

I. THE JUDICIAL SYSTEM

A. Courts

Federal and state courts in the U.S. are primarily involved in settling disputes between private parties and determining the guilt or innocence of persons accused of committing federal or state crimes. Federal and most state court systems are comprised of three levels - a trial level, an intermediate appellate level, and a final appellate level. Most states have a number of municipal level courts, such as traffic courts, that are limited in their authority by type of dispute or amount of money involved in the litigation.

A higher court's opinion on a particular issue is binding on a lower court in the same jurisdiction. The policy of courts to stand by precedent and refrain from disturbing settled points is based on a legal doctrine known as "stare decisis." Courts are limited to ruling on matters within their jurisdictions, which may be defined geographically or by the type of case that a court may consider.

Federal Courts

U.S. Supreme Court

This is the highest court in the United States. It is comprised of the Chief Justice and eight associate justices. The power to nominate justices is vested in the President and appointments are made with the advice and consent of the Senate. Justices are appointed for a lifetime tenure. The Supreme Court meets in Washington, D.C. for an annual term which begins on the first Monday in October and usually ends during the first week in July. The Court's primary function is to hear cases that question the constitutionality of federal or state statutes. It also hears cases on appeal from the states' highest courts, the federal Courts of Appeals, and the federal District Courts. U.S. Supreme Court opinions are binding on all lower federal and state courts. The Supreme Court has the discretion to grant or deny a hearing for most cases brought before it. Furthermore, cases brought to the court may result in a summary action, whereby the lower court's opinion is simply affirmed or vacated and no explanation is provided by the Supreme Court itself.

U.S. Court Of Appeals

The U.S. Courts of Appeals occupy the second tier in the hierarchy of federal courts. There are thirteen U.S. Courts of Appeals including eleven numbered circuits which have regional jurisdiction, a District of Columbia Circuit, and the Court of Appeals for the Federal Circuit located in Washington, D.C. which has nationwide jurisdiction to hear specific types of cases. These courts hear appeals from the U.S. District Courts. The U.S. Court of Appeals for the Seventh Circuit sits in Chicago and hears appeals from the federal District Courts in Illinois, Indiana, and Wisconsin. Usually cases are heard by a panel of three judges, although a majority of judges of a particular circuit may order a hearing or a rehearing before all the judges. Federal appeals court opinions are binding on U.S. District Courts within the circuit and may be appealed to the U.S. Supreme Court. Rules, opinions and other information regarding the Seventh Circuit may be found on the Court's official Web site: <http://www.ca7.uscourts.gov>.

U.S. District Court


The trial court and court of original jurisdiction in the federal system is the United States District Court. District Courts hear civil and criminal cases arising under federal law and cases where citizens of two or more states (or a citizen and an alien) are in conflict. At least one district, usually more, exists in each state. The number of District Courts within a state is determined by population and geographic area of the state. District Courts usually do not extend across state lines. Wisconsin is divided into two districts; the court for the Eastern District of Wisconsin sits in Milwaukee and the court for the Western District is in Madison. Usually one District Court judge hears a case, although there may be one or many judges assigned to each district. Many District Court opinions are unpublished and may only be available through the clerk of court or an electronic legal database. Additional information about the U.S. District Courts may be found online at: <http://www.uscourts.gov/districtcourts.html>.

U.S. Specialized Courts


Many specialized courts have been formed to handle cases in a particular area of the law or to relieve overcrowding on the calendar of a court already in existence. The Bankruptcy Court, Tax Court and Claims Court are examples of such courts. Online information about special federal courts may be found at: <http://www.uscourts.gov/allinks.html>.

Wisconsin State Courts

Wisconsin Supreme Court

The Wisconsin Supreme Court is the highest court in Wisconsin. There are no appeals to the Supreme Court as a matter of right; the Supreme Court determines at its discretion which matters it will hear. For a limited number of cases of statewide concern, the Supreme Court may take original jurisdiction. The seven justices are elected statewide and serve for ten - year terms. The justice with the greatest seniority on the court serves as Chief Justice. Since the Supreme Court also has supervisory and administrative authority over all courts in the state, the Chief Justice is the administrative head of the state judicial system. The Supreme Court, located in the State Capitol Building in Madison, is in session for oral arguments from September through June. Additional information may be found  online at: <http://www.courts.state.wi.us/supreme>.


