

# THE FEDERAL COURTS



# THE NATURE OF THE JUDICIAL SYSTEM

- Introduction:
  - An Adversarial relationship
  - Two types of cases:
    - Criminal Law: The government charges an individual with violating one or more specific laws.
    - Civil Law: The court resolves a dispute between two parties and defines the relationship between them and their legal rights.
  - Most cases are tried and resolved in state courts, not federal courts.

# THE NATURE OF THE JUDICIAL SYSTEM

- Participants in the Judicial System
  - Litigants
    - Plaintiff - the party bringing the charge
    - Defendant - the party being charged
    - Petitioner – Civil Cases; bringing the suit
    - Respondent- Civil Case- the liable party
    - Jury - the people (normally 12) who often decide the outcome of a case
    - Standing to sue - petitioners have a serious interest in the case.
    - Justiciable disputes – A case must be capable of being settled as a matter of law.

# THE NATURE OF THE JUDICIAL SYSTEM

- Participants in the Judicial System
  - Interest Groups and other groups
    - Use the courts to try to change policies.
    - *Amicus Curiae* briefs are used to influence the courts.
  - Law Clerks
    - Justices rely on them to determine which cases to hear (granting certiorari)
    - Prestigious position out of Law School; great for the resume

# THE NATURE OF THE JUDICIAL SYSTEM

- Constitutional Grounds for Justices
  - Judicial Restraint/ Originalists
    - Believe that judges should strike down the action of the elected branches only if they violate the literal meaning of the Constitution
    - More conservative side
  - Judicial Activism
    - Believe that people need to be protected from interference from government in their private lives
    - Interpret the law to achieve social justice
    - The Constitution is a living document that can change with circumstances- Gay marriage
    - More liberal side

# THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

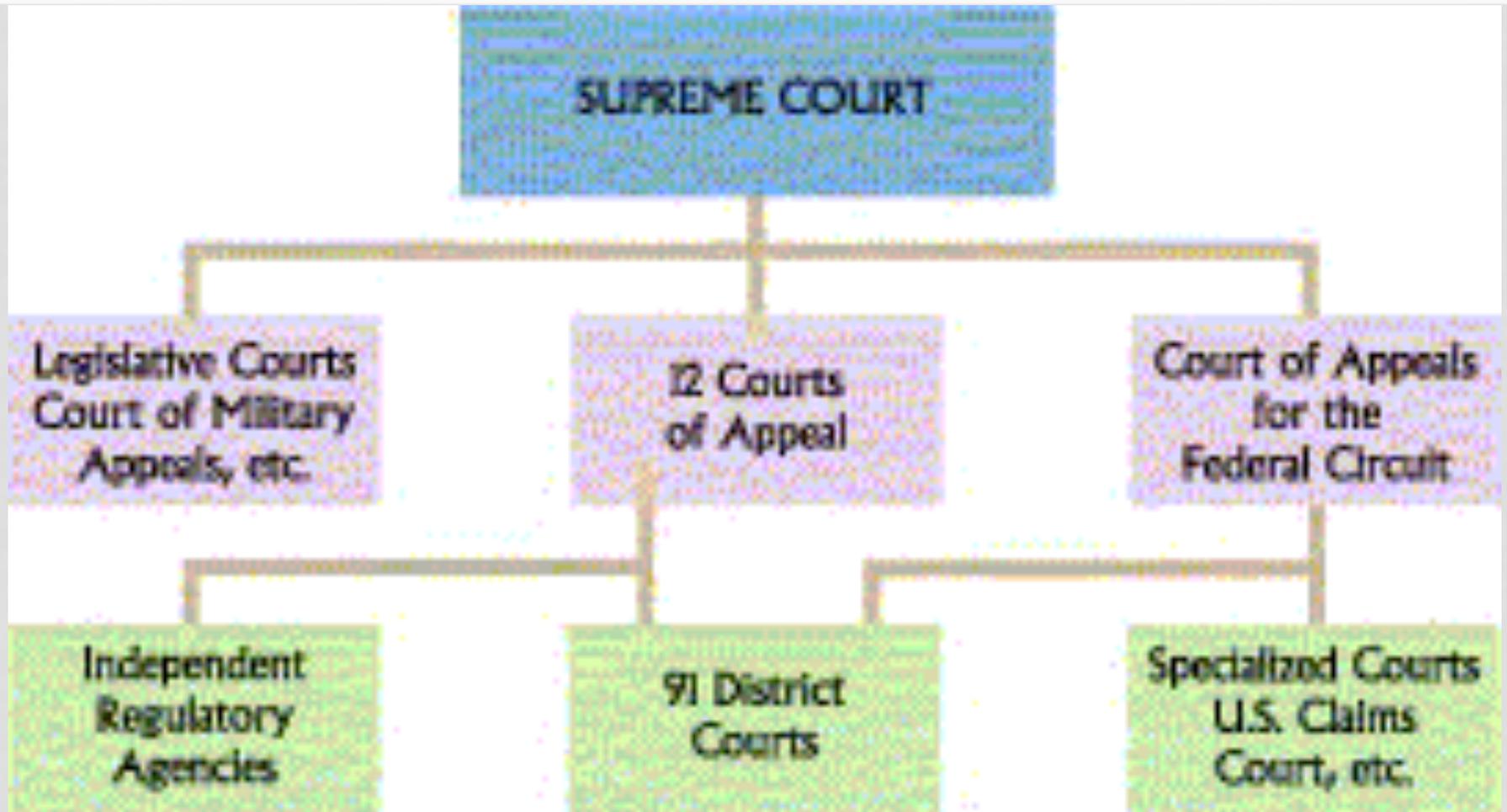


Figure 16.1

# THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

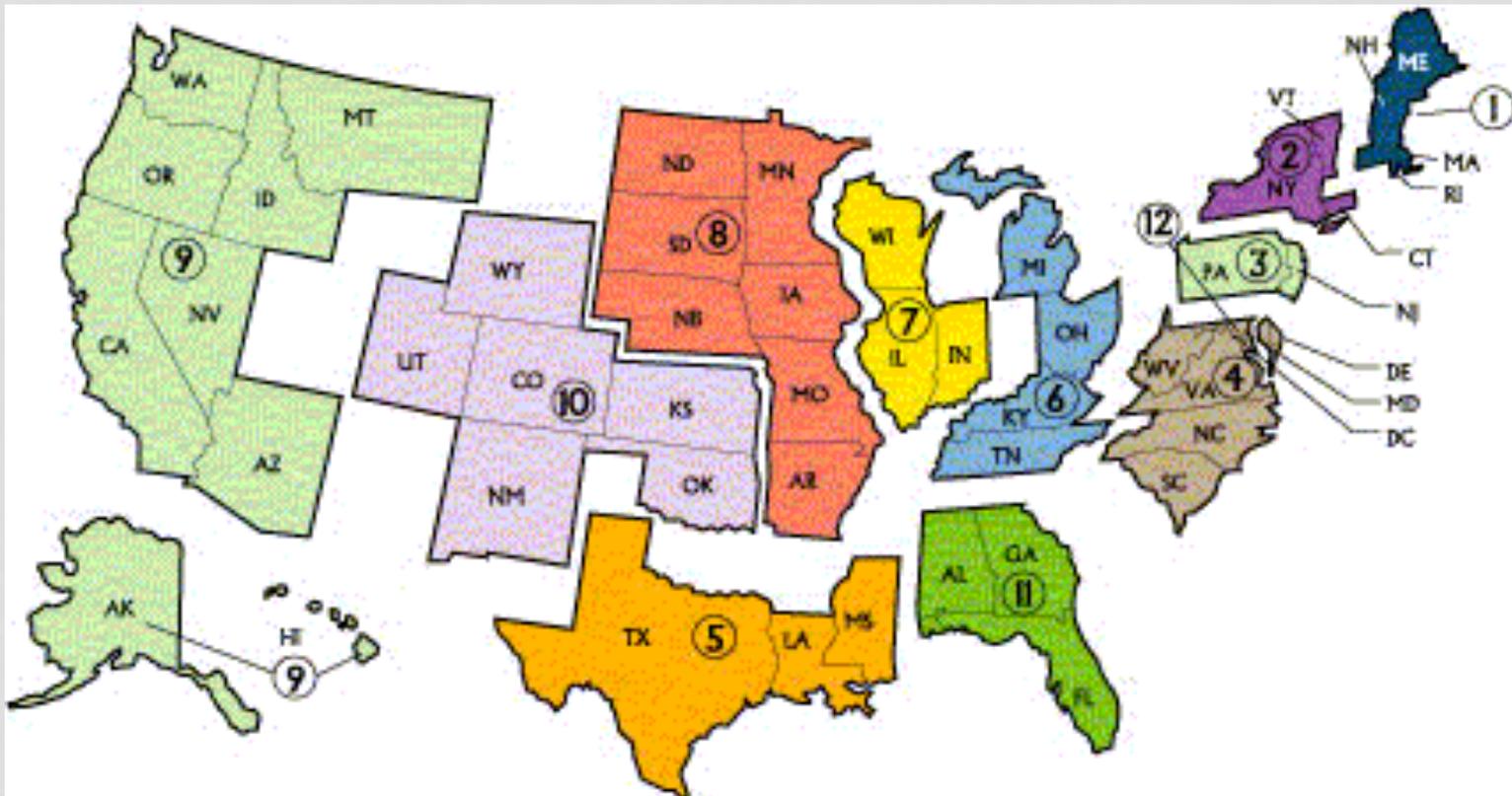
- District Courts
  - Original Jurisdiction: courts that hear the case first and determine the facts - the trial court.
  - Federal crimes
  - Civil suits under federal law and across state lines
  - Supervise bankruptcy and naturalization
  - Review some federal agencies
  - Admiralty and maritime law cases
  - NO APPELLATE JURISDICTION

# THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

- Courts of Appeal
  - Appellate Jurisdiction: reviews the legal issues in cases brought from lower courts.
  - Hold no trials and hear no testimony.
  - NO ORIGINAL JURISDICTION
  - 12 circuit courts
  - U.S. Court of Appeals for the Federal Circuit – specialized cases
  - Focus on errors of procedure & law

# THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

- The Federal Judicial Circuits (Figure 16.2)



# THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

- The Supreme Court
  - 9 justices – 1 Chief Justice, 8 Associate Justices
  - Supreme Court decides which cases it will hear
  - Some original jurisdiction, but mostly appellate jurisdiction.
  - Most cases come from the federal courts
  - Most cases are civil cases
  - In order to hear a case there must be a minimum of 6 justices.
    - Recusal

# THE POLITICS OF JUDICIAL SELECTION

- The Lower Courts District and Appellate)
  - Senatorial Courtesy:
    - Unwritten tradition where a judge is not confirmed if a senator of the president's party from the state where the nominee will serve opposes the nomination.
    - Has the effect of the president approving the Senate's choice
  - President has more influence on appellate level

# THE POLITICS OF JUDICIAL SELECTION

- The Supreme Court
  - President relies on attorney general and DOJ to screen candidates.
  - 1 out of 5 nominees will not make it.
  - Presidents with minority party support in the Senate will have more trouble.
  - Chief Justice can be chosen from a sitting justice, or a new member.

# THE COURTS AS POLICYMAKERS

- Accepting Cases

- Use the “rule of four” to choose cases.
- Issues a *writ of certiorari* (a formal petition seeking to bring a case before the Supreme Court) to call up the case.
- Very few cases are actually accepted each year.

