

Chapter 3–The Court System and Chapter 4–The Litigation Process

Ultimately, we are all affected by what the courts say and do. This is particularly true in the business world. Nearly every business person faces either a potential or an actual lawsuit at some time in his or her career. For this reason, anyone contemplating a career in business will benefit from an understanding of American courts systems, including the mechanics of lawsuits.

Basic Judicial Requirements

Before a lawsuit can be brought before a court, certain requirements must first be met. Let's consider these in turn:

1. Jurisdiction—the authority of a court to hear and decide a specific case. Before a court can hear a case, it must have jurisdiction over the person against whom the suit is brought or over the property involved in the suit. The court also must have jurisdiction over the subject matter.

Jurisdiction over persons—

Jurisdiction over property—

Jurisdiction over the subject matter—

Jurisdiction of the federal courts is limited. Whenever a plaintiff's case is based on the U.S Constitution, a treaty, or a federal statute, then a federal question arises, and the case comes under the judicial power of the federal courts.

Federal district or trial courts can also exercise jurisdiction over cases involving diversity of citizenship. Such cases may arise between:

When both federal and state courts have the power to hear a case, concurrent jurisdiction exists. When cases can be tried only in federal or state courts, exclusive jurisdiction exists. For example, federal courts have exclusive jurisdiction in federal crimes, bankruptcy, patents, copyrights, and in some areas of admiralty law.

2. Venue—concerned with the most appropriate location for a trial. The concept of venue reflects the policy that a court trying a suit should be in a geographical neighborhood in which the incident leading to the lawsuit occurred or in which the parties involved in the lawsuit reside.

3. Standing to sue—before a person can bring a lawsuit before a court, the party must have a sufficient stake in a matter to justify seeking relief through the court system. In other words, a party must have a legally protected and tangible interest at stake in the litigation to have standing.

The State and Federal Court Systems
State Court Systems

State courts may include trial courts of limited jurisdiction, trial courts of general jurisdiction, appellate courts, and the state's highest court. Below is a description of Florida's court system:

Every state has at least one court of appeals which may be an intermediate appellate court or the state's highest court. An appellate court panel of three or more judges reviews the record of the case on appeal, which includes a transcript of the trial proceedings, and the panel determines whether the trial court committed an error.

The decisions of each state's highest court on all questions of state law are final. Only when issues of federal law are involved can a decision made by a state's highest court be overruled by the U.S. Supreme Court.

The Federal Court System

The federal court system is a three-tiered model consisting of U.S. district courts (trial courts of general jurisdiction) and various courts of limited jurisdiction, courts of appeal (circuit courts), and the U.S. Supreme Court.

At the federal level, the equivalent of a state trial court of general jurisdiction is the district court. There is at least one federal district court in every state. There are thirteen U.S. courts of appeal—also referred to as U.S. circuit courts. The decisions of the circuit courts are final in most cases, but appeal to the U.S. Supreme Court is possible.

The highest level of the three-tiered model of the federal court system is the U.S. Supreme Court. This court can review any case decided by any of the federal courts of appeals and it also has appellate authority over some cases decided in the state courts.

To bring a case before the Supreme Court, a party requests the court to issue a

writ of certiorari. The writ is an order issued by the court to a lower court requiring the lower court to send it the record of the case for review.

Following a Case Through the State Courts

I present a hypothetical case and follow it through a state court system. The case involves an auto accident in which Kevin Anderson, driving a Mercedes, struck Lisa Marconi, driving a Ford Taurus. The accident occurred at the intersection of Metro Blvd. and Daniels Parkway in Fort Myers, Fl. Marconi suffered personal injuries, incurring medical and hospital expenses as well as lost wages for four months. Anderson and Marconi are unable to agree on a settlement. Marconi sues Anderson. Marconi is the plaintiff, and Anderson is the defendant.

The Pleadings

Pleadings—statements made by the plaintiff and the defendant in a lawsuit that detail the facts, charges, and defenses involved in the litigation; the complaint and the answer are part of the pleadings.

Complaint—

Summons—

Answer—a defendant's response to the plaintiff's complaint. It either admits the statements or allegations set forth in the complaint or denies them and outlines any defenses that the defendant may have.

Anderson can deny Marconi's allegations and set forth his own claim that Marconi was in fact negligent and therefore owes him money for damages to his Mercedes. This is called a counterclaim.

Motion to dismiss—a motion that requests the court to dismiss the case for stated reasons. The motion is often made by a defendant before filing an answer to the plaintiff's complaint. Grounds for dismissal include improper delivery of the complaint and summons, improper venue, and the failure to state a claim for which a court could

grant relief.

Either party may attempt to get the case dismissed before trial through the use of various pretrial motions. Two important ones are:

motion for judgment on the pleadings—

Motion for summary judgment—

Discovery

Before a trial begins, each party can use a number of procedural devices to obtain information and gather evidence about the case from the other party or from third parties. The process of obtaining such information is called discovery. It includes gaining access to witnesses, documents, records, and other types of evidence.

Depositions—

Interrogatories—a series of written questions for which written answers are prepared and then signed under oath by a party to a lawsuit, usually with the assistance of the party's attorney. Interrogatories are directed only to a party to the lawsuit.

Requests for production of documents—either party may ask the other to produce specific documents important to the outcome of the lawsuit.

Pretrial conference—either party or the court can request a pretrial conference, or hearing. Usually, the hearing consists of an informal discussion between the judge and the opposing attorneys after discovery has taken place.

Jury Selection

A trial can be held with or without a jury. If there is no jury, the judge determines the truth of the facts alleged in the case. The right to a trial by jury does not have to be exercised and many cases are tried without a jury. In most states, and the federal courts, one of the parties must request a jury trial, or the right is presumed to be waived.

Before a jury trial starts, a jury must be selected. The jury selection process is known as voir dire. It consists of oral questions that attorneys for the plaintiff and defendant ask a group of prospective jurors to determine bias. Each lawyer may challenge a certain number of jurors for no cause at all (peremptory challenge). Also, any juror may be challenged for cause.

At the Trial

At the opening of the trial, the attorneys present their opening arguments, setting forth the facts they expect to provide during the trial. Next, the plaintiff's case is presented.

At the end of the plaintiff's case, the defendant's attorney has the opportunity to make a motion for a directed verdict. The ground is that the plaintiff has presented no evidence that would justify granting the plaintiff's remedy. If the motion is not granted, then the defendant's attorney then presents evidence and witnesses for the defendant's case. The plaintiff's attorney can challenge any evidence introduced and cross-examine the defendant's witnesses.

After the defense concludes its presentation, the attorneys present their closing arguments. The judge then instructs the jury in the law that applies to the case and the jury retires to the jury room to deliberate a verdict.

Posttrial Motions

After the jury has rendered its verdict, either party may make posttrial motions. If Marconi wins, and Anderson's attorney has previously moved for a directed verdict, Anderson's attorney may make a motion for a judgment n.o.v. (or notwithstanding the verdict).

Motion for judgment n.o.v.—

Alternatively, Anderson could make a motion for a new trial, requesting the judge to set aside the adverse verdict and to hold a new trial. The motion will be granted if the judge is convinced that the jury was in error after considering all the evidence, but that

judgment for the other side is inappropriate.

The Appeal

Assume here that any posttrial motion is denied, and Anderson appeals the case.