



Courts in the Community Lesson Plans

*Colorado Judicial Branch, State Court Administrator's Office
Updated January 2025*

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The Rule of Law

Objective: Students will be able to identify the origins of the rule of law, its impact on their everyday lives and the role it plays in the judicial system.

Inquiry Questions:

- How do the structures of the United States, state and local governments impact democratic decision making?
- What does it mean for a society to have and follow rules? Can rules be biased toward or against a particular group of people?
- What is the “rule of law” and what is its role in the policies and practices of the judiciary?

Colorado Academic Standards

- **SS.HS.4.2.EOe.** Describe the role and development of the founding documents of Colorado and the United States from their inception to modern day.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Video about the rule of law, reading, homework, optional: rule game

Materials: Large poster paper, markers, printed or online articles

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

The content provided below is designed to help students understand the rule of law. The articles can be shared through a lecture, discussion or a read around.

Article 1: Courts and the Rule of Law

by former Colorado Supreme Court Chief Justice Mary Mullarkey

The American commitment to the rule of law stands in sharp contrast to much of the rest of the world. We have agreed to govern ourselves with written state and federal constitutions and implementing laws made by our elected representatives. When we have disputes that we cannot settle among ourselves, we take them to court. We trust juries and judges to decide our most important concerns; they literally decide matters of life and death, fame and fortune.

In To Kill a Mockingbird, the author Harper Lee talks about the courts as the great “levelers” of society. Lee means that the courtroom is the one place where all people are treated as equals. Disputes are to be decided on the merits. Differences among the parties in wealth, intelligence, social status, and the like should not determine the outcome of a case. This concept of the courts as society’s great levelers comes directly from the statement in the Declaration of Independence that all of us are created equal. As the motto above the entrance to the United States Supreme Court puts it, a courthouse is a place of “Equal Justice under Law.”

Of course like any other human institution, the courts do not always live up to our ideals. But there are



built-in ways to correct errors. Cases can be appealed to the appellate courts and erroneous decisions can be reversed or overruled. Laws, including our constitutions, can be amended.

Overall, the courts function very well. Every year the Colorado courts resolve nearly 600,000 cases, the equivalent of about one case for every 10 people living in the state. All of these cases are important to the persons involved but very few attract any public attention. That court decisions are an everyday part of the American routine shows our acceptance of, and reliance on, the rule of law. Not many countries can say the same.

Article 2: The Rule of Law in Western Thought

by Melissa Thomas, a consultant on rule of law and judicial and legal reform

The rule of law is an ancient ideal. Plato wrote one of the earliest surviving discussions. While convinced that the best form of government is rule by a benevolent dictator, Plato concedes that, as a practical matter, persons with the necessary leadership qualities are rare. Accordingly, he imagines a utopia that is governed not by a benevolent dictator, but by Nomos, the god of Law. In “The Politics,” Aristotle also considers whether it is better for a king to rule by discretion or according to law, and comes down firmly on the side of law; individuals are too often swayed by private passions. Christian philosophers, seeing the power to rule as a delegation from God, the Lawgiver, saw any kingly act contrary to “natural” law as an express violation of this delegation for which a monarch would surely be punished after death.

Both the early Greeks and the Christian philosophers had a vision of law as a system of rules whose source lay outside of the ruler himself. For the Greeks, law was inherent in the natural order or arose from the timeless customs of the people; for the Christians, law came from God. Accordingly, if a king were to rule according to law, he would be constrained and his powers would be limited.

A king was seen primarily as a judge, who applied the law in specific circumstances. But in the 16th and 17th century, there was increasing recognition of the power of government to make laws. This newly recognized “legislative” function of government posed a serious problem for the rule of law ideal. If kings made the rules, how was the rule of law different from rule by discretion? And how could kings be bound by the law as private individuals? The English philosopher Thomas Hobbes concluded that they couldn’t. In opposition, liberals such as Mill insisted that restraints on legislative power were a necessary part of the rule of law ideal.

Jurists and philosophers now distinguish between two types of rule of law. The first is “substantive” rule of law, defined to be rule according to some particular set of laws that are valued for their content, such as guarantees of basic human rights. The second is “formal” or “procedural” rule of law, defined to be rule according to any laws generated by some legislative process, even if they are “bad” laws.

Several other ideas are sometimes swept under the name of “rule of law.” The idea that the persons in government should be subject to law like any private citizen is another idea that is sometimes discussed under the rule of law. Authoritarian states tend to identify rule of law with “law and order,” implying not restraints on the government but restraints on citizens. Increasingly, economists have come to realize that the free market depends on certain institutions and the enforcement of certain rules, such as the freedom to contract and the enforcement of contracts. Very recently, economists and development specialists have begun to discuss the “rule of law” as the enforcement of private contracts. And while the ideal of the rule of law describes the way a king should act--and by implication, the executive branch--many confuse the rule of law with the quality of the court system.



Article 3: Rule of Law in a Democracy

The rule of law can be defined as a system in which the laws are public knowledge, are clear in meaning, and apply equally to everyone. They enshrine and uphold the political and civil liberties that have gained status as universal human rights over the last half-century. In particular, anyone accused of a crime has the right to a fair, prompt hearing and is presumed innocent until proved guilty. The central institutions of the legal system, including courts, prosecutors, and police, are reasonably fair, competent, and efficient. Judges are impartial and independent, not subject to political influence or manipulation. Perhaps most important, the government is embedded in a comprehensive legal framework, its officials accept that the law will be applied to their own conduct, and the government seeks to be law-abiding.

The relationship between the rule of law and liberal democracy is profound. The rule of law makes possible individual rights, which are at the core of democracy. A government's respect for the sovereign authority of the people and a constitution depends on its acceptance of law. Democracy includes institutions and processes that, although beyond the immediate domain of the legal system, are rooted in it. Basic elements of a modern market economy such as property rights and contracts are founded on the law and require competent third-party enforcement. Without the rule of law, major economic institutions such as corporations, banks, and labor unions would not function, and the government's many involvements in the economy--regulatory mechanisms, tax systems, customs structures, monetary policy, and the like--would be unfair, inefficient, and opaque.

Article 4: [Rule of Law in American Life: A Long and Intentional Tradition](#) from American Bar Association (ABA)

Article 5: [Rule of Law and the Courts](#) from the ABA

Article 6: [What Confucius' Li Can Teach the West about Law](#)

Article 7: [What is the Rule of Law?](#) From the United Nations

Key terms

Civil liberties. Individual rights protected by law from unjust governmental or other interference. Though the scope of the term differs between countries, civil liberties may include the freedom of conscience, press, religion, speech and assembly.

Judicial independence. The ability of courts and judges to perform their duties free of influence or control by other actors, whether governmental or private. The term is also used in a normative sense to refer to the kind of independence that courts and judges ought to possess.

Adjudicate. To make an official decision about a dispute or matter, often in a legal context.

Rule of Law Elements

- **Accountability:** The government as well as private actors are accountable under the law.
- **Just Law:** The law is clear, publicized and stable and is applied evenly. It ensures human rights as well as property, contract, and procedural rights.
- **Open Government:** The processes by which the law is adopted, administered, adjudicated, and enforced are accessible, fair, and efficient.



- **Accessible and Impartial Justice:** Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.
- **Adherence to democratic principles:** Supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

Substantive rule of law. Set of laws that govern how members of a society are to behave. It defines the rights and responsibilities in civil law and crimes and punishments in criminal law.

Formal (or procedural) rule of law. Law that establishes the rules of the court and the methods used to ensure the rights of individuals in the court system.

Class Preparation

1. Review teacher background. Determine in what format to share content.
2. Determine which class activities to do with your students.
3. For main class activity: Before class, write one question on the top of each poster sheet and post on walls in the classroom. You may need to multiple posters with the same question, depending on the number of students in your class.
 - a. What are key elements of the rule of law?
 - b. Do you think that the rule of law is applied equitably to different groups of people in the United States? Why or why not?
 - c. How does the rule of law look different in a democracy or an autocracy?
 - d. What are the challenges we face today in upholding the rule of law?

Class Activity

1. Watch the rule of law video: <https://www.youtube.com/watch?v=bmAKAHDsnGs>
2. Divide the students into groups of four and have each group consider the question posed on the poster. Have them write their responses on the sheets
3. Depending on time, you could have students visit other posters and discuss the question.
4. Have students share comments from the posters and discuss as a class.
5. **Optional Class Activities**
 - a. **Play a game.** [Rules, Rules, Rules](#) helps students understand the importance of rules by playing a game where the rules aren't defined.
 - b. **Take a deeper dive.** If you want to dig into the content, divide students into groups, share the articles provided above (or others you find) about the rule of law with different groups, have them answer the following questions about the rule of law based on the content they read and share their thoughts with the class.
 - 1) What are the main points this reading makes about the rule of law?
 - 2) Why do you think we should care about the rule of law?
 - 3) What are the challenges we face today in upholding the rule of law?
 - 4) What questions do you have about the rule of law?
 - c. **Review and discuss primary sources.** [Exploring the Rule of Law](#) uses primary sources to teach about the rule of law.



Homework assignment

- Consider assigning one of the classroom activities above as homework.
- Or, have students answer the following questions, using your assessment rubric.
 - The definition of the rule of law is strongly impacted by a country's social and political structure. Compare the definitions discussed in class with the definition of the rule of law from another country.
 - The most commonly accepted purpose of the rule of law is to limit the arbitrary acts of government. Explain how this influences the judicial branch.
 - Outline your concept of the rule of law and why it is important to you.



The History of the Courts

Objective: Students will be able to explain the role of courts in a democratic society, the history of the Colorado courts and how those courts have evolved over time.

Inquiry Questions:

- What cultural and social forces impacted the development of Colorado's court system?
- What legal concepts were included in Colorado's court system?
- What are the main differences between Indigenous legal customs and Western legal customs?
- How does Western water law impact Colorado's water courts?
- What are the rights and responsibilities of people in the United States?
- How do the structures of the United States, state, and local governments impact democratic decision making?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States
- **SS.HS.4.2.EOj.** Describe the relationship of tribal governments with state and federal governments. Including but not limited to: The Ute Mountain Ute and Southern Ute tribal governments and the State of Colorado.

Activities: Teacher lecture (background material and timeline provided); class discussion (questions and topics suggested); and homework assignment

Materials: Printed articles

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

Introduction

by former Colorado Court of Appeals Chief Judge Janice B. Davidson

When groups of citizens decide to delegate to a few other citizens the authority to resolve civic and private disputes, the latter group must carry with it the confidence of the people who gave them that power. Otherwise, the system will fall apart. It is the confidence in the integrity and impartiality of the judges who comprise the courts that is the true backbone of our court system. In order to keep that confidence, judges must be independent and work in an atmosphere of independence.

The need for judicial independence is most apparent when courts decide cases between individuals and the government and between branches of government. A judge must be free to rule against the governmental entity without fear of reprisal. Indeed, since World War II, although emerging countries have adopted the U.S. Constitution almost verbatim, each system has failed. The reason is the absence of an independent judiciary — there simply is no one to review what the other branches of government have done.



In order to secure the respect and trust of the people, judges also must be free from pressure from powerful non-governmental groups that may have an incentive to influence the outcome of cases. Thus, as former federal judge Avner Mikva said, “Judges must follow their oaths and do their duty, heedless of editorials, letters, telegrams, picketers, threats, petitions, panelists, and talk shows.”

Colorado used to elect its judges. However, like many other states, Colorado has recognized that a system of electing judges through the political process is antithetical to the concept of an independent judiciary. Thus, Colorado judges now are selected on merit and seek additional terms of office through nonpartisan retention elections. Insulating judges from the pressures of fundraising and campaigning helps to ensure that judges are beholden to no one. Similarly, evaluating judges on their performance and not on their politics helps to ensure that every person appearing in a Colorado court receives fair and impartial treatment. Indeed, as citizens become better aware how an independent judiciary increased their access to justice, they will increase their resolve to maintain an independent judiciary.

Western Concepts of Judicial Independence

Before the American Revolution, courts in the colonies were seen as instruments of oppression. Juries could be locked up until they reached the “right” decision. Judges were seen as puppets of the king. In fact, the Declaration of Independence criticized King George III for making “judges dependent upon his will alone for the tenure of their offices and the amount and payment of their salaries.”

This experience convinced our founders that Americans needed independent courts, courts that were protected from unreasonable searches, rigged trials, and other examples of overreaching government power. To guarantee rights such as freedom of speech and freedom of worship, and to make the rule of law a reality, the founders knew that judges had to be servants of law and the Constitution, not the political bosses, not the media, and not special interest groups. The Constitution protected judges from political and public pressure by:

- Specifying that they hold their office “during good behavior.” This means that their appointments are for life.
- Specifying that their salaries cannot be diminished during their tenure. This prevents Congress from retaliating against judges by cutting their pay.
- Making the removal process difficult (only on “impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors”).

These protections are still in place for federal judges. (While each state has its own judicial structure and constitutional provisions covering state judges, judicial independence is the cornerstone of all states’ judicial systems.)

Throughout American history, the independence of the judiciary has protected individual liberties and prevented a tyranny of the majority. Examples include extending voting rights, ending segregation, and protecting the average citizen from unwarranted government intrusion.

Emerging democracies have looked to the U.S. system of an independent judiciary as a model. They are familiar with the “telephone justice” of dictatorships, in which a judge adjourns court to wait for the call that explains how to decide the case. Judicial independence assures that cases will be decided on their merits. Decisions are based on what is right and just under the constitution and law, not what is popular at the moment.

More information: https://www.americanbar.org/groups/public_education/resources/rule-of-law/rule-of-law-and-the-courts/



History of Colorado's Court System

For thousands of years, the population of what is now Colorado was mostly comprised of the Apache, Arapaho, Cheyenne, Pueblo, Shoshone and Ute tribes. The largest Indigenous group in the area was the Ute tribe, who developed systems of governing, policing, regulating land use and mediating conflict that were rooted in consensus-building and community involvement. Spanish explorers arrived in the 1600s, followed by people of Mexican heritage who settled in Trinidad and other areas of southern Colorado. These groups brought their own customs and systems of justice.

Through the Louisiana Purchase in 1803, the United States acquired territory including land that is now northern and eastern Colorado; a treaty in 1848 with Mexico transferred territory that is now southern and western Colorado to the United States. The U.S. government, eager to populate the new land with white settlers, encouraged migration to the newly acquired territory and made treaties with native populations to ensure that settlers could access this land. The government rarely adhered to these treaties and ignored Indigenous land use customs as it sought to overlay an economic system based on individual property ownership. Spanish and Mexican civil law that allowed women to own property was also ignored.

The discovery of gold in the territory in 1858 as well as jobs in mining operations drew thousands of white settlers, who soon established local governments and their own judicial system. In the mountains, "Miners Districts" sprung up whenever a large enough group of miners settled in one area, established boundaries, defined property rights, elected officers, set up courts, tried lawsuits and punished criminals. Among the first districts were Gold Hill near present day Boulder, Jackson's Diggins District in Clear Creek County, and Gregory District near Blackhawk, all established in 1859.

A fledgling judicial system along the Front Range developed more conventionally. Prior to 1861, most of what is now Colorado was part of Arapahoe County in the Territory of Kansas. In 1855, the Territory of Kansas' legislature appointed Allen P. Tibbitts as probate judge of Arapahoe County. Tibbitts was effectively Colorado's first judge, although he never visited Arapahoe County, much less held court here. He never claimed the bench because travel in this region could be treacherous.

In March 1859, the first court was established in "Pikes Peak Country." S.W. Wagoner was elected as its probate judge and a restlessness to secede from Kansas began to grow. An election on Oct. 24, 1859 established the extralegal Territory of Jefferson in what is now Colorado. This self-proclaimed government instituted the region's first Supreme Court with a chief justice and two associate justices. Within two months, Jefferson Territory's legislature expanded the judicial system to include district, county, and justice of the peace courts, in addition to the already established Supreme Court.

Many white residents refused to acknowledge this judicial system's presumed authority, or that of its courts. Inevitably, conflict arose between the Arapahoe County courts and the Jefferson territory courts. Neither had a good grip on its claimed jurisdiction, and criminals frequently slipped through gaping loopholes in the system. As a result, People's Courts emerged. These were not permanent, or even official institutions, but they were summoned by the upper class to deal with serious crimes, such as murders. The court followed general procedures, allowing for both prosecution and defense, but the sentence was usually death, and it was carried out immediately after the ruling.

After Kansas made the transition from territory to state in January 1861, people living in Jefferson Territory recognized the necessity, and inevitability, of coming under United States authority. An application for territorial status was filed, and in February 1861 Congress passed a bill creating the Territory of Colorado.



Immediately upon becoming an official territory, all existing governing entities ceded power to the new government. The territory was divided into three judicial districts. President Abraham Lincoln appointed three justices to the first legal Supreme Court in the territory. Chief Justice Benjamin F. Hall was given jurisdiction of the Denver District; Justice Charles Lee Armour, the Central City District; and Justice S. Newton Pettis, the Southern District, near Pueblo. The first case to be tried before the Supreme Court was *Gardner vs. Dunn* on appeal from Park County.

Colorado was admitted to the union as a state on Aug. 1, 1876. The state's original constitution provided for a Supreme Court with a bench of three justices, as well as four judicial districts, with one judge serving each. The timeline below illustrates the early progression of the state's judicial structure.

Colorado Supreme Court

As discussed above, the history of Colorado's highest court began even before Colorado became the 38th state in the nation. The first Supreme Court was established in 1859 by the Territory of Jefferson, an extra-legal government existing prior to the Territory of Colorado. When Colorado became an official territory, a new Supreme Court was established. This court held its initial session in Denver on July 10, 1861. The court convened in a 7-by-9-foot room in the 12-by-25-foot Commonwealth Building on the corner of Larimer and 13th Street. In 1861 and its move into the State Capitol's north wing in the early 1890s, the court convened in many locations, including the Middal Building behind the Lincoln Hotel, the Old Planter's House on Blake and 16th, the Keller House on 11th, the Jackson Building on 18th and Larimer, George W. McClure's building on Larimer between 15th and 16th, and the corner of Lawrence and 15th.

In 1905, the court grew to seven justices (which is the court's current size) to help address the heavy caseload. These justices sit *en banc*, or in a full panel, for every case. Court of Appeals judges sit in panels of three to consider cases.

Colorado Court of Appeals

Colorado's Court of Appeals has a fragmented, yet fascinating, history. The first Court of Appeals was established in 1891 by the Colorado General Assembly for an indeterminate term to help the Supreme Court with its heavy caseload. This court consisted of three judges and lasted until 1904, when it was no longer believed to be necessary.

In 1913, a second Court of Appeals was created, this time with five judges, but with a pre-established term of only four years. Its mandate expired in 1917. In 1970, the third and present Court of Appeals was established, with six judges at its inception. In 1974, this number was increased to 10, and on Jan. 1, 1988, the number was increased to 13. Effective July 1, 1988, three additional positions were created by the General Assembly, bringing the number of judges to 16. The most recent court expansion became effective on July 1, 2008, bringing the number of judges to 22.

The court's location during its first two terms is unclear, but due to its close relationship with the Supreme Court, it may have been held in the same location. The third Court of Appeals began hearing cases in 1970 at the Supreme Court courtroom in the Capitol. When the court expanded to 10 judges in 1974, it moved to a new courtroom on the sixth floor of the Farmer's Union Building on 16th and Sherman. In 1977 it joined the Supreme Court in the former Colorado Judicial Department Building at 14th and Broadway. The court has since grown to 22 judges. The Judicial building was demolished in 2010; the Ralph L. Carr Judicial Center opened in 2012 to house both courts, the State Court Administrator's Office and all other state agencies with legal or court-related functions.



Timeline of state's judicial structure

- 1876** – 4 judicial districts; 1 judge in each
- 1881** – 7 judicial districts; 1 judge in each
- 1887** – 9 judicial districts; 1 judge each, except Arapahoe County (incl. Denver) with 2
- 1891** – 13 judicial districts; first Court of Appeals
- 1893** – 2nd judge given to Pueblo area
- 1895** – 2nd judge given to Colorado Springs area
- 1905** – Supreme Court given 7 justices; first Court of Appeals abolished
- 1913** – Second Court of Appeals established for a four-year life
- 1917** – Second Court of Appeals abolished
- 1921** – 14 judicial districts
- 1945** – 15 judicial districts
- 1953** – 16 judicial districts
- 1958** – 18 judicial districts
- 1963** – 22 judicial districts, the present number
- 1969** – Colorado water courts established by the Water Right Determination and Administration Act, a state law that created seven water divisions based on the drainage patterns of Colorado's rivers.
- 1970** – Third and current Court of Appeals was established
- 1977** – Supreme Court and Court of Appeals moved into current building
- 2002** – 273 judges statewide: 7 Supreme Court justices, 16 in the Court of Appeals, 118 in district courts, and 132 in county courts
- 2008** – 304 judges statewide: 7 Supreme Court justices, 22 in the Court of Appeals, 164 in district courts and 111 in county courts.
- The General Assembly approves, and the Governor signs into law, a bill authorizing financing for the construction of a new headquarters for the Supreme Court, Court of Appeals, State Court Administrator's Office, and all other state agencies with legal or court-related functions and expands the number of Court of Appeals Judges to 22.
- 2010** – The appellate courts move out of the Judicial Building at 14th and Broadway, and that building and the adjacent Colorado History Museum are demolished to make room for construction of the Ralph L. Carr Judicial Center. The appellate courts and State Court Administrator's Office temporarily relocate to the Denver Post Building at Colfax and Broadway.
- 2012** – The appellate courts and Office of the State Court Administrator move into the Ralph L. Carr Colorado Judicial Center.
- 2016** – 331 judges statewide: 7 Supreme Court justices, 22 Court of Appeals judges, 188 in district courts and 114 in county courts
- 2020** – 339 judges statewide: 7 Supreme Court justices, 22 Court of Appeals judges, 196 in district courts and 114 county court judges.
- 2024** – 378 judges statewide: 7 Supreme Court justices, 22 Court of Appeals judges, 210 district court judges and 139 County Court Judges
- 2025** – The legislature creates a 23rd Judicial District, which opens in Jan. 2025. The current 18th Judicial District, comprising Arapahoe, Douglas, Elbert and Lincoln counties, split into two judicial districts. Douglas, Elbert and Lincoln counties became part of the newly created 23rd Judicial District, and Arapahoe County remained in the 18th District.



Tribal Courts

Modern tribal courts were established in the United States in 1934 with passage of the Indian Reorganization Act. Tribes were encouraged to enact their own laws and establish their own governments, constitutions and justice systems. Many tribes, impoverished from years of Indian policy that had decimated their communities and culture, couldn't afford to adopt their own tribal codes or develop courts and chose to operate under provisions of the Code of Federal Regulations (CFR). Additional federal laws were passed to establish and strengthen tribal courts and police departments.

Today, there are 400 tribal justice systems in the United States; they operate separately from the federal and state courts and are governed by tribal law. There are two tribal courts in Colorado: the Southern Ute Indian Tribal Court in Ignacio and the Ute Mountain Ute Agency (Southwest Region) in Towaoc. These courts exercise and protect the sovereignty and jurisdiction of the tribes, providing a forum for the enforcement of tribal law and the administration of justice, while honoring tribal culture. Based in tribal traditions, they focus on restorative justice and communal resolution.

Class activity

1. Begin class by giving the students this scenario: You are a white settler who has recently arrived in the foothills (or mountains) of the western territory. As more people arrive, they start to have disagreements among themselves. What would you do to solve this problem?
2. Provide an overview of the evolution of Colorado's courts and development of tribal courts, using the content provided above. Alternatively, have the students read the history out loud in groups.
3. Hold a class discussion stemming from the following questions:
 - a. What do you think about the early systems of justice in Colorado (i.e. Indigenous tribal law, Miners Courts, People's Courts)?
 - b. What are similarities and differences between how Indigenous people's solved problems and how Miners and People's courts solved problems.
 - c. How would you have solved the justice problems that arose among settlers and Indigenous peoples, or the conflict between the Territory of Jefferson and Arapahoe County?
4. Discuss what a typical disagreement in territorial times might have been and how would you resolve it with no Western legal system yet in place.
5. Discuss the impact of the Colorado court system on Indigenous ways of life.

Homework assignment

1. Have students research systems of justice that arose before the Territory of Colorado.
2. Have them address one of the following questions:
 - a. Choose one early system of justice that arose before the Territory of Colorado and critique it. Compare that system to what you would have done in a situation where settlers were arriving in the area and wanted to solve disputes.
 - b. Compare one of the early systems of justice in this area to the existing system of justice. In what ways are they similar? In what ways are they different?



Colorado and U.S. Constitutions

Objective: Students will be able to describe the similarities and differences between the state and federal constitutions and the major provisions of the Colorado Constitution.

Inquiry Questions:

- What are the rights and responsibilities of people in the United States?
- How do the U.S. and Colorado constitutions limit the power of government and distribute power among the three branches of government?
- How does the U.S. and Colorado Constitution reflect the ideals and people of the time?
- How does the structure of the Colorado Constitution explain how power is divided between the branches and the people in Colorado?
- What are the significant differences between the US Constitution and the Colorado Constitution?
- Where in the Colorado Constitution can the concept of federalism be found?

Colorado Academic Standards

- **SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to: understanding the three branches of government at each level of government.
- **SS.HS.4.2.EOc.** Analyze the processes for amending the Constitutions of Colorado and the United States and the significant changes that have occurred to those documents including both the Colorado and the United States' Bills of Rights.
- **SS.HS.4.2.EOe.** Describe the role and development of the founding documents of Colorado and the United States from their inception to modern day. Including but not limited to: the Great Law of Peace, the Declaration of Independence, the Constitutions of the United States and Colorado, the Federalist Papers, and the Bill of Rights.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background material and lecture outline provided); video class participation activity

Grade Level: High School

Anticipated classroom time: 45 to 60 minutes

Teacher background information

Introduction

by former Colorado Chief Justice Mary Mullarkey

The U.S. Constitution was the world's first written constitution to create a nation's government based on the *separation of powers* and the system of *checks and balances*. These principles of separation of powers and checks and balances are so vital to our democracy that we celebrate Constitution Day on September 17 each year as a reminder of the historic documents that embody them.

Separation of powers gives each branch of government independent powers that act to check and balance the powers of the other two branches. The framers of the Constitution deliberately created this tension among the branches of government to ensure that no single branch would become so



powerful that it would entirely dominate our government or infringe upon the rights and freedoms of citizens.

Our system of separation of powers and checks and balances means that, instead of the president of the United States or the governor of a state simply choosing judges, the appointments of judges require the “advice and consent” of the U.S. Senate at the national level or, in Colorado, must be made from a list of nominees selected by a committee of citizens. Separation of powers means that judges can declare laws enacted by the legislative branch or actions of the chief executive to be unconstitutional and therefore, illegal. Separation of powers means that the legislative branch can impeach the president or the governor of a state, or members of the judiciary.

Although the framers of the U.S. Constitution were the first to base a written constitution on the limitation and separation of government powers, those ideas had been proposed by great thinkers as long ago as the 4th Century B.C., when the Greek philosopher Aristotle wrote that “rule of a master is not a constitutional rule.”

The American colonists who founded our nation were experienced with the unlimited power of the British king and were determined to create a government that did not permit one person, or one group, to have such unlimited power. The framers of the U.S. Constitution were familiar with Aristotle’s writings, as well as the writings of an 18th Century French philosopher, the Baron de Montesquieu. He wrote in 1752 that, to protect individual liberties, government should be separated into the legislative, executive and judicial branches.

The government of the United States, based on the separation of powers and the system of checks and balances, has endured for more than 220 years, since the U.S. Constitution was signed in 1787. Colorado’s constitution, signed in 1876, incorporates the same principles of the separation of powers and the system of checks and balances to protect the liberties of Colorado citizens.

History of three branches of government in U.S. and Colorado

The Declaration of Independence contains many complaints about the British king and shows that the American colonists in 1776 were very concerned about the king’s unfettered power. That concern was a major reason that the Articles of Confederation created a weak national government for the newly independent United States.

The Articles of Confederation also gave state legislatures greater power in response to those same fears of a too-powerful centralized government. The actions of state legislatures as a result increased fears that the legislative branch of government also could be too strong.

As James Madison wrote in one of the Federalist Papers, written to argue in newspapers for the adoption of the new constitution, “(T)he legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex.”

Madison wrote that the new nation’s leaders “seem never for a moment to have turned their eyes from the danger to liberty from the overgrown and all-grasping prerogative of an hereditary magistrate” – meaning the British king, or the executive branch of government – and had failed to provide against “the danger from legislative usurpations, which, by assembling all power in the same hands, must lead to the same tyranny as is threatened by executive usurpations.”

Recognizing that any branch of government is capable of abusing power, the framers of the U.S. Constitution made sure that each branch has enough power to act as a check on the power of the



others. They signed the United States Constitution by which our nation is governed today on September 17, 1787. Today, we celebrate September 17 as Constitution Day.

State constitutions, including Colorado's, have followed the example set by the U.S. Constitution in dividing power among three branches of government. Although the three branches operate independently of each other, each has power to restrict the activities of the other branches to prevent the concentration of too much power in any single branch and to protect the rights and freedoms of citizens.

For example, the head of the executive branch – the president of the United States or the governor of Colorado – can veto any bill approved by the legislative branch. The president of the United States nominates federal judges but requires the approval of the U.S. Senate. The governor of Colorado appoints state judges, but must choose from nominees selected by citizen committees, some of whose members are chosen by leaders of each branch of government.

The courts can declare laws enacted by the legislative branch or acts of the chief executive unconstitutional, and the legislative branch can impeach the chief executive and members of the judiciary.

This is called the system of checks and balances. It gives each branch of the government enough power to act as a check on the others.

Colorado's Constitution was adopted by voters on July 1, 1876, one century after the American colonists declared their independence from Great Britain. One month after Coloradoans adopted their new constitution, Colorado became the nation's 38th state, on August 1, 1876.

The U.S. Constitution structures a national government with legislative, executive and judicial branches, but does not specifically state that it is dividing power among three separate, independent branches. Colorado's Constitution does, however:

The Colorado Constitution

Article III

Distribution of Powers

The powers of the government of this state are divided into three distinct departments, the legislative, executive and judicial; and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

Important terms in the U.S. and Colorado Constitutions

- **Distribution of powers: legislative, executive, judicial**
Both the United States Constitution and the Colorado Constitution divide the powers of government among three branches instead of letting them all belong to one person, such as a king, or putting one branch of government in charge of everything. The three branches of government are:
 - The legislative branch, which enacts laws.



- The executive branch, which carries out the laws and takes care of government services such as collecting taxes, filling potholes and building schools.
 - The judicial branch, which decides what the laws mean when people don't agree about them, decides whether someone has disobeyed a law and what should happen to them if they have, and resolves other disagreements.
- **Supreme Court**
The United States Supreme Court is the highest court in our nation. Its decisions are final for the whole country. The Colorado Supreme Court is the highest court in our state. Its decisions are final for the whole state.
 - **Judge**
A judge is a person who presides over trials and other activities in courts, deciding disagreements between people based on facts and laws.
 - **Justices**
Some judges are called justices. Their jobs are mostly the same as the jobs of judges: to decide disagreements between people based on facts and laws.
 - **Good behavior, willful misconduct**
 - The U.S. Constitution says that our nation's federal judges may keep their jobs as long as they show good behavior. As long as they comply, they may keep their jobs all their lives.
 - The Colorado Constitution says that our state judges may lose their jobs if they behave badly, and also for several other reasons. Here is a list of all the reasons:
 - They become 72 years old.
 - They are convicted of a crime.
 - Voters, who decide every few years whether or not each state judge should keep his or her job, decide to fire them.
 - The state Judicial Discipline Commission decides that a judge has committed willful misconduct in office, willful or persistent failure to perform duties, intemperance, or violation of the code of judicial conduct, or has a disability that will permanently keep him or her from doing a good job.
 - **Compensation**
Both the United States Constitution and the Colorado Constitution say that judges' compensation, or pay for their work as judges, cannot be reduced while they are serving as judges. This is so that, if people in another branch of government don't like a decision that a judge makes, they can't reduce the judge's pay to punish the judge for not ruling their way.
 - **Jury**
A jury is a group of people whose job is to decide facts that are disputed in a trial. Both the U.S. Constitution and the Colorado Constitution say that a person who is accused of a crime has the right to have a jury decide whether or not he or she is guilty. Juries also decide many kinds of disagreements among people in other types of trials that don't involve crimes.
 - **Searches**
Both the U.S. Constitution and the Colorado Constitution say that government officers cannot search people's homes or belongings unless they have a really good reason.



