Chapter 3
Courts and Jurisdiction

Learning Objectives

1. Describe state court systems.
2. Describe the federal court system.
3. List and describe the types of decisions that are issued by the U.S. Supreme Court.
4. Compare the jurisdiction of state courts with that of federal courts.
5. Define *personal jurisdiction, standing to sue,* and *venue.*

Teacher-to-Teacher Dialogue

Twenty-first century technological advances have provided students with all kinds of instant access to information. These devices have provided the students with a variety of preconceptions.

Among these are the average undergraduate's notion of how trials are conducted and the role of attorneys in that process. Invariably these perceptions center on popular television series such as "Law and Order" and "Court TV". This is not all bad. Current media focus on numerous law-related issues has generated a whole new wave of public interest in the workings of the legal system. The downside is that the media has created many myths on the folklore of law and lawyers. In the world of pop culture, no one knows until the end who really committed the crime until a surprise witness shows up to identify the perpetrator. In more modern versions, the attorney first has a business relationship with the client and then proceeds to get him or her acquitted. Regardless of the outcome, the process is always full of glamour and intrigue.

The problem is that a trial rarely resembles the goings on found in the entertainment media. Trials are long, tedious, emotionally and financially draining processes for all parties concerned. In many ways, a trial represents a failure by the parties to reach some sort of satisfactory solution for the issue beforehand. Rarely do the parties actually want to go through a labyrinth of pleadings, motions, and the like, feeling all the while totally dependent on the sometimes questionable competence of their attorneys. Unlike the make-believe world of entertainment, the job of an attorney is to keep his or her client out of court. (This often needs some reinforcement with the student.) The attorney's professional advice should anticipate and resolve potential legal problems before, rather than after, the fact if at all possible.

It is against this backdrop that instructors should try to present a more realistic picture of how this system works. Instructors can basically start by discussing how few controversies actually get to the trial stage and how even fewer of those are actually reported in the National Reporter System. Additionally, a fair amount of time should be spent reviewing the growing trend toward alternative dispute resolution (ADR) mechanisms. Personal experience examples might be helpful in illustrating the growing trends toward ADR. To complete the cycle we can then proceed to itemize the key steps used in a court trial in this chapter and those that follow.

Text Materials

I. Introduction to Courts and Jurisdiction

There are two major court systems in the United States—the federal court system and the court systems of the 50 states, District of Columbia, and the U.S. territories. Each of these systems has jurisdiction to hear different types of lawsuits.

II. State Court Systems

Each state, Washington DC, and each territory of the United States has its own separate court system, which is hereafter collectively referred to as **state courts**. State courts resolve more than 95 percent of the lawsuits brought in this country. Most state court systems include the following: *limited-jurisdiction trial courts*, *general-jurisdiction trial courts*, *intermediate appellate courts*, and *a highest state court*.

A. Limited-Jurisdiction Trial Courts

State **limited-jurisdiction trial courts**, which are sometimes referred to as **inferior trial courts**, hear matters of a specialized or limited nature. Because limited-jurisdiction courts are trial courts, evidence can be introduced and testimony can be given.

Most limited-jurisdiction courts keep records of their proceedings. A decision of such a court can usually be appealed to a general-jurisdiction court or an appellate court. Many states have also created **small claims courts** to hear civil cases involving small dollar amounts.

B. General-Jurisdiction Trial Courts

Every state has a **general-jurisdiction trial court**. These courts are often referred to as **courts of record** because the testimony and evidence at trial are recorded and stored for future reference. Some states divide their general-jurisdiction courts into two divisions, one for criminal cases and the other for civil cases.

C. Intermediate Appellate Courts

In many states, **intermediate appellate courts**, also called **appellate courts** or **courts of appeals,** hear appeals from trial courts. They review the trial court record to determine if there have been any errors at trial that would require reversal or modification of the trial court's decision.

The parties usually file legal *briefs* with the appellate court stating the law and facts that support their positions. Appellate courts usually grant a brief oral hearing to the parties.

