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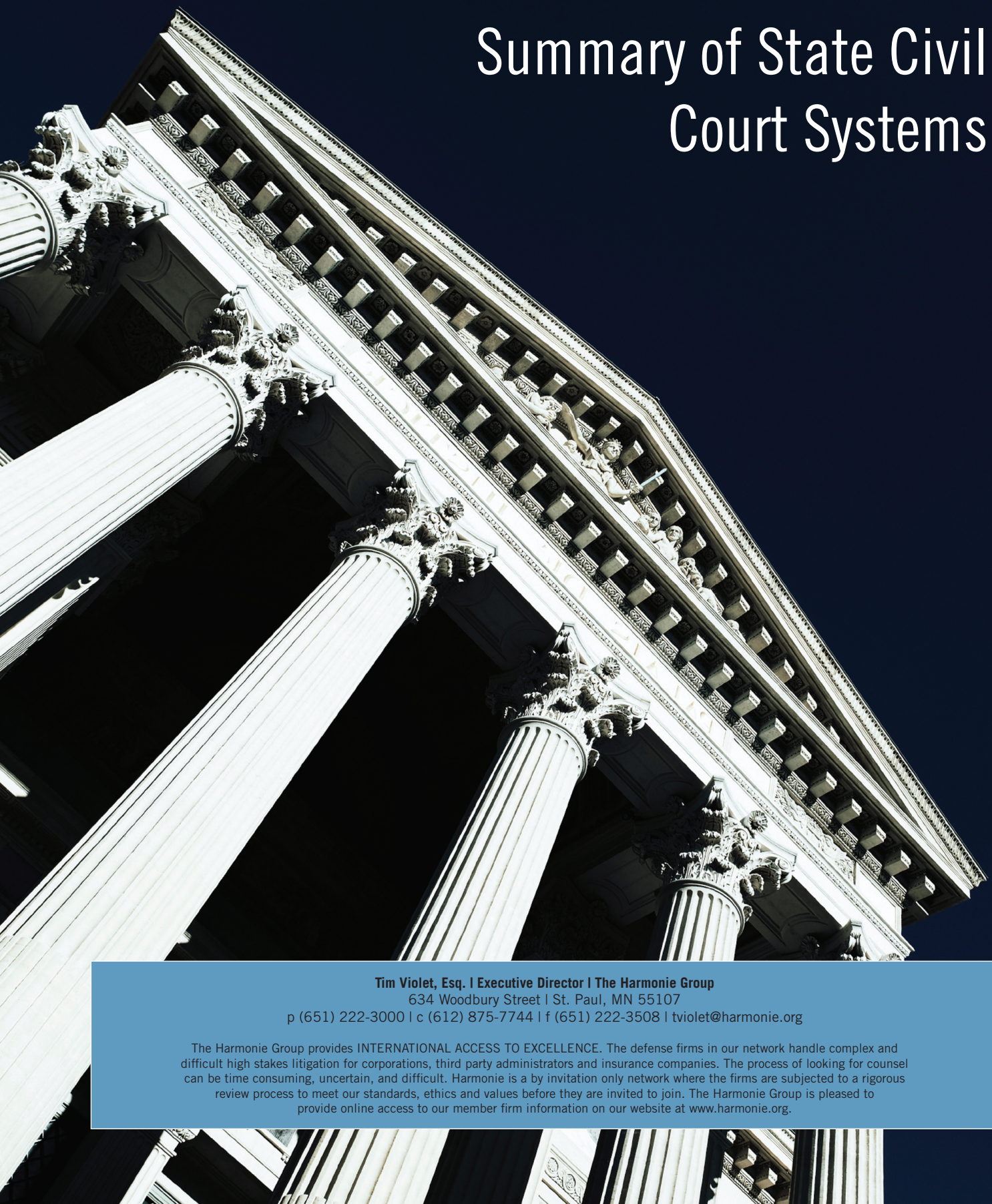
Summary of State Civil Court Systems



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THE HARMONIE GROUP®

Summary of States' Civil Court Systems

ALABAMA

General Overview of Trial Court System
The Alabama civil court system is divided into 67 district courts and 41 circuit courts. The district courts are organized by county, so that each of Alabama's 67 counties comprises a separate judicial district. The district courts are courts of limited jurisdiction, having exclusive jurisdiction in civil matters not exceeding $3,000 and concurrent jurisdiction with the circuit court in civil matters valued at $3,000 to $10,000. The district courts have limited discovery with bench trials only. However, there is an appeal de novo from the district court to the circuit court, where a jury may be demanded.

There are 41 judicial circuits in the State of Alabama. Many of the circuits comprise more than one county, although the more populated counties, such as Jefferson County, Montgomery County, and Mobile County, comprise a single circuit each. The circuit courts have exclusive jurisdiction in civil actions exceeding $10,000 and in domestic relations cases. The circuit courts also have concurrent jurisdiction with the district courts in civil matters valued between $3,000 and $10,000. Jury trials are permitted in the circuit courts in any matter in which a jury was permitted at common law. Currently, there are 143 judges in the circuit courts in the State of Alabama. The right to trial by jury is guaranteed by the Alabama Constitution, and juries are permitted in all cases involving claims for monetary damages and in some cases seeking equitable relief.

The circuits have the authority to order parties to mediate a case, but they do not order mediation in every civil case. The circuit judges generally include as part of a scheduling order a cutoff date for requesting mediation. If any party requests that the case be referred to a mediator, the circuit court will order mediation.

If a transaction involves interstate commerce, the Alabama courts recognize that the parties may waive the right to a jury trial and refer the case for arbitration in accordance with the Federal Arbitration Act. This is common in many commercial transactions, including automobile purchases, mobile home purchases, nursing home admission agreements, and many other commercial transactions.

Appeal Process
The Alabama appellate courts are divided into three separate divisions – the Court of Civil Appeals, the Court of Criminal Appeals, and the Alabama Supreme Court. The Court of Civil Appeals is comprised of five judges who sit in panels of three judges. The Court of Civil Appeals has original jurisdiction over civil appeals not exceeding $50,000, workers' compensation matters, domestic relations cases, and certain civil appeals deflected to it from the Alabama Supreme Court. The Court of Civil Appeals also hears all appeals from administrative agencies except the Public Service Commission.

The Court of Criminal Appeals is comprised of five judges who sit en banc. The Court of Criminal Appeals hears all criminal appeals, post-conviction writs, and remedial writs for criminal trial courts.

Supreme Court
The Alabama Supreme Court is comprised of nine justices who sit in panels of five or en banc. The Alabama Supreme Court has original jurisdiction over all civil appeals exceeding $50,000, appeals from

the Alabama Public Service Commission, and Petitions for Certiorari from the Courts of Civil and Criminal Appeals. The Alabama Supreme Court will hear all appeals from the Alabama trial courts involving matters exceeding $50,000 if timely notice of appeal is filed within 42 days of the entry of a final judgment. Interlocutory appeals are not permitted unless permission to appeal is granted by the trial court or the appellate court. The Alabama Supreme Court currently decides many cases without issuing written opinions, and it is common for judgments in the circuit courts to be affirmed without opinion. When a case is appealed, it is assigned to one Supreme Court justice, and the speed of the decision often depends on which particular justice is assigned the case. An appeal can take from six months to 18 months from the time notice of appeal is given until a decision is rendered by the Court. Once a decision is released by the Alabama Supreme Court, a party has fourteen days to file an Application for Rehearing or the judgment will be certified.

All judges in Alabama are selected through the political process. The Alabama Supreme Court judges are elected for 6 year terms. The judicial elections in Alabama are often affected by the national elections. All 9 justices on the Alabama Supreme Court are Republicans, and the Court has become much more conservative during the last ten years. The Court rarely grants oral argument, but will occasionally do so in a case of first impression or one involving a highly disputed question of law or public policy.

ALASKA

There are four levels of courts in Alaska: the Supreme Court, Court of Criminal Appeals, Superior Court and District Court. The Supreme Court and Court of Criminal Appeals are appellate courts that review and decide appeals from the trial courts.

The Superior and District Courts initially hear and decide criminal and civil matters - rendering decisions on cases that fall within their statutory jurisdiction.

There are four judicial districts within the state. The first judicial district has three venues: Juneau, Ketchikan and Sitka. The second judicial district also has three venues: Barrow, Kotzebue, and Nome. The third judicial district has one venue: Anchorage. The fourth judicial district has two venues: Bethel and Fairbanks.

Supreme Court

The Alaska Supreme Court is the highest level of state court in Alaska – hearing appeals in civil and criminal matters from lower courts. A party has an appeal as a matter of right from an action commenced in the superior court or following an appeal to the superior court. The supreme court has discretion to accept petitions for hearing of final decisions from the court of criminal appeals; petitions for interlocutory review of non-final orders by the superior court; and original applications in civil matters for which relief is not otherwise available.

Court of Criminal Appeals

The Court of Appeals has jurisdiction to hear appeals in cases involving criminal matters. The court must hear appeals from final decisions of the Superior or District Courts in criminal cases that include merit appeals or sentence appeals. The Court of Appeals may exercise its discretion to accept petitions for review of non-final orders in criminal cases.

Superior Court

The Superior Court is the trial court of general jurisdiction and has authority to hear all civil and criminal matters within its statutory jurisdiction. An appeal to the superior court is a matter of right from the district court. The Superior Court serves as an appellate court for appeals from civil and criminal cases tried in the District Court, or petitions from an administrative agency when appeal is provided by law.

District Court
The District Court is a trial court of limited civil and criminal jurisdiction. The district court may hear civil claims not exceeding $100,000 in value; small claim cases; cases involving children on an emergency basis; misdemeanors and violations of ordinance, domestic violence cases; and inquests and presumptive death hearings.

ARIZONA

Arizona's court system has three levels: (1) the limited jurisdiction courts (justice and municipal); (2) a general jurisdiction court (Superior Court); and (3) the appellate courts (Court of Appeals and Supreme Court).

Limited Jurisdiction Courts
There are basically two types of limited jurisdiction courts: municipal courts, also known as city or magistrate courts, and justice courts. Magistrate courts do not hear civil lawsuits between citizens. Justice courts handle civil disputes involving claims less than $10,000. In some cases, they share jurisdiction with the Superior Court in disputes involving less than $10,000. Justice courts can hear matters regarding possession of real property but not matters regarding title to real property.

General Jurisdiction Court
Arizona's general jurisdiction court is the Superior Court of Arizona. It is a single entity with locations in all of Arizona's 15 counties. The Arizona Constitution (Article VI Section 14) provides the Superior Court with jurisdiction over most types of cases, so long as exclusive jurisdiction is not vested in another court by law. The Superior Court also acts as the appellate court for the justice and municipal courts.

There are approximately 175 Superior Court judges in Arizona. The judges in the two largest counties (encompassing Phoenix and Tucson) are appointed by the governor, based upon merit. Each judge is put on the ballot every four years so that the citizens can vote whether to retain him or her. The judges in most of the 13 other counties are elected by the citizens of those counties.

By statute, most cases seeking a monetary award equal to or less than a set amount are subject to mandatory arbitration. In most counties, that amount is $50,000. If arbitration is mandated, the court randomly appoints a local attorney to serve as arbitrator. The arbitrator has broad power to administer oaths, determine the admissibility of evidence and decide the law and facts of the case submitted. The parties conduct discovery pursuant to the ordinary rules of procedure. The rules of evidence also apply, but they are significantly relaxed. In fact, the rules expressly permit parties to submit expert testimony via deposition or report. Parties can appeal the arbitrator's decision; however, the appealing party must obtain a result that is at least 23% more favorable than the arbitrator's award; otherwise or he/she will be ordered to pay the other party's taxable costs, expert witness fees and attorney's fees. All arbitration appeals are done de novo to the superior court.

Appellate Court
There are two appellate courts in Arizona: the Court of Appeals and the Supreme Court. The Court of Appeals has two divisions. Division 1 is in Phoenix and has 16 justices. Division II is in Tucson and has six justices. All of the justices are appointed by the Governor. Generally speaking, the Court of Appeals must accept any appeal properly brought before it. It hears and decides cases in three judge panels.

The Supreme Court is Arizona's court of last resort. It is made up of five justices that are appointed by the governor. The Supreme Court serves two basic functions in the civil arena. First, it has discretionary jurisdiction to review the findings/decisions of lower courts when a party files a petition for review. Second, it provides the rules of procedure for the lower courts.

ARKANSAS

The Arkansas trial court system consists of 89 city courts, 98 district courts, and 23 circuit courts.

CITY COURTS

Currently, there are 89 city courts served by 73 judges, 29 of whom are also district court judges. The city court has original exclusive jurisdiction for the trial of violations of city ordinances and original jurisdiction concurrent with the circuit court for the trial of offenses defined as misdemeanors by state law and committed within the city in which the court is located. Any conviction or sentence of the city court may be appealed to circuit court for a trial de novo.

DISTRICT COURTS

There are a total of 98 district courts in Arkansas.

Each district court in Arkansas has a division known as small claims court where individuals can sue to recover for damages to personal property, money owed, or for delivery of personal property where the recovery sought is $5,000 or less. Small claims courts are designed to allow individuals to settle certain disputes in court under relaxed rules of procedure and without attorneys. Money damages cannot exceed $5,000.

Each district court has original jurisdiction within its territorial jurisdiction over the following civil matters: (a) exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100) excluding interest, costs and attorney's fees; (b) concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars ($5,000) excluding interest, costs and attorney's fees; (c) concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars ($5,000); and (d) concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars ($5,000) excluding interest and costs.

The district courts have limited discovery with bench trials only. There is an appeal de novo available from the district court to the circuit court, where a jury may be demanded.

Of the 98 district courts in Arkansas, 21 are State Pilot District Courts. The pilot district courts are located in the following counties: Benton (4), Boone, Baxter, Greene, Mississippi, Poinsett, Independence, Cleburne, Pope, Sebastian (2), Saline, Pulaski (3), St. Francis, Union, and Miller. Judges in the district pilot program are elected to a four year term.. The pilot program allows the district courts to hear claims up to twenty-five thousand dollars ($25,000), rather than the non-pilot district courts' five thousand dollar ($5,000) limit.

CIRCUIT COURTS

There are 28 judicial circuits in the State of Arkansas. Circuit courts are divided into the following divisions: civil, criminal, domestic relations, juvenile, and probate. Circuit courts, except in the pilot district courts, have exclusive jurisdiction over civil claims exceeding $5,000 and have concurrent jurisdiction with district courts over claims between $100 and $5,000. Circuit courts have concurrent jurisdiction with pilot district courts over civil claims between $100 and $25,000 and have exclusive jurisdiction of claims over $25,000. Currently, there are 120 circuit judges in the State of Arkansas, each elected circuit wide for a six year term of office.

Jury trials are permitted in cases where the right to a jury trial existed when the Arkansas Constitution was framed. For instance jury trials are available in tort and contract claims for money damages and criminal cases but not for probate and domestic matters or those in which injunctive relief is sought. In cases involving both issues of law and equity, which until 2001 were considered in separate courts of law and equity, the legal issues are to be determined by a jury and the equitable issues are to be determined by the court.

ALTERNATIVE DISPUTE RESOLUTION
The Arkansas state court system does not provide for mandatory alternative dispute resolution.

On motion of all the parties, the court must make such an order of reference and continue the case or controversy pending the outcome of the selected dispute resolution process. In addition, each circuit and appellate court in Arkansas is vested with the authority to order any civil, juvenile, probate, or domestic relations case or controversy pending before it to mediation. If a case or controversy is ordered to mediation, the parties may still move to dispense with the order to mediate for good cause shown.

GENERAL OVERVIEW OF THE APPELLATE SYSTEM

THE COURTS
The Arkansas appellate court system consists of the Arkansas Court of Appeals and the Arkansas Supreme Court. The Arkansas Court of Appeals consists of one chief judge and eleven judges. Each judge is elected circuit wide for an eight year term of office. The Arkansas Supreme Court consists of seven judges, one chief justice and six associate justices. Each justice is elected state wide for an eight year term of office.
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THE PROCESS
All cases appealed shall be filed in the Court of Appeals except that the following cases shall be filed in the Supreme Court:

1. All appeals involving the interpretation or construction of the Constitution of Arkansas;
2. Criminal appeals in which the death penalty or life imprisonment has been imposed;
3. Petitions for quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit courts
4. Appeals pertaining to elections and election procedures
5. Appeals involving the discipline of attorneys-at-law and or arising under the power of the Supreme Court to regulate the practice of law;
6. Appeals involving the discipline and disability of judges;
7. Second or subsequent appeals following an appeal which has been decided in the Supreme Court; and
8. Appeals required by law to be heard by the Supreme Court.

Any case is subject to reassignment by the Supreme Court. Litigants in their appellate pleadings may urge that an issue of legal significance merits assigning the case to the Supreme Court. In reassigning a case, the Supreme Court will consider but not be limited to the following:

1. issues of first impression
2. issues upon which there is a perceived inconsistency in the decisions of the Court of Appeals or Supreme Court,
3. issues involving federal constitutional interpretation,
4. issues of substantial public interest,
5. significant issues needing clarification or development of the law, or overruling of precedent, and
6. appeals involving substantial questions of law concerning the validity, construction, or
7. interpretation of an act of the General Assembly, ordinance of a municipality or county, or a rule or regulation of any court, administrative agency, or regulatory body.

Appeals to the Court of Appeals are generally heard by a three judge panel. A non-prevailing party before an Arkansas Court of Appeals panel may petition for rehearing to the full Arkansas Court of Appeals. No appeal of right shall lie from the Court of Appeals to the Supreme Court. A non-prevailing party before the Arkansas Court of Appeals may file a petition for review to the Arkansas Supreme Court. The Supreme Court will exercise its discretion to review an appeal decided by the Court of Appeals only on application by a party to the appeal, upon certification of the Court of Appeals, or if the Supreme Court

decides the case is one that should have originally been assigned to the Supreme Court. In determining whether to grant a petition to review, the following, while neither controlling nor fully measuring the Supreme Court's discretion, indicate the character of reasons that will be considered: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is arguably in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals arguably erred in some way related to one of the grounds listed as considerations for reassignment.

CALIFORNIA

The California civil court system is three-tiered: (1) superior courts; (2) courts of appeal; and (3) the California Supreme Court.

Superior court is the first level of the California civil court system. The superior courts have original jurisdiction in all civil and criminal matters within the state of California. The caseload of the superior courts is divided between small claims, limited jurisdiction and unlimited jurisdiction . An action is designated a small claim if the claim involves damages of $7,500 or less if the plaintiff is an individual/sole proprietorship and damages of up to $5,000 if the plaintiff is a corporation/limited liability company/partnership. Cal. Code of Civ. Proc. §116.220-116.221. Small claims actions are most commonly tried before a court commissioner. Attorneys are not allowed to represent parties in small claims court. Cal. Code of Civ. Proc. §116.530. If either party appeals a court commissioner's decision, the next step is superior court, not the court of appeals. Cal. Code of Civ. Proc. § 116.710. Limited jurisdiction claims seek recovery of damages in excess of the values listed for small claims but less than or equal to $25,000. Cal. Code of Civ. Proc. §86. Limited jurisdiction claims are further split between claims seeking damages of less than or equal to $10,000 and greater than $10,000 but less than or equal to $25,000, however there are no practical differences between the two. Unlimited jurisdiction claims are claims for greater than $25,000. Cal. Code of Civ. Proc. §88. Both limited and unlimited jurisdiction claims are tried to a judge or jury. Each party has a right to request a jury, and often the decision to present a case to a jury or bench trial is strategic and depends on the issues.

California has 58 counties, each with at least one superior court. Currently, there are over 1,500 superior court judges. Some counties only have one courthouse, but some of the larger counties have multiple courthouses which are broken up into districts within the county. For example, Los Angeles County Superior Court alone has 47 courthouses, with 429 superior court judges. A party can substitute a judge without having to show cause so long as the request is made timely. Cal. Code of Civ. Proc. §170.6.

Cal. Code of Civ. Proc. § 1775.2, provides a superior court with the authority to order parties to undertake one of the ADR alternatives. Moreover, while the court cannot require binding arbitration because of the due process right to a jury trial, the court can require the parties to personally participate in the ADR process so that individuals with settlement authority are present. That said, the superior court cannot require resolution with ADR, only good faith participation.

APPEAL PROCESS

The court of appeals represents the second level of the California civil court system. The court of appeals has appellate jurisdiction and consists of 105 justices from six districts. The first district is located in San Francisco. The second district is located in Los Angeles, with a secondary courthouse located in Ventura. The third district is located in Sacramento. The fourth district is divided into three divisions, located in San Diego, Riverside and Santa Ana. The fifth district is located in Fresno and the sixth is located in Son Jose. Appellate justices generally serve twelve-year terms. Cal. Code of Civ. Proc. Title 13, commencing at §901 thereof, governs appellate procedure. Generally, the justices will sit as a three-justice panel to decide the merits of an appeal. Pursuant to Cal. Code of Civ. Proc. §904.1, in order to appeal a decision to the court of appeals, there must be a final order from the superior court, with limited exceptions. Every party has a right to oral arguments. Generally, with very limited exceptions, interlocutory appeals are not permitted in California.

SUPREME COURT

The California Supreme Court is the third and final level of the California civil court system. The California Supreme Court consists of seven Justices who are elected to 12-year terms. If a party desires to have a decision reviewed, a petition for review must be filed with the California Supreme Court within 10 days of the decision. Cal. Rules of Court 8.500(e)(1). Unlike the United States Supreme Court, which can be forced to take cases by Congress, the California Supreme Court has complete autonomy. That said, the California Supreme Court technically has the authority to take whatever case the Court wants, so long as the Court is following the Court's own rules. As in appellate court and pursuant to Cal. Rules of Court 8.256, every party has a right to oral arguments. A vacancy in the Court is filled by a Governor's appointment and, if a Justice is appointed, he or she must stand for retention election the following general election. Recent studies indicate that decisions of the Supreme Court of California are by far the most followed of any state Supreme Court in the United States. Many important legal concepts have been pioneered or developed by the Court, including strict liability for defective products, fair procedure, negligent infliction of emotional distress, palimony, insurance bad faith, wrongful life, and market-share liability. Six current justices were appointed by Republicans and one by a Democrat.

COLORADO

Colorado has a three-tier system for civil cases: The Colorado Supreme Court, the Colorado Court of Appeals and District Courts. The District Courts are the trial courts. The state is divided into twenty-two judicial districts, some made up of a single county and others containing multiple counties. The five major metropolitan courthouses are in Denver, Boulder, Adams, Jefferson and Arapahoe counties and these courthouses are all within a half-hour drive of downtown Denver.

District Courts hear civil cases above $15,000, as well as domestic relations, criminal, juvenile, probate, and mental health cases. There are also County Courts which handle civil cases under $15,000 and small claims. County court decisions may be appealed to the district court.

Unless exempted by court order, all cases must undergo a Mediation/ADR process before trial. Private mediation services are often used but the courts also provide mediators.

District court decisions may be appealed to the Colorado Court of Appeals (in some cases directly to the Colorado Supreme Court). The Colorado Court of Appeals is usually the first court of appeals for decisions from the district courts. The Court of Appeals also reviews decisions of several state administrative agencies. Its determination of an appeal is final unless the Colorado Supreme Court agrees to review the matter which is uncommon is civil cases. The Court of Appeals employs three judge panels and the decision of one panel is not binding on another panel on the same issue. Competing rulings on the same issue can be found and must be dealt with in the trial courts until the Colorado Supreme Court clarifies the issue.

The Colorado Supreme Court is the court of last resort in Colorado's state court system. The court generally hears appeals from the Court of Appeals, although in some instances individuals can petition the Supreme Court directly regarding a lower court's decision. Requests to review decisions of the Colorado Court of Appeals constitute a majority of the Supreme Court's filings. The Supreme Court grants less than one in ten petitions for review of a Court of Appeals decision.

The Supreme Court is composed of seven justices who serve ten-year terms. The Chief Justice is selected from the membership of the body and serves at the pleasure of a majority of the justices. The Chief Justice also serves as the executive head of the Colorado Judicial System and is the ex-officio chair of the Supreme Court Nominating Commission. The Chief Justice appoints the Chief Judge of the Court of Appeals and the Chief Judge of each of the state's 22 judicial districts and is vested with the authority to assign judges (active or retired) to perform judicial duties. In addition Colorado's attorneys are licensed and disciplined by the Supreme Court

CONNECTICUT

The Connecticut civil court system is three-tiered, and consists of the Superior Courts, the Appellate Court and the Supreme Court.

The state is divided into 13 judicial districts, 22 geographical areas and 14 juvenile districts. In general, major criminal cases, civil matters and family cases not involving juveniles are heard at judicial district court locations. Other matters are heard at geographical area locations. Cases involving juveniles are heard at juvenile court locations. The number of judges appointed to a judicial district varies, depending on the size of the judicial district.

Superior Court

The Superior Court is the first level of the Connecticut civil court system. The Superior Court has original jurisdiction in all civil matters, including small claims, civil jury and non-jury matters, family, juvenile, housing, administrative appeals, probate appeals, summary process (evictions), and all other landlord and tenant matters.

An action is designated a small claim if it involves damages of $5,000.00 or less, exclusive of interest and costs. Libel and slander cases are not permitted in small claims court. The only exception to the $5,000.00 limit is in cases seeking the return of a security deposit in a landlord–tenant matter where the plaintiff may sue for double the amount of the security deposit, plus interest, even if the doubled amount brings the claim over the $5,000.00 limit. Small claims actions are mostly tried before judicial magistrates, who are appointed by the Chief Court Administrator. There is no appeal from a small claims decision; however, a defendant (or the plaintiff if the defendant has filed a counterclaim) may transfer a small claims case to the Superior Court, where there is the right to appeal.

Claims under $15,000.00 are tried to the court. Claims where the amount in dispute is $15,000.00 or more may be tried to a judge or jury. Both parties have a right to request a jury trial. The time from the filing of the complaint until trial varies widely among the judicial districts, but typically averages about two years.

Particularly complex cases, which include cases with challenging legal issues, multiple litigants and/or high monetary value, can be transferred from the normal Superior Court docket to the Complex Litigation Docket by application filed by any party may file. Unlike cases on the regular docket, cases on the CLD are assigned to one judge who oversees all aspects of the case.

All Superior Court judges are nominated by the Governor from a list of candidates submitted by the judicial selection committee and are confirmed by the General Assembly. Judges serve eight-year terms and are eligible for reappointment. A judge may hold office until age 70, at which time retirement is required although a judge may continue as a judge trial referee. Litigants can consent to a jury trial before a judge trial referee.

Not all Superior Court matters are presided over by judges or judge trial referees. Attorney trial referees, who are appointed by the Chief Justice, can hear non-jury matters (or jury matters, if the parties and their attorneys consent to the referral). Decisions of an attorney trial referee are subject to judicial review and approval and may be appealed. Magistrates also hear some non-jury motor vehicle cases.

Connecticut has both a non-binding arbitration and non-binding mediation program. Non-binding arbitration applies to jury cases with a value of less than $50,000.00, exclusive of interest and costs. A party or the court may petition for referral of any civil action to non-binding arbitration. The arbitrator's award may not exceed $50,000.00. The decision of the arbitrator becomes a judgment if neither party files a request for a trial de novo within 20 days of the arbitrator's decision.

The court or the parties can also refer the case to court-annexed or private non-binding mediation. Court-annexed mediation is provided at no cost to the parties, and is scheduled via a court-annexed mediation request form wherein the parties list three proposed mediators selected from a list provided by the court.

The form is filed with the court's mediation coordinator, who contacts the mediator and schedules the mediation session. Mediation submission papers are required prior to the mediation session. The matter is stayed for 90 days while the parties meet with the mediator.

Private non-binding mediation is scheduled privately by the parties, who select and contact the mediator independently of the court. Litigants typically share the cost of a private mediator equally. The parties can also file a form called "Request and Stipulation for Referral to Private ADR Provider" with the court, which stays the case for up to 90 days while the parties meet with the mediator.

Appellate Court

The Connecticut Appellate Court is the second level of the Connecticut civil court system. Only Superior Court decisions may be appealed, with the exception of decisions of the workers' compensation commissioners, which bypass the Superior Court and are appealed directly to the Appellate Court. Generally, the aggrieved party has 20 days from the date of the judgment or decision to appeal, but shorter time periods exists for certain matters and they can be as short as 72 hours.

There are nine Appellate Court judges, one of whom is designated by the Chief Justice to be Chief Judge. In addition, judges who are eligible and who have not attained the age of 70 may elect to take senior status and remain as members of the court. Appellate judges serve eight-year terms and are eligible for reappointment.

Generally, three judges hear and decide each case, although the court may also sit en banc. Oral argument is limited to 20 minutes per side. The appellant may reserve time for rebuttal. The Appellate Court can decide that a case is ready for disposition without oral argument. In those cases, a request for oral argument may be made within seven days of receipt of notice by the court of such determination.

The Appellate Court does not have any deadline on when it must issue a decision, but generally speaking most appeals are decided within six months of oral argument. A party can move for reconsideration of a decision of the Appellate Court. The motion must be filed within 10 days of the official release of the decision.

Supreme Court

The Connecticut Supreme Court is the highest court in Connecticut and hears appeals from the Appellate Court if three justices of the Supreme Court vote to certify the case for appeal, which is completely discretionary. Petitions for certification must be filed within 20 days from the official release date of the Appellate Court decision or within 20 days of the order on a motion for reconsideration filed with the Appellate Court. In certain cases, appeals may be brought directly to the Supreme Court from the Superior Court. These cases include decisions involving the validity of the state constitution or statutes and capital felony convictions.

The Supreme Court consists of the Chief Justice and seven associate justices. Justices are appointed by the governor after approval by the General Assembly. They serve an eight-year term and are eligible for reappointment. Justices must retire at the age of 70, but may assume senior status before age 70 and continue to sit on the bench. After age 70, they may continue hearing cases in the Superior Court or Appellate Court as judge trial referees after retirement.

Chief Justice Chase Rogers instituted a new rule in 2011 under which the court sits en banc for all oral arguments. Argument is usually limited to one half hour per side and typically takes place within four or five months after the submission of all briefs. The Supreme Court generally issues its decision within six to eight months after oral argument.

DELAWARE

Delaware is one of very few states that have separate courts of law and equity. There are three courts of law, with different jurisdictional amounts.

The trial courts are organized by county. Delaware has three counties: New Castle County in the north, which includes Wilmington, the State's largest city; Kent County in the middle, which includes Dover, the State capital, and Sussex County in the south.

1. Courts of law

a. Superior Court.
Court of general jurisdiction for civil cases seeking monetary damages. No equity jurisdiction. Jury trials if demanded. Hears civil and criminal cases. Also hears appeals from lower courts and administrative agencies. Appeals from Superior Court are to the Delaware Supreme Court.

With consent of the parties, the Superior Court will arbitrate or mediate business cases where more than $100,000 is at issue.

b. Court of Common Pleas. Non-jury trials. Jurisdiction up to $50,000.

c. Justice of the Peace Courts. Non-jury trials. Jurisdiction up to $15,000. No personal injury claims.

2. Court of equity

Court of Chancery. Hears cases involving demands for injunctive relief and cases arising under Delaware's corporate, limited liability company, and partnership acts. Appeals from the Court of Chancery are to the Delaware Supreme Court.

With consent of the parties, Court of Chancery will arbitrate or mediate business cases where more than $1 million is at issue, including claims for damages over which the Court of Chancery would not otherwise have jurisdiction.

3. Family Court. Hears divorce cases.

4. Supreme Court. Hears appeals from Superior Court, Court of Chancery and Family Court.

5. Judicial Selection. Judges are appointed by the Governor and confirmed by the State Senate for 12 year terms. Candidates apply to the Judicial Nominating Commission, which includes lawyers and non-lawyers. The Judicial Nominating Commission sends three names to the Governor for each open seat.

