The Structure of the Courts and Court Processes

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The term law is a particular and peculiar word. It can either be singular or plural depending on its usage, referring either to a particular ordinance or rule which must be obeyed lest the perpetrator suffer a prescribed punishment, or referring to a system of regulations (Law, 2020). Should the term be used to refer to the latter, comprehension becomes exponentially more challenging. To an attorney, law in the courtroom of one county or State can vary substantially as compared to another. It can vary depending on whether the case is criminal, civil, family, or appellate as well. By way of example, in the State of Florida, an attorney practicing criminal law must be fluid and aware of the Florida Rules of Criminal Procedure (The Florida Bar, 2020). Contrariwise, to a citizen of a particular city, county, state, and country, the plural form of the term law refers to the collection of all applicable law in his or her jurisdictional area. In my home town, a person must be aware of Collier County Ordinances, City of Naples Ordinances, Florida State Statutes, the Florida Constitution, Federal Statutes, and the United States Constitution. To leave the city or the county means to be under entirely different ordinances, rules, regulations, and laws. The law is setup in such a way that so called, ignorance of the law, or breaking a rule that you didn't even know was a rule, is not a permitted defense. In short, the transgressor is subject to punishment whether he knew he violated or not. To further complicate matters, it is entirely possible for a county ordinance to contradict a state law, or for a state law to contradict a federal law. In the next four paragraphs I will further define and clarify a few of these boundaries.

A. Source of Law

To begin, let us discover which has greater authority when a state statute conflicts with the common law of that state. In short, state statutes supersede common law by the traditional

definition. To elucidate, let us consider the time when settlers first came to the land which has today become known as the United States of America. Back then, before the formation of states and before colonies, the settlers were aware of the laws of England, and there were a lot of them! To rewrite all of the laws of England would have been a monstrous undertaking, so the founders began on the foundation of the English law (laws of England) by which they were already accustomed to (Wikipedia, 2002). They did so in the United States Constitution with the receiving clause, essentially receiving all of the law of England, both statutes and decisional law. That, in the traditional definition, is common law. Colonies were first formed and then subsequently they were replaced by states and commonwealths. Examples of commonwealths include, Kentucky, Virginia, and Pennsylvania. In this general sense, state statute prevails over common law. For ease of interpretation, typically in law, when a conflict arises, something specific will control over something general. Contrariwise, like most words and nomenclature, words can have several meanings and interpretations, and common law is no exception. In its second definition, common law defines judiciaries' interpretations of statutes (Diffen, 2020). By this definition, common law is common parlance for precedent and in every state to which I am aware, with exception of Louisiana, *stare decisis* dictates that judges must pass rulings in a manner consistent, and not in conflict, with the decisions and interpretations previously made by judges of similar matters within the court's jurisdictional limits (LII, 2020).

The United States Legislative branch creates laws but judges country-wide, known collectively as the Judicial branch, interpret the law and apply the law. Lest there be any confusion in the application of federal statutes and the United States Constitution, judiciaries would be wise to stay brushed up on the Constitution, particularly Article VI, section 2, wherein it is plainly stated

that the U.S. Constitution is the supreme Law of the Land (Library of Congress, n.d.). The U.S. Constitution is the ultimate authority.

Likewise, if a common-law decision, or precedent in one state conflicts with the United States Constitution, the Constitution will control (Library of Congress, n.d.). This issue traditionally comes up on appeal. In the jurisdiction's lowest appellate court, a plaintiff/petitioner or defendant/respondent can challenge the constitutionality of the lower tribunal's verdict. In this challenge, the judge's court orders and stated opinion will be analyzed and judged. If the appellate petitioner challenges constitutionality, the lower tribunal's ruling will be considered in light of the State Constitution and the United States Constitution and where any conflict may be seen, the Constitution will be considered the ultimate authority.

In the last conflicting scenario up for consideration, I will examine which authority is greater, a federal statute or a state's constitution. Not to be comical, but the finality of the conflict may come down to which political party is most in control. Republicans typically being in favor of states' rights while the democrats prefer a bigger, more powerful, farther-reaching federal government (examples of this to follow). Generally, however, in essence the power of the states is superior to federal statutes. Legislative intent will reveal that the federal statutes were created to promote cohesiveness of the states and consistent with this, states' constitutions have greater authority than federal statutes (HuffPost, 2014). To better understand these types of conflicts, by law, if a particular state's laws give its people greater rights than a federal law would otherwise give, then the state's law is legally intended to prevail. In practice, however, this has not always meant that state law will be judged to be the ultimate authority over applicable federal law. Federal

