

# What is Personal Jurisdiction?

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## **Avoiding Liability Bulletin**

Jurisdiction is generally defined as the authority by which a court recognizes and decides cases.<sup>1</sup> The regulations defining the many types of jurisdiction are established by state and federal constitutions and statutes respectively. These regulations set out what cases can be heard by what courts and which court is the best forum for a particular matter (e.g., family court, mental health court). Jurisdiction can be applied to one court (e.g., the state criminal court) or to the specific judicial system as a whole (e.g., the federal court system).<sup>2</sup>

One type of jurisdiction that is important for you to be knowledgeable about is personal jurisdiction. Personal jurisdiction is a court's power to bring an individual into the judicial process. It is jurisdiction over the individual's person or personal rights.<sup>3</sup> Both federal and state courts' authority includes personal jurisdiction. It is also known as *in personam jurisdiction*.<sup>4</sup>

Personal jurisdiction is extremely important to you for a number of reasons. First, no court can take action against you unless personal jurisdiction over you exists. Suppose that you are an RN licensed in several states but you currently only practice in Wyoming and have done so for several years. You get notice that a professional negligence suit has been filed in California naming you as a defendant, one of the states you are licensed in, but in which you have not practiced for three years. The court in California has no personal jurisdiction over you in this suit in Wyoming.

Or, it may be that a suit is filed in Wyoming also naming you as a defendant. However, the suit, which should have been filed within two (2) years of the injury the plaintiff (patient) is claiming, has been filed four (4) years after the injury. The Wyoming court has no personal jurisdiction over you because its power to hear the case has expired.

In the first instance, the attorney for the plaintiff can attempt to open the case in Wyoming so that the Wyoming court has personal jurisdiction and then serve you with the summons and complaint for the California case. If that were to occur, the court system—state courts—would have personal jurisdiction over you and you would have to defend yourself in the California case. This is a costly endeavor for the plaintiff and for you but it can be done.

In the second instance, your attorney in Wyoming could appear before the court on your behalf, with a *special and limited appearance (or a similar special motion)*, informing the court that there is no personal jurisdiction over you because the cause of action was not timely filed. This often happens as well and is usually successful if no legal exceptions allow the later filing.

Personal jurisdiction of any court over you is something that you cannot assume until you have spoken with your attorney who can advise you about this legal principle and what course of action or actions can be taken. Therefore, if you receive a summons and complaint, either by mail or served upon you in person, you should read it carefully and contact your attorney before speaking with anyone about the summons and complaint. Your attorney will then advise you of how he or she will handle the matter.

Do not, under any circumstances, contact the attorney who filed the matter and sent you the summons and complaint, or speak with the plaintiff or his or her family, or speak to your former employer. In addition, never appear in a court proceeding about the matter. Appearing in court and saying anything about the current case automatically meets the requirement of personal jurisdiction. Once personal jurisdiction exists, the matter can legally proceed against you.

It bears repeating in relation to the issue of personal jurisdiction and to relation to receiving any summons and complaint: immediately contact your attorney or your insurance agent only.

#### **FOOTNOTES:**

1. Brian A. Garner, Editor (2004). Black's Law Dictionary. 8<sup>th</sup> Edition. St. Paul, MN: Thomson West, 867.
2. Lawrence Baum (2013). American Courts: Process and Policy. 7<sup>th</sup> Edition. Boston, MA: Wadsworth, Chapter 2.
3. Black's Law Dictionary, *supra* note 1, at 870.
4. Id.

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