Business Law 2e
by Victor López, J.D.
Hofstra University

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Victor D. López is currently an Associate Professor of Legal Studies in Business at Hofstra University’s Frank G. Zarb School of Business. In the past he has served as an adjunct instructor at La Guardia Community College, SUNY at Farmingdale, Hartwick College and Broome Community College, a professor and Director of the Extended-day Program at Plaza Business Institute, a tenured Professor of Business at SUNY at Delhi for 12 years and Dean of Business and Business Information Technologies at Broome Community College. He also served for a number of years on the consulting faculty of Excelsior College.


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This textbook is based on my Business Law: An Introduction textbook first published by Irwin/Mirror Press in 1992 and later by McGraw Hill when it acquired Irwin. I have tried to maintain the elements and tone that made the text unique and that helped keep it in print long after it had become dated for loyal adopters throughout the United States. I will always be very grateful to these colleagues and to their efforts to keep the book in print and to have it updated. For good or ill, the book was and remains unique and I hope it will be rediscovered by old friends and new. The first edition was my second book and my first textbook early in my academic career. My experience with Mirror Press, its president, David Helmstadter, and my editor, Carla Tishler, encouraged me to pursue other textbook projects.

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Business Law: An Introduction, 2e

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Sources of the Law and the Court System

Learning Objectives for Chapter 1

After studying this chapter you will be able to:

1. Become familiar with sources of modern law.
2. Distinguish between common law and civil law.
4. Describe the level and function of courts in the federal court system.
5. Describe the level and function of courts in the state court system.
Introduction

Law, distilled to its essence, can be described as rules of conduct decreed and enforced by government for the benefit of its citizens. Laws are by no means the only type of rules that regulate conduct. A restaurant may require patrons to wear ties and jackets when dining in its premises, a college professor may demand that students refrain from talking in class, and a religious institution may command that its members abstain from using certain types of contraceptives. In all three cases, a penalty may be imposed for failure to observe the rules: the restaurant may deny entrance to anyone not wearing the proper attire, the professor may expel a student who talks during class and the church may ostracize any member who challenges the prohibition on contraceptive technology. Nevertheless, these rules do not rise to the level of laws simply because they are not enacted and enforced by the state.

In this chapter, we will trace the law to its various sources, as well as explore an overview of the federal and state court systems in order to gain a better understanding of our system of justice.

Sources of the Law

It is a common misconception to think of the law as a set of rules written down in old, dusty books that show little change over time. Such a vision of the law makes it seem stagnant and inflexible. The reality, however, is quite different. Law in the United States is vibrant, adaptable and ever changing (albeit slowly). Statutes passed by legislative bodies such as the U.S. Congress and the various states' legislatures are an important part of the law, as are decisions handed down by federal and state judges, and the regulations and administrative decisions of state and federal agencies. All of these taken together make up what we commonly refer to as the law. We will examine each of these important sources of the law separately in order to gain a better understanding of how they help to shape our law.

The Civil Law Tradition

There are two basic legal systems in the world: civil law and common law. Civil law is the dominant legal system, favored by most non English-speaking countries in Europe, Asia, Africa and Latin America. The civil law system is based on a tradition that dates back to the Code of Hammurabi (2100 B.C.) of reducing the law to written codes that the general citizenry could understand and abide by. This tradition continued with Roman law, which traces its recorded origin to the Twelve Tables (450 B.C.)-bronze tablets setting down the law, which were attached to the orator's platform in the Roman Forum so that all citizens could read and know the law. Finally, the tradition reached its zenith around 533 A.D. when the Byzantine emperor Justinian I undertook the task of recording
and integrating a thousand years of existing law into a single code--the *Corpus Juris Civilis* (literally the body of the civil law), more commonly referred to as the Justinian Code. That nearly 1500-year-old code forms the most important pillar of the civil law system, and is still widely studied today in civil law jurisdictions as a starting point in understanding the law.

