Introduction to the U.S. Court System

As explained in the introduction, our system of laws is made up of statutes, court opinions issued by courts, and administrative regulations and decisions. Unlike legislatures which draft statutes to apply broadly, courts adjudicate disputes between 2 specific parties. In civil cases, courts resolve disputes between 2 individuals or businesses. In criminal cases, the dispute is between an individual and the government responsible for enforcing the criminal laws.

Courts can be asked to interpret and apply statutes, as is the case with criminal law, but courts can also be asked to interpret and apply what is known as “common law.” Common law refers to the body of law that is made up of judicial decisions. If there is no statute or code on an issue, judges will refer to prior cases and follow what earlier courts decided on that issue. Prior cases are known as precedent and the concept of following these earlier cases is known as *stare decisis*, which in Latin means “to stand by things decided.” This means that once courts have decided on a rule of law, they will generally follow that rule in similar cases in the future. The rationale for *stare decisis* is that it creates a system where the laws are applied uniformly and rulings can be predicted.

However, judges don’t have to abide by the earlier decision of just any court. Courts are limited in which earlier decisions they must follow through a system known as mandatory and persuasive authority. Mandatory authority, also known as binding authority, refers to authority that a court must follow. Persuasive authority, or nonbinding authority, refers to laws that a court may look to for guidance and choose to follow, but it is not required to do so. There are two aspects to determining whether a rule of law is mandatory or persuasive authority: jurisdiction and level of court.

*Jurisdiction*

Courts must follow earlier decisions from courts within their same jurisdiction. Jurisdiction describes a court’s authority to hear a case and is generally based on geographic area or subject matter. In the United States there is a federal court system and a state court system. Federal courts hear disputes that involve a *federal question*, meaning a dispute involving the U.S. Constitution, a U.S. law or statute or a treaty to which the U.S. is a party. Federal courts also hear cases involving *diversity jurisdiction*, or disputes between individuals from different states. For example if you are an Illinois resident and you have a dispute with a resident of Indiana, you can file your law suit in federal court. The rationale for diversity jurisdiction is that an Illinois
state court may treat an Illinois resident more favorably and vice versa, so a federal court provides a neutral locale to adjudicate the dispute.

**Level of court**

The federal and state court systems are both divided into multiple levels. For the federal court and most states including Illinois, the lowest courts are the trial courts. In the federal court system these are known as district courts. In Illinois they are referred to as circuit courts. Both court systems then have intermediate appellate courts and a final appellate court, usually known as the Supreme Court.

The general rule for determining whether a court must follow an earlier courts opinion is that courts are only bound by opinions from courts within their jurisdiction and from their level or higher. However, the opinion of a lowest level trial court is never binding (mandatory) on another court. The following chart explains how the level of court affects whether an opinion is considered mandatory authority.

For example, the opinion of an Indiana court is not mandatory authority to an Illinois court, regardless of what level of court it comes from, because it is from a different jurisdiction. The Illinois Supreme Court does not have to follow the opinion from any of the Illinois Appellate courts, because they are lower courts, although the Supreme Court may look at that opinion as persuasive authority and choose to follow it or not. To illustrate an example from the federal court system, an opinion from the 7th Circuit Court of Appeals, an intermediate appellate court, is not considered mandatory authority to the 9th Circuit Court of Appeals because the 9th Circuit is considered a different jurisdiction from the 7th Circuit. The 7th Circuit Court of Appeals also never has to follow an opinion from a lower district court, but the opinions of the U.S. Supreme court are considered mandatory authority because it is a higher court.
Locating Court Opinions

Cases or court opinions have traditionally been published in books called reporters. A reporter is a collection of cases from a jurisdiction arranged in chronological order. For example, the reporter United States Reports contains the text of opinions from the United States Supreme Court in the order in which they were decided. Illinois Appellate Reports contains the text of opinions from all the Illinois Appellate courts. Some opinions of the lowest federal district courts appear in the Federal Supplement reporter, however, because the opinions of the lowest (trial) courts are never considered mandatory authority they are not published in Illinois. If you are trying to determine the outcome of a case heard before a trial court (circuit court) in Illinois, you should contact the clerk of that court.

As explained in Chapter 2, citations to cases include the names of the parties, the volume and page number of the printed reporter where the opinion is published and the date of the opinion. If you happen to be at a local law library that has copies of print reporters in the collection, you can locate a case using the citation. However, many court opinions are now available online for free.

Many courts now provide the text of recent opinions on their website. In Illinois, since July 2011 all Supreme Court and Appellate Court cases are made available at the website of the Illinois Supreme Court. The U.S. Supreme Court website provides access to the court’s opinions from 2007 on.

Google Scholar, available at http://scholar.google.com, is a separate search service from Google.com and provides access to scholarly articles and legal documents, including federal and state court opinions. Google Scholar includes state appellate and Supreme Court cases since 1950, U.S. federal district and appellate court cases since 1923 and U.S. Supreme Court cases since 1791.

Attorneys often use fee-based commercial databases such as LexisNexis or Westlaw for legal research. The text of court opinions found in these services is identical to that found on free sites such as Google Scholar or court websites; however, attorneys use these services for the added search features, finding tools and editorial analysis that they provide. In recent years new lower cost legal information databases such as Fastcase, Casemaker, and Loislaw have emerged as alternatives to Lexis and Westlaw. See Chapter 8 for additional information about free and fee based sources of legal information.