



Legal Research, Writing, and Civil Litigation

Class 1

Branches of Government

- **Legislative Branch**

- Creates the law
- Can amend the law

- **Restrictions:**

- Federal Legislature

- Cannot violate the Constitution
- Cannot exceed the scope of its Constitutional Powers

- State Legislature

- Restricted by State Constitution
- Restricted by federal power by pre-emption or where the power is given solely to the federal government

Other Branches

- **Executive Branch**
 - Vetoes laws
 - Carries out the law
- **Judicial Branch**
 - Interprets the law
 - Interprets the Constitution
 - Decides cases brought under the law

Federal Court System – Lower Courts

- **Lowest Level (trial courts)**
 - “District” courts (divided among approximately 94 districts throughout the country).
 - There can be more than one district court in a district
 - Each state has 1-4 districts; territories are also their own districts; D.C. also has its own circuit
 - Other “specialty” federal courts
 - E.g., bankruptcy court
 - U.S. Court of Federal Claims
 - Court of International Trade

Federal Court System – Circuit Courts

- “Circuit” Courts of Appeal
- Divided among:
 - 11 circuits encompassing all 50 states and U.S. territories.
 - 1 “federal circuit” to hear appeals from the Court of Federal claims and Court of International Trade
 - 1 “D.C. Circuit” to hear appeals from the D.C. District
- These handle direct appeals from decisions of the district courts
- They usually must hear the appeals from the district courts (no discretion as to which cases to hear)

The U.S. Supreme Court

- **Highest court in the U.S.**
- Is a federal court, but can hear appeals from states courts on federal issues
- Hears appeals; almost always from the circuit courts; but can sometimes “skip” the intermediate level and hear appeals directly from the district courts
 - Also hears cases directly from trial courts for cases between states, for example.
 - Usually can decide whether to hear a case (by “*writ of certiorari*”)



QUIZ TIME!

