

"Jurors who are opposed to capital punishment are more likely to believe that a defendant's failure to testify is indicative of his guilt, more hostile to the insanity defense, more mistrustful of defense attorneys and less concerned about the danger of erroneous convictions." Thurgood Marshall



CHAPTER 2 A DUAL COURT SYSTEM



OBJECTIVE: Introduce students to the structure of the federal and state court systems and their jurisdiction.
NBEA STANDARD: ANALYZE AND DESCRIBE STRUCTURE OF THE COURT SYSTEM.

DUAL COURT SYSTEM Two parts of the U.S. justice system: 1) _____ courts deal with _____ and _____, and violation of _____; 2) _____ courts deal with _____ matters and _____ of _____.

DIVERSITY OF CITIZENSHIP To sue in federal court, citizens involved must be from _____ different states or one from another country

JURISDICTION _____

4 AREAS OF JURISDICTION

1. _____ - type of case
2. _____ - geographical area court serves
3. _____ - physical presence in State
 - a. Presence of _____ in state
 - b. _____ Crossing state lines and accepting rules of state
 - c. _____ Company branch/phone call w/o presence.

VENUE 4. _____.

FEDERAL COURTS (3 LEVELS)

ORIGINAL JURISDICTION 1) DISTRICT COURTS (Location: _____)
 Defined: _____.

APPELLATE JURISDICTION 2) U.S. COURT OF APPEAL (Location: _____)
 Defined: _____.

ORIGINAL JURISDICTION 3) SUPREME COURT (Location: _____)
 Original jurisdiction over _____.
 Deals with cases in which _____ a party; _____ of federal law;
 In order to Supreme Court to hear a case on appeal, how many of the nine justices must agree to the appeal? _____ out of nine.

A Reasonable Fee

A man phones a lawyer and asks, "How much would you charge for just answering three simple questions?"
 The lawyer replies, "A thousand dollars."
 "A thousand dollars!" exclaims the man. "That's very expensive isn't it?"
 "It certainly is," says the lawyer. "Now, what's your third question?"



STATE COURT SYSTEM

LIMITED JURISDICTION

Defined: _____.
What type of jurisdiction does Mentor Municipal have? _____.
Types of cases MMC hears: _____.

Up to what amount in Small Claims? _____
Up to what amount in Civil Division? _____
What types of crimes are heard in Criminal Division? _____
_____.

ARRAIGNMENT

_____ brought against you --you submit plea of _____
or _____.

GENERAL JURISDICTION:

_____.

COMMON PLEAS COURT

Located? _____
What type of jurisdiction does Common Pleas Court have? _____.
Up to what amount in Civil Division? _____.
Criminal Division handles what type of cases? _____.

DOMESTIC RELATIONS

handles what types of cases? _____
_____.

JUVENILE DIVISION

handles what type of cases? _____
_____.

PROBATE

handles what type of cases? _____.

FEDERAL DISTRICT COURT

FEDERAL DISTRICT COURT -

LOCATED WHERE? _____.

Handles what types of case?

1. _____.
2. Violation of _____.
3. Concurrent Jurisdiction with _____ courts.
 - a. Amount in controversy _____.
 - b. DEFINED: _____
_____.
 - c. Venue in federal court:
 1. Where _____ resides - plaintiff symbol? _____.
 2. Where _____ resides - defendant symbol? _____.
 3. Where _____.

DIVERSITY OF CITIZENSHIP

FEDERAL QUESTION:

- Two venues
1. _____
 2. _____.

APPELLATE COURTS

Where is the closest district appellate court to us? _____ What district? _____.

Called Ohio's _____ District Court of _____.

Where is the closest Federal circuit court to us? _____ What district? _____.

Called Ohio's _____ Circuit Court of _____.

How many appellate courts in Ohio? _____.

Where is the Ohio Supreme Court located? _____ How many justices? _____.

Where is the U.S. Supreme Court located? _____ How many justices? _____.

Who is the new chief justice of U.S. Supreme Court? _____.

Who is the newest justice of the U.S. Supreme _____.

ALTERNATIVE DISPUTE RESOLUTION

ADR Defined: _____

One side wins, one side loses is called _____.

By resolving disagreements outside court, it saves _____ and _____.

REACTIVE Third party helps both parties find a solution is called _____.

Third party settles dispute for the parties involved is called _____.

PROACTIVE Both parties get to know each other and work out plan for resolving disagreement before disagreement arises is called _____.

TRIAL PROCEDURES

CRIMINAL CASES Defined: _____.

Example: _____

CIVIL CASES Defined: _____.

