INTRODUCTION TO COURT STRUCTURES & PROCEDURES

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In reading and understanding cases, it is important to have some understanding of the basic structure of courts in the United States and the procedure that is used to get cases to stage at which you read the reported opinion. This paper is an effort to briefly introduce this subject in order to get you started in understanding the cases you will read. It will limit its coverage to civil litigation, leaving criminal procedure to other courses.

Court Structure

There are basically two types of courts in the United States, trial courts and appeals courts. Not surprisingly, trial courts are the first courts to hear a case and perform the primary role of hearing the evidence, deciding the facts, and making a judgment about the legal conclusions that follow from the facts presented. Trial courts generally consist of a single judge (although there are some multimember trial courts) who decides the case directly in cases seeking injunctions or other similar remedies or in criminal and common law cases generally involving requests for damage relief with the use of a jury if one is requested by either party. It is in the trial courts that testimony is presented and the courtroom drama portrayed by Hollywood and television takes place.

Trial courts can be of two types -- courts of general jurisdiction or specialized courts. Jurisdiction refers to the power of the court to hear cases. Thus, a court of general jurisdiction is empowered to hear any and all (or at least most) cases that the government establishing that court can legally entertain. Many states and tribes have established unified trial courts, often known by different names such as district courts, common pleas courts, or the like, that are courts of general jurisdiction. Other tribes and states have chosen to segregate different types of cases into different courts, with each type of trial court having limited (as opposed to general) jurisdiction over the types of cases assigned to that court. Examples of specialized courts of limited jurisdiction might include juvenile courts, probate courts, criminal courts, divorce courts, or the like. Even courts of general jurisdiction might be divided into divisions handling such matters, but the difference is that the division is part of the *same* court, while in specialized courts of limited jurisdiction, the courts are literally different courts often separately administered and with limited power. In a unified court of general jurisdiction mistakes of filing in the wrong division are often handled very simply by transferring the case to the proper division. In a specialized court of limited jurisdiction, if a case is improperly filed in the wrong court, the case generally is dismissed which can cause a problem if a statute of limitation (the time period within which a law suit must be filed) ran out in the interim.

By contrast to trial courts, courts of appeals (or appellate courts as they are generally known) generally do not hear testimony or new evidence. Rather, they sit to correct legal errors in cases appealed to them from trial courts. Appeals courts generally sit in multimember panels of at least three judges. Their authority usually is limited to affirming or reversing the judgment of the court below. If they reverse they can either enter a different judgment than rendered by the trial court or send the case back to the trial court (remand it) for further proceedings consistent with their decision. The role of the appellate court generally is not to render the correct decision or to do justice as between the parties, but, rather, to correct legal errors that occurred in the trial proceedings. Thus, the concept of legal error is very important to the manner in which an appeals court functions. Basically a legal error constitutes a mistake in a court ruling made by the trial court which could have made a significant difference to the decision reached by the court below.

Most of the cases you will read in law school are opinions written by appellate courts. In reading these cases one of the first things you should look for is the claimed error that the appellate court was asked to review. This information will shape the way you will come to view the court's decision and, in particular, its holding.

If the United States, like England, was composed of only one sovereign government, the basic description of trial and appellate courts provided above would suffice. The United States, however, contains within it various sovereign units including Indian tribes, the federal government, and states each of which will have its own trial and appellate courts. To get the big picture of the relationship of such courts, a flow diagram of the potential movement of cases within and between the systems is necessary. Such a diagram is attached on the next page. Courses in constitutional law and federal courts will further develop your knowledge of which cases can be filed in federal and state courts and your Indian law course should inform you about the scope of tribal court jurisdiction.

To effectively convey information, diagrams must oversimplify matters and therefore sometimes can be misleading. This diagram is no exception. Note that the diagram indicates that the decisions of the state court courts can be heard by the United States Supreme Court. This claim is only true, however, where a federal constitutional, statutory, or treaty claim is raised in the state court case. Similarly, the line connecting the tribal appellate court and the federal district court has an even narrower reach. Decisions of tribal courts can be reviewed by federal district courts *only* where there is a claim that under federal law the tribe lacked subject matter jurisdiction over the case and then only after exhaustion of all tribal judicial remedies. The figure also is slightly misleading in two other respects that should be noted. First, not all states have an intermediate appellate court. Second, the flow chart also would suggest that state cases go the United States Supreme Court only from the state supreme court. In fact, a case raising a federal issue can go to the United States Supreme Court from the highest state court capable of rendering a decision in the case. Thus, some state cases raising federal issues can go the United States Supreme Court from state intermediate appellate courts. Third, not all tribes have appellate courts. Sometimes the tribal trial court constitutes the court of last resort. Also tribes sometimes have multiple trial courts, with traditional dispute resolution tribunals coexisting with formal western-style trial courts of record. One other very controversial point that should be noted on the diagram is that tribal appellate courts, unlike state appellate courts, generally are courts of last resort on most legal questions except issues surrounding the scope of their subject matter jurisdiction as described above. There currently is no provision for appeal to the United States Supreme Court or any other federal court from the decisions of tribal appellate courts, although highly controversial legislation has been proposed that would permit such review.

