

A Canadian Overview of the US Court System and a Guide to Legal Research

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II. The Constitutional Context

A. The Division of Power in the US

- Federal power is enumerated
- State power is unenumerated, i.e. all other powers belong to the states
- Article I, Section 8 of the US Constitution enumerates the principle powers of Congress
 - Power to tax, borrow and coin money, maintain armies and navies, conduct foreign relations

II. The Constitutional Context

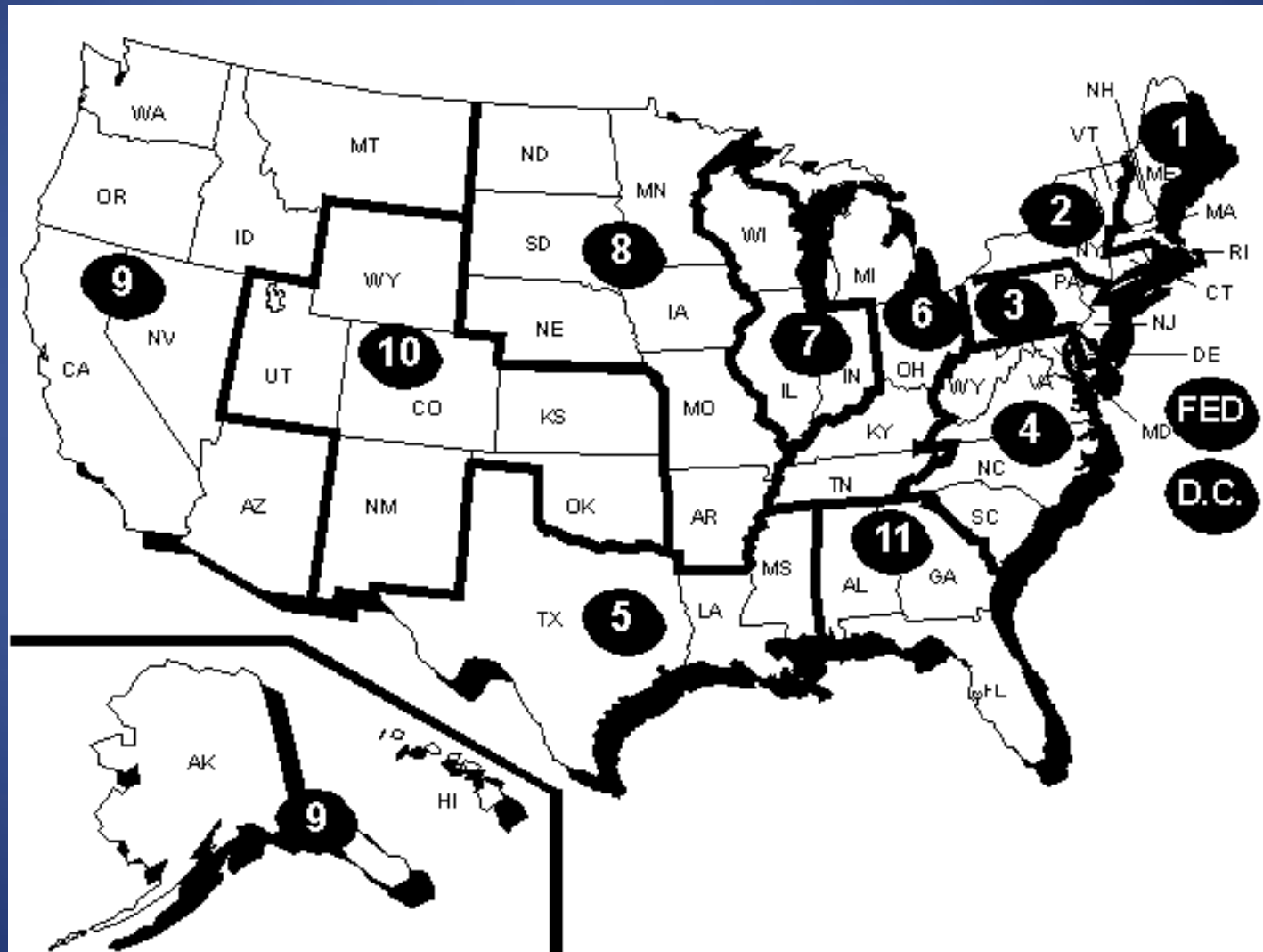
B. The Constitutional Basis for the Dual Court System

- 2 separate and distinct court systems that exist side by side (federal and state)
- Jurisdiction of the federal courts is spelled out in Article III, Section 2
- Federal courts are courts of limited jurisdiction
- State courts can hear any type of case that does not fall within the exclusive jurisdiction of the federal courts

