington*. *International Shoe* is the foundational case in modern personal jurisdiction doctrine. It introduced the test that we still use today – the minimum contacts test. The basic idea is: Instead of requiring physical presence in the state, the Constitution requires that the defendant have enough connections to the state – minimum contacts – that being sued there does not offend, in the words of the case, "traditional notions of fair play and substantial justice". So that phrase – minimum contacts, fair play, and substantial justice – is one of the most quoted phrases in all of civil procedure. You'll hear it in class, you'll see it on exams, you'll write it yourself when you're answering a personal jurisdiction question. So, go ahead and learn it now.

Lee Burgess: Okay, with that backdrop, here is the framework that organizes modern personal jurisdiction analysis. For a court to have personal jurisdiction over a defendant, two things generally have to be true. First, there has to be a statutory basis for the court to reach the defendant. In most cases, that comes from what's called the state's "long-arm statute" – a state law that says when the state's courts can exercise jurisdiction over out-of-state defendants. The reason it's called a "long arm" is because the state is reaching its arm out across state lines to grab someone. Most state long-arm statutes today are written broadly, extending to the limits of what the Constitution allows. So in many cases, this first step is a quick check.

Lee Burgess: Second, the exercise of jurisdiction has to be consistent with the Due Process Clause of the Constitution. This is where the heavy lifting happens, and this is where the minimum contacts test from *International Shoe* lives. The constitutional analysis splits into two branches, depending on what kind of personal jurisdiction you're trying to establish – general jurisdiction or specific jurisdiction. So let's take those one at a time.

Lee Burgess: General jurisdiction means the court can hear any claim against the defendant, including claims that have nothing to do with the defendant's contacts with the state. General jurisdiction is broad, and because it's broad, the requirements to establish it are demanding. The Supreme Court has said that general jurisdiction exists only where the defendant is at home in the state. For an individual, "at home" means their state of domicile – basically where they live and intend to remain. So, if you live in Texas, you can be sued in Texas for anything, including something that happened in Maine years ago. For a corporation, "at home" generally means two places – its state of incorporation and the state where its principal place of business is located. The Supreme Court tightened this rule significantly in a 2014 case called *Daimler AG v. Bauman*. After *Daimler*, a

corporation cannot be sued under general jurisdiction in every state where it does business, just in its home states. That was a big shift, and it's still working itself out in the lower courts. So, general jurisdiction is narrow in terms of where it can be exercised, but broad in terms of what claims it covers. You're at home, so you can be sued there for anything.

Lee Burgess: Specific jurisdiction is the opposite. Specific jurisdiction is broad in terms of where it can be exercised, but narrow in terms of what claims it covers. Specific jurisdiction lets a court hear a particular claim against a defendant based on the defendant's particular contacts with the forum state. The word "forum", by the way, is just lawyer speak for the state where the lawsuit is brought. Under specific jurisdiction, the defendant doesn't have to be at home in the forum. The defendant just has to have meaningful contacts with the forum that are connected to this lawsuit. Specific jurisdiction has three parts, and this is the framework you'll use most often in law school. So let's walk through them.

Lee Burgess: Part 1: Minimum contacts. The defendant has to have some contacts with the forum state. Critically, those contacts have to be the result of the defendant's own purposeful choices. Lawyers call this "purposeful availment". The defendant has to have, in some way, reached into the state and taken advantage of the privilege of doing business there, or aimed their conduct at the state. Showing up there by accident or being dragged in by someone else's actions doesn't count. The defendant has to have done something deliberate – entered into a contract with someone in the state, sold products into the state, marketed services there, conducted business there in some active way. The reason purposeful availment matters is fairness. The whole idea is that if a defendant deliberately reaches into a state to take advantage of that state's market, the defendant should reasonably expect to be subject to that state's courts for disputes arising out of that activity. The defendant has, in effect, accepted the possibility of being sued there.