The tradition of writing down the law into a code that the general public can read, understand and know continues today in most civil law jurisdictions where the emphasis continues to be on the plain meaning of statutes rather than on their interpretation by judges as they decide cases. Civil law requires that law be written and made accessible to the people so that they may know their rights and obligations as citizens. There is relatively little leeway given to judges in interpreting the law, and little room for debate as to the meaning and application of the law in any given circumstance. Civil law jurisdictions generally make it simpler for citizens to know the law and to predict its outcome. As a result, there tends to be less litigation and less need for attorneys in civil law societies, and many routine tasks are handled by paralegals. On the other hand, civil law leaves judges little leeway in making distinctions between the letter and spirit of the law. Societal opinions, changing values or the cumulative wisdom of judicial interpretation of the law gleaned from legal precedent have little, if any, place in common law. Therefore, the law tends to be relatively inflexible and changes only when and if legislative bodies see fit to change it.

**The Common Law Tradition**

The common law system traces its roots to England, in particular to the Norman Conquest of 1066 A.D. when William I, after conquering England, began the attempts to consolidate what were at times conflicting laws throughout the country into a unified common law that would apply throughout the realm. By the thirteenth century, magistrates traveled throughout the countryside, hearing cases as they traveled from town to town in regular circuits. The law that was applied by magistrates and justices was based on common customs and traditions; since jurists had no great body of written law to rely upon, they in essence created the law as they decided cases by applying basic principles of fairness drawn from the customs, traditions and ethics of the time. Ultimately, these decisions were written down and used as precedent, or guidelines, to be referred to and followed when similar cases arose in the future.

Under the doctrine of *stare decisis* (to stand by decided cases), courts today still follow precedent closely and decide cases in a way that is consistent with the way that similar cases were decided in the past. The role of lawyers in a common law system largely involves arguing how existing precedent should be applied to a particular set of facts.

The distinguishing characteristic of common law is that it is primarily judge-made law. That is not to say that only judges make law. Today, there are large bodies of statutes not unlike those of civil law jurisdictions that seek to codify important areas of the law. Unlike civil law jurisdictions, however, statutes do not form the foundation of the law in
most areas, but largely serve to alter or clarify the common law. Even in areas where the law has been largely modified by statute, the courts still retain the power of interpreting, modifying and generally fine-tuning the law through legal decisions. In a common law jurisdiction, it can never be said that a statute embodies the law; the courts always have the final say on both the validity of statutes and on their interpretation. Unlike civil law jurisdictions, where the law as defined in statutes is for the most part interpreted literally by the courts, in our common law system of jurisprudence the statutory law is always subject to judicial interpretation. In order to know what a given statute means, one must always look to see how it has been interpreted and applied by the courts.

Courts even have the power to declare any statute invalid if they believe it to go against either the federal or a state's constitution; this power is known as judicial review. For this reason, it is very difficult for the average lay person to know with any certainty what the law is with regard to any specific situation. In many instances, even experienced attorneys can only venture an educated guess on how a court is likely to apply the law to a given set of facts. And even the best judicial minds often disagree based at least in part on their judicial philosophy and political ideology. This is perhaps best illustrated in most decisions of the U.S. Supreme Court, which are seldom unanimous and often decided by five-to-four margins with judges interpreting the law very differently based in great part on their judicial philosophy. This is perhaps the most negative aspect of common law: its uncertainty and susceptibility to the personal, political and philosophical views of judges who have a great impact on shaping and changing the law every time they decide cases and who may refuse to follow the law when it is incompatible with their view of what the law ought to be. On the positive side, common law is not as inflexible as civil law; judges have a considerable amount of power to change, adapt and mold the law to fit particular cases in order to insure that justice is done and that the law reflects society's changing social values.

**Constitutional Law**

A constitution is the most fundamental source of law. It establishes a state or nation's form of government and sets out its most fundamental legal principles. In the United States, we find a federal Constitution as well as constitutions for each of the 50 states. In addition, local municipalities have their own local constitutions, known as charters. The United States Constitution is the supreme law of the land: no other law passed by a state or by the federal government may contradict it. Article VI Section 2 of the U.S. Constitution (see Appendix A) specifically states that the U.S. Constitution "shall be the supreme Law of the Land." If a conflict arises between the U.S. Constitution and any other law, including a state constitution or city charter, the federal Constitution rules and the conflicting law is deemed unconstitutional, which means it has no force or effect.

