



Part II

the courts

“Law has become utilitarian. It can be what the majority conceives as law, or it can be what an elite says it is. There is no absolute. In the end, it is always what a court or judge says it is.”

– William H. Seward (1850)

The courts oversee and administer the law. They resolve disputes under the law and strive to apply the law in a fair and impartial manner.

Like other states, Ohio is served by separate state and federal court systems organized into trial courts, intermediate courts of appeals and a Supreme Court in each system. State courts deal primarily with cases arising under state law, and federal courts deal primarily with cases arising under federal law.

Ohio Trial Courts

In Ohio, most cases begin and are resolved in trial courts, which are the workhorses of the state’s judicial system. Ohio has several kinds of trial courts and each has two types of jurisdiction (power or authority). The first is *territorial jurisdiction*. Simply stated, that means the geographical territory over which the court has power. The second type of jurisdiction is *subject-matter jurisdiction*, which refers to the kinds of cases a court is authorized to hear and decide. Ohio’s trial courts include:

- common pleas courts that have countywide geographic jurisdiction and authority to decide all levels of civil and criminal cases;
- municipal and county courts that have more limited geographic jurisdiction than common pleas courts, and authority to decide only less serious civil and criminal cases;
- mayors’ courts that do not have civil jurisdiction and have only limited authority to hear minor criminal matters that occur within a city or village;
- Ohio’s court of claims, which handles suits against the State of Ohio and claims for state compensation that are filed by crime victims. Unlike the other trial courts that are both

authorized by the Ohio Constitution and established by statute, the court of claims is entirely created by statute.

Common Pleas Courts

The common pleas court is the most important of Ohio’s trial courts. It is Ohio’s court of general jurisdiction, which means that it has the authority to hear almost any civil or criminal matter, and that most serious civil or criminal cases *must* be heard in common pleas court. Each of the state’s 88 counties has a common pleas court.

It is also the only trial court with the power to deal with certain matters. For example, the common pleas court generally has exclusive jurisdiction over felonies, or crimes whose potential penalties may include a prison term or even a death sentence. In civil matters, the common pleas court has exclusive jurisdiction in lawsuits seeking certain extraordinary remedies, such as injunctions and restraining orders, or monetary compensation. When money damages are sought, the common pleas court usually hears cases claiming more than \$15,000, although in counties without county courts, the minimum amount that can be sought in common pleas court is \$500.

The common pleas court has no authority to hear appeals from lower trial courts, although it can hear appeals from rulings made by government administrative agencies. In lesser civil and criminal cases, the common pleas court shares the power to handle certain matters with other trial courts; that is, it has concurrent jurisdiction with municipal and county courts.

Probate/Domestic Relations/Juvenile Divisions

One or more separate divisions of the common pleas court handle probate, domestic relations, and juvenile matters, and it is through these divisions that most people have direct contact with the court. At one time or another, you or someone in your family probably will have some sort of contact with the probate division of the common pleas court. This is because many matters of everyday life are handled in this court, and its function is extensive. For example, if your neighbor dies, his or her will is likely to be administered through the probate division.

The probate division handles wills, estates, adoptions, guardianships and issues marriage licenses. It also supervises the activities and accounts of people in positions of trust (generally called *fiduciaries*), such as estate executors or administrators, guardians and trustees.

The domestic relations division deals with divorce, marriage dissolution, annulment, legal separation, spousal support, parental rights, child support, parenting time, visitation and companionship.

The juvenile division has jurisdiction over delinquent, unruly, or neglected children; juvenile traffic offenders; and adults who neglect, abuse, or contribute to the delinquency of children. When a juvenile (any person under age 18) is accused of an offense, whether serious or minor, the juvenile division has exclusive jurisdiction over the case. When a juvenile is accused of a particularly serious crime, he or she may be transferred from the juvenile division to an adult court for trial and sentencing. Once the child is transferred, the juvenile division no longer has jurisdiction over the case.

Court Operations/ Common Pleas Judges

Depending on a county's size, the common pleas court is overseen by a judge or several judges and divided into divisions. Larger counties may have several judges in the general division plus separate judges for the probate, domestic relations and juvenile divisions. Counties with smaller populations might have a single judge handling all cases coming before the court.

To qualify for election, common pleas judge candidates must be licensed attorneys with at least six years' experience. Once elected, they serve six-year terms.

Municipal and County Courts

You find yourself running late for class or a job interview, so you push the speed limit, hoping to make up some time. As fate would have it, you're stopped by a police officer and ticketed for speeding. To make matters worse, you forget to pay the fine, remembering only when a court summons arrives. Most likely, you will settle the matter before a municipal or county court judge. Mayors' courts also may handle such matters. (*See "Mayors' Courts" below.*)

Municipal and county courts are authorized by the constitution and established by statute, and may serve a single city or an entire county. The territories of county courts include only those areas not covered by a municipal court. Traffic cases involving minor injuries and damage, minor criminal cases, minor civil cases, collection cases and real estate evictions are heard in either municipal or county courts.

