

Subject Matter Jurisdiction

All courts have been granted subject matter jurisdiction to hear case of a particular type.

Many who go before the courts declare that the court lacks subject matter jurisdiction, yet cannot or do not tell the court why or how they lack subject matter jurisdiction.

What is missing is the argument of how the courts lack subject matter jurisdiction of the instant case before it. They fail to tell the court what is missing, or what rule has been violated that denies the court jurisdiction.

There is overall subject matter jurisdiction and there is particular subject matter jurisdiction.

If the court has been granted jurisdiction to hear a debt case, it can; yet if the pleadings are insufficient the court cannot. There must be a complete question before the court to answer or it cannot answer.

If the pleadings lack authenticated evidence, and a competent fact witness, the question is incomplete. You cannot cross examine a document, someone must be there to testify to the document.

If the court has in some way denied access to court or denied due process, the court cannot proceed, it has lost jurisdiction.

If the service of process is not perfected, the court lacks personal jurisdiction to hear the case. (These rules are very strict and it is always a surprise when they are not known and followed.)

The differences in having jurisdiction to hear a type of case and hearing a particular case are subtle, yet very important.

Evidence is a critical part of any case. You must know the rules of evidence, the rules for a particular type of evidence. For example, you must know what the rules of evidence are for business records, what the hearsay exceptions are, if any. You must also know the difference between statement of facts and conclusions. An example of a conclusion is a bill or invoice that has only a total amount due, while an example of a statement of fact is a bill or invoice that itemizes each item that makes up the total amount due.

You must know what makes a witness a competent fact witness, versus one who is stating hearsay, and whether that hearsay is admissible. Many times a witness is uncovered in court has not being competent. That is, they are reciting hearsay (inadmissible hearsay) or conclusions and not facts. An example of this is a supposed witness to an auto collision. They may not have seen the actual occurrence of the collision, only after the noise of the collision did they turn and see the results of the collision, and subsequently drew their conclusions. Not a competent fact witness to the collision.

1. The real issue in void judgments is, SUBJECT MATTER JURISDICTION!

Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. *Wahl v. Round Valley Bank* 38 Ariz, 411, 300 P. 955(1931), *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146p 203(1914); and *Millken v. Meyer*, 311 U.S. 457, 61 S. CT. 339,85 L. Ed. 2d 278 (1940).

I can go into void judgments at great length with enough court case cites to make anybody's eyes glaze over but I shall refrain. Let it be said that the really big deal with subject matter jurisdiction is that it can never be presumed, never be waived, and cannot be constructed even by mutual consent of the parties. Subject matter jurisdiction is two part ; the statutory or common law authority for the court to hear the case and the appearance and testimony of a competent fact witness, in other words, sufficiency of pleadings.

Even if a court (judge) has or appears to have subject matter jurisdiction, subject matter jurisdiction can be lost.

Major reasons why subject matter jurisdiction is lost:

- (1) No petition in the record of the case, *Brown v. VanKeuren*, 340 Ill. 118,122 (1930).
- (2) Defective petition filed, Same case as above.
- (3) Fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill. 2d 202, 486 N.E. 2d 893(1985)
- (4) Fraud upon the court, *In re Village of Willowbrook*, 37 Ill, App. 3d 393(1962)
- (5) A judge does not follow statutory procedure, *Armstrong v. Obucino*, 300 Ill 140, 143 (1921)
- (6) Unlawful activity of a judge, Code of Judicial Conduct.
- (7) Violation of due process, *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019; *Pure Oil Co. v. City of Northlake*, 10 Ill.2d 241, 245, 140 N.E. 2d 289 (1956); *Hallberg v Goldblatt Bros.*, 363 Ill 25 (1936); (8) If the court exceeded it's statutory authority. *Rosenstiel v. Rosenstiel*, 278 F. Supp. 794 (S.D.N.Y. 1967)
- (9) Any acts in violation of 11 U.S.C. 362(a), *IN re Garcia*, 109 B.R. 335 (N.D> Illinois, 1989).