- **Witness against himself, testify against himself**
Both the U.S. Constitution and the Colorado Constitution say that a person accused of a crime cannot be compelled to testify against himself and may instead remain silent. Because the U.S. Constitution includes this right in its Fifth Amendment, choosing to remain silent and refuse to answer questions often is called “Taking the Fifth.”
- **Speedy and public trial**
Both the U.S. Constitution and the Colorado Constitution guarantee a person who is accused of a crime the right to a speedy and public trial. This means that the trial must be held without undo delay, so that the accused person is not jailed for an unfairly long time before the trial is held, and that the trial must not be held in secret but in public, so that everyone can observe whether or not it is fair.
- **Assistance of counsel, defend in person and by counsel**
Both the U.S. Constitution and the Colorado Constitution guarantee that a person who is accused of a crime has the right to be represented by a lawyer. If an accused person cannot afford to pay a lawyer, the government pays a lawyer to represent him or her.
- **Cruel and unusual punishments**
Both the U.S. Constitution and the Colorado Constitution prohibit cruel and unusual punishments of persons who have been convicted of crimes.
- **Due process of law**
This is another right guaranteed to all parties in court cases in both the U.S. Constitution and the Colorado Constitution. It means that everyone must be treated according to the same rules. In the United States and in Colorado, the government cannot deprive anyone of life, liberty or property without due process of law.
- **Advice and consent, vacancy in any judicial office**
These terms help explain the differences between the way the national government selects judges and the way Colorado judges are selected.
 - Under the U.S. Constitution, the president nominates a person to be a federal judge, but the president must have the “advice and consent” – that is, the approval – of the U.S. Senate, part of the legislative branch, in order for the person the president has nominated to become a judge.
 - In Colorado, the governor appoints state judges to fill vacancies in any judicial office, but the governor must choose the new judge from two or three nominees selected by a special committee of citizens who live in the area where the new judge will work. The governor does not need approval from the legislative branch of government of the judge the governor chooses. After the new judge has served for a few years, the voters in the area then decide in an election whether or not to keep that judge in office. If they decide not to keep the judge, the governor fills the vacancy in that judicial office by appointing a new judge from a new list of nominees selected by a citizens committee.

How members of each branch of government are selected

Colorado’s Legislative Branch

Colorado is divided into districts for the purposes of electing members of the state House of Representatives and the state Senate. Voters in each district choose who will represent them in the Colorado General Assembly, as our state’s legislative branch is known.



Colorado's Executive Branch

Every voter in Colorado casts a ballot for governor, as well as for secretary of state, state treasurer and state attorney general.

Colorado's Judicial Branch

Judges and justices in Colorado are not chosen in partisan elections, as legislators and the governor are and as judges are in some other states. Colorado judges were chosen that way until 1966, when voters amended the state's constitution to create the merit selection and retention system.

Under this system, judges are chosen based on their abilities rather than on their political connections. They do not campaign for election and do not raise campaign funds, leaving them free of obligation to any wealthy or powerful interest group that might contribute campaign funds. That lets Colorado's judges make decisions based on the law and facts and not on politically popular views. It means that, if you get a speeding ticket, the judge who hears your case hasn't received a campaign contribution from the prosecutor!

Instead, many people help decide who Colorado's judges and justices will be and whether each one is doing a good job and should keep working as a judge or leave the job.

Groups of citizens choose two or three people they think would make good judges and suggest them to the governor. These groups of citizens are called Judicial Nominating Commissions.

The governor decides which one will be the new judge. A new judge works for two years, and then voters decide in the next general election whether or not to retain that judge.

To help voters know more about Colorado's judges, other groups of citizens, called Judicial Performance Commission, evaluate a judge's performance and make recommendations on whether or not to retain them. The commissions also give judges advice on how they can improve. The commissions' recommendations are made public on the website of the Colorado Judicial Branch and are published in the "blue book" guide for voters before each general election.

If a judge is doing a very bad job or behaving badly, another group of citizens, the Judicial Discipline Commission, can decide without waiting for the voters that the judge should be fired immediately. That rarely happens, because people do a good job of choosing Colorado's judges in the first place.

Colorado has 339 judges in the state Judicial Branch.

Additional Resources

- *Ben's Guide to U.S. Government for Kids*, a website provided by the Superintendent of Documents, U.S. Government Printing Office. Offers information and activities for students in grades K-2, 3-5, 6-8 and 9-12: <https://bensguide.gpo.gov/>
- *Social Studies for Kids*, a portal website operated by educator David White that leads to many other useful resources: <http://www.socialstudiesforkids.com/subjects/government.htm>
- Colorado's Judicial Branch: <https://www.coloradojudicial.gov/>
- Colorado's Legislative Branch: <https://leg.colorado.gov/>
- Colorado's Executive Branch: <https://www.colorado.gov/>
- The U.S. Constitution: <https://constitution.congress.gov/constitution/>
- The Colorado Constitution: <https://leg.colorado.gov/colorado-constitution>



Class lecture outline

Government Under the Constitution: Three Branches

- I. The U.S. Constitution and the Colorado Constitution are based on the separation of powers and the system of checks and balances.
 - A. The U.S. Constitution was the first written constitution in the world to base a nation's system of government on the separation of powers and checks and balances.
 - B. The framers of the U.S. Constitution deliberately created tension among the three branches of government to prevent any single branch from becoming too powerful and infringing upon the rights and freedoms of citizens.
 - C. Each branch of government in the American democracy has enough power to act as a check on the powers of the other.
 1. The president of the United States or the governor of a state, including Colorado, can veto a bill passed by the legislative branch.
 2. The courts can declare a law passed by the legislative branch or an action of the branch to be unconstitutional.
 3. The chief executive appoints members of the judiciary, but at the national level requires the approval of the legislative branch and in Colorado must choose from nominees submitted by a citizen committee appointed by all three branches of government.
 4. The legislative branch of government can impeach the chief executive or members of the judiciary. In Colorado, the Judicial Discipline Commission, whose members are appointed by leaders of all three branches of government, also can remove members of the judiciary from office.
- II. The Legislative Branch makes laws.
 - A. Its members are elected by voters. Nationally, the legislative branch of the United States government is the U.S. Congress, which in turn is divided into two parts, the U.S. House of Representatives and the U.S. Senate. Colorado's General Assembly, as its legislative branch is called, is similarly organized: two houses of members elected by voters.
 - B. In both the United States and Colorado, both houses of the legislative branch must agree in order to pass a new law.
- III. The Executive Branch administers laws.
 - A. Its chief leaders are elected by voters. They include the president of the States on the national level, and in Colorado the governor, the state treasurer, the secretary of state and the state attorney general.
 - B. Many other members of the executive branch of government are hired to carry out the government's day-to-day duties, from running parks and prisons to filling potholes to policing communities to collecting taxes.
- IV. The Judicial Branch interprets laws.
 - A. Federal judges are appointed by the president of the United States, with the "advice and consent" of the U.S. Senate. They serve for life unless they conduct themselves badly, in which case they can be removed from the job by Congress.
 - B. Colorado's state judges are appointed by the governor from a list of nominees chosen by citizen committees called Judicial Nominating Commissions
 1. A Colorado state judge serves a provisional term of two years then stands for retention in the next general election, when voters decide to keep the judge in office or not.
 2. To assist voters in knowing more about their judges, another citizen committee reviews



each judge's work and makes recommendations to the voters. These committees, called Judicial Performance Commissions, also advise judges on how to improve their skills. The Judicial Performance Commissions' recommendations are made public on the Colorado Judicial Branch website and are published in the "blue book" guide of information for voters before each general election.

3. If a judge is conducting himself or herself improperly or permanently disabled so that he or she cannot perform the duties of a judge, the state Judicial Discipline Commission can remove the judge from office without waiting for the next general election.
4. The citizens who serve on the Judicial Discipline Commission and the Judicial Performance Commissions are chosen by leaders of all three branches of government in Colorado. The citizens who serve on the Judicial Nominating Commissions are chosen by leaders of the Judicial Branch and the Executive Branch.
5. Colorado judges were chosen in partisan elections, as are judge in some other states and the members of the legislative and executive branches, until 1966. That year, Colorado voters amended their state constitution to create the present system of appointing and retaining judges, called the merit selection system.
6. The merit selection system keeps judges from having to campaign for election or collect campaign funds. Among other things, it means that, if you get a speeding ticket, the judge who hears your case hasn't received a campaign donation from the prosecutor.

Classroom Preparation

1. Determine class format. This could include a class lecture, document reading or discussion groups.
2. Write the Constitutional Treasure Hunt on the board or create worksheets with the treasure hunt.
3. Make copies of the U.S. and Colorado constitutions.

Classroom activity

A Constitutional Treasure Hunt

Find these terms in the U.S. Constitution and Colorado Constitution

U.S. Constitution

Colorado Constitution

Legislative

Executive

Judicial

Judges

Good behaviour

Willful misconduct



A Constitutional Treasure Hunt (Answer Key)

Find these terms in the U.S. Constitution and Colorado Constitution	U.S. Constitution	Colorado Constitution
Legislative	Article I	Article V
Executive	Article II	Article IV
Judicial	Article III	Article VI
Judges	Article III	Article VI
Good behaviour	Article III	None
Willful misconduct	None	Article VI

Discussion questions

- What is good behavior?
- Did you notice that the word *behaviour* in the U.S. Constitution is spelled differently than we spell it today in the United States, *behavior*? Why is this?
- What is willful misconduct?
- Why do you think both the U.S. and Colorado constitutions provide that a judge's compensation cannot be reduced while the judge is serving in office?
- Why is it important to limit the government's power over citizens?
- What are the differences between the way federal judges are chosen and the way Colorado judges are chosen? Which system do you think is better?
- What rights and responsibilities do citizens in Colorado have to select and retain judges?
- How do the U.S. and Colorado Constitutions reflect the ideas and people of the time? How has that changed?



176 Amendments and Counting

Objective: Students will be able to describe why Colorado’s practice of amending its constitution is unique and the benefits and pitfalls of having a constitution that is easy to amend.

Inquiry Questions:

- How do the structures of Colorado’s governments impact democratic decision making?
- What are the rights and responsibilities of people in the United States?
- How do the 176 amendments to Colorado’s Constitution impact how the state government functions?
- How does the ability to easily amend the constitution serve the people of Colorado?

Colorado Academic Standards

- **SS.HS.4.2.EOc.** Analyze the processes for amending the Constitutions of Colorado and the United States and the significant changes that have occurred to those documents including both the Colorado and the United States’ Bills of Rights.
- **SS.HS.4.2.EOe.** Describe the role and development of the founding documents of Colorado and the United States from their inception to modern day. Including but not limited to: the Great Law of Peace, the Declaration of Independence, the Constitutions of the United States and Colorado, the Federalist Papers, and the Bill of Rights.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Video, discussion

Grade Level: High School

Anticipated classroom time: 45 to 60 minutes

Teacher background information

This lesson focuses on the history of Colorado’s Constitution, which has been amended more than 176 times since it was passed in 1876. This fact has established the “People’s Constitution” as one of the most easily amended state constitutions in the country. From its early days as a tri-lingual document written in English, Spanish and German, to the controversial Tax Payer’s Bill of Rights (TABOR), there have been complex and unintended consequences to the state’s constitution.

There are three ways to amend the Colorado state constitution. First, an initiative may be proposed directly by the people of Colorado, receive a required number of signatures on a petition, and then be voted on in a state-wide referendum, which must receive a 55% majority in order to be adopted. Second, the state assembly may draft an amendment, approve it by a two-thirds majority vote in each house, and then send it to the voters, who must again approve it with a 55% majority in a state-wide referendum. In either of these methods, if the amendment is limited only to repealing a part of the constitution, it only needs a simple majority approval in state-wide referendum. Third, the state assembly may call a constitutional convention by a two-thirds majority vote in each house and simple majority approval of voters in a state-wide referendum, with members then determined by state-wide election using state senate districts, who would submit alterations to the voters to approve as a slate via simple majority. Despite these relatively high bars to passing any given amendment, at least 176 amendments to the constitution have been passed since its initial adoption in 1876.



Class Activity

Note: It would be useful to teach the U.S. and Colorado Constitution lesson before teaching this lesson.

1. Ask students what they know about the Colorado Constitution (or what they learned from the U.S. and Colorado Constitution lesson).
2. Review questions on the viewing sheet and encourage students to answer the questions as they are viewing the video.
3. Watch [PBS' Colorado Experience: The Colorado Constitution](#). *Note that this video was made in 2013, when the constitution had been amended 152 times. In the past 10 years it has been amended 24 more times.*
4. Review the questions from the viewing sheet, asking for students to quickly share their responses.
5. Spend time discussing the last question on the sheet.

Homework assignment

1. Have students write a short response to these prompts: "Why do you think the Colorado Constitution is often called the People's Constitution? Do you think the ease with which the constitution can be amended enhances or detracts from our democracy?"
2. Evaluate using your classroom rubric.



Colorado Constitution video questions

(from the Colorado Department of Education [Colorado government lessons](#))

1. How many times has the state constitution been amended since 1876? _____
2. When was the Colorado Constitution finally completed? _____
3. Why did early Coloradans find it necessary to create their own government?
4. What major event was occurring when Colorado became a territory? _____
5. Why did Colorado need to become a state? Provide at least 3 reasons:
6. In what year was the Colorado Constitutional Convention? _____
7. Why is the Colorado Constitution written in 3 languages?
8. Why are water rights an important part of the constitution?
9. What was the controversy over water rights in Northern Colorado?
10. When did Colorado grant women the right to vote? _____ Why is this significant?
11. What is a ballot initiative?
12. How can Colorado citizens change or add to the Colorado Constitution?
13. What major event was voted down by Colorado voters in 1976?
14. Explain Amendment 2 and its significance.
15. What is TABOR? What are its limitations?
16. List 5 interesting facts about the Colorado Constitution that you learned from this video.



How Democratic Societies Resolve Disputes

Objective: Students will be able to explain with the different levels of courts and how various cases might be heard and resolved.

Inquiry Questions:

- How do the structures of the United States, state, and local governments impact democratic decision making?
- What are the benefits of having three tiers of courts in Colorado?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background information and lecture outline provided); class Participation activity; and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

By former Colorado Court of Appeals Judge Sandra I. Rothenberg

U.S. citizens and non-citizen residents want and expect their government to resolve certain problems. However, it is important to remember that we are a nation of limited government. The founders of this country intended that our government be a system of checks and balances, and each of the three branches of government — executive, legislative, and judicial — is designed and permitted to respond in a different way.

Generally speaking, the court system is the forum designated to resolve disputes that cannot be resolved privately. The authority of the federal courts is contained in Article III of the U.S. Constitution. The authority of the state courts arises from each state’s own constitution. Article 6, § 5 of the Colorado Constitution describes the powers and duties of our state courts.

British rule, courts often acted arbitrarily and without regard to individual rights or fair procedure. The founders therefore held a deep distrust of overly powerful government and courts that were allowed to act with impunity. To guard against such abuses, they provided for an independent judiciary to resolve disputes that arise among the people.

An independent judiciary is created by providing, among other things, lifetime appointments for federal judges, which frees them from political pressures. Also, the Bill of Rights amending the Constitution provides fundamental protections, such as the rights to due process, a trial by jury, speedy trial, freedom from unlawful searches and seizures, and equal protection. The Colorado Constitution includes many of the same protections.

In Colorado, we have a three-tiered court system. Trials to the court or a jury first occur in the district and county courts. There are 378 state trial judges, and they received 592,227 new court filings in fiscal year 2024. The parties have the right to one appeal from the decision of the trial court.



The Colorado Court of Appeals is the intermediate reviewing court, which serves to correct legal errors that occur at the trial court level. There are 22 appellate judges who review cases in panels of three and determine whether the trial process was fair and whether proper legal principles were followed. In fiscal year 2024, 2,305 appeals were filed. Any further review is discretionary.

The court of last resort in Colorado is the Colorado Supreme Court, which consists of seven justices who sit together on each case. Occasionally, cases involving important constitutional issues may be further reviewed by the U.S. Supreme Court in Washington, D.C. These layers of review help to ensure that justice is done in each case.

Our court system, like all human institutions, is imperfect. But we can take pride in the fact that it has endured for more than 200 years and remains an effective means of resolving disputes, protecting individual rights, and providing a check on the other branches of government.

Three-tiered system of Colorado courts

Compiled with information from the American Bar Association and the State Court Administrator's Office.

Courts are established to interpret and apply the law when parties dispute. Courts apply the law to specific controversies brought before them. They resolve disputes between people, companies and units of government. Often, courts are called upon to uphold limitations on the government. They protect against abuses by all branches of government. They protect minorities of all types from the majority, and the rights of people who can't protect themselves. They also embody notions of equal treatment and fair play. The courts and the protections of the law are open to everyone.

Application and enforcement of laws won't work without an independent judiciary — courts that are not governed by the political powers-that-be. An independent judge can assure that your case will be decided according to the law and the facts, not by shifting political currents.

In any state, there are not one but two distinct court systems: state courts and federal courts. More than 95 percent of cases are handled by the state courts. The great bulk of legal business — traffic offenses, divorce, wills and estates, buying and selling property — is handled by the state courts, because all of these areas are governed primarily by state laws. (Colorado also has municipal courts that handle cases such as local code enforcement and minor traffic offenses, and these courts are not part of the state court system).

Basically, the courts of this country are divided into three layers:

- trial courts, where cases start;
- intermediate (appellate) courts, where most appeals are first heard; and
- courts of last resort (usually called supreme courts), which hear further appeals and have final authority in the cases they hear.

This division is generally true of both state courts and federal courts.

Some domestic relations, civil, and criminal cases can be settled through alternative dispute resolution, which includes the use of such tools as mediation and/or arbitration rather than litigation in a court. Mediations and arbitrations can be court-ordered or voluntary. They can be a very effective way to settle a disagreement, often saving time, resources, and money. However, most cases go through the formal court system, which follows a strict trial and appellate process.

In Colorado, criminal cases are first filed in the trial court of a judicial district. A misdemeanor offense (which is punishable with up to two years in the county jail) is handled in the county court. A felony offense (which is defined as a crime for which a penitentiary, or prison, sentence may be imposed) is handled in a district court.



Any trial or evidentiary hearings on motions are done in the trial court. If a defendant is acquitted of a crime after a trial, the district attorney generally cannot appeal the verdict and re-prosecute the defendant in another trial because the defendant is protected from re-prosecution by constitutional protections against double jeopardy. If a defendant is convicted in the trial court, he or she may appeal the judge's decisions and rulings that occurred in his/her case. In a civil trial, either party may appeal if there is a basis for the appeal. Appeals from district courts go to the Colorado Court of Appeals. County court appeals are done in the local district court, although these are relatively rare.

After the first round of appeals occur, either party may ask the Colorado Supreme Court to review the first appellate court's decision. The Supreme Court usually does not take such requests (known as "Petitions for writ of certiorari") because many petitions are filed and few cases can be dealt with by the Supreme Court. After the Colorado Supreme Court either issues a ruling on the case or denies the request to hear the case, either party may ask the U.S. Supreme Court (or sometimes a federal district court) to review the case if there is some federal constitutional or statutory issue involved. The U.S. Supreme Court accepts very few cases for review.

An appellate court does not re-try the facts of the case. Except in unusual circumstances, an appellate court must accept the facts that were ruled on by the trial court. If a jury verdict is returned, an appellate court cannot change a jury's verdict, although it may rule that the trial court committed such errors (such as admitting evidence that should have been suppressed or admitting really prejudicial evidence) that the conviction must be reversed and the defendant given another, more fair trial.

Appeals are argued in briefs, which contain the relevant law and recitation of the facts in the case that were presented to the trial court. Oral arguments are held in some cases to allow parties to answer questions of the appellate judges or justices and to give the attorneys a chance to argue their cases directly to the judges or justices.

When there is a hearing on a motion in a trial court, the trial court issues findings of fact. For example, in a motion to suppress the search of a car, the defendant may argue that he did not give police his consent to search and an officer may testify that the defendant did give consent. The trial judge makes a factual ruling as to what he or she believes happened. These findings of fact are usually binding on an appellate court when the case is reviewed on appeal. What is argued on appeal is whether the trial court erred in applying the law in ruling on an issue. If the trial court made a mistake in law, the appellate court will usually send the case back down to the trial court with instructions to correct the legal ruling it made.

If a defendant received an unfair trial because of a trial court ruling that the appellate court disapproves of, the defendant's conviction will be reversed and the case re-set for trial again.

A ruling by the U.S. Supreme Court on a federal constitutional issue (such as the Fourth Amendment issue) is the law of the entire United States. A state court can provide more protection under its own state constitution, but it cannot provide less constitutional protection than the minimum found by the U.S. Supreme Court.

In general, trial courts have to follow the constitution and the same statutes of the state. Of course, the constitution overrides any statutes passed by the legislature. If the legislature passes a law that violates a constitutional provision (such as only men can use a public swimming pool), a court may rule that the statute is unconstitutional and strike it down. The statute will, however, remain enforceable law until it is challenged and rejected through the court process.

Any rulings about law by appellate courts are followed by lower courts. Appellate courts must follow legal rulings of superior appellate courts (for example, the Colorado Court of Appeals must follow the law decided by the Colorado Supreme Court). The whole body of appellate law grows consistently as opinions generally follow the reasoning and ruling of prior opinions (this is known as "stare decisis").



Lecture outline

Role of courts

The Judicial Branch upholds the rule of law in the following ways:

- holding trials that determine the guilt or innocence of persons accused of breaking the law;
- resolving disputes involving civil or personal rights;
- interpreting Colorado's constitution, interpreting constitutional provisions of laws enacted by the legislature and deciding what is the law of the state when none exists for certain situations;
- determining whether a law violates the Constitution of the United States or the State of Colorado;
- providing supervision for offenders placed on probation in lieu of incarceration;
- supervising the licensing and ethical conduct of attorneys; and
- providing appellate court review for decisions of lower courts.

Independent courts

- Courts not governed by political powers-that-be
- Independent judge can assure a case will be decided according to the law and the facts, not shifting political currents

Two distinct court systems

- Federal courts
- State courts
 - Handle more than 95 percent of cases
 - Traffic offenses, divorce, wills and estates, buying and selling property are governed primarily by state laws, so are heard in state courts
- State and federal courts divided into three layers
 - Trial courts, where cases start
 - Intermediate (appellate) courts, where most appeals are first heard
 - Courts of last resort (usually called supreme courts), which hear further appeals and have final authority in the cases they hear

Trial courts

- Some cases settled through alternative dispute resolution
 - Mediation and arbitration
 - Court-ordered or voluntary
 - Can save time, resources, money
- Most cases go through the formal court system
 - Criminal cases first filed in trial court of a judicial district
 - Misdemeanor offense handled in county court
 - Felony offense handled in district court
 - Trial or evidentiary hearings on motions done in trial court

Intermediate appellate courts

- If defendant is acquitted of a crime at trial, district attorney cannot appeal because defendant is protected against double jeopardy.
- If defendant is convicted in trial court, may appeal the judge's decisions and rulings
- Either party can appeal a civil case if there is a legal basis
- Appeals from county courts are done in local district court
- Appeals from district courts go to the Court of Appeals



Supreme Courts

- After first round of appeals occurs, either party may ask Supreme Court to review decision
- Few cases can be dealt with by Supreme Court
- After Supreme Court either issues a ruling on the case or denies the request to hear the case, either party may ask the U.S. Supreme Court (or sometimes a federal district court) to review the case if there is federal constitutional or statutory issue involved
- U.S. Supreme Court accepts very few cases for review

Appellate process

- Appellate court does not re-try facts of the case
- Appellate court must accept facts that were ruled upon by the trial court
- If jury verdict is returned, an appellate court cannot change a jury's verdict
- May rule that the trial court committed such errors that the conviction must be reversed and the defendant given another trial
- Appeals argued in briefs
- Oral arguments may be granted to allow parties to answer questions of the appellate judges and to give the attorneys a chance to argue their cases directly to justices
- When there is hearing on a motion in trial court, trial court issues findings of fact
- Findings of fact binding on an appellate court when case is reviewed on appeal
- What is argued on appeal is whether trial court erred in applying the law in ruling on an issue
- If the trial court made a mistake in law, the appellate court sends the case back down to the trial court with instructions to correct the legal ruling it made
- If defendant received unfair trial because of trial court ruling that the appellate court disapproved of, conviction reversed and case re-set for trial

Constitutional issues and rulings

- Ruling by the U.S. Supreme Court on federal constitutional issue is law of the entire U.S.
- State court can provide more protection under its own state constitution
- Cannot provide less constitutional protection
- Trial courts have to follow the constitution and the same statutes of the state
- Constitution overrides any statutes passed by legislature
- Rulings about law by appellate courts followed by lower courts
- Appellate courts must follow legal rulings of superior appellate courts
- Whole body of appellate law grows consistently as opinions follow the reasoning and ruling of prior opinions

Class activities (select one; consider assigning the other as homework)

1. Discuss movies that feature court cases (not just arrests or "brushes with the law"), such as *To Kill a Mockingbird*, *12 Angry Men*, *A Time To Kill*, *Philadelphia*, *A Few Good Men*, and *A Civil Action*. Discuss the types of cases that are featured, how they are resolved, and whether or not the students agree with the outcome. Fill in the grid titled "Courts in the Movies."
2. Find a current news article about a court case. Fill in the worksheet titled "Courts in the News."



Courts in the movies

Movie	Type of Case (criminal, domestic, civil)	Court setting (State/Federal? Jury trial?)	Facts of the Case	How resolved?



Courts in the News

What is the title of your news article? _____

What media source is it from? _____

Who wrote the article (if an author is listed)? _____

What kind of case is mentioned (domestic relations, criminal, civil)? _____

Give a one-sentence summary of the facts of the case. _____

Which court is hearing or heard this case (county, district, appellate)? _____

Is the case in the state courts or federal courts (if the article mentions "U.S. District Court" or "federal judge," it is a federal case, not a state case)? _____

Is the article stating facts, an opinion, or both? _____

If it states an opinion, what is the opinion? _____

Do you agree with the opinion stated? Why or why not? _____

Was a sentence proposed or given? Do you agree with the sentence? Why or why not? _____



How the Colorado Judicial Branch Works

Objective: Students will be able to explain the structure of the Colorado judicial courts and what cases they handle to deepen their understanding of state government.

Inquiry Questions:

- How are the roles of the different courts similar and different?
- What types of cases do each level of courts handle?
- How do the structures of the state governments impact democratic decision making?
- What are the benefits of having three tiers of courts in Colorado?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background material, lecture outline, and overhead slide provided); class participation activity (worksheet/answers provided); and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

by former Colorado Court of Appeals Judge James S. Casebolt

The Colorado Judicial Branch works by providing multi-level forums to resolve disputes among its citizens. Each court has a special function or purpose.

Almost all court matters originate in a Trial Court or agency. There, judges and juries listen to witnesses, resolve issues of fact, and apply the law to the facts they have found. This results in a decision in favor of one party and against the other.

An unhappy trial participant then has the right to have an appellate court review what the judge and jury did. This first-level appellate court must hear every appeal properly presented to it, ensuring that a litigant's case is reviewed at least once. In most instances, the district court acts as the appellate court for county and municipal trial courts. The Court of Appeals is the reviewing court for district court cases and matters originating from administrative agencies.

Appellate courts correct errors that the trial judge may have made, such as by incorrectly allowing certain evidence to be introduced. Appellate courts do not hear witnesses and do not decide facts. Instead, they review transcripts of the proceedings, research the law, and decide how the law should apply to the facts the trial judge, jury, or agency determined to be true. Appellate courts may require the Trial Court or the agency to hold a new trial when errors have substantially affected the fairness of the first trial.

Following a decision from the first-level appellate court, a party can request review by the Supreme Court. This court, which primarily hears matters of great public importance or those that may have



universal application to the dispute-resolution system as a whole, has discretion in determining which cases it wants to hear, with some exceptions. As with other appellate courts, the Supreme Court reviews transcripts of the trial proceedings and then determines what the law is or should be for that particular matter. It typically renders far-reaching opinions that serve as guides for the Court of Appeals and Trial Courts.

The multiple levels of our court system ensure that a litigant has his or her day in court, protected by the rule of law. Because the system functions fairly and impartially, the people accept and abide by its decisions. Knowledge of how it functions and protects the rights of everyone enhances citizen acceptance of its work.

Judicial Branch Organization

The [Colorado Supreme Court](#) is the state's court of last resort. Requests to review decisions of the Colorado Court of Appeals constitute a majority of the Supreme Court's filings.

The [Colorado Court of Appeals](#) is the state's intermediate appellate court. The Court of Appeals has jurisdiction, with exceptions, over appeals from the Colorado District Courts.

There are [23 Judicial Districts](#) within Colorado. The last major revision was in Jan. 2025 when the current 18th Judicial District, comprising Arapahoe, Douglas, Elbert and Lincoln counties, split into two judicial districts. Douglas, Elbert and Lincoln counties became part of the newly created 23rd Judicial District, and Arapahoe County remained in the 18th District. It was the first time since 1963 that a new judicial district was added. Changes in district boundaries require a two-thirds vote of each house of the Legislature.

District Court is a court of general jurisdiction, handling criminal, civil, domestic relations, juvenile, probate, and mental health cases.

[County Court](#) is a court of limited jurisdiction, handling misdemeanors, criminal traffic violations, civil traffic infractions, small claims, felony complaints (which may be sent to District Court), and civil cases of under \$25,000.

There are seven [water courts](#), one in each of the major river basins (South Platte, Arkansas, Rio Grande, Gunnison, Colorado, White, San Juan rivers). They are the district court divisions in that basin.

[Probation](#) is also the Colorado Judicial Branch's responsibility. Managed by the chief probation officer in each judicial district, probation employees prepare assessments and pre-sentence information for the courts, supervise offenders sentenced to community programs, give notification and support services to victims, and provide special program services. As of July 1, 2024, there were 66,552 adults and juveniles on probation. In addition, 8,658 adults were on private probation or DUI monitoring.

Personnel

The head of the Colorado Judicial Branch is the chief justice of the Supreme Court, who is elected to the position by Supreme Court justices. The justices select a state court administrator to oversee the branch's daily administration.

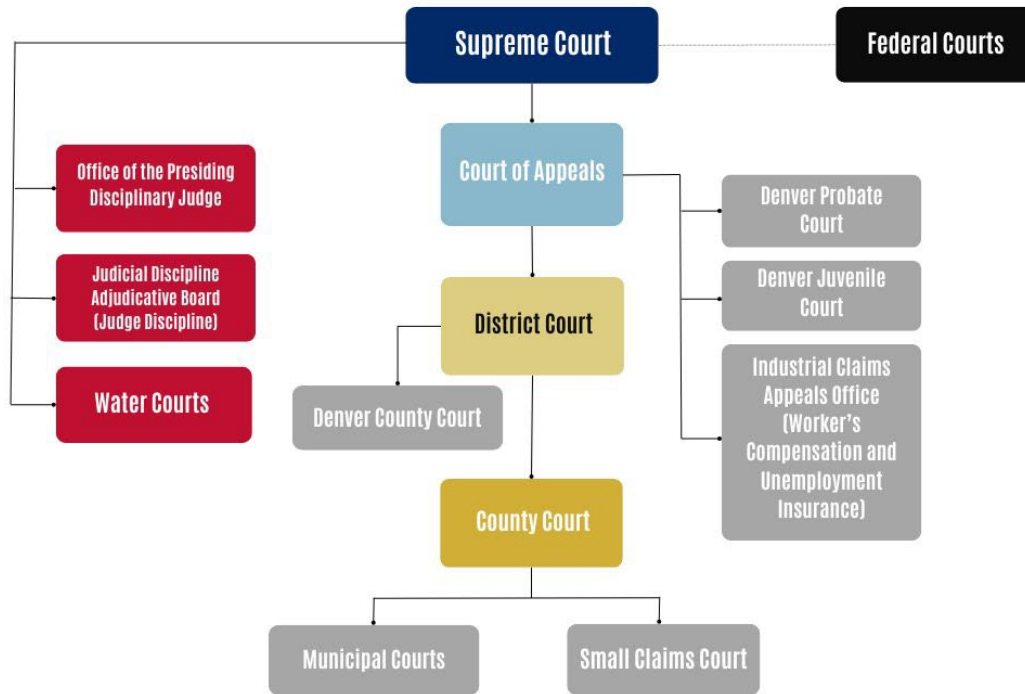
As of July 1, 2024, the Colorado Judicial Branch has 378 authorized positions for justices and judges: seven Supreme Court justices, 22 Court of Appeals judges, 210 District Court judges and 139 County Court judges. The Branch also had 93 positions for full-time & part-time magistrates and 40 senior judges. There are 19 Denver County Court judges, who are appointed by Denver's mayor.

Courts funded by the state's General Fund include: Supreme Court, Court of Appeals, District Courts, and County Courts. Municipal and Denver County courts are funded by their local governments.

