



CLASSROOM LAW PROJECT COURTHOUSE EXPERIENCE TOUR GUIDE HANDBOOK

The Oregon Court System

I. The Rule of Law

The Oregon court system fulfills a tremendously important purpose in our democratic society. We usually think of the court system in terms of its obvious functions - to try those who are suspected of committing criminal acts, or to settle disputes between parties who cannot reach an agreement themselves. However, the courts fulfill many other vital functions, including the protection of individual rights, the assurance that no one will be above the law, and the preservation of the balance of power among the three branches of government. The court's decisions are based upon the constitutions and the laws of the United States and the State of Oregon and include city and county ordinances.



Oregon Supreme Court

The Oregon courts adjudicate disputes brought by private citizens, corporations, business organizations, and the state and local governments. There are two broad categories of disputes adjudicated by the courts: criminal and civil disputes. A criminal case involves a dispute where an individual has broken a law of the state created by the Legislature or local government. If the individual violated a federal law that case will be heard in federal district court. In general, crimes are described as either felonies or misdemeanors and they are classified according to the terms of punishment prescribed by the Legislature for a specific crime. A felony is a crime for which the punishment is imprisonment for more than one year. Misdemeanors are lesser crimes for which the penalty is imprisonment for less than one year. When an individual is charged with a criminal offense, they are referred to as the defendant in the case. The district attorney who represents the state is called the prosecutor.

Civil disputes include all matters that are not criminal. They often involve disputes between private citizens and business organizations over matters relating to contracts, personal injury, and property disputes. The party who files the suit is called the plaintiff and the responding party is called the defendant. The adjudicatory process begins when the plaintiff files a complaint with the county clerk in the circuit court that has jurisdiction over the matter. The complaint generally states the accusations against the defendant and informs the defendant that they must appear in court.

**CRIMINAL LAW IS ENFORCED BY THE GOVERNMENT, WHILE
CIVIL LAW IS ENFORCED BY PRIVATE CITIZENS THROUGH CIVIL ACTION.**

All judges in Oregon are elected to their positions and each serves a six-year term. This includes judges who serve on the Oregon Supreme Court. While Oregon judges have to run for election similar to state legislators and county officials, they have an entirely different set of responsibilities owed to the public. Judges are tasked with promoting justice by making fair and impartial decisions that do not rely on public opinion. They rely exclusively on the law to inform their decisions, and it is the judge's responsibility to act as a steward of the law to make sure it is applied to each case correctly. The most important duty of a judge is to identify the relevant law that applies to the facts of a specific case and to make sure the law is applied to the facts correctly. There are a variety of sources of law that may apply in any given case and most people are familiar with the two main types: statutory law created by the Legislature and common law created by judges.



Like the organization of Oregon's court system, both statutory and common law follow a hierarchy where all laws must be consistent with the law at a higher level. For instance, a local ordinance must be consistent with a state statute that must not contradict the United States Constitution. Statutory law is written law created by the Legislature that aims to clarify the functioning of government or define rules for civil order. Most criminal cases involve statutory law because the defendant broke a law that the state Legislature put in place to make certain acts a punishable offense. Common law on the other hand is generally used to settle disputes between individuals in civil cases. Common law is created through the decisions of judges in state appellate courts. These decisions become binding on the lower courts within the state. The tradition of common law extends all the way back to 12th Century

England when King Henry the II established central courts to help consolidate the laws of England and move away from system of solving disputes based upon local custom.

II. Jury Trial

A jury trial is the cornerstone of the United States legal system. The right of citizens to have a dispute decided by a fair and impartial decision maker is protected by the 6th Amendment of the Constitution and represents an essential aspect of the administration of justice in the United States. A citizen's right to trial by jury in Oregon is secured by the State's constitution for both criminal trials (Article 1, section 11) and civil trials (Article 1, section 17). In every criminal case, the defendant is entitled to a jury trial unless they waive this right. In civil cases however, the right to a jury is only automatic for cases involving \$750 or more in controversy. If the amount in controversy is less than \$750, defendants will receive a bench trial where a judge alone acts as the "finder of fact" as well as deciding issues of law. Jury trials are composed of either six or twelve jurors depending upon the nature of the crime alleged, or the amount of money involved in the case. Civil suits involving \$10,000 or less are only tried by six jurors.



