7 Things You Need to Know About: The American Court System

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The American Court System

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Wisdom begins in wonder

-- Socrates
The American Court System

#1. Stare Decisis
Sources of Law
In order of importance

**Federalism**

**Federal Constitution**
7 articles | 27 Amendments

**State Constitutions**
50 different constitutions

**Federal Statutes**
ICWA | ACA | SVA | Rules of Construction Act

**State Statutes**
CA Video Game Ban

**Administrative Law**
Rules & regulations for the ACA, etc.

**Common Law**
Precedent | Courts decide disputes & interpret laws/constitutions |
But . . . Courts can’t make law
Courts follow decisions of higher level courts in the same jurisdiction.

- Makes law more consistent
- Makes law more predictable

Common Law
(but courts generally not bound by their own precedent)
The American Court System

#2. Judicial Review & The Appeals Process
Marbury v. Madison (U.S. 1803)

Province of the courts to say what the law is

Where does the SCOTUS keep its army?
What color uniforms do they wear?

Other branches comply from their own free will
HIERARCHY
(for appeals & precedent)

Federalism

SCOTUS

Circuit Ct. of Appeals
(13 Circuits)

Federal District Court
(94 District Courts)

Bankruptcy Courts

State Supreme Court

State App. Court

State District Court

Municipal & County Courts

Limited Jurisdiction

General Jurisdiction
Federal Courts
(Article III, §2)

SCOTUS

Circuit Ct. of Appeals
(13 Circuits)

Federal District Courts
(94 District Courts)

- Nine Justices
  - Final Authority
  - Writ of Certiorari | don’t have to hear appeals
  - Affirm or Reverse (& Remand)

- Three judge panels hear most cases
  - En Banc = all judges in circuit
  - Must hear appeals | generally final decision
  - Limited to reviewing actions of district judge
  - Affirm or Reverse (& Remand)

- Cases begin here
  - One judge
  - Jury or bench trial
  - Decides facts & applies law
STATE COURTS

State Supreme Courts

- State appeals courts
- Often sit in 3 judge panels
- Must hear appeals
- # of justices varies
- Don’t have to hear appeals

State Appeals Courts

State District Courts

- Inferior state courts | small claims, traffic, county
- State trial courts | hear major civil/criminal cases

State | County | Municipal
**FEDERAL JUDGES**

- Nominated by the President
- Confirmed by the Senate | 50 votes?
- Serve for “good behavior”
- Can be impeached . . .
- But only 15 impeached/8 convicted

**STATE JUDGES**

- Elected in 39 states (2015)
- 8 states have partisan elections
- 20 states have non-partisan elections
- 7 states have retention elections
- 4 states use a mix
- 11 states grant life tenure/reappointment
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#3. Personal Jurisdiction
Court must have both:

1. **Personal**
2. **Subject Matter**

*Jurisdiction*

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**Jurisdiction**

/ˌjoʊrisˈdɪkʃən/  

**noun**

1. the official power to make legal decisions and judgments.  
   "federal courts had no jurisdiction over the case"
IN REM JURISDICTION
(Power over the thing)

Title of property =
The object of the litigation

SuIt where property is located
Even if parties don’t live there

Damages limited to property’s value

UNITED STATES v. FORTY BARRELS AND TWENTY KEGS OF Coca-Cola (1916)