officials can rely on Article VI of the U.S. Constitution in the supremacy clause for the doctrine of preemption (*Federal Preemption, 2009)*. In light of the supremacy clause, the federal government supersedes any applicable and conflicting state legislation, such that if a federal and state law contradict, although an individual in a given state may legally have the right to follow the state's law, federal agents also would have the legal authority to stop or detain them should they decide to. Due to preemption, many have come to view federal laws as superior to states' laws. By way of example, if federal regulations prohibit the use of marijuana, even for medical purposes, yet a state regulation permits it, the federal law could be enforced, although unlikely, by federal agents. These types of conflicts have been seen in state and federal cases involving everything from homosexual marriages to state voter-identification laws (Linder, 2020). Police and county sheriffs have some leeway in choosing which laws to enforce or which to make an arrest on, prosecutors have leeway to choose which cases to prosecute and which defendants to formally charge, and judges have leeway to interpret the law whilst still conforming to applicable precedent.

B. Process of Appeal

In the furtherance of examining the structure of the courts and court processes, this treatise will explore the following three case studies. The first case study concerns a local hospital and appellate procedures. In our case study, a trial court has made a finding against the hospital after the death of a patient who underwent a surgery at that hospital. The hospital's administrator, however, in light of the doctrine of r*es ipsa loquitur* does not believe the hospital should have been found guilty by the court, particularly because the deceased patient's surgeon had also been found guilty of negligent homicide as well as malpractice.

To appeal the trial court's finding against the hospital, the hospital must first file a Notice of Appeal with the lowest appellate court which has original jurisdiction over the trial court (Appeal, 2010). Once this has been filed, the trial court will provide the official docket and all of the case records to the appellate court. Both the plaintiff and the defendant must provide a written argument, called a brief, as well as any exhibits necessary for consideration by the court of appeals. The case moves from closed status to at-issue status and will be assigned to a panel of three judges for their review. It is important to note that the case must be accepted for review by the court before they will consider all of the exhibits and render a decision. In the trial court, there may have been a jury trial, but the appellate court does not hold trials. The opportunity for the hospital to present its case for review exists solely in the brief which they were required to submit. In addition to the briefs of both the plaintiff and the defendant, the panel of judges will also review all appended exhibits and original court transcripts, however they may be available, by video, audio, or text from the lower tribunal (original trial court). The judges are looking to see if the lower tribunal followed the law when they rendered their decision. The appellate court is not looking for any new evidence, but actually only evidence that was originally available to the trial court. Matters of law can only be considered for instances when defense counsel for the hospital objected to plaintiff's counsel in open court. It is optional, but the appellate court may choose to hear oral argument from either the plaintiff or the defendant prior to rendering a decision. Of the panel of three judges, two votes in favor of either side decides the case. The appellate judges have a few options, they may affirm the lower tribunal's decision, they may reverse that decision, or they may choose to remand the entire case back to the trial court for either a new trial or additional action (Laureate Education, 2020).

Res ipsa loquitur essentially applies on the part of the hospital, in the sense that they know something went wrong but they cannot attest to what it was (Findlaw, 2018). The hospital administrator, on appeal, would do best to argue that the finding against the hospital was inappropriate in so much as it had nothing to do with what actually caused the death of the decedent. The administrator's position is supported by the following: first, the surgeon(s) were not employees of hospital. At best, they may be construed as independent contractors. Second, the attending nurses had neither control over the surgeon(s) actions nor physical contact with the patient. Thirdly, the anesthesiologists were not employees of the hospital either, and lastly, the hospital merely furnished the facility and attendants. Again, the attending nurses did not have control over the surgeon(s) actions. For these reasons, the hospital and its administrator should file their Notice of Appeal with the lowest appellate court which has original jurisdiction over the trial court and begin preparing their brief.

C. Players of the Courtroom

The second case study which this dissertation will review concerns a scenario centered around accusations of breach of contract and the trial which will follow. I shall review who the defendant to the suit can expect will be a part of the trial process and what each of their roles will be. Invariably, the vast majority of United States citizens will see the inside of a court room some time within their life time; Whether it be to dispute a traffic citation, act as a witness in a friend's criminal trial, or to fight for custody or parental rights over a minor, it will behoove citizens to understand not only the players of the courtroom, but their functions as well.