D. Highest State Court

Each state has a **highest state court** in its court system. Many states call this highest court the **state supreme court**. The function of a state's highest court is to hear appeals from intermediate appellate state courts and certain trial courts. No new evidence or testimony is heard.

Business Environment: Delaware Courts Specialize in Business Disputes
In most states, business and commercial disputes are heard by the same courts that hear and decide criminal, landlord–tenant, matrimonial, medical malpractice, and other non-business-related cases. One major exception to this standard has been the state of Delaware, where a special chancery court hears and decides business litigation. The **Delaware Court of Chancery**, which decides cases involving corporate governance, fiduciary duties of corporate officers and directors, mergers and acquisitions, and other business issues, has earned a reputation for its expertise in handling and deciding corporate matters.

III. Federal Court System

Article III of the U.S. Constitution provides that the federal government's judicial power is vested in one "Supreme Court." This court is the U.S. Supreme Court. Federal judges of the U.S. Supreme Court, U.S. courts of appeals, and U.S. district courts are appointed for life by the president, with the advice and consent of the Senate.

A. Special Federal Courts

The **special federal courts** established by Congress have limited jurisdiction. They include the following:

- **U.S. Tax Court—**hears cases that involve federal tax laws.
- **U.S. Court of Federal Claims—**hears cases brought against the United States.
- **U.S. Court of International Trade—**handles cases that involve tariffs and international trade disputes.
- **U.S. Bankruptcy Courts—**hears cases that involve federal bankruptcy laws.
- **U.S. Court of Appeals for the Armed Forces—**exercises appellate jurisdiction over members of the armed services.
- **U.S. Court of Appeals for Veterans Affairs—**exercises jurisdiction over decisions of the Department of Veterans Affairs.

Contemporary Environment: Foreign Intelligence Surveillance Court (FISA Court)
In 1978, Congress created the **Foreign Intelligence Surveillance Court (FISA Court)**, which is located in Washington DC. The FISA court hears requests by federal law enforcement

agencies, such as the Federal Bureau of Investigation (FBI) and National Security Agency (NSA), for warrants, called **FISA warrants**, to conduct physical searches and electronic surveillance of Americans or foreigners in the United States who are deemed a threat to national security. If the FISA court denies a government application for a FISA warrant, the government may appeal the decision to the **U.S. Foreign Intelligence Surveillance Court of Review (FISCR).**

B. U.S. District Courts

The **U.S. district courts** are the federal court system's trial courts of *general jurisdiction*. The geographical area served by each court is referred to as a **district**. The federal district courts are empowered to impanel juries, receive evidence, hear testimony, and decide cases.

C. U.S. Courts of Appeals

The **U.S. courts of appeals** are the federal court system's intermediate appellate courts. There are 13 circuits in the federal court system. The geographical area served by each court is referred to as a **circuit**. The 12th circuit court, located in Washington, DC, is called the **District of Columbia circuit**.

Congress created the 13th court of appeals in 1982. It is called the **Court of Appeals for the Federal Circuit** and is located in Washington DC. This court was created to provide uniformity in the application of federal law in certain areas, particularly patent law. Congress created the 13th court of appeals in 1982. It is called the **Court of Appeals for the Federal Circuit** and is located in Washington DC.

As an appellate court, each of these courts hears appeals from the district courts located in its circuit, as well as from certain special courts and federal administrative agencies. An appellate court reviews the record of the lower court or administrative agency proceedings to determine whether there has been any error that would warrant reversal or modification of the lower court decision. Appeals are usually heard by a three-judge panel. After a decision is rendered by the three-judge panel, a petitioner can request an ***en banc*** **review** by the full appeals court.

IV. Supreme Court of the United States

The highest court in the land is the **Supreme Court of the United States**, also called the **U.S. Supreme Court**, which is located in Washington DC. The Court is composed of nine justices who are nominated by the president and confirmed by the Senate. The president appoints one justice as the **Chief Justice of the U.S. Supreme Court**, who is responsible for the administration of the Court. The other eight justices are **Associate Justices of the U.S. Supreme Court**.

