

Conversations with Maine Judges

An educational collaboration of the Maine State-Federal Judicial Council and the Goldfarb Center for Public Affairs and Civic Engagement at Colby College with the assistance of the Maine Judiciary Education Advisory Board. The goal of these materials is to introduce Maine high school students to the lives, work, and experiences of Maine judges. The video is comprised of interviews primarily collected by the Cleaves Law Library and was edited by Jay Mangold, Colby College class of 2010, under the direction and guidance of Colby College Professor L. Sandy Maisel, director of the Goldfarb Center. Many Maine judges reviewed the film and provided input, however U.S. First Circuit Court of Appeals Judge Kermit V. Lipez was the guiding force behind the project, and he provides an introduction as well as commentary throughout the film.

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II. Beginnings:

“False Starts”

- a. Discuss Chief Justice Wathen’s early academic career. Did he seem destined to become a judge? Explain

- b. Discuss Justice Calkins initial academic goals. How did sexism play a role in her career path?

“Becoming Interested in the Law”

- a. As a young boy, Judge Carter had a neighbor who would shape his career path. Explain this relationship.

- b. Was Judge Carter able to skip school because of this relationship? Explain.

- c. Justice Glassman’s family was not very supportive of her choice to pursue law. Explain.

- d. Identify how sexism played a part in Justice Glassman’s early life.

“Law School”

- a. Explain how Judge Brody chose a law school. Where did Judge Brody end up going to law school? Why did he think he got accepted to that school? Why didn't he go to law school in Maine?

- b. What was the most important thing Judge Brody had to learn to be successful in law school?

- c. Chief Justice Wathen had a similar experience in law school. What did he identify as the secret to doing really well.

- d. Chief Justice Wathen said: “There wasn't much not to like about law school.” How long does he say that he could have stayed in law school?

- e. How old was Justice Glassman when she entered law school?

- f. Discuss how age and gender worked against Justice Glassman when she was confronted by a dean at her law school.

- g. What did she identify as the stereotyped reason that motivated some women to go to law school during her era?

III. The Decision to Become a Judge:

- a. Judge Lipez identifies the path to becoming a judge as “an elaborate appointment process.” Explain what he means by this.

- b. How does this process differ from the processes of the executive and legislative branches?

- c. What are the benefits of the judicial appointment process?

“The State Appointment Process”

- a. What does merit based mean? How is this different than elected positions?

- b. What are the key steps to the state appointment process as Chief Justice Saufley describes them?

- c. Within this process, what is the “check and balance” with the legislative branch?

- d. How long are terms for Maine judges? How is this different from New Hampshire?

- e. Judge Hornby reads a quote about an 11th Circuit Appeals Court judge who reviewed the Terri Schiavo case, Judge Stanley Birch. What does Judge Hornby mean when he states that Judge Birch did “what Article III judges are supposed to do when controversial cases come before them.”
- f. What does Justice Glassman identify as the essence of her job (the job of any Maine judge)?
- g. Further Research: Separation of Powers and Judicial Independence-
The Terri Schiavo Case was an interesting case in many ways, most notably dealing with right-to-life and right-to-death issues. However, it is also a case study highlighting the Constitutional principle of separation of powers. Review the Schiavo case to prepare for a class discussion on the need for and value of separation of powers within our government and the concept of judicial independence.

<http://www.slate.com/id/2115124>

<http://www.cbsnews.com/stories/2005/03/31/opinion/courtwatch/main684181.shtml>

<http://news.findlaw.com/legalnews/lit/schiavo/>

"Because the special legislation passed by Congress and signed by President Bush constitutes legislative dictation of how a federal court should exercise its judicial functions (known as a 'rule of decision') the Act invades the province of the judiciary and violates the separation of powers principle." – 11th Circuit Appeals Judge, Stanley Birch

IV - Other observations:

d. Judge Beaulieu was the judge in one of Maine's most high profile cases. On Nov. 15, 1988, in Hermon, deer hunter Donald Rogerson shot a woman behind her home as she was hanging up her laundry. The hunter was acquitted, found not guilty. Judge Beaulieu believed that "both sides were well represented" and that it was "one of the best juries ever." Why do you think he felt that? What sorts of Maine citizens sat on that jury?

e. Extended Research/Class Debate

A Jury's Finding: The Rogerson Case, Manslaughter or Tragic Accident?