UNITED STATES v. 11 1/4 Dozen Packages of Articles Labeled in Part Mrs. Moffat’s Shoo-Fly Powders for Drunkenness (1941)
This case arises from a civil complaint brought by the U.S. Government for the forfeiture of 64,695 pounds of shark fins found on board the King Diamond II ("KD II"), a United States vessel. Claimant-Appellant Tai Loong Hong Marine Products, Ltd. ("TLH") owned the shark fins. TLH, a Hong Kong company, had chartered the KD II and ordered it to meet foreign fishing vessels on the high seas, purchase shark fins from those vessels, transport the fins to Guatemala, and deliver them to TLH. The Government seized the fins pursuant to the Shark Finning Prohibition Act ("SFPA"'), which makes it unlawful for any person aboard a U.S. fishing vessel to possess shark fins obtained through prohibited "shark finning." 16 U.S.C. § 1857(1)(P)(ii). TLH does not contest that, on its behalf, the KD II purchased the fins at sea from foreign vessels that engaged in shark finning. Instead, it argues that the KD II is not a fishing vessel under 16 U.S.C. § 1802(18)(B), and for that reason the forfeiture of the shark fins it possessed would violate due process. We agree that neither the statute nor the regulations provided fair notice to TLH that it would be considered a fishing vessel under § 1802(18)(B). We therefore reverse the judgment of forfeiture and remand for further proceedings consistent with this opinion.
The United States initiated civil forfeiture proceedings against $124,700 in United States currency, alleging that the money was subject to forfeiture as the proceeds of a drug transaction or as property used to facilitate the possession, transportation, sale, concealment, receipt, or distribution of a controlled substance. See 21 U.S.C. § 881(a)(6). Three individuals filed claims opposing the forfeiture, and after a bench trial, the district court entered judgment in favor of the claimants. The government appeals, and we reverse and remand for further proceedings.

The initial complaint for forfeiture was filed on March 1, 1974, and the defendant articles of property were seized by the United States Marshal on March 5, 1974. At that time the devices were in the possession of the M. W. Kasch Company in Mequon, Wisconsin. By order dated March 5, 1974 public notice of the seizure was given in the Daily Reporter, a newspaper within the Eastern Judicial District of Wisconsin; on April 16, 1974 an answer was filed wherein an interest in the seized articles was claimed by Ace Novelty Co., Inc., d/b/a Specialty Manufacturing Co., of Seattle, Washington.
PERSONAL JURISDICTION

(Power to determine rights/liabilities of people/businesses)

OVER PARTIES IN THE “forum” THAT P CHOOSES

HOW TO OBTAIN PERSONAL JURISDICTION:

#1: D lives in forum
#2: D does business in forum
#3: Accident happened in forum
#4: Serve D while in forum
#5: Consent (express/implied)
#6: Minimum contacts in forum
(see next slide)

MUST SERVE D WITH A SUMMONS TO OBTAIN JURISDICTION

P CONSENTS TO JURISDICTION BY SUING

BUSINESSES SUBJECT TO SUIT WHERE THEY: INCORPORATE, HAVE A PRINCIPAL PLACE OF BUSINESS, ADVERTISE AND/OR HAVE GOODS/SERVICES IN THE STREAM OF COMMERCE

1. the official power to make legal decisions and judgments.
"federal courts had no jurisdiction over the case"
**Personal Jurisdiction**

1. The official power to make legal decisions and judgments.
   "Federal courts had no jurisdiction over the case"
The American Court System

#4. Subject Matter Jurisdiction
**Jurisdiction**

1. the official power to make legal decisions and judgments.
   "federal courts had no jurisdiction over the case"

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**Subject Matter Jurisdiction**

*(Power over particular kinds of cases)*

**Exclusive Federal Jurisdiction:**
- Bankruptcy
- I.P.
- Antitrust
- Federal Crimes

**Exclusive State Jurisdiction:**
- Family Law | Torts | Most Crimes | Contracts
- All other matters not exclusively federal or listed below

**Concurrent Jurisdiction:**
1. Federal Question - Constitutional issues, federal laws
2. Diversity of Citizenship - P & D from different states & amount in controversy > $75,000
**SUBJECT MATTER JURISDICTION**

(Power over particular kinds of cases)

1) **Diversity of Citizenship** - P & D from different states & amount in controversy > $75,000

FOR **DIVERSITY JURISDICTION** . . . businesses reside within:

1) **State of Incorporation**, or
2) **State where they have principal place of business**
**Subject Matter Jurisdiction**

**Removal**

**P** normally chooses the type of court (state or federal).

But, **D** may make a motion to move case from state to federal court.

