Chapter 3
The Court System

Learning Objectives

The purpose of this chapter is to acquaint the students with the judicial process or the “rules of the game” so that they can appreciate the role of the courts in resolving disputes. The responsibilities of judges, jurors, and lawyers also are examined. The chapter will demonstrate the powers and functions of the courts and illustrate the many factors that make the outcome of any case unpredictable. Students will gain an understanding of the key personnel associated with the court system, how the court systems are organized and function, learn about the power of judicial review, and become familiar with background and judicial alignment of the current members of the U.S. Supreme Court. Finally, students will be exposed to a sample case from the U.S. Supreme Court, including the majority, concurring, and dissenting opinions.

References


Teaching Outline

I. Personnel (LO 3-1)

A. Judges and Justices

Emphasize:

- The duties of a trial judge as contrasted with those of a reviewing court judge or justice. Have the students list the desirable qualities of each.
- The reasons that the judiciary is given almost absolute immunity from suit.
- The content in the marginalia that judges and justices often sacrifice considerable financial resources by giving up the practice of law in the prime of their careers.
- That most cases are settled before trial and that very few cases actually end up in appeal.
- The makeup of the current Supreme Court is detailed later in the chapter but the instructor may find it useful to review it at this point.
- Review Sidebar 3.1 titled ‘The Soaring Cost of Legal Representation.’

Case for Discussion:


   Plaintiffs were arrested for nonjailable misdemeanors, and because they were unable to meet bail, the defendant state court judge committed them to jail. A federal district court enjoined the judge’s practice by determining that judicial immunity did not extend to injunctive relief under Section 1983 of the Civil Rights Act.

   **Issue:** Is the state court judge immune from review by a federal court judge?

   **Held:** No. Affirmed. Judicial immunity is not a bar to prospective injunctive relief
against a judicial officer acting in his judicial capacity. Although there is a need for restraint by federal courts called upon to enjoin actions of state judicial officers, there is no support for a conclusion that Congress intended to limit the injunctive relief available under Section 1983 in a way that would prevent federal injunctive relief against a state judge. In addition, the plaintiff is entitled to attorney’s fees—not damages. This is a modification of total judicial immunity.

B. Jurors

Emphasize:

- What a petit jury is.
- That the federal law does not specify the number of jurors—only the types of cases that may be brought to trial before a jury at common law.
- Legitimate and illegitimate excuses from jury duty. The instructor could consult the state statute on juries, and list for the students those persons who are exempt from jury duty. Have the students discuss whether or not juries are truly representative of society or of one’s peers. Would they agree to serve voluntarily?
- The reasons for:
  - The trend towards less-than-unanimous verdicts.
  - Many citizens seeking to avoid jury duty, especially in long trials.
  - The jury system being subject to much criticism.
- Review Sidebar 3.2 involving the role of jury consultants and technical support. Discuss other ideas such as the following:
  - Note that the state of Michigan is conducting a pilot project to study jury reform proposals that are being tested in various state courts until 2010 when a decision will be made about whether they should be implemented permanently. Some reforms being tested include giving jurors written binders containing the jury instructions, permitting discussion between jurors prior to deliberations, and allowing expert witnesses for both sides to be called back-to-back so that jurors can hear all the technical evidence at the same time.
- Review marginalia quotation by Jeremiah Black on the value of the jury system.

Additional Matters for Discussion:

- Discuss the proliferation of mistrials caused by jury deadlocks. Consider racially sensitive cases and the impact of race and ethnicity on jury verdicts.
- Evaluate the unique challenges juries sometimes face including allegations that jurors are not qualified to distinguish fact from fiction, that they vote their prejudices, and that their emotions are too easily swayed by skilled trial lawyers.
- Discuss whether it’s truly a fair trial when one party can afford jury consultants and the opposing party cannot.
C. Lawyers

Emphasize:
- That lawyers serve three very important roles: counselor, advocate, and public servant.
- That lawyers have many clients and often handle complex and complicated cases.
- That lawyers can be sanctioned for unethical conduct and some have gone to jail for illegal conduct.
- The American Bar Association reported over 1.2 million licensed lawyers in the United States in 2011.
- Discuss the tension between the business community and the legal profession.