Review the Rogerson case through articles written both at the time, and those written much more recently. Evaluate the verdict: Was justice served?

Suggested Teaching Strategy: Divide the class in half and have the two groups review the case from opposite sides, one from the side of the hunter, Donald Rogerson, and the other from the side of the victim, Karen Woods and her family. Later in this film Chief Justice Saufley will state that one of the most difficult challenges of being a judge is comprehending the reality that "... two honest people of good faith could view events completely differently and that neither of them was actively twisting what they thought to be the facts." Use this quote as an organizing concept to have each side wrestle with the question of whether justice was served.

A summary of the case from 1989

<http://www.nytimes.com/1989/12/09/us/deer-hunter-is-indicted-in-accidental-killing-of-woman-in-maine.html>

A summary after the verdict

<http://www.nytimes.com/1990/10/18/us/man-is-acquitted-in-hunting-death.html>

A summary of the case 20 years later

<http://www.bangordailynews.com/detail/93336.html>

A recent interview with the hunter, Donald Rogerson

<http://www.bangordailynews.com/detail/93274.html>

A recent interview with the husband of the victim, Kevin Wood

<http://www.bangordailynews.com/detail/93273.html>

The review of a similar case in Wisconsin

<http://www.cnn.com/2003/LAW/03/24/ctv.berseth/index.html>

“Sentencing”

- a. Judge Hornby identifies sentencing as “without a doubt, the most difficult thing we do.” Most of us recognize the impact on the defendant, but who else does Judge Hornby list as “collateral consequences” of the crime.

- b. What does Judge Hornby mean (about the importance of sentencing) when he says, “and not least important is the community itself”?

“The Burdens of Judging”

- a. What does Chief Justice Saufley “worry all the time” about?

- b. Justice Calkins had a picture of a family member in her chambers while she was conferencing with a defendant. What were the unexpected results of this?

- c. What did she never do again as a result of these events?

- d. In 1984 Justice Chandler presided over a horrible murder case in Auburn involving a young child. This was a tragic case with far reaching impact on the individuals involved. Who does Judge Chandler indicate as being really shaken by the case, even all these many years after the case?

V - Other observations:

VI. The work of Appellate Judges

- a. What does Judge Lipez identify as being the need for having appeals courts?
- b. Judge Lipez identifies appeals judges as having certain advantages. What are these?
- c. In the state of Maine the ultimate appeals court (Supreme) is what Justice Clifford identifies as “The Law Court.” He states that this court has a “different view” from the other courts. Explain what he means by this.
- d. Justice Clifford also states that the Maine Supreme Court has “no ability to effect any compromise.” How does this differ from the trial courts? Explain.
- e. Justice Dana refers to the Supreme Court as “a committee.” Describe the work of the justices on the law court.
- f. Appeals court judges have to do a lot of writing, both in support of a court’s decision (opinions) and in opposition (dissents). How much writing did Justice Dana have to do over his career on the Supreme Court?
- g. Extended Research: Landmark Cases of the U.S. Supreme Court, Defining and Re-defining Rights
Use the website below to learn about a few of the Supreme Court’s landmark cases.

<http://www.streetlaw.org/en/Cases.aspx>

Suggested Teaching Strategy: Have individual students or groups learn about one of these key cases. Have the students teach the class and identify how these cases defined and re-defined law in America.

VI - Other observations:

VII. On Judges and Justice

“Judicial Temperament”

- a. What does Chief Justice Wathen identify as a key characteristic of a good judge?
- b. What does Justice Wathen see as “an indication that one [a judge] has lost their grip on their role”? What do you think he means by this?
- c. Judge Hornby explains that being a good judge is a lot like being a good _____. What components of each job does he see as being comparable?