Lee Burgess: Part 2: The claim has to arise out of or relate to the defendant's contacts with the state. This is the connection requirement. The Supreme Court clarified the scope of this requirement in a 2021 case called *Ford Motor Company v. Montana*, which held that "arise out of or relate to" is disjunctive. A claim that relates to the defendant's contacts can support specific jurisdiction even without a strict causal link between those contacts and the harm. Specific jurisdiction is "specific" because it ties the court's power to the defendant's specific connections to the forum. If the claim is about something totally unrelated to those contacts, specific jurisdiction won't reach it. You'd have to look for general jurisdiction instead.

Lee Burgess: Part 3: Even if those first two parts are met, the exercise of jurisdiction still has to be consistent with traditional notions of fair play and substantial justice. This is the reasonableness check. Courts look at things like the burden on the defendant of having to litigate far from home, the forum state's interest in providing a remedy for its citizens, the plaintiff's interest in obtaining relief in a convenient location, the interstate judicial system's interest in efficient resolution of disputes, and the shared interest of the several states in furthering substantive social policies. Once minimum contacts are established, though, the Supreme Court has said the defendant has to make what it calls a "compelling case" that exercising jurisdiction would be unreasonable. That's a high bar, and reasonableness rarely defeats jurisdiction once contacts are established. But it's part of the framework, so you need to address it.

Lee Burgess: Okay, hopefully, you're still with me. That's the framework. General jurisdiction – if the defendant is at home in the forum. Specific jurisdiction – if there are minimum contacts, the claim relates to those contacts, and exercising jurisdiction is reasonable. One more thing before we apply the framework to facts: General jurisdiction and specific jurisdiction are the two main paths, but there's also a third – consent. A defendant can expressly consent to a court's jurisdiction, for example, by signing a contract with a forum selection clause that says disputes will be resolved in a particular state. Implied consent can also arise from state business registration statutes, and the Supreme Court addressed that in a 2023 case called *Mallory v. Norfolk Southern Railway*. And a defendant can waive a personal jurisdiction objection by failing to raise it in their first responsive pleading or first motion to dismiss. Consent is narrower than minimum contacts as a basis for jurisdiction, but it shows up on exams, and it's worth recognizing the word. So let's bring it together with a fact pattern. Here's the hypo:

Lee Burgess: Marcus lives in Illinois. He runs an online business out of his Illinois home, selling custom-made wooden furniture. He maintains a website that ships to customers across the country, and he actively advertises in several Midwestern states, including Iowa. He has paid for Facebook ads targeted at Iowa residents, and over the past year, he has shipped 15 custom chairs to Iowa customers, generating about $20,000 in revenue from Iowa sales. Last month, a chair that Marcus shipped to an Iowa customer named Beth collapsed when Beth sat on it. Beth fell to the floor and broke her hip. Beth sues Marcus in Iowa State Court for negligence and product liability. Marcus moves to dismiss, arguing that the Iowa court has no personal jurisdiction over him. He has never set foot in Iowa. He has no office, no employees, and no bank accounts in Iowa. Does Iowa have personal jurisdiction over Marcus?

Lee Burgess: So let's walk through it. First, the statutory step. Iowa's long-arm statute, like most state long arms, extends to the limits of what the Constitution allows, so we can move quickly through this step and focus on the constitutional analysis.

Lee Burgess: Now, the constitutional analysis. Start with general jurisdiction. For general jurisdiction, Marcus would have to be at home in Iowa. Marcus is an individual, so we look at his domicile. His domicile is Illinois. He doesn't live in Iowa, and he has no intention of making Iowa his home. So, no general jurisdiction. Iowa can't hear just any claim against him.

Lee Burgess: Now, specific jurisdiction. For specific jurisdiction, we'll walk through the three-part test. Part 1: Minimum contacts and purposeful availment. Has Marcus purposefully reached into Iowa? Yes. He didn't just happen to have an Iowa customer wander onto a passive website. He actively advertised in Iowa, paid for Facebook ads targeting Iowa residents, and made 15 sales generating significant revenue. Those are deliberate, profit-motivated contacts within the Iowa market. He purposefully availed himself of the benefits of doing business in Iowa.

