

Essentials of Business Law

FIFTH EDITION

Bonnice •

Essentials of Business Law

FIFTH EDITION

JOSEPH G. BONNICE, Ph.D.
MANHATTAN COLLEGE
RIVERDALE, NEW YORK

ANTHONY L. LIUZZO, Ph.D., J.D.
WILKES UNIVERSITY
WILKES-BARRE, PENNSYLVANIA



Glencoe

New York, New York Columbus, Ohio Chicago, Illinois Peoria, Illinois Woodland Hills, California

Photo Credits:

Michael Agllono/ImageState 433; Ed Brock/Corbis 359; Duomo/Corbis 451;
Walter Hodges/Corbis 397; Index Stock 177; Mary Kate Denny/PhotoEdit 151;
Rob Lewine/Corbisstockmarket 107; Rob Lewine/Corbisstockmarket 79, 333;
Dennis MacDonald/PhotoEdit 49; Jose L. Pelaez/Corbisstockmarket 1;
PhotoDisc/Getty Images 400; PhotoEdit 254, 285; Elke Selzle/Getty Images 295;
S. Shipman/Getty Images 205; V.C.L./Paul Viant/Getty Images 212;
David Young Wolff/PhotoEdit 300; David Young-Wolff/PhotoEdit 194

**Glencoe***The McGraw-Hill Companies*

Copyright © 2003 by Glencoe/McGraw-Hill, a division of the McGraw-Hill Companies. All rights reserved. Except as permitted under the United States Copyright Act, no part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, without prior written permission of the publisher, Glencoe/McGraw-Hill.

Printed in the United States of America.

Send all inquiries to:
Glencoe/McGraw-Hill
21600 Oxnard Street, Suite 500
Woodland Hills, California 91367

ISBN: 0-07-830505-5

3 4 5 6 7 8 9 DOW/DOW 0 9 8 7 6 5 4

PREFACE

WELCOME TO *Essentials of Business Law*

The new, fifth edition of the *Essentials of Business Law* program is the most practical, most current, and only concise, broad-based introduction to the dynamic field of business law. It continues to offer you and your students all of the benefits that have made it such a popular book in the past. Traditional areas of law, such as contracts, as well as current and emerging areas, such as e-commerce, are covered in short, informative chapters written to capture the essence of each topic. The program has been developed not as a comprehensive study of the field, but as a basic overview of the concepts and principles that are essential to understanding business law.

THE STUDENT EDITION

The student edition of *Essentials of Business Law* retains all of the strengths of past editions, but has been revised and enhanced to cover the latest developments in the legal field. Students will discover a wealth of information and learning opportunities that will give them a clear understanding of business law topics. They will also be able to identify, explain, and apply the principles of business law in their daily lives and in the larger world in which they live.

New and Revised Content

The fifth edition of *Essentials of Business Law* includes newly revised and updated content that adds currency to the discussion in each chapter, and it ensures that your students are made aware of the latest developments in the law. The new edition also offers expanded coverage of current or emerging areas in the business law field, including e-commerce, environmental, and international law. As a result, *Essentials of Business Law* offers you and your students coverage of essential topics that many larger, more expensive book programs miss entirely.

New Presentation and Design

The fifth edition includes many new and exciting features that add interest and relevance to the study of business law.

- A **direct and lucid style**, and an **organized presentation**, make the text easy to use and understand.
- An abundance of **detailed examples** illustrate the law at work in realistic scenarios.
- A **new, attractive design** sparks visual interest in legal topics, and makes using the book and learning business law easier than ever.
- **New illustrations** elucidate difficult legal concepts. Captions ask students questions that help develop important critical thinking skills.

New Learning and Assessment Tools

The program's expanded pedagogy, with its emphasis on ease of use and assessment, offers you and your students a wealth of opportunities for learning, studying, and assessing progress throughout the course.

