

## Personal Jurisdiction Checklist

- A. Does a traditional basis support jurisdiction over the defendant?
  - 1. Natural Persons
    - a. Was defendant served with process in the forum state?
    - b. Is defendant domiciled in the forum state?
    - c. Did defendant consent to jurisdiction?
    - d. Does the case involve adjudication of status, *e.g.*, divorce?
  - 2. Corporations
    - a. Is defendant incorporated in the forum state?
    - b. Did defendant consent to jurisdiction?
- B. If none of the traditional bases apply, does the forum state's longarm statute reach the defendant?
  - 1. Does the statute extend to the limits of due process? If so, proceed directly to due process analysis, *infra*.
  - 2. If the statute is of the "laundry list" variety, does at least one section apply to the case?
- C. Is the assertion of jurisdiction over the defendant consistent with due process?
  - 1. Has defendant purposefully established contacts with the forum state?
    - a. Level of Contacts
      - (1) General Jurisdiction – Are defendant's contacts with the forum state so substantial, systematic and continuous as to support jurisdiction even if plaintiff's cause of action is unrelated to those contacts? [Note debate in the courts as to the level of contacts necessary to support general jurisdiction.]
      - (2) Specific Jurisdiction – Is plaintiff's cause of action one that arising from or is related to defendant's contacts with the forum? If so, even a single contact with the forum state may suffice. [Note debate in the courts as to how directly related the cause of action must be to the contacts.]

- b. Purposeful Availment
  - (1) Did defendant initiate or establish the contact with the forum state?
  - (2) Could defendant reasonably anticipate being haled into court in the forum state?
  - (3) Did defendant place its product into the “stream of commerce,” which carried the product into the forum state? [Note that four Justices in *Asahi* would require additional conduct.]
  - (4) With respect to intentional torts, did defendant, by virtue of its actions elsewhere, cause an “effect” in the forum state? See *Calder, Revell*.
  
- 2. Is the exercise of jurisdiction fair and reasonable? See *Asahi*. [Some courts hold that when the requirements for general jurisdiction are satisfied, the fairness factors need be considered – *i.e.*, general jurisdiction is fair and reasonable *per se*.]
  - a. Would the burden on defendant be severe?
  - b. Does the forum have an interest in adjudicating the dispute?
  - c. Does plaintiff have a convenient alternative forum for the claim?
  - d. Will jurisdiction further the interstate judicial system’s interest in the efficient resolution of controversies?
  - e. Will jurisdiction advance the shared interest of the several states in furthering substantive social policies?
  
- D. If *in personam* jurisdiction cannot be obtained over defendant (*e.g.*, the longarm statute is inapplicable), is there a basis for *in rem* or *quasi in rem* jurisdiction?
  - 1. When ownership of property is at issue, jurisdiction *in rem* may be employed.
  - 2. If ownership is not at issue and the property is being used simply as a vehicle for litigating an unrelated claim against its owner, jurisdiction *quasi in rem*, also known as attachment jurisdiction, may be used.
  - 3. In all *in rem* and *quasi in rem* cases, the assertion of jurisdiction must satisfy due process requirements. This is likely to be a potential problem only in cases of attachment jurisdiction.