Wisconsin Court Of Appeals

The Wisconsin Court of Appeals was established as the state's intermediate appellate court on August 1, 1978 as a result of court reorganization. The state is divided into four Court of Appeals districts with primary offices in Milwaukee, Waukesha, Wausau and Madison. Each district handles appeals from the lower courts in that district. Sixteen judges are elected for six-year terms in district wide non-partisan April elections. State circuit court opinions may be appealed as a matter of right to the Court of Appeals. Opinions of the Court of Appeals may be appealed to the Wisconsin Supreme Court. Many Wisconsin Court of Appeals opinions are unpublished and may only be accessible from the court clerk, larger libraries, or online legal databases. Generally, unpublished opinions are not to be cited or used as legal precedent. Additional information may be found  online at: <http://www.courts.state.wi.us/appeals>.


Wisconsin Circuit Court

The Wisconsin Circuit Courts are the state's trial court. Each county is a circuit branch with the exception of the following three combined county districts: Buffalo-Pepin, Shawano-Menominee, and Forest-Florence. There are 69 judicial circuits and

241 state circuit court judges who are elected to six-year terms in countywide non-partisan elections. In areas where there is a greater volume of judicial business, a single circuit may have several branches of court with a judge presiding in each branch.

The Circuit Courts have original jurisdiction in all civil and criminal matters within the state. Administrative reviews of state administrative agency opinions and orders are heard in the Circuit Court. Appeals from municipal courts go to the Circuit Court and appeals from the Circuit Court go to the Court of Appeals. Circuit Court opinions are not published. Copies may be obtained for a fee from the clerk of court. Additional information may be found online at: <http://www.courts.state.wi.us/circuit>.

Wisconsin Municipal Courts


Municipal courts serve cities, villages and towns. Municipal court jurisdiction is limited to offenses against ordinances of the city, town, or village where legal relief is sought. Opinions of municipal courts are not published. The municipal judge is elected for a two-year to four-year term, as determined by the municipality, with terms beginning on May 1. As of May 2002 there were 224 municipal courts and 226 municipal judges in Wisconsin. Online access to information about municipal courts in Wisconsin, including a Directory of courts, judges, and clerks, may be found at:  <http://www.courts.state.wi.us/municipal>.

B. Court Opinions

Opinions to be published are first issued as individual slip opinions. Slip opinions are printed by the court and are available from the clerk of court of the particular jurisdiction or the court library. The slip opinions are then re-issued as advance sheets, which in turn are ultimately replaced by bound volumes. Opinions are also available in various specialized reporters and looseleaf services, often several months prior to publication in advance sheets or bound volumes.

Sets of books known as court reports or reporters exist for the U.S. Supreme Court, all federal courts, individual states, regional groups of states, the entire United States, special courts, and particular topics. West Group's National Reporter System

divides the United States into the following regions, each with its own reporter: Atlantic, North Eastern, North Western, Pacific, South Eastern, South Western, and Southern. These regional reporters publish opinions from the state supreme courts and most intermediate appellate courts in each region.

The full text of published opinions of federal and state courts are now available electronically, as identified below in the sections labeled  Electronic Access. These sources provide alternatives to fee-based databases such as *LexisNexis* and *Westlaw*². U.S. Supreme Court opinions are online within hours of issuance. Unpublished opinions may be available online as well.

The contents of printed court reporters are similar regardless of publisher. Although the order of the elements in the case may vary according to a particular judge's writing style or the publisher's practices, the following elements are usually included:

1. Names of the parties
2. Citation (legal reference to location of opinion)
3. Court docket number
4. Date the case was decided
5. Court in which the case was decided
6. Synopsis (facts and circumstances of the case)
7. Headnotes (legal issues raised by the facts)
8. Syllabus (case history and explanation of how the case came before the court)
9. Opinion of the court
10. Opinion(s) of the judge(s)

Opinions may be difficult to read for a number of reasons, including writing style, the legal language and terminology, and the fact that many cases deal with a number of complex legal issues.