- **Legal Terms** are listed at the beginning of each chapter, as well as in the margins where they occur in the text. Students' understanding of the legal terms is tested in the Matching Legal Terms exercises in the Chapter Assessments.
- **Performance Objectives** are identified at the beginning of each chapter and in the margins where they are satisfied in the text. Each performance objective also has a corresponding answer or explanation in the Chapter Summary.
- **Chapter Summaries** highlight the key legal concepts in each chapter. You can use these features to summarize a classroom lesson, while students can use them to study and prepare for exams.
- **Chapter Assessments** include a wide array of assessment tools. Matching legal terms, true/false quizzes, discussion questions, critical thinking exercises, case questions and

analyses, and legal research are all covered in each chapter assessment.

- **New case studies**, both in the chapters and chapter assessments, provide a real-world context in which students can recognize, analyze, and apply the principles of law.
- **Ethics** have been integrated into the text. Ethical questions (and dilemmas) are presented in a way that requires students to consider whether a law is just or unjust, and to think about how the law affects the ways people live and do business with each other.
- **Teamwork activities** foster a sense of camaraderie, remind students that business is in essence a social enterprise, and encourage students to work together to solve problems.
- **Technology-based exercises** familiarize students with technology resources like the Internet and asks them to use technology as a way of researching and solving problems.
- **Writing exercises** help develop students' communication skills and are involved throughout the Chapter Assessments.

THE INSTRUCTOR MANUAL AND KEY

The *Instructor Manual and Key* has been significantly expanded to include a variety of teaching tools that make it simple for you to organize your classroom discussions, effectively communicate the important business law concepts in each chapter, and assess your students' grasp of the material.

New, Easy-to-Use Teaching Aids

Each chapter in the new *Instructor Manual and Key* offers an abundance of features that will help you to successfully teach a course using *Essentials of Business Law*. These teaching aids allow you to quickly and easily prepare your lesson plans and ensure that your presentations cover all of the important topics in each chapter.

Legal Terms and Performance Objectives

The Legal Terms and Performance Objectives from the student edition are included in the *Instructor Manual and Key*. You can use them to focus on the key terms and concepts in each chapter and to ensure that your students can demonstrate all of the skills required by the objectives.

Lecture Outlines Organized in a clear, concise structure, the Lecture Outlines map the presentation of every chapter. You can use these outlines to prepare your lesson plans, organize class discussion, and ensure that you cover each chapter's most important topics.

Teaching Tips The *Instructor Manual and Key* contains several tips that offer helpful, creative suggestions for teaching the important legal concepts in each chapter of the book. The teaching tips also indicate how you might best use the Transparency Masters and other components of the *Essentials of Business Law* program.

New, Enriched Assessment Opportunities

The new *Instructor Manual and Key* includes an array of tools to help you prepare your students for exams and to assess and challenge their understanding of the course material.

Chapter Assessment Answers The *Instructor Manual and Key* includes answers to all of the Chapter Assessments in the student edition. You can use these answers to measure your students' success in completing the Chapter Assessments. Students can also use these answers to study and to prepare for exams.

Chapter Tests Easy-to-use, two-page exams, and corresponding key, are provided so that you can assess your students' understanding of each chapter in the book. These tests assess students' grasp of key legal terms and principles; their critical thinking skills; and their ability to analyze real and hypothetical cases, identify the laws involved, and render a decision. Short-answer and essay questions are also included to develop and assess students' writing abilities.

Internet Activities The *Instructor Manual and Key* includes an Internet exercise for every chapter in the student edition. You can assign these activities to develop your students' understanding of technology and the law, and to encourage them to use technology, such as the Internet, to research and solve legal problems.

MULTIMEDIA RESOURCES

The new *Essentials of Business Law* program includes two multimedia resources: PageOut®, which you can use to build and manage online courses, and Transparency Masters, which you can use to create illustrative material to enhance important legal ideas in the textbook.

PageOut Distance Learning Tool

PageOut is McGraw-Hill's custom course Web site development tool. With PageOut, you can

- build online courses, for which your students can self-register
- easily add your own content
- post announcements
- upload files
- create quizzes
- build a syllabus
- host discussions
- maintain a grade book

You can learn more about PageOut by visiting the PageOut Web site at www.pageout.net.