“On Justice”

- a. Chief Justice Saufley explains that justice can “...mean(s) different things to different people at different times.” Indeed “... that two honest people of good faith could view events completely differently and that neither of them was actively twisting what they thought to be the facts.” Explain how this can be true and thus how very difficult being a judge can be.
- b. Chief Justice Saufley also draws a distinction between “retributive justice” (an eye for an eye) and “restorative justice” (making the victim whole and serving the community). Which philosophy of justice makes most sense to you? Why?
- c. Justice Chandler identifies justice in a seemingly more pragmatic way, as “a fair and even chance to use our court system.” What do you think he means by this?
- d. Courts can be places where judges and citizens can be deliberating heinous crimes and evaluating the worst events in people’s lives; despite all this, how does Judge Hornby feel that everyone should be treated?

“Summing Up”

- a. The film concludes with remarks from Judge Brody: “The robe doesn't make the judge.” “It is equally important that the robe not cover-up or change the qualities of the man or woman who wears it. It is after all those qualities that resulted in the nomination in the first instance.”

What does this mean to you, especially in light of the fact that judges are ‘regular’ citizens of our society. In essence, what advice is he giving all those who may aspire to become a judge?

- b. Judge Brody goes on to say that judges have to make balancing tests all the time and that the most important balancing test of all is “maintaining the human qualities of the person under the robe and the professional responsibilities of the robed judge who sits on the bench. The delicate balance of compassion and firmness that must be continually adhered to everyday.”

How do you see this statement as summing up all of the ‘conversations with judges’ that you have heard? Please focus upon the very human nature of the individuals and their stories that you have been introduced to, and the absolute seriousness and importance of their jobs.

- c. Class discussion: What is justice? Divide into small groups and choose the “conversation” of one of the judges to expand upon the question of how we, as individuals and as a society, define “justice.”

“Let's do what we are here for, to render justice fairly, equally, and impartially to all who come before us: justice will be practiced here.” - *Judge Morton A. Brody*

VIII. An Overview of the State of Maine Court System –

Source: Maine.gov, State of Maine Judicial Branch, Courts - www.courts.state.me.us/index.shtml

Supreme Court

The Supreme Judicial Court is sometimes referred to as “the law court.” This court is essentially the Court of final appeal for cases in the state of Maine. The clerk’s office for this court is in Portland. The court primarily hears appeals of family, civil, and criminal cases from the District and Superior Courts. Individual justices handle admission to the Bar and Bar disciplinary proceedings. The court may also be asked to decide legislative apportionment as well as to provide advisory opinions concerning important questions of law when asked by the Governor or Legislature.

Superior Court

The Maine Superior Court is Maine's trial court of general jurisdiction and is located in 17 courthouses around the State. There is one Superior Court in each of Maine's sixteen counties, (except for Aroostook County, which has two). Thus, the Superior Court has seventeen justices, all of whom have statewide jurisdiction and may travel to the different counties to hold court. The court has jurisdiction over all criminal and civil matters that are not the exclusive jurisdiction of the District Court. The Superior Court is the only court where civil and criminal jury trials are held. Examples of cases heard by the Superior Court are: jury and jury-waived trials in adult criminal cases, jury and jury-waived trials in civil cases, (such as car accident lawsuits) and appeals from decisions of state and local agencies (such as the Department of Human Services or municipal zoning boards).

District Court

The District Court is comprised of 36 judges who hold court in 13 districts at 31 locations around the state. This court deals with both civil* and criminal matters and always sits without a jury. Within the District Court is the Family Division, which hears all divorce and family matters, including child support and paternity cases, child protection cases, and also serves as Maine's juvenile court. There are 8 Family Law Magistrates who work in this division. The District Court also deals with protection from abuse or harassment, mental health, small claims cases.

* Examples of civil matters are: suits claiming monetary damages, domestic relations cases (divorces, custody and property disputes etc...), and the commitment of individuals against their will.