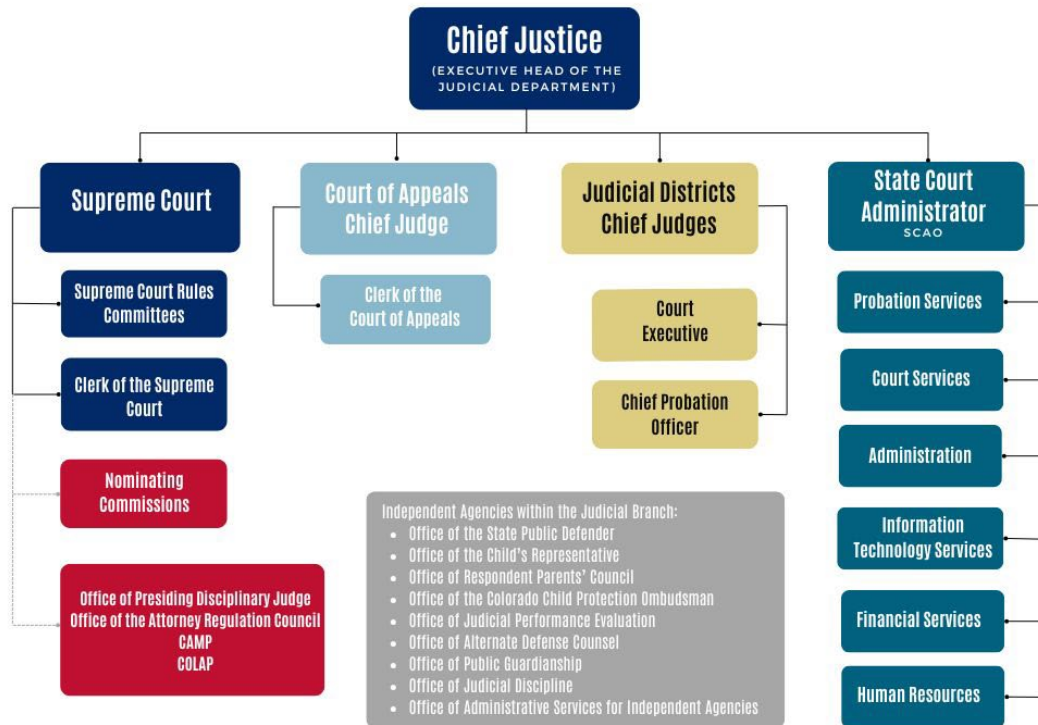


Organizational Charts

COLORADO JUDICIAL CASE FLOW AND JURISDICTION



JUDICIAL ADMINISTRATIVE AUTHORITY STRUCTURE



Colorado Supreme Court

The Colorado Supreme Court is composed of seven justices serving ten-year terms and is the Colorado court system's court of last resort. The Chief Justice is selected by the justices from the membership of the Supreme Court. Pursuant to Article VI, Section 5(2) of the Colorado Constitution, the Chief Justice serves as the executive head of the Colorado Judicial System and is the ex-officio chair of the Supreme Court Nominating Commission. The Chief Justice also appoints the Chief Judge for the Court of Appeals and for each judicial district.

Requests to review decisions of the Colorado Court of Appeals constitute a majority of the Supreme Court's filings. The Supreme Court has direct appellate jurisdiction over cases involving decisions of the Public Utilities Commission, writs of habeas corpus (a judicial directive to a prison official ordering that the prisoner be brought to court to determine if he or she is being lawfully held), cases involving adjudication (affirmation) of water rights, and prosecutorial appeals concerning search and seizure questions in pending criminal proceedings. All of these appeals are filed directly with the Supreme Court, bypassing the Court of Appeals. The Supreme Court also has exclusive jurisdiction to promulgate rules governing practice and procedure in civil and criminal actions.

The Supreme Court also licenses and disciplines Colorado attorneys. The court's attorney regulation system, funded by attorney registration fees, polices the profession. In addition, the court oversees the State Court Administrator, Board of Continuing Legal Education, Board of Law Examiners, Commission on Judicial Discipline, and Unauthorized Practice of Law Committee.

WORKLOAD	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Pending July 1	426	329	372	474	522
New Filings	1474	1503	1502	1451	1340
Caseload	1900	1832	1874	1925	1862
Terminations	1571	1460	1400	1403	1373

Colorado Court of Appeals

The Colorado Court of Appeals, consisting of 22 judges who are retained by the public to serve eight-year terms, is the state's intermediate appellate court. The Court sits in three-member divisions to decide cases. The Chief Judge, appointed by the Chief Justice of the Supreme Court, assigns judges to the divisions and rotates their assignments. The mission of the Court of Appeals is to provide the citizens of Colorado with clear, impartial, and timely resolutions of appealed orders and judgments as provided by law. The Court of Appeals was created by statute; accordingly, jurisdiction is limited to the areas specified by state statute, together with the inherent powers granted to all courts.

Established under Section 1 of Article VI of the Colorado Constitution and Section 13-4-101, et seq., C.R.S. (Colorado Revised Statutes), the Court of Appeals has initial jurisdiction, with exceptions, over appeals from the Colorado District Courts, Denver Probate Court, and Denver Juvenile Court. In addition, the Court of Appeals has specific appellate jurisdiction over decisions originating from a number of state administrative boards and agencies, including the Industrial Claim Appeals Office. Reviews of the Court of Appeals' decisions are directed to the Colorado Supreme Court.



WORKLOAD	FY 2021	FY 2022	FY 2023	FY 2024
New Filings	2022	2240	2304	2305
Dispositions	2386	2405	2587	2320

Colorado Trial Courts

Established pursuant to Article VI of the Colorado Constitution, Colorado's state trial courts consist of county courts, district courts, and water courts (municipal courts are not part of the state court system). Colorado's district courts serve citizens of each county in the state. There are currently 196 district judges serving Colorado's 22 judicial districts. District judges preside over felony criminal matters, civil claims in any amount, juvenile matters (including adoption, dependency and neglect matters, juvenile delinquency, and paternity actions), probate, mental health, divorce proceedings, and water cases. Additionally, district judges handle appeals from Colorado municipal and county courts, and review decisions of some administrative boards and agencies.

Colorado's county courts serve the citizens of each county in the state as well. County judges handle cases involving serious public safety issues such as misdemeanor cases, felony advisements, setting bonds, and preliminary hearings. There are 114 county court judges. County judges also issue restraining orders in cases involving domestic violence arrest, issue search warrants, and preside over traffic cases and civil actions involving no more than \$25,000.

The Water Right Determination and Administration Act of 1969 created seven water divisions according to drainage patterns of various rivers in Colorado. Each water division is staffed with a division engineer, appointed by the state engineer; a water judge, appointed by the Supreme Court; a water referee, appointed by the water judge; and a water clerk, assigned by the district court. Water judges are district judges appointed by the Supreme Court and have jurisdiction in the determination of water rights, the use and administration of water, and all other water matters within the jurisdiction of the water divisions.

WORKLOAD	FY 2022			FY 2023			FY 2024		
	District	County	Water	District	County	Water	District	County	Water
New Filings	199840	344006	997	173568	355416	770	205927	381856	799
Terminations	198484	354841	NA	180750	364264	NA	205821	357744	NA

* County court case terminations do not include felony complaints.

* County court filings and terminations do not include cases from Denver County Court.



Class outline

General Structure of the Courts

The Colorado judicial system is modeled after the U.S. judicial system.

- Trial courts
- Court of Appeals
- Supreme Court

1) There are three main kinds of trial courts in Colorado: county courts, district courts, and water courts

A. County courts are courts of limited jurisdiction. In FY 2024, 381,856 cases were filed in Colorado's county courts (excluding Denver County Court). The county courts handle cases involving:

- misdemeanors
- traffic infractions
- small claims
- felony complaints (which may be sent to the district court)
- civil cases under \$25,000

B. District courts are courts of general jurisdiction. In FY 2024, 205,927 cases were filed in Colorado's district courts. There are 23 judicial districts in Colorado, composed of one to seven counties. These courts handle cases involving:

- felony criminal offenses
- civil cases in any amount
- domestic relations
- juvenile issues, including adoption, dependency and neglect, juvenile delinquency, and paternity actions
- probate issues
- mental health
- water cases

C. Colorado's seven water courts were established to have jurisdiction over water issues in the state's seven different river basins (South Platte, Arkansas, Rio Grande, Gunnison, Colorado, White, and San Juan). In FY 2024, 709 cases were filed in Colorado's water courts. Case issues include:

- water rights
- the use and administration of water
- all other water matters within the jurisdiction of water divisions

2) Court of Appeals

The Colorado Court of Appeals is the state's intermediate appellate court. Altogether there are 22 judges serving in this court, and they sit in panels of three to hear cases. The chief judge assigns these panels and regularly rotates them. These judges serve terms of eight years.

The Court of Appeals was created by statute, so its jurisdiction is limited to specifically defined areas. It has initial jurisdiction over appeals from Colorado District Courts, Denver Probate Court, and Denver Juvenile Court. Some types of cases skip the Court of Appeals and go directly to the Colorado Supreme Court for their first appeal.

In FY 2024, 2,305 new cases were sent to the Court of Appeals.



3) Supreme Court

The Colorado Supreme Court is Colorado's court of last resort. There are seven justices that make up the Supreme Court, and all of them hear every case, with limited exceptions; this is referred to as sitting en banc. These justices serve terms of 10 years.

The Supreme Court has the authority to accept or refuse cases on appeal from decisions in the Court of Appeals. It also is the court of first appeal in some circumstances, thereby skipping the Court of Appeals. These circumstances include cases involving:

- capital punishment
- water rights
- decisions of the Public Utilities Commission
- writs of habeas corpus
- summary proceedings initiated under Election Code
- search and seizure questions in pending criminal proceedings

Decisions made in the Colorado Supreme Court can only be further appealed to the U.S. Supreme Court, and then generally only when there is a question of constitutionality with regard to the federal constitution.

In FY 2024, 1,340 new cases were sent to the Supreme Court. Annual Statistical Reports dating back to Fiscal Year 2002 are available online at <https://www.coloradojudicial.gov/court-services/research-and-data>

Class activity

- Discuss and explain the different levels of Colorado's court system. An organization chart of the Judicial Branch has been included, which could be reproduced as a handout. This diagram can also be a valuable reference during the lesson.
- Complete the included worksheet (individual or in groups).
- Hold a class discussion stemming from the following questions: What are some current cases that you have heard about on TV or read about in the newspaper? Why are they in the court where they are currently being held?

Homework assignment

Note that answers to these questions can be found in the class outline.

1. Compare county courts to district courts. In what ways are they similar? In what ways are they different? Some areas to consider include the types of cases they handle, their jurisdiction, and placement in Colorado's judicial structure.
2. Compare trial courts (including both county and district) to the appellate courts (Court of Appeals and Supreme Court). What are their different functions? How does each type handle cases?



The Journey of a Court Case

Objective: Students will be able to identify what happens to cases as they travel within a court and between courts.

Inquiry Questions:

- How do the structures of the United States, state, and local governments impact democratic decision making?
- What are the benefits of having three tiers of courts in Colorado?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Class participation activity; homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

Introduction

By former Colorado Court of Appeals Judge Dennis Graham

Our legal system can trace its lineage to the English Common Law which was based upon the social order of the Middle Ages. English colonists brought to America the only law they knew, which was the law of England in the seventeenth and eighteenth centuries. When those colonists determined to separate from England, they based their arguments and their assertion of legal rights upon famous commentaries about Common Law developed by English legal scholars. Their view of the court system was also based upon their experiences with Common Law.

The concepts of court specialization and court jurisdiction have their roots in the Common Law. America's modern legal system makes use of specialized courts which may be grouped into two classes: trial courts of limited scope and appellate courts of relatively broad scope.

This lesson asks you first to focus on trial courts, while recognizing that amounts in dispute and types of offenses may well determine which trial court has jurisdiction to hear the case. Based upon our Common Law heritage, our system strives to assure that all who come before the trial court will be afforded substantial justice and a fair trial. Appellate courts serve as a check and balance to the trial courts. Review of the trial court proceedings and the law applied there helps the appellate court to determine whether the trial was fair. In some cases a higher appellate court will review an intermediate court and thereby provide a further check and balance.



Class activity

1. Distribute the incomplete flow chart to students. Working in small groups, have the students figure out the missing steps in a court case.
2. Check your answers and/or guesses against the complete flow chart.

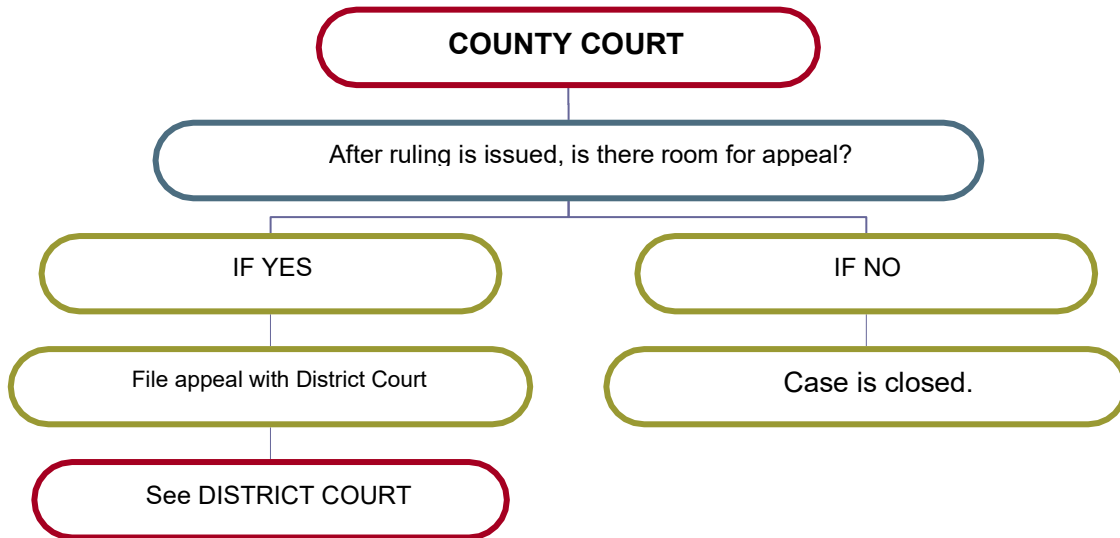
Homework assignment

1. Download cases from the [Colorado Judicial Branch's website](#) and distribute to students. Alternatively, you could have students find a case that interests them on the website, although some cases may deal with topics that may be triggering or inappropriate for students.
2. Have students write a one-paragraph summary about the case. Then have them make a flow chart for the journey of that specific court case. For instance, did it start in the trial courts? Can you tell if it was county or district court? Who won, and who appealed? Did it go to the Court of Appeals? Who won and who appealed there? What happened at the Supreme Court level? Where will the case go from here (i.e. is it closed, or will it go back to the trial court?)



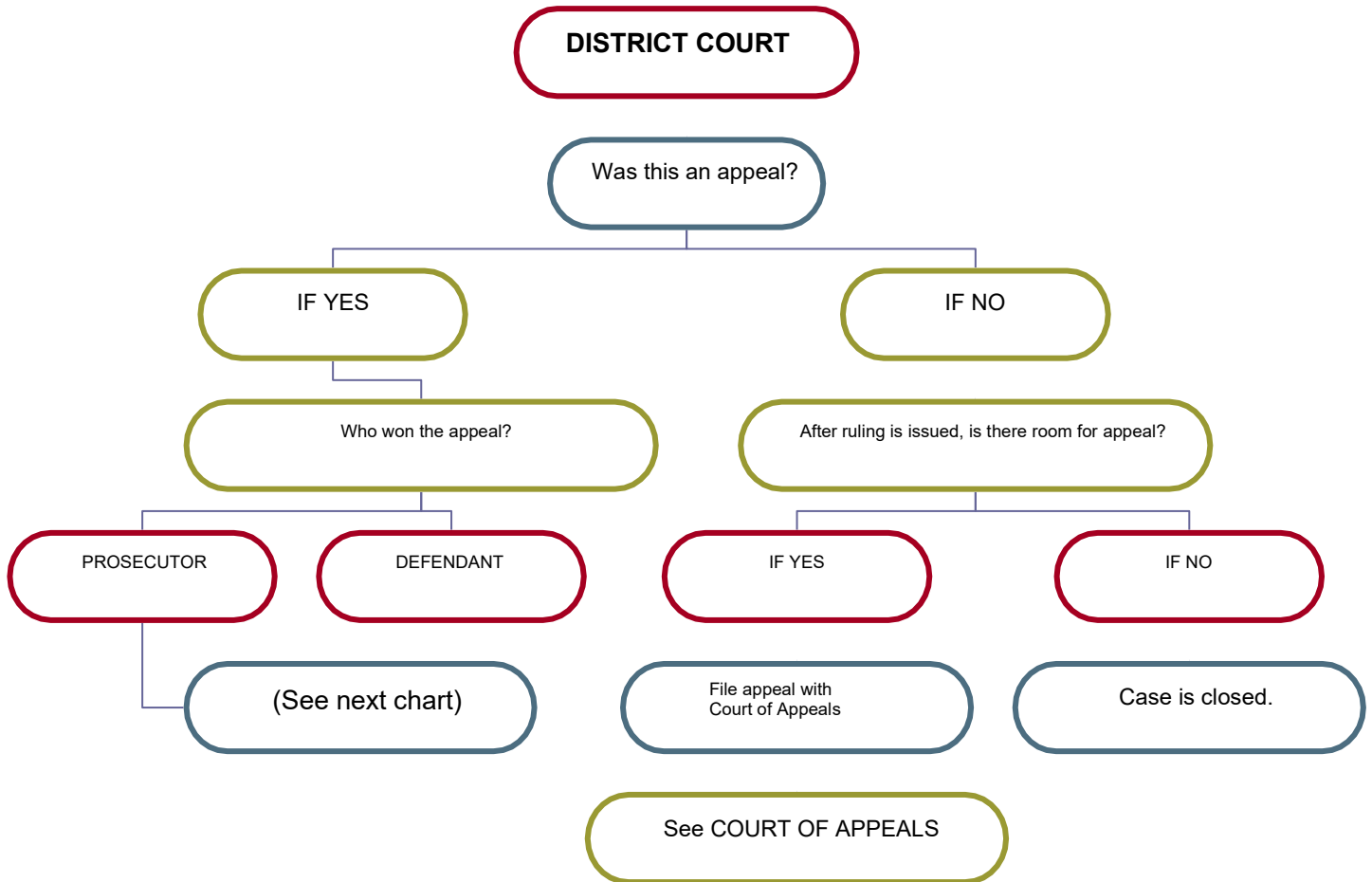
A Case in County Court

If the case is a serious public safety issue (such as misdemeanor cases, felony advisements, setting bonds, and preliminary hearings), traffic case, civil action less than \$25,000, or involves restraining orders or search warrants, the case will go to COUNTY COURT.



A Case in District Court

If the case is a felony criminal matter, civil claim over \$25,000, juvenile matter (including adoption, dependency and neglect matters, juvenile delinquency, and paternity matters), probate issue, mental health issue, divorce proceeding, water case, an appeal from a municipal or county court, or a review of a decision made by an administrative board or agency, the case will go to DISTRICT COURT.



DISTRICT COURT, continued

PROSECUTOR

DEFENDANT

Room for appeal?

Room for appeal?

IF YES

IF NO

IF YES

IF NO

File appeal with Court of Appeals

Case is closed.

File appeal with Court of Appeals

Case goes back to COUNTY COURT

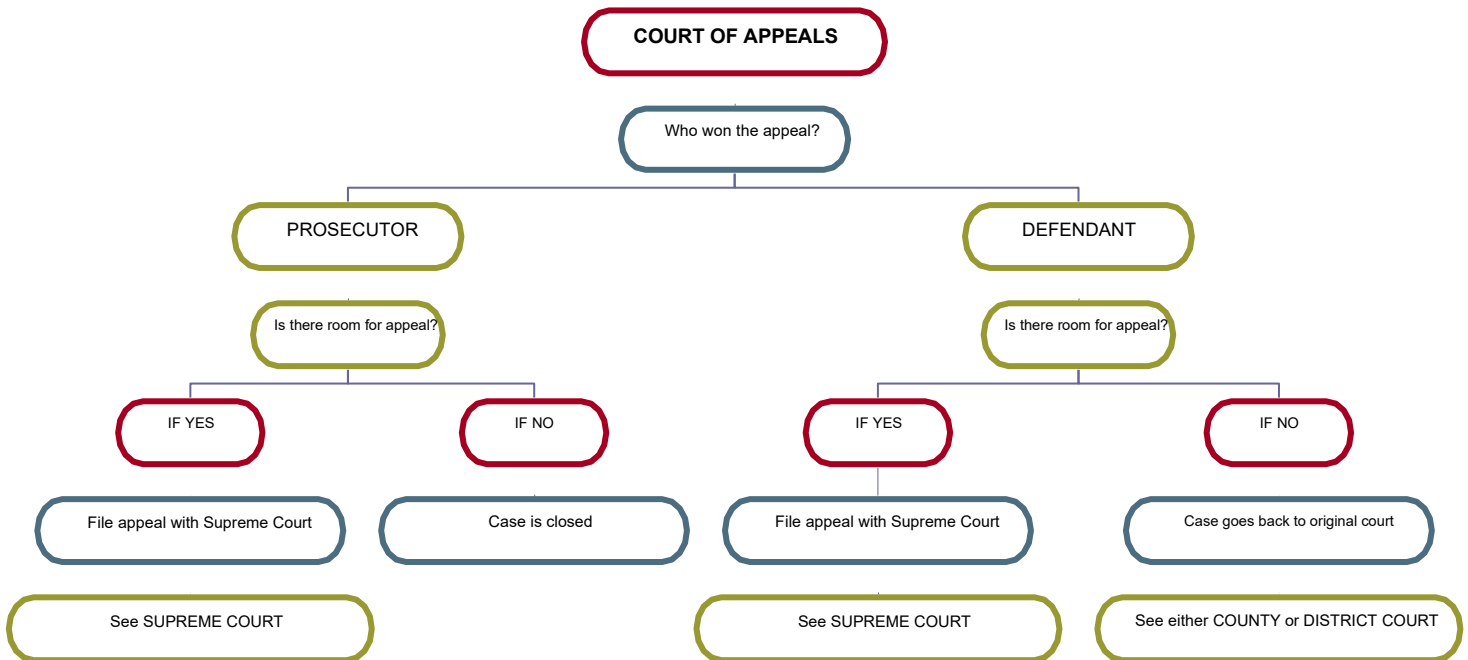
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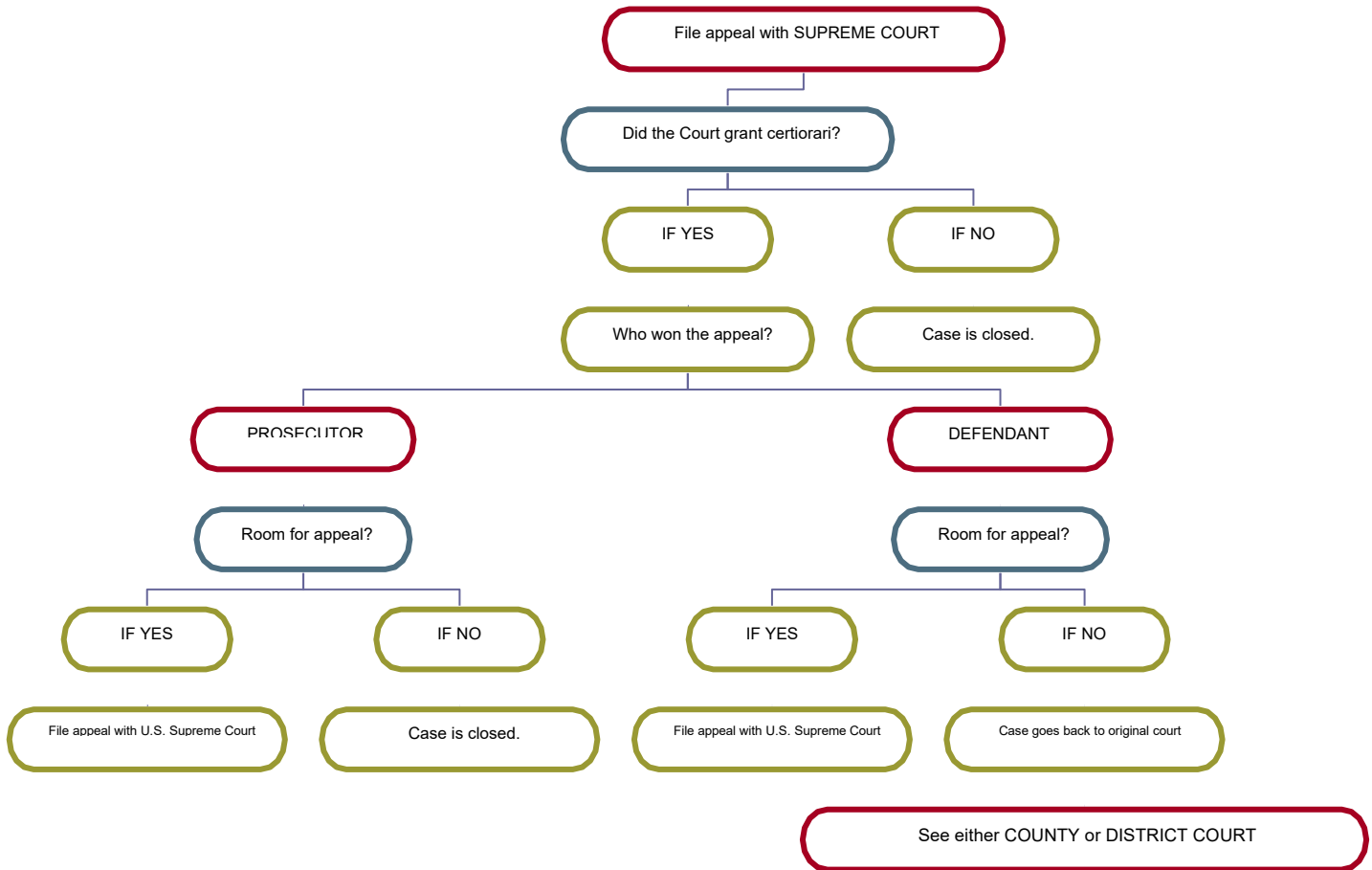
A Case in the Court of Appeals

If the case is an appeal of a judgment or order from the district, juvenile, or probate courts, or if it involves a review of a decision originating from a state administrative board or agency, the case goes to the COURT OF APPEALS.



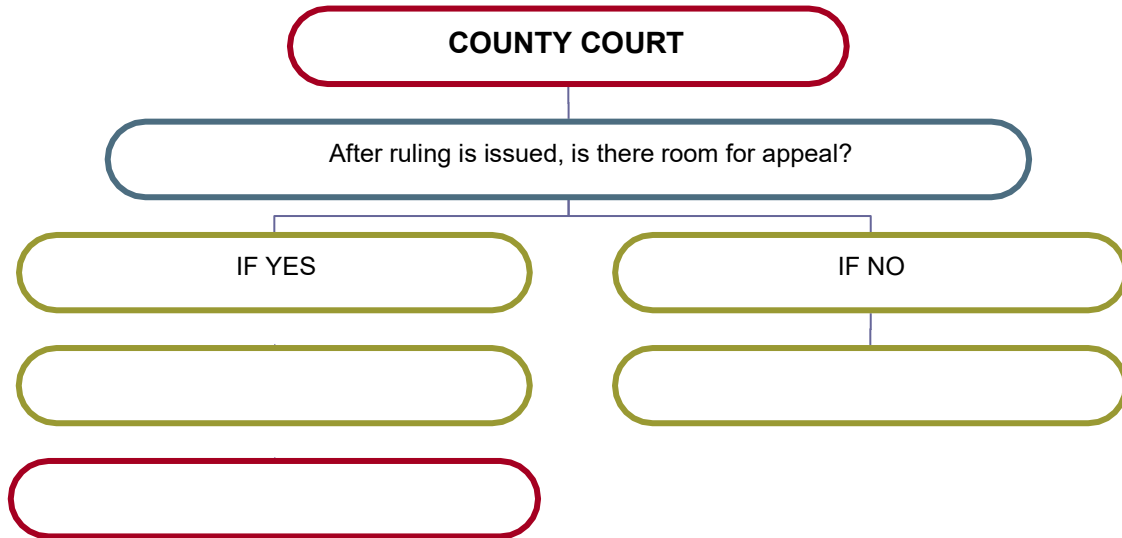
A Case in the Supreme Court

If the case is a review of a decision by the Court of Appeals, or if it is a case involving a statute that has been held to be unconstitutional, decision of the Public Utilities Commission, writ of habeas corpus, adjudication of water rights, summary proceedings initiated under the Election Code, or prosecutorial appeals concerning search and seizure questions in pending criminal proceedings, the case will go to the SUPREME COURT.



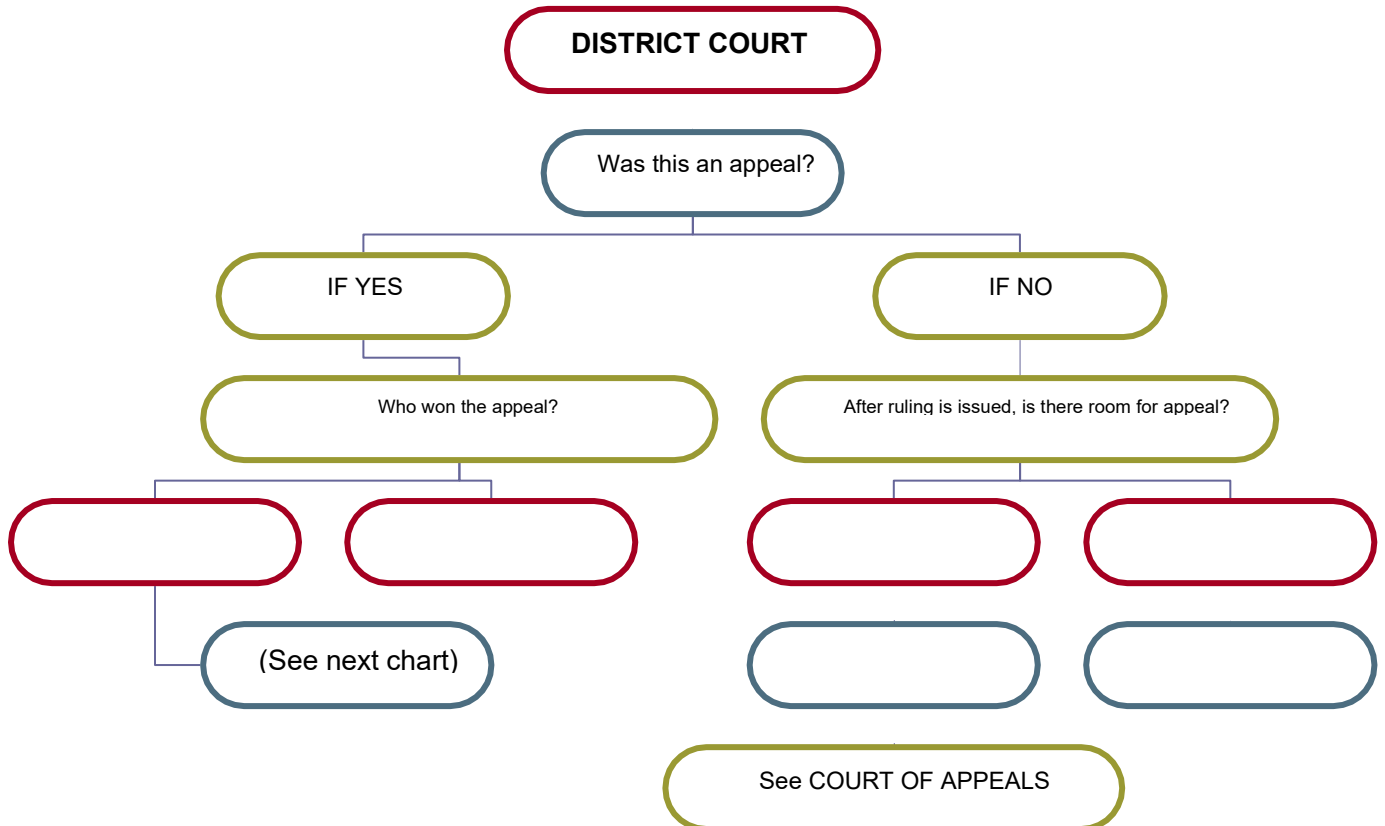
A Case in County Court

If the case is a serious public safety issue (such as misdemeanor cases, felony advisements, setting bonds, and preliminary hearings), traffic case, civil action less than \$25,000, or involves restraining orders or search warrants, the case will go to COUNTY COURT.



A Case in District Court

If the case is a felony criminal matter, civil claim over \$25,000, juvenile matter (including adoption, dependency and neglect matters, juvenile delinquency, and paternity matters), probate issue, mental health issue, divorce proceeding, water case, an appeal from a municipal or county court, or a review of a decision made by an administrative board or agency, the case will go to DISTRICT COURT.



DISTRICT COURT, continued

PROSECUTOR

DEFENDANT

Room for appeal?

Room for appeal?

