

bers the opportunity to “opt out” but with no requirement that inclusion in the class be contingent upon affirmative response.⁹⁵² Other service devices and substitutions have been pursued and show some promise of further loosening of the concept of territoriality even while complying with minimum due process standards of notice.⁹⁵³

Power of the States to Regulate Procedure

Generally.—As long as a party has been given sufficient notice and an opportunity to defend his interest, the Due Process Clause of the Fourteenth Amendment does not generally mandate the particular forms of procedure to be used in state courts.⁹⁵⁴ The states may regulate the manner in which rights may be enforced and wrongs remedied,⁹⁵⁵ and may create courts and endow them with such jurisdiction as, in the judgment of their legislatures, seems appropriate.⁹⁵⁶ Whether legislative action in such matters is deemed to be wise or proves efficient, whether it works a particular hardship on a particular litigant, or perpetuates or supplants ancient forms of procedure, are issues that ordinarily do not implicate the Fourteenth Amendment. The function of the Fourteenth Amendment is

mons and complaint to a registered agent for service, or to its principal place of business, or to its registered office.”). *Cf. Velmohos v. Maren Engineering Corp.*, 83 N.J. 282, 416 A.2d 372 (1980), *vacated and remanded*, 455 U.S. 985 (1982).

⁹⁵² *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797 (1985).

⁹⁵³ *E.g., Watson v. Employers Liability Assurance Corp.*, 348 U.S. 66 (1954) (authorizing direct action against insurance carrier rather than against the insured).

⁹⁵⁴ *Holmes v. Conway*, 241 U.S. 624, 631 (1916); *Louisville & Nashville R.R. v. Schmidt*, 177 U.S. 230, 236 (1900). A state “is free to regulate procedure of its courts in accordance with its own conception of policy and fairness unless in so doing it offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.” *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934); *West v. Louisiana*, 194 U.S. 258, 263 (1904); *Chicago, B. & Q. R.R. v. City of Chicago*, 166 U.S. 226 (1897); *Jordan v. Massachusetts*, 225 U.S. 167, 176, (1912). The power of a state to determine the limits of the jurisdiction of its courts and the character of the controversies which shall be heard in them and to deny access to its courts is also subject to restrictions imposed by the Contract, Full Faith and Credit, and Privileges and Immunities Clauses of the Constitution. *Angel v. Bullington*, 330 U.S. 183 (1947).

⁹⁵⁵ *Insurance Co. v. Glidden Co.*, 284 U.S. 151, 158 (1931); *Iowa Central Ry. v. Iowa*, 160 U.S. 389, 393 (1896); *Honeyman v. Hanan*, 302 U.S. 375 (1937). *See also Lindsey v. Normet*, 405 U.S. 56 (1972).

⁹⁵⁶ *Cincinnati Street Ry. v. Snell*, 193 U.S. 30, 36 (1904).