² See section VI. for more discussion on *LexisNexis*, *Westlaw* and other fee based legal resources.

Sources - Federal Court Opinions

U.S. Supreme Court

United States Reports (U.S.). Government Printing Office.

The official reporter for cases heard by the Supreme Court. Although it is always preferable to cite to this official version, one major problem is the long time lapse between date of opinion and date of publication.

Supreme Court Reporter (S.Ct.). West Group.

An unofficial edition of Supreme Court opinions. Its assets include speed of publication (usually within two to three weeks of opinion date in the advance sheet format), editorial headnotes, and the key number system which allows a researcher to find other federal and state court cases on the same subject matter in other units of West Group's National Reporter System. After the close of each term, bound volumes are printed containing the material found in the earlier advance sheets. Parallel citations to the U.S. Reports are included when they become available. Advance sheets contain the same pagination as the bound volumes; thus, it is permissible to cite to advance sheets.

United States Supreme Court Reports, Lawyers' Edition (L.Ed.). LexisNexis.

The Lawyers' Edition, first and second series, is an unofficial edition of Supreme Court cases published in advance sheet and bound volume form. It is valuable for rapidity of publication, added headnotes, summaries of cases, annotations, and is the only source for summaries of attorneys' briefs. It is also the only source which provides pocket part supplementation containing corrections and updates to the information contained in the main volume. Parallel citations to the U.S. Reports and Supreme Court Reporter are included.

United States Law Week (U.S.L.W.). Bureau of National Affairs.

Because Supreme Court opinions set precedent for all other courts, both state and federal, it is often necessary to have access to Supreme Court cases before they appear in the official and unofficial reporters mentioned above. Opinions appear in their entirety in U.S.L.W. usually within a week of opinion date. The Supreme Court sections are in looseleaf format and provide further assistance in determining the

status and history of a case prior to opinions by the Supreme Court. They contain summaries of orders, a journal of proceedings, a list of cases docketed, summaries of cases and arguments before the court, and indexes. The general law sections contain information concerning lower court opinions, but not their full text.

United States Supreme Court Bulletin (S.Ct.Bull.). Commerce Clearing House.

Opinions of the Supreme Court are published in full in this looseleaf service within 48 hours after the opinion is handed down. This is a valuable resource for anyone needing more current access to the full text. It also has an excellent status table.

Electronic Access

LexisOne

<http://www.lexisone.com>

Search for U.S. Supreme Court opinions, 1790 to present by citation, keyword, party name, judge, counsel and date. Registration is required, but the content is free.

Loislaw

<http://www.loislaw.com>

Search for U.S. Supreme Court opinions dating back to 1754 via multiple access points. This is a licensed resource. Access is available at no cost to users at Wisconsin State Law Library workstations.

Lois Professional Library, Supreme Court Reports

Search opinions dating back to 1900 via a number of fields, including citation, name, docket number, court, date, attorney, judge, or keyword. This CD ROM database is available to users at no cost at the University of Wisconsin Law Library and the Marquette University Campus.

U.S. Supreme Court

<http://www.supremecourtus.gov/opinions/opinions.html>

Access to page images of opinions published in the *United States Reports* since 1991, and recent slip opinions.

Court Of Appeals and District Court Opinions

Federal Reporter (F.). 1st, 2nd, and 3rd series. West Group.

Published opinions of the U.S. Courts of Appeals are published in the Federal Reporter. This set began publication in 1880 and until 1932 included opinions from the District Courts as well. The first series of the reporter stopped with v. 300; the second series began with volume one and stopped with v. 999; the current third series began with volume one. Prior to 1880, opinions of the Federal District and Appeals Courts are found in *Federal Cases*. The Federal Reporter is linked through the key number system to other units of the West Group National Reporter System.

