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Introduction to the U.S. Legal System

Bryce Pilz
Fall 2008

BY: dbking ([flickr](#))

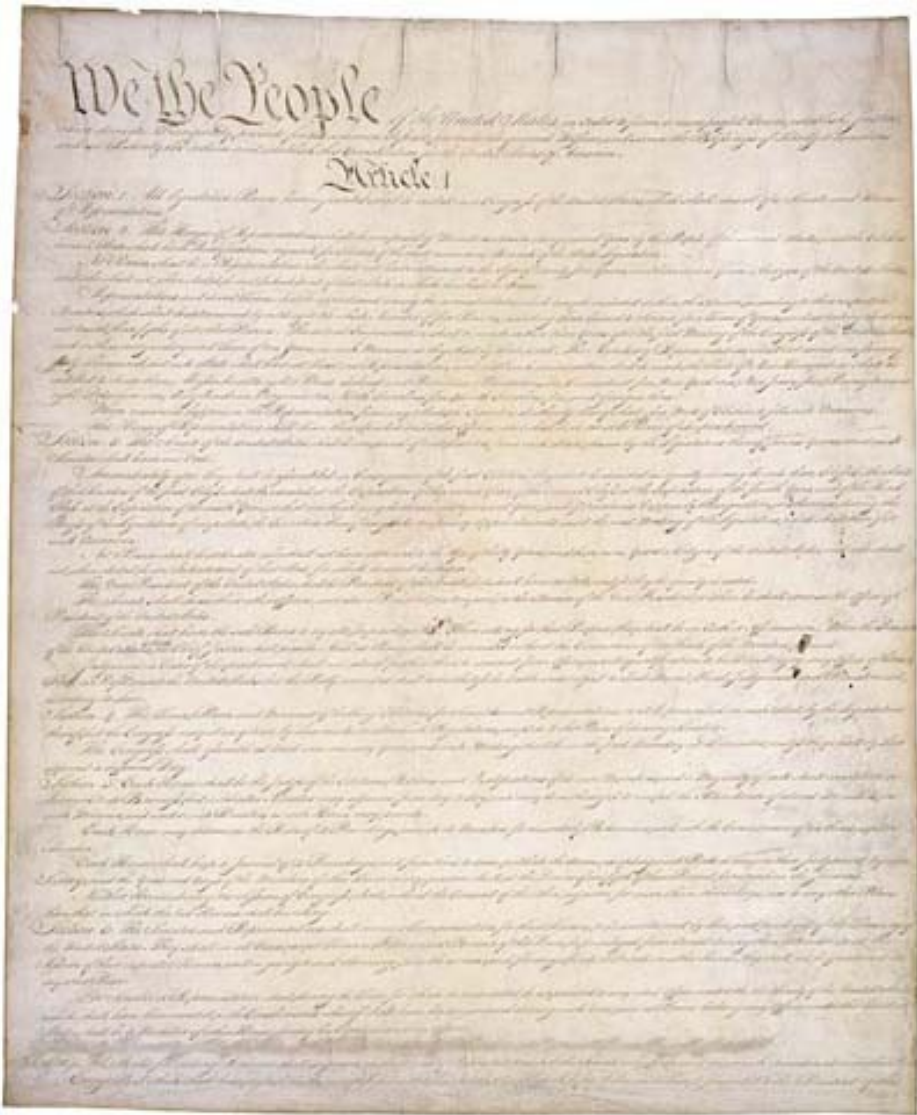


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Class 1 – September 5, 2008