The Delaware Constitution requires that the Supreme Court and the Superior Court each be politically balanced and that the Supreme Court, the Court of Chancery and the Superior Court together be politically balanced.

FLORIDA

County and Circuit Court
Florida is made up of 67 counties, each of which contains a county court as established by the State Constitution. There are currently 254 county court judges, the number of judges sitting in each court varying dependent upon the county's population. County court judges are elected and serve six-year terms. Once elected, county court judges are eligible for assignment to circuit court. The jurisdiction of county courts is established by statute. The majority of cases heard within county courts involve citizen disputes such as traffic offenses, county and city ordinance violations, less serious criminal offenses and civil cases involving less than $15,000 such as landlord/tenant disputes.

While the majority of non-jury trials in Florida take place before one judge in a county court, the majority of jury trials take place before one judge sitting in the circuit court. Most civil and criminal cases in Florida originate at the circuit court level in courts of general jurisdiction, handling such matters as domestic relations, major criminal offenses, probate issues, civil cases involving amounts greater than $15,000, and appeals from county courts. Additionally, circuit courts have the power to issue the extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus. Florida's Constitution provides for the existence of a circuit court in each judicial circuit established by the Legislature. To date, there are twenty judicial circuits. The number of circuit court judges sitting within each circuit varies with the population and caseload of the area. Circuit court judges are elected by the voters of the circuits in nonpartisan, contested elections. Once elected, judges serve for six-year terms.

Alternative dispute resolution (ADR) is widely used throughout the state to settle disputes. The court-connected mediation and arbitration programs represented in Florida are organized based on the needs of the court, the availability of volunteers and the accessibility of funding sources. Currently, there are nine citizen dispute settlement programs, 49 county mediation programs (serving all 20 circuits), 45 family mediation programs, 13 circuit civil mediation programs, 40 dependency mediation programs, three arbitration programs and one appellate mediation program. Since the inception of these ADR programs, there has been extensive growth in private sector resolution of court-ordered cases and the resolution of cases through mediation which would otherwise have become civil suits. Many courts impose court-ordered county civil mediation and arbitration, family (divorce) mediation, and circuit civil mediation and arbitration programs.

District Courts of Appeal

In 1957, the Florida Legislature created the District Courts of Appeal ("DCA") in order to provide an intermediate level of appellate review between the county and circuit courts, and the Florida Supreme Court. The Florida Constitution provides for DCAs and requires the legislature to divide the state into appellate court districts. Today, there exist five DCAs headquartered in Tallahassee, Lakeland, Miami, West Palm Beach, and Daytona Beach. The number of judges at each DCA varies based on the docket size. DCA judges are first recommended by the Florida Judicial Nominating Committee and are then appointed by the Governor. Judges serve terms of six years and are eligible for successive terms under a merit retention vote of the electors in their districts.

Three-judge panels in each DCA hear appeals from final judgments, can review certain non-final orders and have the constitutional authority to issue certain extraordinary writs. The DCAs constitute "courts of final decision" as they represent the final appellate review of litigated cases. Upon a decision issued by a DCA, a displeased party's only recourse is to ask for review in the Florida Supreme Court and then in the United States Supreme Court, however neither higher court is required to accept the case for further review. The overwhelming majority of such requests are denied.

Florida Supreme Court

The highest Court in Florida is the Supreme Court, which is headquartered in Tallahassee, the State's capital. The Court is composed of seven Justices and must have at least one Justice who resided in each of Florida's five appellate districts on the date of appointment. Justices are chosen by a system of "merit retention" under which the Governor fills a Court vacancy by choosing from a list of between three and six qualified persons recommended by the Judicial Nominating Commission. When a Justice's six-year term expires, his or her name appears on the general election ballot for a merit retention vote. Justices are also subject to mandatory retirement. Retirement age is determined by a method set forth in Article V, section 8 of the Florida Constitution, which delineates that if a Justice reaches age 70 in the first half of a six-year term, mandatory retirement must occur on the Justice's 70th birthday. Otherwise, the Justice can remain on the Court until the end of the six-year term.

The jurisdiction of the Florida Supreme Court is both mandatory and discretionary. Article V of the Constitution bestows upon the Supreme Court mandatory authority to review final orders imposing death sentences, district court decisions declaring a State statute or provision of the State Constitution invalid, bond validations, and certain orders of the Public Service Commission. Additionally, the Supreme Court has discretionary authority to review any decision of a DCA that expressly declares valid a state statute,

construes a provision of the state or federal constitution, affects a class of constitutional or state officers, or directly conflicts with a decision of another DCA or of the Supreme Court on the same question of law. Further, the Supreme Court may review certain questions of law certified to it by the DCAs and federal appellate courts and has the constitutional authority to issue a number of extraordinary writes, such as prohibition, mandamus, quo warranto and habeas corpus.

Additional responsibilities of the Florida Supreme Court include issuing advisory opinions at the governor's request concerning interpretation of the state constitution regarding the governor's powers and duties. The Court is also responsible for promulgating rules governing the practice and procedure in all Florida courts, subject to the power of the Legislature to repeal any rule by a two-thirds vote of its membership. In addition, the Court has the authority to regulate the admission and discipline of lawyers in the state and to discipline and remove judicial officers.

GEORGIA

Courts of Original Jurisdiction

Georgia has a unified judicial system, created by state constitution, consisting of five classes of trial courts (superior, state, magistrate, juvenile, and probate courts) and two appellate courts (the Supreme Court of Georgia and the Georgia Court of Appeals).

Each county (there are 159) is assigned a judicial circuit and a Superior Court is the trial court of general jurisdiction for counties in that circuit. O.C.G.A. § 15-6-1. Superior Courts have exclusive jurisdiction of felony cases, equity cases, cases respecting title to land, and divorce cases. Superior Courts have appellate jurisdiction from judgments of probate and magistrates courts. O.C.G.A. § 15-6-8. Probate courts, state courts, juvenile courts and magistrate courts are trial courts of limited jurisdiction. O.C.G.A. Title 15. There are also inferior courts which exist independent of the unified judicial system, including certain municipal courts, county recorder’s courts, and civil courts. GA. CONST. art. VI. Jury trials are permitted in State and Superior courts and some other civil courts upon timely request by the civil litigant. While judges in State and Superior courts are to be elected, it is common for judges to be appointed by the governor to serve out the time of a resigning or retiring judge.

Some counties have a State court that has concurrent jurisdiction with Superior Courts for civil actions without regard to the amount in controversy, except those actions in which exclusive jurisdiction is vested in Superior Courts. State courts have concurrent jurisdiction with Superior Courts in criminal cases below the grade of felony, applications for issuance of arrest and search warrants, punishment of contempt by fine not exceeding $500 or imprisonment not exceeding 20 days or both, and review of decisions of other courts as provided by law. O.C.G.A. §§ 15-7-1 through 4.

The Supreme Court of Georgia adopted Uniform Rules for Superior Courts and State Courts, effective July 1, 1984. Some but not all courts have mandatory ADR that could be mediation, arbitration, or other proceedings.

Each county may also have a magistrate court with jurisdiction over civil claims in which exclusive jurisdiction is not vested in a Superior Court and the amount demanded or value of property claimed does not exceed $15,000.00. O.C.G.A. § 15-10-2.

Appellate Courts

Appellate courts include a Court of Appeals and Supreme Court. The Supreme Court has jurisdiction of cases involving construction of the Georgia or United States Constitution; questions of whether a law, ordinance, or constitutional provision is constitutional; election contests; cases involving title to land, extraordinary remedies; wills; all equity cases; and certain criminal and domestic cases. The Supreme Court may review cases from the Court of Appeals by way of certiorari which involves cases of gravity or great public importance. GA. CONST. art. VI, § VI. The Court of Appeals has appellate jurisdiction for all cases from superior courts, juvenile courts, and county state courts if exclusive jurisdiction has not been conferred on the Georgia Supreme Court. GA. CONST. art. VI, § V.

LAW
Abbreviations
Ga. – Georgia Reports.
Ga. App. – Georgia Appeals Reports.
Ga. R. Professional Conduct – Georgia Rules of Professional Conduct.
O.C.G.A. – Official Code of Georgia Annotated.
S.E. – South Eastern Reporter.
S.E.2d – South Eastern Reporter, Second Series.

IDAHO

Idaho has a three tiered Court system: District Court, Court of Appeals and the Idaho Supreme Court. The District Court also includes Magistrate Court, which is a court of limited jurisdiction.

Magistrate Courts
Magistrate Courts have jurisdiction over civil matters, domestic relations, preliminary hearings for felony criminal matters and misdemeanor criminal matters, juvenile matters and small claims. The Magistrate Court has jurisdiction over small claims up to $5,000. Small Claims Court is limited to participation by the parties only. Attorneys may not appear for the parties in Small Claims Court. The Magistrate Court level also hears any civil actions, regardless of type, if the amount in controversy is $10,000 or less. Appeals from Magistrate Court decisions may be taken to the District Court level.

District Courts
District Courts in Idaho are the general trial level courts for all civil matters in which the amount in controversy exceeds $10,000. A jury trial must be requested in a timely manner. There is no limit to the amount in controversy that can be tried to a court or jury at the District Court level. District Courts also have jurisdiction of all felony criminal trials following the preliminary hearing stage, and are the courts with appellate jurisdiction for domestic relations matters.

District Court judges serve six year terms. They are re-elected by popular vote but only within the District in which they sit. Contested elections for District Court judge positions are extremely rare. Vacancies are generally filled by appointment by the Governor. There are 44 counties in the State of Idaho. The State is divided into seven Judicial Districts. District Court Judges, as well as Magistrate Judges, handle cases only within their Judicial District. Each county has its own District Court. The more populated counties have several District Judges as well as several Magistrates.

A jury panel is drawn only from the county in which the District Court is located and the case is filed.

Idaho does not have mandatory mediation for all civil cases. However, the District Court has the discretion to order mediation in any civil case, and the parties often voluntarily agree to mediation prior to trial.

The District Court judicial system does not hear workers' compensation cases. All workers' compensation cases are handled first at the Idaho Industrial Commission through contested hearing or decision. All appeals of workers compensation cases are to the Idaho Court of Appeals.

Court of Appeals
The Idaho Court of Appeals is the first level appellate court to which decisions from the District Court may be appealed, as well as all decisions in workers compensation cases. The Idaho Court of Appeals, however, hears appeals of general civil cases from the District Court only by assignment from the Idaho Supreme Court. Any civil case involving bodily injury or property damage potentially can be assigned to the Idaho Court of Appeals once appealed from the District Court, but in most cases, the Idaho Supreme Court retains appeals of more significant bodily injury and property damage cases, as well as other civil cases which may involve significant issues of law.

The Court of Appeals consists of a three judge panel which hears all appeals assigned to it. The Court of Appeals may hear appeals in various locations throughout the State of Idaho as needed. Judges on the Court of Appeals are generally appointed by the Governor and must stand for popular election statewide every six years.

Supreme Court
The Idaho Supreme Court is the court of last resort for appeal in Idaho. Any decision of the District Courts following dispositive motion, court or jury trial may be appealed, and most are heard by the Idaho Supreme Court. The Idaho Supreme Court consists of five justices, each generally appointed by the Governor of the State, but we have had a few contested elections for a position on the Idaho Supreme Court in recent years. All Supreme Court judges stand for election statewide every six years. Any decision by the Idaho Court of Appeals in a civil action may be appealed to the Idaho Supreme Court, even if the case is referred to the Court of Appeals by the Idaho Supreme Court.

The time to file an appeal generally in Idaho is within 42 days of the date in which judgment or any other appealable order is entered.

The Chief Justice of the Idaho Supreme Court is an administrative appointment by the other members of the Idaho Supreme Court. The Chief Justice is elected by the other justices every four years.

ILLINOIS

Illinois' civil court system has three tiers: (1) Judicial Circuits which contain Circuit Courts and the Court of Claims which has jurisdiction over all claims against the State (these are the trial courts of Illinois); (2) Judicial Districts which contain Appellate Courts; and, (3) one Supreme Court. Additionally, there are several administrative bodies that aid and oversee Illinois' court system, such as the Illinois Courts Commission, a Judicial Inquiry Board, and the Clerk of the Supreme Court

Court of Claims
The Court of Claims has exclusive jurisdiction over all claims against the State founded upon any State law or regulation other than Workmen's Compensation claims, all claims for recoupment made by the State of Illinois against any claimant, all claims under the Line of Duty Compensation Act, all claims under the Crime Victims Compensation Act, all claims under the Illinois National Guardsman's Compensation Act, actions for recovery of funds deposited with the State pursuant to the Motor Vehicle Financial Responsibility Act, claims for damages caused by escaped inmates of State institutions, and all other claims against the State under related statutes. 705 ILCS 505.

The Governor, with the advice and consent of the State Senate, appoints the seven judges of the Illinois Court of Claims, who hold six-year terms. One judge is designated by the Governor to serve as Chief Justice. Commissioners act as hearing officers and make recommendations to the Court. The full Court meets monthly, alternating between the Chicago and Springfield courthouses, to conduct the business of the court.

The sixteen commissioners appointed by the Court of Claims to conduct trials, take evidence and make confidential recommendations to the Court as to the disposition of cases are lawyers who serve on a part time basis. They conduct court business in the region of the state in which they reside, and cases are assigned to them on a regional basis.

Circuit Courts
Circuit Courts have general jurisdiction over all civil and criminal cases, with the exception of cases heard exclusively by the Court of Claims or the Illinois Supreme Court.

Circuit Courts may be organized into divisions based on case type, such as Law Division (for general civil cases), Criminal Division, Probate Division, Traffic Division, and Domestic Relations Division. Circuit Courts may also have divisions for Juvenile Court and Juvenile Drug Court.

Circuit Courts offer a simplified small claims procedure for most civil cases that involve less than $10,000.00 in dispute.

Circuit Courts share jurisdiction with the Illinois Supreme Court over cases related to revenue, mandamus prohibition and habeas corpus, but if the Supreme Court accepts jurisdiction over a particular case, a Circuit Court loses jurisdiction over that case. In addition, Circuit Courts may not hear cases related to General Assembly redistricting or cases related to the ability of the Governor to serve in or resume office.

Circuit Courts are composed of circuit and associate judges. There are 23 judicial circuits in Illinois with each having one chief judge elected by the circuit judges. The chief judge has general administrative authority in the circuit, subject to the overall administrative authority of the Supreme Court. Circuit judges may hear any case assigned to them by the chief judge. Associate judges may not preside over felony cases unless authorized by the Supreme Court. Circuit judges are elected for six-year terms and they appoint associate judges who serve four-year terms. Candidates for elective judgeships are nominated at the primary election and elected at the general election. Any judge previously elected, at the expiration of his or her term, may have his or her name submitted to the voters on a special judicial ballot, without party designation and an opposing candidate, on the sole question of whether the judge shall be retained in office for another term.

Appellate Courts
Appellate Courts hear appeals from administrative agencies, the Court of Claims, and the Circuit Court. There are five appellate court districts in Illinois. The First Judicial District hears appeals from the Circuit Court of Cook County. The Second Judicial District hears appeals from the 15th, 16th, 17th, 18th, 19th, and 22nd Judicial Circuits. The Third Judicial District hears appeals from the 9th, 10th, 12th, 13th, 14th, and 21st Judicial Circuits. The Fourth Judicial District hears appeals from the 5th, 6th, 7th, 8th, and 11th Judicial Circuits. The Fifth Judicial District hears appeals from the 1st, 2nd, 3rd, 4th, and 20th Judicial Circuits. Appellate Court decisions are binding on all Circuit Courts unless the Appellate Court of the district in which that circuit court sits has entered a contrary decision on the same issue, in which case the decision of the circuit court's home appellate court is controlling. Appellate judges are elected for 10-year terms.

Supreme Court
The Illinois Supreme Court, the highest tribunal in the state, has general administrative and supervisory authority over all courts in Illinois. The Supreme Court hears appeals from the Appellate and Circuit Courts and may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition or habeas corpus. Supreme Court justices are elected for 10-year terms.

Administrative Bodies
The **Illinois Courts Commission**, composed of one Supreme Court justice, two Appellate judges, two Circuit judges and two citizens, has the authority to remove from office or discipline judges for willful misconduct in office or persistent failure to perform duties, or other conduct that brings the judicial office into disrepute. The commission also may suspend or retire any member of the judiciary who is physically or mentally unable to perform his or her duties.

A **Judicial Inquiry Board** has the authority to conduct investigations, receive or initiate complaints concerning any member of the judiciary, and file complaints with the Courts Commission.

The **Clerk of the Supreme Court** is appointed by the Supreme Court justices. The clerk records and files documents for Supreme Court cases; schedules cases for oral argument; monitors the caseload of the court; maintains the roll of Illinois attorneys; processes the licensing of attorneys; and registers professional service corporations and limited liability companies and partnerships engaged in the practice of law.

Law
Abbreviations

N.E.(2d):	North Eastern Reporter
Ill. Dec.	Illinois Decisions (Supreme Court decisions)
Ill. App. (2d/3d)	Illinois Appellate Court Reports
Ill. Ct. Cl.	Illinois Court of Claims

INDIANA

The Indiana civil court system is three-tiered: (1) trial courts (consisting of Circuit Courts. Superior Courts, and local or city courts), (2) the Indiana Court of Appeals, and (3) the Indiana Supreme Court.

Trial Courts

Indiana consists of ninety-two counties. The Indiana Constitution granted to the State Assembly the power o create judicial circuits, and the General Assembly divided the state into circuits based on county lines. Each county in Indiana has at least one Circuit Court, except for Dearborn and Ohio counties, which share one Circuit Court. Circuit Courts have unlimited jurisdiction unless exclusive jurisdiction is conferred on another court. In counties without Superior Courts, Circuit Courts also have jurisdiction over small claims cases, which have a maximum jurisdictional amount in controversy of $6,000. One exception is Marion County (Indianapolis) which has established a system of nine small claims courts from which an appeal is taken to the Superior courts, de novo.

Circuit Courts, as well as Superior Courts, also have appellate jurisdiction over local and city courts. Superior Courts were later allowed as the necessity for more trial courts increased. Superior Courts generally have unlimited jurisdiction unless exclusive jurisdiction is conferred to another court, but jurisdiction rules can vary for each county.

Town or city courts can be established by local ordinance and often have jurisdiction over local ordinance violations and traffic offenses. Appeals from these courts come before Superior or Circuit Courts and are decided independently of any proceedings that occurred at the town or city court level.

Several counties, particularly those with the greatest populations, have enacted Local Rules of Court in addition to the Indiana Rules of Trial Procedure which supplement or change the requirements by which a party must abide. The Indiana Rules are generally modeled after the Federal Rules of Civil Procedure. Each party in a civil case has a right to request a trial by jury, but cases are often tried only before a judge pursuant to the parties' strategy and the issues of the case. Trial court judges in Indiana are elected officials, although the tenure of judges and the electoral process may vary by county or by the type of court in which the judge is elected. Each party in a civil action shall be granted a change of judge upon its motion without having to show cause; however, a party will only be entitled to one change from the judge.

Alternative dispute resolution is favored in Indiana, and the procedure for conducting mediation is often considered even in a court's early scheduling orders. Several counties have made it a part of their local rules that the parties, represented by an individual with full settlement authority, attend mediation prior to trial. Indiana has also adopted its Rules for Alternative Dispute Resolution which provide procedural guidelines for conducting mediation.

While there are appellate courts as discussed below, the Indiana Rules allow a party to file a motion to correct errors to the trial court before pursuing an appeal to the Court of Appeals. Doing so extends the time to appeal to the Court of Appeals to allow the trial court an opportunity to alter its findings but such motion is deemed automatically denied if not acted upon and the time for appeal to the Court of Appeals then begins to run. A party has 30 days to file a notice of appeal and start the appellate process. If a matter is not final, a decision of the trial court can only be appealed to the Court of Appeals if the trial court and the appellate court agree that an interlocutory appeal should be allowed.

Appellate Courts
The Court of Appeals represents the second level of the Indiana civil court system. It has 5 appellate divisions all based in Indianapolis. Three of the divisions draw appeals from specific geographical areas while the other two are considered at large. Generally at least one judge from a division where an appeal originates will be assigned to an appeal from that division but that is not always the case. Appellate judges are appointed by the Governor and face a recall election every 10 years. The Indiana Rules of Appellate Procedure control procedure in the Supreme Court the Court of Appeals.

Generally, the judges will sit as a three-judge panel to decide the merits of an appeal with the most senior judge assigning which of them will write an opinion in the case. Of course if one disagrees that judge may write a dissent. Oral arguments have become rare for the Court of Appeals. The process of appeal includes several specific requirements which must be timely completed or a party risks the appeal being dismissed for lack of jurisdiction in the Court of Appeals. The appellate court can issue memorandum decisions which are deemed "not for publication" and not then available to be cited as precedent in subsequent cases. A petition for rehearing can be filed with the Court of Appeals for reconsideration of all or a portion of its decisions. If that is done the time for appeal to the Supreme Court is extended until that petition is decided.

Supreme Court
The Indiana Supreme Court is the third and final level of the Indiana civil court system. The Court consists of five Justices appointed by the Governor who must face a recall vote every 10 years. If a party desires to have a decision reviewed, a petition to transfer must be filed within 30 days of the final decision of the Court of Appeals. Like the United States Supreme Court, the Indiana Supreme Court is required by statute to hear certain types of cases, generally criminal matters. As such it's rulings are predominantly in regard to criminal appeals. That said, the Court technically has the authority to take whatever cases the Court wants, so long as the Court is following the Court's own rules. If a petition to transfer is granted it has the effect of vacating the Court of Appeals opinion. The Supreme Court generally hears oral argument in all cases before it. Amicus briefs can be filed if they are within the time frames allowed for the parties as extended by the court.

IOWA

The following information is taken directly from the Iowa Judicial Branch website link. www.iowacourts.gov.

District Courts: Judges
Let's begin where most court cases begin—with the district courts. The district court, which is also known as the trial court, is the point of entry in the court system for most cases. The **Iowa District Court** has general jurisdiction of all civil, criminal, juvenile, and probate matters in the state. The Iowa district court is composed of different kinds of judicial officers with varying amounts of jurisdiction: judicial magistrates, associate juvenile judges, associate probate judges, district associate judges, and district court judges.

Judicial magistrates serve primarily within the county of residence, but they may hear cases in other counties upon order of the chief judge of the district. Magistrates serve four-year terms and are appointed by county magistrate appointing commissions. Although magistrates are not required by law to be attorneys, most magistrates are attorneys. Magistrates have jurisdiction over simple misdemeanors, including scheduled violations, county and municipal infractions, and small claims. Magistrates have authority to issue search warrants, conduct preliminary hearings, and hear certain involuntary hospitalization matters.

The jurisdiction of **associate juvenile judges** is limited to juvenile court matters. They have authority to issue orders, findings, and decisions in juvenile cases, including cases that involve juvenile delinquency, child in need of assistance, and termination of parental rights. Associate juvenile judges also have authority to preside over adoptions. Associate juvenile judges serve six-year terms. They are appointed

by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.

Associate probate judges have jurisdiction limited to probate cases. They have authority to audit accounts and perform judicial duties in probate as prescribed by the chief judge. Associate probate judges serve six-year terms. They are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.

District associate judges have the jurisdiction of judicial magistrates plus authority to hear serious and aggravated misdemeanor cases, civil suits in which the amount in controversy is $10,000 or less, and juvenile cases when the judge is sitting as a juvenile judge. District associate judges are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission. Their term is six years.

District judges have the authority to hear any type of case within the district court. District court judges typically hear a variety of cases including civil, probate, felony criminal cases, dissolution of marriage, adoptions, disputes involving actions of state administrative agencies, juvenile cases and other matters. Many district judges travel extensively to make sure all of Iowa's counties have a regular schedule of judicial service. District judges are appointed by the governor from a slate of nominees chosen by the judicial election district nominating commission. Their term of office is six years.

Iowa's Appellate Courts: **Justices and Judges**
As the name suggests, appellate courts handle appeals—-requests from litigants for a trial court decision to be heard by a higher court. There are two appellate courts in Iowa's judicial system—the **Iowa Supreme Court** and the **Iowa Court of Appeals**. Seven justices sit on the Supreme Court and nine judges form the court of appeals. All appellate judges are appointed by the governor from a slate of nominees selected by the state judicial nominating commission. Supreme Court justices serve eight-year terms. Appellate court judges serve six-year terms. All appeals are to the Iowa Supreme Court. However, the Supreme Court may transfer a case to the Iowa Court of Appeals for consideration.

In addition to deciding cases, the Iowa Supreme Court is responsible for licensing and disciplining attorneys, promulgating rules of procedure and practice used throughout the state courts, and overseeing the operation of the entire state court system.

Iowa Judicial Branch Administrative Structure
Iowa is one of a handful of states that has a unified court system that is mostly state funded. As the head of the state court system, the Iowa Supreme Court oversees a statewide operating budget of approximately $150 million and is ultimately responsible for about 1,750 employees and judges.

The **State Court Administrator** assists the court with this enormous responsibility. The State Court Administrator's duties include gathering statistical data for the Iowa Judicial Branch, arranging training and education programs for judges and staff, overseeing all aspects of the day-to-day operation of the state's court system.

For purposes of administration, Iowa is divided into **eight judicial districts**. The districts, which vary in population and in size, are determined by the legislature. Each district is headed by a chief judge who is selected by the Iowa Supreme Court. The **chief judge** is responsible for overseeing all district operations and personnel.

KANSAS

District Court System
The Kansas court system is three-tiered: (1) district courts; (2) the Kansas Court of Appeals; and (3) the Kansas Supreme Court.

The District Court is the first level of the Kansas civil court system. The district courts are the trial courts of Kansas, with original jurisdiction over all civil and criminal matters, including divorce and domestic relations, damage suits, probate and administration of estates, guardianships, conservatorships, care of the mentally ill, juvenile matters, and small claims within the state of Kansas. The State of Kansas is comprised of 105 counties and 31 judicial districts. Each judicial district has at least one district court judge.

The caseload of the district courts is divided into Ch. 60 claims, limited action claims, and small claims. Small claims are for the recovery of money or personal property, where the amount in controversy does not exceed $4,000. K.S.A. § 61-2703(a). Limited action claims are for claims seeking judgment for an unsecured debt arising out of contract for goods, services, or money, claims seeking judgment for a secured debt arising out of contract for goods, services, or money where the amount in controversy does not exceed $25,000, and non-contract claims where the amount in controversy does not exceed $25,000. K.S.A. § 61-2802. Small claims and limited action claims are governed by Limited Action Civil Procedure, K.S.A. §§ 61-2701 et seq. They are mainly tried to a magistrate judge. Any appeal from small claims or limited actions is reviewed by a district court judge. All other claims may be filed with the district court and governed by the Rules of Civil Procedure, K.S.A. §§ 60-201 et seq. Each party has the right to request a jury. K.S.A. § 60-238.

The district courts have the authority to order parties to undertake some sort of alternative dispute resolution. The court can require the parties to personally participate in good faith in the alternative dispute resolution process so the parties with settlement authority are present. The decision whether to order the parties to attempt alternative dispute resolution takes place during the case management conference. K.S.A. § 60-216.

APPEAL PROCESS

The Court of Appeals is the second level of the Kansas court system. The Kansas Court of Appeals hears all appeals from administrative actions as provided by law, and all appeals from the district courts in both civil and criminal cases except those which may be appealed directly to the Kansas Supreme Court. K.S.A. § 60-2101. There is one Court of Appeals in Kansas with thirteen judges. The judges serve four year terms. The Court of Appeals may sit anywhere in the State. Hearings are regularly scheduled in Hays, Garden City, Chanute, Kansas City, Olathe, and Topeka. Hearings may also take place in other cities for the convenience of the parties. The Court may hear appeals en banc, but generally the Court of Appeals sits in panels of three judges. A final order from the district court is needed to appeal a decision to the Kansas Court of Appeals. K.S.A. § 60-2101. The Court of Appeals exercises discretion on determining whether to hear an interlocutory appeal. K.S.A. § 60-2102(c).

SUPREME COURT

The Kansas Supreme Court is the final level of the Kansas civil court system. The Kansas Supreme Court consists of seven justices. After the first year in office, a justice is subject to a retention vote in the next general election. If the justice is retained, the justice will remain in office for a term of six years. Justices are subject to retention votes at the conclusion of each term. The Kansas Supreme Court sits in Topeka. It hears appeals directly from the district courts in the most serious criminal cases and when a district court has held a Kansas statute unconstitutional. It has discretionary review of cases decided by the Kansas Court of Appeals. It may also transfer cases from the Court of Appeals. The Supreme Court has original jurisdiction in quo warranto, mandamus, and habeas corpus cases as provided by law. K.S.A. § 60-2101. According to the Supreme Court rules, the Chief Justice places cases on a summary calendar or general calendar. A case placed on the summary calendar is deemed submitted to the court without oral argument unless a motion by one of the parties for oral argument is granted. All other cases are placed on the general calendar. Kan. S. Ct. Rule 7.01.

KENTUCKY

Kentucky's current court system, established in 1975, is composed of four tiers: (1) District Court; (2) Circuit Court; (3) Court of Appeals; and (4) Supreme Court.

The trial courts consist of a general jurisdiction Circuit Court and a limited jurisdiction District Court. The appellate courts are the Court of Appeals and the Supreme Court of Kentucky.

Under Kentucky's Constitution, judges are elected in non-partisan races in which all registered voters may cast ballots. If asked, judicial candidates may reveal their political party affiliation, but the Judicial Code of Ethics prevents public activity in party politics or participating in endorsements.

Trial Courts

District Court

District court has limited jurisdiction over juvenile matters, city and county ordinances, traffic offenses, will probates, felony preliminary hearings, and civil cases involving $5,000 or less. KRS § 24A.010(1).

There are 60 judicial districts that vary in size and number of judges based on population and caseload. Currently, 116 elected district court judges serve four-year terms. Trial commissioners may be appointed to handle emergency or preliminary judicial duties as needed. KRS § 24A.100.

Defendants have the right to a jury trial in all criminal prosecutions. KRS § 29A.270(1). The defendant in a criminal case may request a jury trial at any time before his or her case is called for trial. Id. There is no right to a jury trial in civil actions in which the amount in controversy does not exceed two-hundred and fifty dollars. KRS § 29A.270(2).

Circuit Court

Circuit courts possess general jurisdiction over civil and criminal cases. KRS § 23A.010. Family court and drug court are divisions of Circuit Court. In addition to cases involving families, children, and individuals with substance abuse problems, Circuit Courts hear civil matters involving more than $5,000, capital offenses and felonies, land disputes, and contested wills. KRS § 23A.080.

Kentucky has 120 counties, each with at least one circuit judge, in 57 judicial circuits. KRS § 23A.020. Each judicial circuit varies in size and number of judges based on population and caseload. Currently, there are 95 circuit court judges, 51 of which are family court judges. Circuit judges are elected to eight-year terms.

KRS § 454.011 makes it the policy of the Commonwealth of Kentucky to encourage the resolution of disputes and voluntary settlement of litigation through negotiation and mediation. The statute authorizes and encourages the courts and state governmental agencies to refer disputing parties to mediation before trial or hearing. KRS § 454.011.

Appellate Courts

Court of Appeals

With a few exceptions, most cases appealed from Circuit Court go to the Court of Appeals. Fourteen judges, two from each of the seven appellate districts, serve on the Court of Appeals for terms of eight years. KRS § 22A.010. Court of Appeals judges normally sit in panels of three to review and decide cases, with a simple majority deciding the outcome.

A notice of appeal to the Court of Appeals from a judgment of the Circuit Court must be filed within 30 days of the judgment. Cases are assigned to panels after submission. Assignments usually occur within two to six weeks after submission, and the panel will meet about four months after the assignment. The Court of Appeals hears oral argument in about 20 percent of appeals submitted on the merits. The Court of Appeals has jurisdiction, pursuant to KRS § 22A.020, to review interlocutory orders of the circuit court in civil and criminal cases.