Court Jurisdiction

The jurisdiction of municipal and county courts is similar, although there are some important differences. Municipal courts have jurisdiction in civil cases not exceeding \$15,000, while county courts have jurisdiction in cases not exceeding \$500.

Both municipal and county courts are authorized to hear special types of lawsuits, such as landlord-renter disputes and misdemeanor cases (those classified as minor offenses under state law). Both courts can try misdemeanor cases, and both courts can hold preliminary hearings in more serious felony cases to determine if there is probable cause to believe a felony was committed. If probable cause is found, the accused is bound over to the common pleas court, since neither a municipal nor county court can try a felony case.

Small Claims/Mediation

Every municipal and county court maintains a small claims division that hears claims for money only (not exceeding \$3,000). Although someone going to small claims court may employ a lawyer, it is not necessary for a couple of reasons. First, the procedure is simple and informal and does not require a jury. Second, the cost of hiring an attorney may exceed the \$3,000 monetary limit for small claims cases.

In many communities, courts now provide mediation services to help plaintiffs and defendants resolve their differences before the case actually goes before a judge or referee in small claims court.

Court Territorial Jurisdiction/ Municipal and County Court Judges

The territorial jurisdiction of municipal and county courts is established by state law. A municipal court has jurisdiction over a single

incorporated city, while a county court's jurisdiction is those areas of the county that are not covered by a municipal court.

To qualify for election, municipal court judge candidates must be attorneys with at least six years' experience. Once elected, they serve six-year terms. County court judge candidates must be licensed attorneys with at least two years' experience. They also serve six-year terms.

Mayors' Courts

Mayors' courts are the trial courts with the most limited authority. They can hear only minor, non-jury cases involving violations of municipal ordinances or moving traffic violations under state law. Each mayor has the option to hold court and serve as presiding judge in these minor cases even if he or she is not an attorney, or the mayor may appoint a magistrate, who must be an attorney, to hear the case.

Mayors' courts generally hear cases involving violations of municipal ordinances, covering such issues as animal control, city income tax, zoning, building codes, vendors and public safety, as well as cases involving state traffic law violations.

Court of Claims

The court of claims is a special court located in Columbus that hears tort and contract claims against state agencies, and victim of crime claims. Ohio's court of claims hears claims on behalf of Ohio citizens who suffer injury as a result of crimes committed anywhere and on behalf of non-residents who suffer injury as a result of crimes committed in Ohio. The court of claims has limited appellate jurisdic-

tion in civil actions and extensive appellate jurisdiction in victim of crime claims. (Some claims against governmental entities smaller than the state [counties and cities] may be brought in common pleas court.)

Ohio Court of Appeals

The goal of every judicial system is to achieve complete and equal justice with every trial, but the world is imperfect. Trial courts sometimes make mistakes, which is why the court of appeals was established.

Ohio's appeals court system is divided into 12 districts. The number of judges in each district varies based on population. Cases challenging decisions made by a lower trial court located within its district are heard by a panel of three of the district's judges. Although many cases end with a decision by a district court of appeals, such courts are not the last resort but an intermediate step from the trial courts to the Supreme Court of Ohio.

Appellate Jurisdiction

The most important duty of Ohio's courts of appeals is to review questions brought from common pleas courts, municipal courts and county courts. Only a final judgment or order can be appealed, and appeals generally must be on questions of law and not the facts of a case.

Court of appeals judges generally do not hear new testimony. They review transcripts from the lower court's hearings to determine if the law was correctly interpreted and applied.

After reviewing the trial court's decision, appeals judges can take one of several actions: affirm the lower court's ruling; overturn its decision; send it back for additional proceedings; or modify the decision.

In some instances, the appeals court judges may agree mistakes were made by the trial court but choose to uphold the initial decision

because the errors weren't severe enough to affect the rights of—or to have created *prejudicial error* for—those who lost in the lower court. If the mistakes substantially affect a party's rights, they constitute prejudicial error, and the court of appeals may then take whatever action is necessary to bring about justice.

A court of appeals may reverse the trial court's decision and give final judgment to the party who should have had it in the first place. It might reverse and send the case back for a new trial, or it might simply send the case back for whatever further proceedings are needed. It can modify the trial court's judgment or order in any way.

Original Jurisdiction

Certain types of cases cannot be brought before a regular trial court, but must begin in a district court of appeals or the Supreme Court of Ohio.

