

Module 2: American Legal System and Procedures

2.1 Criminal Law and Civil Law

- Criminal Law
 - Government v. Individual
 - Penalty: Fines and Imprisonment
 - Proof Beyond a Reasonable Doubt
- Civil Law
 - Lawsuits Between Parties (which can include govts)
 - Monetary Damages or Specific Performance
 - Proof by a Preponderance of the Evidence

2.2 The Court Systems

- Federal and State Court Systems (and Tribal Courts)
- Trial, Appellate, and Supreme Courts
- Appeal of Right v. Discretionary Appeals
 - Writs of Certiorari in the US Supreme Court

2.3 Court Functions and Procedures

- Court Functions
 - Trial Courts: Adjudicating Facts
 - Appellate Review: Abuse of Discretion v. De Novo review
 - Supreme Court: Discretionary Review v. Original Jurisdiction

2.3 Court Functions and Procedures

- Commencing a Civil Suit
 - Standing (Constitutional Requirement under Article III)
 - Federal Rules of Civil Procedure
 - Plaintiff v. Defendant
 - Pleadings
 - Complaint (Rule 8)
 - Answer (Rule 8)
 - Affirmative Defense
 - Counterclaim
 - Motions to Dismiss (Rule 12(b))
 - Discovery
 - Motion for Summary Judgment (Rule 56)

2.3 Court Functions and Procedures

- The Civil Jury Trial
 - Burden of Proof
 - Motion to Dismiss
 - Motion for Directed Verdict
 - Jury Verdict
 - Judgment Notwithstanding the Verdict

2.3 Court Functions and Procedures

- Appellate Review
 - Appellant v. Appellee
 - Briefs, Oral Arguments, Decision
 - Claim Preclusion/Res Judicata

2.3 Court Functions and Procedures

- The Criminal Trial
 - Prosecution v. Defendant
 - Criminal Indictment
 - Grand Jury
 - Trial (or Petit) Jury
 - Direct Appeal
 - Writ of Habeas Corpus

2.4 Jurisdiction

- Subject Matter Jurisdiction
 - Constitutional Requirement under Article III (non-waivable)
 - Which Court System: Federal or State
 - Federal Courts are Courts of Limited Subject Matter Jurisdiction
 - State Courts are Courts of General Subject Matter Jurisdiction
 - Federal Court Jurisdiction
 - Diversity Jurisdiction
 - Federal Question Jurisdiction

2.4 Jurisdiction

- Personal Jurisdiction
 - Constitutional Due Process Right (waivable)
 - In which state may suit be brought
 - Traditional Bases of General Jurisdiction
 - Physical Presence, Domicile, Consent, Waiver (*Pennoyer v. Neff*)
 - Specific Jurisdiction
 - Long-arm statutes
 - Constitutional due process test: minimum contacts (*International Shoe v. Washington*)
- Venue (statutory/waivable)