Supreme Court

The Supreme Court of Kentucky is the court of last resort and the final interpreter of Kentucky law. Appeals involving the death penalty, life imprisonment, or imprisonment for 20 years or more, go directly

from circuit court to the Supreme Court. If a litigant desires review of a Court of Appeals' decision, a petition for discretionary review must be filed with Kentucky Supreme Court within 30 days.
Seven justices sit on the Supreme Court. They are elected from the seven appellate districts and serve eight-year terms. A chief justice, chosen for a four-year term by fellow justices, is the administrative head of the state's court system and is responsible for its operation. If a vacancy arises during an unexpired judicial term, the governor is authorized to appoint someone to fill it from a list of three names provided by a judicial nominating commission. If this does not happen within 60 days, the chief justice of the Kentucky Supreme Court appoints a new judge.

LOUISIANA

Louisiana's civil court system has five levels: (1) Justice of the Peace Courts; (2) Parish and/or City Courts; (3) District Courts; (4) Circuit Courts of Appeal; and (5) the Louisiana Supreme Court.

General Overview of Trial Court System
The lowest level of the Louisiana civil court system is the Justice Court. Comparable to "small-claims courts", Justice Courts have concurrent jurisdiction with District Courts, but are limited to tort and contract cases, the value of which does not exceed five thousand dollars. Additionally, Justice Courts are without jurisdiction to hear in rem or quasi in rem cases; cases for title to immovable property; or cases wherein the State, Parish, Municipal or other political corporation is a defendant. Appeals of Justice Court decisions are brought in Parish Court, or in the absence of a Parish Court, a District Court. In the Parish or District Court, the Justice Court's ruling is subject to de novo review.

The next level in the Louisiana civil court system is the Parish or City Court. Parish Courts generally have concurrent jurisdiction with District Courts, but are limited to cases in which the amount in dispute or the value of the property involved is less than twenty thousand dollars. City Courts also have concurrent jurisdiction with District Courts, and are also limited to cases in which the amount in dispute or the value of the property involved is less than a certain amount, which varies depending on the city. By statute the amounts in controversy can vary between fifteen and fifty thousand dollars. Additionally, if the civil jurisdiction of a City Court has a population greater than fifty thousand people, the court has concurrent jurisdiction with the District Court in cases instituted by the State, Parish, Municipal or other political corporation for injunctive relief from any acts that violate state, parish or municipal law without regard to the value of the case or the property involved. Appeals of Parish and City Courts are brought in the Circuit Courts of Appeal.

District Courts are courts of original, general jurisdiction. Each District Court shares jurisdictional boundaries with one or more of Louisiana's sixty-four parishes. In District Courts the parties may request trial by jury. However, the right to a jury is triggered only when the amount in controversy is greater than fifty thousand dollars. Appeals of District Court decisions are made to the Circuit Court of Appeal of the Appellate District in which the District Court sits. Currently there are forty-two District Courts. Each District Court presides over at least one parish and has at least one District Judge. The Judges of the District Court elect a chief judge.

District Judges are elected in partisan elections every six years, or in a special election called by the Governor. The special election is called when a vacancy occurs in a judgeship or when a new judgeship is created by the Louisiana Legislature. Until the vacancy is filled the Louisiana Supreme Court appoints a temporary judge to fill the position. The temporary judge is not eligible to run for the judgeship which he temporarily fills.

Louisiana does not have a mandatory mediation/ADR statute.

Appellate Court System
Louisiana has five Circuit Courts of Appeal. Each circuit is divided into at least three districts from which the judges are elected. The Courts of Appeal are headquartered in the major city of each district. Appellate Court judges are elected in the same manner as District Court judges, with the exception that

Appellate Court judges serve for ten years. The Chief Judge of each Circuit Court of Appeal is the judge with the longest term of service.

With respect to civil cases, a Circuit Court of Appeal has jurisdiction to review and supervise decisions rendered in the District Courts within its circuit. This includes interlocutory appeals, only as permitted by statute. Courts of Appeal generally do not review facts upon appeal of criminal cases, only questions of the lawfulness of a ruling. However in civil cases, they are able to review issues of fact, as well as questions of law.

Panels of three judges hear most appeals, and a majority of the judges must agree to rule on any case. Appeals and writ applications are generally submitted without oral argument, but either party can request oral argument within thirty days of the filing of the record with the Court. Generally, timely requests for oral argument are granted. Additionally, the Circuit Courts of Appeal do permit the filing of amicus briefs on motion of the person seeking to file such brief. Finally, Circuit Courts of Appeal are permitted to certify questions of law to the Louisiana Supreme Court, and the Supreme Court can issue binding instructions to the Appellate Court or decide the whole case on the record.

Louisiana Supreme Court
The Louisiana Supreme Court is the final level of Louisiana's court system. It consists of seven judges, four of which need to agree to render a judgment. The Chief Justice is the justice who has served on the Supreme Court longest. With regard to elections of Supreme Court justices, the state is divided into seven districts, and one justice is elected from each district every ten years.

The Supreme Court has supervision and control over all lower courts, administrative and procedural rule-making powers, and may assign a sitting or retired judge to any court (to serve in an ad hoc capacity). It considers applications for writs to review individual cases decided by the five courts of appeal and considers both criminal and civil remedial writ applications. Its supervisory jurisdiction is discretionary in civil cases.

The Supreme Court has direct appellate jurisdiction over cases in which a statute has been declared unconstitutional and in certain criminal matters. Similar to the Circuit Courts of Appeal, under our Constitution the jurisdiction of the Supreme Court in civil cases extends to both law and facts. In criminal matters, its jurisdiction extends only to questions of law.

Currently the Supreme Court is composed of four Democrats and three Republicans.

MAINE

District Court:
The District Court has 36 judges in 13 districts at many locations throughout Maine. It hears civil, criminal and family matters and always sits without a jury. A plaintiff who has a right to trial by jury in a civil action waives the right by bringing the action in District Court; a defendant with a right to a civil jury may remove the action to a Superior Court for jury trial. Most decisions of the District Court may be appealed directly to the Supreme Judicial Court. The small claims court is a special session of the District Court held in each district when the amount in controversy, not including interest and costs, is not more than $6,000. Appeals from small claims judgments may be taken to the Superior Court. A defendant who appeals, and who has a right to a jury trial, may have a trial de novo (a complete retrial) before a Superior Court jury.

Superior Court:
The Superior Court consists of 17 justices throughout Maine's 16 counties. Except for family matters, juvenile cases, and civil violations, the Superior Court may hear almost any kind of civil or criminal case that may be brought to trial.

In civil actions both the Superior Court and the District Court have jurisdiction in cases seeking money damages. In such cases, the plaintiff can choose between District and Superior Court. If the plaintiff

wishes to exercise a right to jury trial or prefers the location or some other feature of the Superior Court, the case may be brought in that court. There are also some actions where the plaintiff seeks something other than a simple money judgment, for example, an injunction. Many of these actions may only be brought in Superior Court.

The Superior Court also hears appeals from state and local administrative agencies. Appeals from the Superior Court may be taken to the Supreme Judicial Court.

According to Rule 16(b) of the Maine Rules of Civil Procedure all parties to any civil action filed in or removed to the Superior Court shall, within 60 days of the date of the Rule 16(a) scheduling order, schedule an alternative dispute resolution conference which shall be held and completed within 120 days of the date of the Rule 16(a) scheduling order. Exempt from this requirement are actions for recovery of personal injury damages where the plaintiff requests exemption and certifies that the likely recovery of damages will not exceed $30,000. Unless the court orders or the parties otherwise agree, fees and expenses for the neutral shall be apportioned and paid in equal shares by each party, due and payable according to fee arrangements worked out directly by the parties and the neutral.

Supreme Judicial Court:
The Supreme Judicial Court has appellate jurisdiction of all cases. It is the State's highest court and the court of final appeal. It has seven justices. They are appointed by the Governor and confirmed by the Maine Senate. Justices serve for seven year terms. There is no limit on the number of terms that they may serve.

The Supreme Judicial Court is authorized to issue advisory opinions. These advisory opinions are issued at the request of either the Executive Branch or the Legislative Branch.

Review of a judgment, order or ruling of the District Court or the Superior Court, or the Probate Courts, or a single justice of the Supreme Judicial Court that is by law reviewable by the Law Court shall be by appeal. The appeal shall be commenced by filing a notice of appeal with the clerk of the court from which the appeal is taken. The time within which an appeal may be taken in a civil case shall be 21 days after entry of the judgment or order appealed from unless a shorter time is provided by law. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time otherwise herein prescribed, whichever period last expires.

MARYLAND

The Maryland civil court system has four levels: two trial courts (the district courts and circuit courts); and two appellate courts (the Court of Special Appeals and the Court of Appeals--Maryland's highest court).

GENERAL OVERVIEW OF TRIAL COURT SYSTEM

Jurisdiction of the District Courts
Generally, the district courts have exclusive original jurisdiction over traffic cases involving violations of the motor vehicle laws or State Boat Act; criminal cases involving misdemeanors and certain criminal statutory violations with confinement penalties less than 90 days. The district court has concurrent jurisdiction in criminal cases involving confinement of 4 or more years or a fine over $2,500. If a defendant prays a jury trial in a criminal case (generally available if the maximum penalty exceeds 90 days confinement), the district court is divested of jurisdiction and the case is removed to circuit court. Md. Code Ann. Courts & Judicial Proceedings §§ 4-301, 4-302.

The district courts have exclusive original jurisdiction in civil cases in contract or tort actions where the damages claimed are not more than $30,000.00 (exclusive of costs, interest and fees); replevin actions; attachment before judgments that do not exceed $30,000.00; landlord/tenant actions; and actions brought by a county or municipality to enforce its health, building, zoning and/or safety regulations. Md. Code

Ann. § 4-401. The district court, generally, does not have equity jurisdiction or the ability to render a declaratory judgment. There are no jury trials in district court. Where a claim exceeds $10,000.00, a party may file a jury demand, and the case is transferred to the appropriate circuit court.

The district courts also have exclusive jurisdiction over small claims, which are a claim for money damages of $5,000 or less (exclusive of costs and fees), and certain landlord tenant actions in which the amount of rent claimed does not exceed $5,000 (exclusive of costs and fees). The Maryland Rules of Evidence generally do not apply in a small claim action and a corporate party need not be represented by counsel.

Composition of the Districts Courts
Maryland's 23 counties and Baltimore City are divided into twelve districts for the purpose of operating the district courts, with at least one district court with at least one judge sitting in each county. There are 32 district courts in total. There is one Chief Judge, who designates an administrative judge for each district. In addition to the administrative judge in each district, there are a specific number of associate judges assigned to each district pursuant to Md. Code Ann. CJP 1-603. For example, there are 27 judges sitting in District 1 (Baltimore City), and only 3 in District 12 (Allegany and Garrett Counties). District court judges are appointed by the Governor and confirmed by the senate to 10-year terms. Unlike other judges in the state, they do not stand for election.

Jurisdiction of the Circuit Courts
The circuit courts are the trial courts of general jurisdiction, having full common law and equity powers. Md. Code Ann. CJP §1-501. Circuit courts generally handle civil claims exceeding $30,000, more serious criminal matters (most felonies), juvenile cases, and domestic proceedings (including divorce, which are non-jury). As set forth above, the circuit courts also hear civil or criminal cases from the district court in which one of the parties is entitled to and requests a jury trial.

The circuit courts also hear appeals from final judgments of the district court (and from administrative agencies). To appeal from a judgment of the district court, the party must file a notice of appeal in the district court within 30 days of the date of the final judgment. In a civil case in which the controversy exceeds $5,000, the appeal is heard by the circuit court on the record from the district court. All other appeals are heard *de novo*. CJP 12-401. Title 7 of the Maryland Rules governs appellate review in the circuit courts.

Composition of the Circuit Courts
There is one circuit court in each county in the State and Baltimore City, and the courts are administratively grouped by county into circuits, of which there are eight. The circuit courts each have at least one judge (Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset and Talbot), with the largest counties having over twenty (Montgomery has 22, Prince George's has 23, and Baltimore City has 33 judges). Md. Code Ann. CJP 1-503. Circuit court judges are appointed by the Governor and stand for election to 15-year terms.

Each county also has an orphan's court, which handles wills, estates, and other probate matters. The orphan's court has jurisdiction along with the circuit courts to appoint guardians of the person. A party may appeal a final judgment of the orphan's court to the circuit court or the Court of Special Appeals. 12-501, 12-502. A notice of appeal must be filed with the register of wills within 30 days of the date of the judgment. Orphan's court judges are elected to four-year terms.

ADR
ADR options are available in the district and circuit courts. Under Title 17 of the Maryland Rules, the circuit court may enter an order referring a matter to ADR, so long as the court follows the requirements of Title 17. Under the Rules, the court must give the parties an opportunity to object to the referral, to offer an alternative proposal, and to agree on the person who will conduct the ADR proceeding/mediation. Rule 17-103. While all circuit courts must allow the parties to opt-out, not all of the circuits order ADR as a matter of course. On the Civil Information Sheet which must be filed with each Complaint and Answer, each party is given an opportunity to indicate whether ADR is appropriate for the case, which in some

courts triggers the issuance of an order referring the case to a court-appointed mediator or ordering the parties to conduct their own ADR within a certain time frame.

In addition to or in lieu of an order to engage in ADR, many, but not all, of the circuit courts require mandatory appearance by the parties and their counsel at a settlement conference before a judge not assigned to hear the case at trial (Baltimore County and Baltimore City).

District courts typically have mediators available in the courthouse to meet with the parties on an informal basis before trial, but, there are no rules requiring the use of ADR in district court proceedings.

APPEAL PROCESS

Jurisdiction

The Court of Special Appeals ("CSA") has intermediate appellate jurisdiction and hears appeals from any reviewable judgment, decree, order, or other final action of the circuit and orphans' courts. Interlocutory appeals are permitted, subject to some exceptions, from orders of the circuit court regarding possession of property; granting, dissolving or refusing to resolve an injunction; appointing a receiver; selling real property; requiring a bond; granting a petition to stay arbitration; depriving a parent, grandparent or legal guardian of custody of a minor child. Md. Code Ann. CJP § 12-303.

Composition of the CSA

The CSA is composed of 13 judges, one of whom is designated by the Governor as the Chief Judge. Md. Code Ann. CJP § 1-401. There are seven appellate districts from which there is one sitting judge for each district, and then there are six at-large judges. The judges are appointed and confirmed in the same manner as judges on the Court of Appeals, pursuant to Article IV of the Maryland Constitution.

The Court of Special Appeals sits in Annapolis, Maryland, but may hold sessions at the University of Maryland and University of Baltimore Schools of Law.

Cases are heard and decided by a panel of not less than three judges. A hearing or rehearing *en banc* requires at least six judges. CJP § 1-403. The court is not required to hear oral argument.

Review Process

The only way to obtain review of a decision by the Court of Special Appeals is to file a notice of appeal with the clerk of the lower court within 30 days of the date of entry of the judgment or order from which the appeal is taken. However, if a post judgment motion is filed in a civil matter, the time for filing a notice of appeal is extended to 30 days after entry of a notice withdrawing or denying the motion. Once a party files a timely notice of appeal, any other party must file a notice to appeal within 10 days. Rule 8-202.

Within ten days of the filing of the notice of appeal, the appellant should file an information report and a copy of the notice of appeal with the Court of Special Appeals. Within 20 days thereafter, the court should enter an order setting a prehearing or scheduling conference, if warranted, during which a briefing schedule is set. As part of a pilot mediation program, certain cases are ordered to a prehearing conference, the purpose of which is to discuss settlement, dismissal of the appeal, limitation of the issues, and other pertinent matters. A case may also be ordered to mediation at a later time. Parties may seek to avoid mediation by filing a request to vacate the order referring the case to mediation.

Generally, within 60 days of the filing of the information report, the lower court must transmit the record to the appellate court, and within 40 days of filing the record, the appellant shall file its brief. The appellee should file its response 30 days later. Rule 8-502. The court may also advance or postpone a case by motion or on its own initiative.

COURT OF APPEALS OF MARYLAND (MD.'S SUPREME COURT)

Jurisdiction
The Maryland Court of Appeals is the **highest court of appeal** in Maryland. The Court of Appeals hears cases almost exclusively by way of certiorari, a process that gives the court the ability to decide which cases to hear (like the United States Supreme Court). By law the Court of Appeals is required to hear cases involving the death penalty, legislative redistricting, removal of certain state officials, and the certifications of questions of law. Md. Code Ann. CJP 12-307.

Composition of the Court
The Chief Judge of the Court of Appeals sits on the Court along with six other judges. Members of the Court are initially appointed by the Governor and confirmed by the Senate. Subsequently, they run for office on their records, unopposed. If voters reject a judge's retention in office or there is a tie vote, the office becomes vacant and must be filled by a new appointment. Otherwise, the incumbent judge remains in office for a 10-year term. The Chief Judge of the Court of Appeals is designated by the Governor and is the constitutional administrative head of the Maryland judicial system.

Review Process
Although generally a petition for certiorari is not filed until after an adverse decision in the Court of Special Appeals (or a circuit court acting in an appellate capacity), if a party desires to have a decision reviewed by the Court of Appeals, a petition for review (or certiorari) may be filed with the Court of Appeals before or after the Court of Special Appeals renders a decision, but not later than the later of 15 days after the Court of Special Appeals issues its mandate or 30 days after the Court of Special Appeals files its opinion. The Court of Appeals may also issue a writ of certiorari on its own motion. Rule 8-302.

A writ may be granted before or after the Court of Special Appeals has rendered a decision. Md. Code Ann. CJP 12-203. If at least three judges vote in favor, the petition is granted, and the case is placed on the court's regular docket, briefs and record extracts are required, and oral argument is set. The record from the lower court must be transmitted within 15 days.

All seven judges hear oral arguments in each case unless a judge removes him/herself from a case; in this event, a judge from another court, or a retired appellate judge, may be specially assigned to sit in the place of the recused judge.

The Court of Appeals is also charged with the tasks of adopting rules of judicial administration, practice, and procedure; admitting persons to the practice of law in the State (on recommendation of the State Board of Law Examiners); and conducting disciplinary proceedings involving members of the bench and bar.

MASSACHUSETTS

The Massachusetts court system consists of the Supreme Judicial Court, the Appeals Court, and seven Trial Court departments.

Trial Courts:
Superior Court: The Massachusetts Superior Court is the state's highest trial court. Massachusetts has fourteen counties, each of which has a Superior Court. The Superior Court has original jurisdiction in civil actions over $25,000 and in matters where equitable relief is sought. It also has original jurisdiction in actions involving labor disputes where injunctive relief is sought, and has exclusive authority to convene medical malpractice tribunals. It has fourteen divisions, one for each county in Massachusetts, of which several hold sessions in more than one location. There are a total eighty-two Superior Court judges.

District Court: The District Court has civil jurisdiction over, among other matters, civil cases in which the likely recovery does not exceed $25,000; small claims involving up to $7,000; and summary process actions. The court also has jurisdiction over evictions and some related matters, and provides judicial

review of some governmental agency actions. One hundred and fifty-eight District Court judges are authorized for the sixty-two divisions of the District Court.

Other departments of the Massachusetts Trial Court system include Boston Municipal Court, Housing Court, Juvenile Court, Land Court, and Probate and Family Court.

At this time the Massachusetts court system does not provide for mandatory alternative dispute resolution, though any Trial Court department may propose to the Chief Justice for Administration and Management for review and approval an experimental pilot program which requires parties in civil cases to participate in non-binding forms of dispute resolution services.

Appeals Court:
The Massachusetts Appeals Court is the court of general appellate jurisdiction. Most appeals from the several Departments of the Trial Court are entered initially in the Appeals Court; some are then transferred to the Supreme Judicial Court, but a large majority will be decided by the Appeals Court. In the District Court Department, appeals in certain civil cases are made first to the Appellate Division of the District Court.

The Appeals Court has twenty-five statutory justices. The Appeals Court almost always sits in panels of three. In addition to its appellate, or "panel," jurisdiction, the Appeals Court runs a continuous single justice session, with a separate docket. The single justice may review interlocutory orders and orders for injunctive relief issued by certain Trial Court Departments, as well as requests for review of summary process appeal bonds, certain attorney's fee awards, motions for stays of civil proceedings or criminal sentences pending appeal, and motions to review impoundment orders.

An appeal permitted by law from a lower court shall be taken by filing a notice of appeal with the clerk of the lower court generally within thirty days of the date of the entry of the judgment appealed from.

Supreme Judicial Court:
The Supreme Judicial Court (known as the “SJC”) is the Commonwealth's highest appellate court. It consists of a Chief Justice and six Associate Justices who are appointed by the Governor of Massachusetts with the consent of the Governor's Council. The Justices hold office until the mandatory retirement age of seventy, like all other Massachusetts judges.
The SJC may take an appeal either directly from a trial court or following a decision by the Appeals Court. Within twenty days after the date of an Appeals Court decision, any party to the appeal may file an application for leave to obtain further appellate review of the case by the full Supreme Judicial Court. Such application shall be founded upon substantial reasons affecting the public interest or the interests of justice.

A party may also apply to the Supreme Judicial Court for direct appellate review following a trial court’s decision. Within twenty days after the docketing of an appeal in the Appeals Court, any party to the case may apply to the Supreme Judicial Court for direct appellate review, provided the questions presented by the appeal are: (1) questions of first impression or novel questions of law which should be submitted for final determination to the Supreme Judicial Court; (2) questions of law concerning the Constitution of the Commonwealth or the Constitution of the United States; or (3) questions of such public interest that justice requires a final determination by the full Supreme Judicial Court.

An application for direct appellate review by the SJC shall be granted if any two justices of the Supreme Judicial Court vote for direct appellate review, or if a majority of the justices of the Appeals Court shall certify that direct appellate review is in the public interest.

In addition to appeals from lower courts, the SJC also answers questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or of the District of Columbia, or a United States District Court, or the highest appellate court of any other State when requested by the certifying court if there are involved in any proceeding before it questions of law of this

State which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of this court.

MINNESOTA

Minnesota has a three-tiered court system. The first tier is the Minnesota District Courts. The District Courts have original jurisdiction over civil actions, criminal actions, family cases, juvenile cases, probate, and violations of city ordinances. The District Courts also have appellate jurisdiction over conciliation-court decisions, which involve civil disputes up to $7,500.

A district court is located in each of Minnesota's 87 counties, and the various county-district courts are organized into 10 judicial districts. There are currently 288 district-court judges. Litigants in cases involving factual issues are entitled to a jury, if requested. Parties are required by rule to engage in some form of alternative-dispute resolution after the commencement of a lawsuit. The court must be advised of the chosen form and results of the dispute resolution.

The second tier of the court system is the Minnesota Court of Appeals. The Court of Appeals has appellate jurisdiction over all district-court decisions, except first-degree-murder convictions. The Court of Appeals also has appellate jurisdiction over decisions of the Commissioner of Economic Security and administrative-agency decisions, with the exceptions of the tax court and the workers' compensation court. The Court of Appeals has original jurisdiction over writs of mandamus or prohibition, which order a trial judge or public official to perform a specialized act. The Court will entertain interlocutory appeals from the district courts, although review is discretionary. Minn. Civ. App. P. 103.03.

There are 19 judges on the Court of Appeals, and the judges sit in three-judge panels to hear appeals. There is no geographical distribution of judges and there are no districts. All appeals throughout the state are directed to a single appellate court, which randomly assigns panels. By law, the court must issue a decision within 90 days of oral argument, or if no argument is held, within 90 days of a scheduled conference of the panel. The Minnesota Court of Appeals boasts the shortest imposed deadline on any appellate court in the country.

The third tier of the court system is the Minnesota Supreme Court, which has discretionary appellate jurisdiction over Court of Appeals' decisions. The Supreme Court also has mandatory appellate jurisdiction over first-degree-murder convictions, tax court appeals, workers' compensation court appeals, writs of prohibition, writs of habeas corpus, and writs of mandamus. The Court has original jurisdiction over attorney-disciplinary proceedings and legislative-election contests. The Supreme Court may also choose to hear an appeal directly from a district court, bypassing the Court of Appeals.

There are seven Supreme Court justices, and all cases are heard en banc. There is no geographical distribution of justices. The governor appoints one of the seven justices as chief justice, whose additional responsibilities are mainly administrative in nature. There is no time deadline for decisions, but the Court generally strives to issue all opinions from a given one-year term before the term ends in July.

Both appellate tiers permit oral arguments, but the litigants may waive argument at their discretion.

Judges at all three tiers of courts serve six-year terms and run on a non-partisan ballot, on which only the incumbent is noted. If a judge resigns mid-term, the Minnesota Governor appoints a replacement until the first general election after the appointed judge has served at least one year. The Governor takes recommendations for judicial candidates from the Minnesota Commission on Judicial Selection, a non-partisan board made up of 13 members, consisting of both lawyers and non-lawyers. The only qualification for district judges, court-of-appeals judges, and supreme-court justices is that the candidate be an attorney admitted to practice in Minnesota.

Although supreme-court justices to date have sought to avoid expressing political leanings, a conservative governor has made the last four appointments to the seven-justice court.

MISSISSIPPI

Three courts compose the Mississippi trial courts of record: county courts, chancery courts, and circuit courts:

> **Circuit Courts**. The circuit courts are the general jurisdiction trial courts in Mississippi. Mississippi has 82 counties. There is a circuit court in each county, organized into 22 districts with 51 judges. Circuit courts have jurisdiction over all civil actions at law seeking recovery in excess of $200 and of all criminal cases under state law. All parties have the right to a trial by jury, but the parties may agree to a bench trial on any claim alleging damages. By statute, any agreed-to bench trial shall be a priority item in the court and shall be resolved within 270 days after the cause of action was filed. Miss. Code § 11-1-18. In the case of a jury trial, Miss. R. Civ. P. 48(a) requires that there shall be 12 jurors, plus alternates. A verdict or finding of nine or more of the jurors shall be taken as the verdict or finding of the jury.
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> **Chancery Courts.** There is a chancery court in every county in Mississippi, organized into 20 districts with 48 chancellors. The chancery courts have jurisdiction over matters of equity, domestic relations, land disputes, estates, guardianships, and mental commitments. Though normally a chancellor will hold a bench trial, under certain circumstances defined by statute, a chancellor must retain a jury to determine an issue of fact. *See e.g.*, Miss. Code § 91-7-19 (at the request of either party to a probate proceeding, a jury may decide whether a writing propounded is a will of the alleged testator). Additionally, a chancellor always has the discretion to permit a jury to decide a factual question where necessary and appropriate. Miss. Code § 11-5-3. As in the circuit court, in a jury trial there are 12 jurors, plus alternates, and a finding or verdict of nine or more jurors is a finding or verdict of the jury. Miss. R. Civ. P. 48(a).
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> **County Courts.** There are 20 county courts with 29 judges. Not all counties have county courts. The county courts have concurrent civil jurisdiction with the chancery and circuit courts in lawsuits involving $200,000 or less. An appeal from a county court judgment is not to the appellate court, but rather first goes to the circuit court or the chancery court. That decision can then be appealed to the appellate court. As in circuit court, the parties have the right to a trial by jury, but can choose to resolve a case alleging damages with a bench trial. Miss. Code § 11-1-18. In a jury trial, there must be six jurors, plus alternates, and a verdict or finding of five or more of the jurors shall be taken as the verdict or finding of the jury. Miss. R. Civ. P. 48(b).

Alternative Dispute Resolution: Mississippi law generally provides that parties may, in writing, submit their controversy to the decision of one or more arbitrators. Miss. Code § 11-15-1, *et seq.* The Mississippi Construction Arbitration Act, Miss. Code 11-15-101, *et seq.* applies specifically to construction contracts and related agreements, and authorizes arbitration under the circumstances delineated in that Act. Local rules of a particular court district may also provide that matters are to be submitted to mediation or arbitration prior to the parties obtaining a trial date, unless all parties agree in writing that to submit the matter to mediation would be futile. *See, e.g.,* MS R 11th Cir. Ct., Rule 1.

Overview of the Appeals Process and the Function of the Mississippi Appellate Courts.
There are two appellate courts in Mississippi, the Court of Appeals and the Mississippi Supreme Court. The Court of Appeals was created to speed appeals and relieve a backlog of cases before the Supreme Court, and began hearing cases in 1995. These courts are discussed together because they share appellate jurisdiction, in accordance with statutory requirements described below.

Direct Appeals. Appeals from the chancery and circuit courts are taken to the Mississippi Supreme Court. All appeals must be from a final judgment of the chancery or circuit court. The notice of appeal is due within 30 days from entry of the final judgment. With the exception of certain appeals which must be retained by the Supreme Court (*e.g.*, death penalties, utility rates, annexations, certified questions from the federal courts), the Supreme Court may either retain the cases or assign them to the Court of Appeals. In making this decision, the Supreme Court considers the uniqueness of the case, the likelihood that its decision will be of important precedential value, whether it raises issues of first impression, and the relative workloads of the two appellate courts.

Oral Argument. Any party my request oral argument (Miss. R. App. P. 34), and it is granted in the appellate court's discretion. In 2009, of the 729 appeals decided by published opinions (for both courts), the Supreme Court heard oral arguments in 20 cases; the Court of Appeals heard oral arguments in 58 cases.

Case Dispositions. In 2007, the latest year for which affirmance/reversal statistics are available for direct appeals, of the 141 direct civil appeals receiving decisions on the merits in the Mississippi Supreme Court, 45% were affirmed, and 55% were reversed. Of the 391 direct civil appeals receiving decisions on the merits in the Court of Appeals, 79% were affirmed, and 21% were reversed. As of 2008, the Mississippi Supreme Court has not published affirmance/reversal percentages in its annual report.

Timing. Both appellate courts have been deciding cases within 270 days following the completion of briefing, and, in most cases, the decisions are made even more expeditiously.

Motions for Rehearing. A party may file a motion for rehearing within 14 days after a decision is handed down on the merits by the Supreme Court or the Court of Appeals. Miss. R. App. P. 40. If a motion for rehearing is granted, a second motion for rehearing may be filed. *Id*.

Oral Argument. No oral argument is permitted.

Case Dispositions. In 2007, the latest year for which affirmance/reversal statistics are available for motions for rehearing, of the 94 motions for rehearing filed in the Mississippi Supreme Court, 2% were granted; 97% were denied; and 1% were dismissed. Of the 273 motions for rehearing filed in the Court of Appeals, none were granted; 93% were denied, 6% were dismissed, and 1% received other dispositions.

Timing. Motions for rehearing are generally decided within 1-3 months after the responses are filed.

Petitions for Writ of Certiorari. All decisions of the Court of Appeals are subject to discretionary review by the Supreme Court on petition for writ of certiorari. The petition must be filed within 14 days from the date of entry of the Court of Appeals' judgment, or denial of a motion for rehearing.

Case Dispositions. In 2009, the latest year for which statistics are available, the Mississippi Supreme Court considered 226 petitions for writ of certiorari and granted 32.

Timing. All petitions for writ of certiorari from the Court of Appeals are either granted, denied or dismissed by the Supreme Court within 90 days following

the filing of the responses to the petitions, and all cases on review by certiorari are decided within 180 days after the petitions are granted.

Interlocutory Appeals. A party may seek review of an interlocutory order "if a substantial basis exists for a difference of opinion on a question of law as to which appellate resolution may: (1) materially advance the termination of the litigation and avoid exceptional expense to the parties; (2) protect a party from substantial and irreparable injury; or (3) resolve an issue of general importance in the administration of justice." Miss. R. App. P. 5. A petition for permission to seek interlocutory appeal must be filed within 21 days from the date of entry of the interlocutory order. *Id*.

Case Dispositions. In 2009, the latest year for which statistics are available, the Mississippi Supreme Court considered 158 petitions for interlocutory appeal and granted 30.