In Oregon, all citizens over the age of 18 are eligible for jury duty so long as they have not served on jury duty within the last 24 months or been convicted of a felony. The process of selecting jurors is referred to as "voir dire." This is a French term that means "to speak the truth." In selecting jurors for a particular trial the court clerk randomly selects anywhere from 15 to 35 potential jurors. This group is then seated in a courtroom where they take an oath to tell the truth. At this time, the judge will usually explain the nature of the case and the attorneys for each party will take turns asking each individual juror questions to learn about the prospective jurors' background. Once the jurors for the trial are selected they are "empaneled" and they are administered another oath to truly try the matter between the plaintiff and the defendant according to the law and evidence presented to them at trial.

The jury trial is exclusively administered by the circuit courts. It is essentially a judicial examination of the dispute between the parties where the judge provides the jury with instructions on the relevant law that relates to the case, and the jury applies this law to the facts. The jury will act as a finder of fact, deciding which facts are relevant and which witnesses to believe. In a criminal trial, the relevant law will likely be found Oregon's statutes that relate to criminal offenses. Many of these statutes have specific provisions that the judge must follow while giving the jury instructions. For instance, Oregon Revised Statute 163.150, "Sentencing for aggravated murder", lists 4 specific factual issues the jury must unanimously decide if a defendant is to receive a death sentence as opposed to life imprisonment. In civil cases, the relevant law will likely be found in precedents established by prior case law. Throughout trial proceedings, the attorneys for each respective party will frame the issues of their client's case with a specific set of jury instructions in mind established in the case law.

Usually, each attorney will submit a set of jury instructions to the judge that they believe is the appropriate standard by which the jury should apply the law to the facts of the case. However, the judge makes the ultimate decision regarding the specific set of instructions presented to the jury that provides the framework for the jury to analyze and weigh the facts in reaching their verdict. Great deference is given towards the jury's verdict in a case. Article VII, Section 3 of the Oregon Constitution prohibits a trial judge or an appellate court from reexamining any fact found by the jury unless the court can affirmatively say there is no evidence to support the verdict.

Jury decisions.

Type of Case	# of jurors present the trial	in	# of jurors required to concur in order to reach a verdict
Criminal Felony	12		12
Murder	12		11
Death Penalty	12		12
Criminal Misdemeanor	6		6
Civil between \$750.00 and \$10, 000	6		5
Civil greater than \$10, 000	12		9

"It is your sole responsibility to make all decisions about the facts in this case. You must evaluate the evidence to determine how reliable or how believable that evidence is. When you make your decision about the facts, you must then apply the legal rules to those facts and reach your verdict."

Jury instructions from a civil case in Multnomah County, Robert Hill v. LaGrand Industrial Supply

III. Circuit Courts

The circuit courts are the real workhorse of Oregon's court system. Circuit courts are courts of general jurisdiction. That means they hear every kind of criminal and civil case with the exception of tax cases that have their own exclusive tax court. Circuit courts also perform the important function of holding the jury trial to resolve factual matters in disputes.

In order for any judicial system to be successful, it must be accessible to the citizens who rely on it. Out of the 605,753 cases filed in Oregon's circuit courts in 2007, only 570 were not closed. This impressive statistic is evidence of the courts overall convenience as well as of the court's efficiency to resolve disputes. Everything from minor traffic violations to class A felonies to civil cases involving important contract disputes are adjudicated by the circuit courts. Unlike the Oregon Supreme Court and Court of Appeals where there is just one of each court for the entire state, each one of Oregon's 36 counties has a circuit court. There are 173 circuit court judges in 27 judicial districts within the state. The citizens who live in the judicial districts that the judges serve elect the judges to their positions. Some judicial districts cover more than one county. For example, District No. 24 includes both Grant and Harney Counties in eastern Oregon. The number of judges in each district is based upon population in that district as well as size of the district's case load. Multnomah County, in District No. 4, is the largest judicial district and has 38 circuit court judges.

IV. Oregon Court of Appeals

The Court of Appeals hears all civil and criminal cases appealed from the circuit courts. This court serves as the first level of appeal after a trial. The adjudicatory process in an appeal is very different from the trial procedure used in the circuit court and places a different level of responsibility on the attorneys who represent the two parties and the judges who ultimately decide the case. Ten judges serve on the Court of Appeals.

Appellate Procedure

When a party makes an appeal, they do not get a whole new trial with a jury. This is the primary difference between an appeal and a case initially decided in circuit court. Each party is only allowed to submit a written brief and present an oral argument of the merits of their case to the judges who will be making the decision. The written brief is a summary of the how the law relates to the facts of the case. The party who made the appeal is called the appellant and they will be asking the court to reverse the lower court's decision. The party that did not appeal is called the appellee and they will argue the reasons why the lower court's decision should be affirmed. The two opposing parties are also given the opportunity to present an oral argument to the judges who will be deciding the case. This is another opportunity for each party to present the merits of their case, but mostly it is a chance for the judges to ask the respective attorneys questions about the law as it applies to the case.