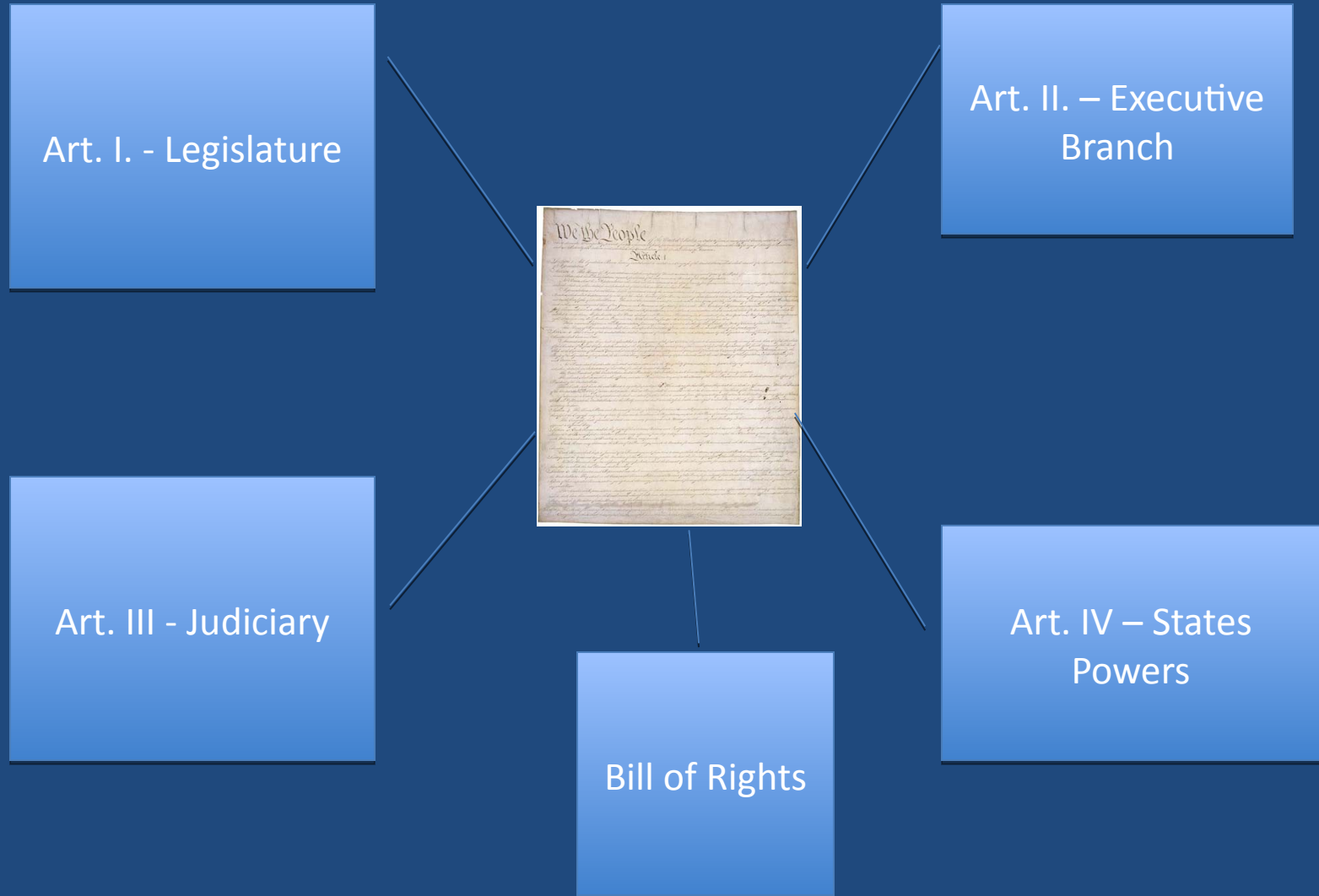
SI 519/PubPol 688 IP Info Law 2008

U.S. Constitution

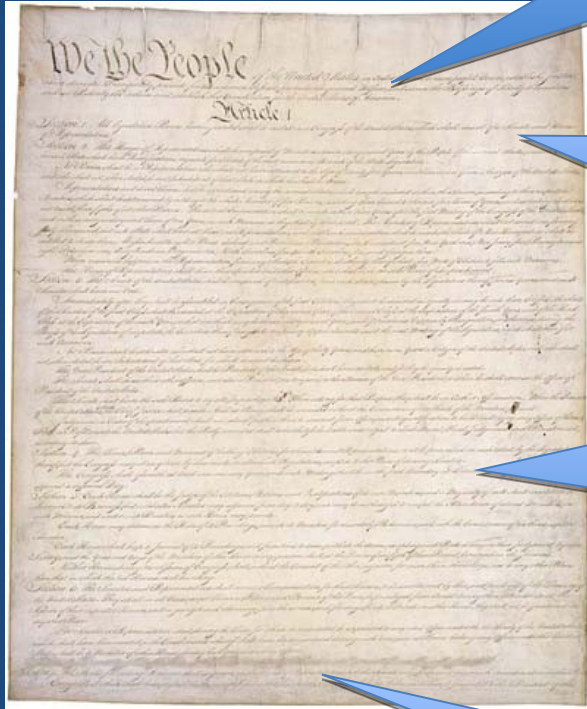


- Created in 1787, ratified in 1788.
- Replaced Articles of Confederation
- Represents compromise between Virginia Plan (big states) and NJ Plan (small states)