Timing. Petitions for interlocutory appeal are generally granted, denied, or dismissed within 45 days after the responses are filed.

The Make-up of the Appellate Courts.
There are nine justices on the Mississippi Supreme Court elected from three districts. Justices are elected on staggered even years to serve eight year terms (Miss. Code § 23-15-991), and frequently come to the Court initially by gubernatorial appointment. In general, the Court will sit in panels of three justices. Miss. R. App. P. 24(a). However, if the justices composing any panel differ as to the judgment to be rendered in any cause, or any justice certifies that an issue should be considered by the full Court, then the cause will be considered en banc. Miss. R. App. P. 24(b). Regardless of whether a case is heard en banc, each opinion is circulated to the entire Court and considered by all participating justices. Thus, each published decision reflects the vote of all participating justices.

There are ten judges on the Court of Appeals, two elected from each of five districts. Miss. Code. § 9-4-1. As in the Supreme Court, the non-partisan elections are staggered so that not all positions are up for election at one time. The Court of Appeals judges also serve eight-year terms. Miss. Code § 9-4-5. The Court of Appeals normally sits in panels of three judges, but it may also sit en banc. Miss. R. App. P. 24(c).

All judgeships are considered to be nonpartisan offices and judicial candidates are prohibited from campaigning or qualifying for such an office based on party affiliation. Miss. Code § 23-15-976. Although Mississippi courts were, several years ago, the subject of unfavorable national attention, a study of recent Mississippi appellate opinions reveals no ideologues. No one clearly is lining up votes to advance a particular agenda.

MISSOURI

The Missouri Judiciary consists of three levels of courts: The trial courts, (also known as the Circuit Courts), an intermediate appellate court, (the Missouri Court of Appeals), that is divided into three regional districts, and the Supreme Court of Missouri.

CIRCUIT COURTS
The Circuit Courts are the primary trial courts in Missouri, and they have general jurisdiction (authority) over almost all civil and criminal matters. Missouri has 114 counties and one independent city (St. Louis), and each of them have a court. Because of their size, the following counties are all in their own "circuit:"

Saint Louis
- City of St. Louis;
- St. Louis County;
- St. Charles County;

- Jefferson County;

Kansas City
- Platte County;
- Clay County;
- Jackson County;

Jefferson City
- Cole County;

Joplin/Springfield
- Jasper County;
- Greene County;

These county courts are organized into 45 regional circuits throughout the state. Other than the above, the other counties share a “circuit” with other counties, and the judges that serve in those circuits are true “traveling circuit judges,” in that they will sit in court in each of the different counties in their judicial circuit. Each circuit court consists of many divisions, such as circuit, associate circuit, small claims, municipal, criminal, family, probate and juvenile. The type of case determines the division to which a particular case is assigned.

Circuit court matters in civil cases generally require a jurisdictional allegation that the claim involved an amount in excess of $25,000.00. If the claim is something less: then they are generally handled in the associate circuit court, however, that is not required. Parties simply use the associate circuit court system to get faster trial settings in smaller cases. In both circuit and associate circuit court cases, parties can request a jury trial. Small claims cases are judge tried and involve disputes under $3,000.00.

Under Missouri rules, a corporation must be represented by counsel in any claims made against them in the state.

COURT OF APPEALS

The Missouri Court of Appeals is divided into three regional districts: Eastern, Southern and Western. Any dissatisfied party at the circuit court level may file an appeal, which then is heard in most cases by a three-judge panel at the appropriate regional district of the Court of Appeals. The Court of Appeals receives all cases appealed from the circuit courts of the counties within the respective regions, except for certain specific types of cases sent directly to the Supreme Court. The Court of Appeals may hear oral argument from each side, in which each side answers the judges' questions. In the Court of Appeals, there are no juries or witnesses; the parties argue their cases before the judges, and the judges determine whether there were prejudicial mistakes made at the trial below. The judges on the Court of Appeals are not shy about stating that the legal briefs are more important than the oral arguments, but arguments are allowed if requested by either party. The public may attend.

The Court of Appeals will also hear argument and issue rulings on certain extraordinary remedies taken as a Writ of Prohibition or Mandamus.

COURT OF MISSOURI

The Supreme Court of Missouri is the state’s highest court. It also has supervisory authority over all Missouri courts and adopts rules for practice and procedure in Missouri courts. The state constitution requires that the Supreme Court review certain categories of cases as a matter of right. Missouri voters have approved changes in the state’s constitution to give the Supreme Court exclusive jurisdiction - the sole legal power to hear - five types of cases on appeal. Pursuant to article V, section 3 of the state’s constitution, these cases involve:

- The validity of a United States statute or treaty.
- The validity of a Missouri statute or constitutional provision.
- The state’s revenue laws.

- Challenges to a statewide elected official's right to hold office.
- Imposition of the death penalty.

In most other cases, however, the Supreme Court will hear a case only if it accepts transfer of the case following a decision by the Court of Appeals. Examples of cases the Supreme Court may transfer include cases that deal with a legal matter of general interest or importance to the state, or if there is a conflict of law between two appellate districts or two appellate opinions. The Court's seven judges generally sit together ("en banc") to decide all cases, motions and other matters that come before it.

JUDGES

Missouri has 405 judges and commissioners. There are seven Supreme Court judges and 32 appellate judges on the three geographic districts of the intermediate court of appeals (the Missouri Court of Appeals). In the trial courts throughout the state, there are 141 circuit judges, 193 associate circuit judges, and 32 commissioners and deputy commissioners.

The qualifications for judge are governed by article V, section 21 of the Missouri constitution. In most counties in the state, circuit judges and associate circuit judges are elected by popular vote. Vacancies during a term are filled by appointment by the governor until the next general election. In the remaining five counties, in the urban areas of Kansas City and St. Louis, circuit and associate circuit judges are selected pursuant to Missouri's constitutional nonpartisan court plan. All appellate judges, including those on the Supreme Court, are selected pursuant to the nonpartisan court plan.

MISSOURI NONPARTISAN COURT PLAN

The Missouri nonpartisan court plan, commonly called the "Missouri Plan," is a national model for the selection of judges and has been adopted in more than 30 other states.

The nonpartisan plan provides for the selection of judges based on merit rather than on political affiliation. Initially, the nonpartisan plan applied to judges of the Supreme Court; the court of appeals; the circuit, criminal corrections and probate courts of St. Louis City; and the circuit and probate courts of Jackson County. In 1970, voters extended the nonpartisan plan to judges in St. Louis County, and three years later, voters extended the nonpartisan plan to judges in Clay and Platte counties. These changes are reflected in the Missouri Constitution, as amended in 1976.

The Kansas City Charter extends the nonpartisan selection plan to Kansas City municipal court judges as well. Under the constitution, other judicial circuits may adopt the plan upon approval by a majority of voters in the circuit. Most recently, in November 2008, Greene County voted to extend the nonpartisan plan to its judges.

Under the Missouri Nonpartisan Court Plan, a nonpartisan judicial commission reviews applications, interviews candidates and selects a judicial panel. For the Supreme Court and Court of Appeals, the Appellate Judicial Commission makes the selection. The Commission is composed of three lawyers elected by the lawyers of The Missouri Bar (the organization of all lawyers licensed in this state), three citizens selected by the governor, and the chief justice, who serves as chair. Each of the geographic districts of the Court of Appeals must be represented by one lawyer and one citizen member on the Appellate Judicial Commission.

Each of the circuit courts in Clay, Greene, Jackson, Platte and St. Louis counties and St. Louis city has its own circuit judicial commission. These commissions are composed of the chief judge of the court of appeals district in which the circuit is located, plus two lawyers elected by the bar and two citizens selected by the governor. All of the lawyers and citizens must live within the circuit for which they serve the judicial commission.

Regardless of the commission handling the applications, the constitutional process of filling a judicial vacancy is the same. With any vacancy, the appropriate commission reviews applications of lawyers who wish to join the court and interviews the applicants. It then submits the names of three qualified candidates – called the "panel" of candidates – to the Missouri governor.

Normally, the governor will interview the three candidates and review their backgrounds before selecting one for the vacancy. If the governor does not appoint one of the three panelists within 60 days of submission, the commission selects one of the three panelists to fill the vacancy.

The nonpartisan plan also gives the voters a chance to have a say in the retention of judges selected under the plan. Once a judge has served in office for at least one year, that judge must stand for a retention election at the next general election. The judge's name is placed on a separate judicial ballot, without political party designation, and voters decide whether to retain the judge based on his or her judicial record. A judge must receive a majority of votes to be retained for a full term of office. The purpose of this vote is to provide another accountability mechanism of the nonpartisan plan to ensure quality judges. If a judge retires or resigns during or at the end of his or her term, a vacancy is created, which will be filled under the Missouri Nonpartisan Court Plan as described above.

MONTANA

Montana, with a population still listed at fewer than one million residents, has a comparatively simple court structure: the court of record is the District Court. There are no intermediate appellate courts. Appeals go directly to the Montana Supreme Court.

District Court

Our state has twenty two judicial districts. Mont. Code Ann. § 3-5-101. Districts with larger populations have multiple judges and may comprise only one county. See generally § 3-5-102. In less populated areas, a judicial district may have only 1 judge who covers more than one county. Id.

Each District Court Judges' staff is comprised of an administrative assistant, a law clerk and a court reporter. District Judges are elected to their positions, § 3-5-201, and serve a term of 6 years § 3-5-203.

In multiple judge districts, cases are assigned randomly by department. See e.g. Montana Fourth Judicial District Court Rule 2. A judge can be disqualified peremptorily on a one time basis by filing a simple document and paying a $100 fee. § 3-1-804.

Our multi-judge districts are now requiring a mediation before a trial date is set. See e.g. Montana Fourth Judicial District Court Rule 9. Mediations are done by other attorneys, not by the Court as a general rule.

If either party demands a jury trial in a timely fashion, they will get it. Mont. R. Civ. P. 38(b). Jury trials in civil cases can either be 6 person or 12 person juries. § 3-15-106.

Supreme Court

Our Supreme Court is comprised of seven elected justices. § 3-2-101. Our present Supreme Court is fairly evenly balanced politically.

When the appeal is filed, a pre-briefing mediation is ordered. Mont. R. App. P. 7. If the mediation fails, briefs are then submitted. When briefing is finalized, the case is then categorized into one of four categories for decision:

One: Without merit, subject to summary dismissal

Two: Submitted to a five judge panel on Briefs only. This is the most common category.

Three: Submitted to a five judge panel with oral argument.

Four: Submitted to all seven judges, with oral argument. This is reserved for important and/or controversial cases.

Montana Supreme Court Internal Operating Rules § I.

Category Two cases are usually decided 10-120 days following submission. Id. Other categories (Three and Four) are usually expeditiously decided following argument. Id.

NEBRASKA

The Nebraska civil trial court system consists of 1) county courts, 2) district courts, 3) courts of appeal, and 4) the Nebraska Supreme Court.

There are 93 counties in Nebraska, which are separated into twelve judicial districts. Each county has a county courthouse, where civil cases are heard, however, in smaller counties judges may preside over matters in more than one county, alternating the days they hear matters in each of the counties they are assigned to. There are a total of 58 county court judges in the state of Nebraska. Eighteen of these judges preside over the two largest counties in Nebraska; Douglas and Lancaster counties.

There is at least one District Court judge assigned to each of the 12 judicial districts. The majority of the districts have at least three judges assigned. There are a total of 55 District court judges.

The Nebraska Court of Appeals is divided into six judicial districts with one chief judge assigned to each district. The Nebraska Supreme Court consists of seven judges; one chief justice and six other judges, one assigned to each of the six judicial districts.

Nebraska also has additional courts of limited jurisdiction, such as the separate juvenile court, and the Nebraska Workers' Compensation Court.

County Courts
County courts are courts of limited jurisdiction; they only have the jurisdiction that the Legislature has granted them. County Courts have been granted exclusive original jurisdiction of all matters relating to decedents' estates, including the probate of wills, all matters relating to guardianship of a person, and matters of adoption, except if a separate juvenile court already has jurisdiction over a child in need of a guardian or adoption, then the county court has concurrent jurisdiction with the separate juvenile court. Neb. Rev. Stat. § 24-517. Additionally, county courts have exclusive original jurisdiction over all matters relating to conservatorship of any person. Neb. Rev. Stat. § 24-517(3). County courts have exclusive original jurisdiction in any action based on violation of a city or village ordinance, and exclusive original jurisdiction in juvenile matters in counties which have not established separate juvenile courts. Neb. Rev. Stat. § 24-517.

County courts have concurrent jurisdiction with the district court in all civil actions of any type when the amount in controversy is forty-five thousand dollars or less. If the pleadings or discovery proceeding in a civil action indicate that the amount in controversy is greater than the jurisdictional limits of the county court the county court will upon the request of any party, certify the proceedings to the district court. Neb. Rev. Stat. § 24-517 (5). Any party may demand a trial by jury in county court matters. Neb. Rev. Stat. §25-2705.

District Courts
The district courts have general original jurisdiction in all civil matters, except where otherwise provided. Neb. Rev. Stat. §24-302. The District Court has appellate jurisdiction over the county court's decisions. If the county court has not been granted exclusive original jurisdiction of a particular matter, the case may be brought in the district court. Any party may demand a trial by jury in and matter brought in the district court. Neb. Rev.Stat. §25-1104.

Nebraska Court of Appeals and Supreme Court
The Court of Appeals has appellate jurisdiction over all district court decisions, and certain county court decisions. The Court of Appeals has appellate jurisdiction over county court decision in probate matters.

Neb. Rev. Stat. §30-1601. Appealed cases must be heard by the Court of Appeals prior to being heard by the Nebraska Supreme Court. However, under limited circumstances a party may bypass the review by the Court of Appeals and receive a direct review of the appealable decision by the Nebraska Supreme Court. Neb. Rev. Stat. §24-1106 (2). When deciding whether to allow a case to bypass the Court of Appeals, "the Nebraska Supreme Court may consider one or more of the following factors: (a) whether the case involves a question of first impression or presents a novel legal question; (b) whether the case involves a question of state or federal constitutional interpretation; (c) whether the case raises a question of law regarding the validity of a statute; (d) whether the case involves issues upon which there is an inconsistency in the decisions of the Court of Appeals or of the Supreme Court; and (e) whether the case is one of significant public interest." Neb. Rev. Stat. §24-1106.

If a case is heard by the Court of Appeals and a party wishes to appeal the decision of this court, any party may petition the Supreme Court for further review of the decision within thirty days after the Court of Appeals has issued its decision in a case. Neb. Rev. Stat. §24-1107. The Supreme Court has "appellate and final jurisdiction of all matters of appeal and proceedings in error which may be taken from the judgments or decrees of other courts in all matters of law, fact, or equity." Neb. Rev. Stat. §24-204. Besides appellate jurisdiction, the Supreme Court also has original jurisdiction in certain cases. "The Supreme Court shall have original jurisdiction in cases relating to revenue, civil cases in which the state shall be a party, mandamus, quo warranto, habeas corpus, and election contests involving state officers other than members of the Legislature." Neb. Rev. Stat. §24-204.

Alternative Dispute Resolution
Any court may refer a civil case to mediation or another form of alternative dispute resolution, each court may adopt their own rules of practice governing the procedure for referral of cases to mediation. Neb. Rev. Stat. §25-2943. Nebraska Statute makes clear that any agreement entered into in any form of alternative dispute resolution shall be voluntarily entered into by the parties; therefore, while the court may refer a case to a form of alternative dispute resolution, the court cannot order that the parties reach an agreement during the alternative dispute resolution process. Neb. Rev. Stat. §25-2943.

NEVADA

DISTRICT COURTS
The District Courts have general jurisdiction over all legal disputes. These are the courts where criminal, civil, family, and juvenile matters are generally resolved through arbitration, mediation, and bench or jury trials. The judges also hear appeals from Justice and Municipal Court cases. The 17 county courts in Nevada are divided into 9 Judicial Districts presided over by 64 judges.[1]

The largest district courts are found in the Second and the Eighth judicial districts (Reno/Washoe County and Las Vegas/Clark County, respectively). The Second District has approximately ten civil departments, while there are 32 civil departments in Las Vegas. District Courts hear cases involving alleged damages of $10,000.00 or more. All district court judges are popularly elected.

The Second and Eighth Judicial District Courts have mandatory Alternative Dispute Resolution (ADR) programs for cases involving alleged damages of $50,000.00 or less. The most common ADR program is non-binding arbitration. Arbitration decisions dealt with by the mandatory court-annexed arbitration program can be set aside by requesting a trial *de novo*. In many instances, post-arbitration cases to be heard *de novo* are heard by the district court Short Trial program. The short trial program can accommodate cases where parties agree to a trial *in lieu* of arbitration. Short trials are generally heard within six months. A district court case generally goes to trial in two to three years. Short trials are generally before a four-person jury and conducted in one day.

[1] *Id.*

NEVADA COURT OF APPEALS
Despite repeated attempts to authorize legislation creating an intermediate court of appeals, Nevada has no such court. The issue has been presented to Nevada voters and rejected.

SUPREME COURT
The Supreme Court is the state's highest court and its primary responsibility is to review and rule on appeals from District Court cases. The court does not conduct fact-finding trials; rather, the justices determine if legal or procedural errors were committed during the case.[2] The Nevada Supreme Court is made up of seven justices. The court is divided into two three-justice panels plus the chief justice. All appeals and extraordinary writs from the Nevada District Court filed in the Nevada Court System are filed with the Nevada Supreme Court.

MUNICIPAL COURTS
The Municipal Courts manage cases involving violations of traffic and misdemeanor ordinances that occur within the city limits of incorporated municipalities. In January 2007, Nevada had 17 municipal courts that were presided over by 30 municipal judges with 9 of them also serving as justices of the peace.[3]

JUSTICE COURTS
The Justice Courts handle misdemeanor crime and traffic matters, small claims disputes, evictions, and other civil matters less than $10,000. The justices of the peace also preside over felony and gross misdemeanor arraignments and conduct preliminary hearings to determine if sufficient evidence exists to hold criminals for trial at District Court. In January 2007, Nevada had 45 justice courts presided over by 60 justices of the peace with 9 of them also serving as municipal court judges.[4] A litigant can request a jury trial in the Justice Court of up to six jurors. Attorney's fees are awarded as costs in the Justice Court. If you receive a verdict in the Justice Court and an appeal is necessary, the appeal would be made to the District Court.

NEW HAMPSHIRE

Circuit Court
The New Hampshire Circuit Court began operation on July 1, 2011 and merged the District and Probate Courts and the Family Division into a single, streamlined system. The Circuit Court, which includes the District, Probate, and Family Divisions, handles 90% of all cases filed in the state court system. There are 10 Circuit Courts–one for each county.

a. The Circuit Court District Division handles misdemeanor and violation level offenses (including motor vehicle matters), small claims, landlord-tenant cases, stalking cases and other civil cases. There are 32 Circuit Court District Division locations around the state.
b. The Circuit Court Probate Division has jurisdiction over a variety of issues including all matters related to wills, trusts and estates, guardianships and involuntary commitment proceedings, adoptions, name changes and partition of real estate.
c. Family Division cases include divorce/parenting action, child support, domestic violence petitions, guardianship of minors, termination of parental rights, abuse/neglect cases, children in need of services, juvenile delinquency, and some adoptions.

Superior Court
The Superior Court is a statewide court of general jurisdiction and provides jury trials in civil and criminal cases. There are 11 Superior Court sites in New Hampshire, one for each county and two in Hillsborough County. The Superior Court hears the following types of cases:

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[2] *Id.*
[3] This information was taken directly from the Nevada Supreme Court website link http://www.nevadajudiciary.us/index.php/aboutthenevadajudiciary.
[4] *Id.*

a. Negligence, contracts, real property rights and other civil matters with a minimum claim of $1,500 in damages in which either party requests a trial by jury. The Superior Court has exclusive jurisdiction over cases in which the damage claims exceed $25,000.
b. Felonies (major crimes such as drugs, burglary, theft and aggravated felonious sexual assault).
c. Misdemeanor appeals from the Circuit Court District Division.
d. The Superior Court also has exclusive jurisdiction over petitions for injunctive relief, in which parties seek a court order to block action, appeals from zoning and planning board decisions, disputes over title to real estate and petitions to enforce contracts.

Supreme Court
The New Hampshire Supreme Court, composed of the Chief Justice and four associate justices, sits in Concord and is the state's only appellate court.

a. The Supreme Court has jurisdiction to review appeals from the State trial courts and from many State administrative agencies. It also has original jurisdiction to issue writs of certiorari, prohibition, habeas corpus and other writs. The duties of the Supreme Court include correcting errors in trial court proceedings, interpreting case law and statutes and the state and federal constitutions, and administration of the courts.
b. After reviewing a case, the court determines whether oral argument would be helpful in deciding the case. If it decides to schedule oral argument, the case is assigned to be heard by the full court or a three-justice panel (3JX).
c. In addition to its judicial duties, the Supreme Court is responsible for the discipline of judges and lawyers. The Supreme Court also has extensive, non-judicial responsibilities for administration of the court system.

NEW JERSEY

The structure of the New Jersey court system is straightforward, with only a few basic types of courts. Municipal Courts handle traffic citations, simple criminal matters, and neighbor disputes. At the county level, the Superior Court, Law Division handles major criminal matters and civil litigation. The Special Civil Part of the Superior Court, Law Division acts as a small claims court with a jurisdictional limit of $15,000.00. The Superior Court, Chancery Division handles matters in which money damages are not sought, such as trade secrets, labor matters, foreclosures and other disputes in which court relief, often in the form of restraining orders, is sought on an emergency basis.

Once a civil case is filed in the Superior Court, Law Division, it will be assigned to a discovery track, depending upon the type of case. Simple matters that do not generally require significant discovery, such as tenancy, debt collection, PIP coverage, UM/UIM coverage claims and lemon law, are assigned to Track I with 150 days of discovery. General liability matters such as contract/commercial disputes, auto negligence, personal injury and general torts are Track II matters given 300 days of discovery. More complex and multi-party matters such as civil rights, medical and professional malpractice, toxic tort, Law Against Discrimination (LAD) and Conscientious Employee Protection Act (CEPA) matters, and product liability are assigned to Track III and given 450 days for discovery. Track IV is reserved for very complex matters such as environmental litigation, complex construction and commercial disputes, insurance fraud, and certain real estate zoning matters, and is given active case management by an assigned Judge with 450 days for discovery. Discovery can be extended by motion of the parties or Order of the managing Judge.

The Superior Court has a non-binding Arbitration program for auto and personal injury cases, which takes place at the conclusion of discovery. Any party to the Arbitration can reject the award within thirty days, and the case is then placed on the jury trial list. More complex matters, or cases where there is a statutory right to recovery counsel fees for a prevailing party (such as civil rights and employment cases) are often assigned to non-binding Mediation shortly after the defendants file Answers to the Complaint.

Appellate Process
Appeals from Superior Court, Law Division matters are heard by the Superior Court, Appellate Division. Cases are assigned to two-Judge or three-Judge panels. Any party can appeal a final judgment of the trial court to the Appellate Division, within forty-five days of the entry of the judgment. The entire case must be concluded before the Appellate Division will accept an appeal as a matter of right. A party can also file a motion for leave to permit interlocutory appeal prior to the conclusion of the entire case (such as the denial of a summary judgment motion), but such motions are rarely granted.

If an appellate decision is approved for publication, it becomes binding precedent on Trial level Courts. Typically only decisions from three-Judge panels are approved for official publication.

Supreme Court
The New Jersey Supreme Court is the highest appellate Court in the state. It is comprised of a Chief Justice and six Associate Justices. The Justices are appointed by the Governor with approval from the state legislature. There are generally two paths to the Supreme Court. After exhausting appeals in the lower Courts, a party can petition the Supreme Court for certification of their matter for consideration. Most petitions for certification are denied. The Court tends to accept issues that are disputed in the lower Courts such as where there are conflicting opinions in the Appellate Division; where the constitutionality of a statute is at issue; or, where a significant public policy matter is implicated. A party can also appeal to the Supreme Court as a matter of right if there is a dissent in the Appellate Division's decision on their case.

NEW MEXICO

The New Mexico civil court system is three-tiered: (1) District Courts; (2) Court of Appeals, and; (3) New Mexico Supreme Court.

DISTRICT COURTS
The District Court is the first level of the New Mexico civil court system. New Mexico's district courts are courts of general jurisdiction, and have original jurisdiction in all civil and criminal matters within the State of New Mexico. Each county also has a magistrate court, with jurisdiction over claims of $10,000 or less. District courts are presided over by a presiding judge. District Court judges are initially appointed by the Governor, chosen from a list provided by the district court judges nominating committee. N.M. Const., art. VI, § 36. District Court judges must stand for one contested election, and for retention elections thereafter. N.M. Const., art. VI, § 33. District courts hear civil and criminal cases as well as appeals from magistrate courts and administrative appeals. Claims may be heard by either a judge or jury. Each party has a right to request a jury.

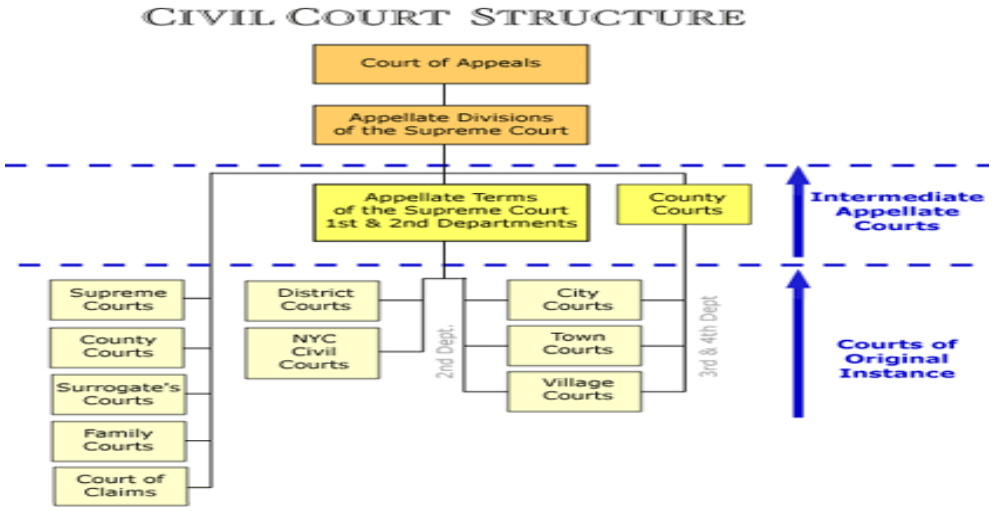
New Mexico has 33 counties, but only thirteen judicial districts. Generally there are branches of the district court in each county. A party can excuse a judge without having to show cause if the request is timely made. NMRA 2011, 1-088.1. The Second Judicial District, encompassing Bernalillo County, where Albuquerque is located, can order parties to arbitration in cases where the amount at issue, not including costs and attorneys fees does not exceed $25,000. LR2-603. Virtually all civil cases in New Mexico are ordered to mediation prior to going to trial.

COURT OF APPEALS
The New Mexico Court of Appeals represents the second level of the New Mexico court system. The New Mexico Court of Appeals has appellate jurisdiction and consists of ten judges. Appellate judges are initially appointed by the Governor, chosen from a list provided by the appellate judges nominating commission. N.M. Const., art. VI, § 35. Court of Appeals justices must stand for one contested election, and for retention elections thereafter. N.M. Const., art. VI, § 33. Appeals are from civil and criminal cases, appeals from administrative agencies, worker's compensation appeals, and some other appeals. NMSA 1978, 34-5-8. Appeals must be from a final order of the District Court. The Court of Appeals may, in its discretion, grant a petition for interlocutory appeal.

SUPREME COURT

There are five justices of the Supreme Court. In April of each even numbered year the justices, by majority vote, designate a chief justice. Justices are appointed by the Governor from a list of candidates prepared by the appellate judges nominating commission. N.M. Const., art. VI, § 35. Supreme Court justices must stand for one contested election, and for retention elections thereafter. N.M. Const., art. VI, § 33. The jurisdiction of the Supreme Court extends to all cases where appellate jurisdiction is not specifically vested by law in the Court of Appeals. The Supreme Court may grant certiorari and hear appeals from the Court of Appeals. It may also hear appeals of any civil or criminal matter in which the decision of the Court of Appeals is in conflict of the decision of the Supreme Court, is in conflict with the decision of the Court of Appeals, involves a significant question of law under the Const. of New Mexico or the United States, or involves an issue of substantial public interest that should be determined by the Supreme Court. NMSA 1978, § 34-5-14. The Supreme Court has jurisdiction over some other limited matters as well.

NEW YORK



Trial Courts

For administrative purposes, the 62 counties that make up the State of New York are divided into 12 judicial districts and four Judicial Departments.

In New York State, judges hear more than four million cases a year, involving almost every type of endeavor known to humanity. The trial courts of superior jurisdiction are Supreme Court, Court of Claims, Family Court, Surrogate's Court, and, outside New York City, County Courts. In New York City, the Supreme Court exercises both civil and criminal jurisdiction. Outside New York City, the Supreme Court exercises civil jurisdiction, while the County Courts generally handle criminal matters.

The trial court of limited jurisdiction in New York City is the NYC Civil Court, which has jurisdiction over civil cases involving amounts up to $25,000.

Supreme Court is the trial court of unlimited original jurisdiction. The court traces its origin to 1691 and is the oldest continuously serving court of general jurisdiction in the United States.
New York Supreme Court justices are elected to 14-year terms. Most of the power of selecting judges is vested in local political party organizations that cross-endorse each others' candidates. Justices retire at the end of the year in which they reach the age of seventy, when upon annual review they may be certified to serve until the age of 76.

Appellate Courts
The Appellate Division

The Appellate Division is New York's intermediate appellate court. It is composed of four courts in each of New York's four judicial departments:

- The First Department (seated in Manhattan) includes Bronx County and New York County (Manhattan).

- The Second Department (seated in Brooklyn) covers Queens County, Kings County (Brooklyn), Richmond County (Staten Island), Nassau County, Suffolk County, Dutchess, Orange, Putnam, Rockland, and Westchester Counties.

- The Third Department (seated in Albany) extends from the territory of the Second Department north to New York's border with Vermont and Quebec, and includes the cities of Albany, Troy, Schenectady, Saratoga Springs, and Binghamton. The Third Department also hears all Workers' Compensation Board appeals.

- The Fourth Department (seated in Rochester) covers the remainder of the state (west of the Third Department's territory), and includes the cities of Buffalo, Rochester and Syracuse.

Its function is to hear appeals from Supreme Courts and County Courts. In most cases, an appeal lies of right, but there are enumerated instances where permission (or "leave") to appeal must be obtained. The Courts of the Appellate Division are empowered to review questions of law and fact including the capacity to overturn a jury verdict if it "deviates materially from what would be reasonable compensation." It is noteworthy that each Appellate Division operates under its own set of rules, a scenario that often leads to differing interpretations of law and sustainable case value. There is also a lower appellate court, the Appellate Term, that exists if created by a particular Appellate Division. At the present time, only the First and Second Departments have an Appellate Term, which hear appeals from lower courts such as the Civil Court of the City of New York and, in the Second Department, District, county, city , town and village courts The Appellate Term reviews questions of law and fact.

Court of Appeals
The Court of Appeals, New York State's highest court, is composed of a Chief Judge and six Associate Judges, each appointed to a 14-year term. Appeals are taken from the four departments of the Appellate Division to the Court of Appeals. Decisions from the Court of Appeals are binding throughout the state. Unlike the Appellate Divisions, there are few appeals to the Court of Appeals as of right (for example, when there are at least two dissenting opinions on a question of law at the Appellate Division); under most circumstances, the aggrieved party must seek leave to appeal which may be filed in either the Appellate Division or the Court of Appeals. There is no jurisdictional limitation based upon the amount of money at stake. The 7 sitting Judges are nominated as vacancies occur by New York's then sitting Governor and confirmed by the New York Senate. Judges of the Court of Appeals must retire at the end of the year in which they reach age 70. There is no certification allowance. At the present time, the Court has 4 Republican and 3 Democratic Judges.