Constitutions are of necessity rather broad documents stating the basic principles a government must follow. The interpretation of the constitution is left to the courts. Every
court has the power to interpret the U.S. as well as state constitutions, but the final say on the meaning of the U.S. Constitution is reserved to the U.S. Supreme Court. Once the highest court in the land has interpreted the Constitution, all other courts are bound by its interpretation. To put it another way, the U.S. Constitution says whatever the U.S. Supreme Court says it says.

James is a New York City resident who would like to own and carry a handgun for self defense. He knows that under the city’s strict handgun laws it will be nearly impossible for him to obtain a permit to carry a concealed handgun. During a business trip to Florida, he purchases a handgun from a private citizen in that state and takes it with him back to New York City. He later uses the handgun to fend off a mugger on his way home from work late one evening and is later arrested for illegal possession of a handgun, a felony under New York City criminal law with a minimum one-year mandatory jail sentence. At his trial, his defense is that the city’s gun law is unconstitutional, since it clearly violates the Second Amendment to the U.S. Constitution, which reads: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Will he succeed?

Despite his logical argument and the recent acknowledgement by the U.S. Supreme Court in the District of Columbia v. Heller 554 U.S. 570 (2008) case that the right to keep and bear arms is a personal right, James is most likely going to jail. Even after Heller, states and municipalities still have the right to restrict handgun permits in a manner that is reasonable, and the Second Amendment still does not provide an unqualified right to own and carry handguns, regardless of whether or not this was the intent of the founding fathers. The court always reserves the right to change its mind, however. If it chose to, it could hear an appeal by James on his illegal handgun possession conviction and overturn it, if he can show that the restrictions on gun ownership are an unreasonable restraint on his First Amendment Rights.

Courts also have the power of judicial review, through which they interpret statutes by legislative bodies such as Congress and state and local legislatures. Every court has the power to declare a legislative act unconstitutional, and judgments of lower courts exercising judicial review can be appealed to higher appellate courts. The final say as to constitutionality is reserved for the U.S. Supreme Court. If, for example, Congress decided
to pass a bill that established the Church of the United States, such an act would be held to violate the First Amendment, which reads in part: Congress shall make no law respecting an establishment of religion . . ." As such, the act would be unconstitutional. What can Congress do if it disagrees with the U.S. Supreme Court’s interpretation of the Constitution? Only one thing: amend the Constitution. Under Article V, Congress has the right to amend the Constitution by a two-thirds vote by the House of Representatives and the Senate. If the proposed amendment receives the required two-thirds vote in Congress, it is then sent to the various state legislatures for approval. If three-quarters of the states' legislatures approve the amendment, it becomes law and the Constitution is changed to include the new amendment. An amendment to the U.S. Constitution can also be made if a constitutional convention in three-quarters of the states approves it. There is no limit to the change that an amendment may bring to the Constitution, other than that the right of each state to equal representation in the Senate may not be revoked.

Statutory Law

Another important source of law in the U.S. is statutes enacted by federal, state and local legislatures. In general, the federal government can legislate over any area that it has been granted the power to regulate by the U.S. Constitution. Because ours is a government of limited powers, Congress can only legislate in an area over which it has specific jurisdiction. Article I Section 8 enumerates the powers of Congress, which include the power to levy taxes, borrow money, regulate international and interstate commerce, regulate naturalization and bankruptcy, mint money, punish counterfeiting, establish a post office and post roads, award patents and copyrights, set up inferior federal courts, punish crimes on the high seas, declare war, raise armed forces, and so forth (See Appendix A). Under the Tenth Amendment, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Nowhere in the Constitution is the federal government given the power to, for example, pass social legislation for the common good. Where, then, does Congress get the power to legislate in these areas? From Article I, Section 8 Clause 2 (the commerce clause), which gives Congress the power: To regulate “commerce with foreign nations, and among the several States, and with the Indian tribes.” In a long series of decisions concerning the commerce clause, the Supreme Court has interpreted the clause in the broadest possible sense, in effect giving Congress the power to regulate any activity which either directly or indirectly may affect or burden interstate commerce. Consequently the 1964 and 1991 Civil Rights Acts enacted by Congress, for example, owe their existence to the commerce clause; the reason Congress has the power to pass these acts is that discrimination based on sex, race, color, religion or national origin can burden interstate commerce. In passing the legislation, Congress was merely exercising its right to regulate commerce. Without such a broad interpretation of the Constitution, Congress would lack the power to pass any social legislation that did not come under any of the areas specifically reserved to it in the constitution.
Administrative Law