The court systems of the United States are basically geographically based. Thus, there is a least one United States District Court in each of the fifty states and some states are divided into more than one federal district. The cases from various federal district courts go to a single regionally based court of appeals. For example all cases from the federal district courts in Iowa, Minnesota, Missouri, Arkansas, and North and South Dakota are appealed to the United States District Court for the Eighth Circuit which generally sits in Minneapolis. In the state court structures, geography is also very important. Most states have at least one trial court in each county and their decisions are often appealed to regionally based intermediate courts of appeals serving various designated counties. Some states, like Iowa, however, have only a single intermediate state appeals court which serves the entire state.

The case citations of the cases you read should indicate to you the court which decided the case. These citations will become second nature when you become more familiar with legal research during the course of your first year of law school. Citations which contain a U.S., S.Ct., or L.Ed. citation were decided by the United States Supreme Court. Cases which have a F. or F.2d citation were decided by the United States Court of Appeals. The citation should also contain an indication of which circuit decided the case. Thus a citation such as 755 F.2d 1055 (8th Cir, 1987) indicates that the case was decided by the United States Court of Appeals for the Eighth Circuit in 1987. An F.Supp. citation indicates the United States District Court and the citation should indicate which geographic district court decided the case. State cases are frequently reported in the regional reporter system maintained by the West Publishing Company. A citation like 333 N.W.2d 233

(Ia. 1985) would indicate that the case came out of the North Western Reporter, Second Series which includes the state of Iowa, but more importantly, that the case was decided by the Iowa Supreme Court. Had the case been decided by the Iowa Court of Appeals, Iowa's intermediate appellate court, the citation might read 345 N.W.2d 400 (Ia. Ct. App. 1986). When reported at all, tribal court decisions generally are reported in the Indian Law Reporter (I.L.R.) with a similar style. Thus, 16 ILR 2132 (Chy. Riv. Tr. App. Ct. 1985) would indicate that the case came from the Cheyenne River Sioux Tribal Appellate Court.

Civil Trial Court Procedure

A civil law suit generally is initiated by the filing of court paper or pleading known as a complaint or petition. This document is a form of pleading that sets forth the plaintiff's basic factual allegations and legal contentions. The complaint is then served on the defendant together with a summons, a form of court order directing the defendant to respond to the complaint. The defendant then has the option of either attacking the complaint as legally insufficient to sustain the legal action through a motion to dismiss or filing a pleading known as an answer which responds to the complaint.

A motion to dismiss can be filed for any of a number of reasons, including the lack of jurisdiction (power) of the court over the case or the person of the defendant or the property affected by the litigation; improper service of process; the legal insufficiency of the theory of recovery advanced by the plaintiff in the complaint, improperly filing in the wrong court (venue); or the like. If the court sustains the defendant's motion to dismiss, the case is dismissed. If the court denies the motion, the defendant must then file an answer.

The answer responds to the factual allegations of the complaint, generally by either admitting or denying each allegation. Only those allegations that the defendant denies are put at issue and ultimately tried to the court or jury.

At the conclusion of the pleadings (i.e. after the filing of the complaint and answer), either party might move for judgment on the pleadings, if the complaint and answer suggest little disagreement about the facts and that there exists only a legal question to decide. Judgment on the pleadings is unusual, however, since factual disputes are the order the day in litigation.

If the facts are disputed, however, a course of pretrial and trial procedure thereafter ensues to determine whether the differences between the parties about what actually happened can be resolved and, if not, to try the questions and come to a resolution. After the parties have completed the pleadings and any of the motions discussed above, the litigation moves into the so-called discovery stage. When properly conducted, discovery is a process by which the parties disclose to one another the details of their factual contentions and their evidence. Basically, discovery proceeds by either party serving the other with written questions (interrogatories), written requests that they produce specified documents, requests that they admit certain facts, requests that they submit to physical examination, or, most importantly, requests that they or other witnesses submit to oral pretrial examination and testimony through a process known as the deposition.

