



Business Law 3e

by Victor López, J.D.
Hofstra University

Cypres Family Distinguished Professorship
in Legal Studies in Business



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Victor D. López is the Cypres Family Distinguished Professor in Legal Studies in Business at Hofstra University's Frank G. Zarb School of Business. He holds a Juris Doctor degree from St. John's University School of Law and is a member of the New York State Bar. His professional affiliations include membership in the New York State Bar Association, the Academy of Legal Studies in Business (ALSB), the North East Academy of Legal Studies in Business (NEALS), and he serves as a reviewer for several peer-reviewed journals. He served as president of the North East Academy of Legal Studies in Business (2011-2012) and has served as the organization's vice-president (2009-2010) and program chair of the 2011 NEALS Academic Conference.

Professor López published several textbooks in the areas of business law and the legal environment of business that have been used in colleges and universities throughout the United States since 1993. His past publishers include Irwin/Mirror Press, McGraw Hill and Prentice Hall. In 2010, he published three revised and expanded business law/legal environment textbooks with his new publisher, Textbook Media Press, that are available in inexpensive print and electronic versions, including an Immigration Law primer.

Since 1990, he has served as a Professor of Business for 12 years at SUNY Delhi and more recently as the dean of the business division at SUNY Broome for four years prior to joining the Hofstra University faculty. He has also served as a professor and dean at other higher education institutions since 1987 and as acting chair of Accounting, Taxation and Legal Studies in Business at Hofstra University in 2016.

did not find a sufficiently pressing issue for it to decide. Four of the nine justices of the U.S. Supreme Court must agree to grant a writ of certiorari in order for the Court to hear a case either out of its own volition or, much more commonly, in response to a petition for a writ of certiorari from a litigant who lost an appeal in a lower court.

State Court Systems

As previously noted, state court systems can vary somewhat, but generally conform to the following model (see Figure 1.2):

1. Lower courts of limited jurisdiction
2. Trial courts of general, original jurisdiction
3. Intermediate appeals courts
4. The state's highest appellate court (generally, the state's supreme court).

Lower Courts

Most states have one or more lower courts of limited jurisdiction where minor criminal offenses are tried and civil litigation involving small dollar amounts are heard. Such courts include small claims courts (which hear civil cases involving small dollar amounts that vary from state to state but are generally in the \$2,500 to \$15,000 range), justice of the peace courts (where minor criminal offenses are adjudicated), traffic court, surrogate court (where matters relating to trusts and estates are heard), and family court (where child custody, divorce, separation and a variety of other matters pertaining to families are adjudicated).

The benefit of lower courts of limited jurisdiction is that they often provide quick and relatively informal means of resolving civil disputes and minor criminal infractions. By bringing action in small claims court, a litigant can have a case resolved in months, instead of years, and without the need of retaining legal counsel. On the downside, appeal from small claims court is usually not available, and the dollar amounts for which one can sue are relatively low. As of this writing, Kentucky and Rhode Island have the lowest small claims court limit of \$2,500, and Tennessee the highest at \$25,000. Most states (29) cap the maximum limit for small claims courts at \$7,500 or less.

Trial Courts

As the name implies, trial courts, or courts of original general jurisdiction, try almost any type of criminal or civil case. They have the widest trial jurisdiction available. Typical cases heard by trial courts include crimes, breach of contract actions, and torts. This is where nearly all cases affecting business are litigated.

Intermediate Appeals Courts

Intermediate appeals courts have jurisdiction to hear appeals from most trial and some limited jurisdiction courts, as well as some rulings of administrative agencies. These

courts provide parties who believe that a legal error was made by the original trial judge with the opportunity to have their trial court record reviewed. As previously noted, appellate courts only review questions of law and do not generally review findings of fact. Thus, for example, a losing party could successfully appeal on the grounds that the trial judge improperly instructed the jury on a point of law, or failed to sustain valid objections by the losing litigator (both questions of law), but an appeal based on a contention that a witness at trial was not credible would not be valid.

State Supreme Court

The state's highest court—usually named the State Supreme Court—has the final say on all appeals from trial and intermediate appeals courts. Whether a state's highest court hears a case on appeal is usually at its own discretion. If the court does choose to hear a case on appeal from an intermediate appellate court, its decision is final and can only be overturned by the U.S. Supreme Court if a federal question is involved.

Hypothetical Cases

Case 1. Ted, a domiciliary of Connecticut travels to California on business. While in California, he purchases a defective cigarette lighter. When he returns to Connecticut, the lighter explodes, causing him severe injuries in Connecticut. Ted knows that justice in Kings County (Brooklyn), New York, has a reputation for awarding some of the highest personal injury judgments in the country, so he asks his attorney to sue the seller and the manufacturer of the lighter in Kings County, New York.

- A. Can an action be brought in Kings County, New York? Explain.
- B. If the parties appear in Kings County willing to have the court adjudicate the case, will the court have subject matter and personal jurisdiction over the parties?
- C. Assuming that the New York court does have jurisdiction in the last example, will it hear the case? Explain.

Case 2. Assume the same facts as in Case 1.

- A. In which state or states can the plaintiff sue the defendant?
- B. Assume that the plaintiff will sue the defendant for \$100,000 in damages. Can the suit be brought in federal court? Explain.
- C. If Plaintiff only wants to sue for \$9,000 for his medical costs and pain and suffering, can he sue in federal court? Explain.
- D. Assume that the suit can be brought in federal court. What court and in which federal district(s) can the suit be brought?

Case 3. Ephraim, a nearsighted college student who likes to drive very fast, decides to travel from Maine to California

over Spring Break. On the way, he manages to get into automobile accidents in New Hampshire, Vermont, New York, Pennsylvania, Ohio, Indiana, Illinois, and Missouri, where he finally totals his car and flies on to California to enjoy the rest of his vacation.

- A. Assuming that plaintiffs in each of the states mentioned begin legal actions in their states against Ephraim, will he have to defend himself in each of those states? Will the various state courts be able to obtain personal jurisdiction over him once he has left the state?
- B. Would it make any difference if Ephraim had never been to any of the states noted prior to the automobile accidents and has no other contact with the states?
- C. If the plaintiffs in Pennsylvania and Indiana decide to sue in federal court for \$100,000, will they be able to do so? In which districts will each be able to bring his suit?

Case 4. The town of Pious in your state decides to pass a local ordinance that reads as follows:

Sunday is hereby decreed a day of rest. The performing of work of any kind, whether for oneself, for pay or gratuitously is hereby forbidden to all citizens. For purposes of this statute, work shall not include essential medical services or the conducting of religious services. Violation of this statute shall carry with it a fine not to exceed \$500 and or a jail sentence not to exceed 30 days in the county jail.

Two days after the statute is passed and published in the local newspapers and radio and television station, you are arrested by police for washing your car. You defend yourself at trial on two grounds: 1. that you were not washing your car and 2. that the statute is unconstitutional. You

FIGURE 1.2 Sample State Court System

12 Unit 1 The Legal Environment of Business

Chapter 1 Sources of the Law and the Court System 13