Specialized Courts

Within the state there are a variety of specialized courts which deal with very specific issues and which can lighten the case loads for the District and Superior Courts. Examples of these courts are: Adult Drug Treatment Courts, Family Drug Treatment Courts, Co-occurring Disorders Court (dealing with the most challenging mental illness and substance abuse issues), Small Claims Court, The Maine Judicial Violations Bureau (Traffic Infractions), The Business and Consumer Court.

IX. The U.S. Courts Glossary -

Source: <http://www.uscourts.gov/Common/Glossary.aspx>

Acquittal:

A jury verdict that a criminal defendant is not guilty, or the finding of a judge that the evidence is insufficient to support a conviction.

Active judge:

A judge in the full-time service of the court.

Admissible:

A term used to describe evidence that may be considered by a jury or judge in civil and criminal cases.

Affidavit:

A written or printed statement made under oath.

Affirmed:

In the practice of a court of appeals, it means that the court of appeals has concluded that the lower court decision is correct and will stand as decided by the lower court.

Amicus curiae (*Amicus Brief*):

Latin for "friend of the court." It is advice formally offered to the court in a brief filed by an individual/group/organization interested in, but not a party to, the case.

Appeal:

A request made after a trial by a party that has lost on one or more issues that a higher court review the decision to determine if it was correct. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the "appellant;" the other party is the "appellee."

Appellate:

About appeals; an appellate court has the power to review the judgment of a lower court (trial court) or tribunal. For example, the U.S. circuit courts of appeals review the decisions of the U.S. district courts.

Arraignment:

A proceeding in which a criminal defendant is brought into court, told of the charges in an indictment or information, and asked to plead guilty or not guilty.

Article III judge:

A federal judge who is appointed for life, during "good behavior," under Article III of the Constitution. Article III judges are nominated by the President and confirmed by the Senate.

Bail:

The release, prior to trial, of a person accused of a crime, under specified conditions designed to assure that person's appearance in court when required. Also can refer to the amount of bond money posted as a financial condition of pretrial release.

Bench trial:

A trial without a jury, in which the judge serves as the fact-finder.

Brief:

A written statement submitted in a trial or appellate proceeding that explains one side's legal and factual arguments.

Burden of proof:

The duty to prove disputed facts. In civil cases, a plaintiff generally has the burden of proving his or her case. In criminal cases, the government has the burden of proving the defendant's guilt.

Capital offense:

A crime punishable by death.

Case law:

The law as established in previous court decisions. A synonym for legal precedent. Akin to common law, which springs from tradition and judicial decisions.

Caseload:

The number of cases handled by a judge or a court.

Chambers:

The offices of a judge and his or her staff.

Chief Judge:

The judge who has primary responsibility for the administration of a court; chief judges are determined by seniority.

Class action:

A lawsuit in which one or more members of a large group, or class, of individuals or other entities sue on behalf of the entire class.

Clerk of Court:

The court officer who oversees administrative functions, especially managing the flow of cases through the court. The clerk's office is often called a court's central nervous system.

Common law:

The legal system that originated in England and is now in use in the United States, which relies on the articulation of legal principles in a historical succession of judicial decisions. Common law principles can be changed by legislation.

Community service:

A special condition the court imposes that requires an individual to work – without pay – for a civic or nonprofit organization.

Consecutive sentence:

Prison terms for two or more offenses to be served one after the other.

Contract:

An agreement between two or more people that creates an obligation to do or not to do a particular thing.

Conviction:

A judgment of guilt against a criminal defendant.

Counsel:

Legal advice; a term also used to refer to the lawyers in a case.

Court:

Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

Count:

An allegation in an indictment or information, charging a defendant with a crime. An indictment or information may contain allegations that the defendant committed more than one crime. Each allegation is referred to as a count.

Damages:

Money that a defendant pays a plaintiff in a civil case if the plaintiff has won. Damages may be compensatory (for loss or injury) or punitive (to punish and deter future misconduct).

Defendant:

An individual (or business) against whom a lawsuit is filed.

Declaratory judgment:

A judge's statement about someone's rights. For example, a plaintiff may seek a declaratory judgment that a particular statute, as written, violates some constitutional right.

De facto:

Latin, meaning "in fact" or "actually." Something that exists in fact but not as a matter of law.