Administrative law has grown with the steady increase of governmental regulation since the 1930s, both at the state and federal levels. Administrative agencies are empowered by either the legislative or executive branches of the federal and state governments to carry out governmental processes entrusted to these branches of government.

There are many instances in which the executive or legislative branches lack the technical expertise or even the time to regulate and control an area over which they have jurisdiction. Consider the plight of Congress entrusted with regulating civil aviation in the United States. In order to properly regulate civil aviation, a great deal of technical expertise is required, as well as a substantial amount of time to develop adequate regulations and then oversee their enforcement. Members of Congress clearly lack the expertise necessary to determine, for example, how often commercial planes should be inspected, how airline personnel should be trained, or what safety features airplanes need to adopt. Only aviation experts can make such determinations. Congress, recognizing its limitations, created the Federal Aviation Administration to act on its behalf and empowered the agency to create regulations affecting commercial flight and enforce these regulations through the administrative process. Other common federal agencies include the Securities and Exchange Commission, Nuclear Regulatory Commission, National Labor Relations Board, Equal Employment Opportunity Commission, Federal Communications Commission, and the Environmental Protection Agency, to name only a few. Like the federal government, state and local governments also set up administrative agencies to assist with the administration of local government. There are thousands of such agencies set up by state legislatures, local city councils, governors and mayors to assist them in implementing their legislative and executive responsibilities.

When taken together, the various federal and state agencies make up the important body of administrative law. In empowering agencies to perform legislative or executive functions, the empowering authority (e.g., Congress or the president) must outline the purpose, function and scope of the agency's power in creating and enforcing regulations. Agencies have enormous power over the areas that they control. In many situations, agencies are given quasi-legislative, quasi-judicial and quasi-executive powers in that they are entrusted with creating regulations, enforcing them, and investigating and punishing those who violate them. The administrative process requires that those who are subject to agency regulation be given the opportunity to be heard before any new regulation is passed; the process tries to ensure that agencies do not act in a vacuum, but rather
remain responsive to the needs and concerns of those they regulate. If, for example, the Federal Aviation Administration were to propose a new rule affecting the airline industry (e.g., prohibiting flight personnel from drinking any alcoholic beverage 48 hours prior to a flight), it would have to go through public hearings giving all interested individuals the right to testify before it and make their point of view known before the new rule could be adopted. Agencies also exercise judicial-like powers through hearings and administrative decisions. Persons accused of violating agency rules are brought before the agency for a hearing resembling a trial. Such hearings are held before administrative law judges who are employees of the agency empowered to decide administrative hearings. Administrative hearings generally resemble trials with two important differences: there are no juries involved (the administrative law judge decides all questions or law and fact), and they are much less formal. Finally, appeal from an administrative law judge's decision is generally available to an intermediary appeal court at either the state or federal level.

**The Court System**

As we've seen, laws are interpreted and implemented by the courts. There are, in effect, 52 court systems in the United States: the federal courts, state courts for each of the 50 states and a court system for Washington D.C. Even though there are some differences between court systems, they are similar enough that we can make some generalizations about them. In the discussion that follows, we will examine working models of state and federal court systems in order to better understand how the judicial system works. But first, we'll begin by examining the power of the courts to hear and decide cases.