- Bill of Rights – 1791
 - Promise made during ratification

Major Sections



IP / Info Law-Related Sections



Art. I, Sec. 8, Cl. 8: “The Congress shall have the power... To Promote the Progress of Science and the useful Arts by securing for limited times to Authors and Inventors the exclusive right to their respective writings and discoveries.”

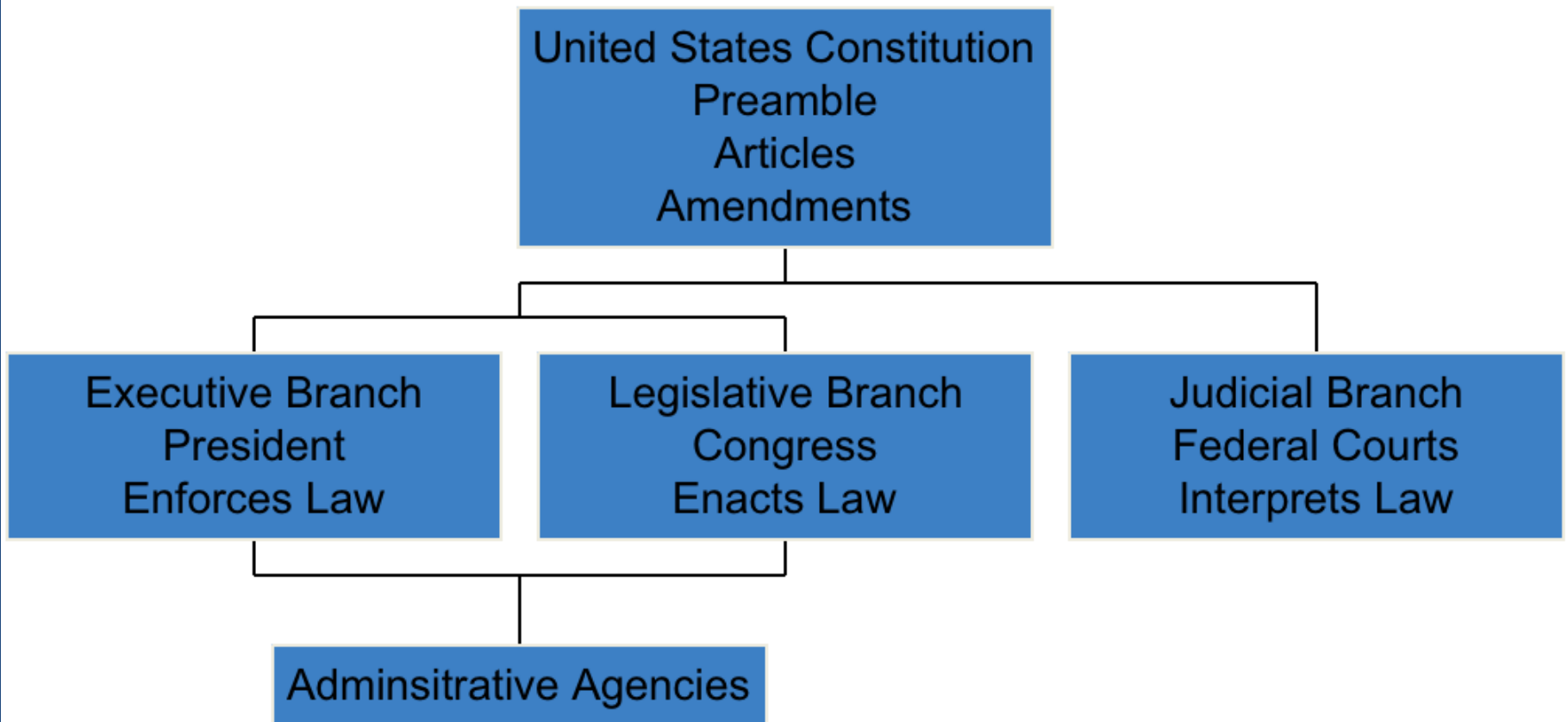
Art. 1, Sec. 8, C. 3: “The Congress shall have the power ...To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;”