These cases are often based on what are known as *extraordinary writs*. These writs include:

- *quo warranto*, which tests a person's title to a public office;
- *mandamus*, which is a means to compel government officials to perform their duty;
- *prohibition*, which is a means to prevent a lower court from proceeding in a particular case; and
- *procedendo*, which is a means to compel a lower court to proceed in a particular case.

Another writ, *habeas corpus*, tests the legality of imprisonment and may be initiated in the court of appeals, the Supreme Court of Ohio, or common pleas courts.

An example of a case based on an extraordinary writ would be the case of a workers' compensation claimant who was denied a claim for workplace injuries by the Industrial Commission. If the claimant believes state law required the Commission to honor the claim based upon the

facts of the case, the claimant could file a *writ of mandamus* in a court of appeals, asking that the Commission be ordered to perform its duty and change its decision to match the demands of state law.

Consider another scenario where an extraordinary writ could be implemented: An individual is convicted of a crime by a trial court and sentenced to a prison term. Not willing to accept the court's decision, the convicted individual files a petition for post-conviction relief in the lower court that tried the case, but the court refuses to act on the petition. Undeterred, that individual's next step would be to file a *writ of procedendo* in a court of appeals, asking that the trial court be compelled to rule on the petition.

Organization of the Court of Appeals

Ohio's counties are organized into 12 appellate districts, and each district is served by a court of appeals.

To qualify for election, court of appeals judges must be licensed attorneys with at least six years' experience. Once elected, they serve six-year terms.

The Supreme Court of Ohio

The Supreme Court of Ohio is the highest and most powerful court in the state, and its primary purpose is to serve as a court of appeals and Ohio's court of last resort. It has original (trial) jurisdiction in the same types of extraordinary cases as the courts of appeals. The Supreme Court of Ohio also has other important duties. These duties include prescribing rules of procedure for and supervising the operation of all lower courts, and controlling the practice of law.

Appellate and Original Jurisdiction

The appellate jurisdiction of the Supreme Court of Ohio is similar to that of the courts of appeals. The Supreme Court is empowered to review final judgments and orders of lower courts; to affirm, reverse, remand (send back to a lower court), or modify judgments; and to do whatever is necessary to render a just and final determination of a case. Appeals to the Supreme Court of Ohio are generally from the district courts of appeals rather than from the trial courts.

The Supreme Court is required to hear some types of cases (cases involving the death penalty, some appeals from state agencies, cases involving state constitutional issues, and others), but most of its jurisdiction is discretionary and it selects cases of great public interest to resolve.

Prescribing Rules of Procedure

The Supreme Court of Ohio is charged by the Ohio Constitution to adopt rules governing practice and procedure in all Ohio courts and to oversee the activities of all courts. The Supreme Court of Ohio has adopted complete sets of rules for civil, criminal, appellate, juvenile and traffic procedures, as well as rules for the admission of evidence in all courts.

Supervision of the Courts

The Supreme Court of Ohio oversees the activities of all Ohio courts and publishes rules governing court conduct and procedure to ensure the fair, effective and efficient administration of justice.

Supervision of the Practice of Law

The Supreme Court of Ohio also regulates the admission of attorneys to practice in Ohio, sets standards for the practice of law, and disciplines attorneys who do not abide by the strict ethical rules of their profession. (*See Part XIII, "The Lawyer."*)

Organization of the Supreme Court of Ohio

The Supreme Court of Ohio consists of a chief justice and six justices. To qualify for election, candidates must be licensed attorneys with at least six years' experience. Once elected, they serve six-year terms. The Supreme Court of Ohio is located in Columbus.

The Federal Courts

The federal court structure is similar to Ohio's court structure, with trial courts, courts of appeals and a Supreme Court. The federal courts are primarily concerned with administering the federal law, and they function independently of state courts.

District Courts

The trial courts in the federal system are the U.S. District Courts. The district courts are courts of general jurisdiction and correspond to Ohio's common pleas courts, meaning they handle all types of criminal cases (felonies as well as misdemeanors) that arise under federal statutes, as well as many kinds of civil cases. For example, district courts handle:

- cases governed solely by federal law (bankruptcies; patents and copyrights; and admiralty, the branch of law that governs shipping and navigation on the oceans, seas and navigable inland waterways);
- cases under the U.S. Constitution or federal statutes (cases involving interstate commerce, claims by one state against another, civil rights or antitrust claims); and
- diversity cases (claims by a citizen of one state against a citizen of another state where the amount of the claim is \$75,000 or more). For example, a diversity case might be a claim

by an Ohio resident against a Kentucky resident for injuries sustained in an auto accident that occurred in Ohio. If the amount involved was \$75,000 or more, this case could be heard in a federal district court located in Ohio. Because the federal system does not have a common law of its own, the law of Ohio would be applied in such a case.