Federal Supplement (Supp.). 1st and 2nd series. West Group.

District Court opinions sent to West Group by the clerks of the District Courts are published in the Federal Supplement, first in the advance sheets and then in bound volumes. The first series ended with v. 999 in 1998; the 2nd series began again with volume one.

Electronic Access

LexisOne

<http://www.lexisone.com>

Search Federal Court of Appeals and District Court opinions dating back five years by citation, keyword, party name, judge, counsel and date. Registration is required, but the content is free.

LOIS Professional Library, United States Court of Appeals - 7th Circuit

Search opinions dating back to 1971 via a number of fields, including citation, name, docket number, court, date, attorney, judge, or keyword. This CD ROM database is available to users at no cost at the University of Wisconsin Law Library and the Marquette University Campus.

Loislaw

<http://www.loislaw.com>

Search Federal Court of Appeals opinions dating back to the 1950's via multiple access points. This is a licensed resource available to users at Wisconsin State Law Library workstations.

U.S. Seventh Circuit Court of Appeals Opinions

<http://www.ca7.uscourts.gov/op3.fwx>

Search for opinions dating back to 1987 by case number or party name.

U.S. Court – Western District of Wisconsin Opinions

http://www.wiwd.uscourts.gov/opinion_search.html

Access recent opinions by key word.

Specialized Courts

Opinions may be reported in special topical reporters or looseleaf services. For example, *Reports of the United States Tax Court* (Government Printing Office), and *Standard Federal Tax Reporter* (Commerce Clearing House) contain published opinions of the U.S. Tax Court. Bankruptcy Court opinions are published in *Bankruptcy Law Reporter* (Commerce Clearing House) and *Bankruptcy Reporter* (West Group).

Electronic Access

Loislaw

<http://www.loislaw.com>

Search U.S. Tax Court opinions via multiple access points dating back to 1941. This is a licensed resource available to users at Wisconsin State Law Library workstations.

U.S. Bankruptcy Court for the Western District of Wisconsin Opinions

http://www.wiw.uscourts.gov/bankruptcy/opinion_home.htm

Search opinions by keyword and relevant statute/rule references. Coverage begins in 1990 for Judge Martin and in 1986 for Judge Utschig.

U.S. Court of Federal Claims Opinions

<http://www.uscfc.uscourts.gov/opinions.htm>

Opinions are available from 1997 to the present and are accessible by year.

U.S. Tax Court Opinions

<http://www.ustaxcourt.gov/ustcweb.htm>

Search opinions by release date, case name/keyword, and judge. Coverage for Tax Court Opinions and Memorandum Opinions begin 01/01/99; Summary Opinions begin 01/01/01.

Sources - Wisconsin Court Opinions

Wisconsin Reports (Wis.) 1st and 2nd Series. Callaghan.

This official reporter of Wisconsin Supreme Court and Court of Appeals opinions began publication in 1853. Each volume includes a list of cases reported, a list of statutes cited, and an index of topics. The 1st series ended with v. 275 in 1958; the 2nd series began with volume one in 1959.

North Western Reporter (N.W.). 1st and 2nd Series. West Group.

This regional reporter, as part of West Group's National Reporter System, includes state supreme court and selected appeals court opinions from 1879 to the present for Wisconsin, Iowa, Michigan, Minnesota, Nebraska, North Dakota, and South Dakota. Each volume includes a table of cases arranged by state and a list of statutes affected. Advance sheets include summaries of opinions, cross-reference tables, and recent state Supreme Court rules and orders. The 1st series ended with v. 300 in 1941; the 2nd series began with volume one in 1942.

Wisconsin Law Journal. Daily Reporter Pub. Co.

This weekly journal publishes opinions of the Wisconsin Supreme Court, the Wisconsin Court of Appeals, the U.S. District Court, the U.S. Seventh Circuit, Wisconsin trial courts, and news of interest to lawyers and judges in Wisconsin. This title began in 2001 and continues *Wisconsin Opinions* (1995-2001) and *Wisconsin Appellate Opinions* (1987-1995).