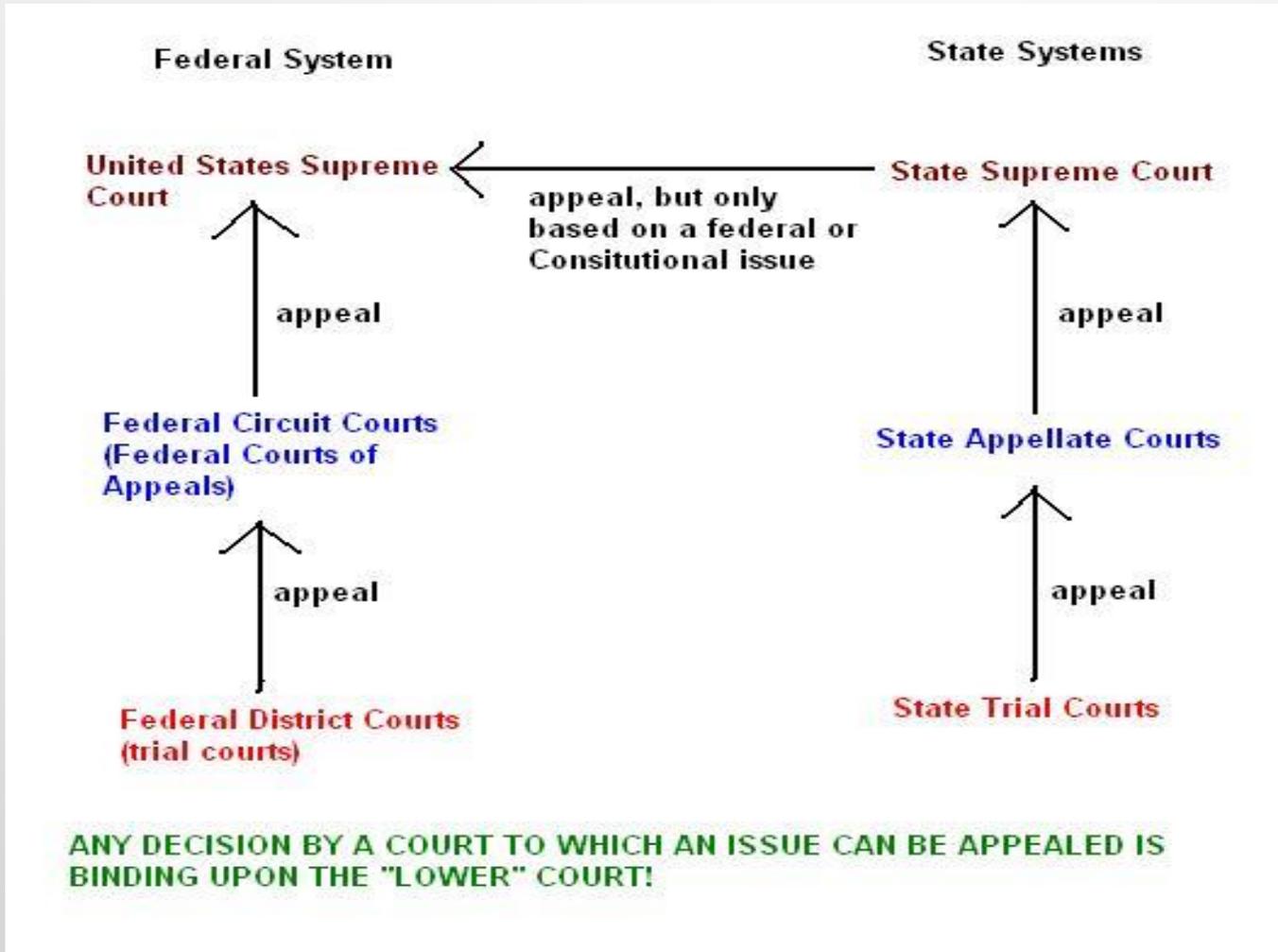
State Court System

- **Trial courts** (often called district or county courts)
 - Also includes specialty courts such as Family court, Surrogates court, Traffic court, etc.
 - The trial courts of “general” jurisdiction are often called “Superior” or “Supreme” Courts because they are “higher” than the other specialty courts
- **Intermediate Appellate Courts** (similar to the federal circuit courts)
- **State Supreme Courts**
 - Similar to U.S. Supreme Court but on the state level; can usually decide which cases to hear
 - These are the final arbiters of the laws in their respective states

State Court Appeals to the U.S. Supreme Court

- The Supreme Court is a **federal** court; but can hear appeals from the highest available state court,
- IF AND ONLY IF
 - The decision depends on a matter of federal law or federal Constitution
 - In such an appeal, the Supreme Court may only decide issues of federal or constitutional law!!
 - If the Supreme Court needs an interpretation of state law, it can certify a question to the State Supreme Court and have them answer it

Overview of the U.S. Court System



Sources of Law – Part 1

- **Constitution** (federal and state):
 - The ultimate document that gives governments their authority; also serves to limit governmental authority, to protect civil rights, etc.
 - Other laws, judicial decisions and executive actions must be consistent with the applicable constitution or it falls to the courts to strike down (law, decision or action).
- **Statutes** (federal and state)
 - These are laws passed by the legislative branch (and usually signed by the executive)
 - These have the most power of any source of law, except that of constitutional law; statutes can overrule or reverse case law unless that case law is based on the applicable constitution

Sources of Law – Part 2

- **Case law**
 - Interpretations of existing statutes or constitutions by court
- **Common law**
 - Law that has been established dating back to British law and early American law.
 - The common law is binding only to the extent that courts today apply it. It can be reversed at any point by statute or binding court decision
- **Administrative Agencies**
 - Because the legislature cannot govern all areas by itself, it can delegate authority to agencies that able specialize in their respective areas of expertise (e.g., FCC, FAA, FDA, etc.)