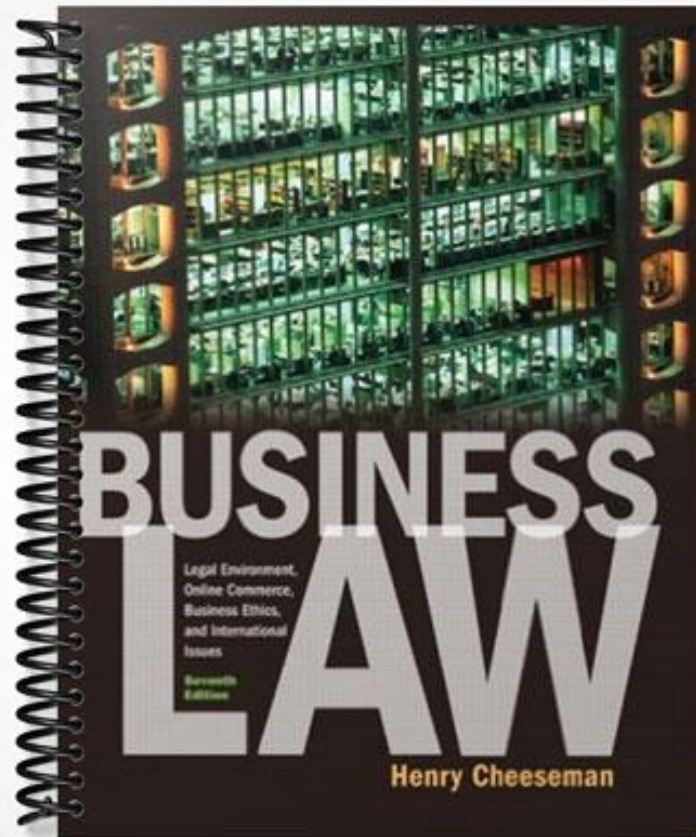


SOLUTIONS MANUAL



2

COURT SYSTEMS AND JURISDICTION

“I was never ruined but twice: once when I lost a lawsuit, and once when I won one.”

Voltaire

I. Teacher to Teacher Dialogue

When it comes to capturing and retaining students’ attention, today’s teachers find themselves in a most competitive environment. Twenty-first century technological advances have provided our students with all kinds of instant access to information. These devices have given many students a “mute button” mind set in the classroom that can make it very difficult for teachers to overcome many of their students’ preconceptions.

Take, for example, the average undergraduate’s notion of how trials are conducted and the role of attorneys in that process. Invariably these perceptions center on popular television series such as *Law and Order* and *Court TV*. Not that this is all bad. Current media focus on numerous law-related issues has generated a whole new wave of public interest in the workings of our legal system. The downside is that the media has created many myths on the folklore of law and lawyers. In the world of pop culture, no one knows until the end who really did it until a surprise witness shows up to “finger” the bad guy. In more modern versions, the attorney first has an illicit affair with the client and then proceeds to get him or her acquitted. Regardless of the outcome, the process is always full of glamour and intrigue.

Welcome to Real World 101! A trial rarely resembles the goings on found in the entertainment media. Trials are long, tedious, emotionally and financially draining processes for all parties concerned. In many ways, a trial represents a failure by the parties to reach some sort of satisfactory solution of the issue beforehand. Rarely do the parties actually want to go through a labyrinth of pleadings, motions, and the like, feeling all the while totally dependent on the sometimes questionable competence of their attorneys. Unlike the make-believe world of entertainment, the job of an attorney is to keep his or her client out of court. The attorney’s professional advice should anticipate and resolve potential legal problems before, rather than after, the fact if at all possible.

One good procedure that I like to use in my classes is to have every student select a different state and then write about that state’s court system. For online classes, I tell them to write about their state’s court system as an answer to one of the first week’s discussion questions. It gives them a greater appreciation of what’s involved and can help them understand the differences in the systems in the different states.

II. Chapter Objectives

- Describe state court systems.
- Describe the federal court system.
- Compare the jurisdiction of state courts with that of federal courts.
- List and describe the types of decisions that are issued by the U.S. Supreme Court.
- Define standing to sue and venue.

III. Key Question Checklist

- If the dispute or controversy needs to be resolved in a court of law, which court has jurisdiction?
- Once jurisdiction is established, was the proper sequence of pretrial steps taken?
- Was the trial sequence properly followed?
- After the trial is completed, are any appeals from the decision applicable?