The *Essentials of Business Law* PageOut template is available for customized use from the McGraw-Hill PageOut library of templates. To access the *Essentials of Business Law* template or create your own course Web site with PageOut, you need a connection to the Internet, and a login and password for registration. You can obtain the login and password for the PageOut site from your publisher's representative.

Transparency Masters

The new *Essentials of Business Law* program includes several Transparency Masters, located in the *Instructor Manual and Key*. Formal contracts, bills of sale, promissory notes, and check indorsements are some of the business law topics represented by the Transparency Masters. These masters can be used as visual enhancements during classroom presentations, end-of-part reviews, or as handouts to help students to learn or study. Suggestions about how and where each master can best be used in the program are provided in the Teaching Tips in the *Instructor Manual and Key*.

ACKNOWLEDGEMENTS

We would like to thank the reviewers who have contributed their time and ideas to the development of the fifth edition. Our sincere appreciation to the following:

Betty Alexander

Coordinator of Business and
Computer Programs
Tidewater Tech
Norfolk, Virginia

Leon Bean, J.D.

Law Instructor
International Business College
El Paso, Texas
University of Phoenix
Santa Teresa, New Mexico

Nancy Feather, J.D.

Instructor
Pittsburgh Technical Institute
Oakdale, Pennsylvania

Jan Johnson

Evening Education Supervisor
Career College of
Northern Nevada
Reno, Nevada

Kim Rugon

Business Instructor
LTC-Sidney N. Collier
Technical College
New Orleans, Louisiana

Jessie Schwartz








Director / Dean / Instructor
Drake Business School
Staten Island, New York

Debra K. Wicks, Ph.D., J.D.

Instructor
ICM School of Business
Pittsburgh, Pennsylvania

Our authors would also like to extend special thanks to the following: Gloria Frey, educator, creative writer, and editor, contributed her enormous talents to making this edition a significant improvement over previous editions. Ann Marie Feldmeth typed, edited and reviewed all of the text material, helping to make the transition from the fourth edition to the fifth edition a seamless one.

CONTENTS

PREFACE		iv
	PART I INTRODUCTION TO THE LAW	1
Chapter 1	Our System of Law	2
Chapter 2	Ethics and the Law	18
Chapter 3	Criminal Law	32
Chapter 4	Tort Law	46
Chapter 5	Administrative Law	64
	PART II CONTRACTS	79
Chapter 6	Introduction to Contracts	80
Chapter 7	Offer, Acceptance, and Mutual Agreement	97
Chapter 8	Consideration	118
Chapter 9	Competent Parties	131
Chapter 10	Legal Purpose of Contracts	144
Chapter 11	Form of Contracts	159
Chapter 12	Operation of Contracts	173
Chapter 13	Discharge of Contracts	187
	PART III SALES, AGENCY, AND CONSUMER PROTECTION	205
Chapter 14	Transfer of Title	206
Chapter 15	Sales	223
Chapter 16	Agency and Employment	243
Chapter 17	Warranties and Product Liability	263
Chapter 18	Professional Responsibility	280
	PART IV PROPERTY	295
Chapter 19	Real and Personal Property	296
Chapter 20	Bailments	315
Chapter 21	Landlord-Tenant Relations	329
Chapter 22	Wills, Intestacy, and Trusts	344
	PART V COMMERCIAL PAPER	359
Chapter 23	Introduction to Commercial Paper	360
Chapter 24	Transfer and Discharge of Commercial Paper	379
	PART VI BUSINESS AND TECHNOLOGY	397
Chapter 25	Computer Privacy and Speech	398
Chapter 26	Conducting Business in Cyberspace	416
	PART VII INTERNATIONAL BUSINESS AND THE ENVIRONMENT	433
Chapter 27	International Business Law	434
Chapter 28	Business and the Environment	450
Glossary		G-1
Index		I-1

PART I

INTRODUCTION TO THE LAW

- | | |
|------------------|---------------------------|
| CHAPTER 1 | Our System of Law |
| CHAPTER 2 | Ethics and the Law |
| CHAPTER 3 | Criminal Law |
| CHAPTER 4 | Tort Law |
| CHAPTER 5 | Administrative Law |



