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**Chapter 1**

**Court Systems and Jurisdiction**

**Ante Interrogatory: D**

**Chapter Overview**

After differentiating between federal and state court systems, Chapter 1 examines the subject of selecting the court, including matters of jurisdiction. The chapter also explores alternative dispute resolutions available for those who wish to settle disputes outside of court.

**Chapter Objectives**

The objectives in chapter 1 are to teach students the difference between federal and state courts, to help them learn what jurisdiction and venues are, and to enlighten them on the alternative dispute resolution options.

**Lecture Outline**

1. Federal Courts
2. U.S. District Court
3. U.S. Court of Appeals
4. U.S. Supreme Court
5. State Courts
6. State Trial Courts
7. State Intermediate Appellate Courts
8. State Supreme Courts
9. Jurisdiction and Venue
10. In Rem Action
11. Quasi in Rem Action
12. In Personam Action
13. Venue

VI. Alternative Dispute Resolution

1. Negotiation
2. Mediation
3. Arbitration
4. Mini-trial

**Notes**

The Sources of Law box is a side note to students to help them grasp from where law in the United States comes. Word Wise boxes are helpful to students as they learn about how words are used in several ways, such as the word “court” in this chapter. The other Word Wise box addressing the definition “to speak” can help students’ minds connect with words they are already familiar with in learning new terms. Prefixes and suffixes often indicate a Latin root word, and as students recognize them, they can remember new term definitions easier.

# List of Changes

Two Terms in Action boxes are in every chapter to illustrate how terms are used in real-life situations. Some are current, quirky stories including celebrities, and others are interesting historical cases with surprise endings that will help students remember the terms in the chapters.

In Chapter 1, the Terms in Action educate the student about courts, jurisdiction and venues. In the Terms in Action box about Laci Peterson, the story addresses the occurrence of change in venue.

Unraveling Legalese is not in the textbook, but is found below for the instructor to give to students as another exercise.

# Reviewing What You Learned

1. Federal courts hear cases that raise a federal question **(**a matter that involves the U.S. Constitution, acts of Congress, or treason). Federal courts also decide cases that involve diversity of citizenship (over $75,000) between persons from different states, between citizens of the United States and a foreign government, and between citizens of the United States and citizens of a foreign country. In addition, federal courts hear bankruptcy cases, patent and copyright cases, and admiraltycases.

2. Appeals from a state supreme court may be made to the U.S. Supreme Court only when a federal or U.S. Constitutional question is raised.

3. U. S. Courts of Appeals decide cases that have been appealed from federal district courts,

4. For a court to have jurisdiction over an action in rem, the property must be located in the state (and usually the county) where the court sits.

5. If a defendant owns real property in one state and lives in another, the court where the real property is located has jurisdiction over the property only, not the person.

6. In question 7, if suit is brought against the defendant in the state where the property is located and the out-of-state defendant does not appear, the plaintiff's recovery will be limited to an amount up to the value of the property located in that state.

7. To bring a lawsuit against a person and hold him or her personally liable, a personal action, called an in personam action, must be brought by the plaintiff.

8. If the plaintiff's attorney begins an action in a court of improper venue, the defendant's attorney may have the case dismissed.

9. Jurisdiction relates to the power of the court to hear a case, whereas venue relates to the geographic location where the action should be tried.

10. Mediation has a neutral third party (mediator or conciliator) who listens to both sides and makes suggestions for reaching a solution. The mediator tries to persuade the parties to compromise and settle their differences. A mediator is not empowered to make parties settle, but he has authority over the mediation process.

Arbitration has a neutral third party who makes a decision after hearing the arguments of both sides. Parties have already agreed to resolve their dispute according to a pre-determined arbitration process. Parties can agree to binding arbitration (arbitrator’s decision will be final) or non-binding arbitration (arbitrator’s decision is simply recommended with no need to comply to it).

11. Negotiation is a two-party process that has no help of a neutral third party. The sides attempt to conclude its dispute by bargaining with each other until one side agrees to the other side’s offer of settlement. Parties in legal dispute may have legal representation, but it is not necessary. A written agreement (settlement terms are often kept private) settles the dispute.

12. Mediation is an informal process in which a neutral third party (mediator or conciliator) listens to both sides and makes suggestions for reaching a solution. It takes place in stages and breaks into private sessions called caucuses. The mediator uses his or her listening skills and the ability to ask probing questions to learn what the interests are behind each side’s demands. From that point on the mediator seeks small gains from each side as he or she works to bring disputing parties together so a mutually acceptable agreement (settlement) can be reached. The mediator is not empowered to make the parties settle, but he or she has the authority over the mediation process.

13. The parties in an arbitration process agree to binding arbitration in advance. It is the decision that the arbitrator or conciliator (neutral third party) makes in favor of one side, which must be in writing. It is called the arbitrator’s award.

# Understanding Legal Concepts

1. T 6. F, property

2. F, four 7. T

3. T 8. F, property, person

4. T 9. T

5. F, sometimes 10. T

# Checking Terminology (Part A)

1. h 5. s 9. m 13. z 17. c 2. v 6. n 10. a, t 14. k 18. b, j

3. q 7. x 11. g 15. l 19. d

4. o 8. y 12. r 16. p 20. e 21. w

# Checking Terminology (Part B)

1. h, n 5. l 9. a 13. g 17. j, p

2. e 6. s 10. c 14. v 18. r

3. i, o 7. m 11. d 15. b 19. k

4. f 8. q 12. s 16. u

# Unraveling Legalese

Use simple, non-legal language, with the help of the glossary, to rewrite this quote in the space below so that it is shorter and can be understood by a layperson without losing its meaning.

**Exercise:**

The Appellants argue that Congress’s use of the permissive “may” instead of obligatory “must” demonstrates an intention to sustain concurrent jurisdiction. While it is true that some courts have found concurrent jurisdiction because of the use of the permissive “may,” the statues at issue in such cases did not contain the more potent language contained in this statute: “original exclusive jurisdiction.” That difference makes the analysis in those cases inapplicable.

**Answer:**

The party that appealed argued that Congress’s use of “may” instead of “must” in the law shows that it meant to allow two or more courts to decide the case. Although some courts have decided cases following that argument, those cases did not have the stronger statutory language with the words “original exclusive jurisdiction,” which means that only one particular court has the power to hear the case when it is first brought to trial.

# Using Legal Language

To settle a dispute by means other than litigation over who owned the lot next to her, Susan tried to get Conrad to participate in a(n) **alternate dispute** resolution. Conrad wanted to use **negotiation** because he didn’t want anyone else involved. Susan wanted to use **mediation** (also called **conciliation**)—an informal process in which a neutral third person listens to both sides and makes suggestions for reaching a solution. This case was not one involving a defendant who owned land in one state and lived in another; therefore, it was not a(n) **quasi in rem** action. The **venue** for the trial was Salem because that is where the disputed land was located, and the court in that city had **jurisdiction** over the case. Because the case involved title to land, the trial had to be held in the county where the **res** was located, and because the suit was directed against property, it was a(n) **in rem** action not a(n) **in personam** action. The suit was a(n) **local** action rather than a(n) **transitory** action because it could only be brought in one place. In addition, because the Salem court was the only one that had the power to hear the case, it had **exclusive jurisdiction** rather than **concurrent jurisdiction**. Owing to the fact that the case was being tried for the first time, the court had **original jurisdiction** not **appellate jurisdiction**.

# Puzzling Over What You Learned