IF YES

IF NO

IF YES

IF NO

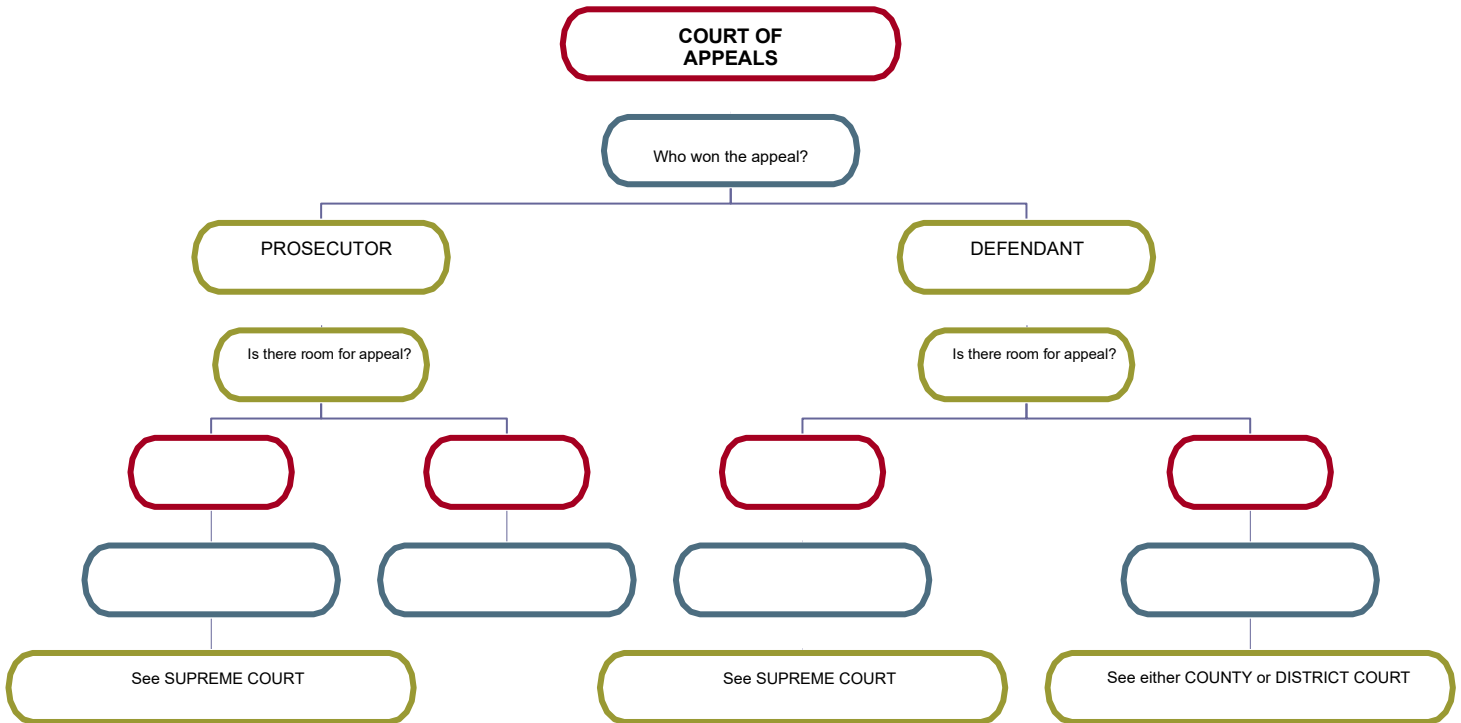
See COURT OF APPEALS

See COURT OF APPEALS



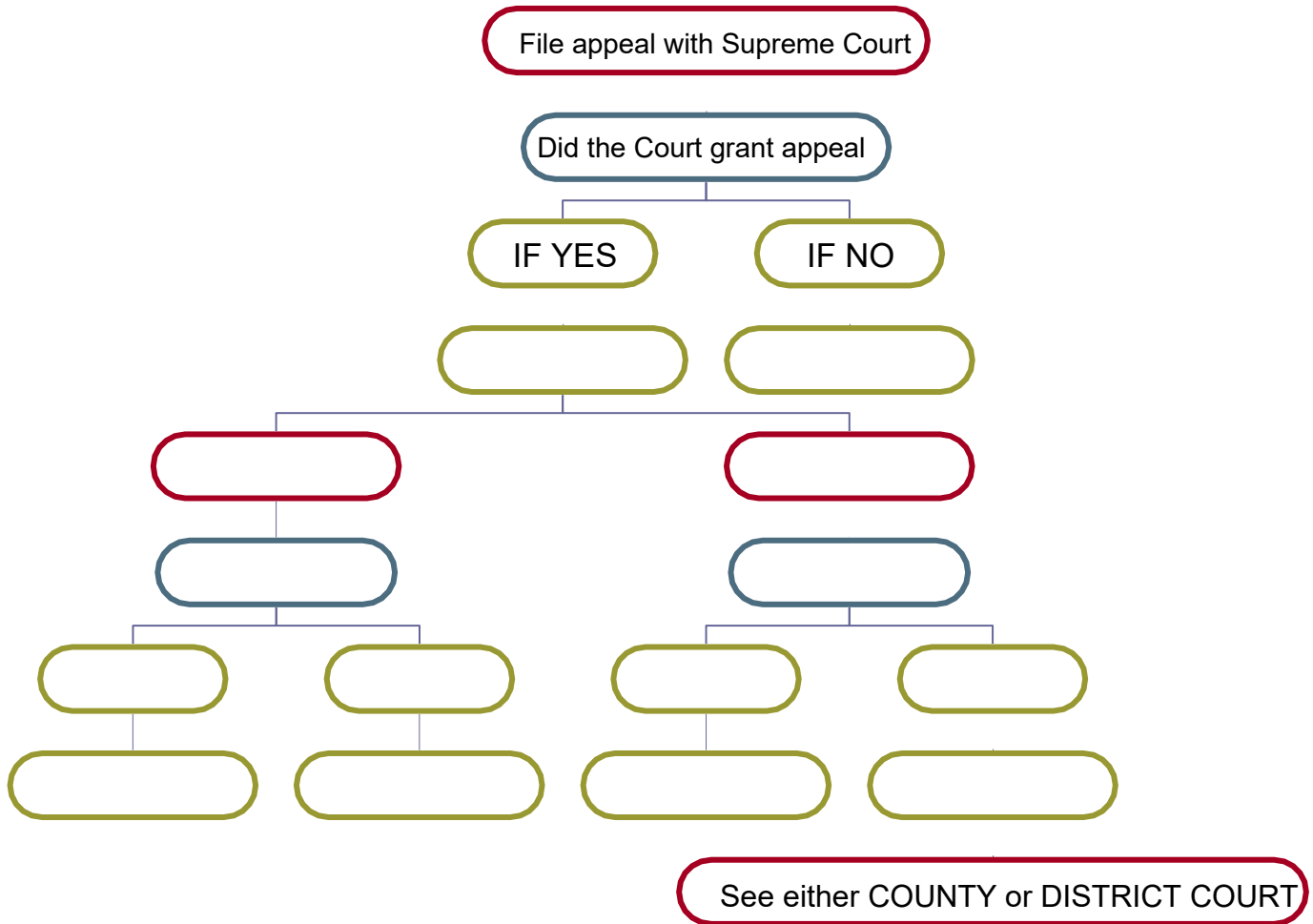
A Case in the Court of Appeals

If the case is an appeal of a judgment or order from the district, juvenile, or probate courts, or if it involves a review of a decision originating from a state administrative board or agency, the case goes to the COURT OF APPEALS.



A Case in the Supreme Court

If the case is a review of a decision by the Court of Appeals, or if it is a case involving a statute that has been held to be unconstitutional, decision of the Public Utilities Commission, writ of habeas corpus, adjudication of water rights, summary proceedings initiated under the Election Code, or prosecutorial appeals concerning search and seizure questions in pending criminal proceedings, the case will go to the SUPREME COURT.



How the Appellate Process Works

Objective: Students will be able to describe the appellate process and how a case is appealed.

Inquiry Questions:

- How are the roles of each court similar and different?
- How do the structures of state courts impact democratic decision making?
- What do you see as the benefits and drawbacks of the appellate process?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States.

Activities: Teacher lecture (background information and lecture provided); class participation activity.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

by former Colorado Court of Appeals Judge Arthur P. Roy

In my view, the appellate process is designed to accomplish two primary goals. The first is to dilute power; that is, it is to be a check on the application of the law by lower courts or agencies. The second is to have uniformity in the development and application of the law.

With respect to the first, there is an old adage that states: “power corrupts and absolute power corrupts absolutely.” Imagine a world in which a judge could make any decision he or she wanted without fear of an appeal. The appellate process accords the parties to a dispute a means of correcting the mistaken application of the law and the finding of facts with no support in the evidence.

With respect to the second, it is important in a fair system that the correct law be applied uniformly. This is why, in our tradition, courts can make law. The decisions of appellate courts are binding on lower courts as to the interpretation and application of the law. On occasion, the courts have made, or modified, law to resolve a dispute for which there is no applicable law. The law of contracts and torts was initially formulated and applied by the courts. The courts are also the final interpreter of the state and federal constitutions and, in that role, they are a check the power of the legislative and executive branches of government.

Because of these important functions, appellate courts are composed of more than one judge or justice. That way it takes more than one jurist to review the work of another and to make decisions binding on lower courts. Our court of appeals sits in panels of three judges, and the supreme court is composed of seven justices who hear all cases before that court.

Appellate courts do not hear witnesses or determine the facts in a dispute. This is a function of the trial court. Appellate courts are bound by the findings of fact made by the trial judge or the jury after hearing the witnesses and reviewing other evidence if those findings have any support in the evidence. Appellate jurists read briefs, hear arguments from counsel, research the law, and issue opinions stating the correct application of the law to facts of the case.



Appellate Process

Compiled with information from the American Bar Association and the State Court Administrator's Office

A popular misconception is that cases are always appealed. However, there usually must be a legal basis for an appeal, such as an alleged material error in the trial, not just the fact that the losing party didn't like the verdict.

In a civil case, either party may appeal to a higher court. In a criminal case in Colorado, the defendant has a right to an appeal, while the prosecution has a limited right to appeal to determine certain points of law. Prosecution appeals usually occur before the actual trial is concluded and go directly to the Supreme Court for determination. Appeals by the prosecution after a verdict in a criminal case are not normally allowed because of the prohibition in the U.S. Constitution against double jeopardy or being tried twice for the same crime.

Criminal defendants convicted in state courts have a further safeguard. After using all their rights of appeal on the state level, they may file a writ of habeas corpus in the federal courts in an attempt to show that their federal constitutional rights were violated. The right of a federal review imposes the check of the federal courts on abuses that may occur in the state courts.

The Colorado Court of Appeals must accept every case that is properly filed with the court. The Colorado Supreme Court does not have this requirement, however, and grants certiorari (the privilege of an appeal) to approximately 10 percent of the cases filed with the court. An appeal is *not* a retrial or a new trial of the case. The appeals courts do not consider new witnesses or new evidence. Appeals in either civil or criminal cases are usually based on arguments that there were errors in the trial's procedure or errors in the judge's interpretation of the law.

Appeal Procedure

The party appealing is called the appellant, or sometimes the petitioner. The other party is the appellee or the respondent. The appeal is instituted with the filing of a notice of appeal, then there is a time period within which the record must come up from the trial court. The receipt of that record by the Court of Appeals begins the time period within which the appellant must file an "Opening Brief," a written argument containing that side's view of the facts and the legal arguments upon which they rely in seeking a reversal of the trial court. The appellee then has a specified time to file an "Answer Brief," detailing his/her side and addressing issues raised in the Opening Brief. The appellant then files a "Reply Brief," which is similar to a rebuttal. Because decisions of the appellate courts set precedents that affect the entire state, other interested parties can present their views about a case in amicus curiae (friend-of-the-court) briefs.

Appeals courts often make their decision only on the basis of the written briefs. In other cases, they hear oral arguments before deciding a case. The court may ask that the case be set for oral argument, or one of the parties may request oral argument. If a party requests an oral argument, it is mandatory in the Court of Appeals and within the discretion of the Supreme Court.

During oral arguments, lawyers are forbidden to read at length from the briefs, and they are limited to arguments raised in the briefs, unless permitted by the court. Each side's attorney is given a relatively brief opportunity to argue the case to the court and to answer questions posed by the judges. In the Colorado Supreme Court, for example, an hour is set for oral argument of most cases, which gives each side's lawyers 30 minutes to make their oral argument and answer questions. In the Colorado Court of Appeals, the attorneys are allotted 15 minutes to make their arguments.



The appellate court determines whether errors occurred in applying the law at the lower court level. It generally will reverse a trial court only for an error of law. Not every error of law, however, is cause for a reversal. Some are harmless errors that did not prejudice the rights of the parties to a fair trial. For example, in a criminal case, a higher court may conclude that the trial judge gave a legally improper instruction to the jury. However, if the mistake was minor and, in the opinion of the appellate court, had no bearing on the jury's finding, the appellate court may hold it a harmless error and let a guilty verdict stand. On the other hand, an error of law such as admitting improper evidence may be determined to be harmful and therefore reversible error.

All seven justices on the Supreme Court hear and take part in every case reviewed by the Supreme Court (unless there is a conflict of interest). Immediately after the completion of oral arguments or review of the case, the justices meet in a conference room to determine the views of the members of the court and take a tentative vote. A majority is necessary to make a ruling in each case the court hears. The chief justice presides, and, in general, the members of the court express their views in order of seniority, with the most junior justice opening the discussion.

The chief justice assigns the case to one of the justices who has voted in the majority. The justice assigned to the case will, in most instances, write the court's majority opinion. The opinion is a statement of the court's decision and the reasons upon which that decision is based. The opinion may go through several drafts before a majority of the court agrees with it. Other justices can write concurring or dissenting opinions in the case. A concurring opinion is one in which a justice agrees with the majority opinion but not for the same reasons. A dissenting opinion is one in which a justice disagrees with the result reached by the majority of the other justices. However, the majority opinion is the official opinion of the court in the case.

Unlike the Supreme Court, Court of Appeals judges sit in panels of three to decide cases before the court. However, the composition of each panel of three judges rotates so that all Court of Appeals judges handle an equal amount of arguments. The judges discuss the case and take a vote to determine the views of the panel; at least two of the three judges on a panel must agree for an opinion to be issued. Usually, a case is assigned to a particular judge for the writing of the opinion before the actual oral argument or review of the case, but that assignment may change after the panel discusses the case. The other judges on the panel can write concurring or dissenting opinions if they so choose. Occasionally, the Supreme Court will simply issue an unsigned opinion. These are called *per curiam* (by the court).

If the appeals court affirms the lower court's judgment, the case ends, unless the losing party appeals to a higher court. The lower court decision also stands if the appeals court simply dismisses the appeal (usually for reasons of jurisdiction).

If the judgment is reversed, the appellate court will usually send the case back to the lower court (remand it) and order the trial court to take further action. It may order that a new trial be held, the trial court's judgment be modified or corrected, or the trial court reconsider the facts, take additional evidence, or consider the case in light of a recent decision by the appellate court. In a civil case, an appeal doesn't ordinarily prevent the enforcement of the trial court's judgment. The winning party in the trial court may order the judgment executed. However, the appealing party can file an appeal or supersedeas bond. The filing of this bond will prevent, or stay, further action on the judgment until the appeal is over by guaranteeing that the appealing party will pay or perform the judgment if it is not reversed on appeal.



Lecture Outline

Who Can Appeal

- Civil case
 - Either party may appeal to a higher court
- Criminal case
 - In Colorado, defendant has a right to an appeal; prosecution has limited right to appeal points of law during trial
 - Appeals by prosecution after a verdict are not normally allowed because of prohibition in U. S. Constitution against double jeopardy
 - After criminal defendant uses all rights of appeal on state level, may file a writ of habeas corpus in federal courts
 - Must show that their federal constitutional rights were violated

What Can Be Appealed

- Not all cases appealed
 - Must be legal basis
 - Appeal is *not* a retrial or a new trial
- Appeals courts do not consider new witnesses or new evidence
- Appeals based on arguments that there were errors in the trial's procedure or errors in the judge's interpretation of the law
- Colorado Court of Appeals
 - Must decide every case that is properly filed
- Colorado Supreme Court
 - Does not hear every case filed
 - Grants certiorari (the privilege of an oral argument) to approximately 10 percent of cases filed

Details

- Party appealing called the appellant or sometimes petitioner
- Other party is appellee or respondent
- Appeal is instituted with filing of notice of appeal
- Appellant must file an "Opening Brief"
- Appellee files an "Answer Brief"
- Appellant files a "Reply Brief"
- Other interested parties can present views in amicus curiae (friend-of-the-court) briefs
- Appellate court determines whether errors occurred in applying the law at the lower court level
- Generally appeals courts will reverse a trial court only for error of law
- Not every error of law is cause for reversal
- Some are harmless errors that did not prejudice the rights of the parties to a fair trial

Oral Arguments

- Appeals courts often make decision only on the basis of the written briefs
- Sometimes they hear oral arguments
 - Lawyers forbidden to read at length from the briefs
 - Limited to arguments raised in the briefs

Colorado Supreme Court

- All seven justices take part in every case (unless there is a conflict of interest)
- Each side given 30 minutes during oral arguments



- After the completion of oral arguments or review of briefs, justices meet to take a tentative vote
- Chief justice assigns the case to one of the justices who has voted in the majority
- Justice assigned to the case writes court's majority opinion; other justices can write concurring or dissenting opinions
- Concurring opinion is one in which a justice agrees with the majority opinion but not for the same reasons
- Dissenting opinion is one in which a justice disagrees with the result reached by the majority of the other justices

Colorado Court of Appeals

- Three judges (out of 22) decide each case
- Composition of each panel of three judges rotates so that all judges handle equal amount
- Majority is necessary to make a ruling
- After the completion of oral arguments or after reviewing the briefs, panel judges meet to take a tentative vote
- Usually a case is assigned to a particular judge for the writing of the opinion before the oral argument or review of briefs, but assignment may change after the panel discusses the case
- Judge assigned to the case writes court's majority opinion
- Other judges on the panel can write concurring or dissenting opinions

Judgments

- Occasionally Supreme Court will issue an unsigned opinion called per curiam
- If appeals court affirms lower court's judgment
 - Case can end
 - Losing party can appeal to a higher court
 - Lower court decision stands if appeals court dismisses the appeal
- If judgment is reversed
 - Appellate court will send case back to lower court
 - Order the trial court to take further action
 - May order that
 - New trial be held
 - Trial court's judgment be modified or corrected
 - Trial court reconsider the facts, take additional evidence, or consider the case in light of a recent decision by the appellate court

Civil case

- Appeal doesn't prevent the enforcement of the trial court's judgment
- Winning party in trial court may order the judgment executed
- Appealing party can file an appeal or supersedeas bond
- Filing of this bond will prevent further action on the judgment until the appeal is over



Class activity

Divide students in groups of three or four. Give each group one of the questions listed below and allow them 15 minutes to fill out the worksheet titled “Analyzing the Appellate Process.” Afterward, have the groups share their answers and/or group consensus, along with their reasoning, with the rest of the class.

1. Do you think it is right that the Colorado Supreme Court does not rule on every case filed with this court?
2. How do you feel about the process of having only three of the 22 judges on the Court of Appeals hear each case?
3. Do you think that the lawyers in a case should be limited to only the issues raised in the briefs? What if something “comes up” after the original trial?
4. Do you think it is reasonable that some cases are decided without oral arguments, based only on the written briefs?
5. Do you think the rule against “double jeopardy” is reasonable?
6. Do you think it is right that someone can repeatedly appeal court decisions? In these types of cases who should pay the expenses for the courts and the opposing side?



Analyzing the Appellate Process

Question you were given to analyze: _____

Students in your group: _____

Reasons why the appellate process works this way:

Reasons why it might not be fair: _____

Reasons why it could be considered fair: _____

Consensus of the group (fair or unfair?): _____



The Colorado Jury System

Objective: Students will be able to describe the jury selection process in Colorado, and the rights and responsibilities of individuals who are summoned to jury duty.

Inquiry Questions:

- How does the jury system support access to justice?
- How do the structures of state courts impact democratic decision making?
- What do you see as the benefits and drawbacks of the jury system?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States.

Activities: Teacher lecture (background materials and lecture outline provided); video about jury duty; class participation activity; homework assignment, “Anatomy of a Colorado Jury Trial” handout.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

Introduction

by former Colorado Supreme Court Justice Rebecca Love Kourlis, past Chair, Colorado Supreme Court Jury Reform Committee

The jury system is a cornerstone of justice in the United States. As a people, we believe that trial by jury serves two purposes. First, it allows individuals accused of a crime, or in some instances, of civil violations such as breaking a contract, or causing injury to someone else, the benefit of being tried by a jury of citizens. Those jurors bring their common sense, life experience and ability to judge character and credibility with them into the courtroom and the whole system benefits. Second, jury service involves members of the community in the court system and allows them to see, understand, appreciate and critique that system. Jurors are front-row spectators on justice, and are uniquely situated to offer suggestions for change and to prevent the system from becoming inbred and isolated from the public.

Jury service is a civic responsibility, an obligation we all undertake as a part of the cost of justice. Although many people cringe when they receive a jury summons because it interferes with their daily life, those same people report after serving that they both gave and received benefit. They learn about the system and witness it in action, and they perform an invaluable service to the parties in a case.

The Colorado Jury System

About 95 percent of all jury trials in the world take place in the United States. The jury system is a very important part of the court process in Colorado. The opportunity to serve on a jury allows citizens to become better informed about the courts and the law. Citizens who serve as jurors usually feel a sense of pride and respect for the U.S. system of justice.



Jurors are selected at random from a computerized list taken from voter registration, driver's license, non-driver identification, and Colorado Department of Revenue records. Juror summonses are then sent to the people selected, informing them when and where they are to appear for jury service.

Since 1990, Colorado law has made jury service more convenient by using a one day/one trial system. This means that, in each calendar year, persons summoned for jury service must serve only one day or, if selected for a trial, for the length of that trial. In addition, the Judicial Branch has been working to further reform the jury system. Changes are being made that are designed to ensure that jurors are treated with appropriate respect and courtesy, to improve the quality of the jury decision-making process, and to increase the overall efficiency of the system. Some of these significant reforms include:

- Respecting the use of the juror's time by conducting court proceedings in a timely manner and minimizing unnecessary delays;
- Respecting the personal privacy of jurors by limiting public access to individual juror information and sealing juror questionnaire forms;
- Reducing the burden of jury service by using the one-day/one-trial method of jury service;
- Expanding the composition of the jury pool by using additional sources of juror names;
- Permitting juror questions, note-taking/trial notebooks, and pre-deliberation discussions in many cases; and
- Communicating with the jurors in plain English.

The legal information contained here is from §§ 13-71-101 through 13-71-145, Colorado Revised Statutes (C.R.S.).

Frequently Asked Questions

What are the legal qualifications for jury service?

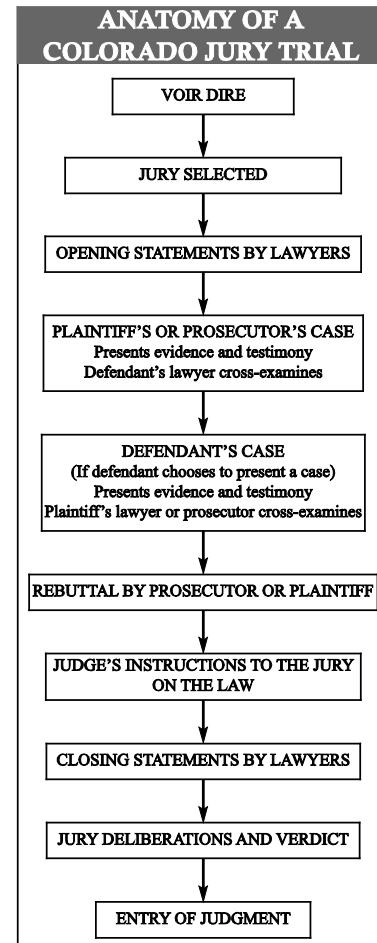
You must be 18 years of age or older; live in the county or municipality that summoned you; be a United States citizen; read, speak, and understand English; not have served for five or more days as a trial or grand juror in any court within the past 12 months; not be solely responsible for the daily care of a permanently disabled person living in your home; and not have a physical or mental disability that would prevent you from serving as a juror.

How was I chosen for jury service?

Each year, the Judicial Branch receives lists of all registered voters and all holders of driver's licenses and non-driver identification cards throughout the state, as well as records from the Colorado Department of Revenue. Throughout the year, each county requests names, based on the number of trials scheduled, which are randomly selected from the list.

Why do I receive summonses year after year, when other people don't?

Since the summons process is random, there is no easy explanation to this question. Each name goes into the system with a different random number attached to it each year. In some counties with small populations, almost every qualified citizen will be called for jury service each year due to the



number of jury trials requested. However, to help alleviate this situation, a new system was put into place in 2001 whereby an individual who receives a summons in one year will have a lower priority to be called the next year.

What if I have other commitments for the date I'm supposed to appear?

Call the jury commissioner's number listed on the summons. Jury service can be postponed to a date that is more suitable for you.

What is the "one-day/one-trial" system?

The "one-day/one-trial" system has been in effect since 1990 and describes the length of service required for trial jurors. Grand jurors serve a term of 12 months. "One day/one trial" means that any person who is summoned and appears for service may be released from further service unless that person is assigned to a particular trial. When a juror is assigned to a trial, the length of service will be the duration of that trial. In Colorado, the average length of a trial is three days.

How long can I expect to be at the courthouse for jury duty?

If you are not selected for a jury, you will likely be released around noon. If you are selected for a jury, the judge will inform you once you reach the courtroom how long the trial is expected to last. You will be here for the duration of the trial, with a typical day lasting from 9 a.m. to 5 p.m.

How are jurors assigned to trials?

Before a trial begins, jurors may be required to complete questionnaires that provide information relevant to jury service. The attorneys in the case will review this information prior to jury selection. When the jurors arrive in the courtroom, the judge will provide some initial instructions and the attorneys will ask additional questions of each juror. Each side in the case may ask the court to excuse any juror for a specific cause. Each side is also allotted a certain number of "peremptory" or discretionary challenges for which a cause need not be given. However, the law does not permit these challenges to be made in a discriminatory manner.

Who will pay me for serving as a juror?

If you have a regular job, your employer must pay you for the first three days of jury service. If you are self-employed, you must compensate yourself for the first three days. Unemployed persons may apply for reimbursement of certain expenses during the first three days. After the third day, all jurors receive \$50 per day from the state. There are provisions for special hardships and certain expenses; please discuss these with the jury commissioner.

Can I lose my job if I serve as a juror?

State law protects a juror's job. Section 13-71-134, C.R.S., says, "An employer shall not threaten, coerce, or discharge an employee for reporting for juror service as summoned."

What if my employer doesn't want to pay me for the first three days of service?

Your employer has a duty under state law (§ 13-71-126, C.R.S.) to pay regular wages up to \$50 per day if you are regularly employed. Employers may pay more than \$50 by mutual agreement. If you are a part-time or temporary worker and have worked for the same employer for three months or more, then you are a regular employee. You may sue an employer who fails to pay you for jury service.



Cast of Characters in a Jury Trial

Judge: The judge is in charge of everything that happens in the courtroom. The judge resides over the case and makes legal rulings. He or she also instructs the jury on the law. The judge must always be fair and impartial to all parties in a case.

Court Clerk: The court clerk may be present in the courtroom to assist the judge. The court clerk's duties include preparing a record of the events in the case; preparing and issuing warrants, subpoenas, and citations; arranging all of the calendar settings; collecting and recording fines, bail, and other money received in court; and arranging for interpreters.

Bailiff: The bailiff is in the courtroom to keep the proceedings going smoothly, to announce the judge, and to attend to the jury's needs. When the jury must leave the courtroom for a break or recess or while the judge converses with the attorneys, the bailiff acts as the jury escort. While the jury is deliberating after a trial, the bailiff acts as the jury's link to the judge and arranges for meals, beverages, etc. for the jury.

Court Reporter: The court reporter is specially trained to record everything that is said during official court proceedings. He or she uses either a special "shorthand" machine or a computer. The court reporter is responsible for preparing an official written transcript of the proceedings.

Jury: The jury in a trial listens to the arguments of the two sides, examines the evidence, takes instruction from the judge in the trial, then deliberates in private to decide whether the prosecutor/plaintiff has proved his or her case against the defendant. If the jury decides in favor of the plaintiff in a civil case, the jury also determines the amount of any monetary award (damages) that should be awarded to the plaintiff. The verdict of the jury must be unanimous.

Plaintiff: In a civil case, the person who is the complaining party, or who initiated the case, is called the plaintiff. The plaintiff can be a person, a group of persons, an entity, or the government. (In a criminal case, the complaining party would be the People of the State of Colorado, who are represented by the prosecutor.) Plaintiffs in both civil and criminal cases may represent themselves, and thus appear without an attorney.

Prosecutor/Plaintiff's Attorney: The prosecutor represents the People of the State of Colorado in a criminal case. In a civil case, the plaintiff's attorney represents the complaining party. The prosecutor/plaintiff's attorney explains to the judge and jury (1) what happened between the complaining party and the defendant, (2) why it was not legal, and (3) what the complaining party would like to see done to fix it.

Defendant: The defendant is the person(s) or entity against whom an action has been brought (and who must respond to the complaint). Like a plaintiff, the defendant can be a person, a group of persons, or an entity. Under the U.S. Constitution and the Colorado Constitution, the defendant in a criminal case is guaranteed representation by an attorney. If the defendant cannot afford an attorney and qualifies under certain poverty guidelines, an attorney will be provided for him or her. Defendants in both civil and criminal cases may represent themselves, and thus appear without an attorney.

Defense Attorney: In a criminal case, the defense attorney represents the person who has been accused of a crime. In a civil case, this attorney represents the respondent in the case (also called the defendant). The defense attorney tells the judge and jury what happened and wants them to find that what happened was not illegal or that the defendant did not do it.

Witness: Several types of witnesses may testify during a trial. People who witnessed a crime or an incident tell the court what they observed. Expert witnesses with special expertise in an area may be brought in by either side to explain something technical, like medical treatment or ballistics. Character witnesses may testify about the plaintiff or defendant personally in certain types of cases. Those who serve as trial witnesses are generally not allowed in the courtroom other than during their testimony.



Other People in the Courtroom: To ensure a fair trial or proceeding for all sides, the court must supply an **interpreter** for non-English speaking parties or witnesses. Members of the **press** may be in the courtroom to report on the proceedings. In a criminal trial, the **investigating officer** may sit at the prosecution's table and consult with the prosecutor during the trial. Various types of **advocates**, including victim's advocates and court-appointed special advocates, may be present during the proceedings. Finally, **observers** in the courtroom may include the parties' family and friends, as well as members of the community who are simply interested in the proceedings. Seating for observers in the courtroom is limited and is generally available on a first-come, first-served basis.

Glossary of Trial Terms

Civil Case: An action that is brought to enforce, redress, or protect an individual's or entity's private rights. The outcome is generally an amount of money awarded to the prevailing party.

Criminal Case: A case brought by the government (municipal, county, state, or federal) against an individual accused of committing an act that is considered harmful to the general public and is forbidden by law. Criminal acts are punishable by fine, imprisonment, or death.

Voir Dire: The questioning of prospective jurors by the attorneys in a case. Attorneys can, within limits, use this questioning to accept or excuse individual jurors until the full jury panel is chosen.

Opening Statement: The presentation by each side at the beginning of the trial, where the attorneys tell what the issues are and what they intend to prove during the trial.

Expert Witness: A witness with special expertise in an area who is brought in by one side in a trial to explain something technical, such as medical treatment or ballistics.

Motion: A proposal submitted by one of the parties in a trial for an action by the judge, such as a motion to dismiss the charges or a motion to suppress evidence.

Objection: An attorney's request during the trial that a specific question or testimony not be allowed. The objection is either sustained (approved) or overruled (disapproved) by the trial judge.

Recess: A break in the trial, such as for lunch or overnight.

Closing Argument: A speech by each side's attorney at the end of the trial, summarizing what they proved and how they want the jury to decide.

Deliberation: The time after the trial when the jury meets in private to decide the outcome of the case.

Verdict: The decision of the jury after a trial, such as whether a defendant was guilty or not guilty or whether damages will be awarded in a civil case.

Sentencing: The judge's decision after a criminal trial as to what a guilty defendant's penalty will be, such as jail time, probation, or community service.



Classroom discussion outline

- I. About 95 percent of all jury trials in the world take place in the United States.
- II. The jury system is a very important part of the court process in Colorado.
- III. Jurors are selected at random from a computerized list taken from voter registration, driver's license, non-driver identification, and Colorado Department of Revenue records.
- IV. Since 1990, Colorado has used the day/one trial system.
 - A. In each calendar year, persons summoned for jury service must serve only one day or, if selected for a trial, for the length of that trial.
 - B. In addition, the Judicial Branch has been working to further reform the jury system. Changes are being made that are designed to ensure that jurors are made that are designed to ensure that jurors are treated with appropriate respect and courtesy, improve the quality of the jury decision-making process, and increase the overall efficiency of the system. Some of these significant reforms include:
 1. Respecting the use of the juror's time by conducting court proceedings timely and minimizing unnecessary delays;
 2. Respecting the personal privacy of jurors by limiting public access to individual juror information and sealing juror questionnaire forms;
 3. Reducing the burden of jury service by using the one-day/one-trial method of jury service;
 4. Expanding the composition of the jury pool by using additional sources of juror names;
 5. Permitting juror questions, note-taking/trial notebooks, and pre-deliberation discussions in many cases; and
 6. Communicating with the jurors in plain English.
- V. What are the legal qualifications for jury service?
 - A. In each calendar year, persons summoned for jury service must serve only one day or, if selected for a trial, for the length of that trial.
 - B. You must be 18 years of age or older.
 - C. You must live in the county or municipality that summoned you.
 - D. You must be a United States citizen.
 - E. You must read, speak, and understand English.
 - F. You must not have served for five or more days as a trial or grand juror in any court within the past 12 months.
 - G. You must not be solely responsible for the daily care of a permanently disabled person living in your home.
 - H. You must not have a physical or mental disability that would prevent your ability to serve as a juror.
- VI. How was I chosen for jury service?
- VII. Why do I receive summonses year after year, when other people don't?
- VIII. What if I have other commitments for the date I'm supposed to appear?
- IX. What is the "one-day/one-trial" system?
- X. How long can I expect to be at the courthouse for jury duty?
- XI. How are jurors assigned to trials?
- XII. Who will pay me for serving as a juror?
- XIII. Can I lose my job if I serve as a juror?
- XIV. What if my employer doesn't want to pay me for the first three days of service?
- XV. How was I chosen for jury service?
- XVI. Why do I receive summonses year after year, when other people don't?