OUR SYSTEM OF LAW



PERFORMANCE OBJECTIVES

After studying this chapter and completing the assessments, you will be able to:

- 1** Provide an example of how law affects (a) your personal or social life, and (b) business or business operations.
- 2** Identify the principle origins of law in the United States.
- 3** Identify the sources of law in our legal system.
- 4** Cite and describe the major classifications of law.
- 5** Distinguish moral obligations from legal obligations.
- 6** Describe the structure of our federal and state court systems.
- 7** Distinguish between trial courts and appellate courts.



LEGAL TERMS

plaintiff

defendant

express powers

implied powers

judicial review

stare decisis

common law

precedent

case law

statutory law

ordinance

administrative law

Uniform Commercial
Code (UCC)

jurisdiction

THE LAW IN OUR WORLD

When students in their twenties were asked to say the first thing that came to mind when they heard the word *law*, responses included “cops and robbers,” “courtroom,” “narcs,” “drug raid,” “legislators,” “speed limit,” and “traffic violation.” Without doubt, the impressions that most people have of the law are influenced, not so much by actual experience, but by the way the law is portrayed on television and in movies. Sometimes the picture is distorted. Justice always seems to triumph, the “good guys” usually win, and the “bad guys” are ultimately caught and punished. It’s a view that society wishes were true.

Unfortunately, movies and television programs provide the only picture many people get of the law. In real life, the administration of justice can be a lot less exciting than is often portrayed. There are areas of the law that do not hinge on clear-cut “right” or “wrong” answers, but on an ill-defined middle ground. Still, justice and law are hallmarks of a free society in today’s world.

The fact of the matter is that our system of law functions largely outside the spotlight of public attention. Every business day, in every city, town, and community in this country, courts are in session, juries are being selected, and attorneys are busy seeking favorable decisions for their clients, who might be either a **plaintiff** (someone who brings suit against another) or a **defendant** (someone against whom a suit is brought or who is charged with a violation of the law).

Although the ordinary applications of law are not quite as exciting as a television drama, it is important to understand certain essential legal principles because they affect both your business and your personal life. No one person can possibly know the entire body of law. Even learned judges and lawyers tend to specialize in certain fields of law. The average person should, however, strive to understand some of the general principles of law, how to avoid common problems and pitfalls, and when to seek professional help.

The law presented in this text deals primarily with the general principles of law and their applications to business. Some chapters focus on personal applications of the law, however, and others treat ethical aspects of personal and business behavior.

APPLICATIONS OF LAW

The effects of law are felt throughout society. Indeed, some aspects of the law apply to all persons, institutions, and organizations.

plaintiff The party who begins a lawsuit by filing a complaint in the appropriate court.

defendant The party against whom a lawsuit is brought and from whom recovery is sought.



OBJECTIVE 1(a)

Provide an example of how law affects your personal or social life.



OBJECTIVE 1(b)

Provide an example of how law affects business or business operations.



OBJECTIVE 2

Identify the principle origins of law in the United States.

Personal Applications of Law

Imagine, for a moment, how the law affects just one day in your life. The alarm clock that awakens you in the morning is set to a time that is regulated by a law establishing standard time zones. Various federal and state laws regulate the purity and wholesomeness of your breakfast foods. The clothing you wear is labeled in compliance with governmental regulations. Your right to drive a car is regulated by state laws, and speed limits and other traffic laws are often the responsibility of state or local officials. You know that no one else may occupy your home while you are away at school or work because the law protects your property rights. The safety and freedom you enjoy are possible because you live in a nation of order—and that order is a result of laws passed for the benefit of the people and the protection of their rights.

Business Applications of Law

Every business must comply with many federal, state, and local laws that are primarily aimed at regulating business activity. A firm that wishes to establish a business in a particular community may find that there are laws that prohibit such activities. For example, local zoning ordinances might prohibit the operation of a noisy factory in a residential area. State and federal laws prohibit or regulate the operation of certain businesses that may pollute the environment. Still other laws require that businesses provide safe working conditions for employees or demand that only qualified persons perform certain jobs. State laws, for instance, require that barbers and pharmacists pass examinations or be licensed.