Pinney's Wisconsin Reports (Pin.). 3 v.

Reported and unreported cases for the period 1839-1852. Table of cases and index of topics are included.

Burnett's Reports (Bur.) 1 v.

Opinions issued by the territorial Supreme court in 1842 and 1843.

Chandler's Reports (Chand.) 4 v.
Opinions from 1849-1852.

Electronic Access

LexisOne

<http://www.lexisone.com>

Search Wisconsin Supreme Court and Court of Appeals opinions from the previous five years by citation, keyword, party name, judge, counsel and date. Registration is required, but the content is free.

Lois Professional Library, Wisconsin Series.

Search Wisconsin Supreme Court opinions from 1939-present and Court of Appeals cases from 1978-present. Cases may be searched by a number of fields, including citation, name, docket number, judge, attorney, or text. This CD ROM database is available to users at no cost at the University of Wisconsin Law Library and the Marquette University Campus.

Loislaw

<http://www.loislaw.com>

Search Wisconsin Supreme Court and Court of Appeals opinions via multiple access points dating back to the 1950's. This is a licensed resource. Access is available at no cost to users at Wisconsin State Law Library workstations.

Wisconsin Supreme Court

<http://www.courts.state.wi.us/supreme/submenu/opinions.htm>

Search opinions released since 1995 by docket number, release date, disposition, party names, or by key words (conceptual search). New opinions may also be accessed on the day of their release.

C. Case Digests

Case digests, usually multi-volume sets, serve as indexes to case law and provide subject access to court opinions. They are compilations of headnotes extracted from reporters and arranged by subject.

There are several ways in which digests may be used. The headnotes from a case may be used to lead the researcher to other cases indexed under those same headnotes. If there is no case to use as a starting point, detailed subject index volumes, called “descriptive word indexes,” may refer to a relevant topic. In addition, each broad subject area in a digest begins with an outline of its contents that may prove useful if a subject index search fails. Finally, digests include case name index volumes that provide citations to cases where the names of the parties are known.

Digests are published for the U.S. Supreme Court, other federal courts, regional groups of states, and individual states. The American Digest, published by West Group, is the only digest that attempts to provide comprehensive access to both federal and state case law. It consists of the Century Digest (1658-1896), a series of Decennial Digests, and the annual General Digests, which are replaced by Decennial Digest cumulations. Decennial Digests traditionally covered ten-year periods, but recently this has been reduced to five-year periods because of the ever-increasing number of cases.

Sources - Federal Digests

American Law Reports. Lawyers Cooperative/Bancroft Whitney Publishing Co.

This set consists of collections of essays on state and federal issues, with case annotations and select reports of state and federal appellate court opinions. *ALR Federal* covers exclusively federal topics. ALR comes in 5 editions, covering 1919 - present. Coverage for ALR Federal is from 1969 - present.

United States Supreme Court Digest. West Group.

This set digests only Supreme Court cases using the West Key Number System. It covers the years 1754 to date and is updated with pocket parts annually.

United States Supreme Court Digest, Lawyers' Edition. LexisNexis.

This digest provides subject access to the opinions of the U.S. Supreme Court only. It is supplemented annually, and also provides a table of cases and a word index.

West's Federal Practice Digest. West Group.

Federal Practice Digest 4th digests federal cases reported in the *Federal Reporter* and *Federal Supplement* from November 1989 to the present. Indexing is based on the West Key Number System, and the set is updated with annual pocket parts and quarterly supplements. Earlier federal cases may be found in the *Federal Digest* (prior to 1939), *Modern Federal Practice Digest* (1939-1961), *Federal Practice Digest 2d* (1961-1975), and *Federal Practice Digest 3d* (1975-1989).

Sources - Wisconsin Digests

Callaghan's Wisconsin Digest. Callaghan.

This set provides access to citations and opinions in *Wisconsin Reports* and the *Northwest Reporter*. The set includes a table of cases and a subject index. Pamphlets and pocket parts update the set.

West's Wisconsin Key Number Digest. West Group.