- (10) Where no justiciable issue is presented to the court through proper pleadings, *Ligon v. Williams*, 264 Ill. App 3d 701, 637 N.E. 2d 633 (1st Dist. 1994)
- (11) Where a complaint states no cognizable cause of action against that party, *Charles v. Gore*, 248 Ill App. 3d 441, 618 N.E. 2d 554 (1st. Dist. 1993)
- (12) Where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction.
- (13) When the judge is involved in a scheme of bribery (the *Alemann* cases, *Bracey v Warden*, U.S. Supreme Court No. 96-6133(June 9, 1997)
- (14) Where a summons was not properly issued.
- (15) Where service of process was not made pursuant to statute and Supreme Court Rules, *Janove v. Bacon*, 6 Ill. 2d 245, 249, 218 N.E. 2d 706, 708 (1953)
- (16) When the rules of the Circuit court are not complied with.
- (17) When the local rules of the special court are not complied with. (One Where the judge does not act impartially, *Bracey v. Warden*, U.S. Supreme Court No. 96-6133(June 9, 1997)
- (18) Where the statute is vague, *People v. Williams*, 638 N.E. 2d 207 (1st Dist. (1994)
- (19) When proper notice is not given to all parties by the movant, *Wilson v. Moore*, 13 Ill. App. 3d 632, 301 N.E. 2d 39 (1st Dist. (1973)
- (20) Where an order/judgment is based on a void order/judgment, *Austin v. Smith*, 312 F 2d 337, 343 (1962); *English v. English*, 72 Ill. App. 3d 736, 393 N.E. 2d 18 (1st Dist. 1979) or
- (21) Where the public policy of the State of Illinois is violated, *Martin-Tregona v Roderick*, 29 Ill. App. 3d 553, 331 N.E. 2d 100 (1st Dist. 1975)

And another that can and should be checked on is does the judge have a copy of his oath of office on file in his chambers? If not, he is not a judge and yes, you can go into his office and demand to see a copy of his oath of office at any time. The laws covering judges and other public officials are to be found at 5 U.S.C. 3331, 28 U.S.C. 543 and 5 U.S.C. 1983 and if the judge has not complied with all of those provisions he is not a judge but a trespasser upon the court. If he is proven a trespasser upon the court (upon the law) not one of his judgments, pronouncements or orders are valid. All are null and void.

In all, there are 22 indices which tell us whether or not a court had subject matter jurisdiction and when examining a judgment one has to know each and every one of them by heart. If he knows them by heart he can go through a judgment like Sherman going

though Georgia and point out all of the errors which might make the case a void judgment, null and void upon it's face.

SUMMARY OF THE LAW OF VOIDS

Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties (not their attorneys - although attorneys can enter an appearance on behalf of a party, only the parties can testify and until the plaintiff testifies the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction = the statutory or common law authority the action is brought under (the theory of indemnity) and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred.

A question which naturally occurs: "If I vacate a void judgment, can they just come back and try the case again?" Answer: A new suit must be filed and that can only be done if within the statute of limitations.

"Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc order is to correct a mistake in the records; it cannot be used to rewrite history." E.g., *Transamerica Ins. Co. v. South*, 975 F.2d 321, 325-26 (7th Cir. 1992); *United States v. Daniels*, 902 F.2d 1238, 1240 (7th Cir. 1990); *King v. Ionization Int'l, Inc.*, 825 F.2d 1180, 1188 (7th Cir. 1987). And *Central Laborer's Pension and Annuity Funds v. Griffiee*, 198 F.3d 642, 644(7th cir. 1999).

The number of void judgments on the books in America's courthouses is so great, there is no practical way to estimate how many there are!

IF EVERY VOID JUDGMENT WAS VACATED WITH DAMAGES, IT WOULD REPRESENT THE GREATEST SHIFT IN MATERIAL WEALTH IN THE HISTORY OF THE WORLD!

Links of Value

For legal research go to:

1. Dictionary with pronunciations:

<http://www.m-w.com/home.htm>

2. Legal Dictionary online:

<http://dictionary.law.com/>

3. Fair Debt Collection Practices Act:

<http://www4.law.cornell.edu/uscode/15/ch41schV.html>

4. USC Fair Credit Billing Act:

<http://www4.law.cornell.edu/uscode/15/1666.html>

5. CFR Fair Credit Billing Act:

http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/cfr_2003/12cfr226.13.htm

6. State Code Publication, limited number of states:

<http://www.michie.com>

7. Versus Law - search for court cases, \$14.95 per mo. plan will serve most people:

<http://versuslaw.com>

8. Cornell University Law Library - search for court cases, codes and more:

<http://www4.law.cornell.edu>

9. Judicial Accountability Initiated Law a.k.a. Jail4Judges:

<http://jail4judges.org>

10. *U.S. v. Laugenour* (IRS) case, shows governmental corruption on a level that is almost beyond belief:

[Laugenour.pdf](#)

11. Brief and Memorandum In Support of Parallel State and Federal Litigation:

[Parallel State and Federal Litigation.doc](#)

12. Brief and Memorandum regarding Judicial Immunity:

[Judicial Immunity.doc](#)

13. Brief and Memorandum Private Attorneys General.doc:

[Private Attorneys General.doc](#)