Am. 1: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or

Am. 4: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,

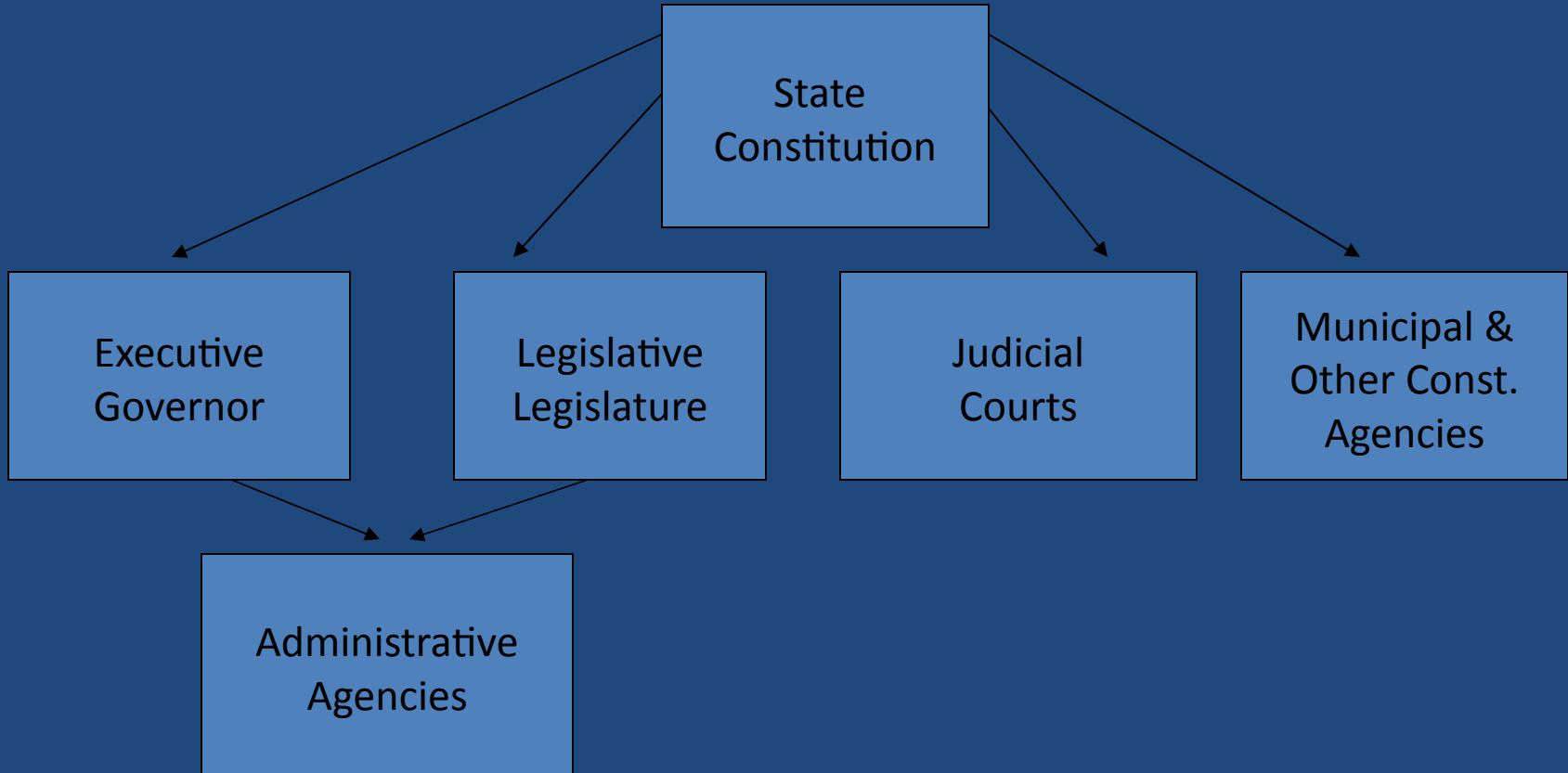
Structure of Federal Government

The Federal Government



Structure of State Governments

State Governments



U.S. Congress

- 1000s of bills considered annually
- 1) Introduction (sponsor)
- 2) Committee/Subcommittee Action/Voting
 - Public hearings, markups, etc.
- 3) Report
- 4) Floor Action, Debate, Voting
- 5) Referred to Other Chamber
 - Conference Committee
- 6) Vote

U.S. Congress

- Congressmen and women receive information from lobbyists and other interested parties
- Listen to constituents
- Bills an contain numerous laws, so horse-trading can occur
- Example: Patent Reform Bills of 2005, 2006, 2007 and 2008