Contemporary Environment: Process of Choosing a U.S. Supreme Court Justice

In an effort to strike a balance of power between the executive and legislative branches of government, Article II, Section 2, of the U.S. Constitution gives the president the power to appoint Supreme Court justices "with the advice and consent of the Senate." This means that the majority of the one hundred senators must approve the president's nominee in order for that nominee to become a justice of the U.S. Supreme Court.

A president who is elected to one or two four-year terms in office may have the opportunity to nominate justices to the U.S. Supreme Court who, if confirmed, may serve many years after the president leaves office.

A. Jurisdiction of the U.S. Supreme Court

The Supreme Court, which is an appellate court, hears appeals from federal circuit courts of appeals and, under certain circumstances, from federal district courts, special federal courts, and the highest state courts. No new evidence or testimony is heard. The Supreme Court's decision is final.

B. Decisions of the U.S. Supreme Court

The U.S. Constitution gives Congress the authority to establish rules for the appellate review of cases by the Supreme Court, except in the rare case in which mandatory review is required. Congress has given the Supreme Court discretion to decide what cases it will hear.

A petitioner must file a **petition for certiorari**, asking the Supreme Court to hear the case. If the Court decides to review a case, it issues a **writ of certiorari**.

Each justice of the Supreme Court, including the chief justice, has an equal vote. The Supreme Court can issue several types of decisions:

- Unanimous Decision—if all the justices voting agree as to the outcome and reasoning used to decide a case, it is a **unanimous decision**.
- Majority Decision—if a majority of the justices agree as to the outcome and reasoning used to decide a case, it is a **majority decision**.
- Plurality Decision—if a majority of the justices agree as to the outcome of a case but not as to the reasoning for reaching the outcome, it is a **plurality decision**.
- Tie Decision—if there is a **tie decision**, the lower court decision is affirmed. Such votes are not precedent for later cases.

A justice who agrees with the outcome of a case but not the reason proffered by other justices can issue a **concurring opinion** that sets forth his or her reasons for deciding the case. A justice who does not agree with a decision can file a **dissenting opinion** that sets forth the reasons for his or her dissent.

Contemporary Environment: "I'll Take You to the U.S. Supreme Court!"

A case being heard by the highest court is rare. The nine Supreme Court justices meet once a week to discuss what cases merit review. The votes of four justices are necessary to grant an appeal and schedule an oral argument before the Court; this is called the **rule of four**. The decision and written opinions by the justices are usually issued many months later.

The U.S. Supreme Court usually decides to hear cases involving major constitutional questions, such as freedom of speech, freedom of religion, equal protection, and due process. The Supreme Court also hears many cases involving the interpretation of federal statutes enacted by Congress.

V. Jurisdiction of Federal Courts

Article III, Section 2, of the U.S. Constitution sets forth the jurisdiction of federal courts. Federal courts have *limited jurisdiction* to hear cases involving a *federal question* or *diversity of citizenship*.

A. Federal Question

The federal courts have subject matter jurisdiction to hear cases involving "federal questions." **Federal question cases** are cases arising under the U.S. Constitution, treaties, and federal statutes and regulations.

B. Diversity of Citizenship

A case may be brought in federal court even though it involves a nonfederal subject matter question, which would usually be heard by state, Washington DC, or territory courts, if there is diversity of citizenship. **Diversity of citizenship** occurs if a lawsuit involves citizens of different states or a citizen of a state and a citizen or subject of a foreign country.
A corporation is considered to be a citizen of the state in which it is incorporated and in which it has its principal place of business.

If there is diversity of citizenship, the plaintiff may bring the case in either state or federal court. If a plaintiff brings a diversity of citizenship case in federal court, it remains there. If the plaintiff brings a diversity of citizenship case in state court, it will remain there unless the defendant removes the case to federal court. Federal courts must apply the relevant state law to diversity of citizenship cases.

The original reason for providing diversity of citizenship jurisdiction to federal courts was to prevent state court bias against nonresidents, although this reason has been questioned as irrelevant in modern times. The federal court must apply the appropriate state's law in deciding the case.