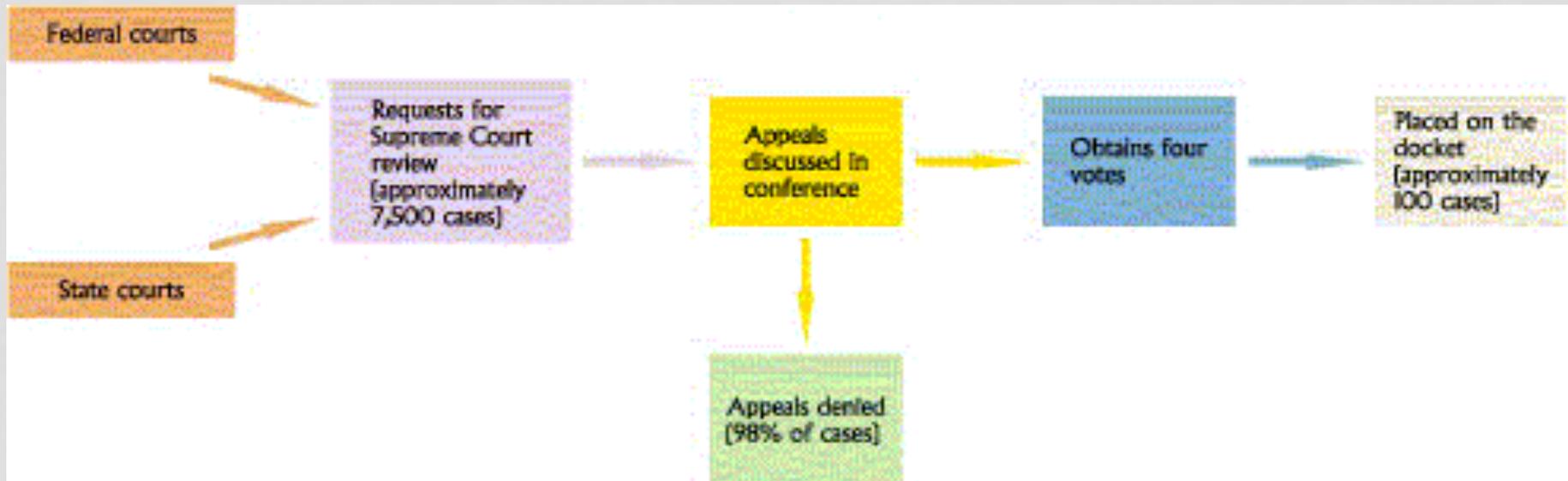


Figure 16.4

# THE COURTS AS POLICYMAKERS

- Making Decisions
  - Oral arguments may be made in a case.
  - Justices discuss the case.
  - Justices write **opinions**- an explanation of a decision of the Supreme Court or any other appellate court
  - One justice will write the majority opinion (statement of legal reasoning behind a judicial decision) on the case.

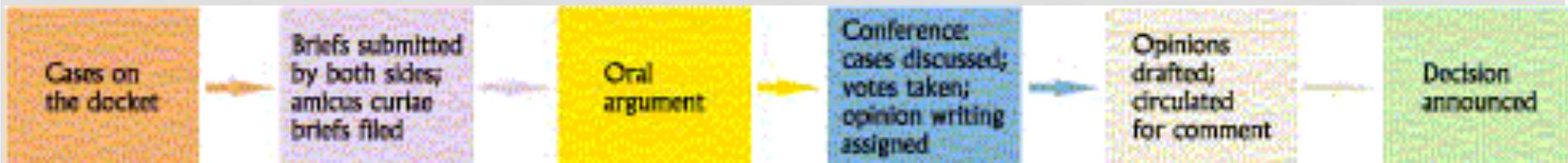


Figure 16.5

# THE 8 STEPS TO A SUPREME COURT DECISION

1. Reviewing Appeals/ In Forma Pauperis/Docket/ issue writ of certiorari
2. Granting an appeal/Rule of 4
3. Briefing the case/ amicus curiae
4. Holding oral arguments- 30 minutes each side
5. Meeting in Conference
6. Explaining the decision/majority/dissenting/ concurring
7. Writing the opinion
8. Releasing the opinion

# THE COURTS AS POLICYMAKERS

- Making Decisions, continued
  - Dissenting opinions are written by justices who oppose the majority.
  - Concurring opinions are written in support of the majority but stress a different legal basis.
  - ***Stare decisis*: to let the previous decision stand unchanged. Relying on precedent.**
  - Precedents: How similar past cases were decided.
  - Original Intent: The idea that the Constitution should be viewed according to the original intent of the framers.

# THE COURTS AS POLICYMAKERS

- Implementing Court Decisions
  - Must rely on others to carry out decisions
  - Interpreting population: understand the decision
  - Implementing population: the people who need to carry out the decision – may be disagreement
  - Consumer population: the people who are affected (or could be) by the decision

# UNDERSTANDING THE COURTS

- The Courts and Democracy
  - Courts are not very democratic; however it is both a legal **AND** political institution
    - Not elected
    - Difficult to remove
    - Impacted by popular opinion
    - The nomination process can be quite political
  - The courts do reflect popular majorities
  - Groups are likely to use the courts when other methods fail – promoting pluralism
  - There are still conflicting rulings leading to deadlock and inconsistency

# UNDERSTANDING THE COURTS

- What Courts Should Do: The Scope of Judicial Power
  - Judicial restraint: judges should play a minimal policymaking role - leave the policies to the legislative branch.
  - Judicial activism: judges should make bold policy decisions and even charting new constitutional ground.
  - Political questions: means of the federal courts to avoid deciding some cases.
  - Statutory construction: the judicial interpretation of an act of Congress.