NORTH CAROLINA

www.nccourts.org

Introduction
North Carolina has a unified court system, referred to as the general court of justice. It is comprised of three divisions: the District Court division, the Superior Court division and the Appellate Court division. The District and Superior courts are the trial divisions. The appellate division is comprised of the intermediate court of appeals, and the Supreme Court, which is the court of last resort.

Trial Courts
The civil jurisdiction of the trial court divisions is concurrent which means that most civil cases can be filed in either District Court or Superior Court. However, a case which is not filed in the "proper" division can be transferred upon motion.

District Court
District Courts have exclusive jurisdiction only in juvenile and domestic (divorce, alimony, annulment, custody, and child support) matters; otherwise District Court is the proper division for civil actions in which the amount in controversy is $10,000 or less. District Courts hear misdemeanor criminal matters, and preliminary hearings in felony cases, and domestic matters without regard to amount in controversy. In criminal matters, there is no jury trial but there is a right of appeal to Superior Court for trial *de novo*. In civil matters, jury trial is available if one of the parties requests it in the first pleadings. Appeal from a judgment in District Court in civil and domestic matters is to the North Carolina Court of Appeals.

The District Court division also includes small claims court where magistrates here civil disputes in which the amount in controversy does not exceed $5,000. Either party may appeal the judgment of a magistrate to District Court for trial *de novo*.

Superior Court
Superior Court is the trial court of general jurisdiction with original jurisdiction over all civil actions for which exclusive original jurisdiction is not given to some other court, and of all criminal actions in which punishment may exceed a fine of $50 or imprisonment for one month. Superior Court is the exclusive jurisdiction for probate of wills and for administration of decedents' estates. Superior court is the proper division for cases involving matters in which the amount in controversy exceeds $10,000, and for cases, without regard to amount in controversy, where:

A. The principal relief sought is injunctive or declaratory relief to establish the validity of a statute, ordinance, or regulation, or declaration of any claim or constitutional right;
B. Special proceedings are involved; or
C. Appointment of guardians or administration of an express trust or estate of ward.

North Carolina has 100 counties, and is divided for administrative purposes into 30 judicial districts, organized in eight geographic divisions. Superior Court judges rotate among the districts within their divisions on a six month basis. District Court judges typically remain in their home districts.

In recent years, North Carolina has embraced alternative dispute resolution. Most cases filed in Superior Court are required to participate in court-ordered mediation. District Courts utilize mandatory non-binding arbitration of claims for monetary damages of $15,000 or less. A party who is not satisfied with the arbitrator's decision has a right to a trial in District Court, but can be required to pay the opponent's costs if it does not improve upon the arbitration result.

North Carolina has 100 counties divided into 36 district court districts. Currently there are 270 district court judges and 111 superior court judges.

Appellate Courts
In North Carolina, there can be no appellate review in the absence of a final judgment by a trial judge or when a "party aggrieved" has been deprived of a "substantial right." N.C. Gen. Stat. §1A-1-54.

Court of Appeals
The court of appeals is an intermediate appellate court comprised of 15 judges, who serve eight-year terms and sit in panels of three. Most of the court's sessions are held in Raleigh, but individual panels sometimes meet in other locations throughout the state. With limited exception where appeal of right lies directly to the Supreme Court, the Court of Appeals has jurisdiction to review on appeal any decision by the Superior Courts, District Courts, Utilities Commission, Industrial Commission, North Carolina State Bar, or appeal from the Commissioner of Insurance.

Supreme Court
The Supreme Court of North Carolina is the state's highest court, and court of last resort. It is composed of a Chief Justice and 6 Associate Justices who sit together as a panel in Raleigh, the state capital. Appeals to the Supreme Court may be as of right or discretionary.

A. *Appeals as of Right*-In civil cases, the Supreme Court hears appeals from the Court of Appeals as of right only in cases in which there was a dissent in the Court of Appeals, or a substantial state or federal constitutional question is involved. Additionally, pursuant to N.C. Gen. Stat. § 7A-27, the Supreme Court exercises direct review of general rate-making proceedings of the North Carolina Utilities Commission.

B. *Discretionary Appeals*-If no right of appeal is available, a party may petition the Supreme Court for discretionary review of an adverse decision of the Court of Appeals. Additionally, pursuant to N.C. Gen. Stat. § 7A-31, the Supreme Court, on its own motion or at the request of a party may review a case directly from the trial court, by-passing the Court of Appeals.

NORTH DAKOTA

Source: http://www.ndcourts.gov/court/BROCHURE.htm
Unless otherwise indicated, Information in brackets obtained from other links available at http://www.ndcourts.gov/court.

The North Dakota judicial system consists of the Supreme Court, Court of Appeals, District Courts, and Municipal Courts. Together they form a judicial team responsible for providing an equal and fair system of justice to citizens of North Dakota.

The Structure of the Judicial System

Supreme Court
The Supreme Court is the highest court in the state of North Dakota. It is comprised of five justices elected in a non-partisan election for ten-year terms. Each justice must be a licensed attorney and a citizen of the United States and North Dakota.

One member of the Supreme Court is selected as Chief Justice by the justices of the Supreme Court and the judges of the district courts. The Chief Justice's term is five years. The Chief Justice's duties include presiding over Supreme Court conferences, representing the judiciary at official state functions, and serving as the administrative head of the judicial system.

The North Dakota Supreme Court has two major types of responsibilities--judging and administering.

In its judging capacity, the Supreme Court is primarily an appellate court with the responsibility of hearing appeals from decisions of the district courts and the Court of Appeals.

In its administrative capacity, the Supreme Court has major responsibility for ensuring the efficient and effective operation of all non-federal courts in the state, maintaining high standards of judicial conduct, supervising the legal profession, and adopting procedural rules which allow for the orderly and efficient transaction of judicial business.

The Clerk of the Supreme Court, appointed by the Chief Justice, supervises the scheduling and assignment of cases, oversees the distribution and publication of Supreme Court opinions and administrative rules and orders, and decides certain procedural motions filed with the Court.

[Parties on appeal may petition the Supreme Court as to whether oral argument should take place. The Court has discretion to demand or deny argument, regardless of the parties' request.]

[The Supreme Court normally issues opinions 60-90 days after oral argument, but the Court is not bound by time deadlines.]

Court of Appeals
The Court of Appeals hears only the cases assigned to it by the Supreme Court. It is comprised of three judges chosen from among active and retired district court judges, retired justices of the Supreme Court, and attorneys. Temporary court of appeals judges are assigned by the Supreme Court for up to one year. The Supreme Court assigns cases to the Court of Appeals from among those cases filed with it. Some years the Supreme Court assigns no cases to the Court of Appeals.

District Court
The district courts are the courts of general jurisdiction in North Dakota. They have original and general jurisdiction in all cases, including criminal felony and misdemeanor cases, and general jurisdiction for civil cases.

The district courts also serve as the juvenile courts in the state and have exclusive and original jurisdiction over any minor who is alleged to be unruly, delinquent, or deprived.

The state is divided into seven judicial districts. In each judicial district a presiding judge supervises court services of all courts in the district. There is a district court in each of the state's fifty-three counties. [There are a total of 44 district-court judges.] All of the judicial districts are served by a court administrator or administrative assistant who works with governmental agencies, budget, facilities, records management, personnel, and contract administration.

The office of district judge is an elected position filled every six years by non-partisan election held in the district in which the judge will serve.

[Within 60 days of filing a lawsuit, the parties must discuss alternative-dispute resolution and file a statement with the court as to whether it will be used. The parties must also be prepared to discuss alternative-dispute resolution with the court at a pre-trial conference.]

[Interlocutory appeals are rarely granted, and the appellant must show compelling or unusual circumstances or demonstrate that a failure to grant the appeal would create prejudice or hardship. *Brummond v. Brummond*, 758 N.W.2d 735 (N.D. 2008) (citing N.D.R.Civ.P. 54(b)).]

Municipal Court
Municipal courts in North Dakota have jurisdiction of all violations of municipal ordinances, with some exceptions. All municipal judges in North Dakota are part-time and are elected by the people for four-year terms.

Administration of the Judicial System
Ultimate responsibility for the efficient operation of the judicial system resides with the Supreme Court. The Constitution establishes the Supreme Court's administrative responsibility for the judicial system by designating the Chief Justice as the administrative head of the judicial system.

To help fulfill its administrative and supervisory responsibilities, the Supreme Court relies on the state court administrator, presiding judges, and various advisory committees, commissions, and boards.

The state court administrator, appointed by the Chief Justice, assists the Supreme Court in the preparation of the judicial budget, provides for judicial education, coordinates technical assistance to all levels of courts, plans for statewide judicial needs, and administers a personnel system.

OHIO

Judicial Structure

The Constitution of Ohio separates our state government into three branches, each with distinct areas of responsibility — the executive, the legislative and the judicial. The primary function of the judicial branch is to fairly and impartially settle disputes according to the law. To do this, a number of courts have been established in the state by the Constitution and by acts of the General Assembly. Further, in addition to its place in the court structure as the court of last resort, the Supreme Court, in particular the Chief Justice, is responsible for the administration of the judicial branch in Ohio.

The Supreme Court

The Supreme Court of Ohio is established by Article IV, Section 1, of the Ohio Constitution, which provides that "the judicial power of the state is vested in a Supreme Court, Courts of Appeals, Courts of Common Pleas and divisions thereof, and such other courts inferior to the Supreme Court as may from time to time be established by law." Article IV, Section 2, of the Constitution sets the size of the Court at seven – a Chief Justice and six Justices – and outlines the jurisdiction of the Court. The Supreme Court is the court of last resort in Ohio. Most of its cases are appeals from the 12 district courts of appeals. The Court may grant leave to appeal criminal cases from the courts of appeals and may direct any court of appeals to certify its record on civil cases that are found to be "cases of public or great general interest."

The Court must accept appeals of cases that originated in the courts of appeals; cases involving the death penalty; cases involving questions arising under the U.S. Constitution or the Ohio Constitution; and cases in which there have been conflicting opinions from two or more courts of appeals. The Court must also accept appeals from such administrative bodies as the Board of Tax Appeals and the Public Utilities Commission.

The Court has original jurisdiction for certain special remedies that permit a person to file an action in the Supreme Court. These extraordinary remedies include writs of habeas corpus (involving the release of persons allegedly unlawfully imprisoned or committed), writs of mandamus and procedendo (ordering a public official to do a required act), writs of prohibition (ordering a lower court to cease an unlawful act), and writs of quo warranto (against a person or corporation for usurpation, misuse or abuse of public office or corporate office or franchise).

The Court may also grant leave to appeal a case involving a contested election. This type of a case is unique because it is the only type of discretionary appeal that permits a case to be taken directly from the court of common pleas to the Supreme Court, bypassing the court of appeals.

The Supreme Court makes rules governing practice and procedure in Ohio's courts, such as the Rules of Evidence, Rules of Civil Procedure and Rules of Criminal Procedure. Procedural rules adopted by the Supreme Court become effective unless both houses of the General Assembly adopt a concurrent resolution of disapproval. The Supreme Court also exercises general superintendence over all state courts through its rule-making authority. The rules of superintendence set minimum standards for court administration statewide. Unlike procedural rules, rules of superintendence do not have to be submitted to the General Assembly to become effective.

The Court also has authority over the admission of attorneys to the practice of law in Ohio and may discipline admitted attorneys who violate the rules governing the practice of law. The Chief Justice and six Justices are elected to six-year terms on a nonpartisan ballot. Two Justices are chosen at the general election in even-numbered years. In the year when the Chief Justice is on the ballot, voters elect three members of the Court. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the Court. Appointments are made by the governor for vacancies that occur between elections.

Courts of Appeals

The courts of appeals are established by Article IV, Section 1, of the Ohio Constitution and their jurisdiction is outlined in Article IV, Section 3. As the intermediate level appellate courts, their primary function is to hear

appeals from the common pleas, municipal and county courts. Each case is heard and decided by a three-judge panel.

The state is divided into 12 appellate districts, each of which is served by a court of appeals. The number of judges in each district depends on a variety of factors, including the district's population and the court's caseload. Each district has a minimum of four appellate judges. Appeals court judges are elected to six-year terms in even-numbered years. They must have been admitted to the practice of law in Ohio six years preceding commencement of the term.

In addition to their appellate jurisdiction, the courts of appeals have original jurisdiction, as does the Supreme Court, to hear applications for writs of habeas corpus, mandamus, procedendo, prohibition and quo warranto. The 10th District Court of Appeals in Franklin County also hears appeals from the Ohio Court of Claims.

The Court Of Claims
The Court of Claims has original jurisdiction to hear and determine all civil actions filed against the state of Ohio and its agencies. The court also hears appeals from decisions made by the attorney general on claims allowed under the Victims of Crime Act.

The Court of Claims decides civil claims typically involving contract disputes, property damage, personal injury, immunity of state officers and employees, discrimination and wrongful imprisonment. The Chief Justice assigns judges to hear such cases. In almost every instance, a single judge will hear a case, but the Chief Justice may assign a panel of three judges to a civil action that presents novel or complex issues of law and fact.

Civil complaints filed for $2,500 or less are decided on the contents of the case file or "administratively" by the clerk or a deputy clerk of the court. Appeals from those decisions ("administrative determinations") may be taken to a judge of the court upon motion for court review. The court's judgment is not subject to further appeal. Appeals filed by crime victims are heard and determined by a panel of three commissioners who are appointed by the Supreme Court for a term of six years. A further and final appeal from the panel's decision may be taken to a judge of the court. Like administrative determinations, the judge's decision is final.

Courts of Common Pleas
The court of common pleas, the only trial court created by the Ohio Constitution, is established by Article IV, Section 1, of the Constitution, and its duties are outlined in Article IV, Section 4. There is a court of common pleas in each of the 88 counties. Specific courts of common pleas may be divided into separate divisions by the General Assembly, including general, domestic relations, juvenile and probate divisions. Common pleas judges are elected to six-year terms on a nonpartisan ballot. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the court.

General Division
The general division has original jurisdiction in all criminal felony cases and in all civil cases in which the amount in controversy is more than $15,000. General divisions also have appellate jurisdiction over the decisions of some state administrative agencies.

Domestic Relations Division
Domestic relations courts have jurisdiction over all proceedings involving divorce or dissolution of marriages, annulment, legal separation, spousal support and allocation of parental rights and responsibilities for the care of children.

Juvenile Division
Juvenile courts hear cases involving persons under 18 years of age who are charged with acts that would be crimes if committed by an adult. They also hear cases involving unruly, dependent and neglected children. Juvenile courts have jurisdiction in adult cases involving paternity, child abuse, nonsupport, contributing to the delinquency of minors and the failure to send children to school.

Probate Division
The Ohio Constitution of 1851 provided that probate courts were to e established as separate independent courts with jurisdiction over the probate of wills and supervision of the administration of estates and guardianships. In 1968, under the Modern Courts Amendment of the Ohio Constitution, the probate courts became divisions of the courts of common pleas. Probate courts also have jurisdiction over the issuance of marriage licenses, adoption proceedings, determination of sanity or mental competency and certain eminent domain proceedings. Probate judges can perform marriages and may charge a fee for the service.

Municipal and County Courts
Municipal and county courts are created by the General Assembly as provided in R.C. 1901 and 1907. When municipal courts exercise countywide jurisdiction, no county court is needed. A county court is needed if an area of a county is not served by a municipal court.

The subject-matter jurisdiction of municipal and county courts is nearly identical. Both municipal and county courts have the authority to conduct preliminary hearings in felony cases, and both have jurisdiction over traffic and non-traffic misdemeanors. These courts also have limited civil jurisdiction. Municipal and county courts may hear civil cases in which the amount of money in dispute does not exceed $15,000. Judges sitting in these courts, like probate judges, have the authority to perform marriages.

Municipal court judges are elected to six-year terms on a nonpartisan judicial ballot. A municipal court judge may have jurisdiction in one or more municipalities, across county borders, in adjacent townships, or throughout an entire county. A county court judge is elected to a six-year term on a nonpartisan ballot. All county court judges and 20 municipal court judges are part-time. Municipal court judges and county court judges must be attorneys with at least six years of experience in the practice of law.

Mayor's Courts
Mayor's courts are not a part of the judicial branch of Ohio government and are not courts of record. Still, they must file statistics quarterly and annually with the Supreme Court. Additionally, at the request of the General Assembly, the Supreme Court has adopted rules providing for court procedures and basic legal education for mayors. Mayors whose courts hear alcohol- and drug-related traffic offenses have additional educational requirements. Ohio and Louisiana are the only two states that allow the mayors of municipal corporations to preside over a court. In Ohio, in municipalities populated by more than 100 people where there is no municipal court, mayor's courts hear only cases involving violations of local ordinances and state traffic laws. A mayor is not required to be a lawyer, but may appoint an attorney who has engaged in the practice of law for three years to hear cases in mayor's court. A person convicted in a mayor's court may appeal the conviction to the municipal or county court having jurisdiction within the municipal corporation.

OKLAHOMA

DISTRICT COURTS

Oklahoma District Courts are courts of general jurisdiction in Oklahoma. Art. 7, § 7(a). The Oklahoma Supreme Court has stated that "the district court – in all of its divisions – constitutes an omnicompetent, single-level, first instance tribunal with 'unlimited original jurisdiction of all justiciable matters . . .'" See Jernigan v. Jernigan, 138 P.3d 539, 545 (Okla. 2006).

The District Courts of Oklahoma have approximately 71 district judges, 77 associate district judges, and 73 special judges. District Court judges hear both civil and criminal matters, and they are the backbone of the judiciary. Appeals from the District Courts in civil matters are to the Oklahoma Supreme Court; appeals in criminal matters from these courts are to the Oklahoma Court of Criminal Appeals

Special judges of the district court have been appointed to handle and decide certain matters, mostly in cases where the parties are not entitled to a jury trial. Statutory law defines the types of proceedings that can be heard by a special judge. 20 O.S. § 123. These include probate matters, juvenile proceedings,

condemnation proceedings, adoption proceedings, family law matters, forcible entry/detainer, and replevin actions or money damage matters where the amount in controversy does not exceed $10,000.00. The Court describes these matters as “procedural tracks for [certain] classes of district court proceedings.” Wilson v. Kane, 852 P.2d 717, 721 n.13 (Okla. 1993). Proceedings in each situation can result in a final appealable order, pursuant to the particular statutes applicable thereto.

For instance, the Small Claims Procedure Act specifies a particular procedure for small claims actions, and the Oklahoma Pleading Code does not govern such actions. 12 O.S. § 2001. The small claims division of the District Court has power to hear claims for $6,000.00 or less, exclusive of costs and attorney's fees, in the following actions: (1) actions for the recovery of money based on contract or tort, including subrogation claims, but excluding libel and slander; (2) actions for replevin of personal property; and (3) interpleader actions. 12 O.S. § 1751(A).

Oklahoma has codified the “District Court Mediation Act.” 12 O.S. § 1821 et seq. The Act provides that “[a]ny district court, by agreement of the parties, may refer any civil case, including any domestic relations case, or any portion thereof for mediation.” 12 O.S. § 1823. While the Act does require the consent of the parties before a district court may order parties to mediation, some district courts, as a matter of informal practice, unilaterally refer cases to mediation regardless of consent. The Oklahoma Supreme Court also has an appellate settlement conference program. The program also requires the consent of all parties to the appeal.

APPEAL PROCESS

SUPREME COURT

Unlike most states, Oklahoma has two courts of last resort. The Supreme Court determines all issues of a civil nature, and the Oklahoma Court of Criminal Appeals decides all criminal matters. Members of these courts, and of the Court of Civil Appeals, are appointed by the governor from a list of three names submitted by the Oklahoma Judicial Nominating Commission.

The Oklahoma Supreme Court has nine members. The Oklahoma Court of Criminal Appeals has five members. The Justices are included on a retention ballot at designated times during their tenure, but they do not have opponents or otherwise conduct formal election campaigns.

In Oklahoma, all litigants are entitled to one appeal as a matter of right. Appeals to the Court of Criminal Appeals come directly from the District Court. All appeals in civil cases are made to the Oklahoma Supreme Court. Appeal may be made to the Supreme Court from the District Court, Workers' Compensation Court, Court of Tax Review, and state agencies such as the Department of Public Safety, Oklahoma Tax Commission, Oklahoma Corporation Commission and the Department of Human Services. Most of these appeals are directed by the Supreme Court to one of four divisions of the Court of Civil Appeals.

CERTIORARI PROCESS

Most cases reviewed in the Supreme Court are from the Court of Civil Appeals. These cases come before the Supreme Court on petitions for certiorari.

In Oklahoma, the certiorari process allows the Supreme Court to bring the record up from the Court of Civil Appeals and to review the Court of Civil Appeals’ decision. A review of an opinion of the Court of Civil Appeals in the Supreme Court on writ of certiorari is a matter of sound judicial discretion, and will be granted only when there are special and important reasons, and if a majority of the Justices direct that certiorari be granted. In 2008, the Supreme Court granted 27 petitions for certiorari. In 2009, the Supreme Court granted 70 petitions for certiorari. The Court grants between 10 to 20 percent of the petitions for certiorari that are filed in appeal proceedings.

According to the Oklahoma Supreme Court’s rules, certiorari may be granted when: the Court of Civil Appeals has decided a question of substance not previously determined by the Oklahoma Supreme Court; or the decision of the Court of Civil Appeals does not conform with a decision by the Oklahoma Supreme

Court or the United States Supreme Court; or the Court of Civil Appeals divisions have issued conflicting opinions; or when the Court of Civil Appeals' decision is a substantial departure from the usual course of judicial proceedings. Oklahoma Supreme Court Rule 1.178.

RETENTION AND ORIGINAL JURISDICTION

When new first impression issues, or important issues of law, or matters of great public interest are at stake, the Supreme Court may retain a case directly from the trial court. Oklahoma Supreme Court Rule 1.24. Retention is rare. In 2008, the Court issued only 12 opinions in retained appeals. In 2009, the Court issued only 11 opinions in retained appeals.

In addition to appeals from a trial, issues come to the Supreme Court within its general superintending control over all inferior courts, agencies, commissions and boards created by law, with the exception of the Court on the Judiciary and the Senate sitting as a Court of Impeachment. For instance, the Supreme Court may accept original jurisdiction in a case, and issue a writ of prohibition and/or mandamus with directions that a district court judge take certain action, or refuse to take certain action. See, e.g., Jackson v. Freeman, 905 P.2d 217 (Okla. 1995). Such intervention is rare, but can be invoked where the trial court has clearly exceeded its jurisdiction, or has taken some action that is contrary to law.

INTERLOCUTORY ORDERS APPEALABLE BY RIGHT

While litigants typically may only invoke appellate remedies at the end of a case (i.e., at "judgment"), Oklahoma does allow for certain interlocutory appeals, but only as defined by statutory law. These include interlocutory appeals of orders which grant a new trial or vacate a judgment; grant or deny temporary injunctive relief; discharge/vacate/modify an attachment; discharge/vacate/modify or refuse to discharge/vacate/modify a provisional remedy which affects a substantial right; appoint a receiver or refuse to appoint a receiver; direct the payment of money pendent lite or refuse to direct the payment of money pendent lite; certify or refuse to certify an action to be maintained as a class action; certain probate orders; and orders granting or refusing to grant a motion to compel arbitration. Oklahoma Supreme Court Rule 1.60.

APPELLATE COURTS

The Court of Civil Appeals has an internal deadline of deciding an appeal within six months from the date of assignment. The Oklahoma Supreme Court has an internal deadline of deciding cases within nine months after assignment. These rules are not hard and fast, and the time for issuance of an opinion can be much longer (in some cases, two years after assignment).

As a matter of practice, the Oklahoma Supreme Court does not hold oral arguments prior to deciding an appeal. If oral argument is desired, a request must be made by one of the litigants. Oral arguments are typically granted only in cases involving matters of public importance, or in certain disputes that are unusually complex.

The Court of Civil Appeals is responsible for the majority of appellate decisions in Oklahoma. These opinions may be released for publication either by the Court of Civil Appeals or by the Supreme Court. When the opinions are released for publication by the Supreme Court, they have precedential value. The Court of Civil Appeals is made up of four divisions, each composed of three Judges. Two divisions of the Court of Civil Appeals are located in Oklahoma City and two are located in Tulsa.

The outcome of an appeal proceeding in Oklahoma is hard to predict. However, currently, the Oklahoma Supreme Court should be viewed as one which is (1) willing to recognize a new claim or cause of action, (2) to lessen or modify the burden of proof associated with a plaintiff's claim, (3) to find a fact question in the face of a summary judgment ruling, (4) to critique defenses, such as a statutes of limitations defense, and (5) to strike down tort reform efforts. Former Oklahoma Governor Brad Henry (D) appointed six of the nine current Justices.

OREGON

www.courts.oregon.gov

The Oregon civil court system is a unified system of state trial and appellate courts called the Oregon Judicial Department ("OJD"). It consists of Circuit (trial) court, Court of Appeals and the Oregon Supreme Court. There is also a separate Tax Court.

STATE TRIAL COURTS

The circuit courts have general jurisdiction in all civil and criminal matters as well as dissolution of marriages, distribution of the assets, legal custody, title to land, issue injunctions, approve adoptions, commit juveniles to state institutions and place dependent children in substitute care and commit mentally ill persons to state hospitals.

Each of Oregon's 36 counties has a circuit court and most are located in the county courthouse. Some counties may also have offices in more than one location.

Circuit court judges are elected within the judicial districts in which they serve. If a vacancy arises before the term's expiration, the governor will appoint a replacement for the remainder of the unexpired term. However, the individual will need to run for reelection.

Mandatory arbitration is required in case the prayer is $50,000 or less. A party can excuse the judge without having to show cause if the request is timely made. In some counties, a trial judge is not assigned until the day before the matter is set to go to trial.

Decisions appealed from Circuit Court go directly to the Court of Appeals except for cases where the circuit court sentenced a defendant to death. In those cases, a death penalty appeal goes directly to the Oregon Supreme Court.

COURT OF APPEALS

The Court of Appeals has jurisdiction to hear all civil and criminal appeals from the circuit court, except death penalty cases, and tax court appeals. It also has the authority to review most state administrative agency actions.

The Court of Appeals is the intermediate appellate court. It has ten judicial positions and the Chief Justice of the Oregon Supreme Court appoints the Chief Judge. The judges are elected in a non-partisan state wide election to a six year term in non-partisan state wide elections. In the event of a vacancy during an unexpired term or there is a need for another judge, the Governor and the Oregon Supreme Court may appoint one of its own, a circuit court judge or a tax court judge to serve as judge pro tempore to the Court of Appeals.

To manage its heavy caseload, the Court of Appeals judges are divided into a panel of three judges, each of which hears appeals. The Chief Judge is not a member of any one panel and may substitute for a member of any panel who is not available or who has a conflict of interest.

SUPREME COURT

The Oregon Supreme Court has seven justices elected in a non-partisan election who serve for a period of six years. The court selects one of their own members to serve the six year term as Chief Justice. If a vacancy occurs or help is needed, the Supreme Court may appoint a qualified retired member of the Supreme Court, a Court of Appeals judge, a circuit judge or a tax court judge to serve as judge pro tempore.

The Oregon Supreme Court has discretionary review of cases from the Court of Appeals. A party may petition the Supreme Court to review the decision from the Court of Appeals and the Supreme Court can choose to accept or deny the petition. The court also has direct review authority in certain cases: death penalty, certain labor law, issues injunctions, Oregon Tax Court, decisions and certain agency proceedings.

It also has direct, but discretionary, review of certified law questions of law from federal court or the court of another state. Furthermore, the Supreme Court has original proceedings authority, which includeS mandamus, which orders an official to carry out a certain legal function and habeas corpus which challenges the legality of personal detention. The Supreme Court also has responsibility for judicial fitness and disability. It can conduct disciplinary proceedings to censure, suspend or remove a judge after investigation and recommendation of the Commission on Judicial Fitness and Disability.

PENNSYLVANIA

An Introduction

The Pennsylvania court system is structured like a pyramid. At its base are the magisterial district judges and the Philadelphia Municipal and traffic courts where cases involving small claims and traffic offenses are heard. One step up on the pyramid are the Common Pleas courts in 60 judicial districts around the state where trials are held in civil and criminal cases and disputes involving family and estate matters are litigated. Another step up are the intermediate appellate courts, the Superior Court, a general court of appeals with 15 judges, and the Commonwealth Court, a special court with nine judges which hears government-related matters. At the top of the pyramid is the highest court, the Supreme Court with seven justices. The Supreme Court has the power to review any case from the lower courts. It also has administrative authority over the entire Pennsylvania court system.

Minor Courts

Minor courts, also called special courts or courts of limited jurisdiction, constitute the “grass roots” level of Pennsylvania’s court system. For many Pennsylvanians these are the first, and often the only, courts they will ever encounter. The minor courts include the magisterial district judge courts, Philadelphia Municipal Court and Philadelphia Traffic Court.

Magisterial District Courts

Magisterial district judges preside over magisterial district judge courts in all counties but Philadelphia. They have authority to:

- conduct non-jury trials concerning civil claims (unless the claim is against a Commonwealth party as defined in 42 Pa. C.S. §8501) where the amount in controversy does not exceed $8,000, exclusive of interests and costs, in the following classes of actions:
    - landlord-tenant actions
    - assumpsit actions
    - trespass actions
    - fines and penalties by any government agency
- accept guilty pleas to the charge of Driving Under the Influence (75 Pa. C.S.A. §3802) so long as it is the first offense, no personal injury occurred to a third party other than the defendant’s immediate family, property damage to any third party is less than $500 and the defendant is not a juvenile.

Magisterial district judges are not required to be lawyers, but if they are not, they must complete an educational course and pass a qualifying examination before they can take office. They must also complete one week of continuing education each year.

Philadelphia Municipal Court

One of two minor courts in Philadelphia County, Municipal Court is Pennsylvania’s only court of record at the minor courts level. Its judges have the same jurisdiction as magisterial district judges with the following exception for civil claims:

- they may enter judgments in civil claims where the amount does not exceed $10,000.

The Municipal Court complement numbers 25, and judges who serve on this court must be attorneys.

Philadelphia Traffic Court
Philadelphia Traffic Court's jurisdiction covers all summary offenses under the Motor Vehicle Code as well as any related city ordinances.

Seven judges sit on this court. As with magisterial district judges, the judges need not be lawyers, but must complete the certifying course and pass the qualifying examination administered by the Minor Judiciary Education Board.

Pittsburgh Municipal Court
The Pittsburgh Municipal Court is presided over by 13 magisterial district judges whose districts are in or partly in the City of Pittsburgh. Additional magisterial district judges from Allegheny County are assigned to the court on a rotating basis by the president judge of the Court of Common Pleas.

The Pittsburgh Municipal Court has a criminal division, a traffic division and a non-traffic division. The judges also preside over matters within the City of Pittsburgh, including non-traffic summary offenses; traffic offenses and all violation of the City of Pittsburgh ordinances.

Common Pleas Courts
Common Pleas courts are Pennsylvania's courts of general trial jurisdiction. They have original jurisdiction over all cases not exclusively assigned to another court and appellate jurisdiction over judgments from the minor courts. They also hear appeals from certain state and most local government agencies.

The courts are organized into 60 judicial district which generally follow the geographic boundaries of the Commonwealth's counties; however, seven of the districts are comprised of two counties. Each district has form one to 93 judges.

Appellate Courts
Pennsylvania's appellate courts form a two-tiered appeals system. The first, or intermediate, level has two courts: the Superior Court, which has 15 judges, and the Commonwealth Court, which has nine. At the second level is the seven-justice Supreme Court, the highest court in Pennsylvania.