Additional Matter for Discussion:
- Note that law firms frequently use paralegal (legal assistants) to gather facts and assist attorneys.

II. Organization of the Court System (LO 3-2)

Emphasize:
- That lawsuits begin at the trial court level, and the results may be reviewed at one or more of the other two appellate court levels.

A. Subject-Matter Jurisdiction

Emphasize:
- Subject-matter jurisdiction refers to the power over issues involved in a case.
- Some issues are nonjusticiable, and courts do not accept cases involving trivial matters.
- The content in the marginalia that courts of different scope and subject-matter jurisdiction help create order and efficiency.

B. State Courts

Emphasize:
- That state court systems are created, and their operations are governed, from three sources.
- The difference between trial courts and appellate courts.

Additional Matters for Discussion:
- See Figure 3.1 on the typical state court system.
- The students could create a chart of the court system of their state and the reasons that
each court exists.

- Point out that some states elect judges and in the others they are appointed. The students could check their state and surrounding states. What do they do?

**Trial Courts**

Emphasize:

- That 95 to 98 percent of all complaints are settled or fully resolved at the trial court level.

**Appellate Courts**

Emphasize:

- That reviewing courts are essentially concerned with questions of law.
- That generally there is a right to only one appeal.
- That the procedure for requesting a second review is called in some states a petition for leave to appeal and in others a petition for a writ of certiorari. Note the small percentage of the petitions that are granted.
- Review Sidebar 3.3 on the small-claims courts and note the dollar limitation on the small-claims courts in the students’ state. Suggest to the students that they attend a court proceeding, if possible. If the students watch any court on television, point out the show is great oversimplification of the system. Emphasize that attorneys are usually not required. Have the students list the typical types of cases and disputes that end up in such courts.
- The advantages and disadvantages of proceeding in small-claims court.

**C. Federal Courts**

Emphasize:

- That Article III of the Constitution (see Appendix) provides that judicial power be vested in the Supreme Court and such lower courts as Congress may create.
- That the judicial power of the federal courts has been limited by Congress.
- That federal courts have subject matter jurisdiction over federal questions cases and diversity of citizenship cases.
- That for purposes of diversity jurisdiction, a corporation is a citizen of the state of incorporation and also a citizen of the state in which it has its principal place of business. Note the tests for determining the principal place of business of a corporation.
- That no matter how many parties are involved in a lawsuit, there must be complete diversity in order for the federal court to exercise this kind of judicial authority.
- That if a case involves multiple plaintiffs with separate and distinct claims, each claim
must satisfy the jurisdictional amount.

Additional Matters for Discussion:
- Review Figure 3.2 on the federal court system and Figure 3.3 on the federal courts of appeals.
- The citizenship of all partners in a limited partnership must be taken into account when deciding whether diversity jurisdiction exists.
- Review Sidebar 3.4 showing cases granted certiorari by the U.S. Supreme Court by circuit state and district courts.

**District Courts**

Emphasize:
- That the Federal Rules of Civil Procedure provide the details concerning procedures to be followed in federal court litigation.

**Appellate Courts**

Emphasize:
- That under its constitutional authorization, Congress has created 12 U.S. Courts of Appeal plus a special Court of Appeals for the Federal Circuit as intermediate appellate courts in the federal system.

**D. Decisions by the U.S. Supreme Court**

Emphasize:
- The function of the Supreme Court in ruling upon petitions for a writ of certiorari and the fact that only a small percentage of the petitions are granted.
- Review Sidebar 3.5 on the Very Slim Odds for having a case reviewed by the Supreme Court. Supreme Court case reviews have been steadily declining in recent years.
- The writ of certiorari is granted only if four of the nine justices vote to take the case.
- The limited review of the final decisions of state courts. Final judgments or decrees rendered by the highest court of a state are reviewed only by the Supreme Court of the United States.

