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Civil Litigation and Federal Courts In this assignment, we will look at five areas involving civil litigation and Federal Courts.

We will define jurisdiction, and look at when a private dispute can be decided in Federal Court. We will go over the result of a Motion to Dismiss if the moving party is unsuccessful. We will then go over the definition of enforcing a judgment and discuss how alternative dispute resolution (ADR) compares to Civil Litigation. Define Jurisdiction Jurisdiction in our legal system is the power of our courts to try cases and rule on legal matters within the courts geographic area.

Jurisdiction is also applied to different types of legal cases that are enforced by the law or the constitution (Hill, G., & Hill, K. (n.

d.). Based off of this definition, determining the jurisdiction of a case is vital because this determines which court will try the case in their area based off of the right set of applicable laws.

The Cornell Law school website states that “ the authority for a particular court to exercise jurisdiction is granted by the constitution or by the laws of that particular state” (Staff, L. (2007, August 06). When determining whether a court has the power to try a certain case, the situation can be looked at in three ways; (1) determining if the court can hear a certain case by having personal jurisdiction. (2) Determining whether the court has the right to preside over the subject matter of the case. (3) Whether the court has the power to make an enforceable decision on the case. Jurisdiction is broken down at a state level by giving state courts jurisdiction over matters that happen in their state.

So state courts can try cases within the limits granted by their state legislation. An example of this is, some states can only preside over cases that involve individuals from that state. When states try cases by citizens of their states they have to fulfill territorial jurisdiction requirements. When it comes to federal courts most of the time they have jurisdiction that is restricted by certain laws.

In the case of Superior Courts, District Courts, and County Courts they have control of matters such as lawsuits, matters involving large sums of money and matters of relations, divorce, estate, guardianships, and felony trials. Superior courts can also have appellate jurisdiction which gives them the mandate to correct any mistakes made by a junior court. (Jurisdiction over the Subject Matter of the Action (Subject Matter Jurisdiction)).

(n. d.).

On what bases could a private dispute be decided in Federal Court? When it comes to a private dispute can it be decided in federal court? The answer is yes; a private dispute may be decided in Federal Court on two bases (1) that there's a contravention of Federal Law. (2) They have diversity jurisdiction. "For diversity jurisdiction to be exerted two requirements must be fulfilled: (1) the plaintiff and defendant must be citizens of different states; and (2) the amount in controversy must be greater than \$75, 000, exclusive of interest and costs" (Jurisdiction over the Subject Matter of the Action (Subject Matter Jurisdiction)).

(n. d.). To have complete jurisdiction over a case, a federal trial court must have jurisdictions over both the parties and jurisdiction over the subject

matter. This rule applies to every cause of action and every party in a case. An example of this would be if the court has the jurisdiction for certain charges let's say one through seven of a case, as well as a counter-claim, a cross claim or impleader, but the court is missing the subject matter jurisdiction over count eight, then the court can not hear count eight (Jurisdiction over the Subject Matter of the Action (Subject Matter Jurisdiction (n. d.

). What is the result of a Motion to dismiss if the moving party is unsuccessful?

To answer this let's first define a motion for dismissal. "A motion for dismissal is an application in a lawsuit or criminal prosecution filed by a defendant asking the judge to rule that the plaintiff or the prosecution has not and cannot prove its case" (Pre-trial Motions Practice.

(n. d.). This can be a common pre-trial move by the defendant that allows for the dismissal of a case before it is fully presented in court. This motion is most often made after the prosecutor has presented all the evidence they have.

The defense can make it to the end of the evidence presentation but it has to submit this motion before the judgment, or upon evidence being presented. The defense has to prove to the judge, why the case should not be thrown out. This is usually done orally and then the arguments are made in the judge's chambers, so the jury does not get to hear these types of motions. If the moving party is unsuccessful, the case or claim is thrown out and cannot be used at the trial of the legal matter. According to Pre-trial Motions Practice "By filing a motion to dismiss for failure to state a claim upon which relief can

be granted means, the moving party is asking the court to dismiss the complaint because the allegations contained within the complaint do not form any legally cognizable claim” (Pre-trial Motions Practice. (n. d.).

In other words, even if all the plaintiff’s claims are true, there is no relief that the court is able to give to the plaintiff (Pre-trial Motions Practice. (n. d.).

Some example scenarios where motions to dismiss can arise would be when the court is violating jurisdiction by hearing the case, its at the wrong venue, or when the plaintiff fails to state a claim accurately and there is a dispute concerning the involvement of all the parties in the case to be able to reach a fair judgment. Define Enforcing a Judgment There are different types of Judgment that can be executed in number of different ways depending on the nature of the case. In criminal law, a judgment is upheld by the government. One of the most common judgments in a criminal matter is the sentence of jail time, which government authorities are responsible to enforce. Some examples of different judgments are defendants ordered to pay a fine, put on probation, or they can be sent to jail. In civil law, one party enforces the judgment against the other party.

When a party in a lawsuit does not comply with the judgment by the courts, it is left up to the other party to seek relief (What Is Judgment Enforcement? (n. d.). If you have won your Case and obtained a judgment against the defendant, the Court will then write to the defendant ordering him or her to pay you the amount owed in the judgment. The plaintiff can also do things like seek help from law enforcement to help ensure that the defendant complies with the judgement. How does ADR compare to Civil Litigation?

Litigation is the process by which a case by a plaintiff against a defendant is heard before a judge in court. ADR is a series of substitute methods for conflict resolution other than court based adjudication" (Schroeder, P.(n.

d.). ADR means " alternative dispute resolution" and encompasses many alternatives to litigation of civil disputes, of which mediation and arbitration are the best-known examples. ADR usually works to the advantage of the party seeking the ADR because a contract has been breached or because the company wants to save money and time on a particular issue. Civil litigation is an actual lawsuit and requires time and money for researching their legal issue with the end result being a judgment in their favor.

Sometimes a judge recommends ADR to save time and money through prosecution. The judgments from the ADR processes are both binding and enforceable. When comparing the ADR process against the litigation process, we find that litigation costs more money, is slower and more tedious due to the large volume of cases awaiting trial.

Therefore for some lawsuits, ADR is not only efficient but the most effective process. Conclusion Seeing how there are different courts for different sets of laws and understanding what a judgment is and how they are carried out showcases how our justice is designed to be well regulated and fair. For me the biggest thing that stood out was the ability to get a resolution by other means with (ADR).

Looking at the size of our society and how many disputes there are in this country as a whole, you start to respect the separation of law into levels to have a fair and impartial legal system in our country.