In general, appeals of Common Pleas Court decisions are made to one of the two intermediate appellate courts.

Commonwealth Court – 9 Judges
The Commonwealth Court was created by the Constitutional Convention in 1968 as not only a means to reduce the workload of the Superior and Supreme courts, but as a court to hear cases brought against and by the Commonwealth. It has both original and appellate jurisdiction.

The court's original jurisdiction encompasses:

- civil actions brought against the Commonwealth government or an officer of the government, usually seeking equitable relief or declaratory judgment and not damages
- civil actions brought by the Commonwealth government (note: these could also be brought in the Courts of Common Pleas)

Its appellate jurisdiction includes:

- appeals relating to decisions made by most state administrative agencies
- appeals from the Court of Common Pleas involving:
    - actions against the Commonwealth that could not be initiated in Commonwealth Court
    - actions by the Commonwealth that could have been commenced in Commonwealth Court
    - most local government matters other than contract issues, including actions for damages

Superior Court – 15 Judges
Because the Superior Court's main function is an appeals court, its original jurisdiction is limited. Most appeals are heard by a three-judge panel, although the Court may grant reconsideration by the Court en banc.

As an appeals court, the Superior Court's jurisdiction is less specialized than the Commonwealth's; therefore, it hears a wide variety of petitions, both criminal and civil, from Common Pleas courts. Such petitions include all manner of cases, including torts, medical malpractice and breach of contract.

Supreme Court – 7 Justices
The Supreme Court's jurisdiction encompasses four main areas: original, appellate, exclusive and extraordinary.

The Court's **appellate** jurisdiction includes those cases it hears at its own discretion and various types of cases heard as a matter of right. these latter cases include appeals of cases originating in Commonwealth Court and appeals of certain final orders issued by either the Common Pleas courts or specific constitutional and judicial agencies.

Appeals from final orders of Common Pleas courts include:

- cases involving matters prescribed by general rule
- the right to public office
- matters where the qualifications, tenure or right to serve or the manner of service of any member of the judiciary is in question
- matters where the right or power of the Commonwealth or any political subdivision to create or issue indebtedness is in question
- statutes and rules held unconstitutional by the Courts of Common Pleas
- matters where the right to practice law is involved.

Finally, the Court possesses **extraordinary** jurisdiction to assume jurisdiction of any case pending before a lower court involving an issue of immediate public importance. This it can do on its own or upon petition from any party and is commonly known as king's bench power.

RHODE ISLAND

District Court
The District Court has exclusive jurisdiction of all civil actions at law wherein the amount in controversy is under $5,000. The court has concurrent original jurisdiction with the Superior Court of all civil actions at law wherein the amount in controversy exceeds the sum of $5,000 and does not exceed $10,000. However, in any such action if one or more of the defendants in the answer to the complaint demand removal of the action to the Superior Court, in which event the action shall proceed as if it had been filed originally in the Superior Court. There are a total of 13 District Court judges.

Superior Court
The Superior Court is the trial court of general jurisdiction in Rhode Island. It has original jurisdiction in all civil matters where the amount in controversy exceeds $10,000 and in matters of equity. Jurisdiction is concurrent with the District Court as to civil matters with amounts at issue from $5,000-$10,000. The Superior Court also hears appeals on civil and criminal cases from the District Court. Any appeal from a decision rendered in Superior Court is taken directly to the Rhode Island Supreme Court.

Rhode Island's five counties are divided into four Superior Court jurisdictions: Kent, Washington, and Newport; with Providence/Bristol counties comprising one jurisdiction. The Superior Court is the forum for a trial by jury. Appeals from trials held in the District Court result in a trial de novo, or entirely new trial, in Superior Court. The Superior Court also has appellate jurisdiction of decisions of local municipal and probate courts.

In addition to conducting trials, the Superior Court administers the Court-Annexed Arbitration Program which speeds the disposition of certain less complex civil cases in which there is $100,000 or less at issue. Matters such as contract disputes, personal injury claims, and property damage suits may be certified to this alternative dispute resolution program. During an arbitration hearing, evidence is presented in an informal setting to a court-trained attorney/arbitrator who, after considering the same, makes an award in the case, usually within 10 days of the hearing. Also administered through the Superior Court Arbitration Office is the annual "Settlement Week," held in Providence in December each year, during which civil cases may be resolved through mediation. Seven percent of the year's total disposed civil cases were settled through mediation in 2009.

The Presiding Justice of the Superior Court is assisted by 21 Associate Justices as well as five Magistrates.

Judicial appointments are made by the Governor following recommendation of 3-5 candidates by the Judicial Nominating Commission to the Governor and confirmation by the Senate of the Governor's choice. Appointments are for life in the absence of judicial misconduct.

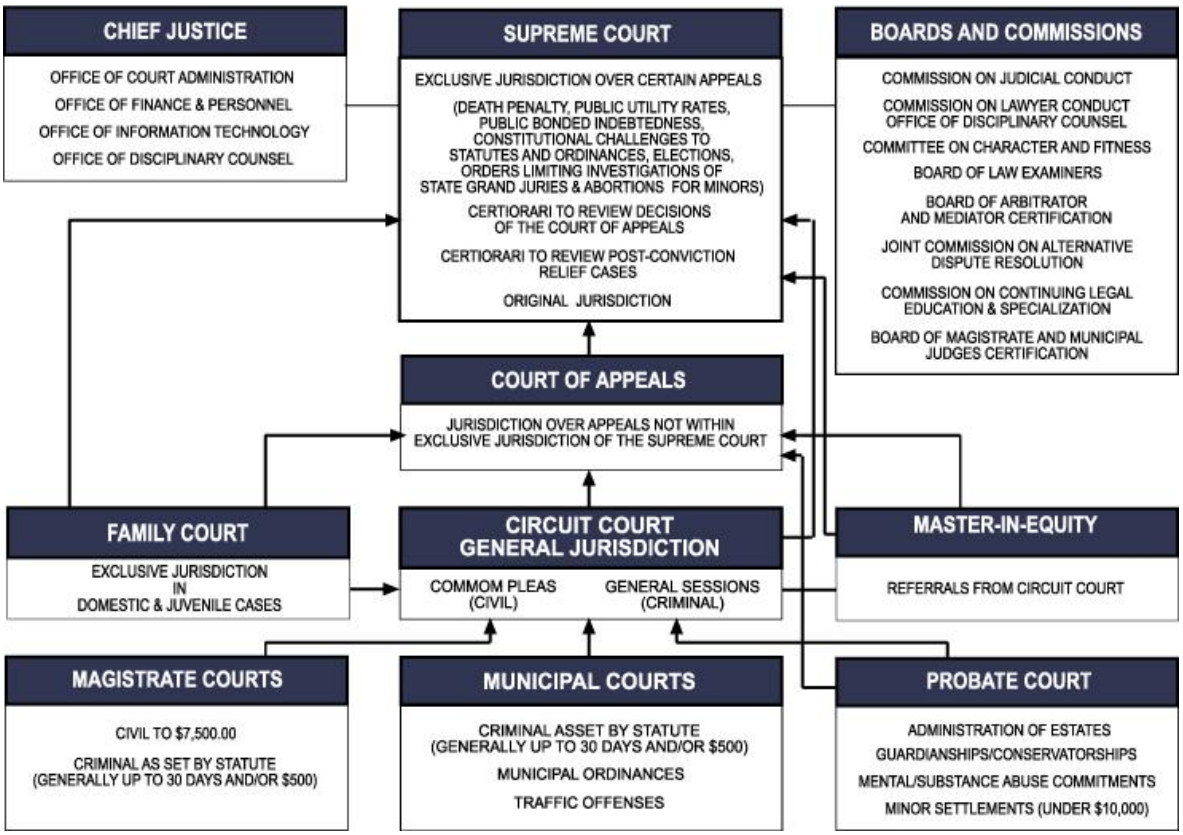
Supreme Court
The Rhode Island Supreme Court is the state’s court of last resort. The Supreme Court has absolute appellate jurisdiction over questions of law and equity, supervisory powers over other state courts, and general advisory responsibility to the Legislative and the Executive branches of state government concerning constitutional issues. The Supreme Court has five justices.

An appeal permitted by law from a trial court to the Supreme Court shall be taken by filing a notice of appeal in the trial court. In a civil case the notice of appeal required by Rule 3 shall be filed with the clerk of the trial court within twenty (20) days of the date of the entry of the judgment, order, or decree appealed from together with a filing fee of one hundred fifty dollars. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within twenty (20) days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this subdivision, whichever period last expires.

The Supreme Court may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or of the District of Columbia, or a United States District Court when requested by the certifying court if there are involved in any proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the Supreme Court.

SOUTH CAROLINA

The South Carolina civil court system is three-tiered: 1) the lower courts, which include circuit courts, magistrate courts, municipal courts, probate courts, family courts, and masters-in-equity; 2) the court of appeals; and the South Carolina Supreme Court.



The Supreme Court

The State's highest tribunal is the Supreme Court. The court has both original and appellate jurisdiction, but generally acts only in its appellate capacity which includes cases on certiorari from the Court of Appeals and seven classes of appeals directly from the circuit and family courts, which include:

1) the death penalty,
2) public utility rates,
3) significant constitutional issues,
4) public bond issues,
5) election laws,
6) an order limiting the investigation by a state grand jury, and
7) an order of a family court relating to an abortion of a minor
8)

Other appeals from the circuit and family courts are apportioned between the Supreme Court and the Court of Appeals. The Supreme Court renders decisions based on lower court transcripts, briefs, and oral arguments. In addition to hearing and deciding cases, the court also has rulemaking authority for the unified judicial system, including ethics regulations for judges and controlling admissions to and disciplining of the S.C. Bar. The Supreme Court is composed of a Chief Justice and four Associate Justices who are elected by the S.C. General Assembly for a term of ten years. The terms are staggered and a justice may be re-elected to any number of terms. (See Art. V, S.C. Constitution).

The Court of Appeals
Most appeals from the Circuit Court and the Family Court will be heard by the Court of Appeals (S.C. Code Ann. § 14-8-200). Exceptions are when the appeal falls within any of the seven classes for the Supreme Court, or when the appeal is certified for determination by the Supreme Court. The Court of Appeals is the judicial system's newest court, having commenced operation on September 1, 1983. It consists of a Chief Judge and nine associate judges who are elected to staggered terms of six years each. The Court sits either as three panels of three judges each or as a whole, and it may hear oral arguments and motions in any county in the State.

The Circuit Courts
Directly under the Supreme Court and the Court of Appeals is the Circuit Court, the State's court of general jurisdiction. It has a civil court (the Court of Common Pleas) and a criminal court (the Court of General Sessions). In addition to its general trial jurisdiction, the Circuit Court has limited appellate jurisdiction over appeals from the Probate Court, Magistrate's Court, and Municipal Court, as well as appeals from the Administrative Law Judge Division over matters relating to state administrative and regulatory agencies. The state is divided into sixteen judicial circuits. Each circuit has at least one resident judge who maintains an office in the judge's home county within the circuit. Circuit judges serve the sixteen circuits, on a rotating basis, with court terms and assignments determined by the Chief Justice through Court Administration. Circuit Court judges are elected to staggered terms of six years.

The Masters-in-Equity
The Masters-in-Equity are appointed by the Governor with the advice and consent of the General Assembly to a term of six years. They may serve in full or part-time capacity and are compensated by the county governing body. Masters have jurisdiction in equity matters referred to them by the Circuit Court. They have the power and authority of the Circuit Court sitting without a jury, to regulate all proceedings in every hearing before them, and to perform all acts and take all measures necessary or proper for the efficient performance of their duties under the order of reference. This includes the power to rule on all motions, require the production of evidence, and call witnesses and examine them under oath. Masters may also conduct sales under certain circumstances. There are currently 21 Masters-in-Equity. Appeals from an order or judgment entered by a master or referee "must be to the Supreme or the Court of Appeals as provided by the South Carolina Appellate Court Rules. A matter may not be referred to the master or referee for the purpose of making a report to the circuit court." S.C. Code Ann. § 14-11-85. See: Rule 53, SCRCP.

The Family Courts
The unified statewide family court system was established by statute in 1976. The Family Courts have exclusive jurisdiction of all matters involving domestic or family relationships. Pursuant to this provision, the Family Courts are the sole forum for the hearing of all cases concerning marriage, divorce, legal separation, custody, visitation rights, termination of parental rights, adoption, support, alimony, division of marital property, and change of name. These courts also generally have exclusive jurisdiction over minors under the age of seventeen. S.C. Code Ann. § 63-3-510 provides that the family court "shall have exclusive original jurisdiction and shall be the sole court for initiating action" concerning a child who "is alleged to have violated or attempted to violate any State or local law or municipal ordinance."

S.C. Code Ann. § 63-19-1210 provides that if, "during the pendency of a criminal or quasi-criminal charge . . . it is ascertained that the child was under the age of seventeen years at the time of committing the alleged offense, it is the duty of the circuit court immediately to transfer the case, together with all papers, documents, and testimony connected therewith, to the family court." Each summary court judge should contact the family court office in the judge's county and arrange with family court personnel such procedures as will expedite and insure the orderly transfer of juvenile cases to the family court.

While as a general proposition the family court has "exclusive" jurisdiction over a person under seventeen years of age, S.C. Code Ann. § 63-3-520 provides that,

> The magistrate courts, and municipal courts, of this State have concurrent jurisdiction with the family courts for the trial of persons under seventeen years of age charged with traffic violations

or violations of the provisions of Title 50 relating to fish, game and watercraft when such courts would have jurisdiction of the offense charged if committed by an adult.

In addition, "If a child sixteen years of age or older is charged with an offense which, if committed by an adult, would be a misdemeanor, a Class E or F felony as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of 10 years or less,". . . the family court "... may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offense if committed by an adult." S.C. Code Ann. § 63-19-1210(4). In addition, when a "... child fourteen or fifteen years of age is charged with an offense which, if committed by an adult, would be a Class A, B, C, or D felony as defined in S.C. Code Ann. § 16-1-20 or a felony which provides for a maximum term of imprisonment of fifteen years or more," the family court "may bind over the child for proper criminal proceedings to a court which would have trial jurisdiction of the offenses if committed by an adult." S.C. Code Ann. § 63-19-1210(5). Therefore, "When jurisdiction is relinquished by the family court in favor of another court, the court shall have full authority and power to grant bail, hold a preliminary hearing and other powers as now provided by law for magistrates in such cases." S.C. Code Ann. § 63-19-1210(8). It is clear from these statutes that the normal situations in which a summary court judge would be conducting a criminal proceeding over a child would be when the child is 16 and it is so ordered by the family court, or where the child is charged with a traffic offense within the jurisdiction of the summary court judge. A summary court judge may never commit a child under seventeen (17) years of age to jail, however.

At least two family court judges are elected for staggered six year terms to each of the sixteen judicial circuits, with 52 judges who rotate primarily from county to county within their resident circuits. Occasionally they are assigned to other circuits based upon caseload requirements as directed by the Chief Justice.

The Magistrates' Court

There are approximately 319 magistrates in South Carolina, each serving the county for which he or she is appointed. They are appointed by the Governor upon the advice and consent of the Senate for four year terms and until their successors are appointed and qualified. (Art. V, § 26, S.C. Const., and S.C. Code Ann. § 22-1-10). Anyone seeking an initial appointment as magistrate must pass an eligibility examination before they can be recommended to the Governor by the senatorial delegation. S.C. Code Ann. § 22-2-5. Magistrates must also attend an orientation program, pass a certification examination within one year of their appointment, and attend a specified number of trials prior to conducting a trial.

Magistrates have criminal trial jurisdiction over all offenses which are subject to the penalty of a fine not exceeding $500.00 or imprisonment not exceeding 30 days, or both. (S.C. Code Ann. § 22-3-550). In addition, S.C. Code Ann. § 22-3-545 provides that magistrates may hear cases transferred from general sessions, the penalty for which does not exceed one year imprisonment or a fine of $5,000, or both, upon petition by the solicitor and agreement by the defendant. Magistrates have civil jurisdiction when the amount in controversy does not exceed $7,500. (S.C. Code Ann. § 22-3-10). In addition, magistrates are responsible for setting bail, conducting preliminary hearings, and issuing arrest and search warrants. Unlike circuit courts and probate courts, magistrate courts are not courts of record. Proceedings in magistrates courts are summary. (S.C. Code Ann. § 22-3-730).

The Municipal Courts

The council of each municipality may establish, by ordinance, a municipal court to hear and determine all cases within its jurisdiction. Such courts are part of the unified judicial system. It should be noted, however, that a municipality may, upon prior agreement with county governing body, prosecute its cases in magistrate court, in lieu of establishing its own municipal court. In addition, the council may establish, by ordinance, a municipal court, and contract with the county governing authority for the services of a magistrate to serve as its municipal judge. The Chief Justice, pursuant to his/her powers as administrative head of the unified judicial system, would, in turn, delegate authority to the Chief Summary Court Judge of the county to assign a specific magistrate as municipal judge.

Municipal courts have jurisdiction over cases arising under ordinances of the municipality, and over all offenses which are subject to a fine not exceeding $500.00 or imprisonment not exceeding 30 days, or both, and which occur within the municipality. In addition, S.C. Code Ann. § 22-3-545 provides that municipal courts may hear cases transferred from general sessions, the penalty for which does not exceed one year imprisonment or a fine of $5,000, or both, upon petition by the solicitor and agreement by the defendant. The powers and duties of a municipal judge are the same as those of a magistrate, with regard to criminal matters; however, municipal courts have no civil jurisdiction. The term of a municipal judge is set by the council of the municipality, but cannot exceed four years. Municipal Judges appointed on or after May 24, 2004, must be appointed for a set term of not less than two years but not more than four years. Section 14-25-15(A) states, "Each municipal judge must be appointed by the council to serve for a term set by the council of not less than two years but not more than four years and until his successor is appointed and qualified. His compensation must be fixed by the council." Approximately 200 municipalities in South Carolina have chosen to create municipal courts.

All municipal judges are required to complete a training program or pass certification or recertification examinations, or both, within one year of taking office. See S.C. Code Ann. § 14-25-15 and Rule 509, SCACR. The examination will be offered three times each year. Members of the South Carolina Bar are exempt from the examination; however, they are required to attend the orientation program.

Each municipal judge must pass a recertification examination within eight years after passing the initial certification examination and at least once every eight years thereafter.

The Probate Courts
Each county in South Carolina has a popularly elected probate judge who serves a four-year term. Probate courts have jurisdiction over marriage licenses, estates of deceased persons, minor settlements under $25,000.00, guardianships of minors and incompetents and involuntary commitments to mental institutions. (S.C. Code Ann. § 14-23-1010 et seq.) They also have exclusive jurisdiction over trusts and concurrent jurisdiction with Circuit Courts over powers of attorney.

SOUTH DAKOTA

GENERAL OVERVIEW OF TRIAL COURT SYSTEM
The South Dakota civil court system is three-tiered: (1) magistrate courts; (2) circuit courts; and, (3) South Dakota Supreme Court. The circuit courts have general jurisdiction, and lower courts have limited original jurisdiction.

Circuit courts are the state's trial courts of general jurisdiction through which most civil litigation is processed. SDCL 16-6-9. In fiscal year 2010, South Dakota had 66 counties divided into seven judicial circuits. Within the circuits, there are 41 circuit judges and 13 magistrate judges. SDCL 16-6-1. Seven circuit judges are presiding judges. The voters in each circuit elect circuit judges. To qualify, the circuit judges must be voting residents of their circuit at the time they take office. If there is a vacancy, the South Dakota Judicial Qualifications Commission selects nominees for Governor appointment. Circuit courts have original jurisdiction in all civil actions and have concurrent jurisdiction with magistrate courts in certain areas.

Magistrate courts help circuit courts dispose of minor civil cases. However, a magistrate court's jurisdiction depends on the type of magistrate presiding – clerk (lay) or judge. Both are appointed by the circuit court's presiding judge. As of fiscal year 2010, South Dakota had 12 full-time and 1 part-time magistrate judges. Magistrate courts act as South Dakota's small claims court, handling all civil actions if the debt, damage, or claim does not exceed $12,000.

The parties have the right to request a jury trial, but bench trials may be preferred depending on the issues of each case. Moreover, either party can substitute a judge without having to show cause provided the request is timely and other requirements of SDCL Ch. 15-12 are satisfied.

In South Dakota, a written agreement to submit any existing or arising controversy to arbitration between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. SDCL 21-25A-1. Upon proper application showing an agreement to arbitrate and an opposing party's refusal to do so, the court shall order the parties to proceed with arbitration. SDCL 21-25A-5. Arbitration agreements relating to medical services must adhere to SDCL Ch. 21-25B.

APPEAL PROCESS
All circuit courts have appellate jurisdiction from all final judgments, decrees, or orders of all courts of limited jurisdiction, inferior officers, or tribunals, in the cases prescribed by statute. SDCL 16-6-10. There is no appeal from small claims decisions. Other than the circuit court acting in its appellate court capacity, South Dakota does not have any other intermediate appellate courts. All parties have the right to appeal decisions to the South Dakota Supreme Court. SDCL Ch. 15-26A.

SUPREME COURT
The South Dakota Supreme Court is the state's highest court and court of last resort for state appellate actions. The Supreme Court consists of the chief justice and four associate justices. Pursuant to a constitutional amendment in 1980, the justices are appointed by the Governor from a list of nominees selected by the Judicial Qualifications Commission. Although appointed by the Governor, thereafter justices are retained or rejected from office by a nonpolitical ballot in the general elections. These retention elections are held three years after appointment and every eight years thereafter. The Chief Justice is selected by the justices. SDCL Ch. 16-1. South Dakota mandates retirement for justices reaching the age of seventy (70). *Id*.

The Supreme Court's primary function is that of an appeals court. Typically, the Court reviews lower court (circuit court) decisions. Other functions of the Supreme Court include original jurisdiction in cases involving interests of the State. It may also provide original and remedial writs, render advisor opinions to the Governor on executive power issues, and exercise rule-making power of court practice and procedure.

Although each party is entitled to an appeal, the South Dakota Rules of Appellate procedure must be followed. SDCL Ch. 15-26A-3, 26A-4. An appeal from a judgment or order must be taken within thirty (30) days after the judgment or order is signed, attested, file and written notice of entry given. SDCL 15-26A-6. Intermediate orders may be appealed from, but the Supreme Court need not accept the appeal. Failure to follow the procedures set forth in SDCL Ch. 15-26A may result in dismissal of the appeal.

TENNESSEE

The Tennessee civil court system is divided into circuit courts and chancery courts. Both have unlimited jurisdiction.

Many of the circuits cover more than one county. Jury trials are permitted in the circuit courts in any matter in which a jury was permitted at common law. The right to trial by jury is guaranteed by the Tennessee Constitution, and juries are permitted in all cases involving claims for monetary damages.
The trial courts have the authority to order parties to mediate a case, but they do not order mediation in every civil case. If any party requests that the case be referred to a mediator, the court will generally order mediation.

Appeal Process
The Tennessee civil appellate courts are divided into three separate sections – West, Middle and East. All litigants have a right to appeal to the first level of appellate courts.

Supreme Court
The Tennessee Supreme Court is comprised of five justices. Except in a few classes of cases, appellate reviews by the Supreme Court are discretionary. Typically, the Supreme Court accepts less than ten percent of the appeals filed with the court.

For more information on appellate practice in TN, see below book chapter on appellate practice in Tennessee.

THE INSIDER'S GUIDE TO THE TENNESSEE APPELLATE COURTS

I. TOP TIPS FOR OUT-OF-STATE PRACTITIONERS

1. Tennessee appellate courts are now using a green/yellow/red light system for regulating oral arguments. Be sure to advise the clerk as to how you want your time divided because the clerk must have this information at the outset to set the times. Otherwise, you will be interrupted in your argument if you do not remember to do that at the outset of oral argument.
2. Remember to attach any unreported cases as an appendix to your brief.
3. If you are traveling to Tennessee for the argument, consider listening to all the cases set on the docket that day prior to your case. There may be comments made by the judges relating to other cases which will have direct bearing on your argument.
4. If you are filing a petition to rehear an appellate decision, note that those petitions must be filed very quickly, within ten days of the date of the filing of the original decision.
5. Most judges prefer that you refer to every decision as the "Court's decision" not a particular judge's decision. Most judges also prefer that you refer to the trial court as the trial court, Circuit Court, Chancery Court, Criminal Court, etc. and not to the trial judge by name.

II. APPELLATE RESOURCES

A. Court Websites and Dockets. The Tennessee Supreme Court's website is **www.tsc.state.tn.us**. The same site may also be accessed at **www.tn.courts.gov**. This site has information and biographies on the appellate court judges and access to recent Supreme Court, Court of Appeals, and Court of Criminal Appeals' opinions. It has a listing of the disposition of discretionary appeals before the Supreme Court. It also has a link for court rules, proposed rules amendments, and local rules. By clicking on the "information" link, you can access the appellate court docket. By clicking on the "Contact Us" link, you can obtain the addresses and telephone numbers for the appellate court clerk's offices across the state.

B. Practice Guides. The Nashville Bar Association has published three editions of Appellate Advocacy: a Handbook on Appellate Practice in Tennessee. The last edition was published on June 30, 2006. Online CLE on appellate practice is available through the Tennessee Bar Association at **www.tnbaru.com**.

C. Contacting the Clerk's Office. There are three clerk's offices across the state of Tennessee. In West Tennessee, the office is in Jackson. The address is Supreme Court Building, 6 Highway 45 Bypass, Jackson, Tennessee 38302, and the telephone number is (731)423-5840. In Middle Tennessee, the clerk's office is in Nashville. The address is Supreme Court Building, 401 Seventh Avenue North, Nashville, Tennessee 37219-1407, and the telephone number is (615) 741-2681. In East Tennessee, the clerk's office is in Knoxville. The address is Supreme Court Building, 505 Main Street, Suite 200, Knoxville, Tennessee, 37902, and the telephone number is (865) 594-6700. The contact information for the Administrative Office of the Courts, which oversees the administration of the entire judicial branch, is 511 Union Street, Suite 600, Nashville, Tennessee 37219. The telephone numbers are (615) 741-2687 and (800) 448-7970.

D. Electronic Notices. The Court is in a long-term process of implementing an electronic filing proposal. Due primarily to severe budget cuts in Tennessee government, which began in fiscal 2009, electronic filing and electronic notices are not presently available.

E. Legislative History Resources. Legislative histories are available through the Legislative Recording Program, which is a project of the Tennessee State Library and Archives. The telephone number for the legislative history staff is (615) 741-1549. You can email the staff at **lht.tsla@tn.gov**. More online information is available at **www.tennessee.gov/tlsa/legislative.htm**. Private publishers also have online legislative history services.

III. ADMISSION TO PRACTICE AND REPRESENTATION OF COUNSEL

A. General. Attorneys admitted to practice in Tennessee need not seek any special permission to appear in the state's appellate courts. Customarily, attorneys appearing for the first time should be introduced to the Court.

B. Admission Pro Hac Vice. Attorneys wishing to be admitted pro hac vice must file a motion with the appellate court, even if admitted Pro Hac in the trial Court. Admission pro hac vice is governed by Rule 19 of the Tennessee Supreme Court Rules. The criteria for admission or denial of permission to appear are set forth in the rule. Note that under Supreme Court Rule 20, a lawyer licensed to practice in Tennessee but who maintains no office in Tennessee may be required by the trial or the appellate court to associate a lawyer who maintains a law office in the state of Tennessee.

C. Appearance of Counsel of Appeal. As noted, appearance in the trial or appellate courts is governed by Tennessee Supreme Court Rule 19.

D. Withdrawal and Substitution of Counsel on Appeal. Leave of court is required for withdrawal or substitution of counsel on appeal. If counsel's withdrawal from a case will leave the client unrepresented, sufficient notice should be provided to the represented party and details regarding the notice should be included in the motion to withdraw. Pursuant to Rule 18(d), if a party to an action on appeal is unable to bear the expenses of the appeal due to poverty, a motion for leave to proceed on appeal as a "poor person" may be filed in the appellate court. The motion should be accompanied by a

Uniform Affidavit of Indigence as set forth in Supreme Court Rule 13 in criminal cases or in accordance with Supreme Court Rule 29 in civil cases. If leave to proceed as a poor person is denied by an intermediate appellate court, the appellate court shall state in writing the reasons for the denial.

E. Ethical Rules and Standards. The Rules of Professional Conduct apply throughout Tennessee's courts. There are no ethical rules or standards unique to Tennessee appellate practice.

IV. THE APPELLATE COURT SYSTEM

A. Structure. Tennessee has a two tier appellate structure, including the intermediate appellate courts and the highest court in the state, the Supreme Court. The intermediate appellate courts are divided into the Court of Appeals, which hears civil matters, and the Court of Criminal Appeals, which hears criminal cases.

B. Jurisdiction. Most appeals are filed as of right with the appellate court pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure (hereafter T.R.A.P.). Note that a trial court judgment is not final if it "…adjudicates fewer than all claims or the rights and liabilities of fewer than all the parties." T.R.A.P. 3(a). Cases may also be appealed to the intermediate appellate court under T.R.A.P. 9 and T.R.A.P. 10, which govern interlocutory appeals by permission from the trial court and extraordinary appeals by permission on original application to the appellate court without permission of the trial court. The Supreme Court has the authority to review the decisions of the intermediate appellate courts pursuant to T.R.A.P. 11. In addition, the Supreme Court can exercise "reach down jurisdiction" pursuant to statute under certain special circumstances. Tenn. Code Ann. 16-3-201. The Supreme Court may also, pursuant to Rule 23 of the Supreme Court Rules, answer questions of law certified to it by the Supreme Court of the United States, a court of appeals of the United States, a district court of the United States in Tennessee, or a United States bankruptcy court in Tennessee.

C. Certification to Other Courts. Tennessee has not adopted the Uniform Certification of Questions of Law Act. See discussion above regarding certified questions from federal courts to the Tennessee Supreme Court.

V. COMMENCING THE APPEAL

A. Notice of Appeal. Pursuant to T.R.A.P. 4 regarding appeals as of right to the Supreme Court, Court of Appeals, or Court of Criminal Appeals, the notice of appeal required by Rule 3 must be filed with and received by the trial court clerk within thirty days after the date of entry of the judgment. Pursuant to T.R.A.P. 4(b), if a timely motion for a directed verdict or to amend or make additional findings of fact or for a new trial or to alter or amend the judgment is filed, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any such other motion. Pursuant to T.R.A.P. 4(d), a prematurely filed notice of appeal shall be treated as filed after the entry of the judgment from which the appeal is taken and on the date thereof. T.R.A.P. 5 requires service of the notice within seven days of filing.

B. Docketing Statement. Pursuant to T.R.A.P. 5(c), the clerk of the appellate court shall enter the appeal on the docket immediately upon receipt of the copy of the notice of appeal. The clerk of the appellate court shall immediately serve notice on all parties of the docketing of the appeal. An appeal shall be docketed under the title given to the action in the trial court, with the appellant identified as such, but if such title does not contain the name of the appellant, the party's name, identified as appellant, shall be added to the title. With the service of the notice of docketing of the appeal, the clerk of the appellate court shall send to the appellant, and the appellant shall fully complete and return to the clerk, a docketing statement in the form prescribed by the clerk.

C. Bonds and Stays. Pursuant to T.R.A.P. 6, unless an appellant is exempted by statute or by rule, a bond for cost on appeal shall be filed by the appellant in the trial court along with the notice of appeal. The trial court shall notify the appellate court clerk of a party's failure to file a bond with the notice of appeal. The appellate court may issue a show cause order as to why the appeal should not be dismissed for failure to file a bond. A bond for costs on appeal shall have sufficient surety. T.R.A.P. 6(a) governs the requirement for surety and the rights of sureties on appeal.

