

Contents

<i>Preface</i>	<i>xv</i>
<i>Acknowledgments</i>	<i>xxiii</i>
<i>About the Authors</i>	<i>xxv</i>

Chapter 1

<i>Law, Courts, and Politics</i>	<i>1</i>
Courts and Government	3
Law and Popular Culture: Overview	8
Courts as Legal Institutions	9
Case Close-Up: Overview	11
Courts as Political Institutions	13
Courts in Comparative Perspective: Overview	16
Debating Law, Courts, and Politics: Overview	17
Courts and Controversy	17
Conclusion	19

Part I

INSTITUTIONS OF LAW

Chapter 2

<i>Law and Legal Systems</i>	<i>24</i>
What Is Law?	25
Legal Systems	27
Civil Law	27
Courts in Comparative Perspective: <i>The French Republic and the Code Napoléon</i>	29
Socialist Law	30

Islamic Law	31
Common Law	31
Key Characteristics of the Common Law	34
The Adversary System	35
Law and Popular Culture: <i>Brokedown Palace</i> (1999)	37
The Major Components of U.S. Law	38
Debating Law, Courts, and Politics: <i>The Law and Politics of Constitutional Interpretation</i>	45
Interpreting the Law	46
Case Close-Up: <i>McCreary v. ACLU</i> (2005)	48
Conclusion	49

Chapter 3

Federal Courts **55**

Principles of Court Organization	57
The History of the Federal Courts	60
Case Close-Up: <i>Marbury v. Madison</i> (1803)	63
United States District Courts	65
United States Courts of Appeals	71
Debating Law, Courts, and Politics: <i>When Will the Ninth Circuit Be Overturned Next?</i>	72
The United States Supreme Court	74
Specialized Courts	75
Courts in Comparative Perspective: <i>The Federal Republic of Germany</i>	76
Federal Judicial Administration	79
Law and Popular Culture: <i>A Few Good Men</i> (1992)	80
Debating Law, Courts, and Politics: <i>Are the Federal Courts Obstructing the War on Terrorism, or Are They Protecting Civil Liberties?</i>	83
The Ongoing Federal Courts Caseload Controversy	84
Attacks on the Federal Judiciary	87
Conclusion	88

Chapter 4

State Courts **94**

The History of State Courts	95
Trial Courts of Limited Jurisdiction: Lower Courts	97
Trial Courts of General Jurisdiction: Major Trial Courts	99
Intermediate Courts of Appeals	102
Courts of Last Resort: State Supreme Courts	103

The Lower Courts: A Closer Look	104
Justice of the Peace Courts	105
Municipal Courts	106
Juvenile Courts	107
Court Unification	110
Case Close-Up: <i>Wachtler v. Cuomo</i> (1991)	111
The Politics of Court Reorganization	114
Court Reform: The Next Steps	115
Drug Courts	116
Law and Popular Culture: <i>Traffic</i> (2000)	117
Debating Law, Courts, and Politics: <i>Should We End the War on Drugs?</i>	120
Consequences of Court Organization	121
Courts in Comparative Perspective: <i>The Federal Republic of Mexico</i>	122
Conclusion	123

Part II

INTERPRETERS OF THE LAW

Chapter 5

Lawyers and Legal Representation 130

Legal Education	132
Law Schools Today	133
Debating Law, Courts, and Politics: <i>Thinking About Law School?</i>	134
Licensing Requirements	139
Legal Ethics and Discipline	141
Law and Popular Culture: <i>Have You Heard the Latest Lawyer Joke?</i>	142
Bar Associations	143
The Work of Lawyers	146
Courts in Comparative Perspective: <i>Australia</i>	147
Where Lawyers Work	149
Diversity and Stratification of the Legal Profession	152
Access to Legal Services	155
Case Close-Up: <i>Gideon v. Wainwright</i> (1963)	156
Debating Law, Courts, and Politics: <i>Public Defender Versus Assigned Counsel</i>	158
Law and Popular Culture: <i>A Civil Action</i> (1998)	160
Conclusion	163

Chapter 6

Judges 170

Judicial Selection	171
Law and Popular Culture: <i>Judge Judy: Justice with an Attitude or Just Plain Nonsense?</i>	173
Appointment of Federal Judges	174
Debating Law, Courts, and Politics: <i>Filibuster This?</i>	178
Judicial Elections	182
Case Close-Up: <i>Republican Party v. White</i> (2002)	186
Merit Selection	187
Courts in Comparative Perspective: <i>Judges in the United Kingdom</i>	189
Which System Is Best?	190
Case Close-Up: <i>Chisom v. Roemer</i> (1991)	192
Judges at Work	193
Judging the Judges	196
Conclusion	199

Part III

CONSUMERS OF THE LAW

Chapter 7

Mobilizing the Law: Litigants, Interest Groups, Court Cases, and the Media 209

Legal Mobilization	211
Courts in Comparative Perspective: <i>The Federal Republic of Nigeria</i>	212
Court Caseloads	214
Party Capability	215
The Adjudicatory Process	216
Traditional Versus Policy Lawsuits	218
Case Close-Up: <i>Brown v. Board of Education</i> (1954)	220
Debating Law, Courts, and Politics: <i>Can Courts Bring About Social Change?</i>	221
Interest Groups in Court	222
Debating Law, Courts, and Politics: <i>Should Gun Manufacturers Be Sued?</i>	223
The Media and the Legal System	229