**Must have grounds to move case**

1. **Federal Question** - Constitutional issues, federal laws
2. **Diversity of Citizenship** - P & D from different states & amount in controversy > $75,000

**Federal Judge will decide**

Case remanded to state court if improper.
#5. Standing | Ripeness | Mootness
**STANDING**
(Parties must have concrete interest in the litigation)

#1. Provable Injury
#2. Fairly Traceable to D
#3. Court can offer relief

**RIPENESS**
(Dispute must present a current controversy with immediate - not hypothetical/anticipated - effects on the parties)

#1. Case rests on future events that may not occur
#2. Law has not been applied

**MOOTNESS**
(Dispute must remain unresolved & subject to controversy)

#1. Matter at issue resolved
#2. Lozman & Fisher

**ARTICLE III**
“Case or Controversy”
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#6. Venue
A **venue** is the place where an event or meeting is happening. If you're going to see the best band ever, you should get to the **venue** early to get a good seat.

**Venue** is derived from the Latin for "come" (**venire**), and it's a place people come to. Another meaning of **venue** is specific to the law as the place where a trial will be held, and the area from which the jury will be selected. If you're on trial for stealing, and you're known around town as "Sticky Fingers Magoo," your lawyer would wisely request a change of venue to give you a better shot at a fair trial.
“The bailiff will change the venue.”
D has a right to a fair trial by an impartial jury

But... D does not have a right to a trial in the venue of his choice

So... D makes change of venue motion

Generally for pre-trial publicity (tainted jury pool)

Or... convenience of the parties or the interests of justice
CHANGE OF VENUE

PHYSICAL LOCATION OF LAWSUIT
The defense team has insisted that Mr. Tsarnaev, 21, who faces the death penalty, could not get a fair trial in Boston, where, it said, pretrial publicity has been overwhelmingly prejudicial. He has pleaded not guilty to 30 counts, including setting bombs that killed three people and wounded more than 260 at the marathon.

Defense lawyers also said that virtually everyone in the jury pool in Eastern Massachusetts is connected to the traumatic events of April 2013, whether they ran the marathon, watched it, knew people who ran or watched it, or lived in the towns that were locked down during a manhunt for the suspects.

Moreover, the defense said it had been inundated by the blizzard of documents filed by the prosecution. The government said in its own filing that the defense had been given plenty of time to prepare.

As both sides waited for the Court of Appeals to rule, Judge O’Toole weighed in on Friday, saying he did not want to postpone the trial because 1,200 jurors were scheduled to start coming in on Monday.

“The court has confidence that a sufficient number of qualified, impartial jurors will be identified and ultimately sworn as jurors,” Judge O’Toole wrote. He added that if that were not the case, the question of transferring the trial could be revisited.
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#7. Civil Lawsuits
The Event

- Jim threatened & hit by a Broncos fan @ Mile High Stadium
- Jim provoked fan w/ Oakland Raiders jersey
- Fan approached Jim in lot, lunged & hit him in mouth
- Jim’s medical bills = $30,000 & he wants $70,000 in pain & suffering
**Steps in a Lawsuit**

1. **Hire an Attorney to Discuss Case, Fees & an Investigation**

2. **File a Complaint:**
   - Plain statement of case | why P deserves to win, How D was involved & what P wants
   - Be sure to obtain proper personal & subject matter jurisdiction

3. **Send Notice to D by Someone Over 18 & Not the P | D May Waive**

4. **D Answers & Maybe Counterclaims:**
   - “I did it”, “I didn’t do it”, “I did it but it was justified”

5. **Initial Motions on the Pleadings:**
   - Motion to Dismiss: lack of PJ/SMJ, bad notice, failure to state a claim

6. **Discovery**

7. **Motion of Summary Judgment:**
   - “even if all P says is true I win w/o a trial” | No facts in dispute

8. **Trial to a Judge (Bench Trial) or a Jury**

9. **Appeal**

10. **Collection of Judgment**
You don’t want to go to court
“The moral arc of the universe bends at the elbow of justice.”

-- Martin Luther King, Jr.
Wisdom begins in wonder

-- Socrates

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