Federal courts have **exclusive jurisdiction** to hear cases involving federal crimes, anti-trust, bankruptcy, patent and copyright cases, suits against the United States, and most admiralty cases. State courts cannot hear these cases.

C. Jurisdiction of State Courts

State courts and the courts of Washington DC, and territories of the United States have jurisdiction to hear cases that federal courts do not have jurisdiction to hear. These usually involve laws of states, Washington DC, territories, and local governments.

State courts have **concurrent jurisdiction** with federal courts to hear cases involving diversity of citizenship and federal questions over which federal courts do not have exclusive jurisdiction.

VI. Standing to Sue, Jurisdiction, and Venue

Not every court has the authority to hear all types of cases. First, to bring a lawsuit in a court, the plaintiff must have *standing to sue*. In addition, the court must have *personal jurisdiction* or other jurisdiction to hear the case, and the case must be brought in the proper *venue*.

A. Standing to Sue

To bring a lawsuit, a plaintiff must have **standing to sue**. This means the plaintiff must have some stake in the outcome of the lawsuit. A few states now permit investors to invest money in a lawsuit for a percentage return of any award of judgment.

B. *In Personam* Jurisdiction

A court's jurisdiction over a person is called ***in personam*** **jurisdiction**, or **personal jurisdiction**. A plaintiff, by filing a lawsuit with a court, gives the court *in personam* jurisdiction over himself or herself. The court must also have *in personam* jurisdiction over the *defendant*, which is usually obtained by having a summons served to that person within the territorial boundaries of the state (i.e., **service of process**).

If personal service is not possible, alternative forms of notice, such as mailing of the summons or publication of a notice in a newspaper, may be permitted. A corporation is subject to personal jurisdiction in the state in which it is incorporated, has its principal office, or is doing business.

A party who disputes the jurisdiction of a court can make a *special appearance* in that court to argue against imposition of jurisdiction. Service of process is not permitted during such an appearance.

C. Long-Arm Statute

In most states, a state court can obtain jurisdiction in a civil lawsuit over persons and businesses located in another state or country through the state's **long-arm statute**. These statutes extend a state's jurisdiction to nonresidents who were not served a summons within the state. The nonresident defendant in the civil lawsuit must have had some **minimum contact** with the state such that the maintenance of that lawsuit in that state does not offend traditional notions of fair play and substantial justice.

The exercise of long-arm jurisdiction is generally permitted over nonresidents who have: committed torts within the state, entered into a contract either in the state or that affects the state, or transacted other business in the state that allegedly caused injury to another person

D. *In Rem* Jurisdiction

A court may have jurisdiction to hear and decide a case because it has jurisdiction over the property of the lawsuit. This is called ***in rem*** **jurisdiction** ("jurisdiction over the thing").

E. *Quasi In Rem* Jurisdiction

A plaintiff who obtains a judgment against a defendant in one state will try to collect the judgment by attaching property of the defendant that is located in another state. This is permitted under ***quasi in rem*** **jurisdiction**, or **attachment jurisdiction**. Under the **Full Faith and Credit Clause** of the U.S. Constitution (Article IV, Section 1), a judgment of a court of one state must be given "full faith and credit" by the courts of another state.

F. Venue

Venue requires lawsuits to be heard by the court of the court system that has jurisdiction to hear the case that is located nearest to where the incident occurred, where witnesses and evidence are available, and such other relevant factors.

Occasionally, pretrial publicity may prejudice jurors located in the proper venue. In such cases, a **change of venue** may be requested so that a more impartial jury can be found. The courts generally frown upon **forum shopping**.

G. Forum-Selection and Choice-of-Law Clauses

One issue that often comes up when parties from different states or countries have a legal dispute is which jurisdiction's court will be used. When the parties have not agreed in advance, courts must make the decision about which court has jurisdiction and what law applies.

For this reason, parties sometimes agree in their contract as to what state's court, what federal court, or what country's court will have jurisdiction to hear a legal dispute should one arise. Such clauses in contracts are called **forum-selection clauses** or **choice of forum clauses**.