- Bankruptcy cases require an additional explanation. District courts have the power to handle bankruptcy cases, but have referred them in the past to bankruptcy courts. Technically, the bankruptcy court is part of the district court, although it operates as an independent court and handles almost all aspects of bankruptcy cases. (*See Part VII, "Business Transactions," for more information on bankruptcy courts.*)

Ohio has two federal district courts, the U.S. District Court for the Northern District of Ohio, and the U.S. District Court for the Southern District of Ohio. The Northern District has a western division, based in Toledo, and an eastern division, based in Cleveland, with separate courts in Akron and Youngstown. The Southern District has a western division, based in Cincinnati, with a separate court in Dayton, and an eastern division, based in Columbus. There is a bankruptcy court for the Northern District, as well as the Southern District. There are bankruptcy court offices and courtrooms in Akron, Canton, Cleveland, Toledo, Youngstown, Cincinnati, Columbus and Dayton.

Judges of the U.S. District Court are appointed for a life term by the president of the United States, with confirmation by the U.S. Senate. Judges of the bankruptcy court are appointed for 14-year terms by the judges of the U.S. Court of Appeals for the circuit where the district court is located.

U.S. Court of Appeals

The U.S. Court of Appeals is an intermediate court of appeals. The U.S. Court of Appeals hears appeals from the district courts and its decisions may be appealed to the U.S. Supreme Court. It corresponds to Ohio's Court of Appeals and functions in much the same manner.

The United States and its territories are divided into 13 "circuits," with a court of appeals for each circuit. Ohio is in the Sixth Circuit, along with Michigan, Kentucky and Tennessee. The Sixth Circuit Court of Appeals is based in Cincinnati. The president of the United States, with confirmation by the U.S. Senate, appoints all judges on the U.S. Court of Appeals for life terms.

The U.S. Supreme Court

Just as the Supreme Court of Ohio is the highest court in the state, the U.S. Supreme Court is the highest court in the nation and the court of last resort. It consists of the chief justice and eight associate justices, who are appointed for life terms by the president of the United States with confirmation by the U.S. Senate.

The U.S. Supreme Court is the ultimate authority on many of the nation's most important issues. Over the years, those decisions have desegregated our nation's public schools, compelled a president to produce evidence in a pending criminal case, extended the rights of persons accused of crime, established equal voting rights, and resolved a disputed presidential election.

Chapter Summary

- State and federal court systems have trial, appeals and supreme courts.
- Ohio's trial courts include common pleas, municipal, county and mayors' courts, as well as a court of claims, all with varying degrees of authority.
- Common pleas courts may be subdivided into probate, juvenile and domestic relations divisions.
- Municipal and county courts are established by statute and hear cases ranging from traffic violations to minor criminal and civil cases.
- Courts of appeals review questions brought to them from common pleas courts, municipal courts and county courts.
- The Supreme Court of Ohio is the highest and most powerful court in the state and is primarily a court of appeals and Ohio's court of last resort.
- The federal court structure is similar to Ohio's, consisting of district courts, courts of appeals and the U.S. Supreme Court. Federal courts administer federal law and function independently from state courts.

Web Links:

From the OSBA:

<http://www.ohiobar.org/conres/pamphlets/article.asp?ID=5>

OSBA's "Law Facts" pamphlet: "Ohio's Courts"

<http://www.ohiobar.org/conres/lawyoutcanuse/article.asp?ID=46>

OSBA's "Law You Can Use" column: "What Is a Drug Court?"

From Hieros Gamos's Web site:

<http://www.hg.org/judge.html>

U.S. Judicial Administration

<http://www.hg.org/litg.html>

Appellate courts

From Nolo.com:

<http://www.nolo.com/research/index.html>

Federal and state court cases

From The Supreme Court of Ohio:

<http://www.sconet.state.oh.us/>

<http://www.supremecourtus.gov/>

From the Ohio Judicial Conference:

<http://www.state.oh.us/ojc/>

From National Center for State Courts' portal to state and federal courts:

<http://www.ncsconline.org/>

D_Kis/info_court_web_sites.html

From Northwestern University's Oyez Project:

<http://oyez.northwestern.edu/>

Oral arguments of the U.S. Supreme Court

Federal judicial Web site:

http://www.firstgov.gov/us_gov/judicial_branch.html

From Cornell Law School Legal Information Institute (topic discernible from Web address):

http://www.law.cornell.edu/topics/judicial_administration.html

http://www.law.cornell.edu/topics/appellate_procedure.html

http://www.law.cornell.edu/topics/court_rules.html

<http://www.law.cornell.edu/topics/equity.html>

http://www.law.cornell.edu/topics/federal_courts.html

http://www.law.cornell.edu/topics/judicial_ethics.html

<http://www.law.cornell.edu/topics/jurisdiction.html>

http://www.law.cornell.edu/topics/judicial_administration.html