Default judgment:

A judgment awarding a plaintiff the relief sought in the complaint because the defendant has failed to appear in court or otherwise respond to the complaint.

Defendant:

In a civil case, the person or organization against whom the plaintiff brings suit; in a criminal case, the person accused of the crime.

De jure:

Latin, meaning "in law." Something that exists by operation of law.

Deposition:

An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used later in trial. See discovery.

Discovery:

Procedures used to obtain disclosure of evidence before trial.

Dismissal with prejudice:

Court action that prevents an identical lawsuit from being filed later.

Dismissal without prejudice:

Court action that allows the later filing.

Docket:

A log containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings.

Due process:

In criminal law, the constitutional guarantee that a defendant will receive a fair and impartial trial. In civil law, the legal rights of someone who confronts an adverse action threatening liberty or property.

Evidence:

Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case in favor of one side or the other.

Exclusionary rule:

Doctrine that says evidence obtained in violation of a criminal defendant's constitutional or statutory rights is not admissible at trial.

Exculpatory evidence:

Evidence indicating that a defendant did not commit the crime.

Public defender:

An attorney employed by the courts on a full-time basis to provide legal defense to defendants who are unable to afford counsel.

Felony:

A serious crime, usually punishable by at least one year in prison.

Grand Jury:

A body of 16-23 citizens who listen to evidence of criminal allegations, which is presented by the prosecutors, and determine whether there is probable cause to believe an individual committed an offense.

Habeas corpus:

Latin, meaning "you have the body." A writ of habeas corpus generally is a judicial order forcing law enforcement authorities to produce a prisoner they are holding, and to justify the prisoner's continued confinement. Federal judges receive petitions for a writ of habeas corpus from state prison inmates who say their state prosecutions violated federally protected rights in some way.

Hearsay:

Evidence presented by a witness who did not see or hear the incident in question but heard about it from someone else. With some exceptions, hearsay generally is not admissible as evidence at trial.

Home confinement:

A special condition the court imposes that requires an individual to remain at home except for certain approved activities such as work and medical appointments. Home confinement may include the use of electronic monitoring equipment – a transmitter attached to the wrist or the ankle – to help ensure that the person stays at home as required.

Impeachment:

1. The process of calling a witness's testimony into doubt. For example, if the attorney can show that the witness may have fabricated portions of his testimony, the witness is said to be "impeached;" 2. The constitutional process whereby the House of Representatives may "impeach" (accuse of misconduct) high officers of the federal government, who are then tried by the Senate.

In camera:

Latin, meaning in a judge's chambers. Often means outside the presence of a jury and the public. In private.

Inculpatory evidence:

Evidence indicating that a defendant did commit the crime.

Indictment:

The formal charge issued by a grand jury stating that there is enough evidence that the defendant committed the crime to justify having a trial; it is used primarily for felonies. See also information.

Injunction:

A court order preventing one or more named parties from taking some action. A preliminary injunction often is issued to allow fact-finding, so a judge can determine whether a permanent injunction is justified.

Interrogatories:

A form of discovery consisting of written questions to be answered in writing and under oath.

Issue:

1. The disputed point between parties in a lawsuit; 2. To send out officially, as in a court issuing an order.

Judge (and Justice):

An official of the Judicial branch with authority to decide lawsuits brought before courts. Used generically, the term judge may also refer to all judicial officers, including Supreme Court justices. The title justice is reserved for those judges who sit on the U.S. or state supreme courts.

Judgeship:

The position of judge. By statute, Congress authorizes the number of judgeships for each district and appellate court.

Judgment:

The official decision of a court finally resolving the dispute between the parties to the lawsuit.

Jurisdiction:

The legal authority of a court to hear and decide a certain type of case. It also is used as a synonym for venue, meaning the geographic area over which the court has territorial jurisdiction to decide cases.

Jurisprudence:

The study of law and the structure of the legal system.

Jury:

The group of persons selected to hear the evidence in a trial and render a verdict on matters of fact. See also grand jury.