In addition to agreeing to a forum, the parties also often agree in contracts as to what state's law or country's law will apply in resolving a dispute. These clauses are called **choice-of-law clauses**.

VII. Jurisdiction in Cyberspace

Obtaining personal jurisdiction over a defendant in another state has always been difficult for courts. Today, with the advent of the Internet and the ability of persons and businesses to reach millions of people in other states electronically, particularly through websites, modern issues arise as to whether courts have jurisdiction in cyberspace.

One seminal case that addressed jurisdiction in cyberspace was ***Zippo Manufacturing Company v. Zippo Dot Com, Inc***. Zippo Manufacturing Company (Zippo) manufactures its well-known line of tobacco lighters in Bradford, Pennsylvania, and sells them worldwide. Zippo Dot Com, Inc. (Dot Com), which was a California corporation with its principal place of business and its servers located in Sunnyvale, California, operated an Internet website that transmitted information and sexually explicit material to its subscribers.

Three thousand of Dot Com's 140,000 paying subscribers worldwide were located in Pennsylvania. Zippo sued Dot Com in U.S. District Court in Pennsylvania for trademark infringement. Dot Com defended, alleging that it was not subject to personal jurisdiction in Pennsylvania because the "minimum contacts" and "traditional notions of fair play and substantial justice" standards were not met and therefore did not permit Pennsylvania to assert jurisdiction over it.

In applying this standard, the court found that the case involved doing business over the Internet. The court held that Dot Com was subject to personal jurisdiction under the Pennsylvania long-arm statute and ordered Dot Com to defend itself in Pennsylvania.

Global Law: Judicial System of Japan

Businesses often complain that there are too many lawyers and there is too much litigation in the United States. There are currently more than 1 million lawyers and approximately 20 million civil lawsuits filed per year in this country. On the other hand, in Japan, a country with about 40 percent of the population of the United States, there are approximately 25,000 lawyers and much less litigation.

Much of the difference is cultural: Japan nurtures the attitude that confrontation should be avoided, and the Japanese bias against courtroom solutions is strong. Thus, companies often avoid battle in court and instead opt for private arbitration of many of their disputes.

Case 3.1—U.S. Supreme Court Case

Diversity of Citizenship
Hertz Corporation v. Friend
130 S.Ct. 1181, Web 2010 U.S. Lexis 1897 (2010)

Supreme Court of the United States

Facts: Melinda Friend, a California resident, sued Hertz in California for damages under violation of California's wages and hour laws. Hertz sought removal of the case to federal court, proclaiming diversity of citizenship of the parties. Hertz filed notice to remove the case to federal court, asserting diversity of citizenship of the parties. However, Friend said that Hertz is a citizen of California and thus diversity did not apply. Hertz alleged citizenship in Delaware (state of incorporation) and New Jersey (headquarters), and thus diversity. The U.S. district court and the U.S. Court of Appeals held that Hertz was a citizen of California and that the case could not be moved to federal court. Hertz appealed to the Supreme Court.

Issue: Is Hertz a citizen of California?

Decision: No. The Supreme Court held that there is diversity of citizenship with Friend and the case could be moved to federal court. It endorsed that Hertz was not a citizen of California.

Reason: New Jersey, the headquarters of the company, is the "real citizen". The federal diversity jurisdiction statute provides for citizenship in the state where the company has its "principal place of business" and in the state where it is incorporated. The former is New Jersey, not California.

Case 3.2—Federal Court Case

Service of Process
Facebook, Inc. v. Banana Ads LLC
___ F.Supp.2d ___ (2012)
United States District Court for the Northern District of California

Facts: Facebook, Inc. filed a complaint in the U.S. District Court against numerous defendants alleging that the named defendants engaged in trademark infringement, cybersquatting, and false designation of origin. All the defendants were served except fourteen, whom Facebook had not been able to serve personally, by mail, or by telephone. As a result it made a motion to the U.S. District Court to be permitted to serve these defendants by sending an email notice to the defendants' websites.

Issue: May Facebook use email notices to serve the defendants?