In accusations of breach of contract, four things must occur to initiate the civil action, to wit: the complaint must be filed, the court's filing fee must be paid, the summons must be issued, and then the summons must be served by a process server or county sheriff. The person bringing the civil action is called the plaintiff or petitioner. The plaintiff/petitioner may choose to have counsel, an attorney to represent him or her. The person who is being cited for breach of contract is called the defendant or respondent and he will be required to reply in writing by submitting an answer. He may choose to initiate a counterclaim and if he elects to do so will be required to pay the requisite filing fee. Additionally, the defendant/respondent may choose to have an attorney represent him, and that position is the defense's counsel. The case will have a presiding judge and the judge will be accountable to follow the Rules of Civil Procedure and properly follow all applicable rules of law (In The Courtroom, 2016). If a jury trial is demanded, the judge will, at the appropriate time, issue jury instructions and pronounce a ruling and appropriate relief for the prevailing party. In the absence of a jury and without demand for one, the judge, himself or herself, will determine which party shall prevail based upon the facts of the case. The court will have present a clerk of the court to assist the judge administratively and to keep all of the events in the courtroom moving along. Additionally, a bailiff will be present, whose role is to protect the participants in the courtroom and to keep order.

Depending upon the complexity of the case, there may be witnesses for the plaintiff as well as witnesses for the defense. In some cases where the facts of the case are exceptional or beyond layman comprehension, expert witnesses may be relied on by either side (Judicial Learning Center, 2020). Some courthouses are equipped with an automated audio recording capability, meanwhile, most will require a stenographer or court reporter to be present to record what was said and by

whom. Lastly, a translator may be required depending on the literary capacity of the plaintiff or the accused, as well as, to aid in a given party's comprehension if their spoken language differs from English. Above and beyond the aforementioned parties, the gallery contains other interested parties listening to the case as it progresses.

D. Jurisdiction

The third and final case study which this thesis will review concerns an admiralty claim. We will follow a claim of negligence brought by Mr. and Mrs. Price against Fun-time Cruise Lines. Fun-time Cruise Lines is believed to be based out of Miami, Florida. Mr. and Mrs. Price allege that they have received injuries because of negligence of the cruise line while aboard the cruise ship during a trip to the Caribbean. Although Mr. and Mrs. Price chartered the cruise in Miami, Florida, they do in fact live in Seattle, Washington and are seeking direction on which court(s) could be the trial court which would have jurisdiction over the claim.

First and foremost, the United States Constitution specifies that the federal courts are to have exclusive jurisdiction over admiralty claims. While this is generally true, there is of course the mandatory requirement that admiralty claims have to be as to navigable waters. The term navigable waters refers to waters which are (or used to be) used for transportation and commerce. This classification additionally requires that the water be tied to the ebb and flow of the tide (Black's Law Dictionary, 1993). The cruise launched in the Atlantic ocean and that definitely qualifies as navigable waters and is thus applicable to admiralty law. In accordance with the Constitution and involving diversity jurisdiction, this claim cannot be brought in a state court, it must be tried in the federal courts.

The U.S. Congress has declared by decree in 28 U.S.C. § 1332(a) that the court may only hear suits where the matter in controversy exceeds $75,000 (Amount in Controversy, 2005). The United States is divided into federal districts. If Mr. and Mrs. Price bring a claim in the federal district which includes Seattle, Washington, where Mr. and Mrs. Price's home resides, then the attorney for the cruise line will likely motion for a change of venue due to *forum non conveniens* (Legal Information Institute, 2020). The Price's chartered the cruise line from Miami, Florida. Florida has three federal districts, to wit: the southern district, the northern district, and the middle district. Miami is in the southern federal district. The defense motion for change of venue will most likely be granted for two reasons. First, because most parties and potential witnesses reside in the Florida southern district or operate in that federal district and because in order for Mr. and Mrs. Price to file in the federal district which includes Seattle, Washington, they would have to prove a sufficient number of contacts within Seattle and the surrounding area, and being that the cruise line is chartering cruises on the complete other side of the United States, this would never happen. This authority of the court stems from its right to exercise equitable powers and to refuse the imposition upon its jurisdiction of the trial of cases. The issue of suing the cruise line could get exponentially more complicated if Mr. and Mrs. Price were to discover that the cruise line was in fact registered under a country and law other than the United States. In this case, the burden of proof would be on them to prove that the cruise line has sufficient contacts with the port of Miami such that the federal courts of that southern federal district would have jurisdiction.

E. Conclusion

In conclusion, there is much to consider in the aspects of the structure of the courts and of court processes. The term law is typically used in its plural form and refers to a system of regulations (Law, 2020). Citizens in a particular city, county, state, and country, are governed by a collection of laws in his or her jurisdictional area, to include: county ordinances, city ordinances, state statutes, the state's constitution, federal statutes, and the United States Constitution which is the supreme authority. To leave the city or even the county would mean being under an entirely different set of applicable ordinances, rules, regulations, and laws. One must be cautious to remember that ignorance of the law is no excuse under the law and a violation of the law knowingly or unknowingly each results in equal punishment. This dissertation has reviewed common contradictions in state and federal statutes and with the U.S. Constitution as well as to set forth three case studies to aid in understanding the structure of the courts and court processes.

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