



Adventures in Advocacy

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Knowing the Courts: Part 1 of 2

by Sean D. Shields

Okay, the civics lessons contained in these articles are almost through. However, our coverage of government would not be complete without a better understanding of the judicial system. Why should you care about the men and women in black robes sitting on benches across the U.S.? From the U.S. Supreme Court all the way down to the local municipal court, the court system in the United States can seem a confusing, almost limitless juggernaut. Understanding the court system will better enable you to appreciate the ways in which laws are interpreted and enforced against your company.

This subject is very complex (suffice it to say it is one of the numerous reasons why lawyers have to go to school as long as they do), but this two part series will attempt to scratch the surface. I'll begin with a general discussion of the civil court system in the U.S.

First, the courts themselves. At the federal level, Article III in the U.S. Constitution sets forth the powers reserved for the judicial branch. What is generally glossed over is the fact the Constitution only creates one U.S. Supreme Court, and delegates to Congress the establishment of all other courts. At the state level, things are a bit different. Each state has been given deference to establish its own system of courts. Not surprisingly, no two state courts operate exactly alike. To make things even more confusing, there is what appears to be a duplication of court systems between the federal and state level.

While most civil disputes are resolved at the state level, there are presently 89 federal court districts, with many districts containing up to ten judges; every state has at least one. The larger the state's population, the more federal districts and judges are located in that state. The jurisdiction of the federal courts is established by Congress.

Presently, a civil dispute between two companies located in the same state or between two companies in different states over a sum of less than \$75,000 legally could not be heard in a federal court. Federal court is generally the place to litigate issues of federal, not state law. An example might be a dispute over how the OSHA rules ought to be applied to a particular company. Since OSHA is a federal organization (part of the U.S. Department of Labor), disputes regarding its regulatory authority or interpretation of a federal statute would take place within the federal courts.

The federal system has three tiers. As noted above, the federal district court constitutes the first tier of courts. The middle tier is called the federal circuit court, or U.S. Courts of Appeal. These courts hear appeals of legal decisions of the federal district courts. There were only ten of these until 1980 when Congress created an eleventh. Subsequently, it has also added a District of Columbia and a Federal Circuit Court to handle cases

coming out of the numerous federal agencies as well.

In the federal courts, the Courts of Appeal are almost always the end of the line, since very few, yet important cases are heard each year by the U.S. Supreme Court, the third and final tier in the federal system. To complicate things even more, the U.S. Supreme Court also has jurisdiction to hear certain disputes that come to it from a state's highest court, which as we will see below are also generally referred to as state supreme courts.

Let's move our discussion to how the state courts are generally structured. Let's ignore, for a moment, the intricate unique details, and discuss the basic state court system. It's helpful to think of it as a pyramid, with a broad system of lower courts building a foundation, with a single state supreme court at the pinnacle. Many of you have come in contact with the courts at the base of the pyramid—traffic courts and small claims courts, "small change" courts if you will, where the disputes and any dollar amounts involved are generally quite small. These courts are scattered throughout the municipal and rural districts of a state. Their structure and jurisdiction varies widely and depends many times on the unique historical development of an individual state.

Although some of the more populated cities and counties may have active municipal and county courts where some significant dollar disputes may come into play, each state will generally have what is referred to as a court of common jurisdiction. This court, whether it is referred to as a district court as in Texas, a court of common pleas in Ohio or supreme court in New York, essentially has statewide jurisdiction over disputes. Consider these courts as the workhorses of the state court systems in the U.S. While they will have jurisdiction over criminal matters, our focus is instead on civil matters and in particular disputes involving claims for money. The cases filed in these courts can range from \$10,000 for example to \$10 billion or more. Because of the great number of cases filed in these courts, most of them will be settled out of court, dismissed for procedural or legal insufficiency grounds, or compromised through an alternative dispute resolution system.

Out of these state courts of common jurisdiction, the "loser" of a case has the right to appeal it to the next higher level of courts, generally called the courts of appeal. States with a small population like Wyoming have a two-tiered system where the court of appeals is the singular state supreme court. However, states with medium to large populations have adopted a three-tier system where the courts of appeal stand between the basic trial courts and the state supreme court (except the state of New York, where the state supreme court is the court with statewide jurisdiction). In the appeals courts, the case is hardly ever reviewed in full; instead,

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edging down two points from an upwardly revised reading in June to a level that matches the strong index average for the year as a whole, according to the latest National Association of Home Builders/Wells Fargo Housing Market Index (HMI), released on July 18.

"Builders have every reason to remain confident in the single-family marketplace," said NAHB President Dave Wilson, a custom home builder from Ketchum, ID. "While mortgage rates have risen slightly in recent weeks, financing conditions remain very favorable to families considering homeownership, and demand still outpaces the supply of new homes in many markets." [SOURCE: NAHB Press Release, 7/18/05, www.nahb.org]

OSHA Compliance Assistance Web Page Updated

The Occupational Safety and Health Administration (OSHA) recently announced updates to its Compliance Assistance Web page. The page provides a public gateway to OSHA resources that can help home builders and other employers meet their responsibility to provide their workers with a safe and healthful workplace. Among the new features:

- A Hispanic Outreach module has been added to the Compliance Assistance Quick Start to help English-speaking or bilingual employers identify Spanish-language outreach resources for Spanish-speaking workers. Quick Start introduces employers and employees, especially those at new or small businesses, to the compliance assistance resources that are available on OSHA's Web site.
- The Highlights box on the Compliance Assistance page now features New Compliance Assistance Products. This feature lists new or updated fact sheets, publications, Safety and Health Information Bulletins, Web pages and other recently issued OSHA compliance assistance products.
- A new Hispanic outreach success story features efforts by Rinker Materials Corporation to redesign its training materials to communicate more visually with Spanish-speaking employees.
- At the request of the Department of Labor, the Highlights box also includes a link to the department's Web Site Customer Satisfaction Survey to provide feedback on the effectiveness of the Compliance Assistance page. [Source: *Nation's Building News* 2005] **SBC**

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it is reviewed for errors, and new facts are rarely introduced in these proceedings.

In states with a three-tier system, the one state supreme court has enormous discretion over its workload. The "loser" in an appeals court case generally does not have the automatic right to appeal to the supreme court. Certain criteria must exist such as the existence of conflicting legal precedent from different courts of appeal within the state or what is referred to as a "case of first impression," where a legal issue has otherwise not been reviewed by the supreme court of a particular state.

Whether this is true or not, the fact remains there are many court systems and thousands of courts, all of which can potentially exercise a considerable influence over how laws are interpreted and enforced, including those laws applicable to component manufacturers. In the next issue of **SBC Magazine**, this column will explore the ways in which this judicial authority can specifically impact you and your business. **SBC**

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