Government Applications of Law

Legislatures at all levels of government pass many laws that apply only to businesses and individuals, but some laws apply specifically to governments. For example, the federal government may pass a law that provides funding for building highways or for low-income housing. The same law may require that states, counties, or municipalities maintain them.

ORIGINS OF LAW

The ever-changing body of law that affects all persons in our country has arisen from a number of sources. As a result, laws sometimes conflict with one another. The ways in which these conflicts are resolved will be discussed in this chapter.

Constitutional Law

In our country, the principles and ideals that protect individual liberty and freedom are incorporated in the Constitution of the United States (the federal Constitution). This historic document gives the federal government certain reasonable powers, and at the same time, clearly limits the use of those powers. In addition, each state has a constitution of its own that gives certain powers to the various levels of government within that state. Like the federal Constitution, state constitutions provide safeguards for the rights of individuals within that particular state.

Constitutional Powers In the United States, the federal Constitution and state constitutions confer two types of powers on the governments of which they are a part:

- **Express powers** are powers that are specifically stated. For example, the federal Constitution grants the federal government the explicit power to raise an army and to assess taxes.
- **Implied powers** are powers that have arisen as a result of an interpretation of the express powers by the courts. For example, the U.S. Constitution gives Congress the implied power to create an agency to explore outer space—something not even imagined by the people who wrote the federal Constitution.

Constitutional Amendments Although the drafters of the federal Constitution were men of vision, they could not, of course, foresee the changing needs of our country and its people in the years that were to follow. The Constitution has been amended or changed 26 times, and it will probably continue to be amended. Each Constitutional amendment must be proposed by a two-thirds vote of Congress and ratified or approved by the legislatures of three-fourths of our 50 states.

Judicial Review Courts have the power to determine whether laws enacted by legislatures or decisions made by lower courts violate the provisions of the Constitution. If a court decides that a law is contrary to the Constitution, the law can be declared unconstitutional and, therefore, invalid. The process of deciding whether a law is contrary to the Constitution is known as *judicial review*.

Common Law

After the Revolutionary War, one of the most difficult tasks faced by our newly independent nation was to establish a system of law. Because the original states were formerly English colonies, it is not



OBJECTIVE 3

Identify the sources of law in our legal system.

express powers Powers that are explicitly stated; for example, in the U.S. Constitution.

implied powers Powers that arise as a result of an interpretation of the express powers by the courts.

judicial review The process by which a court determines the constitutionality of various legislative statutes, administrative regulations, and executive actions.

stare decisis The practice of relying on previous decisions in which similar disputes arose.

common law The body of recorded decisions that courts refer to and rely upon when making later legal decisions.

precedent A model case that a court can follow when facing a similar situation.

case law The effects of court decisions that involve the same or similar facts.

surprising that the new states adopted the system of laws that had been used in England for hundreds of years—that is, relying on previous legal decisions when similar disputes arose. This practice of relying on previous decisions is known as **stare decisis**, which means, “to stand on decided cases.” The English system is known as the **common law** and still influences legal decisions in the United States today.

Precedent

A **precedent** is a court decision on which later courts rely in similar cases. In some instances, a court may be influenced by precedent; in other cases, it may not. Whether a court follows a precedent depends on the court that has ruled on the case and whether the previous case was decided by the highest court in the same state. Decisions made by the U.S. Supreme Court, for example, must be followed by other courts.

Court decisions are recorded in writing so that lawyers and judges can refer to them in preparing or hearing a case. These decisions are published in books called reporters. Each case decision is identified by a citation, which includes the names of the parties involved followed by the volume number, the name of the reporter, and the beginning page number of the case. For example, in the case of *Milkovich v. News-Herald*, 473 N.E.2d 1191, the case is reported in volume 473 of the *Northeastern Reporter, Second Series*, and begins on page 1191.