IV. Text Materials

One objective of this chapter is to familiarize students with the role of the major players in those events.

The federal court system and the court systems of the 50 states and the District of Columbia are the two major court systems in the U.S. Litigation is the process of bringing, maintaining, and defending a lawsuit. In addition, there are a number of alternative dispute resolutions that can be used.

State, District of Columbia, and Territory Court Systems

Limited-Jurisdiction Trial Court – Inferior trial like traffic courts, juvenile courts, justice-of-the peace courts, probate courts, family law courts hear specialized matter. Another example of these is the small claim courts that hear limited dollar amount civil cases.

General-Jurisdiction Trial Court – Courts of Record keep a record of the testimony and evidence presented at trial for future reference. These courts hear felony cases, civil cases over a certain dollar amount, and other items.

Intermediate Appellate Court – Courts of Appeal hear appeals from trial courts, reviewing records of trials for errors without hearing any new evidence.

Highest State Court – State supreme courts hear appeals from intermediate state courts and some trial courts, without hearing new evidence.

Contemporary Environment: *Specialized Courts Hear Commercial Disputes*

Delaware has created a special Chancery Court to decide business litigation, with a reputation for handling corporate matters. Delaware's laws also tend to favor corporate management, so together with the Chancery Court, the state has created an environment that encourages incorporation in that state. Other states are beginning to follow suit and create their own variation of Delaware's Chancery Court.

Federal Court System

Special Federal Courts - There are six courts of limited jurisdiction: the U.S. tax court, claims court, the Court of International Trade, bankruptcy court, and the courts of appeals for the armed services and for veteran's claims.

U.S. District Courts – These are the federal court system's 96 trial courts of general jurisdiction.

U.S. Courts of Appeal – These are the federal court system's 13 intermediate appellate courts.

Supreme Court of the United States – The Supreme Court is composed of nine justices who are nominated by the President and confirmed by the Senate. The President appoints one as the chief justice who is responsible for the administration of the Court, while the other eight are considered associate justices.

Landmark Federal Law: *The Process of Choosing Supreme Court Justice*

The President appoints Supreme Court justices, with the advice and consent of the Senate (majority vote). This allows a form of balance of power between the executive and legislative branches of the government.

Jurisdiction of the U.S. Supreme Court- The Supreme Court hears appeals from the federal district courts and from the highest state courts. Legal briefs are filed, oral arguments are made, lower court records will be reviewed, but neither new evidence nor testimony is heard. The Supreme Court decision is final.

Decisions by the U.S. Supreme Court – Congress has established the rules for the mandatory appellate review by the Supreme Court, which may also elect to hear cases at its discretion. Petitioners file a petition for certiorari asking for the Supreme Court to review their case. If the court decides to sit on the matter, it issues a writ of certiorari. The court hears about 100 cases per year.

Unanimous Decisions – All the justices voting agree as to both the outcome and the reasoning. These decisions become precedent.

Majority Decision - Decisions by the Supreme Court are considered majority decisions if a majority of the justices agree on the outcome and reasoning. These decisions become precedent.

Plurality Decision – A plurality decision is when the majority of the justices agree on the outcome, but not the reasoning. This settles the case, but does not serve as precedent.

Tie Decision - In this case the winner in the lower court prevails. This does not serve as precedent.

Concurring Opinion – When a justice agrees with the outcome of the majority, but not the reasoning, they will issue a concurring opinion explaining their stand.

Dissenting Opinion – Any justice who does not agree with the decision may state their opinion.

Jurisdiction of Federal Courts

Federal Question - Federal courts have limited jurisdiction to hear cases involving federal questions with no dollar amount limit.

Diversity of Citizenship - The federal courts have jurisdiction to hear cases involving diversity of citizenship. There must be either diversity of either state citizenship or be cases between a citizen and a subject of a foreign country. The amount in controversy must be over \$75,000.00.

Exclusive Jurisdiction - The federal courts have exclusive jurisdiction to hear cases involving federal crimes, antitrust, bankruptcy, patent and copyright cases, cases against the U.S., and most admiralty cases.

Landmark U.S. Supreme Court Issue: *I'll Take You to the U.S. Supreme Court—Not!*
This discusses the process necessary to win a review by the U.S. Supreme Court.

Jurisdiction of State Courts - State courts hear cases that the federal courts do not have the jurisdiction to hear.
They may have concurrent jurisdiction with state courts to hear cases involving diversity of citizenship.