Presumably, all of the important facts relating to a case are disclosed during the initial trial in the circuit court. The jury would have decided the case in light of these facts with instructions from the judge in how to apply the law. When a party makes an appeal, they may not present new facts to the case. The basis of their appeal is that the lower court did not apply the law correctly. Because appeals almost exclusively involve questions of law, judges and not a jury decide them. In certain situations however, the judges in an appeal might send a case back to the circuit court because the dispute centers around an important fact that the jury must decide. The judges' main role in an appeal is to make sure the lower circuit court was correct in applying the law that determined the outcome of the case.

In 2007, there were 3,312 cases filed with the Court of Appeals. To help manage this heavy caseload, the court of appeals is divided into three panels with three judges each. Each panel evaluates the trial record from the circuit court and the written briefs from the opposing parties, and hears oral arguments presented by both parties. In some cases the panel will agree to affirm the lower court's decision without writing a formal opinion. In other cases, one member of the panel may draft an opinion explaining the panel's reasoning. In 2008, the Court of Appeals filed a written opinion for 12% of all the cases they heard.

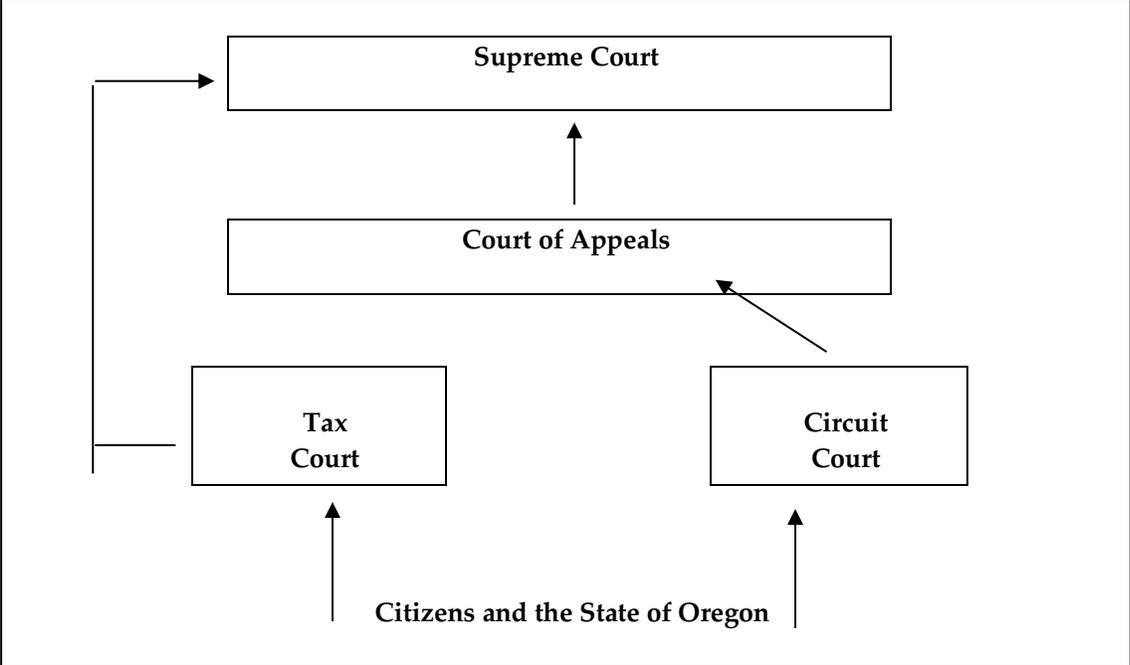
V. Oregon Supreme Court

The Oregon Supreme Court is the highest court in the Oregon state court system. Any decision by this court is binding upon all of the other lower courts in the state. The United States Supreme Court is the only court that can reverse a decision by the Oregon Supreme Court. Seven justices serve on the Oregon Supreme Court and each serves a six-year term.

The Oregon Supreme Court is primarily an appeals court. They have discretionary review of cases from the Court of Appeals. If a party thinks the Court of Appeals has made a mistake in interpreting the law, they may petition the Oregon Supreme Court to review that decision. The Supreme Court may choose to accept or deny that petition.

The Oregon Supreme Court has direct review of certain kinds of cases. This means that the case goes directly to the Supreme Court without review by the Court of Appeals. Death penalty cases and decisions from the Oregon Tax Court are two examples of cases where the Supreme Court has direct review.

Appeals in Oregon Courts:



Number of cases filed in Oregon courts in 2016:

Supreme Court	813
Court of Appeals	2,812
Circuit Court	716,712