Decision: The U.S. District Court issued an order permitting Facebook to serve the defendants by email.

Reason: Service by email is reasonably calculated to provide actual notice since the alleged typosquatting schemes depend on these commercial internet activities.

Case 3.3—Federal Court Case

Jurisdiction over an Internet Seller
Chanel, Inc. v. Banks

Web 2010 U.S. Dist. Lexis 135374 (2010)
United States District Court for Maryland

Facts: Chanel, Inc. is a corporate entity duly organized under the laws of the state of New York, with its principal place of business in New York City. It filed a suit in the U.S. District Court in Maryland against defendant Ladawn Banks, a resident of Florida, alleging that Banks sold handbags and wallets bearing counterfeit trademarks identical to the registered Chanel marks, on her website. The goods at issue in this case were sold to a resident of Maryland. The court had to address the issue of whether it had personal jurisdiction over the defendant.

Issue: Does the court have personal jurisdiction over the defendant?

Decision: The U.S. Court of Appeals for Maryland held that defendant Banks was subject to personal jurisdiction of the court. The Court granted default judgment to Chanel, assessed damages of $133,712 against Banks, and issued a permanent injunction prohibiting Banks from infringing on Chanel's trademarks.

Reason: According to Chanel, although defendant Banks is a resident of Florida, she conducted business in Maryland via several interactive websites. Defendant's website at issue in this case was highly interactive and provided a platform for the commercial exchange of information, goods, and funds. Thus, this Court has personal jurisdiction over defendant in this matter.

CS1—Landmark U.S. Supreme Court Case

Minimum Contacts
International Shoe Company v. State of Washington

This case details the extent to which a state can go to require a person or business to defend himself, herself, or itself in the respective state court. This question was raised in the Supreme Court of the United States in the landmark case ***International Shoe Company v. State of Washington***.

Answers to Critical Legal Thinking Cases

3.1. Standing to Sue

The Court of Appeals of Ohio held that Michigan law applied to the case. The court noted that because the accident took place in Michigan, there is a presumption that Michigan law applies absent any other jurisdiction having more substantial contacts. Plaintiff Bertram, however, contended that Ohio law should apply, because all of the parties were residents of Ohio at the time of the accident and all consequences flowing from his injury occurred in Ohio. The court disagreed. The court stated, "Because the snowmobiling accident took place in Michigan, the place where the conduct causing Bertram's injury occurred in Michigan and Michigan has enacted specific legislation involving the risks of snowmobiling, we find that Michigan law clearly controls in this case. While all parties are residents of and have their relationships in the

State of Ohio, we are not persuaded by Bertram's argument that this issue should control." The Court of Appeals of Ohio held that the law of the state of Michigan, where the accident occurred, and not the law of the state of Ohio, the state of the residence of the parties, applied. The court applied the Michigan assumption of the risk statute and granted summary judgment to the three defendant friends of plaintiff Bertram. *Bertram v. Norden, et al.*, 159 Ohio App.3d 171, 823 N.E.2d 478, Web 2004 Ohio App. Lexis 550 (Court of Appeals of Ohio)

3.2. Federal Question

Yes, the federal courts have the jurisdiction to hear Nutrilab's case. Federal courts have limited jurisdiction, granted to them by the Constitution and Congress. Part of this limited jurisdiction is to hear cases involving federal questions. Federal question cases are cases arising under the U.S. Constitution, treaties, and federal statutes and regulations. Federal courts have original jurisdiction to hear federal question cases. Nutrilab was disputing the FDA's application of a federal statute to stop their distribution of Starch Blockers. The Starch Blockers case was therefore one arising under a federal statute, and this gave the federal court original jurisdiction to hear the case. Any lawsuit, such as this one brought by Nutrilab, that involves a federal question must be brought in a federal court. *Nutrilab, Inc. v. Schweiker*, 713 F.2d 335, Web 1983 U.S. App. Lexis 25121 (United States Court of Appeals for the Seventh Circuit)