Class activities

1. Begin class by watching one of these videos about the jury system:
<https://vimeo.com/386547181> or <https://www.youtube.com/watch?v=4YwHLjZdebM>.
2. Then discuss the following:
 - a. Why is a jury an important part of our justice system?
 - b. How do juries serve their communities?
 - c. Why do you think it's important to have people from different backgrounds serve on a jury?
3. Hand out the Characters in the Courtroom worksheet and the Anatomy of a Trial information. As the students are listening to you or the video, have them complete the worksheet and follow along as the trial format is described.
4. Then, describe the different people in the courtroom and the Anatomy of a jury trial. Alternatively, you could show this video starting from 04:36 to 06:20) that describes the courtroom players and the structure of a jury trial.
<https://www.coloradojudicial.gov/jury/service-video>.
5. If time, divide students into groups of three or four and ask each group to research a few trial terms.
6. You can also assign the trial terms as homework.



Characters in a Jury Trial Worksheet

Complete the worksheet below during the lecture or video.

Judge

Court Clerk

Bailiff

Court Reporter

Jury

Plaintiff

Prosecutor/Plaintiff's Attorney

Defendant

Defense Attorney

Witness

Interpreter

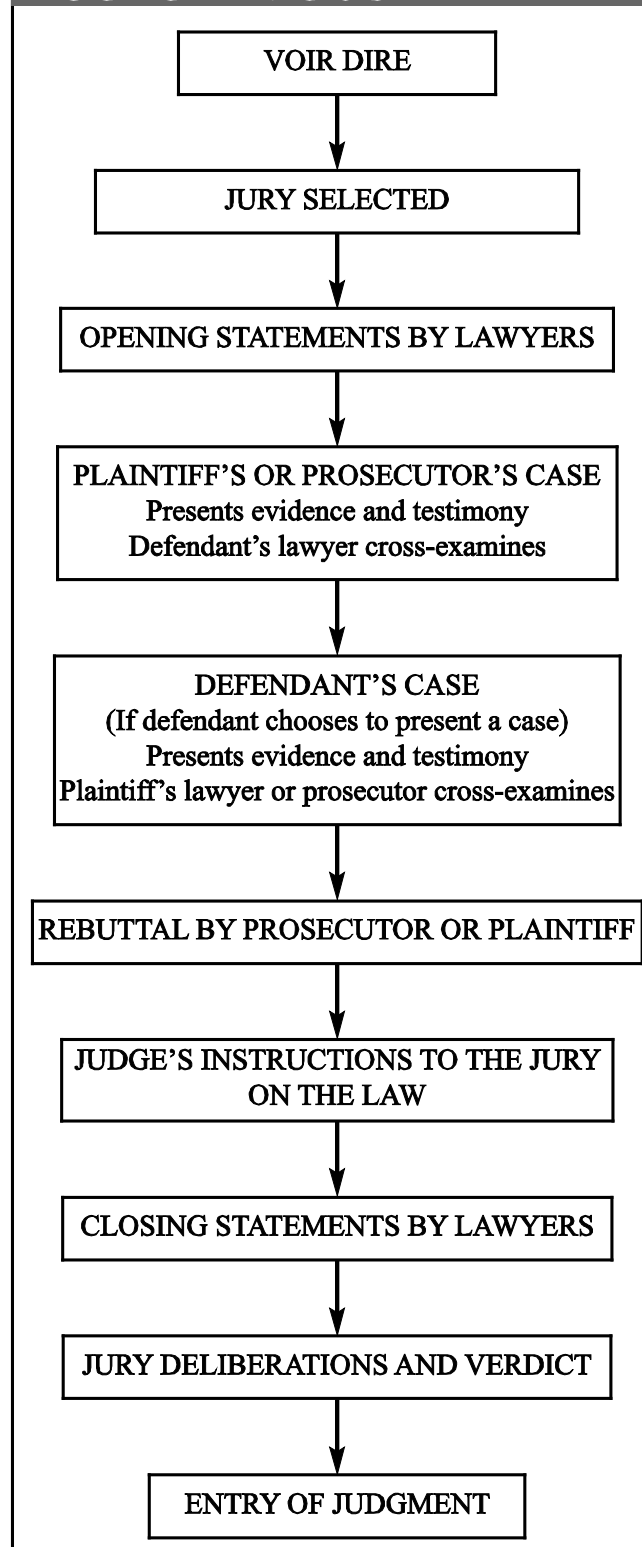
Investigating officer

Advocates

Observers



ANATOMY OF A COLORADO JURY TRIAL



Trial terms

Define each of the following trial terms.

Civil Case

Criminal Case

Voir Dire

Opening Statement

Expert Witness

Motion

Objection

Recess

Closing Argument

Deliberation

Verdict

Sentencing



Courtroom Etiquette

Objective: Students will be able to describe appropriate behavior in a courtroom in preparation for hearing oral arguments.

Inquiry Questions:

- Why is it important for everyone to behave in a courtroom?
- Should observers have a right to share their opinions during court proceedings?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background information and lecture outline provided); class discussion; and homework assignment.

Grade Level: High School

Anticipated classroom time: 15 minutes

Teacher background information

Introduction

by former Colorado Court of Appeals Judge Robert J. Kapelke

In the remarkable novel [Cry the Beloved Country](#) by Alan Paton, the narrator comments on a South African courtroom: “You may not smoke in this Court, you may not whisper or speak or laugh. You must dress decently, and if you are a man, you may not wear your hat unless such is your religion. This is in honour of the Judge . . . and in honour of the Law behind the Judge, and in honour of the People behind the Law.”

The rule of law and respect for the judicial system are hallmarks of our American system of government. As the quotation from the novel illustrates, compliance with rules of behavior and etiquette in the courtroom reflect our respect, as citizens, of not only the judge, but, more importantly, of the law itself and our justice system, whose ideals are fairness and equality of treatment.

By their codes of ethics, lawyers are required to be respectful of not only the judicial officers, but also the opposing attorneys and parties, as well as the witnesses and jurors.

In order to preserve order and decorum in the courtroom, judges have the awesome power of contempt and can punish even the spectators for disruptive or disrespectful conduct. For the most part, though, common courtesy and politeness are sound guides to how to act in the courtroom. Just keep in mind that your appearance and all that you say and do in a courtroom will be creating an impression, and that respect is a key.

Courtroom rules

It is important to behave respectfully in any kind of courtroom in order that the proceedings are not unnecessarily disrupted. There are rules for [members of the media in the courtroom](#) (regulating their



use of cameras and the sharing of footage), and there are rules for those who are watching the proceedings. Interrupting the court process could find you in contempt of court. If necessary, you will be removed from the auditorium for violating any of these rules. Talking, whispering, giggling, shuffling papers, or disturbing the composure of the proceedings with phones or pagers is not allowed. Not only is it necessary to show respect for the judges and justices who have earned the right to rule on certain matters, it is also essential to show respect for the lawyers and parties who are arguing before the court.

- Come into and leave the courtroom or auditorium quietly.
- Listen and watch carefully; focus on the details.
- Don't embarrass yourself by yelling out, whistling, or making any other inappropriate noises.
- Don't bring food, gum, or anything to drink.
- Don't talk to your friends during the court session. If you don't understand something or wish to say something, please save your comments for the break.
- Don't leave the auditorium, unless you feel ill. Please find an adult to help you.
- Don't throw anything.
- Don't bring backpacks or bulky jackets into the courtroom or auditorium.
- Don't bring cell phones or pagers.
- Bring a notebook and writing implement so that you may take notes.
- Dress as though you were going to court yourself. No hats are allowed.

A bailiff in an appellate court is a court employee whose job it is to keep order in the courtroom. The bailiff is generally one of the judges' law clerks. Bailiffs keep track of counsel as they enter the courtroom, run the recording equipment for oral arguments, and do other such duties. A bailiff in the trial courts keeps order in the courtroom and is also in charge of the jury. There are no juries at Colorado Court of Appeals or Supreme Court oral arguments.

The bailiff will bang the gavel to begin the court proceedings. Participants and observers are required to stand when court is called to order. The bailiff will tell you when you may be seated. You are also required to stand when court is called into recess

Class discussion

1. Discuss proper behavior with your students.
2. Ask the students for reasons why it is important to behave properly in a courtroom setting.

Homework assignment

1. The day before the arguments, remind students to dress appropriately.



Lecture outline

Behavior

- Important to behave respectfully
 - Show respect for the judges and justices
 - Show respect for the lawyers and parties who are arguing before the court
 - Rules for members of the [media in the courtroom](#)
 - Rules for those who are watching the proceedings
 - Interrupting court process could find you in contempt of court

Rules

- Come into and leave the courtroom or auditorium quietly
- Listen and watch carefully; focus on the details
- Don't embarrass yourself by yelling out, whistling, or making any other inappropriate noises
- Don't bring food, gum, or anything to drink
- Don't talk to your friends during the court session. If you don't understand something or wish to say something, please save your comments for the break
- Don't leave the auditorium, unless you feel ill. Please find an adult to help you
- Don't throw anything
- Don't bring backpacks or bulky jackets into the courtroom or auditorium
- Don't bring cell phones or pagers
- Bring a notebook and writing implement so that you may take notes
- Dress as though you were going to court yourself. No hats are allowed

Enforcement

- A bailiff is court employee who keeps order in the courtroom
 - Generally one judge's law clerk
 - Keeps track of counsel
 - Runs the recording equipment for oral arguments
 - Will bang the gavel to begin the court proceedings
 - Participants and observers required to stand when court is called to order
 - Required to stand when court is called into recess



How to Analyze a Court Case

Objective: Students will be able to identify what it means to analyze court cases using the standards of fairness and objectivity and discover the process for considering relevant issues and facts presented in court cases and scenarios.

Inquiry Questions

- Is it possible to be fair and objective in analyzing a court case? Why or why not?
- Is the fairness and objectivity standard still relevant? Would another standard be more relevant?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Class discussion; homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

Introduction

By former Colorado Supreme Court Chief Justice Nancy Rice

The legitimacy of trials depends on the notion that trials represent a “search for the truth.” In addition, in our system of justice, juries are supposed to base their verdicts on “what really happened.” We are all, to some extent, captives of our own backgrounds. Nevertheless, as lawyers and judges, we have to put aside our biases and prejudices, and think objectively about the cases presented to us.

The first step in analyzing a case is to analyze the witness statements. Not all witness statements need to be given the same weight, as some witness statements may be misleading as a result of misperception, forgetfulness, mistake, wishful thinking, reticence, embarrassment, or ignorance. Often, opposing witnesses will tell completely different versions of what they perceive as the truth.

Thus, we sometimes have to decide which witness is telling the truth. To make this decision, ask yourself whether the witness experienced the events herself, or whether someone else told her about them and she is just speculating about what happened. In addition, ask yourself whether the witness has a good reason to lie — for example, she might get money or stay out of jail if her version is believed. Remembering that there are two sides to every story, objectively ask yourself, “What makes sense here? Which story is the most logical?”

Next, it’s important to match the witness statements to the “real” evidence in the case — pictures, documents, weapons, blood tests, contracts, and other evidence of that sort. If a witness’s testimony is completely contradicted by the “hard, cold facts,” then it’s unlikely to be objective true.

Finally, remember that a case is decided on more than just its facts. An objective assessment of the applicable statutes and controlling case law is always necessary.



Class activities

1. Write the following definitions of objective and fairness on the board: (from Merriam Webster Dictionary):
Objective: expressing or dealing with facts or conditions as perceived without distortion by personal feelings, prejudices, or interpretations
Fairness: ability to judge without personal feelings or interests and to make specific judgments in a particular case.
2. Briefly discuss the following definition for objective and fair and its application to legal decisions and ask the following questions:
 - Is it possible to be objective in deciding a court case?
 - What does it mean to be fair?
3. Divide the students into groups of three or four and randomly hand out one scenario to each group. Have students discuss in groups.

Scenario 1: A high schooler is at a party, and it's nearing midnight. He knows he needs to leave soon to make his curfew, but none of his other friends are leaving. He finally decides to leave, not wanting to risk being grounded. On his way home, he is stopped for speeding and given a \$75 ticket. He thinks this is unfair, since he was only leaving the party to obey his parents' rules. If he had stayed at the party, he wouldn't have been pulled over at that time, and he would have saved his driving record and wallet. Was it unfair of the police officer to give him a ticket?

Scenario 2: A new girl is trying out for the soccer team. At her former high school, she was the captain of the team and excelled at the sport. During her tryout, she trips three times, doesn't kick a single ball into an empty goal, and allows five goals to be scored on her. She doesn't make the team. She knows she was having a bad day and believes she is better than most of the girls who made the team. Was it unfair of the soccer coach not to give her another chance? Should the coach have granted her a spot on the team based on her reputation?

Scenario 3: A boy is finishing his government homework during study hall. A girl comes up to him, explains that she didn't have time to do the assignment, and asks to copy his answers. He reluctantly agrees. A few days later, the teacher calls both of them into the classroom and comments on the similarity of their answers. In fact, the teacher says, their responses are identical and asks for an explanation. Both students remain silent. The teacher says she has no choice but to give them both failing grades. Was it unfair of the teacher to give the boy who did his own homework the same punishment as the girl who copied?

4. Have groups read one scenario at a time and have a class discussion.
5. If time, read the synopsis of the appellate court case to be argued at your school. Or, if you are teaching this lesson separately from having an appellate court visit, you can look at past court cases that have been used for [Courts in the Community](#).
6. Discuss with students how they would rule and why.
7. If there isn't time, you can assign as homework. Additionally, the case will be discussed in "How to Argue a Case in Appellate Court" if you feel students need more context before reviewing the court case.



How to Argue a Case in the Colorado Appellate Courts

Objective: Students will be able to identify and critique the procedure for oral arguments as preparation for an appeals court visit to their school.

Inquiry Questions

- What role do oral arguments play in the judicial process?
- It is common practice for judges to interrupt an attorney's arguments. Do you think it's fair?
- Do you think the structure of the oral arguments is fair to both parties?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background information and lecture outline provided), class participation activity and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher Background Information

Introduction

by former Colorado Supreme Court Chief Justice Michael L. Bender

Oral argument is an important part of the appellate process. It is the way that each attorney can talk directly to the court and explain why his or her client's position should prevail. As part of the argument, the judges will ask the attorney questions about the case. Thus, as a practical matter, the attorney will often not be able to finish a prepared speech. To be an effective persuader, the attorney must do a number of things:

1. The attorney must prepare thoroughly. This means the attorney must know all the facts of the trial, be familiar with all cases and statutes argued by both sides in the brief and understand fully the opponent's arguments.
2. After doing this homework, the attorney must decide what are the two or three strongest arguments he or she can make that have the best chance of convincing the court. Sometimes, this will mean emphasizing the strengths of a part of the written brief, or a counter position to an opponent's argument, or a combination of both.
3. The attorney should talk to the court in a conversational manner and not read the argument. In response to individual court members' questions, the attorney must answer each question directly and candidly. Thus, as part of preparation, the attorney must consider concerns that court members might have about the case and anticipate questions that may be asked.
4. Lastly, the attorney should frame his or her entire talk around the perspective of what would be important to know and take into consideration if the attorney were on the court and had to decide the case. In this way, the court will be more open to the attorney's arguments than if the attorney simply argues why his or her client should win.



Key terms

- **Appellant:** The party appealing the lower court's decision.
- **Appellee:** The party prevailing in the lower court and arguing, on appeal, against setting aside the lower court's decision.

Structure of Oral Arguments

During oral arguments in front of the Colorado Court of Appeals, each side is allowed 15 minutes to present its side of the case, which includes questioning by the court. The time limits are strictly enforced. However, the appellant (the party appealing the lower court's decision) goes first and has the option to "reserve" some minutes to use after the appellee (the party prevailing in the lower court and arguing, on appeal, against setting aside the lower court's decision) has presented its case. For example, an appellant can use 10 minutes presenting its case, reserving the remaining five minutes to summarize its argument or to address anything the appellee may have brought up during its 15-minute presentation. The appellee cannot reserve any of its minutes. Any party may make a motion to be granted additional time for argument, but such a motion must be filed within 10 days after the briefs are closed and must show good cause for the additional time for argument. The Court may terminate oral arguments if it believes further argument is unnecessary.

Similar time limits and procedures apply in the Colorado Supreme Court, where each side is allowed 30 minutes to present its side of the case.

Colorado's appellate rules contain certain requirements concerning the content of oral arguments. First, the appellant must include a "concise statement of the case." Second, the lawyers are forbidden to read "at length" from briefs, from the record, or from authorities. Third, counsel is limited to arguments raised in the briefs, unless permitted by the court. Fourth, when multiple parties urge the same result, lawyers are directed to avoid duplication of argument.

When preparing for an oral argument, lawyers review the briefs, and summarize the case and their arguments. They prepare themselves to answer questions from the Court and try to anticipate sticking points with some of the personalities on the bench. Some may role-play with other attorneys in their office; some may practice in front of a mirror.

Lecture outline

Oral arguments in front of the Supreme Court

- Each side allowed 30 minutes (includes questioning by the court)
- Appellant goes first
- Appellant has option to "reserve" minutes to use after the appellee has presented its case
- Appellee cannot reserve any of its minutes

Oral arguments in front of the Court of Appeals

- Each side allowed 15 minutes
- Appellant goes first
- Appellant has option to "reserve" minutes to use after the appellee has presented its case
- Appellee cannot reserve any of its minutes



Content of oral arguments

- Appellant must include “concise statement of the case”
- Lawyers forbidden to read “at length” from briefs, from the record, or from authorities
- Counsel limited to arguments raised in the briefs
- When multiple parties urge same result, lawyers directed to avoid duplication of argument

Lawyers preparing for oral argument

- Review briefs
- Summarize the case and their arguments
- Prepare to answer questions from the Court
- Anticipate sticking points with some justices/judges
- Role-play
- Practice in front of mirror

Class activity

1. Review the background with students about the structure of oral arguments and explain the difference between an appellant and an appellee.
2. Then read aloud the case synopsis provided for Oral Arguments that will be held at your school. Or, if you are teaching this lesson separately from having an appellate court visit, you can share a past court case that has been used for our [Courts in the Community](#) high school program.
3. Ask the students if they would like to develop arguments for the **appellant** (the party appealing the lower court’s decision) or the **appellee** (the party prevailing in the lower court and arguing, on appeal, against setting aside the lower court’s decision.)
4. Then, divide the students into groups of three or four, with some groups developing arguments for the appellant and the others for the appellees.
5. After they are finished, have two groups join and share with other students their arguments and time allotment.

Homework assignment

1. Hand out copies of the case synopsis and the homework sheet.
2. Explain that they will be doing the same exercise on their own at home.



Argument Worksheet

Fifteen one-minute intervals are listed below for each side to argue. With your group, decide how you would spend those 15 minutes one side. How would you start your argument, and how many minutes would you spend on your introduction? What issues would you bring up first? What would you save until last? What points would you emphasize? On the appellant's side, would you reserve any minutes for a rebuttal?

Appellant(s)

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14.

15.

Appellee(s)

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14.

15.



Homework assignment

Read the case synopsis at home. Put yourself in the role of one of the lawyers who is to argue before the justices. Because the facts surrounding the appeal can be confusing and lengthy, it is not important that you understand every detail, as long as you comprehend the larger issues at hand.

Choose a stance: appellant or appellee. Answer the following questions.

Which side did you choose to defend?

Outline your major points and decide how many minutes (out of 15) would you spend on each:

What other topic would you want to mention or emphasize?

How many minutes, if any, would you try to reserve (appellant only)?

Think of five questions the judges might ask you.

- 1.
- 2.
- 3.
- 4.
- 5.

How would you respond to each of the five questions?

- 1.
- 2.
- 3.
- 4.
- 5.

Think of five questions the judges might ask the other side.

- 1.
- 2.
- 3.
- 4.
- 5.



Implications and Impact of Court Decisions

Objective: Students will be able to identify how court decisions impact the law and individuals.

Inquiry Questions:

- How do appellate court decisions impact the law?
- How can appellate court decisions impact individuals?
- Do you think judicial review is a necessary part of the constitutional process?
- How do you feel about courts holding this kind of power?

Colorado Academic Standards

- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background material and lecture outline provided) and class participation activity.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

By former Colorado Court of Appeals Judge Russell E. Carparelli

The primary task of our courts is to render justice to each party in each case. Yet court decisions not only impact the parties in that case, they can also impact other courts, other branches of government and the social and economic fabric of our lives. In this way, the justice that is done in individual cases permeates and helps to bring order to our society as a whole.

It is obvious that court decisions impact the parties who are before the court. In criminal matters, court decisions can determine whether the accused is guilty or not and whether the accused will suffer financially, go free or go to prison and even whether the accused will suffer the death penalty. In civil matters, court decisions determine the parties' rights and their obligations to one another. Court decisions can dictate the parties' future actions and can impact their possessions, finances and livelihood. These are the most direct and obvious impacts of court decisions.

Trial courts and appellate courts apply laws that are established by constitutions, statutes, ordinances and regulations. When a court applies the Constitution of the United States or the constitution of a state or commonwealth, it describes the constitutional standard to which other branches of government must conform. For example, when a court declares that the conduct of law enforcement has violated the constitution, the court can restrict the actions of the executive branch of government. When a court declares a statute or ordinance to be unconstitutional, there is an even more profound impact. The practical effect of such a ruling is to state that a law that was enacted by the people's legislative representatives cannot be enforced. Thus, when the courts determine that a statute breaches a constitutional provision, they have the power to override the will of the people.

The decisions of trial courts normally impact the litigants far more than those who are not before those courts. Appellate courts, however, review the trial courts' applications of the law and, thus, can have



more far-reaching impact. Appellate courts interpret and apply constitutions, statutory and regulatory laws, legal doctrines and principles of law. Their decisions establish precedents that can require lower courts in the same jurisdiction and often, can require the same court in future cases, to interpret and apply the laws in the same manner in other cases. Moreover, courts in other jurisdictions that are not required to follow the decisions of a particular appellate court often consider the decisions as informative or persuasive and choose to apply the same reasoning. In these ways, appellate court decisions can have broad impact in future cases.

The decisions of appellate courts also serve to inform others not involved in the case about how laws and policies are likely to be applied in the future. Individuals and corporations can look to court decisions to understand the law, to make decisions and to take actions based on the precedents established those decisions. You will learn more in this lesson about court decisions that have had profound and historic implications and impacts.

Background on Appellate Courts

The U.S. Supreme Court

The Constitution established the Supreme Court as the highest court in the United States. The authority of the Court originates from Article III of the U.S. Constitution and its jurisdiction is set out by statute in Title 28 of the U.S. Code.

One of the Supreme Court's most important responsibilities is to decide cases that raise questions of constitutional interpretation. The Court decides if a law or government action violates the Constitution. This is known as judicial review and enables the Court to invalidate both federal and state laws when they conflict with the Constitution. Since the Supreme Court stands as the ultimate authority in constitutional interpretation, its decisions can be changed only by another Supreme Court decision or by a constitutional amendment.

Judicial review puts the Supreme Court in a pivotal role in the American political system, making it the referee in disputes among various branches of the Federal, as well as state governments, and as the ultimate authority for many of the most important issues in the country. For example, in 1954, the Court banned racial segregation in public schools in *Brown v. Board of Education*. The ruling started a long process of desegregating schools and other institutions.

The Supreme Court exercises complete authority over the federal courts, but it has only limited power over state courts. The Court has the final word on cases heard by federal courts, and it writes procedures that these courts must follow. All federal courts must abide by the Supreme Court's interpretation of federal laws and the Constitution of the United States. The Supreme Court's interpretations of federal law and the Constitution also apply to the state courts, but the Court cannot interpret state law or issues arising under state constitutions, and it does not supervise state court operations.

Colorado Appellate Courts

Provisions of the Colorado Constitution, Article VI, that outline the judicial review powers of the Colorado Supreme Court:

Section 1. Vestment of judicial power. The judicial power of the state shall be vested in a supreme court, district courts, a probate court in the city and county of Denver, a juvenile court in the city and county of Denver, county courts, and such other courts or judicial officers with jurisdiction inferior to the supreme court, as the general assembly may, from time to time establish; provided, however, that nothing herein contained shall be construed to restrict or diminish the powers of home rules cities and towns granted under article XX, section 6 of this constitution to create municipal and police courts.



Section 2. Appellate jurisdiction. (1) The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

(2) Appellate review by the supreme court of every final judgment of the district courts, the probate court of the city and county of Denver, and the juvenile court of the city and county of Denver shall be allowed, and the supreme court shall have such other appellate review as may be provided by law. There shall be no appellate review by the district court of any final judgment of the probate court of the city and county of Denver or of the juvenile court of the city and county of Denver.

Section 3. Original jurisdiction - opinions. The supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and such other original and remedial writs as may be provided by rule of court with authority to hear and determine the same; and each judge of the supreme court shall have like power and authority as to writs of habeas corpus. The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the senate, or the house of representatives; and all such opinions shall be published in connection with the reported decision of said court.

Colorado Constitutional Provisions

Information provided by the Colorado Supreme Court

The Colorado Constitution (Article VI, § 1) recognizes two kinds of courts: (1) those that are enumerated in the Constitution itself (the Supreme Court, district courts, and others); and (2) additional courts that are established by the General Assembly (the Court of Appeals).

Both the Court of Appeals and the Supreme Court are courts of appellate jurisdiction. This means that, with limited exceptions, these courts will hear only cases where the trial court has rendered a final judgment on the outcome of the case. The Court of Appeals has jurisdiction to hear most cases where there is a final ruling by the trial court. The Supreme Court, on the other hand, generally hears only cases where the parties have had a trial and have appealed to the Court of Appeals, and where there is a question of law presented in the case that has not already been decided by the Supreme Court or that has been interpreted in conflicting ways by different divisions of the Court of Appeals. For cases involving certain topics, such as the death penalty or water rights, the Supreme Court must hear appeals.

In addition, the Supreme Court may also exercise original jurisdiction to grant relief when it decides that justice requires it to hear the case before a trial or appeal to the Court of Appeals is completed. An example of original jurisdiction can be found in search and seizure cases: the Supreme Court must hear appeals when evidence from a police search is suppressed at the trial court.

Lecture

- The answer to the question of who made the decisions listed above is the court system. Each of the situational questions comes from a pivotal case in the United States Supreme Court.
- Even though laws are made by legislatures, it is the court system that ultimately reviews specific cases and decides whether the actions involved, and even whether laws in question, are Constitutional or not. This practice of a court being able to veto a law as unconstitutional is called “judicial review.”
- Judicial review was established in 1803 by the U.S. Supreme Court in a case called *Marbury v. Madison*. In this case the court found that a federal law was null and void because it violated



the U.S. Constitution. Even though this precedent was set by the federal court system, the same principle works in the state courts with regard to state laws.

- Just a few of the major contributions the Federal court system has made to the protection of civil liberties are:
 - The Bill of Rights protects citizens from state laws, as well as federal laws (*Gitlow v. New York* was the first to begin this process and dealt with freedom of speech; many other cases followed, applying other elements of the Bill of Rights to the state level bit by bit).
 - The president of the United States can invoke executive privilege only in cases involving national security or other top secret information, not in criminal proceedings (*U.S. v. Nixon*).
 - Schools may not segregate children based upon race (*Brown v. Board of Education*).
 - Police need to have a warrant to collect evidence through a wiretap. (*Katz v. US*)
 - Every defendant has a right to a lawyer in any criminal case. (*Gideon v. Wainwright*).
 - Police must read you your rights when arresting you and before interrogating you (*Miranda v. Arizona*).
- Colorado Constitution Article VI provides for judicial review of state cases by the Colorado Supreme Court.
- Colorado Court of Appeals is the first appellate court in most cases
- Court of Appeals was established by the General Assembly under authority from Colorado Constitution.
- Some Colorado appellate cases protecting civil liberties:
 - Police investigators cannot search bookstore receipts for information to use against a criminal defendant (*Tattered Cover, Inc. v. City of Thornton*).
 - Abortion protestors must stay at least 8 feet away from persons entering medical clinic (*Hill v. Thomas*).
 - Where suspect was described as “Hispanic” male, the fact that defendant’s photo was the only picture of a Hispanic male in a photo lineup was impermissibly suggestive (*Bernal v. People*).

Class activities

1. Begin with this question: Where do your rights to freedom of speech and expression come from?
2. What decides the line between what speech is acceptable and what isn’t?
 - Can you publish an untrue parody about a public figure? What about a private citizen? (*Hustler v. Falwell* – yes in first case, in second case no)
 - Can you quietly express your political views in school, such as by wearing an armband? (*Tinker v. Des Moines School District* - yes)
 - Can the KKK march around a burning cross and say bad things about African-Americans and Jewish people? (*Brandenburg v. Ohio* - yes)
 - Can a city display religious items, such as a nativity scene at Christmas, on public property? (*Lynch v. Donnelly* – yes, as long as more than one religion is represented)
3. Go through the information in the short lecture below.
4. Then ask the following questions:
 - a. What would life be like if one of these cases had been decided differently?
 - b. What might society be like if the principle of judicial review had never been established?
 - c. How do you feel about courts holding this kind of power?



What it Takes to Become a Judge

Objective: Students will be able to describe how judges become judges, what criteria qualifies them for the job and what attributes they must have to maintain their positions.

Inquiry Questions:

- What qualities do you think are necessary to be a judge?
- How do judges become judges?
- Do you think the merit selection and retention system in Colorado is effective?

Colorado Academic Standards

- **SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to: understanding the three branches of government at each level of government.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background material and lecture outline provided); class participation activity; and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

By former Court of Appeals Judge Daniel M. Taubman

Although there are about 37,000 licensed lawyers in Colorado, there are only about 390 judges. Thus, only a very small percentage of lawyers have the opportunity to serve the citizens of the State of Colorado as a judge. In almost all cases, a person must be a Colorado lawyer before becoming a judge (in some rural areas, a non-lawyer may serve as a county court judge).

Whether for county court, district court, the Colorado Court of Appeals, or the Colorado Supreme Court, a judicial applicant must apply to a nominating commission that reviews his or her qualifications. Typically, the nominating commission makes three recommendations to the governor, who then appoints one of the nominees to serve as a judge.

Both the nominating commission and the governor look to certain traits in order to find well-qualified judges. Among the primary criteria are open-mindedness, fairness, and lack of bias. The nominating commissions and governor also seek to appoint those who are polite, courteous, and patient. An important consideration is a good reputation obtained as a practicing lawyer or as a judge of one court seeking to move to a higher court. In addition, a judge must have common sense, the ability to learn about a wide variety of areas of the law, good communication skills, and, frequently, a good sense of humor.

Judges in Colorado must be of the highest integrity, because both lawyers and non-lawyers in their communities often look up to them. Because judges decide cases that have a significant impact on the lives of thousands of Coloradans, ranging from criminal cases to divorces to accidents, a judge



must be able to decide a case fairly and explain his or her ruling clearly so it is understood and respected by the parties involved, by lawyers in the community, and by the public at large.

To ensure that appointed judges continue to serve Colorado's citizens effectively, judges are evaluated periodically by judicial performance commissions who determine and then report to the public whether they meet performance standards or do not meet performance standards. Each judge must appear before the voters on a regular basis so the voters can decide whether a judge should continue to serve. There is also a judicial disciplinary commission that may take action when necessary to deal with unethical or otherwise improper behavior by a judge.

Because of Colorado's merit selection system, Colorado has an excellent record of choosing judges who are hard-working, conscientious, fair, and impartial.

Judicial Merit Selection and Retention

Too often, because our third branch of government functions so efficiently and quietly, the only time the public considers the way our courts are performing is when the media gets involved. Polls indicate a large portion of the population does not even realize that our Constitutional Government is based upon three independent, but equal, branches of government, and it is the third branch, the judicial branch, that is the least visible and the least understood. In Colorado, the state constitution designates the judicial branch as the Colorado Judicial Department.

Colorado's judicial branch is one of the best court systems in the nation, in no small part due to the 1966 Amendment to our state Constitution that mandates a merit selection system for the appointment of our judges and ensures that our courts are responsive to the citizens through the requirement for periodic retention elections.

In the decades since the enactment of the Colorado merit selection system and the consequent removal of judges from partisan political elections, no judge in Colorado has been removed from the bench for criminal behavior.