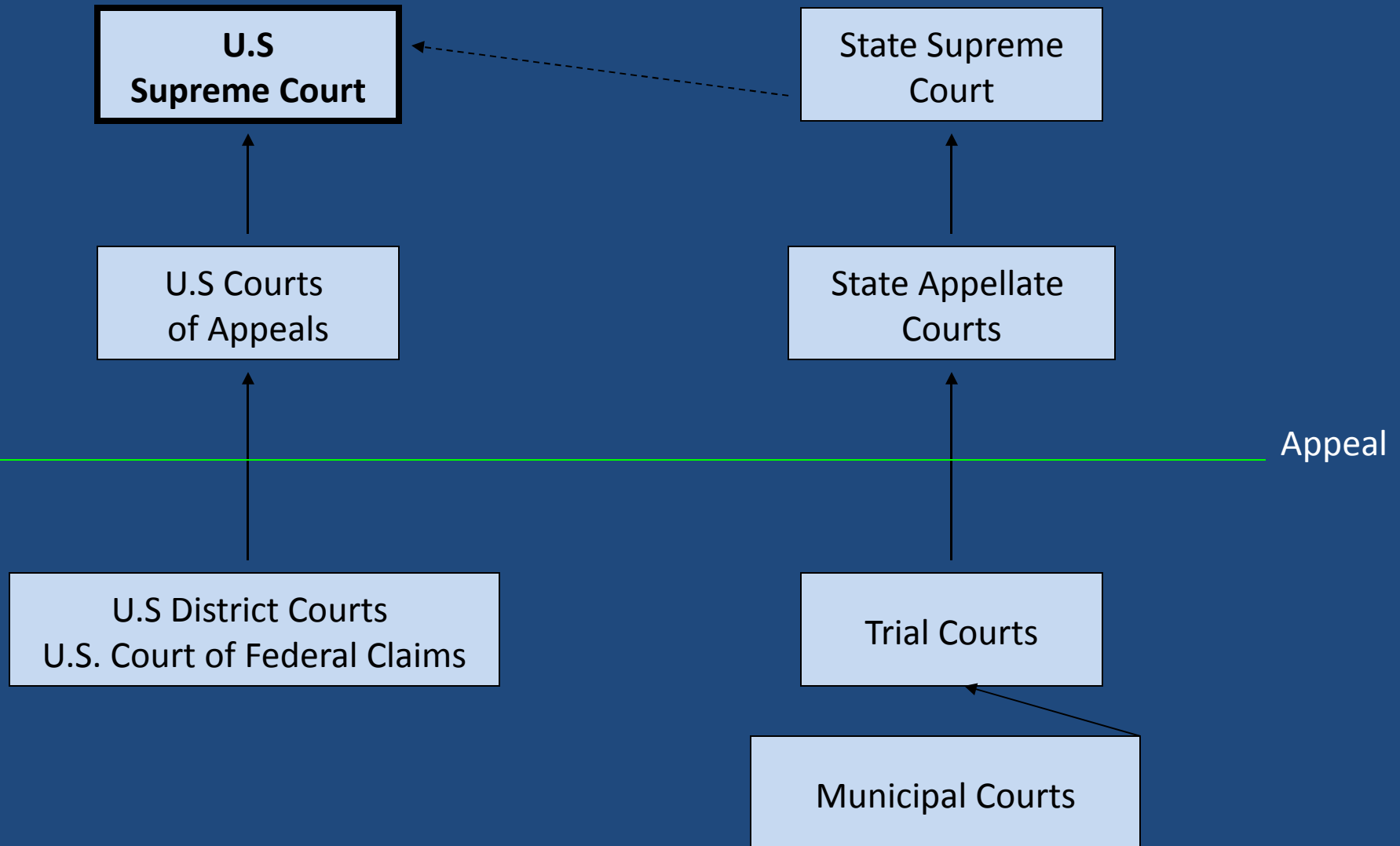
Relevant Statutes

- Patent Act (1952)
- Copyright Act (1976)
- DMCA (1998)
- Lanham Trademark Act (1946)
- Federal and State Freedom of Information Acts
- State Privacy Statutes