This digest provides access to opinions in *Wisconsin Reports* and *North Western Reporter*. Subjects are arranged according to West's Key Number System. Separate volumes contain a Descriptive Word Index, Table of Cases, and Defendant-Plaintiff Table. This digest is updated with pocket parts and pamphlets.

North Western Digest. 1st and 2nd Series. West Group.

Cases reported in *Wisconsin Reports* and *North Western Reporter* since 1839 are included. Arrangement is by topic based on West's Key Number System. Access to the set is provided by a multi-volume Descriptive Word Index, as well as Tables of Cases. The Digest also indexes cases from Michigan, Iowa, Minnesota, North Dakota, South Dakota and Nebraska. Annual pocket parts and supplements update the volumes.

D. Court Rules

Court rules determine the procedure that must be followed when dealing with courts. Federal rules of civil, criminal, and appellate procedure and rules of evidence are published with both the annotated and unannotated federal codes. Several commercially published sources also contain the texts of federal court rules.

Wisconsin rules of court are codified in the *Wisconsin Statutes* and are also collected in *Wisconsin Court Rules and Procedure: Federal* (West Group), *Wisconsin Court Rules and Procedure: State* (West Group), and *Wisconsin Supreme Court Rules and Internal Operating Procedures, Wisconsin Supreme Court, Wisconsin Court of Appeals* (West Group).

Electronic Access

Lois Professional Library, Wisconsin Series

Access the full text of Wisconsin county court rules, as well as the federal court rules from the Western District Court and the Eastern District Court of Wisconsin. Search by keyword, or browse by rule number. This CD ROM database is available to users at no cost at the University of Wisconsin Law Library, and the Marquette University Campus.

U.S. District Court – Eastern District of Wisconsin

http://www.wied.uscourts.gov/Local_Rules_New.htm

Local Rules: General, Civil, and Criminal are available in full text.

U.S. District Court – Western District of Wisconsin

http://www.wiwd.uscourts.gov/local_rules.html

Local Rules are available in full text.

U.S. Seventh Circuit Court of Appeals

<http://www.ca7.uscourts.gov>

Seventh Circuit rule changes, Current Federal Rules of Appellate Procedure – Circuit Rules of the U.S. Court of Appeals for the Seventh Circuit may be accessed in full text.

U.S. Supreme Court

<http://www.supremecourtus.gov/ctrules/ctrules.html>

The full text of the Rules of the Supreme Court are available in .PDF.

Wisconsin Supreme Court

http://www.courts.state.wi.us/supreme/submenu/Supreme_court_rules.htm

Wisconsin Supreme Court Rules are available in full text by SCR Chapter or by keyword search.

E. Jury Instructions

Before a jury begins deliberations, the judge must instruct jury members on the applicable law. As an aid to practicing trial lawyers as well as judges, and to help reduce errors, standardized instructions have been developed to be used in common situations; these are known as model, pattern or approved jury instructions.

There is no general set of standardized instructions for the federal courts. However, two sets of commercially published, unofficial instructions are available that cover both civil and criminal cases: *Federal Jury Practice and Instructions* by Kevin F. O'Malley, Jay E. Grenig, & William C. Lee (West Group) and *Modern Federal Jury Instructions*, by L.B. Sand et al. (Matthew Bender).

In Wisconsin, civil and criminal jury instructions are published and updated by Continuing Legal Education for Wisconsin, a program at the University of Wisconsin Law School, under the following titles: *Wisconsin Jury Instructions, Civil*, *Wisconsin Jury Instructions, Criminal* and *Wisconsin Jury Instructions, Children*.

Electronic Access

Lois Professional Library, Wisconsin Series.

Search the current Wisconsin civil and criminal jury instructions by keyword or instruction number. This CD ROM database is available to users at no cost at the University of Wisconsin Law Library, the Marquette University Campus and Wisconsin State Law Library workstations.

U.S. Seventh Circuit Court of Appeals

<http://www.ca7.uscourts.gov/Rules/pjury.pdf>

Pattern Criminal Federal Jury Instructions for the Seventh Circuit are available in full text.