Merit Selection

No one becomes a state judge in Colorado without being thoroughly screened by a cross-section of people in the community in which the judge will serve. The individuals who do the screening evaluate the experience, temperament, and knowledge of each candidate for the bench.

Qualified lawyers living within the judicial district in which a vacancy occurs may apply to the judicial nominating commission in that district for appointment to the bench. Within 30 days after a vacancy occurs, the judicial district's nominating commission interviews applicants and recommends two or three individuals to the Governor for consideration (three nominees must be submitted for an appellate judgeship). After the nominating commission picks the candidates, the Governor has 15 days to make the appointment from the list of names submitted to him. If the Governor does not act in that time period, the Chief Justice of the Colorado Supreme Court appoints one of the individuals recommended by the commission.

The judicial nominating commission in each of 23 Judicial Districts is comprised of four non-lawyers and three attorneys, with no more than four members of one political party. The non-lawyer members are appointed by the Governor, the lawyers are jointly appointed by the Governor, Chief Justice of the Colorado Supreme Court, and state Attorney General.



A 15-member Supreme Court Nominating Commission handles vacancies on the Court of Appeals and the Supreme Court. This commission is composed of one lawyer and one non-lawyer from each congressional district in the state and the 15th member of the commission is an at-large appointee who cannot be a lawyer. No political party can have a majority of more than one on this commission.

Once chosen, the new judge serves a two-year provisional term and then is subject to a retention vote on the next general election ballot. If successfully retained by the voters, a county court judge will serve for four years before again appearing on the general election ballot; a district court judge will stand for retention again in six years; a Court of Appeals judge must face the voters again in eight years; and a Supreme Court justice will serve for a 10-year period before again being involved in a retention election. All judges must retire by age 72.

Performance Evaluation

Since 1988, this merit selection system has been strengthened by the creation of 10-member judicial performance commissions charged with the responsibility of evaluating Colorado state judges and informing the public of these evaluations. Each judicial district has its own judicial performance commission composed of individuals living within the district. These commissions provide voters with fair, responsible, and constructive evaluations of judges and justices seeking retention in general elections. For each district commission, the Governor appoints two non-attorneys, and the Chief Justice of the Supreme Court appoints two attorneys. The President of the Senate and Speaker of the House each appoint one attorney and one non-attorney, and the House and Senate Minority Leaders each appoint one non-attorney.

There is also an 11-member statewide judicial performance commission for judges and justices serving on the Court of Appeals and the Colorado Supreme Court. Its members are appointed in a similar manner, with the exception that the Governor appoints two non-attorneys and one attorney.

The judicial performance commissions use, among others, the following criteria when evaluating a judge's performance:

- integrity;
- knowledge and understanding of substantive, procedural, and evidentiary law;
- communication skills;
- preparation, attentiveness, and control over judicial proceedings;
- docket management and prompt case disposition;
- administrative skills;
- punctuality;
- effectiveness in working with participants in the judicial process; and
- service to the legal profession and the public.

The judges' evaluations result from surveys; a personal interview with the judge; and information from other appropriate sources, such as court observations, letters submitted by interested parties, and oral interviews with people appearing before the judge on a regular basis. The commissions then develop a narrative for each judge stating the justice or judge "meets performance standards" or "does not meet performance standards."

Since 1998, when voters complained that information was difficult to obtain, commission narratives have been published in the "Colorado Voter Information Guide," also known as the "Blue Book," which is published by the Colorado Legislature and sent to every voter household prior to the general election. The narratives and additional information about judicial performance evaluation are also



published at www.ojpe.org. In addition to informing voters about the abilities and record of those serving on the bench, the evaluation process gives valuable feedback to the judges and can be a significant help to them in improving their judicial skills.

Discipline

The provisions providing for the merit selection and evaluation of Colorado judges also provide a system for the discipline of judges in this state. The Colorado Judicial Discipline Commission is charged with the responsibility of removing a judge who is not performing properly, who fails to serve the public as required by law, or who is guilty of malfeasance. Created in 1966, this commission is comprised of 10 members: four citizens who are not attorneys, two attorneys, two district court judges, and two county court judges. The citizen and attorney members are appointed by the Governor. The judge members are appointed by the Colorado Supreme Court. The judicial discipline commission does not have jurisdiction over Denver County Court judges (who are part of the Denver municipal court system) or over municipal court judges.

Find out more on the [commission's web page](#).

Judicial Characteristics

A GOOD JUDGE HAS:

- Common sense
- Ability to learn
- Balance
- Appropriate temperament
- Good listening skills
- Sense of humor
- Communications skills
- Integrity
- People skills
- Strength of conviction
- Awareness of personal biases
- Decorum on and off the bench
- Strong management skills
- Good time management
- Good work ethic
- Knowledge of the law
- Commitment to the law
- Litigation experience
- Private practice experience
- Commitment to community service
- Recognition of importance for public outreach

A GOOD JUDGE IS:

- Civil
- Humble
- Courteous
- Patient
- Empathetic
- Trustworthy
- Honest
- Skeptical yet trusting
- Open-minded
- Fair
- Unbiased
- Perceptive
- Helpful
- Realistic
- Self-confident
- Efficient
- Firm and in control
- Effective
- Diligent
- Reputable
- Responsive
- Deliberative
- Diversity conscious
- A recognized member of community
- A good role model

Class outline



How a judge becomes a judge

- Qualifications
 - Supreme Court justice or Court of Appeals judge
 - Must be a qualified elector in the state of Colorado
 - Must have been licensed to practice law in Colorado for at least five years
 - Must be under the age of 72 at the time his or her name is submitted to the governor
 - District court or county court judge
 - Must be a qualified elector in the judicial district, and a county court nominee must be a resident of his or her respective county at the time of selection
 - Must have been licensed to practice law in Colorado for at least five years
 - Must be under the age of 72 at the time his or her name is submitted to the governor
 - In counties under a population of 35,000, a nominee does not have to be licensed to practice law, but must have graduated from high school or have attained the equivalent of a high school education and meet residency and qualified elector status
- Nomination and selection process
 - Colorado Supreme Court or Court of Appeals vacancy
 - A 15-member nominating commission reviews applications. This commission is composed of
 - One lawyer and one non-lawyer from each congressional district
 - One at-large appointee who is not a lawyer
 - No political party can have a majority of more than one
 - The commission must recommend two or three nominees to the governor within 30 days of the vacancy (three nominees for appellate vacancies).
 - The governor must select one of the nominees within 15 days.
 - If the governor does not do so in the allotted time, the Chief Justice of the Supreme Court then makes the selection.
 - District court or county court vacancy
 - A seven-member nominating commission reviews applications. This commission is composed of
 - Three lawyers and four non-lawyers
 - No more than four members can be of one political party
 - The commission must recommend two or three nominees to the governor within 30 days of the vacancy.
 - The governor must select one of the nominees within 15 days.
 - If the governor does not do so in the allotted time, the Chief Justice of the Supreme Court then makes the selection.

How a judge stays a judge

- Terms
 - Once chosen, all judges in the state court system serve a two-year provisional term. After that term, they come up for their first retention election.
 - If a judge or justice is retained after this term, he or she can serve subsequent terms of the following lengths before coming up for evaluation again.
 - County court judges – 4 years; District court judges – 6 years; Court of Appeals judges – 8 years; Supreme Court justices – 10 years
- Performance evaluation
 - Judicial performance commissions



- There are 10-member judicial performance commissions in each of the 22 judicial districts. The Governor appoints two non-attorneys, the Chief Justice of the Supreme Court appoints two attorneys, the President of the Senate and Speaker of the House each appoint one attorney and one non-attorney, and the Minority Leaders of the Senate and House each appoint one non-attorney.
 - There is an 11-member statewide judicial performance commission for judges and justices serving on the Colorado Court of Appeals and Supreme Court. Its members are appointed in a similar manner with the exception that the Governor appoints two non-attorneys and one attorney.
 - The evaluation
 - The process
 - Surveys
 - Personal interviews with the judges
 - Information from other sources, such as court observations, letters submitted by interested parties, and interviews with people appearing before the judge on a regular basis.
 - After considering all the information, the commission determines whether a judge or justice meets performance standards or does not meet performance standards.
 - Criteria
 - Integrity
 - Knowledge and understanding of substantive, procedural, and evidentiary law
 - Communication skills
 - Preparation, attentiveness, and control over judicial proceedings
 - Docket management and prompt case disposition
 - Administrative skills
 - Effectiveness in working with participants in the judicial process
 - Service to the legal profession and the public
 - How the public can access judicial performance evaluations before elections
 - Included in the “Colorado Voter Information Guide” published by the Colorado Legislature, which is sent to every voter household prior to general elections.
 - Online at www.ojpe.org.

Classroom activities

1. Divide students into groups. Hand out the both worksheets and have students list the qualities as essential, desirable, undesirable or unnecessary qualities for a judge to have. They don't have to categorize all the qualities listed and can think of their own as well.
2. After they are finished, have each student independently draft a short definition of a good judge.
3. Ask a few students to share their definitions or write them on the board to open discussion about what makes a good or a bad judge.

Homework assignment

1. What is your opinion of the judicial nominating and retention process?
2. Under what circumstances would you vote to have a judge removed from office?



What Makes a Good Judge?

Adapted from "What makes a good Supreme Court Justice" by Debra Hallock Phillips

Assume that you are appointed to a committee to determine what qualities we should consider in selecting judges in Colorado. Review the characteristics listed below and categorize them on a chart under the most appropriate heading. Following the activity, develop a definition for a "good" judge.

1. Female
2. Old and wise
3. Mediator
4. Fair
5. Radical
6. Determined
7. Youthful
8. Pro environment
9. Collegial
10. Member of a gender-specific group
11. Good campaigner
12. Aggressive
13. Self-reliant
14. Honest
15. Good looking
16. Clear thinker
17. Concise writer
18. Rural background
19. Male
20. Single parent
21. Good health
22. Conservative
23. Humane
24. Traditional
25. Well-educated
26. Democrat
27. Liberal
28. Controversial
29. Strong communicator
30. Family-oriented
31. Supports welfare
32. Lobbyist
33. Trustworthy
34. Risk-taker
35. Feminist
36. Religious
37. Loyal
38. Impartial
39. Service to the public
40. Good fundraiser
41. Trial attorney
42. U.S. citizen
43. Independent thinker
44. Strict constructionist
45. Christian
46. Prosecution oriented
47. Defense oriented
48. Opposes school prayer
49. Ethnic minority
50. Opposes higher taxes
51. Civil rights activist
52. Held public office
53. Business background
54. Pro death penalty
55. Distinguished lawyer
56. Follows party line
57. Middle of the road
58. Tough on crime
59. DWI conviction
60. Eminent legal scholar
61. Brilliant mind
62. Judicial experience
63. Bilingual



Qualities of a good judge

List the qualities from “What Makes a Good Judge” sheet in the boxes below. Feel free to add other qualities not listed above.

Essential	Desirable	Undesirable	Unnecessary

Your definition of a good judge:



Who are Colorado's Court of Appeals Judges?

Objective: Students will be able to name the Court of Appeal judges and be familiar with information from their biography.

Inquiry Questions:

- Do the Colorado Court of Appeals judges reflect the diversity of the population of the State of Colorado?
- Why do you think that each of these judges was selected to serve in this position?
- Does anything surprise you about who is sitting on the Court of Appeals?
- How do the past professional experiences of the judges differ? What impact do you think this has on the judiciary?

Colorado Academic Standards

- **SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to: understanding the three branches of government at each level of government.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Class participation activity and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introducing Judges on the Colorado Court of Appeals

By former Colorado Court of Appeals Judge José D. L. Márquez

Extensive experience in the law is perhaps the most distinctive characteristic of the 22 judges on the Colorado Court of Appeals. Members of the court come from diverse backgrounds. They have worked in private practice, served as law professors, provided legal services for the poor, and served as public defenders, district attorneys, assistant attorneys general, and assistant staff judge advocates in the military.

Not reflected in all the biographies are the many other activities in which judges are involved. Almost all judges serve or have served on a number of boards, committees, and task forces that are law related. Many have served on the boards governing the Colorado and other bar associations and as trustees for the Denver Bar Association. Some are active in community organizations such as the University Club and Rotary, and others are active in their churches or synagogues. Almost all are parents, and a number have served in the military. Members of the court enjoy traveling, reading, music, theater, sports, and a host of other interests.

More Information

Included on the following pages are biographies for each of the 22 Colorado Court of Appeals judges. Information about judges is also available on the [Colorado Judicial Branch website](#).

The qualifications for becoming a Colorado Court of Appeals judge include the following: the nominee must be a qualified elector of the state of Colorado, licensed to practice law in Colorado for at least five years, and under the age of 72 at the time his or her name is submitted to the governor.



Class activities

1. Hand out packets of the judge biographies and have the students read through. Or you could divide the students into groups and hand out a few biographies to each group to read. Alternatively, you could have students read the [biographies of the judges online](#).
2. Generate discussion about the judges by asking the students:
 - a. Do the Colorado Court of Appeals judges reflect the diversity of the population of the State of Colorado?
 - b. Why do you think that each of these judges was selected to serve in this position?
 - c. Does anything surprise you about who is sitting on the Court of Appeals?
 - d. How do the past professional experiences of the judges differ? What impact do you think this has on the judiciary?

Homework assignment

1. Have students select three judges to profile. You can either send the biographies home with them or have them select [biographies of the judges online](#) at home, depending on their internet access.
2. Hand out worksheet titled “Colorado’s Court of Appeals Judges” and ask students to select three different judges to complete the worksheet.



Colorado's Court of Appeals Judges

Read the biographies of three judges. Write down three facts that are mentioned in each judge's bio. Then explain why this experience or situation might be beneficial for an appellate judge. For example: if it says that a judge was in private practice, how might this help that person while serving on the bench of the Court of Appeals?

Judge _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Judge _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Judge _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____



Chief Judge Gilbert M. Román

Date of Judicial Appointment: August 1, 2005



Career: Partner, Rothgerber Johnson & Lyons LLP, Denver, Colo. (now known as Lewis Roca); Associate General Counsel, Kaiser-Hill Corporation LLC, Broomfield, Colo.; Partner, Román, Benezra & Culver, LLC, Lakewood, Colo.; Partner, Feiger, Collison & Killmer, LLC, Denver, Colo.; Associate, Sherman & Howard, Denver, Colo.; Adjunct Faculty, University of Denver College of Law; Arbitrator and Mediator, American Arbitration Association; and Arbitrator, National Association of Securities Dealers. Practice focused on complex civil litigation with an emphasis on employment law, commercial litigation and alternative dispute resolution.

Professional: Named Chief Judge of the Colorado Court of Appeals by Chief Justice Brian Boatright. Prior to that served as Deputy Chief Judge under Chief Judge Steven Bernard. Teaches as a faculty member for the National Judicial College. Has taught at the National Institute of Trial Advocacy. Member and former trustee of the Denver Bar Association; board member of the Colorado Hispanic Bar Association and the Hispanic National Bar Association. Recipient of Appellate Judicial Skills and General Jurisdiction Certificates awarded by the National Judicial College; recipient of the Richard Marden Davis Award, Denver Bar Foundation; Outstanding Lawyer Award, Hispanic National Bar Association; Outstanding Young Lawyer Award, Colorado Hispanic Bar Association; and Outstanding Young Lawyer Award, Denver Bar Association.

At the state judicial branch level, chairs the Rules of Appellate Procedure Committee and serves on the Civil Rules Committee; the Rules of Evidence Committee; the Child Welfare Appeals Workgroup; the Court Services Committee; the State Task Force on Attorney Well-Being; the permanent Judicial Well-Being Committee; the Colorado Judicial Conference Planning Committee; the Colorado Institute for Faculty Excellence; the Java with Judge's Program; the Pledge to Diversity Committee, and the Dream Team Coffee Brigade. Served as a "Dream Team Anchor" on the Colorado Campaign for Inclusive Excellence. Teaches at the Colorado New Judge Orientation training. Developed the Peer to Peer Coaching for Colorado Judicial Officers Program, serves on its executive committee, and serves as a peer coach.

At the Court of Appeals, chaired the Strategic Five-year Planning Committee and is the Court's Lorenzo Márquez Appellate Internship Liaison to the local law schools. In addition, serves on the Court of Appeals collegiality committee and wellness committee.. Developed the Court of Appeal's Law clerk Peer to Peer Coaching Program and also the Goldilocks Mock Trial presentation given to fourth and fifth graders across the state.

Civic: Judged the state finals of the We the People competition, the finals of the HNBA's National Moot Court Competition, the regional competition of the Thomas Tang International Moot Court Competition and the regional competition of the American Constitution Society. Has spoken at C.S.U. Rams, J.D.; The Office of the Child's Representative and Respondent Parents' Counsel Conference; the Council on Legal Education Opportunity (CLEO), the Lorenzo de Zavala Youth Legislative Session, the Colorado Bar Association's Appellate Section, and the Colorado Judicial Institute. Authored *The Colorado Appellate Court's Commitment to Diversity and Inclusion (The Colorado Lawyer, July 2020)* (co-author); *Coming to a Community Near You: The Court of Appeals Extended Outreach Program (The Colorado Lawyer, April 2017)*. Through the Courts in the Community program for high school students, heard oral arguments and spoke to students in Colorado Springs, Grand Junction, Denver, Longmont, Lakewood, Limon, Glenwood Springs, Steamboat Springs and Durango.



Has presented to local bar associations in Denver, Golden, Sterling, Lamar, La Junta, Glenwood Springs, Steamboat Springs, Montrose, Trinidad and Vail.

PERSONAL: Born 1962, in Wichita, Kan. Colorado State University (Political Science, 1984); University of Michigan Law School (Juris Doctor, 1987). Married, three children – Aug, Dom, and Gabe.



Jerry N. Jones

Date of Judicial Appointment: July 5, 2006



CAREER: Chief of the Appellate Division, Office of the United States Attorney, Denver, Colorado (2004-06); Partner, Moye Giles LLP, Denver, Colorado (1994-2004); Associate, Moye Giles LLP, Denver, Colorado (1987-1993); Special Assistant Attorney General, Criminal and State Services Sections, Colorado Attorney General's Office (1996-2003); Judicial Clerk for the Honorable George E. Lohr, Associate Justice, Colorado Supreme Court (1986-87).

PROFESSIONAL: Admitted to practice in Colorado (1986); United States District Court for the District of Colorado (1987); United States Court of Appeals for the Tenth Circuit (1987); United States Supreme Court (1992). Colorado Judicial Performance Commission, Second Judicial District (1999-2006), Chair (2001-06). Amicus Committee, Colorado Bar Association (2002-06). Faculty of Federal Advocates (1997-2006).

EDUCATION: A. J. Dimond High School, Anchorage, Alaska (diploma, 1979); Arizona State University (B.S., 1983); University of Denver College of Law (J.D., 1986) (Tenth Circuit Survey Editor, Denver University Law Review (1985-86); American Jurisprudence Awards in Constitutional Law and Torts).

PERSONAL: Born October 22, 1961, in Lexington, Kentucky. Grew up in Anchorage, Alaska. Married, three children.



Terry Fox

Date of Judicial Appointment: September 2, 2010



Terry Fox sits on the Colorado Court of Appeals (COA), where she has served since January of 2011. In 2017, the Denver Bar Association awarded Judge Fox its Judicial Excellence Award. In 2018, she received the National Association of Women Judges (NAWJ, Region IX) Lady Justice Award and the Colorado Women’s Bar Association (CWBA) honored her as the 2019 Outstanding Judicial Officer. Judge Fox was the People’s Choice for Best Court of Appeals Judge on Law Week Colorado’s “Barrister’s Best 2019.” Judge Fox has served as the Colorado Director and as District Director for the NAWJ and remains a NAWJ member. In collaboration with the Center for Legal Inclusiveness, she is a member of the Judicial Dream Team’s efforts to diversify the bench. She is a member of the Executive Committee of Our Courts Colorado and contributes to the Colorado Judicial Conference Planning Committee, the Supreme Court’s

Advisory Committee on Language Access, and the Supreme Court’s Character and Fitness Committee. Beginning in 2020, she will train new COA judges. Her community service includes membership and board service in the Colorado Hispanic Bar Association and the CWBA and mentoring young lawyers and aspiring jurists. She previously served on Colorado Supreme Court’s Attorney Regulation Committee and the Board of Law Examiner’s Law Committee. Before her appointment to the Colorado Court of Appeals, from 2004-2010, Judge Fox served as an assistant U.S. Attorney in Colorado, working as trial counsel to federal agencies and specializing in environmental law, constitutional law, and other civil matters. Before joining the U.S. Attorney’s Office, Judge Fox was an attorney with the Colorado Attorney General’s Office (in the Public Officials Unit and in the Litigation Section), an associate with the law firm of Holland & Hart (where she practiced Environmental Law), and a clerk for Justice Craig Enoch on the Texas Supreme Court. She earned an engineering degree from the Colorado School of Mines, her J.D. in Houston, Texas and her L.L.M. from Duke School of Law. Judge Fox graduated from Brighton High School in Brighton, Colorado.



Stephanie Dunn

Date of judicial appointment: June 29, 2012



Judge Dunn was appointed to the Colorado Court of Appeals in June 2012. Before joining the bench, she was a partner at the Denver office of Perkins Coie LLP, where she practiced in state and federal courts. Her practice focused on complex business litigation, appellate litigation, and white-collar investigations and defense. She was a member of the firm's securities and corporate governance litigation practice group, the appellate practice group, and the investigations and white-collar defense practice group. While there, Judge Dunn chaired both the Denver Diversity Committee and the Denver Pro Bono Committee and served on several firmwide committees. She also actively represented clients on pro bono matters, in particular assisting military veterans on a pro bono basis. Before joining Perkins Coie, Judge Dunn was a litigation associate in the Denver office of a large New York-based law firm, focusing on commercial and securities litigation. Judge Dunn began her career as a law clerk for Chief Justice Luis Rovira of the Colorado Supreme Court.

Judge Dunn currently serves on multiple working committees within the Colorado Court of Appeals, including the court's Governance Group and the Strategic Five-Year Planning Committee. She also serves on several committees in the Judicial Branch and Colorado legal community, including the Rules of Evidence Committee, the Pattern Civil Jury Instructions Committee, the Civil Rules Committee, Our Courts Colorado Executive Committee, and the Colorado Lawyers Committee Hate Crimes Education Task Force. Judge Dunn enjoys speaking on a wide range of legal topics but particularly enjoys speaking with students about law and the judiciary. She has also volunteered with several community organizations over the years, especially those serving individuals facing food insecurity.

Judge Dunn is a graduate of the Judicial Branch's Executive Leadership Development Program and is a Colorado Bar Foundation Fellow. She is also a member of the American, Colorado, Denver, and Women's Bar Associations, as well as the National Association of Women Judges.

Judge Dunn is admitted to practice in Colorado and several federal courts, including the United States Supreme Court, the United States Court of Appeals for the Tenth Circuit, the United States Court of Appeals for the Federal Circuit, and the United States Court of Appeals for the Ninth Circuit. Before joining the bench, she was recognized as one of Law Week Colorado's Lawyers of the Year, Big Verdict Case list.

Judge Dunn received her Bachelor of Arts, Phi Beta Kappa, from the University of Colorado and her Juris Doctor from the University of Denver, where she graduated Order of St. Ives and served on the Law Review and the Honor Board.



Anthony J. Navarro

Date of judicial appointment: Oct. 12, 2012



CAREER: Before joining the court, Anthony J. Navarro was a Supervisory Attorney in the Social Security Administration's Office of the General Counsel in Denver (2008 to 2013). In addition to supervising extensive litigation before federal circuit and district courts, he oversaw matters related to bankruptcy, civil rights complaints, agreements with state and local governments for Social Security coverage, and disclosure issues concerning the Privacy Act. From 2005 to 2008, he worked at Holland & Hart LLP in Denver, where he focused on the appellate aspect of commercial litigation. From 1999 to 2005, Judge Navarro was a member of the Colorado Attorney General's Office, where he worked first as an Assistant Attorney General in the Consumer Protection Section before joining the Appellate Division. From 1997 to 1999, he served as law clerk to Justice Alex Martinez of the Colorado Supreme Court. From 1996

to 1997, he practiced corporate and securities law in San Francisco at Pillsbury Winthrop Shaw Pittman LLP.

EDUCATION: Judge Navarro obtained a J.D. from Yale Law School in 1996 and a B.A. from the University of Colorado in 1993.

CIVIC & PROFESSIONAL: Before joining the court, Judge Navarro was a member of the Colorado Board of Real Estate Appraisers, the Denver County Court Judicial Discipline Commission, the Citizen Oversight Board (regarding the Denver Police Department), the Colorado Bar Association (former board member), the Colorado Hispanic Bar Association (former board member), and the Colorado GLBT Bar Association (former board member).

PERSONAL: Judge Navarro was born and raised in Pueblo, Colorado.



Elizabeth L. Harris

Date of Judicial Appointment: May 29, 2015



Career

Law Office of Elizabeth L. Harris, LLC (2013 - 2015)

Husch Blackwell LLP (acquired Jacobs Chase) (2011 - 2013)

Jacobs Chase LLP (2003 - 2011)

Office of the Federal Public Defender (1997-2003)

Law Clerk to the Honorable John Porfilio, United States Court of Appeals for the Tenth Circuit (1996 - 1997)

Education

New York University School of Law, J.D. (1996)

Georgetown University, B.A., English Literature (1989)

Walt Whitman High School, Bethesda, Maryland (1984)



Rebecca R. Freyre

Date of Judicial Appointment: Sept. 18, 2015



Career: Deputy State Public Defender, Appellate Division, Denver, CO (2005-2015); Deputy State Public Defender, Arapahoe County Trial Office, Centennial, CO (1991-2005); Law Clerk, Larry Pozner & Associates, Denver, CO (1988-1991); Manager, Planning & Control, Oppenheimer Funds, Denver, CO (1985-1988); Bank Management Consultant, Penquite & Associates, Dallas, TX (1982-1985)

Professional: Admitted to practice in Colorado (1990); United States District Court for the District of Colorado (1998); United States Supreme Court (2011)

Education: Topeka West High School, Topeka, KS (Diploma, 1978); Smith College, Northampton, MA (B.A. Economics, 1982); University of Denver College of Law (Order of St. Ives), Denver, CO (J.D., 1990)

Civic/Volunteer: Denver Partners (1985-1988); Colorado Uplift (1985-1988); Colorado Children's Justice Task Force (1992-1995); Arapahoe County Community Corrections Board alternate (1993-2004); Aurora Gang Task Force (1993-1999); Mock Trial Coach, Arapahoe High School, (1992-1995); Mock Trial Coach, Lookout Mountain School (1993-1994); Habitat for Humanity (200-2005); Project Angel Heart (2002-2005); PTCO Holly Hills Elementary School (2005-2015); East High School Constitutional Law Scholars (2009-2010); West Middle School Mock Congressional Hearings (2015-Present)

Personal: Born December 9, 1959 in Kansas City, Kansas. Married, three children.



Craig R. Welling

Date of Judicial Appointment: Dec. 29, 2016



Judge Craig Welling was appointed to the Colorado Court of Appeals in February 2017.

From 2011 until being appointed to the Court of Appeals, Judge Welling served as a Colorado district court judge in the Seventeenth Judicial District (Adams County). As a district court judge, Judge Welling had two-year rotations in each of the following: an adult felony criminal docket; a juvenile docket (including dependency and neglect cases, juvenile delinquency cases, contested and uncontested adoption cases, and paternity and maternity determinations); and a domestic relations docket.

Prior to being appointed to the bench, Judge Welling served in Colorado Governor Bill Ritter's Office of Legal Counsel (2007-2011); and before that, was an associate at Rothgerber Johnson & Lyons LLP (2001-2007).

Judge Welling earned a B.S. in chemical engineering from Colorado State University in 1995, an M.A. in environmental engineering from Pennsylvania State University in 2001, and a J.D. from the University of Colorado in 2001.



Ted C. Tow III

Date of Judicial Appointment: Feb. 13, 2018



Career

Before joining the Court, Judge Tow served for seven years as a District Judge in the 17th Judicial District (Adams County). Prior to his judicial service, he served as the Executive Director of the Colorado District Attorneys' Council, following several years as a deputy district attorney. He began his legal career in private practice, working as an associate primarily in labor and employment for three different law firms, including Dickinson, Wright, Moon, Van Dusen & Freeman (Chicago); Matkov, Salzman, Madoff & Gunn (Chicago); and Sherman & Howard (Denver).

Professional

Judge Tow is admitted to practice in Colorado (1999), Illinois (1994, presently inactive status), U.S. District Court, District of Colorado (1999), U.S. District Court, Eastern District of Michigan (1996), and U.S. District Court, Northern District of Illinois (1994).

Judge Tow is a member of the Colorado Bar Association, and has served on the Board of Governors and the Executive Council of the Criminal Law Section since 2008. He is also a Fellow of the Colorado Bar Foundation, and a member of the Adams/Broomfield Bar Association, and the Law Club of Denver. Judge Tow previously served on the Colorado Judicial Discipline Commission (2013 to 2018).

Education

Judge Tow received his high school diploma in 1985 from Olathe South High School in Olathe, Kansas. He received a B.A. with Distinction and College Honors in English Literature and Comparative Constitutional History from the University of Kansas in 1989. And he received his J.D., *summa cum laude*, from Wayne State University Law School in 1994.

Teaching

Judge Tow is a graduate and member of the faculty and the leadership council for the Colorado Institute for Faculty Excellence in Judicial Education (COIFE). He is a frequent presenter of CLE for the Judicial Branch and the Colorado Bar Association on a wide range of topics including family law, civil procedure, and legal and judicial ethics.

Personal

Judge Tow is married, and has three children and two grandchildren. He enjoys attending the theater, sports, playing games and cards, skiing, and hiking. He also enjoys performing, and has in recent years done so with the Colorado Symphony Chorus in *Too Hot to Handel*; in local community theater productions, including *Catch Me If You Can* (Roger Strong) and *Next to Normal* (Dr. Fine/Dr. Madden); and in numerous Ethics Revues put on by the Law Club of Denver.



Lino Lipinsky de Orlov

Date of Judicial Appointment: Sept. 4, 2018



Career

Immediately prior to joining the Court of Appeals, Lino S. Lipinsky de Orlov was chair of the Denver litigation department of Dentons US LLP, an international law firm. He was previously a partner in VanderWerf & Lipinsky, P.C., and was associated with Holme Roberts & Owen in Denver and Willkie Farr & Gallagher in New York.

Civic and Professional Activities

Judge Lipinsky is a member of the Colorado Bar Association's Board of Governors, the First Vice President of the Denver Bar Association, and a Board member of the Colorado Judicial Institute. He also serves on the Standing Committee on the Colorado Rules of Professional Conduct and the Executive Committee of the Our Courts Colorado civic education program.

He is a former President of the Faculty of Federal Advocates, where he co-authored the United States District Court for the District of Colorado's civil pro bono panel initiative. He formerly served on the House of Delegates of the American Bar Association. In 2006, Judge Lipinsky co-founded the Colorado Lawyer Chapter of the American Constitution Society.

Judge Lipinsky was a member of the Electronic Discovery Committee of the United States District Court for the District of Colorado and the Rule 502 Subcommittee of the Colorado Supreme Court Advisory Committee on Rules of Evidence. While in private practice, he volunteered at the Colorado Lawyers Committee's Legal Night program, which assists indigent individuals who are seeking pro bono counsel.

Awards and Recognitions

Judge Lipinsky received the "Legal Luminary" award from the Colorado Lawyer Chapter of the American Constitution Society, the Colorado Bar Association's award for the best litigation article published in Colorado Lawyer magazine in 2003, and the Edward Sherman Award from the American Civil Liberties Union of Colorado. Judge Lipinsky was honored with the United States District Court for the District of Colorado's pro bono award for his role as court-appointed counsel in a Fourth Amendment case. He was recognized as one of Colorado's top commercial litigators in publications such as Chambers USA, Best Lawyers in America, and SuperLawyers.

Speaking and Writing

Judge Lipinsky frequently speaks and writes on legal issues relating to technology, discovery, employment law, and ethics. His recent articles include A Shift in Accommodating Employee Medical Marijuana Use, Law360 (Oct. 3, 2017) (co-author); Work Product Immunity, in N. Hanlon-Leh, et al., Discovery in Colorado (2017 and 2018 eds.) (co-author of book chapter); Managing Risks When Working with Experts and Consultants, Colo. Law. (June 2017) at 61 (co-author); Attorney-Witnesses Face a Host of Hazards, Colo. Law. (Dec. 2016) at 67 (co-author); 5th Circ. Raises Questions About Workplace Gun Policies, Law360 (Oct. 31, 2016) (co-author); and Colorado Rule of Evidence 502: Preserving Privilege and Work Product Protection in Discovery, Colo. Law. (Oct. 2016) at 19 (co-author).