3.3. Forum Selection Clause

Yes, the forum-selection clause contained in the Carnival Cruise Lines ticket is enforceable against Mrs. Shute. Including a reasonable forum clause in a form contract is permissible for several reasons. First, a cruise line has a special interest in limiting the number of jurisdictions in which it could potentially be subject to a lawsuit. Because a cruise ship typically carries passengers from many locales, it is likely that a mishap on a cruise could subject the cruise line to litigation in several different jurisdictions. Second, a clause establishing the forum for dispute resolution dispels any confusion as to where lawsuits arising from the contract must be brought and defended, sparing litigants the time and expense of pretrial motions to determine the correct forum and conserving judicial resources needed to decide such issues. Finally, passengers who purchase tickets containing a forum-selection clause benefit in reduced fares that reflect the savings that the cruise line enjoys by limiting where it may be sued. The forum-selection clause in the Carnival Cruise Lines ticket was fair and reasonable and therefore enforceable against Mrs. Shute. If Mrs. Shute wishes to sue Carnival Cruise Lines, she must do so in a court in the state of Florida, not in a court in the state of Washington. *Carnival Cruise Lines, Inc. v. Shute*, 499 U.S. 585, 111 S.Ct. 1522, 113 L.Ed.2d 622, Web 1991 U.S. Lexis 2221 (Supreme Court of the United States)

3.4. **Jurisdiction**

Yes. The can be removed to a federal court on the basis of diversity of citizenship. If a case over which the federal courts have concurrent jurisdiction is brought in a state court, the case can be removed to federal court. Federal courts have concurrent jurisdiction over cases involving parties with diverse citizenship. This could be citizens of different states, or a citizen of a state and a citizen of a foreign country. A corporation is a citizen of the state of its incorporation. Although it is true that both Allison and Tru-Amp (by virtue of its incorporation) were citizens of the state of Mississippi, the manufacturer of the switchboard and breakers, defendant ITE Corporation, was incorporated in Pennsylvania. This produced the needed diversity of citizenship to remove the case from the Mississippi state court to federal court. *Allison v. ITE Imperial Corp.* 729 F. Supp. 45, Web 1990 U.S. Dist. Lexis 607 (United States District Court for the Sothern District of Mississippi)

Answers to Ethics Cases

3.5. Ethics Case

No. Based on the *de minimis* theory, i.e., “the law disregards trifles,” the trial court was correct in dismissing the case. Justice King believed that this lawsuit is an absurd waste of the resources of the courts and of the taxpayers’ money. The courts are already too heavily burdened to be used to punish advertisers who use junk mail. The students should question how the failure to deliver an inexpensive calculator watch to a three year old who cannot tell time could ever be worth $15M in punitive damages. *Harris v. Time,* 191 Cal. App.3d 449, 237 Cal. Rptr. 584, Web 1987 Cal. App. Lexis 1619 (Court of Appeal of California)

3.6. Ethics Case

Yes, the defendants are subject to suit in California. The U.S. Supreme Court held that jurisdiction of the California court over the petitioners, who were residents of Florida, was proper because of their intentional conduct in Florida that was allegedly calculated to cause injury to plaintiff Shirley Jones in California. The Supreme Court applied the rule of *International Shoe Co. v. Washington*, 326 U.S. 310, that the Due Process Clause permits jurisdiction over a defendant in any state in which the defendant has “certain minimum contacts such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.” The Court applied this rule to the case at hand and found that California was the focal point both of the article that appeared in the *National Enquirer* and of the distress suffered. The Court noted that the magazine has its largest circulation in California, that the defendant knew that plaintiff Shirley Jones, a professional entertainer and television personality, lived and worked in California, and that the article would have its greatest impact in California. The Supreme Court concluded that the defendants, as Florida residents, must “reasonably anticipate being hauled into court” in California to answer for the truth of the statements made in the article. Thus, the minimum contacts rule and the Due Process Clause were not violated. *Calder v. Jones*, 465 U.S. 783, 104 S. Ct. 1482, 79 L.Ed.2d 804, Web 1984 U.S. Lexis 4 (Supreme Court of the United States)