Jury instructions:

A judge's directions to the jury before it begins deliberations regarding the factual questions it must answer and the legal rules that it must apply.

Lawsuit:

A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty which resulted in harm to the plaintiff.

Litigation:

A case, controversy, or lawsuit. Participants (plaintiffs and defendants) in lawsuits are called litigants.

Magistrate judge:

A judicial officer of a district court who conducts initial proceedings in criminal cases, decides criminal misdemeanor cases, conducts many pretrial civil and criminal matters on behalf of district judges, and decides civil cases with the consent of the parties.

Misdemeanor:

An offense punishable by one year of imprisonment or less. See also felony.

Mistrial:

An invalid trial, caused by fundamental error. When a mistrial is declared, the trial must start again with the selection of a new jury.

Moot:

Not subject to a court ruling because the controversy has not actually arisen, or has ended.

Motion:

A request by a litigant to a judge for a decision on an issue relating to the case.

Nolo contendere:

No contest. A plea of nolo contendere has the same effect as a plea of guilty, as far as the criminal sentence is concerned, but may not be considered as an admission of guilt for any other purpose.

Opinion (and concurring/dissenting):

A judge's written explanation of the decision of the court. Because a case may be heard by three or more judges in the court of appeals, the opinion in appellate decisions can take several forms. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority will write the opinion. The judges who did not agree with the majority may write separately in dissenting or concurring opinions to present their views.

Oral argument:

An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

Panel:

1. In appellate cases, a group of judges (usually three) assigned to decide the case; 2. In the jury selection process, the group of potential jurors; 3. The list of attorneys who are both available and qualified to serve as court-appointed counsel for criminal defendants who cannot afford their own counsel.

Parole:

The release of a prison inmate – granted by the U.S. Parole Commission – after the inmate has completed part of his or her sentence in a federal prison. When the parolee is released to the community, he or she is placed under the supervision of a U.S. probation officer.

Peremptory challenge:

A district court may grant each side in a civil or criminal trial the right to exclude a certain number of prospective jurors without cause or giving a reason.

Petty offense:

A federal misdemeanor punishable by six months or less in prison.

Plaintiff:

A person or business that files a formal complaint with the court.

Plea:

In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges. See also nolo contendere.

Pleadings:

Written statements filed with the court that describe a party's legal or factual assertions about the case.

Precedent:

A court decision in an earlier case with facts and legal issues similar to a dispute currently before a court. Judges will generally "follow precedent" - meaning that they use the principles established in earlier cases to decide new cases that have similar facts and raise similar legal issues. A judge may disregard precedent if a party can show that the earlier case was wrongly decided, or that it differed in some significant way from the current case.

Pretrial conference:

A meeting of the judge and lawyers to plan the trial, to discuss which matters should be presented to the jury, to review proposed evidence and witnesses, and to set a trial schedule. Typically, the judge and the parties also discuss the possibility of settlement of the case.

Probation:

Sentencing option in the federal courts. With probation, instead of sending an individual to prison, the court releases the person to the community and orders him or her to complete a period of supervision monitored by a U.S. probation officer and to abide by certain conditions.

Probation officer:

Officers of the probation office of a court. Probation officer duties include conducting presentence investigations, preparing presentence reports on convicted defendants, and supervising released defendants.

Procedure:

The rules for conducting a lawsuit; there are rules of civil procedure, criminal procedure, evidence, bankruptcy, and appellate procedure.

Pro se:

Representing oneself. Serving as one's own lawyer.

Prosecute:

To charge someone with a crime. A prosecutor tries a criminal case on behalf of the government.

Pro tem:

Temporary.

Record:

A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

Remand:

Send back.

Reverse:

The act of a court setting aside the decision of a lower court. A reversal is often accompanied by a remand to the lower court for further proceedings.

Senior Judge:

A federal judge who, after attaining the requisite age and length of judicial experience, takes senior status, thus creating a vacancy among a court's active judges. A senior judge retains the judicial office and may cut back his or her workload by as much as 75 percent, but many opt to keep a larger caseload.

Sentence:

The punishment ordered by a court for a defendant convicted of a crime.