His recent speaking engagements include "Where Do You Discover? Discovery in Different Forums" at Colorado Bar Association CLE, October 16, 2018; "What Every Attorney Should Know: Information Security and Document Management" (program chair) at Colorado Bar Association CLE, July 25, 2018; "The District of Colorado's Civil Pro Bono Panel Initiative" at the 2018 Mid-Year Meeting of the Association of Corporate Counsel, April 24, 2018 (panel discussion); "Experts v. Opinion Testimony" at the "Straight Talk with Judges" seminar sponsored by the Colorado Judicial Institute, March 1, 2018



(co-presenter); “What Every Lawyer Must Know About the Latest Developments Concerning Ethics and Electronically Stored Information” at the 35th National CLE Conference, January 6, 2018; “Discovering Discovery” at Colorado Bar Association CLE, July 28, 2017; “Electronic Evidence and E-Discovery 2017” (program chair) at Colorado Bar Association CLE, June 21, 2017; and “The Ethics of Electronic Information: Competence, Confidentiality & Other Ethical Implications” at Colorado Bar Association CLE, March 23, 2017.

Education

Judge Lipinsky received an A.B. magna cum laude, with honors, from Brown University. He served as Managing Editor of the Brown Daily Herald newspaper. He earned his J.D. from the New York University School of Law, where he was a member of the New York University Law Review.

Bar Admissions

He is a member of the Colorado, New York, and Washington, D.C. bars, and was admitted to practice before the United States Supreme Court, the Tenth Circuit Court of Appeals, and the United States District Court for the District of Colorado.

Judge Lipinsky is married and has two adult daughters.



Matthew D. Grove

Date of Judicial Appointment: Nov. 29, 2018

Career

Assistant Solicitor General and Senior Assistant Attorney General, Colorado Department of Law, State Services Section (2009-2018)

Assistant Attorney General, Yap State, Federated States of Micronesia (2009)

Associate, Bjork Lindley Little, PC (2007-2008)

Assistant Attorney General, Colorado Department of Law, Appellate Division (2003-2007)

Law clerk to Colorado Supreme Court Justice Nathan B. Coats (2002-03)

Education

University of Colorado School of Law, J.D. (2002)

Duke University, A.B. (1998)

Bar Admissions

Colorado (2002); United States District Court for the District of Colorado (2004); United States Court of Appeals for the Tenth Circuit (2010); United States Supreme Court (2013); Supreme Court, Federated States of Micronesia (2009); Yap State, Federated States of Micronesia (2009)



Neeti Vasant Pawar

Date of Judicial Appointment: Feb. 21, 2019



The Hon. Neeti Pawar was appointed to the Court of Appeals in March, 2019. Before her appointment, Judge Pawar ran her own solo law firm for twelve years, and prior to that, she was a partner with a small boutique law firm. In her private practice, Judge Pawar practiced in the areas of family law, employment law, and criminal defense. She also served as a mediator for over a decade. Early in her career, Judge Pawar worked as a public defender for the City of Denver.

Professional Involvement

During her 25-year career before joining the bench, Judge Pawar was actively involved in the Colorado legal community. She served as 1st Vice President, representing Denver, with the Colorado Bar Association; an Executive Council member for the Colorado Bar Association; 2nd Vice President for the Denver Bar Association; and a member of the Board of Governors of the Colorado Bar Association. She is also a Fellow with the Colorado Bar Foundation. Judge Pawar is a past president of the Asian Pacific American Bar Association and the founder of the South Asian Bar Association of Colorado. She was a member of the Colorado Women's Bar Association, and a board member of the Colorado Lawyer's Committee and Colorado Legal Services. Her service to the legal profession also included pro bono representation and assistance to individuals in need through Rocky Mountain Immigrant Advocacy Network, Legal Aid Society of Metropolitan Denver, Project Homeless Connect, and various community legal aid nights. She graduated in the inaugural class of the Colorado Bar Association's Leadership Training Program. She currently serves on multiple working committees within the Colorado Court of Appeals and continues to volunteer her time speaking on legal matters, leadership, and community service.

Professional Recognitions

Judge Pawar has been recognized by her peers through her inclusion the SuperLawyer list for over ten years, including "Top 50 Women Lawyers" for three of those years, and 5280 Magazine's "Top Lawyers" list for three years. She was selected by the Denver Business Journal as a "Forty Under 40" in 2007, and received the Minoru Yasui Community Service Award from the Asian Pacific American Bar Association in 2018. After her first year on the bench, Judge Pawar was selected as "Barrister's Choice" for Best Court of Appeals Judge in Law Week Colorado's Barrister's Best 2020.

Public Service

Public service outside of the legal profession has also been a cornerstone for Judge Pawar. She volunteered for fifteen years with the Colorado Heritage Camps, guided young leaders through Colorado Dragon Boat Festival's Emerging Leadership Program, mentors countless young people, and teaches dance to children at an Indian dance studio in Aurora, Colorado.

Personal

Judge Pawar grew up in a small, rural, farm community in central western Illinois, which she credits with having instilled down-to-earth values. She left the Midwest in 1994 to launch her career in Colorado, which, she believes, provides an ideal balance of city energy and mountain life, and reminds her of her midwestern roots. In her free time, Judge Pawar enjoys dancing, skiing, cooking, and playing Scrabble with her husband whether at their dining room table or various spots throughout the world.



Jaclyn Casey Brown

Date of Judicial Appointment: Feb. 21, 2019



Judge Jaclyn Brown was appointed to the Colorado Court of Appeals in June 2019. From 2016 - 2019, Judge Brown served as a District Court Judge in the 17th Judicial District (Adams and Broomfield Counties) where she presided over domestic relations and civil matters.

Before being appointed to the bench, Judge Brown was a litigation partner in the Denver office of Lewis Roca Rothgerber Christie LLP, where she litigated complex matters in several states. Her areas of practice included complex commercial litigation, real estate, construction, and eminent domain matters, as well as appeals in both state and federal courts. She is admitted to practice before all Colorado state courts, the United States District Court for the District of Colorado, the United States Court of Appeals for the Tenth Circuit, and the

United States Supreme Court.

Judge Brown obtained her law degree from Washington University School of Law in St. Louis, Order of the Coif. Among other activities, she was part of nationally recognized trial and moot court teams and served as an editor for the Washington University Journal of Law and Policy. Judge Brown earned her bachelor's degree from the University of Colorado at Boulder, Summa Cum Laude. She graduated from Ponderosa High School in Parker, Colorado.

Judge Brown is an active member of the National Association of Women Judges and the Colorado, Denver, Adams Broomfield, and Colorado Women's Bar Associations. She is a graduate of the Colorado Bar Association Leadership Training Program and a fellow of the Colorado Bar Foundation. Judge Brown regularly volunteers for the Sean May Memorial Run, Judges Fighting Hunger through the Food Bank of the Rockies, and for mock trial tournaments. Judge Brown has been involved in several community organizations over the years, including the Colorado Coalition for the Homeless and Curious Theatre Company.

Among other distinctions, Judge Brown has been recognized as a Denver Business Journal "Forty under 40" honoree, earned the Denver Bar Association's Young Lawyer of the Year Award, and was a Colorado Super Lawyers Rising Star in Business Litigation from 2011-2016. She was part of a team of pro-bono lawyers that was named Lawyer of the Year by Law Week Colorado and which received the American Bar Association Death Penalty Representation Project Exceptional Service Award.



Sueanna P. Johnson

Date of Judicial Appointment: Dec. 2, 2019



Judge Sueanna P. Johnson was appointed to the Colorado Court of Appeals on December 2, 2019, and sworn in on February 13, 2020. Before her appointment, she was employed with the Colorado Attorney General's Office from 2004-2019, first as an Assistant Attorney General, then in 2017 as a Senior Assistant Attorney General in the Business and Licensing Section. While at the Colorado Attorney General's Office, she also worked in the State Services Section and served on the internal Ethics and Fellowship Committees. Before working at the Attorney General's Office, she clerked for the Honorable John Coughlin in Denver District Court from 2003-2004.

Judge Johnson has been admitted to practice before the Colorado courts, the United States District Court for the District of Colorado, the United States Court of Appeals for the Tenth Circuit, and the U.S. Supreme Court.

She obtained her Juris Doctor from the University of Colorado at Boulder in 2003 and earned her B.A. in Political Science from Colorado College in 1997. During her junior year in college, she studied abroad at the University of Manchester in Manchester, England.

She is active within the Colorado Asian Pacific American Bar Association and is a member of the Thompson G. Marsh Inn of Court. She previously served on the Board for the Young Lawyers Division of the Colorado Bar Association. As a person with albinism and a visual impairment, she is a member of the National Organization of Albinism and Hypopigmentation. For that organization, she speaks to parents who have children with albinism, and was a featured adult in the book *Raising a Child with Albinism: A Guide to the School Years*.

Judge Johnson was born in Seoul, South Korea, and adopted when she was three years old. She is married with two school-aged children.



Christina F. Gomez

Date of Judicial Appointment: Dec. 2, 2019



Career

Private practice at Holland & Hart (Associate, 2004-2011; Partner, 2012-2020) – Chaired the Appellate Practice Group from 2017-2020; served as Administrative Partner for the Denver Office from 2018-2020; was a founding member and served for three years as Co-Chair of the Women’s Forum; served on the Diversity Committee and various other committees. During her time in private practice, Judge Gomez focused on complex appellate litigation and worked on hundreds of appeals in a wide variety of areas in state and federal appellate courts. She also spent hundreds of hours on a variety of pro bono matters.

Judicial clerkship for the Honorable Charles A. Pannell, Jr., U.S. District Court for the Northern District of Georgia (2002-2004)

Education

Millsaps College (B.A. 1996, *summa cum laude*) – Founders Medal recipient; Phi Beta Kappa; Honors Program; Ford Teaching Fellow; Circle K International Society of Distinguished Collegians (based on academics, commitment to local club, and completion of at least 250 hours of service); officer and member of various leadership, academic, and service organizations; various other academic awards

Harvard Law School (J.D. 2002, *cum laude*) – Board of Student Advisors; editor and contributing author to the *Harvard Journal on Legislation*; officer and volunteer for Volunteer Income Tax Assistance (VITA) program; student advocate at Hale & Door Legal Services Center

Civic/Charitable Activities

- Colorado Bar Association Appellate Pro Bono Task Force – Formed and now chair this task force working to create and implement proposals to expand pro bono services in Colorado’s appellate courts, particularly through the formation of a civil pro se appeals clinic and the expansion of the current Appellate Pro Bono Program
- Colorado Bar Association Appellate Pro Bono Program – Served on the five-member formation committee that created the program in 2009-2010; chaired the program’s screening committee from 2010-2019
- Meals on Wheels – Long-time volunteer
- Capitol Hill Community Services Soup Kitchen – Long-time volunteer
- Girl Scouts of America – Troop Co-Leader
- Boy Scouts of America – Former Cub Scout Den Leader
- Organized and participated in various service projects and public interest speaking events

Honors/Awards

- Colorado Women’s Bar Association Foundation, *Raising the Bar* Honoree for “Women Lawyers Who Raise the Bar by Maintaining a Significant and Sustained Commitment to Pro Bono Services (2016)
- *5280 Magazine*, Top Lawyers, Appellate Practice (2015-2020)
- Colorado Super Lawyers, Appellate Practice (2018-2020) (rising star, 2010-2014)



Professional Affiliations/Activities

- Colorado Bar Association Leadership Training (COBALT) program (member of 2020 class)
- Member, Colorado Bar Association, Litigation Section, Appellate Practice Subcommittee (2009-present)
- Chair/Co-Chair, Colorado Bar Association Annual Appellate Practice Update CLE (2011-present)
- Co-Editor, *The Colorado Lawyer* Appellate Practice Column (2014-present)
- Member, Colorado Women's Bar Association
- Member, Denver Bar Association
- Member, Former President & Trustee, Rocky Mountain Harvard University Club
- Former Commissioner, Seventeenth Judicial District Nominating Commission (2016-2019)

Bar Admissions

- Colorado
- Georgia (no longer active)
- U.S. Supreme Court
- U.S. Courts of Appeals for the Fourth, Fifth, Ninth, Tenth, and D.C. Circuits
- U.S. District Court for the District of Colorado
- U.S. District Court for the Northern District of Georgia

Publications (partial list)

- "Disposition of Appeal" and "Post-Decision Procedures and Remedies," Colorado Appellate Handbook, Chapter Author, 2009-present
- "The Law of the Case Doctrine and Mandate Rule," Nov. 20, 2019 (co-author)
- "Appellate Review of Unpreserved Issues," Law.com, Oct. 23, 2019 (co-author)
- "Standing Requirements in Federal Court," Law.com, Sept. 18, 2019 (co-author)
- "Staying Enforcement of a Judgment Pending Appeal," *The Colorado Lawyer*, May 2019
- "Vexed and Perplexed: Reviewing Mixed Questions of Law and Fact on Appeal," *The Colorado Lawyer*, March 2018
- "Ten Things Every Trial Lawyer Should Know About Appeals," *Trial Talk*, April/May 2017
- "Canons of Statutory Construction," *The Colorado Lawyer*, February 2017
- "Appellate Traps for the Unwary," *Trial Talk*, April/May 2016
- "Relying on Internet Sources in the Appeals Courts," *The Colorado Lawyer*, November 2015
- "Preserving Issues in Civil Cases," *Trial Talk*, April/May 2015
- "Finality and Attorney Fee Issues," *The Colorado Lawyer*, July 2014
- "Outlines for Effective Brief Writing," *Trial Talk*, April/May 2014



- “Whether, What and When to Appeal,” *Trial Talk*, April/May 2013
- “Ten Ways to Lose an Appeal,” *Trial Talk*, April/May 2012
- “When to File an Appeal,” *Trial Talk*, April/May 2011

Presentations (partial list)

- “Stayin’ Alive: Civil Stays and C.A.R. 21 Proceedings,” *Colorado Bar Association Appellate Practice Update*, Program Co-Moderator and Session Co-Moderator, November 2019
- “Effective Oral Argument,” *Colorado County Attorneys Association Winter Conference*, Session Co-Presenter, November 2019
- “A Chat with Justice Jean Dubofsky: The Law, Civil Rights, and Appealing for Justice,” *Colorado Bar Association Appellate Practice Update*, Program Co-Moderator and Session Moderator/Interviewer, November 2017
- “Effective Appellate Writing,” *Colorado Bar Association Appellate Practice Update*, Program Co-Moderator and Session Co-Moderator, November 2016
- “Trial Versus Appellate Advocacy,” *Colorado Bar Association Appellate Practice Update*, Program Co-Moderator and Session Co-Moderator, November 2015
- “Access to Justice/Appellate Pro Bono Program,” *Colorado Bar Association Appellate Practice Update*, Program Co-Moderator and Session Co-Presenter, December 2014
- “Civil Law Update,” *Colorado Judicial Conference*, Session Co-Presenter, September 2014
- “Effective Oral Argument,” *Colorado Bar Association Appellate Practice Update*, Program Moderator and Session Co-Moderator, December 2013
- “Oral Argument: Mock Argument and Discussion,” *Colorado Bar Association Appellate Practice Update*, Program Moderator and Session Co-Presenter/Co-Moderator, December 2012
- “Issue Spotting,” *Colorado Parent Representation Appellate Training*, Co-Presenter, May 2012
- “Stays, Bonds, and Trial Court Proceedings During the Appeal,” *Colorado Bar Association Appellate Practice Update*, Program Moderator and Session Presenter, December 2011
- “Appellate Advocacy and Issue Spotting,” *Colorado Bar Association Appellate Practice Subcommittee Seminar on Handling Pro Bono Appeals*, Presenter, June 2011
- “Finality of Judgments – When Does the Time to Appeal Start Running?,” *Colorado Bar Association Appellate Practice Update*, Co-Presenter, November 2010
- “Pro Bono – When, Where, and Why,” *Doyle Inn of Court*, Co-Presenter, September 2010

Personal

Judge Gomez is married with three children. She loves camping, hiking, reading, and playing board games with her family. She grew up in Huntsville, AL.



David H. Yun

Date of Judicial Appointment: Dec. 2, 2019



Judge David Yun was appointed to the Colorado Court of Appeals on December 2, 2019 and was sworn in on March 2, 2020. Born in South Korea, Judge Yun immigrated to the United States with his family when he was eight years old. He grew up in the Denver suburbs, graduating from Arapahoe High School. In 1989, he graduated from the University of Colorado in Boulder earning a Bachelor of Arts in economics and political science. He graduated from the University of Colorado School of Law in 1993.

Before joining the Court of Appeals, Judge Yun was a partner at Messner Reeves from 2019-2020, a partner at Jaudon & Avery from 2001-2019, and an associate and then a partner at Long & Jaudon from 1993-2001. He focused his law practice primarily on civil appeals, health care law, and medical malpractice law. He regularly argued cases before the Colorado Supreme Court, the Colorado Court of Appeals, and the United States Court of Appeals for the Tenth Circuit and was part of a team that successfully appealed a case to the United States Supreme Court. He was recognized as one of the top appellate lawyers in publications such as the Best Lawyers of America, Super Lawyers, and 5280 Magazine. He is a fellow of the Litigation Counsel of America.

Judge Yun has co-authored several law journal articles in the First Amendment area, which have been republished in several books. He has written op-ed columns on race and civil rights, and has taught constitutional law and contracts at a local college. He has served on the Colorado Civil Jury Instruction Committee since 2011. He has also volunteered his time serving on the board of a nonprofit health clinic and tutoring disadvantaged children.



W. Eric Kuhn

Date of Judicial Appointment: June 4, 2021

Career

Prior to joining the court, Judge Eric Kuhn served as a Senior Assistant Attorney General in the Colorado Attorney General's Office from 2010 until the date of his appointment. He held positions in both the Health Care Unit and the Public Officials Unit. Judge Kuhn's practice involved representing government clients at all stages of litigation and appeal before state and federal courts. His practice was substantively focused on healthcare, public health, litigation, and the complex constitutional and legal questions faced by government agencies. Before joining the Attorney General's Office, Judge Kuhn was an associate attorney at the Law Offices of Bradley J. Frigon from 2006 to 2010, where he practiced probate and trust law.

Education

- University of Denver Sturm College of Law, J.D., Order of St. Ives (2006)
- Colorado College, B.A. (1995)

Bar Admissions

- Colorado
- California (inactive)
- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Court for the District of Colorado
- U.S. District Court for the District of Oregon (only during government service)

Honors/Awards

- Attorney General's Award for Exceptional Performance, 2011, 2015, 2019, 2020
- Governor's Public Service Recognition Award, 2019 (selected for award by client agency)

Professional Affiliations/Activities

- Colorado Supreme Court Hearing Board, Board Member, November 2015 – August 2021
- Liaison to the Chief Justice's Commission on the Legal Profession, 2011

Publications

- Identifying Emerging Public Health Issues in States with State-Level Marijuana Legalization, National Association of Attorneys General Training & Research Institute (2013)
- Which SNT, When and Why?, with Bradley J. Frigon, 5 NAELA J. 1 (2009)

Presentations

- Enforcing Executive and State Public Health Orders, Colorado County Attorneys Association Winter Conference, December 2020
- New Paradigms for Marijuana Regulation in the US, American Society of Law, Medicine & Ethics, Public Health Law Conference, October 2014
- AGs and Public Health Law, National Association of Attorneys General, December 2013
- Expanding Medical Marijuana Laws: Current Policies and Implications for Public Health, Network for Public Health Law Webinar, May 2014
- Identifying Emerging Public Health Issues in States with State-Level Marijuana Legalization, American Public Health Association Annual Meeting and Conference, November 2013

Personal

Judge Kuhn was born and raised in Santa Fe, New Mexico, where he attended high school. He enjoys cooking, gardening, and travel.



Timothy J. Schutz

Date of Judicial appointment: Oct. 28, 2021

Timothy J. Schutz received his Juris Doctorate, with distinction, from the University of North Dakota in 1987. While in law school, he served as Editor in Chief of the North Dakota Law Review, and was selected to membership in the Order of the Coif. Upon his graduation, Judge Schutz joined the law firm of Holland & Hart. In 1991, he joined Richard W. Hanes and soon thereafter the two formed the law firm of Hanes & Schutz. Over the next two decades, the firm gained a reputation for excellence in the areas of intellectual property, civil litigation, land use disputes and the representation of special districts.

Judge Schutz was appointed to the El Paso County District Court bench by Governor Ritter, effective November 1, 2010. During his eleven years in the trial court, Judge Schutz managed active criminal, civil, juvenile, and domestic dockets. He has presided over criminal trials ranging from allegations of simple assault to first degree murder. His juvenile, civil, and domestic dockets were similarly varied and vigorous.

Judge Schutz co-chaired the Fourth Judicial District Minority Overrepresentations Committee from 2012 until 2020. The Committee is devoted to interacting with community stakeholders to address the existence, causes, and remediation of disproportionate numbers of minorities in the social welfare, school disciplinary, and criminal justice systems. To that end, Judge Schutz has been a frequent writer and communicator on issues surrounding race and the justice system. These opportunities have been central to Judge Schutz's service as a judicial officer.

Judge Schutz has also been extensively involved in access to justice issues at a local and statewide level. Working with members of the Bench and Bar, as well as local stakeholders, Judge Schutz has endeavored to make our courts more accessible to all citizens, regardless of their economic circumstances or station in life.

In October 2021, Judge Schutz was appointed to the Colorado Court of Appeals by Governor Jared Polis, with an effective date of January 1, 2022. Judge Schutz considers it a great privilege and honor to serve the residents of the State of Colorado from the Bench. It is his goal to bring equal measures of humanity, diligence, and scholarship to his judicial calling.

Judge Schutz and his wife Kristi have been married for more than four decades. They are blessed with four children and eight grandchildren. In his spare time, Judge Schutz enjoys gardening, birding, hunting, whittling, Red Rocks concerts, reading, and jogging.



Karl L. Schock

Date of Judicial appointment: Sept. 15, 2022

Date of Swearing In: November 7, 2022

Career

Before his appointment to the court, Judge Karl Schock served for seven years as an Assistant United States Attorney in the Appellate Division of the District of Colorado, where he handled criminal and civil appeals before the United States Court of Appeals for the Tenth Circuit. Before that, Judge Schock was a shareholder and associate attorney at the law firm of Brownstein Hyatt Farber Schreck, where he practiced commercial litigation. Judge Schock began his career as a law clerk for the Honorable Michael R. Murphy of the United States Court of Appeals for the Tenth Circuit.

Education

- University of Colorado School of Law, J.D., Order of the Coif (2006)
- Northern Arizona University, B.S., Public Relations, summa cum laude (2003)

Community Involvement

Judge Schock has served in various capacities with multiple organizations that provide support and resettlement services to newly arrived refugees, including as a board member of Colorado African Organization (2017-2020) and as a volunteer with African Community Center and Lutheran Family Services Rocky Mountain Refugee and Asylee Programs. He also served as a board member for Food Bank of the Rockies (2014-2015) and Growing Home (2011-2014). He is a longtime coach of his children's baseball and soccer teams.

Professional Activities

Judge Schock is a member of the Model Criminal Jury Instructions Committee.

Before his appointment to the court, Judge Schock served as a board member of the Faculty of Federal Advocates from 2019 to 2022. He has been a frequent presenter on legal writing and appellate practice.

Personal

Judge Schock is a marathon runner and triathlete, and he enjoys spending as much time as possible in the mountains with his family, snowboarding in the winter and hiking and camping in the summer.



Katharine E. Lum

Date of Judicial appointment: Sept. 15, 2022

Date of Swearing In: Nov. 16, 2022

Career

Prior to joining the bench, Judge Lum was Of Counsel with Cooper Ramp Cage Bucar Lewis (and predecessor firms), where she specialized in domestic relations law at the trial and appellate levels. During her career, Judge Lum served as a member of the Family Law Section Executive Council, where she formed and co-chaired the Diversity, Equity, and Inclusivity Committee. She was additionally appointed to serve on the Supreme Court Standing Committee on Family Issues, a position she continues to hold. Before entering private practice, Judge Lum was a law clerk for former Justice Gregory Hobbs of the Colorado Supreme Court.

Professional Associations

Judge Lum is a member of the Asian Pacific American Bar Association of Colorado, the Colorado Women's Bar, the Colorado LGBT Bar Association, and the Minoru Yasui Inn of Court. She is also a Bar Fellow with the Colorado Bar Foundation.

Public Service

Judge Lum is an avid supporter of organizations providing pro bono legal services to the public. During law school, she was a student volunteer with Community Legal Outreach, assisting clients at a women's shelter with legal issues. During her career in private practice, Judge Lum was a frequent volunteer with Metro Volunteer Lawyers (MVL). In 2020, Judge Lum received MVL's award for outstanding participation in the post-decree program, and in 2021, she was recognized as a Denver Bar Association Pro Bono Star.

Education

Judge Lum obtained a J.D. from the University California Berkeley School of Law and a B.A., magna cum laude, from Northwestern University.

Personal

In her free time, Judge Lum enjoys hiking, climbing, baking, knitting, and playing the cello.



Pax Leia Moultrie

Date of Judicial appointment: Jan. 1, 2024

Prior to her appointment to the Colorado Court of Appeals, Judge Moultrie served as a district court judge for Denver Juvenile Court (April 2020 to December 2023), presiding over a docket of varied matters including adoptions, dependency and neglect cases, and juvenile delinquency cases, and as a magistrate in the 1st Judicial District (December 2018 to April 2020), presiding over a docket of domestic relations and juvenile matters. Prior to being appointed to the bench, she represented county departments of human services in dependency and neglect and juvenile delinquency matters.

Judge Moultrie is a member of the Colorado Bar Association, the Sam Cary Bar Association, Colorado Women's Bar Association, is a Colorado Bar Foundation Fellow, and has served as an appointed member of non-profit organizations and law-related organizations, including the Colorado Office of the Child Protection Ombudsman and the Respondent Parent's Counsel Work Group. Judge Moultrie earned her B.A. in Anthropology from Washington University in St. Louis and her J.D. from the University of Denver Sturm College of Law.



Grant T. Sullivan

Date of Judicial appointment: Nov. 9, 2023

Professional Background

Before his appointment to the court, Judge Sullivan practiced law as a trial and appellate litigator with the Colorado Attorney General's Office from 2011 to 2023. He served in both the Public Officials Unit and the Tax Unit, specializing in constitutional law, voting rights, election law, tax, administrative law, and appeals. Judge Sullivan previously practiced law with the Denver office of a national firm and served as a Supreme Court Fellow with the National Association of Attorneys General. He clerked for Judge John Webb on the Colorado Court of Appeals and Justice Nathan Coats on the Colorado Supreme Court.

Judge Sullivan is admitted to practice before the United States Supreme Court, the U.S. Court of Appeals for the Tenth Circuit, the U.S. Court of Appeals for the Ninth Circuit, the U.S. District Court for the District of Colorado, and all Colorado courts.

Education

Judge Sullivan received his Juris Doctorate from the University of Colorado Law School. He earned his Bachelor of Business Administration degree, majoring in finance, from the University of Texas at Austin's McCombs School of Business.

Professional Activities and Civic Engagement

Judge Sullivan is active in many professional organizations. He is a member and past president of the Minoru Yasui American Inn of Court, which is dedicated to improving the skills, professionalism, and ethics of the bench and bar. He is also a member of the Colorado and Denver Bar Associations and is active in the CBA's Appellate Subsection. Before his appointment, Judge Sullivan served as a volunteer attorney with Metro Volunteer Lawyers' post-decree clinic, providing pro bono counsel to unrepresented litigants in domestic cases.

Judge Sullivan also serves his community outside of the legal profession, volunteering for the Food Bank of the Rockies and A Little Help.

Personal

Judge Sullivan was born and raised in a rural farming community in Kansas. He enjoys spending time with his family skiing, backpacking, hiking fourteeners, and finding Colorado's best hot springs.



Who are Colorado's High Court Justices?

Objective: Students will be able to name the Supreme Court Justices and be familiar with information from their biography.

Inquiry Questions:

- Do the Supreme Court justices reflect the diversity of the population of the State of Colorado?
- Why do you think that each of these justices was selected to serve in this position?
- Does anything surprise you about who is sitting on the Supreme Court?
- How do the past professional experiences of the justices differ? What impact do you think this has on the judiciary?

Colorado Academic Standards

- **SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to: understanding the three branches of government at each level of government.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Class participation activity and homework assignment.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information:

Introduction

by former Colorado Supreme Court Justice Alex Martinez

The biographies of the members of the Colorado Supreme Court reveal many more qualifications than the minimal requirements of law for sitting on the court. Generally, justices, like all judges, are selected from the pool of lawyers and judges who have demonstrated that they are very capable in their practices and other prior activities.

Despite their many accomplishments and grave responsibilities, the justices of this court are known to some people as moms or dads, brothers or sisters, friends, and neighbors, just like anyone else. Perhaps the greatest strength of the court is that the justices who come together to discuss and resolve important issues have very different backgrounds and experiences, both personal and professional, and that those different perspectives inform the decision-making process.

More Information

Included on the following pages are biographies for each of the seven Colorado Supreme Court justices. Information is also available on the [Colorado Judicial Branch website](#).

Qualifications for becoming a Colorado Supreme Court justice: A nominee for the Colorado Supreme Court must be a qualified elector of the state of Colorado, licensed to practice law in Colorado for at least five years, and under the age of 72 at the time his or her name is submitted to the Governor.



Class activities

1. Hand out packets of the justice's biographies and have the students read through. Or you could divide the students into groups and hand out a few biographies to each group to read. Alternatively, you could have students read the [biographies of the justices online](#).
2. Generate discussion about the judges by asking the students:
 - a. Do the Supreme Court justices reflect the diversity of the population of the State of Colorado?
 - b. Why do you think that each of these justices was selected to serve in this position?
 - c. Does anything surprise you about who is sitting on the Supreme Court?
 - d. How do the past professional experiences of the justices differ? What impact do you think this has on the judiciary?

Homework assignment

1. Have students select three judges to profile. You can either send the biographies home with them or have them select [biographies of the justices online](#) at home, depending on their internet access.
2. Hand out worksheet titled "Colorado's Supreme Court Justices" and ask students to select three different justices to complete the worksheet.



Colorado's Supreme Court Justices

Read the biographies of three justices. Write down three facts that are mentioned in each justice's bio. Then explain why this experience or situation might be beneficial for an appellate judge. For example: if it says that a judge was in private practice, how might this help this person while serving on the bench of the Supreme Court?

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____



Chief Justice Monica M. Márquez

Date of Judicial Appointment: September 8, 2010

Became Chief Justice: July 26, 2024



Monica M. Márquez was sworn in as Justice of the Colorado Supreme Court on December 10, 2010. She began her term as Chief Justice in July 2024. She was appointed by Governor Bill Ritter, Jr. Before joining the Court, Justice Márquez served as Deputy Attorney General at the Colorado Attorney General's Office, where she led the State Services section in representing many Colorado Executive Branch agencies and Colorado's statewide elected public officials, including the Governor, Treasurer, Secretary of State, and Attorney General. Before being appointed Deputy Attorney General, Justice Márquez also served as Assistant Solicitor General and as Assistant Attorney General in both the Public Officials Unit and the Criminal Appellate Section.

Prior to joining the Attorney General's Office, Justice Márquez practiced general commercial litigation and employment law at Holme Roberts & Owen, LLP. She clerked for Judge David M. Ebel of the United States Court of Appeals for the Tenth Circuit in Denver, Colo., and for Judge Michael A. Ponsor of the United States District Court for the District of Massachusetts in Springfield, Mass.

Justice Márquez was born in Austin, Texas. She grew up in Grand Junction, Colo., where she graduated from Grand Junction High School. She earned her bachelor's degree from Stanford University, then served in the Jesuit Volunteer Corps as a volunteer inner-city school teacher and community organizer in Camden, N.J., and Philadelphia, Pa. She graduated from Yale Law School, where she served as Editor of the Yale Law Journal, Articles Editor of the Yale Law & Policy Review, and co-coordinator of the Latino Law Students Association.

Justice Márquez has been a member of the Colorado and Denver Bar Associations and the Minoru Yasui Inn of Court. Prior to joining the Court, Justice Márquez served on the boards of the Colorado Hispanic Bar Association, the Colorado GLBT Bar Association, and the Latina Initiative, and as Chair of the Denver Mayor's GLBT Commission.

Justice Márquez has received honors and awards including the Colorado GLBT Bar Association's 2009 Outstanding GLBT Attorney Award, the 2009 Richard Marden Davis Award (given to a Denver attorney who combines excellence as a lawyer with creative civic cultural, educational and charitable leadership), and the 2010 Latina Chamber Inspiración Award.



Justice Brian D. Boatright

Date of Judicial Appointment: October 27, 2011



Brian D. Boatright was sworn in as Justice of the Colorado Supreme Court on November 21, 2011. He was appointed by Governor John Hickenlooper. Before joining the Supreme Court, Justice Boatright was a District Court Judge in the First Judicial District in Golden, Colorado and had been appointed to that position on June 16, 1999 by Governor Bill Owens. As a District Court Judge, Justice Boatright presided over Felony Criminal matters, Probate matters, Civil Cases matters, Dependency & Neglect matters and Juvenile Delinquency matters. While serving on the District Court Bench, he presided well over a hundred jury trials.

Prior to his appointment to the District Court Bench, he was a Deputy District Attorney in the First Judicial District for over nine years. During his tenure with the D.A.'s office, Justice Boatright tried everything from first degree murder cases to third degree assault cases. Prior to being appointed as a Deputy D.A., he was in private practice for approximately a year and a half with the firm of Boatright and Ripp.