Pursuant to T.R.A.P. 7 and Rule 62 of the Tennessee Rules of Civil Procedure, a stay of the order of the trial court may be sought in the trial court. Review of the trial court's order may be sought in the appellate court. Review may be sought by filing a motion for review accompanied by the motion filed in the trial court. A party may appeal the Court of Appeals' decision on a motion for review by filing a motion for review in the Supreme Court within fifteen days of the filing of the Court of Appeals' order.

D. Other Initial Documents. Other than the filing of the notice of appeal and a bond for costs, there are generally no additional initial documents which must be filed in order to initiate an appeal.

E. Docketing of the Appeal. As noted above, pursuant to T.R.A.P. 5(c), the clerk of the court shall docket the appeal upon receipt of the notice of appeal.

F. Intervention in Pending Appeals. There is no specific appellate rule governing intervention. Presumably, a motion to intervene could be filed in the appellate court. In the trial court, intervention as of right and permissive intervention is governed by Tennessee Rules of Civil Procedure 24.01 and 24.02. It is rare for a party to move to intervene in an appeal having not done so while the case was proceeding in the trial court. T.R.A.P. 32 requires notice to the Tennessee Attorney General when the validity of a statute, rule, or state regulation is "drawn into question." T.R.A.P 32(c) gives the Attorney General the right to file a brief in response.

VI. RECORD COMPOSITION AND TRANSMITTAL

A. Form of Record. Matters concerning the record on appeal are governed by T.R.A.P. 24, 25, and 26. Pursuant to T.R.A.P. 24(a), the record on appeal shall consist of copies of papers filed in the trial court, the original of any exhibits, a transcript or statement of the evidence of proceedings, requests for instructions submitted to the trial judge, and any other matter designated by a

party and properly includable in the record. Generally, subpoenas or summonses for any witnesses, discovery papers not entered into the record at trial, jury venire lists, and trial briefs are not included in the record on appeal, however, a party may request that they be included and such requests are generally granted. Many appellate judges prefer to have trial courts briefs and memoranda in the record.

B. Requesting, Selecting, Compiling, and Transmitting the Record. Pursuant to T.R.A.P. 24(b), the transcript, certified by the appellant, appellant's counsel, or the reporter, shall be filed with the clerk of the trial court within sixty days after filing of the notice of appeal. Pursuant to T.R.A.P. 24(c), if no stenographic report is available, the appellant shall prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. Pursuant to T.R.A.P. 24(f), the trial judge shall approve the transcript or statement of the evidence and authenticate the exhibits.

Pursuant to T.R.A.P. 25(a), the record on appeals shall be assembled, numbered, and completed by the clerk of the trial court within forty-five days of the filing of the transcript or statement of evidence. It is the duty of the trial court clerk to transmit the record when it is complete for purposes of the appeal, and it is the duty of the clerk of the appellate court to transmit the record to counsel for the purpose of preparing appellate papers. The clerk of the appellate court typically withholds originals of exhibits when transmitting the record.

C. Transcripts and Trial Exhibits. As outlined above, it is the responsibility of the appellant to provide a transcript or a statement of the evidence. All exhibits filed in the trial court are considered exhibits on appeal.

VII. APPELLATE MEDIATION OR CONFERENCE PROGRAMS

T.R.A.P. 34, entitled Voluntary Mediation, became effective July 1, 2009. T.R.A.P. 34(a) provides that within five days following receipt of the notice of appeal, in all cases appealed to the Court of Appeals, the clerk of the appellate court shall notify the parties or their counsel that consistent with the requirements of Rule 34, they may jointly request a suspension of the processing of the appeal for the purpose of engaging in voluntary mediation. Upon the filing of a joint stipulation, the time for preparing the transcript or statement of the evidence, the record appeal, and the brief shall be suspended for no more than sixty days to enable the parties to mediate their dispute. If the mediation is unsuccessful or unsuccessful in part, the appeal shall return to the active docket within sixty days after the filing of the joint stipulation unless, before the expiration of that period, the parties and the mediator jointly file a notice of an extension of up to an additional thirty days to complete the mediation process. T.R.A.P. 34(e) sets out an evaluation process for the new voluntary appellate mediation program.

VIII. FILING AND SERVICE REQUIREMENTS

A. Filing and E-filing. As indicated, electronic filing is not yet available in the appellate courts. For rules regarding the filing of an appeal, see Section V.A. Pursuant to T.R.A.P. 20A, some papers may be filed by fax.

The filing of briefs and deadlines applicable thereto are discussed in Section X.

B. Service. Pursuant to T.R.A.P. 20(b), copies of all papers filed by any party shall, at or before time of filing, be served on all other parties to the appeal or proceeding. Service on parties represented by counsel shall be made on counsel. Pursuant to T.R.A.P. 20(c), service may be made by delivery or by mail. Papers presented for filing shall contain a certificate, or in the words of T.R.A.P. 20(e), an acknowledgement of service by the person served or proof of service in the form of a statement of the date and manner of service and the names of the persons served, certified by the person who made service.

IX. MOTIONS

A. Motions in General. Pursuant to T.R.A.P. 22, motions must be filed in writing with proof of service on all other parties. Each copy of the motion must be accompanied by a memorandum of law. If the motion is based on matters not appearing in the appellate record, affidavits or other evidence in support of the motion must be filed contemporaneously. Any memorandum or other pleadings to be filed in opposition to the motion must be filed within 10 days after the motion is filed. The appellate court may shorten or extend the time for responding to any motion. Motions for extension of time under T.R.A.P. 21(b) may be acted upon by the appellate court without awaiting a response. Motions for procedural orders such as an extension of time must also be accompanied by a statement concerning efforts to contact adversary counsel and should reflect whether there is any opposition to the motion. Pursuant to T.R.A.P. 22(c), the appellate court, on the request of any party or its own motion, may place a motion on the calendar for oral argument, however, typically, the motion is resolved on the pleadings. Pursuant to T.R.A.P. 22(d), a single judge of the appellate court may grant or deny a request for relief made in a motion except for a dispositive motion. The action of a single judge may be reviewed by the entire court. T.R.A.P. 22(e) requires two copies of the motion to be filed with the clerk.

B. Motion for Extension of Time. T.R.A.P. 21 governs the computation and extension of time. If the deadline falls on a Saturday, Sunday, or legal holiday, or a day in which conditions have made the office of the clerk inaccessible, the pleading may be filed on the next day. Saturday, Sunday, and holidays are generally included in the computation of time except that when the period of time prescribed or allowed is less than seven days, intermediate Saturday, Sunday, and legal holidays are excluded from the computation. Pursuant to T.R.A.P. 21(b), although the appellate court may not enlarge the time for the filing of the notice of appeal, the appellate court may enlarge the time prescribed by the rules. It is advisable that motions for extensions be filed not only before the deadline passes, but before the date that the pleading is due. A proposal is pending to amend T.R.A.P. 21 to define the term "legal holiday" and to add a reference to days on which the office of the court clerk is closed.

C**. Motion for Extension of Length.** Pursuant to T.R.A.P. 27(i), the argument section of principal briefs shall not exceed 50 pages. The argument section of reply briefs shall not exceed 25 pages. The appellate court has the discretion to enter an order allowing briefs to exceed these limitations.

D. Motion to Stay Appeal. Under Rule 62.01 of the Tennessee Rules of Civil Procedure, no execution may issue on a judgment until the expiration of 30 days after the entry of the judgment. Pursuant to T.R.C.P. 62.02, executions are also stayed if pending for 30 days after the entry of any order granting or denying traditional post trial motions. The appellant generally seeks the stay first in the trial court pursuant to T.R.C.P. 62. Pursuant to T.R.C.P. 62.05, a bond for stay shall have sufficient security for payment of the judgment in full plus the cost on appeal. T.R.C.P. 62.05(ii) allows the court to enter an order granting a stay for a poor person without the requirement of a bond. T.R.A.P. 7(a) provides for appellate review of any order entered pursuant to T.R.C.P. 62 by the trial court. Review is sought by the filing of a motion. A party may appeal the Court of Appeals' decision on a motion for review of a stay order within 15 days of the filing of the Court of Appeals' order. Parties opposing the stay must file an answer within 10 days of the filing of the motion of the Supreme Court. The amount and sufficiency of the bond is also reviewable by the appellate court under T.R.A.P. 7(b).

E. Emergency Motions. A party seeking an expedited resolution of a motion and/or seeking to shorten the response time with respect to any motion may file a motion to expedite and/or to shorten the response time. It is the better practice to file a separate motion to expedite rather than include the request in the body of the main motion.

F. Motions for Reconsideration. Pursuant to T.R.A.P. 39(a), rehearing may be granted by an appellate court on its own motion or on the petition of a party. The factors to be considered by the court in reviewing a petition for rehearing are set forth in T.R.A.P. 39(a). The petition for rehearing must be filed with the clerk within 10 days after entry of judgment unless the time is shortened or enlarged by the court. No answer to the petition to rehear is permitted unless requested by the court. An oral argument is likewise not permitted unless ordered by the court on its own motion. Once the appellate court has acted upon a petition for rehearing, no further petitions for rehearing shall be filed with that court. Pursuant to T.R.A.P. 39(b), the petition for rehearing shall not exceed 15 pages.

G. Local Practice. There are no "local rules" of the appellate courts, however, there are Rules of the Court of Appeals of Tennessee, which for example, govern the content of argument (Rule 6), domestic relations cases (Rule 7), number of copies (Rule 8), citations for unpublished opinions (Rule 12), and publication of opinions (Rule 11). There are internal rules of the appellate courts which govern the conduct of the judges on those courts; however, generally, all appellate practice is governed by the Tennessee Rules of Appellate Procedure.

X. BRIEFING SCHEDULE.

A. Rules and Scheduling Orders. T.R.A.P. 27(a) and 27(b) set out the content of the briefs to be filed by the parties and other requirements such as references to the record, citations, page limitations, etc. T.R.A.P. 29(a) provides that the appellant's brief must be filed within 30 days after the date on which the record is filed with the clerk. The appellee shall serve and file a brief within 30 days after the appellant's brief is filed with the clerk. Reply briefs shall be served and filed within 14 days after the filing of the preceding brief. Argument made by the appellant/appellee that the trial court's order should be modified in some respect or that the trial court committed error with respect to an issue that provides alternative grounds for affirming the result of a trial court should be contained in the appellee's brief. There is no need for a separate brief to be filed by the appellee. The filing of the notice of appeal by any party takes the entire case up to the Court of Appeals. However, careful practitioners who have prevailed on some but not all of the issues in the trial court sometimes file a notice of appeal as a precaution and then seek dismissal of the appeal if the adversary party does not file a notice of appeal in a timely fashion.

B. See Section XII(B) and XII(C).

C. Briefing with Deferred Records or Appendices. T.R.A.P. 28 provides that the appellant may prepare and file an appendix to the brief containing relevant portions of the pleadings, order of judgment, or other parts of the record the appellant deems essential for the judges to read in order to determine the issues presented.

XI. BRIEF FORMAT AND CITATIONS.

A. Physical Requirements. Pursuant to T.R.A.P. 30(a), briefs should be produced on opaque, unglazed white paper. The use of recycled paper is encouraged. All printed materials should be on paper 6-1/8 x 9-1/4 inches with type set no smaller than 11 point and typed matter 4-1/4 x 7-1/4 inches. Copies should be on paper 8-1/2 x 11 inches, double-spaced, except for quoted matter with the text not smaller than standard elite typewriting and not to exceed 6-1/2 to 9-1/2 inches. Papers should be numbered on the bottom and if not bound, fastened on the left. Pursuant to T.R.A.P. 30(b), the front covers of the brief shall contain the number of the case in the appellate court and the name of that court, the title of the case as it appeared in the trial court, the nature of the proceeding in the appellate court, the title of the document, the name and the name and address of counsel, or if unrepresented by counsel, the party filing the brief. Pursuant to T.R.A.P. 30(c), the color of the appellant's brief should be blue, the appellee's brief should be red, the reply brief should be gray, and briefs of amicus curiae should be green.

B. Citation Form, Rules and Conventions. T.R.A.P. 27(h) provides that the citation of cases must be by title to the page of the volume where the case begins, and to the pages upon which the pertinent matter appears in at least one of the reporters cited. It is not sufficient to use "supra" or "infra" without referring to the page of the brief at which the complete citation may be found. Citation of Tennessee cases may be to the official or Southwestern Reporter or both. Citation of cases from other jurisdictions must be to the National Reporter system or to both the official state reports and National

Reporter system. All citations to cases shall include the year of decision. Citation of textbooks shall be the section, if any, and page upon which the pertinent matter appears and shall include the year of publication and edition, if not the first edition. Tennessee statutes shall generally be cited to the Tennessee Code Annotated, but citations to session laws of Tennessee (Public Acts) may be made when appropriate.

C. Citable Authorities. If a party relies upon an unreported case, a copy of the opinion in the unreported case must be filed with the brief and served upon adversary counsel.

XII. BRIEF CONTENTS.

A. Appellant's Brief. The content of the appellant's brief is governed by T.R.A.P. 27(a) and should include as follows:

1. A Table of Contents, with references to the pages in the brief,

2. A Table of Authorities, including cases alphabetically arranged, statutes and other authorities cited, with references to the pages in the brief where they are cited,

3. A jurisdictional statement in cases appealed to the Supreme Court directly from the trial court indicating briefly the jurisdictional ground for the appeal to the Supreme Court,

4. A statement of the issues presented for review,

5. A statement of the case, indicating briefly the nature of the case, the course of proceedings, and its disposition in the court below,

6. A statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record (references to the record are preferred by the judges for the statement of the case also),

7. An argument, which may be preceded by a summary of argument, setting forth the contentions of the appellant with respect to the issues presented and, the reasons therefore, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on, a concise statement of the applicable standard of review for each issue, and

8. A short conclusion, stating the precise relief sought.

B. Response and Reply Briefs. Pursuant to T.R.A.P. 27(b), the brief of the appellee and all of the parties shall conform to the same requirements of the brief for the appellant. The brief of the appellee need not contain a jurisdictional statement, statement of the issues presented for reviews, statement of the case, or statement of the facts, if the appellee is satisfied with the discussion presented by the appellant. If the appellee is also requesting relief from the judgment or a modification of the judgment, the brief of the appellee shall contain the issues and arguments involved in the appellee's request for relief.

Pursuant to T.R.A.P. 27(c), the appellant may file a brief in reply to the brief of the appellee. Appellee also requests relief from modification of the judgment, the appellee may file a brief in reply to the response of the appellant to the issues presented by the appellee's request for relief.

C. Cross-Appeals. Pursuant to the procedure set forth above in Section XII.B, cross-appeals are not necessary.

XIII. APPENDICES AND EXCERPTS OF THE RECORD.

A. Process for Compiling. T.R.A.P. 24(a) provides that if less than the full record on appeal is deemed sufficient, the appellant may file with the clerk of the trial court the parts of the record the appellant intends to rely upon. The appellee has 15 days to respond to this designation of the record. Otherwise, the content of the record is specified by T.R.A.P. 24(a) and it is the responsibility of the clerk of the trial court to prepare the record. However, it is the responsibility of the appellant, pursuant to T.R.A.P. 24(b) to provide a verbatim recording of the evidence or, if unavailable, a statement of the evidence pursuant to T.R.A.P. 24(c).

B. Filing Procedures. The transcript of the evidence or the statement of the evidence must be filed within 60 days of the filing of the notice of the appeal. If no transcript or statement of evidence is to be filed, T.R.A.P. 24(d) requires the appellant to file with the clerk and serve upon appellee a notice that no transcript or statement is to be filed within 15 days of the notice of appeal.

C. Content and Format. T.R.A.P. 24(a) provides that the record on appeal shall consist of:

1. Copies certified by the clerk of the trial court of all papers filed in the trial court except subpoenas, summonses, discovery papers, jury venire lists, trial briefs, and minutes of the opening and closing of court,
2. The original of any exhibits,
3. The transcript or statement of the evidence,
4. Any requests for instructions submitted to the trial judge for consideration, and
5. Any other matter designated by a party and properly includable in the record.

Unfortunately, the trial clerks compile the records in alphabetical order according to the name of the pleading rather than in chronological order according to the date of filing.

XIV. AMICUS CURIAE PRACTICE.

A. Participation as of Right or by Motion. T.R.A.P. 31(a) provides that a brief of an amicus curiae may be filed only by leave of court granted on motion or at the request of the appellate court. T.R.A.P. 31(a) provides that the brief may be conditionally filed with the motion for leave, so practitioners typically attach the proposed amicus brief as an exhibit to the motion for leave to file. The motion shall identify the interest of the amicus curiae and shall state how a brief from the amicus curiae will assist the appellate court.

B. Timing. There is no set timing for the filing of the amicus curiae brief. Obviously, however, for the brief to be effective, it should be filed soon after the last brief filed by the parties. Pursuant to T.R.A.P. 31(b), the appellate court shall fix the time and conditions for the filing of the amicus curiae brief.

C. Content and Format. T.R.A.P. 31(b) states that the amicus brief shall follow the form prescribed for the brief of the appellee pursuant to T.R.A.P. 27(b).

D. Responses to Amicus Brief. There is no specific rule governing responses to amicus briefs, and therefore, a party seeking to respond to an amicus brief, especially a party who has had no opportunity to do so due to the timing of the filing of the amicus brief, may seek leave to file a response from the appellate court. Counsel for amicus curiae may participate in oral argument only by leave of court granted on motion or at the request of the appellate court. Typically, the time allotted to counsel for the amicus curiae counsel is deducted from the time allowed for the party on the same side of the issue briefed.

XV. SUPPLEMENTAL AUTHORITIES.

A. Submission as of Right or by Motion. T.R.A.P. 27(d) provides that when pertinent or significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk of the court by letter. The party must include extra copies to the clerk for each judge of the appellate court and must provide a copy to all other parties, setting forth the citations. Any response shall be made "promptly" and shall be similarly limited.

B. Timing and Consideration by the Court. There is no specific restriction on the timing of the filing of supplemental authority pursuant to T.R.A.P. 27(d) Supplemental Authority other than the rule provides it must be filed before decision.

C. Content and Format. As stated above in Section XV(A), the letter providing the authority is to be submitted "without argument" and should state the reason for the supplemental citation. For example, the supplemental citation may be made because a new decision has been rendered by an appellate court or in response to a question from the court during oral argument which was not anticipated in the briefs.

XVI. ORAL ARUGMENT.

A. Arguing as of Right or by Motion: Waiver. T.R.A.P. 35(a) provides that any party who desires oral argument shall state at the bottom of the cover page of the party's brief that oral argument is requested. If any party to an appeal requests oral argument, it is unnecessary for any other party to do so. No party may participate in oral argument unless the party has filed a brief. A party who has requested oral argument and who thereafter determines to waive oral argument shall notify the clerk of the appellate court and all other parties. Any other party who has not previously requested oral argument may request oral argument by notifying the clerk of the appellate court and all other parties.

B. Procedures for Granting and Calendaring Oral Argument. There are no statistics available to the public which would provide the average time between completion of briefing and oral argument. Generally, oral argument is scheduled between three and nine months after the filing of the final brief in the Court of Appeals. The time is typically shorter in the Court of Criminal Appeals. Oral arguments are calendared by the clerk of the appellate court. A docket is mailed to counsel of record and unrepresented parties which shows the date of the oral argument, whether the case is set for the morning docket or the afternoon docket, and the order the cases will be called on each docket.

C. Identification of Panel Members. Generally, panel members will not be identified until the day of argument. Each division of the Court of Appeals has four judges, however, only three judges sit at one time and the identity of those three judges is generally not revealed until oral argument. In the Supreme Court, absent recusal, all five justices sit on every case. Of course, if any appellate judge recuses himself, a substitute judge may be appointed for that case or for that day. In addition, an entire section of the Court of Appeals will occasionally sit for another section. For example, the Western Section might sit in Knoxville for the Eastern Section. Counsel typically is unaware of the reasons for such substitutions. Often, this is done in order to balance the case loads of the respective sections of the intermediate appellate court.

D. The Day of Argument. Generally, multiple cases are set on the date of argument as described above. Cases are assigned as to the morning docket or the afternoon docket and called in the order that they appear in the docket. It is advisable for counsel to always appear at the beginning of each docket, because cases at the top of the docket may be settled or continued. It is proper protocol for local counsel to be present and introduce any out-of-state counsel. It is important for counsel to state at the beginning of argument, immediately after the name and the party represented, how he would like his time divided. The clerk operates the green/yellow/red light time system and the timers for the lighting system must be set at the beginning of argument. The appellant should state how much time is to be reserved for rebuttal. T.R.A.P. 35(f) provides that no more than two counsel or parties will be heard from each side requesting the same relief except by leave of court. T.R.A.P. 25(f) also states that divided arguments are not favored.

XVII. DECISIONS.

A. Internal Procedures for Disposing of Cases. Pursuant to T.R.A.P. 45, there are internal rules which govern the rendering of decisions and which govern the number of decisions any particular judge may have under consideration at one time. Generally, these rules are enforced according to the discretion of the panel and the discretion of the chief judge of the intermediate appellate court or the Chief Justice of the Supreme Court. There is no data available to the public regarding the average time between oral argument and the issuance of an opinion. Generally, parties can expect an opinion to be rendered between 90 and 180 days of oral argument; however, exceptions to this timetable often occur.

B. Draft Decisions. The Tennessee appellate courts do not issue draft decisions.

C. Published or Unpublished Decisions. The publication of appellate opinions in Tennessee is governed by Rule 4 of the Tennessee Supreme Court Rules. Unless explicitly designated "Not For Publication," all opinions of the Tennessee Supreme Court shall be published. Concurring and dissenting opinions shall be published along with the majority opinion. Opinions of the Special Workers Compensation Panels shall not be published unless ordered by a majority of the Supreme Court. No opinion of the Court of Appeals or the Court of Criminal Appeals shall be published until after the time for filing an application for permission to appeal has expired. If an application of permission to appeal to the Supreme Court is filed and granted, the opinion of the intermediate appellate court shall not be published unless otherwise directed by the Supreme Court. If an application for permission to appeal to the Supreme Court is filed and denied, the opinion of the intermediate appellate court may be published if the opinion meets one or more of the criteria set forth in Tennessee Supreme Court Rule 4(D). Note that if an application for permission to appeal is denied by the Supreme Court with a "not for citation" designation, the opinion of the intermediate appellate court has no precedential value and should not be cited by any judge in any trial or appellate court decision, or by any litigant in any brief or other material presented to any court except under certain circumstances delineated in Tennessee Supreme Court Rule 4(E)(2). Unpublished opinions are controlling authority between the parties to the case and are considered persuasive authority otherwise. Pursuant to Supreme Court Rule 4(H)(1), unpublished opinions should always be furnished to the court and all parties by attaching them to the document in which they are cited.

XVIII. MOTIONS FOR REHEARING AND REHEARING ON BANC.

A. Grounds. Pursuant to T.R.A.P. 39(a), rehearing may be granted by any appellate court on its own motion or on a petition of either party. Grounds for rehearing include, without limitation, that the Court's opinion incorrectly states material facts; that the Court's opinion is in conflict with a statute, prior decision, or principle of law; that the Court's opinion overlooks or misapprehends the material factor proposition of law; and/or that the Court's opinion relies upon matters of fact or law upon which the parties have not been heard and they are open to reasonable dispute. In the fiscal year ending June 30, 2008, there were 101 petitions filed, 75 denied, 15 granted, and 2 granted in part and denied in part. See www.tsc.state.tn.us., 2007-2008 Annual Report.

B. Briefing. A petition for rehearing must be filed with the clerk of the appellate court within 10 days after entry of the judgment. Oral argument is generally not permitted unless leave of court is granted, the petition to rehear shall not exceed 15 pages. No answer to the petition is permitted unless requested by the court and only one petition for rehearing may be filed.

XIX. COSTS AND ATTORNEYS FEES.

A. Taxable Costs. Although Rule 54.04 of the Tennessee Rules of Civil Procedure allows discretionary costs such as court reporter expenses, expert witness fees for depositions, interpreter fees, and guardian ad litem fees, the award of those costs is reviewable by the appellate court. T.R.A.P. 40(c) governs recoverable costs on appeal. Those costs include the costs of preparing and transmitting the record; the cost of preparing the transcript of the evidence of proceedings; the costs of producing necessary documents, briefs and the record; the premiums paid for bonds to preserve rights pending appeal; and any litigation taxes and any other fees of the appellate court or clerk.

B. Other Recoverable Expenses. See Section XIX(A), supra.

C. Attorney Fees. In Tennessee, attorney fees are recoverable in the trial court pursuant to statute, pursuant to a provision in a contract, as T.R.C.P. 11 sanctions, or as discovery sanctions. The award of these fees is reviewable by the appellate court. Aside from these issues, attorney fees are generally not recoverable with respect to fees incurred on appeal unless the appeal is deemed frivolous under Tenn. Code Ann. 27-1-122. See e.g., Marra v. Bank of New York, No. W2008-00773-COA-R3-CV (Tenn. Ct. App. Aug. 4, 2009).

1. Timing of Request. If a party is going to seek attorneys fees as a result of a frivolous appeal, it is best that the fees be sought by motion at the earliest possible date and at the latest in the appellee's brief so that whether or not the appeal is frivolous may be the subject of oral argument.

2. Procedure. Attorneys fees sought as a result of an alleged frivolous appeal may be done so by motion or as part of the remedy sought in the appellee's brief.

3. Content and Format. Attorneys fees in the trial court should be sought and the issue resolved by the trial court prior to final judgment.

D. Objections and Replies. Any party shall have 15 days after the filing of the party's statement of recoverable costs to file any objections with the appellate court clerk pursuant to T.R.A.P. 40(d).

XX. FURTHER APPELLATE REVIEW AND MULTI-LEVEL SYSTEMS.

A. Review as of Right or by Grant of Certiorari or Review. Pursuant to T.R.A.P. 11(a), an appeal by permission may be taken from the final decision of the Court of Appeals or Court of Criminal Appeals to the Supreme Court only on application and at the discretion of the Supreme Court. In determining whether to grant a permission to appeal, the Supreme Court considers, without limitation, the following factors:

(1) the need to secure uniformity of decision,

(2) the need to secure settlement of important questions of law,

(3) the need to secure settlement of questions of public interest, and

(4) the need for exercise of the Supreme Court's supervisory authority.

The grant rate of discretionary review in the Supreme Court typically runs between 4% and 10%.

1. Timing. Pursuant to T.R.A.P. 11(b), the application for permission to appeal in the Supreme Court shall be filed within 60 days after the entry of the judgment in the intermediate appellate court.

2. Content and Format. The application for permission to appeal shall contain (a) the date on which the judgment was entered and whether a petition for rehearing was filed, and if so, the date of the denial of the petition or the date of the entry of the judgment on rehearing; (b) the questions presented for review; (c) the facts relevant to the questions presented; and (d) the reasons including appropriate authorities, supporting review by the Supreme Court. Note that facts correctly stated in the opinion of the intermediate appellate court need not be restated in the application. A copy of the opinion of the appellate court shall be appended to the application.

3. Responses and Replies. Pursuant to T.R.A.P. 11(d), any other party may file an answer in opposition to discretionary review within 15 days after the filing of the application. The answer shall set forth the reasons why the application should not be granted and any other matters considered necessary for correction of the application. No reply to the answer shall be filed.

4. Process for Consideration and Disposition. Typically, the Justices of the Supreme Court and their staff attorneys and law clerks will evaluate applications for permission to appeal. The Supreme Court meets periodically in "Rule 11 conferences" to determine whether to grant or deny permission and if permission is denied, whether to place the "not for citation" designation on the intermediate appellate court opinion in accordance with Tennessee Supreme Court Rule 4(E)(1).

5. Further Briefing on Request or Grant of Review. Pursuant to T.R.A.P. 11(b), the brief of the appellant may be served and filed with the application for permission to appeal. Pursuant to T.R.A.P. 11(f), however, if permission to appeal is granted, the appellant shall serve and file a brief within 30 days after the date on which permission to appeal was granted. The appellee shall then serve and file a brief within 30 days after the filing of the brief of the appellant. The appellant's reply brief shall be served and filed within 14 days after filing of the preceding brief.

B. Oral Argument. Oral argument is scheduled by the clerk. Typically, oral argument occurs in Jackson, Nashville, or Knoxville, Tennessee, depending on where the case arose. In the Supreme Court, each side has 30 minutes of oral argument as compared to 15 minutes per side in the Court of Appeals.

C. Disposition. When the court is ready to release a decision, it will typically e-mail a decision to the party's counsel in advance of public release. It will then publicly release the decision and post the decision on the Court's website, www.tsc.com.

XXI. MANDATE.

A. Procedure for Issuance. Pursuant to T.R.A.P. 42(a), the mandate shall consist of copies, certified by the clerk of the appellate court, of the judgment, any orders on costs or instructions as to interest, and a copy of the opinion of the appellate court. The clerk of the Supreme Court shall transmit

to the clerk of the trial court the mandate of the Supreme Court with notice to the parties, 11 days after entry of the judgment unless the court orders otherwise. The clerk of the Court of Appeals or Court of Criminal Appeals shall transmit to the clerk of the trial court the mandate of the Court of Appeals or Court of Criminal Appeals, with notice to the parties, 64 days after entry of judgment unless the Court orders otherwise. In the intermediate appellate courts, the timely filing of a Petition for Rehearing will stay the mandate until disposition of the petition unless the court orders otherwise. Pursuant to T.R.A.P. 42(b), unless the court orders otherwise, the timely filing of an application for permission to appeal in the Supreme Court shall stay the issuance of the mandate of the intermediate appellate court. Upon the filing of an order of the Supreme Court denying the application for permission to appeal, the mandate shall issue immediately. Pursuant to T.R.A.P. 42(c), in cases in which review by the Supreme Court of the United States may be sought, the appellate court whose decision is sought to be reviewed may stay the mandate.

B. Stay or Recall of Mandate. Pursuant to T.R.A.P. 42(d), the power to stay a mandate includes the power to recall a mandate.

C. Post-Mandate Issues. Pursuant to T.R.A.P. 43, the clerk of the trial court shall file the mandate promptly upon receiving it. When the appellate court dismisses the appeal or affirms the judgment and the mandate is filed in the trial court, execution may issue or other proceedings may be conducted as if no appeal had been taken. Pursuant to T.R.A.P. 43(c), when the appellate court remands the case for a new trial or hearing and the mandate is filed in the trial court, the case shall be reinstated therein and the subsequent proceedings conducted after at least 10 days notice to the parties.

XXII.

A. Interlocutory Appeals as of Right. Generally, there are no interlocutory appeals as of right. Pursuant to T.R.C.P. 54.02, when more than one claim for relief is present in an action, the court may direct the entry of a final judgment as to one or more, but fewer than all the claims or parties only upon an express determination that there is no just reason for delay. Fox v. Fox, 657 S.W.2d 747, 749 (Tenn. 1983). Some view this as a form of interlocutory relief. It is most typically utilized in Tennessee with respect to Motions for Summary Judgment which are granted as to less than all parties or as to less than all claims and the trial court sees fit to allow it to be appealable as a final judgment under T.R.C.P. 54.02.