**Jurisdiction of State and Federal Courts**

Before a court can hear and decide a case, it must have jurisdiction over both the subject matter and the parties involved. Jurisdiction refers to the power that a court has to hear and decide a case brought before it (from the Latin *juris*, law, and *diction*, to speak, thus literally the power to speak the law). A court has subject matter jurisdiction to hear and decide a case if the case is of a type that it is empowered by statute to decide. For example, a traffic court clearly has subject matter jurisdiction to hear a case involving a speeding ticket or a defendant who is accused of running a red light, but lacks jurisdiction to hear a divorce action or an action for breach of contract. Even when a court has the required subject matter jurisdiction, it cannot hear a case unless it also has personal jurisdiction over the litigants. Consider the following example:

A resident of Rhode Island is injured in a car accident in Texas. Several months later, he decides to visit a relative in Vermont and wants to bring an action against the Texas domiciliary in Vermont. Can he do so? The answer is clearly no: the Vermont court will have jurisdiction over the subject matter, since the appropriate trial court in Vermont can hear a personal injury suit, but not over the parties, since the Texas resident in particular has no contacts with the state.
In order for a court to have personal jurisdiction over the parties in a lawsuit, the parties must either voluntarily submit themselves to the court's jurisdiction by appearing before the court or have significant contacts with the state to justify the court hearing the case. Significant contacts include living in the state, working in the state, carrying out business in the state, or committing either a tort, breach of contract or crime while in the state.

Courts generally have jurisdiction to hear cases either for the first time, called original jurisdiction, or on appeal, called appellate jurisdiction, but not both. A notable exception is the U.S. Supreme Court, which has both original and appellate jurisdiction. (See Article III, Section 3 in Appendix A). A court with appellate jurisdiction can only hear cases on appeal to review whether any error was made in the application or the law; it cannot hear testimony or generally consider determinations of fact made by the trial court.

**Venue**

A court that has subject matter jurisdiction and personal jurisdiction may still refuse to hear a case on the grounds that the action should be brought in the state with closer ties to the litigants or the subject matter of the action. If a New York domiciliary who lives in New York City's Queens County injures a resident of New York City's King's County in an automobile accident that occurred in King's county, the action could be brought in either Queens or Kings Counties in New York, but not in neighboring New Jersey or Connecticut counties, even if both the plaintiff and defendant were willing to have the case heard in New Jersey or Connecticut. Although courts in both neighboring states have subject matter jurisdiction to hear the case and also personal jurisdiction if the plaintiff and defendant are willing to subject themselves to the jurisdiction of these courts, the courts in those states would almost certainly refuse to hear the case on grounds that neither New Jersey nor Connecticut is an appropriate venue for the case.

**Federal Courts: Jurisdiction and Organization**

Access to the federal courts is more restrictive than access to state courts. Under Article III, Section 2 of the U.S. Constitution, subject matter jurisdiction of the federal courts is restricted to:

1. Cases involving federal laws or the U.S. Constitution;
2. Cases affecting Ambassadors, other public Ministers and Consuls;
3. Cases involving maritime law;
4. Cases in which the U.S. government is a party;
5. Cases involving different states or the citizens of different states; and
6. Cases involving states and foreign governments or their subjects, or between a U.S. citizen and foreign governments or their subjects.
Unless a case involves one of the preceding criteria, access to the federal courts will be denied. In addition, civil cases litigated in the federal courts must be for amounts in excess of $75,000.

In cases involving diversity of citizenship or a federal question (the two primary means of gaining access to the federal courts), these actions could also be brought in state courts. In these areas, the federal and state courts share concurrent jurisdiction. Thus, if a citizen of Texas wants to bring an action for a breach of contract involving more than $75,000 in damages against a citizen of Wyoming, she will be able to do so in federal court, since diversity of citizenship exists because a case between citizens of two or more states is involved; the same lawsuit could be brought in the state courts of either Texas or Wyoming. But if two residents of Utah want to sue each other for $100,000 in damages arising out of an automobile accident in Utah, they will not be able to do so in federal court, since there is no diversity of citizenship, nor is there a federal question involved (e.g., a case arising out of the U.S. Constitution or any federal law).