Justice Boatright was born in Golden, Colorado and graduated from Jefferson High school in 1980. He graduated from Westminster College in Fulton, Missouri in 1984 and received his Juris Doctorate from the University of Denver in 1988.

Justice Boatright is a member of the Colorado Bar Association and the First Judicial District Bar Association and has held several offices including being President of the First Judicial District Bar Association (2000-2001). Justice Boatright has served on several boards and committees including the Juvenile Services Planning Committee; Children Youth Leadership Commission; Plain English Jury Instruction Committee; and the Lieutenant Governors Committee to Promote Adoptions.

He has been the Dean of the Advance New Judges Training, which is an annual training for all new judicial officers, since 2007. Justice Boatright was named Colorado CASA Judicial Officer of the Year for 2011.

Justice Boatright and his wife Kara have two children.



Justice William W. Hood, III

Date of Judicial Appointment: Oct. 25, 2013



Justice Hood was sworn in as a member of the Colorado Supreme Court on January 13, 2014, following seven years as a judge on the Denver District Court, where he completed rotations in criminal, civil and domestic relations. In 2014, the American Academy of Matrimonial Lawyers gave him its Distinguished Jurist Award. In 2011, he received the Denver Bar Association's (DBA's) Judicial Excellence Award.

Before moving to the bench, Justice Hood was a litigation partner at Isaacson Rosenbaum P.C. in Denver and served as a prosecutor for ten years in Colorado's 18th Judicial District (encompassing Arapahoe, Douglas, Lincoln and Elbert Counties). At different times, he was a chief trial deputy and the chief appellate deputy.

In 1990, Justice Hood graduated from the University of Virginia School of Law where he was a member of the *Virginia Law Review*. In 1985, he received his B.A. *magna cum laude* with honors in International Relations from Syracuse University and was inducted into Phi Beta Kappa.

His legal writing on trial work and criminal procedure has been published by *The Colorado Lawyer* and the *Virginia Law Review*. Justice Hood is also a certified instructor for the National Institute of Trial Advocacy and has served as a member of the Executive Council of the Colorado Bar Association and the Board of Trustees for the DBA. He has taught criminal procedure and trial practice as an adjunct faculty member at the University of Denver, Sturm College of Law.



Justice Richard L. Gabriel

Date of Judicial Appointment: June 23, 2015



CAREER: Judge, Colorado Court of Appeals (2008-2015); Private practice (1988-2008): Partner (1994-2008) and Associate (1990-94), Holme Roberts & Owen LLP, Denver, CO; Associate, Shea & Gould LLC, New York, NY (1988-90). Practice focused on commercial, intellectual property, probate, and products liability litigation, all including appeals. Also served as City Prosecutor for Lafayette, Colorado for four years and undertook pro bono representation in habeas corpus, civil rights, and dependency and neglect matters. Judicial clerkship (1987-88): Law clerk, Hon. J. Frederick Motz, U.S. District Court, District of Maryland, Baltimore, MD.

EDUCATION: B.A. *cum laude* in American Studies from Yale University (1984); J.D. from University of Pennsylvania School of Law (1987). Articles editor, University of Pennsylvania Law Review (1986-87). Winner, Keedy Cup Moot Court Competition (1987).

PROFESSIONAL: Admitted to state bars of New York (1987) and Colorado (1990) and to the following federal courts: U.S. Supreme Court (1999); U.S. Courts of Appeals for the Fourth (1988), Fifth (2007), Ninth (1998), Tenth (1990), and Eleventh (2001) Circuits; U.S. District Courts for the District of Colorado (1990), Central District of Illinois (2006), Southern and Eastern Districts of New York (1989), and District of Maryland (1988). Member: American, Colorado, Denver, and New York Bar Associations. Honors: Champion for Children, Rocky Mountain Children's Law Center (1997); Forty Under 40, Denver Business Journal (2002); Richard Marden Davis Award, Denver Bar Foundation (2002); Finalist, Pro Bono Lawyer of the Year, Denver Business Journal (2003); Best of Class, American Intellectual Property Lawyers (2006-07); W. Dean Salter Award for Lifetime Achievement to Holme Roberts & Owen (2006); Colorado Super Lawyer (2007-08); Chambers' Leading Lawyers for Business (2007-08); Intellectual Property Lawyer of the Year, Law Week Colorado (2007); Named as a Lawyer of the Year, Lawyers USA (2007).

CIVIC: CBA Board of Governors (DBA representative, 2010-present); CBA/DBA Professionalism Coordinating Council (member, 2009-present); CBA Judicial Liaison Section (member, 2008-present); Colorado Judicial Institute (director, 1999-present, vice chair, 2001-02, chair, 2004-06); Rocky Mountain Children's Law Center (director, 1999-2005, advisory board, 2005-08); Colorado Wind Ensemble (trumpeter, 1990-present, director, 1993-2008, president, 1994-2008); Volunteers of America (Meals on Wheels volunteer and Thanksgiving Food Drive chair, 1990-2008); 9 Who Care (board of governors, 2000-05); Colorado Lawyer (Civil Litigator column editor, 1996-2005); Denver Teen Court Partnership (director, 1994-2000); ACLU Legal Panel (1992-97).

PUBLICATIONS: "The *Strickland* Standard for Claims of Ineffective Assistance of Counsel: Emasculating the Sixth Amendment in the Guise of Due Process," 134 U. Pa. L. Rev. 1259 (1986); "Rule 702: Admissibility of Expert Testimony Regarding Eyewitness Identification," 21 Colo. Law. 927 (1992); "Rule 1006: Admissibility of Summary Evidence," 22 Colo. Law. 35 (1993); "Rule 501: The Privilege of Self-Critical Analysis," 23 Colo. Law. 1291 (1994); "Rule 615: Exclusion of Witnesses," 24 Colo. Law. 1299 (1995); Book Review, "Modern Evidence: Doctrine and Practice," 25 Colo. Law. 48 (1996); Co-author, "Chapter on Rule 26," *Colorado Civil Procedure Forms and Commentary* (Debra Knapp ed. 1996); "Rule 606(b): Competency of Jurors as Witnesses," 25 Colo. Law 47 (1996); numerous continuing legal education papers (1990-present).



PERSONAL: Born March 3, 1962, Brooklyn, NY. Married to Jill M. Wichlens, an appellate attorney with the Federal Public Defender’s office, Denver, CO. Rich and Jill have two wonderful daughters, Laura and Kathleen.



Justice Melissa Hart

Date of Judicial Appointment: Dec. 14, 2017



Justice Hart was appointed by Governor John Hickenlooper to serve on the Colorado Supreme Court on December 14, 2017. Prior to joining the Court, Justice Hart was a professor at the University of Colorado Law School, where she directed the Byron R. White Center for the Study of American Constitutional Law. Throughout her years as a professor, Justice Hart maintained an active pro bono practice, writing amicus briefs in appellate courts and representing clients through Metro Volunteer Lawyers. Her teaching and scholarship focused on access to justice, constitutional law, judicial decision making, legal ethics, employment discrimination, and civil procedure.

Justice Hart grew up in Denver, where she graduated from East High School. She earned her bachelor's degree from Harvard-Radcliffe College and then spent a year teaching at a high school in Athens, Greece. She returned to study at Harvard Law School, where she was the Articles Editor for the *Harvard Law Review* and Book Review Editor on the *Harvard Women's Law Journal*. After graduating from law school in 1995, she clerked for Judge Guido Calabresi of the Second Circuit Court of Appeals and for Justice John Paul Stevens on the United States Supreme Court. She practiced law for several years in Washington, D.C., including as a Trial Attorney at the U.S. Department of Justice.

Justice Hart is a member of the Colorado and Denver Bar Associations, the Colorado Women's Bar Association, the Colorado Hispanic Bar Association, the Asian Pacific American Bar Association, the Sam Cary Bar Association, and the Colorado LGBT Bar Association. She is a founding member of the Sonia Sotomayor Inn of Court, a 2017 graduate of the Denver Metro Chamber Leadership Foundation's Leadership Denver program, a 2016 graduate of the Colorado Bar Association Leadership Training (COBALT) program, and a Commissioner on the Colorado Access to Justice Commission.

For her active work in community service, Justice Hart has been recognized with the 2016 Women Who Light the Community Award from the Boulder Chamber of Commerce, the 2014 Raising the Bar Award from the Colorado Women's Bar Association, the 2012 Chase Faculty Community Service Award from the University of Colorado, the 2011 Clifford Calhoun Public Service Award from the University of Colorado Law School, the 2009 Serving Communities Award from the CU-Boulder Institute for Ethical and Civil Engagement, and the 2008 Outstanding Community Service Award from the Colorado Hispanic Bar Association.

Justice Hart and her husband, Kevin Traskos, have two children.



Justice Carlos A. Samour Jr.

Date of Judicial Appointment: May 30, 2018



Justice Samour was appointed by Governor John Hickenlooper to serve on the Colorado Supreme Court effective July 2, 2018. Before joining the Supreme Court, Justice Samour was a district court judge in the 18th Judicial District (encompassing Arapahoe, Douglas, Elbert, and Lincoln Counties) for eleven and a half years. During his tenure as district court judge, Justice Samour presided over criminal, civil, domestic relations, juvenile delinquency, and dependency and neglect cases. On July 1, 2014, Chief Justice Nancy E. Rice appointed him Chief Judge of the 18th Judicial District; he served in that role for four years until joining the Supreme Court. In 2015, Justice Samour received the Colorado Judicial Branch's Judicial Officer of the Year Award. That same year, he received the Judicial Excellence Award from the Colorado Chapter of the American Board of Trial Advocates. In 2018, Justice Samour received the Charles B. Dillion Award of Merit for Outstanding Public Service.

Before his appointment to the district court bench, Justice Samour worked as a prosecutor in the Denver District Attorney's Office for approximately ten years. Prior to becoming a prosecutor, he worked in civil practice for almost five years at Holland & Hart LLP. His first job out of law school was a one-year clerkship with the Honorable Robert McWilliams in the United States Court of Appeals for the Tenth Circuit.

Justice Samour currently serves as the Chair of the Bail Blue Ribbon Commission. He was appointed Chair of that commission by Chief Justice Nancy E. Rice in 2018. The Bail Blue Ribbon Commission is charged with evaluating Colorado's pretrial practices and making recommendations for improvement to the Colorado Supreme Court. Justice Samour is also the Chair of the Colorado Supreme Court's Model Criminal Jury Instructions Committee. He is a member of the Justice Sonia Sotomayor Inn of Court, the Colorado Bar Association, the Arapahoe County Bar Association, and the Colorado Hispanic Bar Association. Justice Samour previously completed two terms on the Board of the Colorado Hispanic Bar Association.

Justice Samour was born in El Salvador. He immigrated to the United States when he was 13 years old after his family was forced to flee El Salvador during a time of political upheaval. He grew up in Littleton, CO, where he graduated from Columbine High School. Justice Samour subsequently graduated with honors from the University of Colorado at Denver. In 1990, he graduated Order of St. Ives from the University of Denver Sturm College of Law.



Maria E. Berkenkotter

Date of Judicial Appointment: Nov. 20, 2020



Justice Berkenkotter was sworn in to the Colorado Supreme Court on January 4, 2021.

Prior to her appointment, she handled complex mediations, arbitrations and judge pro tem appointments at Judicial Arbiter Group, Inc. From August 2006 to November 2017, Justice Berkenkotter was a District Court Judge in the Twentieth Judicial District. She was the Chief Judge of the Twentieth Judicial District for the last four years of that time.

Prior to her appointment to the trial court bench, she ran the Antitrust, Consumer Protection and Tobacco Litigation Units of the Colorado Attorney General's Office. Justice Berkenkotter's practice focused on national and local antitrust enforcement litigation. Before joining the Attorney General's Office in 1990, Justice Berkenkotter was in private practice at Holmes & Starr, P.C. in Denver, Colorado. She clerked for Justice Howard M. Kirshbaum of the Colorado Supreme Court after

graduating from the University of Denver Law School in 1987.



Colorado's Supreme Court Justices

Read the biographies of three justices. Write down three facts that are mentioned in each justice's bio. Then explain why this experience or situation might be beneficial for an appellate judge. For example: if it says that a judge was in private practice, how might this help her while serving on the bench of the Supreme Court?

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____

Justice _____

FACT No. 1: _____

Why is this beneficial? _____

FACT No. 2: _____

Why is this beneficial? _____

FACT No. 3: _____

Why is this beneficial? _____



The Roles and Responsibilities of Trial and Appellate Judges

Objective: Students will be able to discern the roles and responsibilities of trial and appellate judges and how those roles are similar and different.

Inquiry Questions:

- What are some of the skills it takes to be a trial judge? An appellate judge?
- How are the roles and responsibilities of trial and appellate judges similar? How do they differ?
- How do the structures of state courts impact democratic decision making?

Colorado Academic Standards

- **SS.HS.4.2.EOb.** Identify the structure, function, and roles of current members of local, state, and national governments. Including but not limited to: understanding the three branches of government at each level of government.
- **SS.HS.4.2.EOf.** Evaluate the role of the judicial system in protecting life, liberty, and property for all persons in the United States

Activities: Teacher lecture (background information and lecture outline provided); class participation activity.

Grade Level: High School

Anticipated classroom time: 45-60 minutes

Teacher background information

Introduction

by former Colorado Supreme Court Justice Gregory J. Hobbs

State and federal appellate judges must exercise scholarship and common sense. All judges have this responsibility, of course. But appellate judges, in particular, have a duty to articulate justice and the law, in writing, for public guidance.

The third branch of government, the judiciary, governs primarily through the written judicial opinion. Authoring a written opinion for an appellate court can be very humbling because of the work it takes and the impact court decisions can have on citizens and the community.

The work is hard and important.

First, you need to thoroughly research, read, and write the proposed opinion to be as correct as you can on the law and the facts of the case. You are making a judgment on what others have done or left undone in their lives. You always owe the parties to the appeal the courtesy of fair and diligent consideration.

Second, you need the vote of a majority of the judges or justices who must decide the case. Otherwise, your opinion will never see the light of day. One of your colleagues may end up authoring the court's decision, simply by proposing a concurrence or dissent that gains enough votes to become the court's judgment. So you must listen carefully to the suggestions of your colleagues and take them into account if you think they contribute to the strength of the court's judgment in the case.



For example, the Colorado Court of Appeals sits in three-judge panels to decide a case — you need the vote of at least one other judge besides your own. Our Colorado Supreme Court — which chooses which of the decisions of the Colorado Court of Appeals we will undertake to review — has seven justices; you need the vote of at least three other justices.

As an appellate judge or justice, you must never give in to anger or pettiness if you don't get your way. The law is not about you, anyway. It has to do with people in community. Next time around, when you get your next assignment to write the proposed majority opinion, you will have the privilege of convincing your colleagues yet again.

Third, and most important, you must learn never to give up listening and learning about people and the law, and how the work of justice is crucial work of any civilized society, in all ages. Growing into the job — every day you get to do the job — is the mark of settling into your role and responsibility as an appellate judge.

I like to think of an appellate court as a council of elders. Do you remember Elrond in *The Fellowship of the Ring* convening the council of men, elves, dwarves, and hobbits? They came to the circle with their own ideas, hopes, experiences, and tendencies. Despite their strongly held viewpoints, they listened, spoke, debated, and then decided on a course of action. From that place, they marched on — as best they could — to the next great risk, the next great opportunity.

Handling Appellate Cases

When judges are sworn in to their positions under oath, they pledge to uphold the law and the Constitution. Judicial officers at the appellate level must realize that the decisions they make can have implications statewide or even perhaps nationwide. They are meticulously thorough in their analyses of cases, and they must be objective, comprehensive, and exhaustive. The integrity of the judicial system relies on the integrity of the judges and justices who serve the public.

When handling an appellate case, judges and justices must take into account:

1. The facts of the case, as set forth in the record presented on appeal;
2. Errors in the application of the laws;
3. The Colorado Constitution and the United States Constitution;
4. Statutory laws enacted by legislative bodies and legislative intent;
5. Precedents and/or persuasive authority; and
6. The lawyers' written briefs and oral arguments.

When preparing to hear oral arguments, appellate judges and justices review the documents submitted by the case's attorneys to learn about the case and identify questions they want to ask the lawyers. They review previous court decisions and other applicable authorities. They sort through the precedents and decide which ones they find most appropriate for application in Colorado.



Lecture outline

Role of judges

- Pledge to uphold the law and Constitution
- Decisions they make can have implications statewide and nationwide
- Thorough, objective, comprehensive, exhaustive

Preparation for oral arguments

- Judges take into account:
 - Facts of the case
 - Errors in the application of the laws
 - Colorado Constitution and the United States Constitution
 - Statutory laws enacted by legislative bodies and legislative intent
 - Precedents and/or persuasive authority
 - Lawyers' written briefs and oral arguments
- Review briefs and documents on the cases
- Identify questions they want to ask the lawyers
- Review previous court decisions and other applicable authorities
- Sort through the precedents
- Decide which ones they find most appropriate for application in Colorado

Class activity

Note: This activity should be done after the class has discussed the characteristics of good judges through the "What it Takes to Become a Judge" lesson.

1. Hand out copies of former Justice Bender's "The Trial and Appellate Process Overview" and Justice Hobbs' "The Protocols of the Supreme Court."
2. Have students take turns reading sections of the documents.
3. Stop periodically to talk about different responsibilities that involve teamwork, individuality, writing skills, reading skills, listening skills, analytical skills, compromise, knowledge of laws, etc.
4. Then hand out the "Trial Court Judges and Appellate Court Judges" worksheet and have students complete, comparing the skills of trial court judges with the skills of appellate court judges on the diagram.



The Trial and Appellate Process Overview

by former Chief Justice Michael L. Bender

All cases begin in the trial court. At this level, a decision about the facts occurs and the court enters a judgment in favor of one of the parties. In the Colorado judicial system, we have two kinds of trial courts: district court and county court. District court hears all felony criminal cases (any crime which is punishable by at least a year in the penitentiary), civil cases involving \$25,000 or more, divorce cases, juvenile cases, dependency and neglect cases, and probate cases. This is the court where the most serious cases are filed and tried, such as murder. County court hears all misdemeanors, (which are crimes punishable by a year or less in the county jail) and civil cases which involve less than \$25,000.

Trials and juries occur in the trial court where, if the case goes to trial, findings of fact are made. For example, in the district court, the jury will decide that the defendant committed a robbery or award damages to an injured person in an automobile accident. District courts also decide divorce cases and child custody disputes. Typical criminal cases in county court are driving under the influence, shoplifting and suits by landlords to evict a tenant who doesn't pay the rent.

Most cases are settled by the parties and never go to trial. However, when a case goes to trial, the losing party has one right to appeal on matters of law or legal mistakes that it claims the trial court made. In county court the losing party has a right to appeal to the district court, and, in the district court, the losing party has the right to appeal to the Court of Appeals. Either winning or losing party on the first appeal may appeal to the Supreme Court by what is called a discretionary appeal, by way of writ of certiorari. The Supreme Court decides whether the legal issues raised by the appeal are important issues for the state and, if so, will agree to hear the appeal. When the Supreme Court takes this action, it is said to have granted the writ of certiorari.

It is important to remember that appeals do not involve a determination about whether the jury or the fact-finding was correct. Appeals concern questions of law that the judge made on the case that may be incorrect. All the appeals heard by either the Court of Appeals or the Supreme Court involve legal mistakes or questions of law. Most questions of law involve decisions made by the trial court that are raised either through motions made to the trial court by the losing party or errors the trial court made in instructions to the jury.

Reference Information: General Background

Criminal cases are first filed in a judicial district's trial court. A **misdemeanor** offense (which is punishable with up to two years in county jail) is handled in the county court. A **felony** offense (which is defined as a crime for which a penitentiary sentence may be imposed) is handled in a district court.

Any trial or evidentiary hearings on motions are done in the trial court. If a defendant is acquitted of a crime after a trial, the district attorney generally cannot appeal the verdict and re-prosecute the defendant in another trial because the defendant is protected from re-prosecution by constitutional protections against **double jeopardy**. If a defendant is convicted in the trial court, he or she may **appeal** the judge's decisions and rulings that occurred in the case. The appeals for felony convictions from district courts go to the Court of Appeals in Denver. Appeals from misdemeanor convictions in the county court are done in the local district.

After the first round of appeals occurs, either party may ask the **Colorado Supreme Court** to review the decision of the first appellate court. The Supreme Court usually does not take such requests (known as "Petitions for writ of certiorari") as many petitions are filed and few cases can be dealt with by the Supreme Court. After the Supreme Court either issues a ruling on the case or denies the



request to hear the case, either party may ask the **United States Supreme Court** (or sometimes a federal district court) to review the case if there is **some federal constitutional or statutory issue** involved. The United States Supreme Court accepts very few cases for review.

It is important to understand that an appellate court does not re-try the facts of the case. Except in unusual circumstances, **an appellate court must accept the facts that were ruled upon by the trial court**. If a jury verdict is returned, an appellate court cannot simply change a jury's verdict, although it may rule that the trial court committed such errors (such as admitting evidence that should have been suppressed or admitting really prejudicial evidence) that the conviction must be reversed and the defendant given another, more fair trial.

Appeals are argued in **briefs**, which contain the relevant law and recitation of the facts in the case that were presented to the trial court. **Oral arguments** (such as the ones that will be heard as part of this program) are done to allow parties to answer questions from the appellate judges and to give the attorneys a chance to argue their cases directly to the justices.

When there is a hearing on a motion in a trial court, the trial court issues **findings of fact**. For example, in a motion to suppress the search of a car, the defendant may argue that he did not give police his consent to search and an officer may testify that the defendant did give consent. The trial judge makes a **factual ruling** as to what they believe happened. These findings of fact are usually binding on an appellate court when the case is reviewed on appeal. What is argued on appeal is whether the trial court erred in applying the law in ruling on an issue. If the trial court made a mistake in law, the appellate court will usually send the case back down to the trial court with instructions to correct the legal ruling it made.

If a defendant received an unfair trial because of a trial court ruling that the appellate court disapproved of, the defendant's conviction will be reversed and the case re-set for trial again.

A ruling by the United States Supreme Court on a **federal constitutional issue** (such as the Fourth Amendment issue) is the law of the entire United States. A state court can provide **more protection under its own state constitution, but it cannot provide less constitutional protection than the minimum found by the United States Supreme Court**.

In general, trial courts have to follow the constitution and state statutes. Of course, the constitution overrides any statutes passed by the legislature. If the legislature passes a law that violates a constitutional provision (such as only men can use a public swimming pool), a court may rule that the statute is unconstitutional and strike it down.

Any rulings about law by appellate courts are supposed to be followed by lower courts. Appellate courts must follow superior appellate courts' legal rulings (for example, the Colorado Court of Appeals must follow the law decided by the Colorado Supreme Court), and the whole body of appellate law is supposed to grow consistently as opinions generally follow the reasoning and ruling of prior opinions (this is known as "**stare decisis**").



Protocols of the Colorado Supreme Court

by former Colorado Supreme Court Justice Gregory J. Hobbs, Jr. (updated October 2021)

Membership of the Court

The current members of the Colorado Supreme Court are Chief Justice Monica M. Márquez, Justice Brian D. Boatright, Justice William W. Hood III, Justice Richard L. Gabriel, Justice Melissa Hart, Justice Carlos A. Samour Jr. and Justice Maria E. Berkenkotter.

The Role of the Chief Justice and Staff to the Justices

The Chief Justice is the executive head of the Colorado Judicial Branch and is the leader in its administration. The State Court Administrator, who is appointed by the Court, reports directly to the Chief Justice and oversees an administrative staff.

The Chief Justice is elected by the Justices and serves at the pleasure of the Court. In addition to administrative responsibility for the entire court system, the Chief Justice presides over all conferences, oral arguments, and hearings of the Court; assigns all opinions for authorship; and designates in consultation with the Court which Justice or Justices shall serve as liaison to the various committees and special committees of the Court. These committees include the Civil Rules Committee, the Criminal Rules Committee, the Appellate Rules Committee, Attorney Regulation Advisory Committee, Board of Law Examiners, and the Judicial Advisory Council, among others. The Supreme Court and the Colorado Bar Association have jointly established the Access to Justice Commission.

The Chief Justice has authority, in consultation with the full Court, to issue Chief Justice Directives pertaining to matters of judicial administration.

The Court works collegially. During the typical week, there is much visitation and informal discussion among the Justices on all matters pending for decision. Each Justice has three full-time positions for law clerk and administrative work.

Each chamber has a personal computer for each Justice and employee. The computers are networked to tie the seven chambers and the Clerk's office together. The Supreme Court Library is available to the judiciary, the legal profession, and the public for legal research. In addition, the judiciary has a master contract for electronic research.

The Court uses the [Supreme Court webpage](#) to post matters of interest to the public and the bar, such as rule changes, Chief Justice Directives, certiorari grant or denial announcements, and opinions of the Court. On Fridays from September through June, the webpage contains an announcement of the names of the cases for which opinions will be issued the following Monday morning.

Case Decisions and Other Matters

Approximately 65 percent of the Court's caseload represents appeals from the Colorado Court of Appeals. The Court receives and reviews over 1,000 certiorari petitions each year concerning decisions rendered by the Court of Appeals. The Court has no set number of certiorari petitions it will grant, but generally averages a grant on approximately one out of 14 certiorari petitions. Under C.A.R. 50, the Court may grant certiorari in a case that is pending but has not gone to decision in the Court of Appeals. This power is rarely exercised.

The Court also reviews original proceeding petitions under C.A.R. 21; petitions for habeas corpus review; interlocutory appeals by the prosecution from suppression orders in criminal cases; ballot title submissions; attorney discipline cases; certified questions from the federal courts; and direct appeals,



such as water cases, Public Utility Commission cases, and capital punishment cases that bypass the Court of Appeals by law. In FY 2020, the Court decided a total of 1,571 matters that included denial of certiorari and Rule 21 petitions. The court issued 137 published opinions, including dissents and concurrences.

Oral Argument and Case Assignment

The Court has a 12-month work year. However, during July and August, the Court does not hold weekly conferences or issue opinions. During this time, the Justices write proposed opinions they have not yet presented to the Court for review; attend educational conferences; take their vacations; and vote by written vote sheet on pending certiorari petitions, and original proceedings. From September to June, except during a two-week Christmas break and in the midst of oral argument, the Justices meet each Thursday in conference to decide all pending matters that are ready for vote.

Oral arguments are held approximately seven times a year for two or three days during the period of September through June. Oral arguments are open to the public. The Chief Justice makes opinion drafting assignments based on the preliminary vote in the case, which is taken after the oral arguments in the morning and, again, when the afternoon arguments have been concluded.

The Court also decides cases submitted on the briefs without oral argument, such as: interlocutory appeals from suppression orders in criminal cases, review of constitutional or statutory citizen initiative ballot titles set by the Secretary of State's hearing board, original petitions when a Rule to Show Cause has been issued by the court, and attorney discipline cases.

The Court sits en banc. Four votes are required to decide any matter coming before the Court, except for the grant of a certiorari petition, which requires three votes.

Twice a year the Court convenes at a high school for oral argument in two cases. Members of the bar association meet with teachers to help prepare the students in advance for the arguments they will witness. Justices return after oral argument to answer questions, except questions concerning the merits of the cases just argued or other matters pending for decision before the Court.

Thursday Decisional Conference

The Court's weekly decisional conference (September through June) is called to order at 9:00 a.m. each Thursday morning. Each Justice is expected to attend or, if absent, must leave a vote sheet for all pending matters ready for decision. The Chief Justice presides and votes are taken, proceeding from junior to senior Justice, with the Chief Justice voting last. When rendering the vote, each Justice recites his or her reasons therefore. Any Justice may request a matter to be passed to the next conference for a vote, and the present conference may be used for discussion of the case instead. Passing a matter is a courtesy asked by one Justice of the others; a Justice's request to pass the case for vote at a future conference is always honored.

The order of business at Thursday conference is as follows: proposed opinions; petitions for rehearing on issued opinions; voting on, and assignment for opinion, of cases submitted on the briefs without oral argument; certiorari petitions; original proceedings requesting a Rule to Show Cause; attorney discipline cases for assignment and preparation of an opinion; and administrative matters, including rule changes and any other matter concerning governance of the Court or the Judicial Branch. Sometimes, the Court acts to dismiss a matter as "improvidently granted" because the Court, on reflection, determines not to issue an opinion in the matter and to let the lower court decision stand.

Decisions of the Court on cases and certiorari petitions are announced the Monday following the Thursday decisional conference by means of an announcement sheet and issued opinions, all of



which are made available at the Clerk's Office in hard copy. While the full text of opinions is posted on the website on Mondays, the case numbers and case captions of opinions to be issued on Mondays are posted the preceding Friday. The newly issued announcements and opinions are available on the [Supreme Court's case announcements page](#).

Ad Hoc Conferences on Original Petitions/Duty Judge

Original petitions under C.A.R. 21 are assigned to each of the seven chambers in rotation by the Clerk of the Court. The assigned Justice reports on the matter, with his or her recommendation, at the regular Thursday decisional conference, by internal e-mail communication to all the other justices, or a Justice may call an in person ad hoc conference of the Court if the petition merits immediate action. At least four Justices must agree in order to take a Rule 21 matter. An individual Justice may issue a short-term stay or other temporary order pending the Court's decision on the petition.

There is a monthly Duty Judge assigned by the Chief Justice, in rotation, to rule on matters brought to that Justice by the Clerk of the Court, such as motions for amicus curiae appearance, extensions of time, or extended-page briefing. The Duty Judge may act on any matter requiring immediate attention when the other Justices are not available.

Certiorari Petitions

Based on the briefs and issues raised and the guidelines set forth in C.A.R. 49, the staff attorney to the Chief Justice separates out approximately half of the certiorari petitions for circulation and decision without preparation of a certiorari memorandum. Each Justice reviews the Court of Appeals decision (whether published or not published), together with the certiorari petition and any response thereto, and may request preparation of a certiorari memorandum before a vote is taken. The Justices vote on "non-memo cert." petitions by means of vote sheets maintained in the Clerk's Office.

The other certiorari petitions and those extracted from non-memo consideration by any Justice are delivered in random rotation by the Clerk to the seven chambers. The assigned Justice in turn assigns a law clerk to prepare a certiorari memorandum on the case. The assigned Justice reviews the certiorari petition, any response thereto, and the memorandum, makes any desired change to the memorandum, and circulates the memorandum and the Court of Appeals opinion to the other six Justices, noting on the face of the memorandum the recommendation of the assigned Justice regarding which issues, if any, should be taken on certiorari.

Votes of three Justices are required to grant any issue by way of certiorari. When certiorari is granted on one or more issues in a case, the certiorari memorandum usually serves as the bench memorandum for oral argument. Pending certiorari petitions are decided at the weekly Thursday decisional conference, except during July and August when each Justice's vote is entered on a written vote sheet kept in the Clerk's Office.

Proposed Opinions

Proposed majority opinions must be circulated by the authoring Justice to the other six Justices by 5:00 p.m. Thursday. Any Justice has until the following Tuesday at 5:00 p.m. to propose a written concurrence or dissent. Generally, before a Justice presents a concurrence at a decisional vote conference, that Justice confers with the authoring Justice regarding potential revisions in the proposed majority opinion to accommodate the concurring view, if possible. The vote on the proposed majority opinion and concurring or dissenting opinions, if any, occurs on the following Thursday. Any Justice, including the authoring Justice, may request that the vote be passed to the next week's conference in favor of a discussion of the matter at the pending conference, or because the Justice needs more time to consider the matter or to write a concurring or dissenting opinion.



A justice may determine not to participate in an opinion, under the Code of Judicial Conduct. An opinion or order of the Court will identify any justice who is not participating.

Each Justice works to review the proposed opinions of the other Justices as a first priority in dealing with pending work. When disagreement between Justices occurs on any matter, it is becoming the practice that the Justices will confer concerning the disagreement, to the extent possible, before conference. Every change to a proposed opinion must be circulated to the other six chambers.

A majority opinion that has received at least four votes at the weekly decisional conference is prepared in final slip opinion form, together with any concurring or dissenting opinion, by Friday noon. The authoring Justice's law clerk or judicial assistant is responsible for copying and assembling the required copies for the Clerk's Office by Friday noon for distribution upon announcement Monday morning. Each issued opinion is accompanied by a cover page synopsis of the case prepared by the authoring Justice.

Governance of the Judicial Department/Community Outreach

The Court is responsible for governance of the Judicial Department, and each Justice is active, by assignment by the Court, on various committees and in bar association activities. In addition, each Justice engages in discretionary community activities subject to the Colorado Code of Judicial Conduct. All members of the Court are engaged in educational activities of their choosing.

Conclusion

The Court's work lies not only in deciding cases, but also in the overall administration of justice and the judicial system in Colorado. Each Justice plays a direct role in all decisions of the Court, unless the justice has determined that he or she should not participate in a proceeding because of the standards set forth in Rule 2.11 of the Colorado Code of Judicial Conduct.



TRIAL COURT JUDGES AND APPELLATE COURT JUDGES

Fill in this Venn diagram with qualities of trial court judges and qualities of appellate court judges. Write the qualities that both types of judges must possess in the overlapping area in the middle.