Case Law

Sometimes a statute or a common law precedent may be difficult to apply to certain cases, or as time passes, may take on different meaning. An existing statute or an accepted precedent may be based on outmoded standards of justice. In these cases, a court may disregard earlier interpretations of a statute or a principle of common law, or it may interpret them differently. The court’s decisions in these cases influence later cases because they also become precedents that may be followed in similar cases. The effects of these decisions have been called **case law**.

Statutory Law

Both federal and state constitutions are general statements of the powers of governments and the rights of individuals. The specific applications of powers and rights are provided for in laws enacted by federal, state, and local governments. Each state constitution provides for a legislature that represents the people and that has the power to enact laws so long as they do not conflict with either the federal or the state

constitution. The laws passed by Congress and by state legislatures are called statutes, and the field of law that deals with these statutes is known as **statutory law**. A law that is passed by a local government, such as city councils, is often called an **ordinance**.

Not only do statutes provide the specific applications of the powers and rights in the constitutions, they also allow governments to respond to particular circumstances. For example, when the federal and state constitutions were written, television was not even a dream, much less a matter to be regulated. Yet shortly after television was developed, various state legislatures passed statutes that prohibited the installation of television receivers in the front-seat area of automobiles.

Administrative Law

Protection of the rights and freedom of individuals and organizations is well established by the federal Constitution and the state constitutions, by statutory law, and by common law. Still, today's complex society and system of justice present special needs that require laws that include their own administrative machinery. Sometimes when a federal, state, or local legislative body enacts a law, it sets up an organization to establish rules and to enforce them. **Administrative law** is the body of rules, regulations, and decisions created by administrative agencies.

The practice of establishing specialized administrative agencies has several advantages. For example, it relieves the police and the courts from having to establish and enforce regulations that are often highly technical. Administrative agencies include federal agencies such as the National Labor Relations Board, state agencies such as public service commissions, and local agencies such as boards of health. These agencies have in common the authority to establish rules that have the force of law and to maintain "courts" that are often called appeal boards. The "trials" are often called hearings. Because administrative law has become such an important part of our legal system, an entire chapter will be devoted to covering this topic.

UNIFORM COMMERCIAL CODE

When the United States was primarily a farming nation and there was relatively little commerce between states, it did not matter that the state constitutions and statutes differed from state to state. As interstate trade increased, however, so did the problems caused by the conflict in business laws among the different states. For example, a business person knowing the laws of his or her state had little difficulty

statutory law The field of law involving statutes, which are laws passed by Congress or by state legislatures.

ordinance A law that is passed by a local government, such as a city council.

administrative law The body of rules, regulations, and decisions created by administrative agencies.

Uniform Commercial Code

(UCC) A set of laws that govern various commercial transactions that is designed to bring uniformity to the laws of the states.



OBJECTIVE 4

Cite and describe the major classifications of law.



OBJECTIVE 5

Distinguish moral obligations from legal obligations.

so long as customers were all from the same state. But when business was conducted with customers in many states, she or he had to know the laws in all of them.

To solve this problem, the *Uniform Commercial Code (UCC)* was prepared in 1952 by the National Conference of Commissioners on Uniform State Laws. The UCC is a set of laws governing various commercial transactions that is designed to bring uniformity to the laws of the states. Over a period of 15 years, 49 states have adopted the UCC as part of their state law. Not every state has adopted the entire UCC, and state courts often have differing interpretations of their UCC sections. Louisiana, having been a French territory and therefore greatly influenced by French civil law, has adopted only parts of the Code. Because the UCC is so widely accepted, this book is based on it.

CLASSIFICATION OF LAWS

The various laws, regardless of origin, can be grouped into several broad classifications, each of which represents a legal specialty. Frequently a lawyer will specialize in one of these areas.

- *Constitutional law* is the study of the federal Constitution, its interpretation by the federal courts, and its relationship to existing laws.
- *Civil law* is the study of the rights and obligations of individuals and includes the law of property, the law of contracts, and the law of torts.
- *Criminal law* is concerned with acts against society (criminal acts) and the regulation of criminal activity.
- *Administrative law* is concerned with the conduct of governmental administrative agencies and their regulations. Examples are tax laws and laws dealing with transportation and trade.
- *International Law* is concerned with the conduct of nations in their relations with other nations.