After discovery a party may choose to move for summary judgment. A summary judgment motion is a pretrial method of disposing of cases that discovery has disclosed contain no genuine dispute as to any important issue of fact. Attached to a motion for summary judgment, a party may include answers to interrogatories, excerpts from depositions, and the like. Since most of this evidence was taken under oath, in order to defeat the motion for summary judgment the opposing party must be able to submit opposing evidence also under oath that indicates an actual disagreement about the facts. If they cannot do so and if the moving party files a brief citing statutory authority or case precedents indicating that it is entitled to judgment under the law, summary judgment will be granted and the case will never reach the trial stage. If, however, the materials submitted with the summary judgment motion indicate that an actual dispute as to the facts exists or if the party filing the motion for summary judgment cannot convince the court that it is entitled to judgment as a matter of law, the case will proceed to trial.

Generally before trial a pretrial conference is held at which the parties agree to certain matters involving the conduct of the trial, including the witnesses or exhibits to be presented and the like.

After a jury is selected (if the case is one to be tried to a jury), trial generally proceeds by the attorney for each party making an opening statement in which they summarize their contentions and the evidence they expect to present. The plaintiff then presents the plaintiff's evidence, often called its case in chief. The testimony is presented with the party offering each witness engaging in a direct examination and then the opposing party cross-examining the witness with a final opportunity for the offering party to redirect. After the plaintiff has presented all it's witnesses, it will rest its case. At that point, the defendant may choose to move for a directed verdict, claiming that based on the evidence the plaintiff has presented, it has failed to discharge its burden of demonstrating that it is entitled to the legal remedy it requested. If the motion for directed verdict is granted, as it is only infrequently, the case is dismissed. If the motion is denied, the defendant must present its case in chief. After the defendant has presented all its witnesses and exhibits, it will rest and either party may move for directed verdict. If these motions are denied, the case is submitted to the jury (if there is one) with instructions hammered out between the parties and read by the court that inform the jury of the applicable law. In a bench trial (i.e. a case tried only to the court without jury) such instructions are unnecessary since the judge is presumed to know the law. The judge or jury then decides the case. A jury renders a verdict upon which the judge can enter the final judgment. After the jury has rendered a verdict, however, the losing party can file either or both a motion for judgment notwithstanding the verdict (often known based on the acronym for its Latin name as a motion for JNOV) or a motion for a new trial. If either are granted the jury verdict is ignored an the case either set for new trial or judgment is rendered against the verdict. If the motions are denied, the judge will enter judgment on the verdict. A losing party generally only has a limited time frame, often 20 or 30 days, within which to file a notice of appeal from a judgment.

Civil Appellate Procedure

After a timely notice of appeal has been filed in proper form, the party seeking to appeal (usually known as the appellant or, sometimes, the petitioner) will have a set time period in which to file both a written legal brief explaining its contentions and the basis for them in legal precedent and edited excerpts from the record in the trial court (often excerpts of the trial transcripts and designated exhibits) often known as the appendix. Court rules govern both the form and length of both legal briefs and the appendix. After the brief for the appellant has been filed, the party that won in the trial court (often designated in the appellate court as the appellee or, sometimes, the respondent) will also have a fixed period in which to file its own legal brief. After appellee's brief is filed, the appellant will often be afforded the opportunity to file a short reply brief.

After an appellate case has been fully briefed, it is often set for oral argument before a panel of at least three judges. Modern oral arguments are usually of short duration given the crowded dockets of most appeals courts, with each side usually afforded no longer than 20 minutes to state, explain, and defend their position. During oral argument, judges often actively question counsel for each of the parties about matters raised by the appeal. As court dockets become increasingly congested, appellate courts are shortening the time afforded for oral argument or dispensing with it entirely in a widening class of cases.

After reviewing the briefs and hearing oral argument, the panel of judges hearing the appeal will have a conference on the case outside of the presence of the parties and their counsel at which they will discuss how the case should be decided. One of the judges voting with the majority will be assigned to draft (generally in collaboration with her law clerks) an opinion for the court which will be circulated to the other judges for comment. Any judge who has a different view is free to draft and file a separate concurring opinion (agreeing with the result but offering a different or additional rationale for the decision) or a dissenting opinion (disagreeing with both the result and the analysis of the majority opinion). It is these opinions that are reported in printed volumes and form the basis of most of the reading you will do in law school and in practice.