B. Permissive Appeals. Interlocutory appeals may also be available under T.R.A.P. 9 and T.R.A.P. 10. T.R.A.P. 9 provides that an interlocutory appeal by permission may be taken in the discretion of the trial and the appellate court. Under T.R.A.P. 9(b), the party seeking an appeal must file and serve a motion requesting such relief within 30 days of the date of the entry of the order appealed from. Note that the rule does not specify when the hearing on the motion must take place. Also note that there is no 30-day deadline under T.R.A.P. 10. If the trial court grants permission to appeal under T.R.A.P. 9, then the party seeking permission to appeal must file an application within 10 days after the

date of the entry of the order in the trial court under T.R.A.P. 9(c). If the trial court denies interlocutory relief or if a party chooses to proceed under T.R.A.P. 10, an aggrieved party may file an extraordinary appeal to the appellate court under T.R.A.P. 10. The grounds for a T.R.A.P. 10 appeal, however, require the parties seeking interlocutory review to show that the lower court has so far departed from the accepted and usual course of judicial proceedings as to require immediate review or that the appeal is necessary for a complete determination of the action on appeal as otherwise provided in the rules. In the fiscal year ending June 30, 2008, of the 106 T.R.A.P. 9 and T.R.A.P. 10 applications disposed of, 84 were denied, and 22 were granted. The decision to grant or deny is reviewable in the Tennessee Supreme Court and it is likewise rare for the Tennessee Supreme Court to grant interlocutory review when the Court of Appeals has denied it. Note that under Tennessee state statutes, an order denying or granting class certification in a class action under T.R.C.P. 23, may be appealed to the Court of Appeals; however, the Court of Appeals still has the discretion to deny review of such an order. See Tenn. Code Ann. § 27-1-125.

C. Extraordinary Writs. Mandamus actions are recognized in the state of Tennessee. E.g., Holcomb v. Lee, No. E2005-01451-COA-R3-CV (Tenn. Ct. App. May 23, 2006). Interlocutory review may also be available under the Collateral Order Doctrine. Cantrell v. DeKalb County, No. M1998-00964-COA-R3-CV, 2001 WL 876911, at *2 n.3 (Tenn. Ct. App. Aug. 3, 2001). Judgments of contempt may also be final and appealable. E.g., Mansfield v. Wills, No. 01A01-9801-CV-00035 (Tenn. Ct. App. Jan. 30, 1998). Rule 13 of the Rules of the Court of Appeals governs Accelerated Civil Appeals.

This rule affords expedited, priority scheduling, and gives the parties a decision at oral argument. Rule 13, Sections 3 and 5. In these cases, however, there is no written opinion, just a written order, and the parties must waive appeal to the Supreme Court. Rule 13, Sections 6, 7, and 8.

TEXAS

The Texas civil court system has five levels: (1) Justice Courts/Municipal Courts; (2) County-Level Courts (including Constitutional County Courts, County Courts at Law, and Statutory Probate Courts); (3) District Courts; (4) Courts of Appeals; and (5) the Texas Supreme Court.

Texas has a bifurcated appellate system at the top level, with the Texas Supreme Court having jurisdiction over civil cases and the Court of Criminal Appeals having jurisdiction over criminal cases.

Courts may either be created by the Texas Constitution or by the state legislature. While there are general rules for determining the jurisdiction of the Texas courts, each statutory court has its own unique jurisdiction, as determined by the court's enabling legislation.

General Overview of Trial Court System

a) **Justice Courts**: There are 819 Justice Courts in Texas, which are established in precincts within each county. The Justice Courts hear civil actions in which the amount in controversy does not exceed $10,000. In addition, the Justice Courts have exclusive jurisdiction over detainer and forcible entry cases. The Justice Court also hears criminal misdemeanor cases that are

punishable by fine. Appeals from the Justice Court go to the County Court, where a de novo review is conducted. Tex. Gov't Code §27.031.

b) Municipal Courts: The Municipal Courts are primarily criminal courts that hear cases pertaining to municipal ordinances. In addition, the Municipal Court has narrow civil jurisdiction to hear cases involving municipal ordinances. Tex. Gov't Code §30.00005(d).

c) County-Level Courts

1. Constitutional County Courts: There are 254 Constitutional County Courts- one in each county in Texas. Tex. Const. art. 5 §15, 16. The Constitutional County Courts have original jurisdiction in civil actions in which in the amount in controversy ranges from $200.01 to $10,000. Tex. Gov't Code §26.042.The Constitutional County Courts may also have probate jurisdiction in some counties. The courts do not have jurisdiction to hear cases involving defamation or slander, divorce, forfeiture of a corporate charter, eminent domain, a suit for the recovery of land, a suit to enforce a lien on land, a suit on behalf of the state for escheat, or a suit for the trial of the right to property valued at $500 or more and levied on under a writ of execution, sequestration, or attachment. Tex. Gov't Code §26.043.

2. County Courts at Law: There are 233 County Courts at Law established by statute in 87 counties in Texas. Chapter 25 of the Texas Government Code sets forth the general and county-specific provisions for individual County Court at Law. Generally, the County Courts at Law have jurisdiction over all civil actions prescribed by law for constitutional county courts (see above). Tex. Gov't Code § 25.0003(a). Currently, County Courts at Law have jurisdiction over cases ranging from $500.01 to $100,000. Tex. Gov't Code § 25.0003(c). As of January 1, 2012, the upper limit of the court's jurisdiction will be $200,000. Acts 2011, 82nd Leg., (H.B. 79), § 4.02. However, the specific rules for an individual County Court at Law may increase these jurisdictional limits. For the jurisdiction of each court see Chapter 25 of the Texas Government Code.

3. Statutory Probate Courts: There are 18 Probate Courts in Texas established in ten counties.

d) District Courts: There are 456 District Courts in Texas. The District Courts are courts of general jurisdiction over all actions, except in cases where exclusive, appellate, or original jurisdiction is conferred on some other court. Tex. Const. art. 5, §8. The District Courts hear cases with an amount in controversy of at least $500. Tex. Gov't Code §24.007. There is no upper limit to the District Court's jurisdictional amount.

Appellate Courts

a) **Courts of Appeals**: The state is divided into 14 districts with a court of appeals in each district. There are two courts of appeals districts in Houston. Tex. Gov't Code §26.201.Each court has appellate jurisdiction in civil cases within its district when the district courts or county courts have jurisdiction and when the amount in controversy or the judgment rendered exceeds $250. Tex. Gov't Code §26.220. The courts also have appellate jurisdiction over criminal matters. In addition, the courts may hear certain interlocutory appeals, as prescribed by statute. See Tex. Civ. Prac. Rem. Code §51.014.

The number of justices for each court varies according to statute, and ranges between three and twelve justices per court for a total of eighty justices. Tex. Gov't Code §26.216. Justices of the Courts of Appeals are elected to six-year terms.

b) **Texas Supreme Court**: The Supreme Court is the final level of appellate review. It has appellate jurisdiction over civil cases in which (1) the justices of a court of appeals disagrees on a question

of law; (2) cases where there is a split of authority among the courts of appeals; (3) cases involving the construction or validity of a statute; (4) cases involving state revenue; (5) cases where the railroad commission is a party; and (6) cases where it appears that the court of appeals committed an error of law. Tex. Gov't Code §26.201. There are nine justices on the Texas Supreme Court. Justices are elected to staggered six-year terms. When a vacancy arises the Governor of Texas may appoint Justices, subject to Senate confirmation, to serve out the remainder of an unexpired term until the next general election.

UTAH

The Utah civil court system is three-tiered: (1) circuit courts; (2) courts of appeal; and (3) the Utah Supreme Court.

Circuit court is the first level of the Utah civil court system. The circuit courts have original jurisdiction in all civil and criminal matters within the state of Utah. The caseload of the circuit courts is divided between small and large claims. An action is designated a small claim if the claim involves recovery of money, and the amount claimed does not exceed $10,000. Utah Code Ann.§ 78A-8-102. Small claims actions are most commonly tried before a court commissioner. They are also subject to simplified rules of procedure and evidence. Utah Code Ann. .§ 78A-8-102. If either party appeals a court commissioner's decision, the next step is circuit court, not the court of appeals. Utah R. Small Claims Procedure. 12. A large claim seeks recovery of damages in excess of the values listed for small claims. Large claims are tried to a judge or jury. Each party has a right to request a jury, and often the decision to present a case to a jury or bench trial is strategic and depends on the issues.

There are 71 full-time district judges serving in the state's eight judicial districts.[5] Utah has 29 counties which are grouped into 8 judicial administrative districts, with the Utah Supreme Court appointing a Chief Judge for each district. All parties joined in an action may, by unanimous agreement and without cause, change the judge assigned to the action by filing a notice of change of judge. Utah R. Civ. P. 63A.

Utah only has mandatory ADR in certain cases, such as divorce proceedings. However, the courts do have an ADR department, and ADR is looked upon favorably by Utah courts. In fact, many Utah circuit court judges regularly encourage the parties to engage in ADR.

APPEAL PROCESS

The court of appeals represents the second level of the Utah civil court system. The court of appeals has appellate jurisdiction and consists of 7 judges. The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a judge of the Court of Appeals is six years. Utah Code Ann. § 78A-4-102. Appellate procedure is governed by the Utah Rules of Appellate Procedure. The judges sit as a three-judge panel to decide the merits of an appeal. Pursuant to Utah R. App. P. 3, in order to appeal a decision to the court of appeals, there must be a final order from a circuit or juvenile court. Moreover, the court of appeals has discretion, pursuant to Utah R. App. P. 5(a), to make a determination whether to grant a petition for interlocutory appeal.

SUPREME COURT

The Supreme Court is the "court of last resort" in Utah. The court consists of five justices who serve ten-year renewable terms. The justices elect a chief justice by majority vote to serve for four years, and an associate chief justice to serve for two years. Justices are appointed, not elected. The Supreme Court has original jurisdiction to answer questions of state law certified from Federal Courts and to issue extraordinary writs. The Court has appellate jurisdiction to hear first degree and capital felony convictions from the District Court and civil judgments other than domestic cases. It also reviews formal administrative proceedings of the Public Service Commission, Tax Commission, School and Institutional

[5] 4 in the 1st District, 14 in the Second District, 28 in the 3rd district (and 2 Commissioners), 13 in the 4th, 5 in the 5th, 2 in the 6th, 3 in the 7th, and 2 in the 8th

Trust Lands Board of Trustees, Board of Oil, Gas, and Mining, and the State Engineer. The Supreme Court also has jurisdiction over judgments of the Court of Appeals by writ of certiorari, proceedings of the Judicial Conduct Commission, and both constitutional and election questions.

In a case in which an appeal is permitted as a matter of right from the trial court to the appellate court, the appeal must be filed with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from. Utah R. App. P. 4. A party is permitted to appeal directly to the Supreme Court, without first going through the appeals court, however, the Supreme Court has the right to transfer many of its cases to the Court of Appeals for decision. Pursuant to Utah R. App. P. 29 the court decides whether to hear oral arguments or not. Oral argument is generally allowed in all cases if requested, with some exceptions. A vacancy in the Court is filled by a Governor's appointment. There does not have to be a geographical distribution of the Justices. The Utah Supreme Court's authority to take a case is derived from Article 8 § 3 of the Utah Constitution.

VERMONT

The Vermont court system has two levels: the Superior Court, a trial court of original jurisdiction, and the Supreme Court, the only court of general appellate jurisdiction. All judges are appointed by the Governor, and are subject to review by the General Assembly at the end of a six year term.

Superior Court

The Superior Court is divided into fourteen units, corresponding to the fourteen counties in the state. Each unit has a civil, criminal, family, and probate division. The 30 Superior Court judges are assigned among the divisions, and between the units, on a rotating basis. There are also two environmental judges, with state-wide jurisdiction over appeals from administrative bodies governing the state's land use planning laws.

The civil division is the court of general civil jurisdiction. All civil jury and jury-waived cases are heard in this court. A small claims branch of the civil division handles matters up to a jurisdictional limit of $5,000. The civil division also has limited appellate jurisdiction over certain zoning appeals from local zoning bodies as well as decisions from the probate division.

Supreme Court

The Supreme Court is the only appellate court of general jurisdiction. There is no certiorari process in the Supreme Court: all appeals must be heard as of right.

The Court consists of five justices. All five justices hear each appeal, except for those cases assigned to a so-called "rocket docket", based on a determination that the case is likely to have limited precedential effect. Rocket docket cases are heard by a three-justice panel.

Alternative Dispute Resolution

All civil cases are subject to mandatory mediation, by local rule, prior to trial. In addition, the Vermont Arbitration Act authorizes the parties to agree to submit disputes to binding arbitration. The Vermont Act is modeled on the Federal Arbitration Act.

VIRGINIA

The Virginia civil court system is comprised of: General District Courts, Circuit Courts, Court of Appeals, and the Supreme Court of Virginia. Also of note are the Small Claims Courts and the Juvenile & Domestic Relations Courts.

Trial Court System

General District Court

Both General District Courts and Circuit Courts are trial-level courts. General District Courts handle smaller civil matters and have only a judge, not a jury. They have exclusive jurisdiction for claims under $4,500. They have concurrent original jurisdiction with the Circuit Court from $4,500 to $25,000. Va. Code § 16.1-77. General District Court is not a court of record; therefore, appeals from this court go de novo to Circuit Court. There are 32 districts across the state and judges are elected to six year terms by the General Assembly (the state's legislative body).

Circuit Court
Circuit Courts are trial courts of record with general jurisdiction authority and an option for a jury. A jury is available at the demand of either party. While General District Court generally has no equitable powers, Circuit Court has both powers of law and equity. There are thirty-one circuits across the state. Judges are elected to serve by the General Assembly for eight year terms.

Small Claims and Juvenile & Domestic Relations Courts
Some of the larger localities also have a Small Claims Court for matters less than $5,000. Attorneys can only appear before this court for the sole purpose of removing the matter to General District Court. Also, Virginia has a Juvenile & Domestic Relations Court in each city or county.

Mediation
Mediation is an optional component in Virginia trial courts. There is a robust private industry servicing the courts, but no mandated mediation.

Appeals Process

Appeals from General District Court to Circuit Court
As noted above, both the General District Courts and Circuit Courts are trial-level courts. A party who wishes to appeal from General District Court to Circuit Court may do so as a matter of right, where the Circuit Court will retry the case, giving no deference to the decision in the General District Court. Va. Code 16.1-106. Because appeals from General District Court to Circuit Court are of right (as opposed to by petition), a Circuit Court will hear all appeals provided certain procedural requirements have been met. These procedural requirements include giving notice of appeal within ten days of judgment and posting a bond in the amount of the judgment. A plaintiff who takes an appeal to Circuit Court may not amend their request for damages outside the $25,000 jurisdictional cap of General District court, but they may do so if it is the defendant who has taken the appeal. A case originally tried in General District Court must first be appealed and tried in the Circuit Court before the appeals process can continue.

The Court of Appeals
The Court of Appeals is Virginia's intermediate appeals court but has very limited appellate jurisdiction for civil matters. It is comprised of eleven judges. The Court of Appeals primarily reviews final decisions from the Circuit Court in domestic relation matters, criminal and traffic cases, decisions from certain administrative agencies, as well as decisions by the Virginia Workers' Compensation Commission. Va. Code §17.1-405. Depending on the type of case, certain appeals go to the Court of Appeals by right while others are by petition. The Court of Appeals also has original jurisdiction to issue certain writs provided that it is the type of case for which it would ordinarily have appellate jurisdiction. It is important to stress, however, that the Court of Appeals does not have appellate jurisdiction over ordinary civil cases. Provided a civil case does not come within the narrow appellate jurisdiction of the Court of Appeals, it must be appealed from the Circuit Court directly to the Supreme Court of Virginia by petition.

Supreme Court
The Supreme Court of Virginia is the highest appeals court in Virginia. It consists of seven justices, including a chief justice, who are elected by the General Assembly for a term of twelve years. Although the Supreme Court possesses original jurisdiction to issue certain writs, it primarily serves as the highest review court in Virginia.

Petition for Appeal

The Supreme Court may hear civil matters appealed from Circuit Court by petition. This means that a party who wishes to appeal a decision from the Circuit Court must first petition the Supreme Court to grant the appeal. Oral arguments may then be held in front of a panel of Justices or the Chief Staff Attorney in order to determine if an appeal will be granted. A single justice may grant the appeal. If no justice grants the appeal, the appealing party may petition for a rehearing, which if denied, ends the appeals process. Va. R. 5:20.

Granted Appeals
If the appeal is granted, both parties brief the issues on appeal. They are then given fifteen minutes of oral argument per side, unless the court otherwise directs. Va. R. 5:33. A rotation system is used to determine which justice will write the opinion for a given case. If a party wishes to petition for a rehearing, it must file notice of its intent to apply for rehearing within ten days of the order deciding the case. Va. R. 5:37; Va. Code § 8.01-675.2. The petition itself must be filed with the court within thirty days of the Supreme Court's decision. Id.

WASHINGTON

Washington has a three-tiered system: Superior courts, Court of Appeals and the Supreme Court. Washington also has Courts of Limited Jurisdiction, consisting of district and municipal courts.

Superior courts have jurisdiction over civil matters, domestic relations, felony criminal matters, juvenile matters and appeals from courts of limited jurisdiction. Courts of limited jurisdiction have jurisdiction over small claims up to $5,000, civil actions of $75,000 or less, domestic violence protection orders, traffic, non-traffic and parking infractions and misdemeanor criminal cases. Courts of Appeal have jurisdiction over appeals from lower courts except for those in the jurisdiction of the Supreme Court. The Supreme Court handles the appeals from the Courts of Appeals and administers the state court system.

There are 39 counties in Washington, with 29 superior court judicial districts. As of 2003, there were 174 superior court judges in the State of Washington.

Jury trials must be requested in a timely manner, per local county rule. Jury trials not timely demanded are waived.

The Supreme Court justices serve staggered six-year terms, as do the appellate judges. Judges in the Superior Court serve four year terms. Judges are elected, though appointments are made to fill vacancies.

The caliber of judges varies widely. The larger counties, such as King and Pierce, tend to have more competent judges. Commissioners typically deal with ex parte matters. Mediators run the gamut from firms of retired judges to longstanding firms of mediators (such as Washington Arbitration and Mediation Services) to solo practicing attorneys running their own mediation firms.

ADR is mandatory in some counties, including King County, the location of Seattle, and Pierce County, the location of Tacoma, but strongly encouraged throughout the state.

APPEAL PROCESS
The Court of Appeals has three divisions (Division I in Seattle; Division II in Tacoma; and Division III in Spokane).

The only ways to seek review of a superior court decision in the Court of Appeals or Supreme Court are as a matter of right or by discretionary review. RAP 2.1. Appeals are heard in the Court of Appeals by a three-member panel, although many motions are determined initially by the clerk or a commissioner. RAP 17.2 et seq.

Interlocutory appeals can be filed regarding any written decision that affects a substantial right in a civil case that in effect determines the action and prevents a final judgment or discontinues the action. RAP 2.3(a)(3). Generally, the fact that an interlocutory decision can be appealed does not necessarily mean that an appeal has to be taken. The rules allow an aggrieved party to wait until final judgment is entered and thereafter, an appeal of the final judgment allows all interlocutory decisions, including previously appealable decisions, to be ruled upon. RAP 2.4(b).

Typically, oral argument occurs on motions. The court, on its own initiative, or on motion by a party, may decide a case without oral argument, however. The same is true for the overall appeal.

The anticipated time before a decision is rendered is uncertain. It is often a year between argument to decision, depending on complexity. From the time a case is filed until argument is often six months, and can be longer. The quality of the decision varies greatly with the panel, and not necessarily with the Division of the Court.

SUPREME COURT
There are nine Supreme Court justices.

The only way to seek review of an appellate decision by the Supreme Court is through discretionary review. RAP 13.1. Petitions seeking review must be filed within thirty days of a decision terminating review. The parameters the Supreme Court considers in determining if it will accept discretionary review are as follows:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or

(3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Petitions are decided without oral argument.

A decision of a superior court may be considered by the Supreme Court if a statute authorizes direct review; in a case in which the trial court held invalid a statute, ordinance, tax, impost, assessment, or toll; if there is a conflict among decisions of the Court of Appeals or an inconsistency in decisions of the Supreme Court; a case involving a fundamental and urgent issue of broad public import which requires prompt and ultimate determination; an action against a state officer; or a death penalty case.

Oral argument, when granted, is limited to 20 minutes per side.

The political leanings of the Supreme Court are pro-plaintiff and anti-insurer.

The timeframes for rendering decisions varies greatly. The more controversial and divided opinions take longer, but unanimous decisions may be rendered more quickly.

WEST VIRGINIA

West Virginia's civil court system is three-tiered: (1) lower courts; (2) circuit courts; (3) the Supreme Court of Appeals.

The lower courts are comprised of family courts, magistrate courts, and municipal courts. The magistrate courts are trial courts of limited jurisdiction. There are 158 magistrates in West Virginia. Magistrates issue search and arrest warrants, hear misdemeanor cases, conduct preliminary examinations in felony cases, and hear civil cases with $5,000 or less in dispute. Magistrates may also issue protective orders in cases involving domestic violence. Municipal courts are administered locally and are limited to cases involving ordinance violations.

The Circuit Courts are West Virginia's only general jurisdiction trial courts. The Circuit Courts have jurisdiction over all civil actions at law involving more than $300, and all civil cases in equity. The circuit courts also receive appeals from the magistrate court, municipal court, and administrative agencies.

West Virginia's 55 counties are divided into 31 circuits. The circuit judges are elected, in partisan elections, to eight year terms. The number of judges assigned to each circuit court ranges from one to seven; currently 70 circuit judges hold office. Each county has a courthouse where a circuit judge presides.

To manage and resolve mass litigation, the Supreme Court of Appeals of West Virginia has established a Mass Litigation Panel. The Mass Litigation Panel consists of seven active or senior status circuit court judges appointed by the Chief Justice, with the approval of the Supreme Court of Appeals. Each appointment is for a term of three years and there is no prohibition against serving successive terms. The Chief Justice annually designates a panel member to serve as its chairman to preside over the activities of the panel and report to the Supreme Court of Appeals.

Defense counsel generally consider certain counties to be "plaintiff oriented"—Ohio, Brooke and Hancock Counties in the "Northern Panhandle" of the state; Monongalia County (county seat Morgantown, encompassing the West Virginia University campus); and several counties in the south, including Mingo, Lincoln, Boone, Logan, Wyoming, McDowell and Mercer. In those counties, if the diverse jurisdiction of the parties and amount in controversy, or the federal nature of the claims presented, permit removal to federal district court, that option should be given serious consideration.

Alternative Dispute Resolution

West Virginia Trial Court Rule 25.03 provides that a court may, on its own motion or on motion of a party, refer a case to mediation. The parties then have 15 days to object the mediation order, which the court should "promptly consider." As a matter of practice, however, many trial judges require mediation and include a deadline in the trial court's scheduling order by which the parties are to mediate their dispute. The parties may select their mediator, but in the absence of agreement, the court will designate a mediator from the State Bar's listing of qualified mediators. The Trial Court Rules governing mediation require that each party or a representative with decision-making authority, and a representative of any insured party's insurance carrier who has full decision making authority, attend the mediation. Judicial immunity extends to mediators.

The mediation process is confidential. Mediators may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information.

Parties to a controversy may submit the controversy to arbitration and agree that the result of the arbitration is binding on the parties.

Appeal Process

The Supreme Court of Appeals is West Virginia's highest court and the court of last resort. West Virginia has no intermediate appellate court. There are five Supreme Court justices who hear all appeals, including direct appeals from the Workers' Compensation administrative agency. The five justices are elected, in partisan elections, to 12-year terms. The justices choose a Chief Justice each year.

Until very recently, in most civil cases the parties has no right to appellate review of adverse decisions; review was granted by the Supreme Court of Appeals on petition for appeal. Revised rules of appellate procedure effective December 1, 2010 afford civil litigants the opportunity to file a notice of appeal from a

final adverse order. After briefing, the Court determines whether it will hear argument or dispose of the appeal on the basis of the written submissions only. The rules permit the Court to issue non-precedential memorandum opinions; memorandum opinions are published on the Court's web site but will not appear in official reporters.

Parties also may seek review of certain types of orders by filing a petition for writ of prohibition in the Supreme Court of Appeals. The writ of prohibition is an extraordinary remedy, and will be granted, and the matter reviewed, only upon the satisfaction of several conditions. In the civil context, the petition for writ of prohibition frequently is filed by parties seeking review of circuit court orders compelling discovery.

WISCONSIN

The Wisconsin civil court system is three-tiered: (1) circuit courts; (2) courts of appeal; and (3) the Wisconsin Supreme Court.

Circuit court is the first level of the Wisconsin civil court system. The circuit courts have original jurisdiction in all civil and criminal matters within the state of Wisconsin. The caseload of the circuit courts is divided between small and large claims. An action is designated a small claim if the claim involves tort damages of $5,000 or less, replevin (the return of property), a claim for money of $10,000 or less, or the return of earnest money. Wis. Stat. ch. 799. Small claims actions are most commonly tried before a court commissioner. If either party appeals a court commissioner's decision, the next step is circuit court, not the court of appeals. Wis. Stat. sec. 800.14. A large claim seeks recovery of damages in excess of the values listed for small claims. Large claims are tried to a judge or jury. Each party has a right to request a jury, and often the decision to present a case to a jury or bench trial is strategic and depends on the issues.

Wisconsin has 72 counties, each with at least one circuit court judge. Currently, there are 249 circuit court judges. The 72 counties are grouped into 10 judicial administrative districts, with the Wisconsin Supreme Court appointing a Chief Judge for each district. Of those 72 counties, 30 have a single judge, 13 have two judges, and 10 have three judges. There are 48 circuit court judges in Milwaukee County and 17 in Dane County. A party can substitute a judge without having to show cause so long as the request is made timely. Wis. Stat. sec. 801.58.

Wis. Stat. sec. 802.12, provides a circuit court with the authority to order parties to undertake one of the ADR alternatives. Moreover, while the court cannot require binding arbitration because of the due process right to a jury trial, the court can require the parties to personally participate in the ADR process so that individuals with settlement authority are present. That said, the circuit court cannot require resolution with ADR, only good faith participation. Wis. Stat. sec. 655.445, establishes mandatory procedures to follow for arbitration in medical malpractice actions.

APPEAL PROCESS

The court of appeals represents the second level of the Wisconsin civil court system. The court of appeals has appellate jurisdiction and consists of 16 judges from four districts headquartered in Milwaukee, Madison, Waukesha, and Wausau. Appellate judges serve six-year terms. Cases can move from district to district. Wis. Stat. ch. 809 governs appellate procedure. Generally, the judges will sit as a three-judge panel to decide the merits of an appeal, but only a single judge may decide the merits of a few categories of cases including small claims actions; municipal ordinance violations; traffic regulation violations; and mental health, juvenile, contempt and misdemeanor cases. Pursuant to Wis. Stat. sec. 808.03, in order to appeal a decision to the court of appeals, there must be a final order from the circuit court. Moreover, the court of appeals has discretion, pursuant to Wis. Stat. sec. 808.03(2)(a), to make a determination whether to grant a petition for interlocutory appeal. Less than 5% of interlocutory petitions are granted.

SUPREME COURT

The Wisconsin Supreme Court is the third and final level of the Wisconsin civil court system. The Wisconsin Supreme Court consists of seven Justices who are elected to 10-year terms. If a party desires to have a decision reviewed, a petition for review must be filed with the Wisconsin Supreme Court within 30 days of the decision. Wis. Stat. sec. 809.62. Unlike the United States Supreme Court, which can be forced to take cases by Congress, the Wisconsin Supreme Court has complete autonomy. That said, the Wisconsin Supreme Court technically has the authority to take whatever case the Court wants, so long as the Court is following the Court's own rules. Pursuant to Wis. Stat. sec. 809.22, the court decides to hear oral arguments or not. A vacancy in the Court is filled by a Governor's appointment and, if a Justice is appointed, he or she must stand for election the following spring in a special election if one is not already scheduled. There does not have to be a geographical distribution of the Justices. The Wisconsin Supreme Court's authority to take a case is derived from Wis. Stat. sec. 751.05 and Article VII of the Wisconsin Constitution. Currently the Court is split in its political leanings, 4-3 in favor of a more conservative agenda. Recent state elections at all levels have been polarizing, extremely expensive and acrimonious as outside monies have flooded in trying to sway the elections to both sides. The most recent election re-elected a conservative Justice to the bench which guarantees a conservative majority for the next several years unless a current Justice decides to retire or otherwise leaves the bench before fulfilling an elected term.

WYOMING

The Wyoming civil court system consists of circuit courts, district courts and the Wyoming Supreme Court. Unlike most states, Wyoming does not have an intermediate appellate court. Decisions from the district courts, which are courts of general jurisdiction, are appealed directly to the Wyoming Supreme Court. The Wyoming civil court system is divided into 9 judicial districts. The majority of these districts are comprised of more than one of Wyoming's 23 counties, although the two most populated counties, Laramie County and Natrona County, each comprise a single district.

Circuit Courts

The circuit courts are courts of limited jurisdiction and operate in all 23 counties. The geographic boundaries of the circuit courts are the same as the nine judicial districts for the district courts. Wyo. Stat. § 5-9-102(a). The circuit courts have original jurisdiction over cases in which the damages or recovery sought does not exceed $50,000. Wyo. Stat. §§ 5-9-128. When the amount in controversy falls below $6,000, the circuit courts will also sit as small claims courts. Wyo. Stat. § 1-21-201. Circuit court judgeships are full-time appointed positions, with judges serving four-year terms. Wyo. Stat. § 5-9-109. Circuit court decisions may be appealed to the district court, which will then sit as an appellate court. Wyo. Stat. 5-2-119. There are 24 full-time circuit court judges serving in the 9 judicial districts.

District Courts

Wyoming's district courts have original jurisdiction over all causes of action in both law and in equity. Wyo. Const. Art. 5 §10. Civil matters where the amount in controversy exceeds $50,000, and probate matters, are decided in the district court. The district courts also hear appeals from lower courts and administrative bodies. Wyo. Const. Art. 5 § 10. The jurisdiction of the district courts is unlimited except that matters where the amount in controversy is below $50,000 go to the circuit courts.

There are 22 district judges in the state organized into the nine judicial districts. District court is held in each county seat so that the judges must regularly travel to all counties within their district to hear the cases that arise there. District judges serve six-year terms. Wyo. Const. Art. 5 § 4(f). The Governor appoints a judge from a list of three qualified persons submitted by the Judicial Nominating Commission, and the provisions for retention are the same as for Wyoming Supreme Court justices. Wyo. Const Art. 5 § 4(b). A district judge must be an attorney at least 28 years old who is a United States citizen and a resident of Wyoming for at least two years. Wyo. Const. Art. 5 § 12. Like Supreme Court justices, district judges must retire at the age of 70. Wyo. Const. Art. 5 § 5.

Supreme Court

Wyoming's highest tribunal is the Wyoming Supreme Court. This Court has general appellate jurisdiction and original jurisdiction in certain limited circumstances. Wyo. Const. Art. 5 §§ 2, 3. The Court is located in Cheyenne, Wyoming and is the final arbiter of cases that arise under state law. The Court holds two terms annually, one beginning the first Monday in April and the other beginning the first Monday in October. Wyo. Stat. § 5-2-101. In deciding appeals, the Wyoming Supreme Court sets forth definitive statements on Wyoming law which are binding upon all other courts and state agencies unless changed by legislative action.

There are five justices of the Wyoming Supreme Court. The five justices together select the chief justice who serves a four-year term, presides at meetings of the court and in conference, and who represents the Court on various commissions and other groups. Wyo. Const. Art. 5 § 4(a).

Justices serve eight year terms of office. Wyo. Const. Art. 5 § 4(f). When a vacancy occurs, the Judicial Nominating Commission submits a list of three qualified nominees to the Governor, and the Governor makes the appointment from that list. Wyo. Const. Art. 5 § 4(b). After serving on the court for one term, the new justice stands for retention in office on a statewide ballot at the next general election. If a majority vote for retention, the justice serves the remainder of the term and may run for succeeding terms by means of a nonpartisan retention ballot. Wyo. Const. Art. 5 § 4(g). A justice must be a lawyer with at least nine years experience in the law, be at least 30 years old, and must also be a United States citizen who has resided in Wyoming for at least three years. Wyo. Const. Art. 5 § 8. Justices must retire when they reach 70 years of age. Wyo. Const. Art. 5 § 5.

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