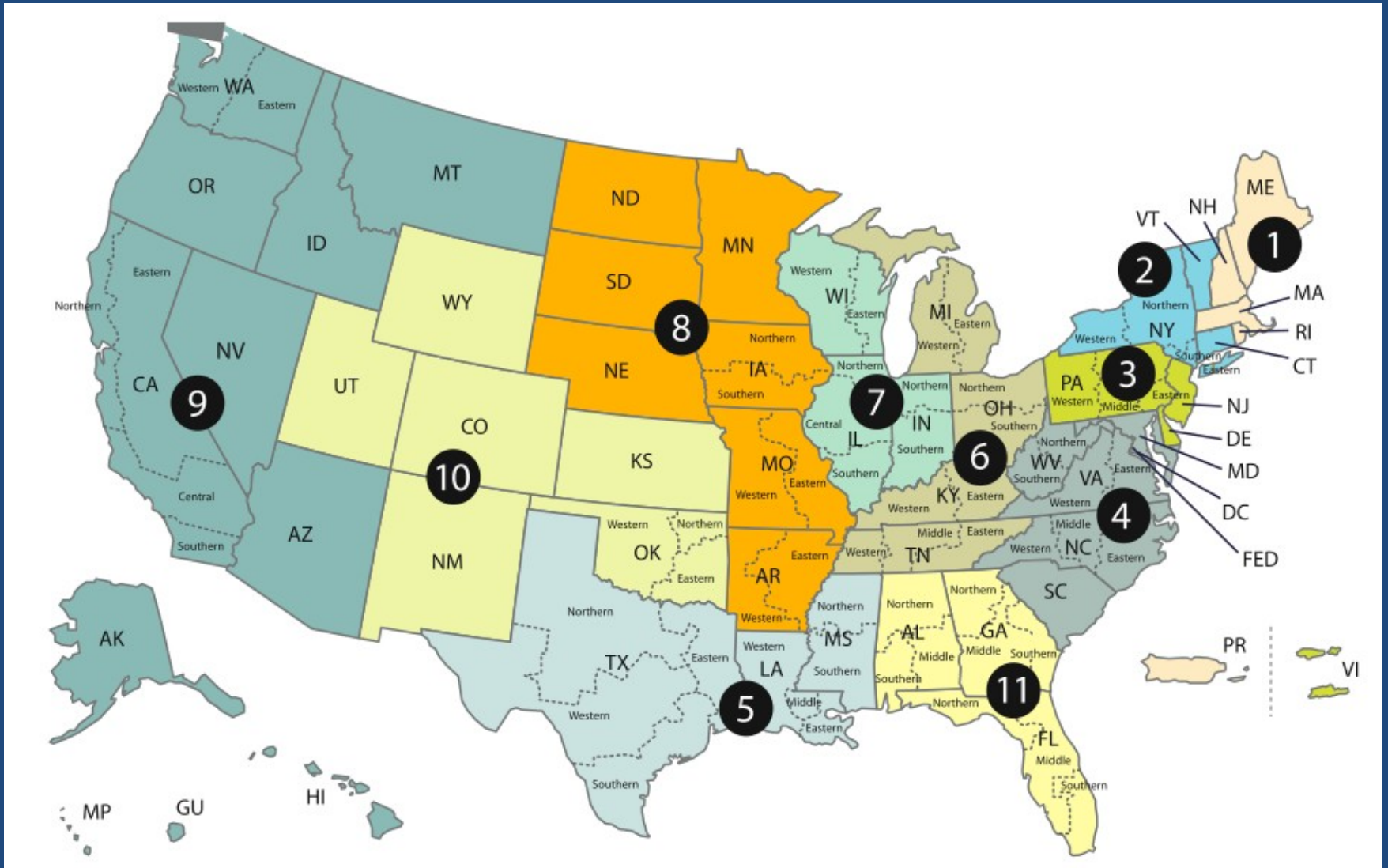
The Courts

- Federal: (1) Federal subject matter (U.S. Const., or Federal Law), or (2) suits between citizens of different states involving a dispute over a certain threshold (\$75,000)
- States: Everything else.
- Ex) contract dispute (Mi. cit. v. Mi. Cit, \$100k)
- Ex) patent litigation (Mi. cit. v. Mi. cit., \$100M)

Supreme Court is Supreme



Federal Courts



Source: <http://www.uscourts.gov/images/CircuitMap.pdf>

Inside a District Court

-Courts housed in buildings with other federal offices

-“Chambers” include Judge, administrative assistant, 2-3 law clerks, court reporter, court room deputy