Law and Popular Culture: <i>Chicago</i> (2002)	231
Conclusion	232

Part IV

TRIAL COURTS

Chapter 8

Trial Courts: The Preliminary Stages of Criminal Cases 239

Crime	241
Courts in Comparative Perspective: <i>The Kingdom of Saudi Arabia: Pure Islamic Law</i>	243
Policing	244
Arrests	245
The Defendant	245
Prosecution	249
Law and Popular Culture: <i>Law & Order</i>	251
Grand Juries	253
Exclusionary Rules	255
Case Close-Up: <i>Miranda v. Arizona</i> (1966)	257
Debating Law, Courts, and Politics: <i>Should the Exclusionary Rule Be Abolished?</i>	258
Case Attrition	260
The Criminal Justice Wedding Cake	262
Conclusion	264

Chapter 9

Trial Courts: How Criminal Cases End: Bargaining and Sentencing 270

The Courtroom Work Group	271
The Many Faces of Plea Bargaining	273
Plea Bargaining and Courtroom Work Groups	276
Forms of Punishment	280
Law and Popular Culture: <i>The Shawshank Redemption</i> (1994)	282
Normal Penalties and Sentencing Decisions	283
The Fairness of Sentencing	285

The Severity of the Penalty	287
Sentencing Guidelines	288
The Death Penalty	291
Debating Law, Courts, and Politics: <i>Should the Death Penalty Be Abolished?</i>	295
Case Close-Up: <i>Roper v. Simmons</i> (2005)	296
Courts in Comparative Perspective: <i>The People's Republic of China</i>	298
Conclusion	299

Chapter 10

Trial Courts: How Civil Cases Begin 307

The Disputing Pyramid	309
Law and Popular Culture: <i>The Insider</i> (1999)	313
Resolution Without Filing a Lawsuit	314
The Litigation Explosion Argument	315
Courts in Comparative Perspective: <i>The Republic of India: The World's Largest Democracy</i>	319
Tort Reform	320
Case Close-Up: <i>Liebeck v. McDonald's Corporation</i> (1995)	323
Debating Law, Courts, and Politics: <i>Should Limits Be Placed on Punitive Damages?</i>	325
The Complex World of Torts	326
Alternative Dispute Resolution	330
Conclusion	333

Chapter 11

Trial Courts: How Civil Cases End 342

Civil Procedure	344
Steps in a Civil Lawsuit	346
Negotiations, Settlements, and Dispositions	351
Debating Law, Courts, and Politics: <i>Who Should Be Held Responsible for Tobacco-Related Deaths?</i>	353
Dynamics of Trial Court Dispositions: Three Case Studies	355
Settling Tort Cases	355
Case Close-Up: <i>Rodriguez v. Firestone</i> (2001)	356
Courts in Comparative Perspective: <i>The State of Israel</i>	358
Negotiating Small Claims	360
Bargaining Divorce Cases	361
Law and Popular Culture: <i>Kramer vs. Kramer</i> (1979)	363

Winners and Losers	365
Conclusion	367

Chapter 12

Trials and Juries 374

History and Function	375
Courts in Comparative Perspective: <i>Russia</i>	378
Jury Selection	381
Law and Popular Culture: <i>Runaway Jury</i> (2003)	384
The Moving Party Presents Its Case	385
The Defense Presents Its Case	389
Rebuttal	392
Closing Arguments	392
Jury Instructions	392
The Jury Decides	393
Prejudicial Pretrial Publicity	395
Case Close-Up: <i>Sheppard v. Maxwell</i> (1966)	396
Trials as Balancing Wheels	397
Debating Law, Courts, and Politics: <i>Should Jurors Engage in Jury Nullification?</i>	399
Conclusion	400

Part V

APPELLATE REVIEW

Chapter 13

The Appellate Process 406

The Nature of the Appellate Process	407
Law and Popular Culture: <i>The Hurricane</i> (1999)	409
The Business of the Appellate Courts	413
Caseloads and Expedited Processing Techniques	416
Postconviction Remedies	418
Debating Law, Courts, and Politics: <i>Innocents on Death Row?</i>	420
Decision Making on Appellate Courts	421
Explaining Decision Making on Appellate Courts Today	422
State Supreme Courts	423
Case Close-Up: <i>Goodridge v. Department of Public Health</i> (2003)	426
Courts in Comparative Perspective: <i>Canada</i>	428

U.S. Courts of Appeals	429
Conclusion	432

Chapter 14

The Supreme Court: Deciding What to Decide 441

Jurisdiction of the Supreme Court	442
Courts in Comparative Perspective: <i>The International Court of Justice</i>	443
Doctrines of Access	445
Case Close-Up: <i>Roe v. Wade</i> (1973)	449
Mobilizing the Law to Reach the Supreme Court	452
Law and Popular Culture: <i>The Cider House Rules</i> (1999)	454
Case Selection	456
The Court's Docket	461
Debating Law, Courts, and Politics: <i>Should Congress or the Court Decide Who Decides?</i>	465
Conclusion	466

Chapter 15

The Supreme Court: The Justices and Their Decisions 473

Selecting the Justices	475
Senate Confirmation	480
Debating Law, Courts, and Politics: <i>The Rejection of Robert Bork</i>	483
The Decision-Making Process	485
The Justices' Policy Preferences	490
Law and Popular Culture: <i>The People vs. Larry Flynt</i> (1996)	493
From Warren to Roberts	495
Impact and Implementation	498
Case Close-Up: <i>Reno v. American Civil Liberties Union</i> (1997)	499
Courts in Comparative Perspective: <i>Japan</i>	504
Conclusion	505

Glossary 515

Case Index 531

Subject Index 535