Chapter 3: Civil Dispute Resolution

The Court System

FEDERAL COURTS
District courts trial courts of general jurisdiction that can hear and decide most legal controversies in the federal system
Courts of Appeals hear appeals from the district courts and review orders of certain administrative agencies
The Supreme Court the nation’s highest court, whose principal function is to review decisions of the federal Courts of Appeals and the highest state courts
Special Courts have jurisdiction over cases in a particular area of federal law and include the U.S. Court of Federal Claims, the U.S. Tax Court, the U.S. Bankruptcy Courts, and the U.S. Court of Appeals for the Federal Circuit
State Courts
Inferior Trial Courts hear minor criminal cases such as traffic offenses and civil cases involving small amounts of money and conduct preliminary hearings in more serious criminal cases
Trial Courts have general jurisdiction over civil and criminal cases
Special Trial Courts trial courts, such as probate courts and family courts, which have jurisdiction over a particular area of state law
Appellate Courts include one or two levels; the highest court’s decisions are final except in those cases reviewed by the U.S. Supreme Court

Jurisdiction

SUBJECT MATTER JURISDICTION
Definition authority of a court to decide a particular kind of case
Federal Jurisdiction
- Exclusive Federal Jurisdiction federal courts have sole jurisdiction over federal crimes, bankruptcy, antitrust, patent, trademark, copyright, and other special cases
- Concurrent Federal Jurisdiction authority of more than one court to hear the same case; state and federal courts have concurrent jurisdiction over (1) federal question cases (cases arising under the Constitution, statutes, or treaties of the United States) that do not involve exclusive federal jurisdiction and (2) diversity of citizenship cases involving more than $75,000
Exclusive State Jurisdiction state courts have exclusive jurisdiction over all matters to which the federal judicial power does not reach

JURISDICTION OVER THE PARTIES
Definition the power of a court to bind the parties to a suit
In Personam Jurisdiction jurisdiction based on claims against a person, in contrast to jurisdiction over property
In Rem Jurisdiction jurisdiction based on claims against property
Attachment Jurisdiction jurisdiction over a defendant’s property to obtain payment of a claim not related to the property
Venue geographical area in which a lawsuit should be brought

Civil Dispute Resolution

CIVIL PROCEDURE
The Pleadings series of statements that give notice and establish the issues of fact and law presented and disputed
- Complaint initial pleading by the plaintiff stating his case
- Summons notice given to inform a person of a lawsuit against her
- Answer defendant’s pleading in response to the plaintiff’s complaint
- Reply plaintiff’s pleading in response to the defendant’s answer
Pretrial Procedure process requiring the parties to disclose what evidence is available to prove the disputed facts; designed to encourage settlement of cases or to make the trial more efficient
- Judgment on Pleadings a final ruling in favor of one party by the judge based on the pleadings
- Discovery right of each party to obtain evidence from the other party
• **Pretrial Conference** a conference between the judge and the attorneys to simplify the issues in dispute and to attempt to settle the dispute without trial

• **Summary Judgment** final ruling by the judge in favor of one party based on the evidence disclosed by discovery

**Trial** determines the facts and the outcome of the case

• **Jury Selection** each party has an unlimited number of challenges for cause and a limited number of peremptory challenges

• **Conduct of Trial** consists of opening statements by attorneys, direct and cross-examination of witnesses, and closing arguments

• **Directed Verdict** final ruling by the judge in favor of one party based on the evidence introduced at trial

• **Jury Instructions** judge gives the jury the particular rules of law that apply to the case

• **Verdict** the jury’s decision based on those facts the jury determines the evidence proves

• **Motions Challenging Verdict** include motions for a new trial and a motion for judgment notwithstanding the verdict

**Appeal** determines whether the trial court committed prejudicial error

**Enforcement** plaintiff with an unpaid judgment may resort to a writ of execution to have the sheriff seize property of the defendants and to garnishment to collect money owed to the defendant by a third party

**ALTERNATIVE DISPUTE RESOLUTION**

• **Arbitration** nonjudicial proceeding in which a neutral third party selected by the disputants renders a binding decision (award)

• **Conciliation** nonbinding process in which a third party acts as an intermediary between the disputing parties

• **Mediation** nonbinding process in which a third party acts as an intermediary between the disputing parties and proposes solutions for them to consider

• **Mini-Trial** nonbinding process in which attorneys for the disputing parties (typically corporations) present evidence to managers of the disputing parties and a neutral third party, after which the managers attempt to negotiate a settlement in consultation with the third party

• **Summary Jury Trial** mock trial followed by negotiations

• **Negotiation** consensual bargaining process in which the parties attempt to reach an agreement resolving their dispute without the involvement of third parties.