Sentencing guidelines:

A set of rules and principles established by the United States Sentencing Commission that trial judges use to determine the sentence for a convicted defendant.

Settlement:

Parties to a lawsuit resolve their dispute without having a trial. Settlements often involve the payment of compensation by one party in at least partial satisfaction of the other party's claims, but usually do not include the admission of fault.

Sequester:

To separate. Sometimes juries are sequestered from outside influences during their deliberations.

Standard of proof:

Degree of proof required. In criminal cases, prosecutors must prove a defendant's guilt "beyond a reasonable doubt." The majority of civil lawsuits require proof "by a preponderance of the evidence" (50 percent plus), but in some the standard is higher and requires "clear and convincing" proof.

Statute:

A law passed by a legislature.

Statute of limitations:

The time within which a lawsuit must be filed or a criminal prosecution begun. The deadline can vary, depending on the type of civil case or the crime charged.

Subpoena:

A command, issued under a court's authority, to a witness to appear and give testimony.

Summary judgment:

A decision made on the basis of statements and evidence presented for the record without a trial. It is used when it is not necessary to resolve any factual disputes in the case. Summary judgment is granted when – on the undisputed facts in the record – one party is entitled to judgment as a matter of law.

Temporary restraining order:

Akin to a preliminary injunction, it is a judge's short-term order forbidding certain actions until a full hearing can be conducted. Often referred to as a TRO.

Testimony:

Evidence presented orally by witnesses during trials or before grand juries.

Tort:

A civil, not criminal, wrong. A negligent or intentional injury against a person or property, with the exception of breach of contract.

Transcript:

A written, word-for-word record of what was said, either in a proceeding such as a trial, or during some other formal conversation, such as a hearing or oral deposition.

U.S. Attorney:

A lawyer appointed by the President in each judicial district to prosecute and defend cases for the federal government. The U.S. Attorney employs a staff of Assistant U.S. Attorneys who appear as the government's attorneys in individual cases.

Uphold:

The appellate court agrees with the lower court decision and allows it to stand.

Venue:

The geographic area in which a court has jurisdiction. A change of venue is a change or transfer of a case from one judicial district to another.

Verdict:

The decision of a trial jury or a judge that determines the guilt or innocence of a criminal defendant, or that determines the final outcome of a civil case.

Warrant:

Court authorization, most often for law enforcement officers, to conduct a search or make an arrest.

Witness:

A person called upon by either side in a lawsuit to give testimony before the court or jury.

Writ:

A written court order directing a person to take, or refrain from taking, a certain act.

Writ of certiorari:

An order issued by the U.S. Supreme Court directing the lower court to transmit records for a case which it will hear on appeal.

X. Selected Online Resources –

- **The homepage for the Maine Judicial branch:**
<http://www.courts.state.me.us/index.shtml>
- **The Citizens Guide to the Courts:**
http://www.courts.state.me.us/citizen_info/citizen_guide/index.html
- **The homepage for the Maine Supreme Court:**
http://www.courts.state.me.us/maine_courts/supreme/index.shtml
- **The homepage for the Maine Superior Court:**
http://www.courts.state.me.us/maine_courts/superior/justices.shtml
- **The homepage for the Maine District Court:**
http://www.courts.state.me.us/maine_courts/district/index.shtml
- **A great resource for history and biographical information on the Maine Supreme Court and its Justices:**
<http://cleaves.org/supreme.htm>
<http://cleaves.org/cleaves.htm>
- **A very useful search engine for legal terms and definitions:**
<http://dictionary.law.com/>
- **To understand and diagram the Federal Court system - The U.S. Courts homepage:**
<http://www.uscourts.gov/Home.aspx>
<http://www.uscourts.gov/FederalCourts.aspx>
<http://wlwatch.westlaw.com/aca/west/uscourt.htm>
- **“Street Law Inc.” - An excellent resource for educators wanting to learn and teach more about the law. This site includes a wide variety of resources, as well as educational opportunities for teachers.**
<http://www.streetlaw.org/en/Index.aspx>