MORAL LAW

Since earliest times, people have recognized that they are to a certain extent responsible for one another and have obligations to one another beyond those required by the law. For example, a person who sees someone drowning has a moral obligation to try to save him or her, and a person who hears someone screaming for help in the night has a moral duty to at least call the police. Such obligations are based on moral law—that is, the “law” concerned with the unenforceable

obligations that people have to one another. Many legal obligations are based on moral obligations, but not all moral obligations are legally enforceable; a person's conscience is often the only means of enforcement.

THE OPERATION OF OUR SYSTEM OF LAW

Some of our laws came from sources that were not originally concerned with human freedom. However, most legal scholars feel that today's laws provide adequate protection of the rights of the individual. But the mere existence of laws is not enough. There must be a means of administering the law to protect the rights of individuals and businesses and to curtail the activities of wrongdoers. In this country, courts and governmental agencies have been established to administer the law.

A SYSTEM OF COURTS

The federal and state constitutions and the entire body of written law would be of little value to individuals and businesses if there were no provision for enforcing the law. Police alone cannot fulfill this function. The federal and state constitutions provide for the establishment of a system of courts that ensures citizens' rights and enforces federal and state statutes.

Court Jurisdiction

The authority of a court, as granted by a constitution or legislative act, is known as the court's ***jurisdiction***. A court may be limited in its powers to certain kinds of cases or to certain geographical areas. A court has original jurisdiction if it is authorized to hear and decide a case when it is first presented. If a court has the power to review the decisions of another court, it has appellate jurisdiction (that is, the authority to hear appeals).

Courts that are given the power to hear only certain kinds of cases have special jurisdiction. Examples are family courts, traffic courts, and tax courts.

Federal Courts

The U.S. Constitution provides for a federal court system: "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

jurisdiction The authority of a court, as granted by a constitution or legislative act, to hear and decide cases.



OBJECTIVE 6

Describe the structure of our federal and state court systems.



OBJECTIVE 7

Distinguish between trial courts and appellate courts.

The court system that has developed has various levels. The U.S. Supreme Court in the United States is the highest court in the federal system. It serves as the court of original jurisdiction for certain kinds of cases, such as those in which a state is one of the parties. The Supreme Court rules on the constitutionality of laws by hearing selected cases that test those laws. The Supreme Court also hears appeals from the highest state courts. However, the court actually hears only a small percentage of appeals because it has no legal obligation to review decisions of lower courts, except in very limited cases.

The federal district courts have original jurisdiction in cases involving federal statutes, and in cases in which the parties are citizens of different states and the amount involved is greater than \$75,000. Every state has at least one federal district court.

Most appeals from the district courts go to one of the 13 circuit courts of appeals. The decisions of the circuit courts are usually final, although further appeal to the U.S. Supreme Court is possible. Appeals of the decisions of federal administrative agencies, such as the Federal Trade Commission (FTC), are also made to the U.S. Circuit Courts of Appeals.

The federal court system also includes specialized courts that hear only certain kinds of cases. Two of these specialized courts are the U.S. Tax Court and the U.S. Claims Court.

State Courts

State court systems vary, but there are certain basic similarities in all state court systems. All states have general trial courts, which are courts of original jurisdiction that are authorized to hear cases not otherwise restricted to specialized courts. General trial courts handle nearly every important dispute involving contracts, criminal law, and corporations. Trial courts in a state may be large municipal courts, with such specialized areas of jurisdiction as traffic violations, juvenile conduct, and domestic relations, or they may be small justice-of-the-peace courts called magistrate courts, established to hear certain minor violations of law.

If one of the parties in a case feels that he or she did not have a fair trial in the court of original jurisdiction, he or she can, with the aid of an attorney, seek an appeal in a state appellate court, which hears appeals from the trial courts. The names of appellate courts vary in different states. Beyond the courts of appeals are higher-level courts, often called supreme courts, which make final determinations on