II. The Constitutional Context

JURISDICTION		
FEDERAL		
<i>Exclusive</i>	STATE	
Suits against the United States Federal crimes Admiralty Antitrust Bankruptcy Patents Copyright Trade-marks Other specific federal statutes	<i>Concurrent</i> 1. Federal questions 2. Diversity of citizenship if amount in controversy is more than \$ 75,000	<i>Exclusive</i> All other matters 1. Nondiversity cases on purely state law 2. Diversity and \$ 75,000 or less in controversy

III. The Federal Courts



IV. State Court Systems

A. State Trial Courts

- Trial court of limited jurisdiction (traffic, family, small claims, etc.)
- Trial courts of general jurisdiction

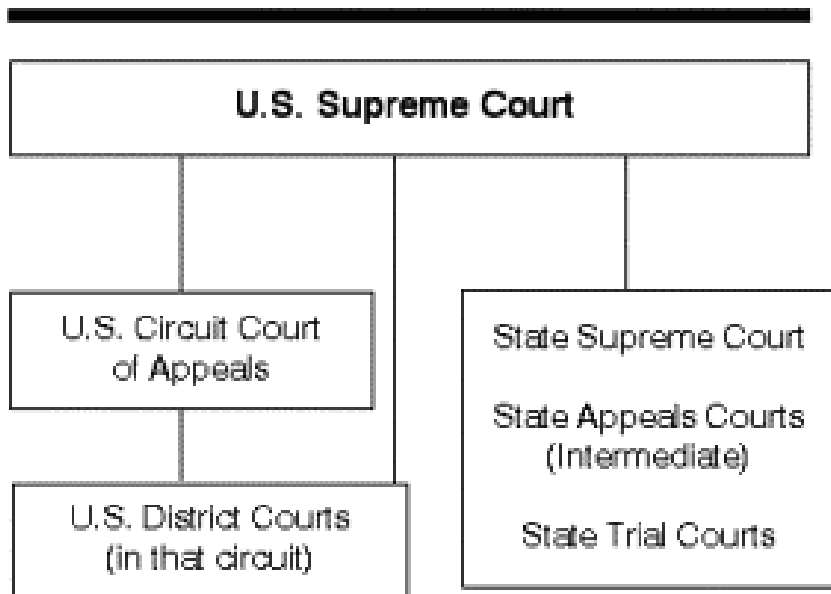
B. State Intermediate Appellate Courts

C. State Supreme Court

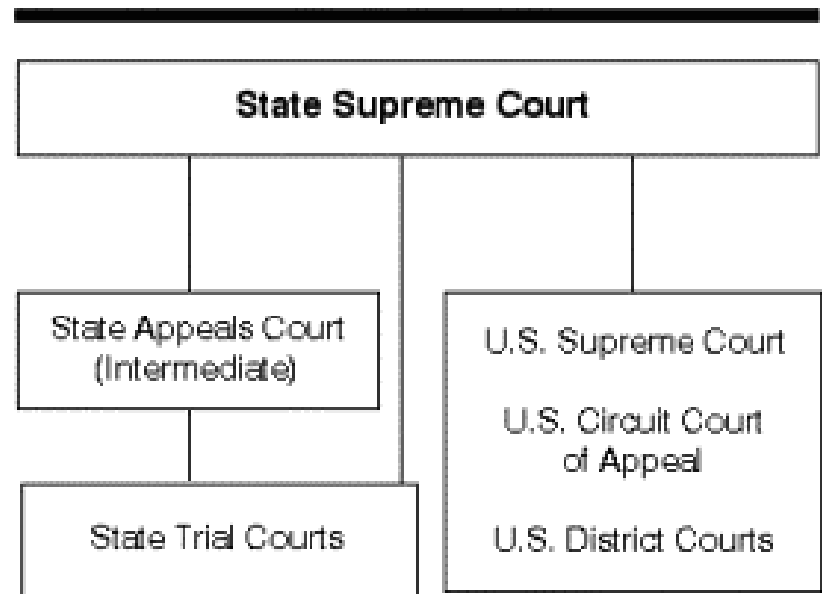
V. *Stare Decisis* in the US

ISSUES/QUESTIONS

FEDERAL LAW



STATE LAW



VI. Tips on the Use of Decisions

Influence of the US Supreme Court on foreign courts may be waning

Familiarize yourself with courts' reputations before choosing precedents to rely on

- Preferred state courts are California, New York and New Jersey
- 4th and 7th US Circuit Court of Appeals regarded as most politically conservative
- D.C. court is the most prestigious judicial appointment, followed by 1st and 2nd
- 9th circuit is regarded with suspicion

VII. What on Earth is The United States Code?

Title 1, General Provisions

Title 2, The Congress

Title 3, The President

Title 4, Flag and Seal, Seat of Government, and the States

Title 5, Government Organization and Employees, and Appendix

Title 6, Surety Bonds (Repealed)