Additional Matters for Discussion:
- The growing political tensions on the Supreme Court as evidenced by the Bush v. Gore election decision in 2000 and the controversies in the Senate in recent years over judicial nominees. In the closing months of the Bush Administration, the Senate, controlled by the Democrats, failed to take action on a number of judicial nominees in
order to preserve these openings for the Obama administration.

- The reluctance on the part of the Supreme Court to resolve highly controversial subjects in definitive ways.
- The predominance of Supreme Court cases from the Ninth Circuit Court of Appeals.
- The role of the Supreme Court clerk and how they are often called upon to write the opinions for the Justices.
- Review Sidebar 3.6 on the role of the reviewing court.

III. The Power of Judicial Review (LO 3-3, LO 3-4)

Emphasize:
- The language of *Marbury v. Madison* which has led to a great concentration of power in the Supreme Court and judicial system. Call attention to the marginalia noting that judicial review is the ultimate power to invalidate actions by the president and the Congress.
- Call attention to the marginalia that many jurists believe in judicial restraint to some degree and many are activists in some situations. Many judges share aspects of both in their judicial philosophy.

A. Judicial Restraint

Emphasize:
- That the followers of judicial restraint are sometimes referred to as strict constructionists who believe the Constitution should be interpreted in light of what the Founding Fathers intended. Cases also should be decided on the facts, if possible, and on the narrowest possible grounds.
- That believers in judicial restraint feel that social, political, and economic change in society should result from the political process rather than from court action.
- That judicial restraint jurists have a deep commitment to precedent.

Additional Matters for Discussion:
- Review Sidebar 3.7 on choosing a Supreme Court justice.
- Review Sidebar 3.8 on the first five years of the Roberts Court.

B. Judicial Activism

Emphasize:
- That judicial activists favor a more expansive role for the courts and want the courts to play a major role in correcting the wrongs in the society.
- That activists tend to be innovative and less dependent on precedent for their decisions.
- That during the 1950s and 1960s, activist justices brought about substantial changes in
civil rights, reapportionment, and criminal law.

- Review Sidebar 3.9 on the typical alignment of justices.
- Review Sidebar 3.10 on labeling judges as liberal or conservative.
- Review Sidebar 3.11 on the Supreme Court justices.

Additional Matters for Discussion:

- Determine which justices favor the philosophy of judicial activism and what Presidents selected them for the Supreme Court.
- Note that the Obama administration is likely to favor the appointment of more activist judges.

C. A Sample U.S. Supreme Court Case

Emphasize:

- The sample case is an example of how the Supreme Court influences critically important areas of the law. Controversial cases often are decided by a split of 5-4 among the nine justices.
- That the decision has resulted in many more Americans covered by health care insurance.

D. The Nature of the Judicial Process

Emphasize:

- Justice Benjamin Cardozo’s five forces that shape a judge’s work are logic, history, custom, utility, and accepted standards of right conduct.
- Cardozo’s language that “in the main there shall be adherence to precedent.” Present logic as a force in shaping the law as well.

Additional Matter for Discussion:

- Discuss whether modern-day judges still follow Cardozo’s approach.
- Review the most serious challenges to an effective court system today. Student opinions will vary but should lead to spirited discussions.

Answers to Review Questions and Problems

Personnel

1. Judges and Justices
The trial judge is responsible for providing litigants with procedures to handle all pretrial- and trial-related matters. During the trial itself, the judge must apply legal principles that will enable the jurors to find the facts of the case.

2. **Jurors**

The move away from unanimous jury verdicts prevents one or two jurors from creating a mistrial through a hung jury. Research reveals that foregoing unanimous verdicts have not harmed the credibility of the litigation process.

3. **Lawyers**

Lawyers serve their clients and the public in at least these roles—as a counselor, as an advocate, and as a public servant.

In recent years, lawyers and business clients have clashed over the increased volume of cases and costs related to handling the litigation.