The Federal Court System

The federal court system contains trial courts called U.S. District Courts, intermediate appeals courts known as the U.S. Courts of Appeals and the U.S. Supreme Court.

**Federal Courts of Limited Jurisdiction**

As is the case in many state systems, the federal court system contains a number of courts of limited original jurisdiction that try specific types of cases. These include the U.S. Tax Court, Bankruptcy Court, Court of Claims (tries cases in which the U.S. Government is a party), Court of International Trade (tries civil cases involving trade tariffs and related trade issues), and the Territorial Courts. A special Court of Military Appeals also exists to hear appeals from military tribunals.

**U.S. District Courts**

The U.S. District Courts are the federal trial courts and have general original jurisdiction over any case involving federal jurisdiction (e.g., diversity of citizenship and federal question). Currently, there are 89 districts in the 50 states, in addition to district courts in Puerto Rico, the Virgin Islands, the District of Columbia, Guam, and the Northern Mariana Islands for a total of 94 judicial districts. The number and location of judicial districts can be changed by Congress at will and varies as changes in population and the load of district court calendars demand.
U.S. Courts of Appeal

The U.S. Courts of Appeals are intermediate appellate courts that hear appeals from both specialized federal courts, the federal district courts, and from many federal agency decisions. There are 11 judicial districts, each encompassing more than one state, plus the District of Columbia and the Federal District (see above) for a total of 13 judicial districts. In general, decisions of the U.S. Courts of Appeals are final. Appeal may be taken to the U.S. Supreme Court from these courts solely at the U.S. Supreme Court's discretion.

The United States Supreme Court is the only court specifically established under the U.S. Constitution (Article III, Section 1), which gives Congress the power to create all other inferior federal courts. Article III, Section 3 of the U.S. Constitution vests the Court with the following original and appellate jurisdiction:

1. Original jurisdiction over all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a party;
2. Appellate jurisdiction over all other cases over which the federal courts have jurisdiction.

Litigants who are unhappy with the decision of a state's highest court or with a District Court of Appeals decision may appeal to the U.S. Supreme Court provided they meet the jurisdictional requirements of the federal courts (e.g., litigation involving a federal question or diversity of citizenship). Whether or not the Supreme Court hears a case on appeal is completely within its discretion. If the Supreme Court believes that a sufficiently important constitutional issue exists requiring it to render a final opinion, it will issue a writ of certiorari to the lower federal court or to the state's highest court where the case was
last decided; a *writ of certiorari* is an order demanding that the lower court forward the record of the case in question to the U.S. Supreme Court for its review. If the Court refuses to issue a writ of certiorari, the lower court's decision is left standing. A refusal by the U.S. Supreme Court to issue a writ of certiorari is not necessarily an indication that it supports the lower court's position; it merely means that at the time that the case was appealed, the Supreme Court did not find a sufficiently pressing issue for it to decide.

**State Court Systems**

As previously noted, state court systems can vary somewhat, but generally conform to the following model (see Figure 1.3):

1. Lower courts of limited jurisdiction
2. Trial courts of general, original jurisdiction
3. Intermediate appeals courts
4. The state's highest appellate court (generally, the state's supreme court).

**Lower Courts**

Most states have one or more lower courts of limited jurisdiction where minor criminal offenses are tried and civil litigation involving small dollar amounts are heard. Such courts include small claims courts (which hear civil cases involving small dollar amounts that vary from state to state but are generally in the $1,500 to $15,000 range), justice of the peace courts (where minor criminal offenses are adjudicated), traffic court, surrogate court (where matters relating to trusts and estates are heard), and family court (where child custody, divorce, separation and a variety of other matters pertaining to families are adjudicated).
The benefit of lower courts of limited jurisdiction is that they often provide quick and relatively informal means of resolving civil disputes and minor criminal infractions. By bringing action in small claims court, a litigant can have a case resolved in months, instead of years, and without the need of retaining legal counsel. On the down side, appeal from small claims court is usually not available, and the dollar amounts for which one can sue are relatively low.