Title 7, Agriculture

Title 8, Aliens and Nationality

Title 9, Arbitration

Title 10, Armed Forces, and Appendix

Title 11, Bankruptcy, and Appendix

Title 12, Banks and Banking

Title 13, Census

Title 14, Coast Guard

Title 15, Commerce and Trade

Title 16, Conservation

Title 17, Copyrights

Title 18, Crimes and Criminal Procedure, and Appendix

Title 19, Customs Duties

Title 20, Education

Title 21, Food and Drugs

Title 22, Foreign Relations and Intercourse

Title 23, Highways

Title 24, Hospitals and Asylums

Title 25, Indians

Title 26, Internal Revenue Code, and Appendix

Title 27, Intoxicating Liquors

Title 28, Judiciary and Judicial Procedure, and Appendix

Title 29, Labor

Title 30, Mineral Lands and Mining

Title 31, Money and Finance

Title 32, National Guard

Title 33, Navigation and Navigable Waters

Title 34, Navy (Repealed)

Title 35, Patents

Title 36, Patriotic Societies and Observances

Title 37, Pay and Allowances of the Uniformed Services

Title 38, Veterans' Benefits, and Appendix

Title 39, Postal Service

Title 40, Public Buildings, Property, and Works, and Appendix

Title 41, Public Contracts

Title 42, The Public Health and Welfare

Title 43, Public Lands

Title 44, Public Printing and Documents

Title 45, Railroads

Title 46, Shipping, and Appendix

Title 47, Telegraphs, Telephones, and Radiotelegraphs

Title 48, Territories and Insular Possessions

Title 49, Transportation

Title 50, War and National Defense, and Appendix

Civil Rights Act of 1964, 42 U.S.C. §1971 et seq. (1988)

Civil Rights Act of 1964	42	U.S.C.	§1971	(1988)
<ul style="list-style-type: none">• Popular name	<ul style="list-style-type: none">• Title number	<ul style="list-style-type: none">• Title of book (United States Code)	<ul style="list-style-type: none">• Section number	<ul style="list-style-type: none">• Year of Compilation

Civil Rights Act of 1964, P.L. 88-353, 78 Stat. 241 (1964)

P.L.	88-	353	Stat.	241	(1964)
<ul style="list-style-type: none">• Public law	<ul style="list-style-type: none">• 88th session of Congress	<ul style="list-style-type: none">• 353rd statute passed by 88th Congress	<ul style="list-style-type: none">• Title of book (Statutes at Large)	<ul style="list-style-type: none">• Page number	<ul style="list-style-type: none">• Year enacted

VIII. What on Earth are Uniform Laws and Model Acts?

- Uniform Laws
 - Authored by the National Conference of Commissioners on Uniform Laws
 - Aims to promote uniformity of state law
 - e.g. Uniform Commercial Code (adopted by all states)
- Model Acts
 - Proposed by any organization (ABA, etc.)
 - Enacted by some states

IX. What on Earth are Restatements?

- Highly regarded refinements of black letter law
- Prepared by the American Law Institute
- 22 Restatements in existence (e.g. Restatement of Contracts)
- Not primary law, not enacted by legislatures
- Considered persuasive authority by a number of courts

X. Legal Research Resources

Case Law

- Reporters
 - Cases are published chronologically in books called reporters
 - Official reporter: published pursuant to government authority
 - Unofficial reporter: published by commercial publisher
- Using One Good Case to Find Others: West key number and digest system
 - Classification system that divides the law into major categories called topics (such as "Contracts")
 - Hundreds of subcategories that are given a number called a "key number"
 - Topics and key numbers are included in the headnotes of cases on Westlaw



Key Numbers - Netscape

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Case **Burdick v. Hartwig**
195 N.W.2d 334
Mich.App. 1972.
Jan. 20, 1972. (Approx. 2 pages)

WEST GROUP

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Jurisdiction: Michigan
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1 30K1122(5)
3 Headnotes

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 - ↔ [30k1122 Findings and Conclusions](#)
 - ↔ [30k1122\(5\) k. Conclusions of Law. \[Most Cited Cases\]\(#\)](#)

Where trial court does not make findings of fact and conclusions of law on all contested matters, Court of Appeals is not powerless and may, in process of a de novo review, make its own findings of fact and conclusions of law based on record before it. GCR 1963, 517.1.

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Document, Date

X. Legal Research Resources

- Journal Articles and Treatises
- Encyclopedias
 - *Corpus Juris Secundum* (CJS)
 - Encyclopedia of legal topics that reflects all published case law and is updated annually (West)
 - *American Jurisprudence 2d* (AmJur)
- American Law Reports
 - Similar in tone to legal encyclopedias, but not organized alphabetically and tend to drill more deeply into a topic
 - Not guaranteed to be comprehensive