### Organization of the Court System

4. **Subject Matter Jurisdiction**

The state court of Georgia would have jurisdiction over this matter. Since the matter is not a question of federal law, the federal court only could exercise jurisdiction under diversity of citizenship. However, both a plaintiff and defendant are from the state of Georgia defeating the diversity requirement.

5. **State Courts**

The reviewing or appellate courts evaluate questions of law and tend to defer to factual decisions made by the lower courts. Lower courts are focused on determining facts and applying the law to those facts. Reviewing or appellate courts evaluate whether the law was applied properly or whether the law should be changed.

6. **Federal Courts**

Yes. This case is properly in the federal court system since it involves the authority of a federal agency (the FDA) to determine the definition of a drug.
7. **Decisions by the U.S. Supreme Court**

Susan has very little chance of getting the Supreme Court to review her case unless she can demonstrate a substantial federal issue in what appears to be a simple state contract dispute.

8. **Judicial Restraint**

Judicial review provides courts with the authority to review actions taken by the other two branches of government and to declare them unconstitutional. Advocates of judicial restraint are reluctant to exercise this authority and give great deference to the actions of the political branches of government.

9. **Judicial Activism**

Judicial activists are more willing to review actions of the other two branches of government. They believe the courts have a major role to play in correcting wrongs in the society. Activist courts tend to be more result conscious and to place less reliance on precedent. Judicial restraint jurists have a deep commitment to precedent and will overrule cases only when the prior decision is clearly wrong.

10. **A Sample U.S. Supreme Court Case**

Dissenting opinions are important because they allow the minority view of the court on a particular issue to be expressed. Often a dissenting opinion in one case may create an opportunity for its usage in a later case that eventually informs the majority view. There have been many examples in history when a dissenting opinion later becomes the law of the land. A concurring opinion strengthens the decision by the court.

11. **The Nature of the Judicial Process**

Justice Cardozo’s five forces that shape a judge’s work are logic, history, custom, utility, and accepted standards of right conduct. Justice Cardozo compares a judge’s job to that of a legislator, and the end served by law must dictate the administration of justice. Students’ answers regarding the last part of the question will vary.

**Business Discussion #1**

1. **Where does your duty lie in serving on a jury?**
One’s duty rests in serving on the jury, and one’s employer will need to find a solution to the business difficulties one’s service may create.

2. *Are you protected against adverse employment action by your firm for missing work to serve on a jury?*

If an employer takes any adverse action against one because of jury service, the employer is subject to civil and criminal liability.

3. *How do you reconcile the woman’s prior heart palpitations from years ago with her recent attack? Was her heart already compromised before she began taking the painkiller Oxyy-1?*

While serving on a jury, one must weigh the evidence and try to render a decision based upon the information presented by the litigants. It’s a tough balancing act for a jury, and different jurors may come to different conclusions when hearing the same evidence in a particular case. In the end, the jury as a whole has to weigh the conflicting information and render a fair and just decision based upon the evidence and the law.

4. *Why didn’t the pharmaceutical company withdraw the painkiller from the market at the first sign of a problem?*

The facts don’t provide a definitive answer. Perhaps the evidence was not clear showing a direct causal relationship. Perhaps the woman had a history of heart problems unrelated to the drug. Naturally corporate profits must be considered and the drug may not have been withdrawn due to greed.

**Business Discussion #2**

1. *Who should you turn to for advice?*

One should arrange to meet with the general counsel and executive staff. A meeting with the report’s author could provide some additional insight before deciding whether or not to convene the company’s board of directors.

2. *Should you destroy the report?*

Destruction of the report would be the wrong approach to the situation and would not solve this problem or reduce liability. It is also a morally indefensible action.
3. *In which court can a lawsuit be filed?*

A product liability lawsuit, such as this one, normally would be filed in state court. However, federal jurisdiction is possible under certain conditions should diversity be shown or should a federal law be in question.

4. *If you lose the lawsuit at trial, can you appeal?*

An appeal by the defendant is possible in any case if prejudicial error can be shown.

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