



Legal Research, Writing, and Civil Litigation

Class 15

Appeals

- Appeals to appellate courts from trial court are automatic. You almost always have the right to appeal a decision one level
- Beyond that level is the state or federal Supreme Courts, which can agree to grant *certiorari* and hear a case or can refuse to hear a case
- To appeal a decision based on a particular mistake of the trial court, the following steps must be met:
 - the error must have been objected to during trial
 - error must not be “harmless” (it must be an important one)
- In evaluating an appeal, the appellate court will give deference to the trial court and the trier of fact on issues of fact
 - The appellate court’s job is only to determine if the trial court erred in applying the law. Judgments of facts will only be reversed if they are completely unreasonable.
- Likewise, the trial judge has wide discretion in most trial rulings (e.g., how to handle objections, etc.). In such cases, these rulings will only be reversed if the judge abused his or her discretion in the ruling.

Appeals (cont.)

- A federal court (or the Supreme Court) can sometimes “certify a question” to clarify an issue of state law necessary to answer a question.
- Examples of possible dispositions on appeal:
 - Affirmed (upheld)
 - Reversed and dismissed
 - Reversed and remanded with instructions
 - Reversed and remanded for further proceedings not inconsistent with this opinion
 - Reversed in part and affirmed in part and remanded

Class Actions

- This is a device that allows many plaintiffs to sue a defendant (or many defendants) in one action for an incident or product that cause many injuries; it saves resources by not forcing all the plaintiffs to spend the time and money to invest in a lawsuit.
- A single “representative” of the class prosecutes the action on behalf of the entire class and the verdict or settlement is binding on and benefits the entire class.

Class Actions (cont.)

- Requirements for a class action:
 - 1. Numerosity:** there must be many members (usually, at least 50; but no number is set in stone)
 - 2. Commonality:** there must be common questions of law and/or fact to all members of the class
 - 3. Typicality:** the claims of the class representative must be “typical” of the claims of the class
 - 4. Adequacy of representation:** the court must be convinced that this representative is capable of competently handling the class action suit

Class Actions (cont.)

- In all of these factors, the judge has discretion to determine if they are met!
- For purposes of diversity jurisdiction, personal jurisdiction and venue, you look at the residency of the representatives!
- Any member of the class may “opt out” of the class action suit. This allows the person to bring his or her own suit, but it also means that he or she will not share in the benefits of the judgment or settlement from the class action suit.



QUIZ TIME!