Example: _____

PARTIES TO LAWSUIT:

PLAINTIFF (1) _____ Symbol _____

DEFENDANT (2) _____ Symbol _____

COST OF Defendant: For every \$ _____ lost in lawsuit, add \$ _____ more in legal fees.

LAWSUIT Plaintiff: For every \$ _____ won in a lawsuit, subtract \$ _____ in legal costs.

Lawyers can charge hourly rate--average _____

or contingency -- % of settlement _____.

CONTINGENCY Defined: _____.

PLEADINGS Defined: _____.

COMPLAINT Defined: _____ allegations or claims showing pleader is entitled to _____; it is a demand for _____.

Who files the complaint? _____.

SUMMONS Defined: _____.
How many days to answer a summons? _____.
Four methods of delivery:
1. _____ return receipt requested.
2. _____ deliver to you personally.
3. _____ anyone 16 or older can accept.
4. _____ in legal section of newspaper.

ANSWER Defined: _____.

COUNTERCLAIM Defined: _____.

REPLY _____.

AFFIRMATIVE DEFENSES:
STATUTE OF Defined: time limit within which to bring legal action.
LIMITATIONS: 1. _____ years to sue

12(B)(6) MOTION 2. Failure of state to claim upon which _____ can be granted.
(how lawsuits with insufficient legal theories underlying their cause are thrown out.)

PRE-TRIAL HEARINGS

PRE-TRIAL Defined: _____
HEARING (1) _____ (2) _____.

DISCOVERY Defined: _____.

METHODS USED TO BRING FACTS OUT BEFORE A TRIAL:
DEPOSITION 1. Defined: _____.

INTERROGATORIES 2. Defined: _____.
3. Request for _____ by either side.
4. Request for _____ and _____ by either side.
ADMISSION 5. Request for _____ Evidence discovered _____.

What is the role of settlement? _____.

THE TRIAL

VOIR DIRE _____ Jurors? _____ Alternate? _____.
Attorney for both sides have the option in selecting jurors:

CHALLENGE FOR 1. _____
CAUSE

PREEMPTORY 2. _____
CHALLENGE Limit of releases: _____.

What is needed to win in a Civil case? _____ Criminal case? _____.

OPENING Defined: _____
STATEMENTS Who delivers opening statement first? _____
Must the defendant's attorney deliver opening statement? _____

SUBPOENA Defined:_____.

DIRECT EXAMINATION Defined:_____

_____.

CROSS EXAMINATION Defined:_____
_____.

RE-DIRECT Defined:_____.

RE-CROSS Defined:_____.

OVERRULED TYPES OF OBJECTIONS:_____
_____.

SUSTAINED _____.

GERMANE RULES OF EVIDENCE:
Defined:_____
IS THE EVIDENCE GERMANE TO THE ISSUES BEFORE THE COURT?

RELEVANT 1. Defined:_____.

MATERIAL 2. Defined:_____.

COMPETENT 3. Defined:_____.

CLOSING ARGUMENT Defined:_____
Who goes first?_____.

JURY INSTRUCTIONS Defined:_____
_____.

DELIBERATIONS Defined:_____.

VERDICT **JUDGMENT BY THE COURT**
Defined:_____.

JUDGMENT Defined:_____.

MOTIONS Defined:_____.

DIRECTED VERDICT How many times can an attorney request a motion for directed verdict?_____
When? 1._____
2._____
3._____
Order by the judge after finding no reasonable jury could reach a decision to the contrary.

How many motions for directed verdict must have been requested?_____.

REMEDIES

REMEDIES Defined: _____
What are two types:
1. _____
2. _____ such as:
SPECIFIC (a) Defined: _____
PERFORMANCE _____
INJUNCTION (b) Defined: _____

CRIMINAL TRIAL PROCEDURES

ARREST Defined: _____
WARRANT Defined: _____
Guaranteed by what amendment? _____
MIRANDA RIGHTS Defined: _____
Guaranteed by what amendment? _____
BAIL Defined: _____
SEARCH WARRANT Defined: _____
FRISK Defined: _____
PROBABLE CAUSE Defined: _____
Your rights guaranteed under what amendment? _____
INDICTMENT Defined: _____

ARRAIGNMENT Defined: _____

Case goes to trial if accused pleads _____
Judge imposes sentence if accused pleads _____
CRIMINAL TRIAL Verdict must be _____ - guilty beyond _____ doubt
or _____ Mistrial means jury _____ agree; _____ trial.
Sentencing can be: _____, _____; or _____
JUVENILES Defined: _____
1. Handled by _____ which has _____ jurisdiction.
2. Designed so each case handled _____
3. Detention hearing determines whether to _____ juvenile in custody.