Case 2.1. Jurisdiction of Courts: *Bertram v. Norden, et al.*

Facts: Bertram sued three friends that he had been out snowmobiling with for negligent snowmobile operation resulting in injuries to Bertram in a trial court in Ohio. The trial court applied a Michigan statute since the incident occurred in Michigan, even though all four involved were Ohio residents. The Michigan statute states that all snowmobilers assume all risks associated with the sport. Applying this statute, the court found for the defendants. Bertram appealed, claiming that Ohio law should apply; there is no assumption of risk under Ohio law.

Issue: Does Michigan or Ohio law apply to this case?

Decision: The court upheld the lower court's judgment applying Michigan law.

Reason: The laws of the state in which the incident occurred and not the residency of the parties should be applied.

Case Questions

Critical Legal Thinking: The doctrine of [assumption of risk](#) states that those who participate in hazardous activities understand the dangers involved in those activities and thus assume all risk for any injury that occurs to them as a result of said activity.

Business Ethics: Students will probably proffer different opinions as to whether Bertram should have sued all or some of his friends.

Contemporary Business: Under Ohio law, Bertram would have been able to get recovery from some, if not all, of his friends, because of their improper handling of snowmobiles.

Personal Jurisdiction of Courts

Standing to Sue – The plaintiff must have a stake in the outcome of the lawsuit.

In Personam Jurisdiction – In personam jurisdiction over the person is achieved by the plaintiff filing a lawsuit with a court and by serving a summons on the defendant.

If personal service is unavailable, notice of the case by mail or publication in newspapers is allowed.

Defendants disputing the jurisdiction of a court may make a special appearance to argue their case, and cannot be served while making this appearance.

Landmark U.S. Supreme Court Case: *International Shoe Company v. State of Washington*
International Shoe had salespeople that sold shoes door-to-door within the state of Washington, and were paid on a commission basis. They had no office in the state. Washington State determined that they had failed to pay unemployment taxes on International's employees, and serve notice to the organization on one of their Washington sales representatives as well as by mailing the notice to the headquarters in St. Louis. International made a special appearance to argue that it had insufficient contacts within the state to warrant payment of the tax. The unemployment office and appeals board, as well as various courts within the state ruled against International, which appealed to the U.S. Supreme Court.

The Supreme Court ruled that International had neither casual nor irregular contacts within the state, and was, therefore, subject to in personam jurisdiction and service upon one of their agents, based on their "minimum contacts" within the state. The Supreme Court clearly stated that the Due Process Clause permits jurisdiction over a defendant in any state in which the defendant has "certain minimum contacts such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."

In Rem Jurisdiction- Courts may have jurisdiction over property found within the state, based on in rem (over the thing) jurisdiction.

Quasi In Rem Jurisdiction – Attachment jurisdiction occurs when a plaintiff who has obtained a judgment attempts to satisfy the judgment by attaching property located in another state.

Long-Arm Statute - A court can obtain jurisdiction over persons and businesses located in another state through use of a long-arm statute, provided the defendant has had some minimum contact with the state.

Venue – The court with the jurisdiction that is located closest to where the incident occurred or where the parties live should hear the lawsuit.

Pretrial publicity may prejudice jurors and may lead to a request for a change of venue in order to get a more impartial jury. Forum shopping is the process of looking for a more favorable court without a valid reason, and is frowned upon.

Forum-Selection and Choice-of-Law Clauses – Because many business agreements are formed between people from different states and different countries, many contracts have clauses that specifically address the state's or country's laws that will be applied in the case of a dispute, in what are known as choice-of-law clauses. Additionally, they will often agree as to which court will have jurisdiction over any dispute in forum-selection clauses.

V. Case Problems

2.1. Federal Question. Yes, the federal courts have the jurisdiction to hear Nutrilab's case. Federal courts have limited jurisdiction, granted to them by the Constitution and Congress. Part of this limited jurisdiction is to hear cases involving federal questions. Federal question cases are cases arising under the U.S. Constitution, treaties, and federal statutes and regulations. Federal courts have original jurisdiction to hear federal question cases. Nutrilab was disputing the FDA's application of a federal statute to stop their distribution of Starch Blockers. The Starch Blockers case was therefore one arising under a federal statute, and this gave the federal court original

jurisdiction to hear the case. Any lawsuit, such as this one brought by Nutrilab, that involves a federal question must be brought in a federal court. *Nutrilab, Inc. v. Schweiker*, 713 F.2d 335, **Web** 1983 U.S. App. Lexis 25121 (United States Court of Appeals for the Seventh Circuit).