**Trial Courts**

As the name implies, trial courts, or courts of original general jurisdiction, try almost any type of criminal or civil case. They have the widest trial jurisdiction available. Typical cases heard by trial courts include crimes, breach of contract actions, and torts. This is where nearly all cases affecting business are litigated.

**Intermediate Appeals Courts**

Intermediate appeals courts have jurisdiction to hear appeals from most trial and some limited jurisdiction courts, as well as some rulings of administrative agencies. These courts provide parties who believe that a legal error was made by the original trial judge with the opportunity to have their trial court record reviewed. As previously noted, appeals or appellate courts only review questions of law and do not review findings of fact. Thus, for example, a losing party could successfully appeal on the grounds that the trial judge improperly instructed the jury on a point of law, or failed to sustain a valid objection by the losing litigator (both questions of law), but an appeal based on a contention that a witness lied at the trial (a question of fact) would not be valid.

**State Supreme Court**

The state’s highest court—usually named the State Supreme Court—has the final say on all appeals from trial and intermediate appeals courts. Whether a state’s highest court hears a case on appeal is usually at its own discretion. If the court does hear a case on appeal from an intermediate appellate court, its decision is final and can only be overturned by the U.S. Supreme Court if a federal question is involved.
Case 1. Ted, a domiciliary of Connecticut, travels to California on business. While in California, he purchases a defective cigarette lighter. When he returns to Connecticut, the lighter explodes, causing him severe injuries. Ted knows that juries in Kings County (Brooklyn), New York have a reputation for awarding some of the highest personal injury judgments in the country, so he asks his attorney to sue the seller and the manufacturer of the lighter in King’s Country, New York.

A. Can an action be brought in King's County, New York? Explain.
B. If the parties appear in Kings County willing to have the court adjudicate the case, will the court have subject matter and personal jurisdiction over the parties?
C. Assuming that the New York court does have jurisdiction in the last example, will it hear the case? Explain.

Case 2. Assume the same facts as in Case 1.

A. In which state or states can the plaintiff sue the defendant?
B. Assume that the plaintiff will sue the defendant for $100,000 in damages. Can the suit be brought in federal court? Explain.
C. If Plaintiff only wants to sue for $9,000 for his medical costs and pain and suffering, can he sue in federal court? Explain.
D. Assume that the suit can be brought in federal court. What court and in which federal district(s) can the suit be brought?

Case 3. Ephraim, near-sighted college student who likes to drive very fast, decides to travel from Maine to California over Spring break. On the way, he manages to get into automobile accidents in New Hampshire, Vermont, New York, Pennsylvania, Ohio, Indiana, Illinois and Missouri, where he finally totals his car and flies on to California to enjoy the rest of his vacation.

A. Assuming that plaintiffs in each of the states mentioned begin legal actions in their states against Ephraim, will he have to defend himself in each of those states? Will the various state courts be able to obtain personal jurisdiction over him once he has left the state?
B. Would it make any difference if Ephraim had never been to any of the states noted prior to the automobile accidents and has no other contact with the states?
C. If the plaintiffs in Pennsylvania and Indiana decide to sue in federal court for $100,000, will they be able to do so? In which districts will each be able to bring his suit?

Case 4. The town of Pious in your state decides to pass a local ordinance that reads as follows:
Two days after the statute is passed and published in the local newspapers and radio and television station, you are arrested by police for washing your car. You defend yourself at trial on two grounds: 1. that you were not washing your car and 2. that the statute is unconstitutional. You are nevertheless convicted and fined $500. You decide to appeal.

A. What is your best argument on appeal as to the unconstitutionality of the statute? (e.g., what part of the constitution does it possibly violate?)

B. What court in your state could you appeal to? Could you appeal to the federal courts?

C. Can you argue on appeal that you were not washing your car if the trier of fact at the trial level found that you were? Why?

D. If the intermediate appeals court and your state’s highest court affirm the lower court’s decision, do you have any other recourse? Explain.

E. If an identical case in a neighboring state has recently been affirmed by the highest state court, does it mean that you will definitely lose your appeal? Explain.