

## I. GENERAL POINTS

### A. Basic Concepts

#### § 7:01 Necessary for Adjudication

To fully adjudicate an action, the court must have jurisdiction over the parties or the property in dispute. Jurisdiction over the parties is called personal (also known as *in personam*). Jurisdiction over property may be either *in rem* or *quasi in rem*.

The court cannot render an enforceable judgment against a defendant for damages or equitable relief unless the defendant is subject to the court's personal jurisdiction. [*World Wide Volkswagen v. Woodson*, 444 US 286 (1980).] Judgments in *in rem* and *quasi in rem* cases may be enforced only against the property that forms the basis for jurisdiction. [See §7:320 *ff.*] Thus, personal jurisdiction is required in most cases.

A judgment of a court without personal jurisdiction is void. [*Burnham v. Superior Court*, 495 US 604, 608-09 (1990).] And it is not entitled to full faith and credit by other jurisdictions. [*World-Wide Volkswagen v. Woodson*, 444 US 286, 291 (1980).]

#### § 7:02 Personal, In Rem, and Quasi in Rem Distinguished

There are three possible types of jurisdiction:

- *Personal or in personam jurisdiction* allows a court to impose personal liability or obligation on one person in favor of another.
- *In rem jurisdiction* allows a court to affect the interests of all persons in a particular property that is before the court. [See §7:320.]
- *Quasi in rem jurisdiction* involves the rights of specific persons in property before the court. There are two types of quasi in rem jurisdiction: In one plaintiff seeks to secure a preexisting claim in the property before the court or to extinguish similar interests of particular persons. The other allows a court to use defendant's property to satisfy a judgment or claim. [*Golden Rule Insurance Co. v. Widoff*, 291 Ill App 3d 112, 683 NE2d 541, 225 Ill Dec 373 (1997). See §7:321.]

#### § 7:03 Core Requirements

Exercise of jurisdiction over a person or property requires:

- Plaintiff to have notified defendant of the suit by properly effecting *service of process* on defendant [see 735 ILCS 5/2-203, 203.1, 204, 205, 205.1,

206, 208, 209(e), 210, 211, 212 and Ch 9, Summon and Service of Process]; and

- A statutory *basis* for the exercise [See 735 ILCS 5/2-209]; and
- A *connection* between Illinois and defendant sufficient to make the exercise permissible under federal and state due process. [*Bell-Aire Fragrances v. Odirite, Intern, Inc.*, 898 F Supp 621 (ND Ill 1995).]

However, defendant may *waive* any of these requirements. [For jurisdictional waiver, see §7:340 *ff.* For waiver of process, see Ch 9, Summons and Service of Process.]

#### § 7:04 Bases for Personal Jurisdiction

The bases for personal jurisdiction recognized by Illinois are spelled out in 735 ILCS 5/2-209. They are:

- Defendant's continuing presence in Illinois. Defendant's presence is established by domicile or residence in Illinois (for individuals), organization under Illinois law (for entities), or doing business in Illinois (for individuals or entities). [735 ILCS 5/2-209(b)(2)-(4). See §7:90 *ff.*; §7:140 *ff.*]
- Service of process on defendant while defendant is within Illinois. [See §7:100 *ff.*]
- Defendant's commission of any of the 14 acts enumerated in the Illinois specific jurisdiction statute. [735 ILCS 5/2-209(a). See §7:180 *ff.*]
- Any basis now or later permitted by the Illinois and U.S. Constitutions. [735 ILCS 5/2-209(c). See §7:181.]

In addition, a defendant may consent to submit to the jurisdiction of the Illinois courts by contract [see §7:290 *ff.*] or by making a general appearance. [See §7:310.]

#### § 7:05 General and Specific Jurisdiction

Personal jurisdiction may be either general or specific:

- *General jurisdiction*. General jurisdiction is unlimited. It permits the court to adjudicate *any* claim involving defendant—even claims that do not arise from defendant's Illinois contacts.
- *Specific jurisdiction*. Specific jurisdiction is limited. It permits the court to adjudicate only claims "arising from" transactions or events within Illinois.

Jurisdiction based on presence in Illinois or on service of process in Illinois is general. [See 735 ILCS