Lee Burgess: Part 2: Does Beth's claim arise out of or relate to those contacts? Yes, clearly. Beth's claim was about a chair that Marcus shipped to Iowa as part of his Iowa sales activity. The injury happened in Iowa to an Iowa customer, involving a product Marcus deliberately sent to Iowa. The connection between the contacts and the claim is direct.

Lee Burgess: Part 3: Is exercising jurisdiction in Iowa consistent with fair play and substantial justice? There's a real burden on Marcus to defend a lawsuit in Iowa. He has to travel, hire an Iowa lawyer, all of that. But Iowa has a strong interest in providing a forum for its citizens injured by products sold into the state. Beth has a strong interest in suing where she lives and where her medical care is happening, and the burden on Marcus is not extreme. He's just across the border in a neighboring state, and he chose to do business in Iowa. On balance, exercising jurisdiction is reasonable.

Lee Burgess: So, all three parts of the specific jurisdiction test are met. Iowa has personal jurisdiction over Marcus, and his motion to dismiss should be denied. Beth's case can proceed.

Lee Burgess: A few things to notice about this analysis. First, the structure mirrors what you'll do on a 1L exam: Walk through general first, then specific. For specific, walk through the three parts in order. Conclude on each. Don't skip steps. Don't lump them together. The same discipline you saw with the four elements of

negligence in our Torts episode, and with offer, acceptance, consideration in our Contracts episode, applies here.

Lee Burgess: Second, this fact pattern was relatively clean. In a harder hypothetical, you might have a defendant whose contacts with the forum are more attenuated – say, an online retailer with a passive website that just happens to be accessible from the state, or a defendant whose product reached the state only through a third-party distributor. Those harder cases are where the doctrine gets messy, and where there's the most disagreement in the lower courts. Your professor will spend a lot of time on them.

Lee Burgess: Before we wrap up, a quick recap. Civil procedure is the body of rules governing civil lawsuits. Personal jurisdiction is the doctrine that determines whether a court has the power to make a binding decision over a defendant. The constitutional basis is the Due Process Clause. The modern framework comes from *International Shoe* – minimum contacts, and traditional notions of fair play and substantial justice. There are two flavors. General jurisdiction lets a court hear any claim against a defendant who is at home in the forum state. For an individual, that means domicile. For a corporation, that means the state of incorporation and the principal place of business. Specific jurisdiction lets a court hear a particular claim against a defendant whose contacts with the forum relate to that claim, as long as the contacts reflect purposeful availment and exercising jurisdiction is reasonable.

Lee Burgess: If you want to go deeper on any of these topics, check the show notes. We've linked to "Listen and Learn" episodes on personal jurisdiction, subject matter jurisdiction, supplemental jurisdiction, removal, the Erie doctrine, claim and issue preclusion, joinder, and more. Those go into more depth than we did here.

Lee Burgess: Next time in the "Law Every 1L Should Know" series, we'll tackle another core 1L subject. Until then, take a breath. Civ Pro feels overwhelming, because it's all rules and procedures, with no familiar story to ground them. But you don't have to know everything on day one. The frameworks come slowly. Just keep at it.

Lee Burgess: Thanks again to Juno for supporting this podcast. If you're thinking about student loans for law school, head to JoinJuno.com to explore your options and see how Juno can help you find a better rate.

Lee Burgess: 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. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at lee@lawschooltoolbox.com or alison@lawschooltoolbox.com. Or you

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Mallory v. Norfolk Southern Railway Co.
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Podcast Episode 263: Listen and Learn – Subject Matter Jurisdiction
Podcast Episode 218: Listen and Learn – Supplemental Jurisdiction (Civ Pro)
Podcast Episode 332: Listen and Learn – Removal (Civ Pro)
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