2.2. Jurisdiction. In this situation, the case was removed to federal court because of the diversity of citizenship and because the claim was greater than \$75,000. Although it is true that both Allison and Tru-Amp (by virtue of its incorporation) were citizens of the state of Mississippi, the manufacturer of the switchboard and breakers was incorporated in Pennsylvania. This produced the needed diversity of citizenship to remove the case from the Mississippi court to federal court. *Allison v. ITE Imperial Corp.*, 729 F. Supp. 45, **Web** 1990 U.S. Dist. Lexis 607 (United States District Court for the Southern District of Mississippi).

VI. Business Ethics Cases

2.3 Business Ethics. No. Based on the de minimis theory, i.e., “the law disregards trifles,” the trial court was correct in dismissing the case. Justice King believed that this lawsuit is an absurd waste of the resources of the courts and of the taxpayers’ money. The courts are already too heavily burdened to be used to punish advertisers who use junk mail. The students should question how the failure to deliver an inexpensive calculator watch to a three year old who cannot tell time could ever be worth \$15M in punitive damages. *Harris v. Time*, 191 Cal. App.3d 449, 237 Cal. Rptr. 584, **Web** 1987 Cal. App. Lexis 1619 (Court of Appeal of California).

VIII. Terms

- appeal—The act of asking an appellate court to overturn a decision after the trial court’s final judgment has been entered.
- appellant—The appealing party in an appeal. Also known as *petitioner*.
- appellee—The responding party in an appeal. Also known as *respondent*.
- complaint—The document the plaintiff files with the court and serves on the defendant to initiate a lawsuit.
- concurrent jurisdiction—Jurisdiction shared by two or more courts.
- Court of Appeals for the Federal Circuit—A court of appeals in Washington, D.C., that has special appellate jurisdiction to review the decisions of the Claims Court, the Patent and Trademark Office, and the Court of International Trade.
- diversity of citizenship—A case between (1) citizens of different states and (2) a citizen of a state and a citizen or subject of a foreign country.
- exclusive jurisdiction—Jurisdiction held by only one court.
- federal question—A case arising under the U.S. Constitution, treaties, and federal statutes and regulations.
- forum-selection clause—Contract provision that designates a certain court to hear any dispute concerning nonperformance of the contract.
- general-jurisdiction trial court—A court that hears cases of a general nature that are not within the jurisdiction of limited-jurisdiction trial courts. Testimony and evidence at trial are recorded and stored for future reference.
- *in personam* jurisdiction—Jurisdiction over the parties to a lawsuit.
- *in rem* jurisdiction—Jurisdiction to hear a case because of jurisdiction over the property of the lawsuit.

- intermediate appellate court—An intermediate court that hears appeals from trial courts.
- jurisdiction—The authority of a court to hear a case.
- limited-jurisdiction trial court—A court that hears matters of a specialized or limited nature.
- litigation—The process of bringing, maintaining, and defending a lawsuit.
- long-arm statute—A statute that extends a state’s jurisdiction to nonresidents who were not served a summons within the state.
- petition for certiorari—A petition asking the Supreme Court to hear one’s case.
- plaintiff—The party who files the lawsuit.
- *quasi in rem* jurisdiction—Jurisdiction allowed a plaintiff who obtains a judgment in one state to try to collect the judgment by attaching property of the defendant located in another state.
- service of process—A summons is served on the defendant to obtain personal jurisdiction over him or her.
- small claims court—A court that hears civil cases involving a small dollar amounts.
- special federal courts—Federal courts that hear matters of specialized or limited jurisdiction.
- standing to sue—The plaintiff must have some stake in the outcome of the lawsuit.
- state supreme court—The highest court in a state court system; it hears appeals from intermediate state courts and certain trial courts.
- subject matter jurisdiction—Jurisdiction over the subject matter of a lawsuit.
- summons—A court order directing the defendant to appear in court and answer the complaint.
- trial briefs—Documents submitted by the parties’ attorneys to the judge that contain legal support for their side of the case.
- trier of fact—the jury in a jury trial; the judge where there is not a jury trial.
- United States courts of appeals—The federal court system’s intermediate appellate court.
- United States district courts—The federal court system’s trial courts of general jurisdiction.
- United States Supreme Court—The highest court in the land. It is located in Washington, D.C.
- venue—A concept that requires lawsuits to be heard by the court with jurisdiction that is nearest the location in which the incident occurred or where the parties reside.
- writ of certiorari—An official notice that the Supreme Court will review one’s case.