-150-400 active cases at any time

-30% criminal; 70% civil

-5-20 trials a year, but active daily schedule

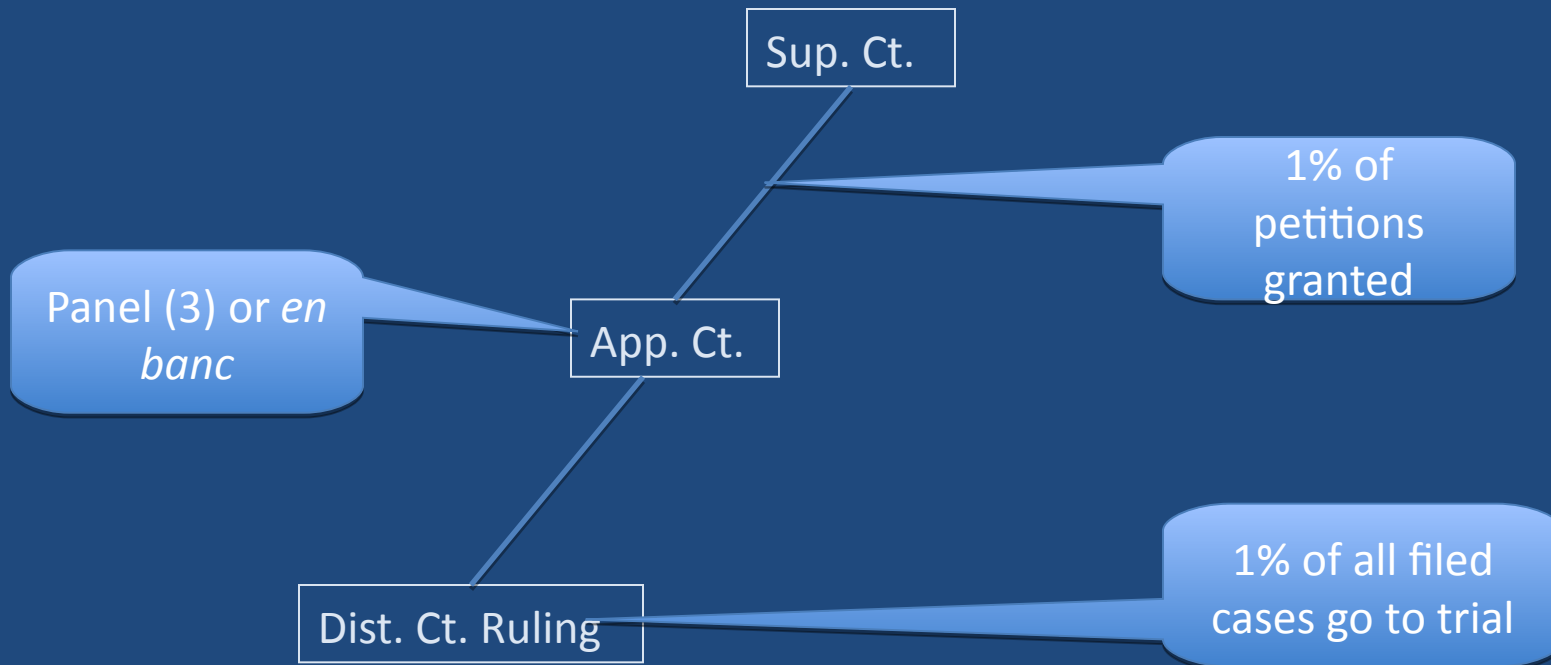
Honorable Amy J. St. Eve

Courtroom 1241 (ASE)

1:05-cr-00799	USA v. Pasiecznik	08:30	Notice of Motion
1:05-cv-00607	Moss v. The City of Chicago	08:30	Notice of Motion
1:08-cv-00208	Board of Trustees of the Local Union	08:30	In Court Hearing
1:08-cv-00212	Trustees of the Bricklayers and Alli	08:30	Status Hearing
1:08-cv-00283	Chicago Regional Council Carpenters	08:30	Show Cause Hearing
1:08-cv-04211	Weber-Stephen Products Co. v. Picnic	08:30	Status Hearing
1:06-cr-00075	USA v. Amaya	08:45	Status Hearing
1:04-cr-00423	USA v. Smith	09:00	Status Hearing
1:05-cr-00799	USA v. Pasiecznik	09:00	Motion Hearing
1:06-cr-00630	USA v. Mallett	09:00	Status Hearing
1:08-cr-00475	USA v. Hatten	09:00	Status Hearing
1:05-cv-06016	Barsky v. Metro Kitchen & Bath Inc.	09:15	Bench Trial

Decision-Making Bodies

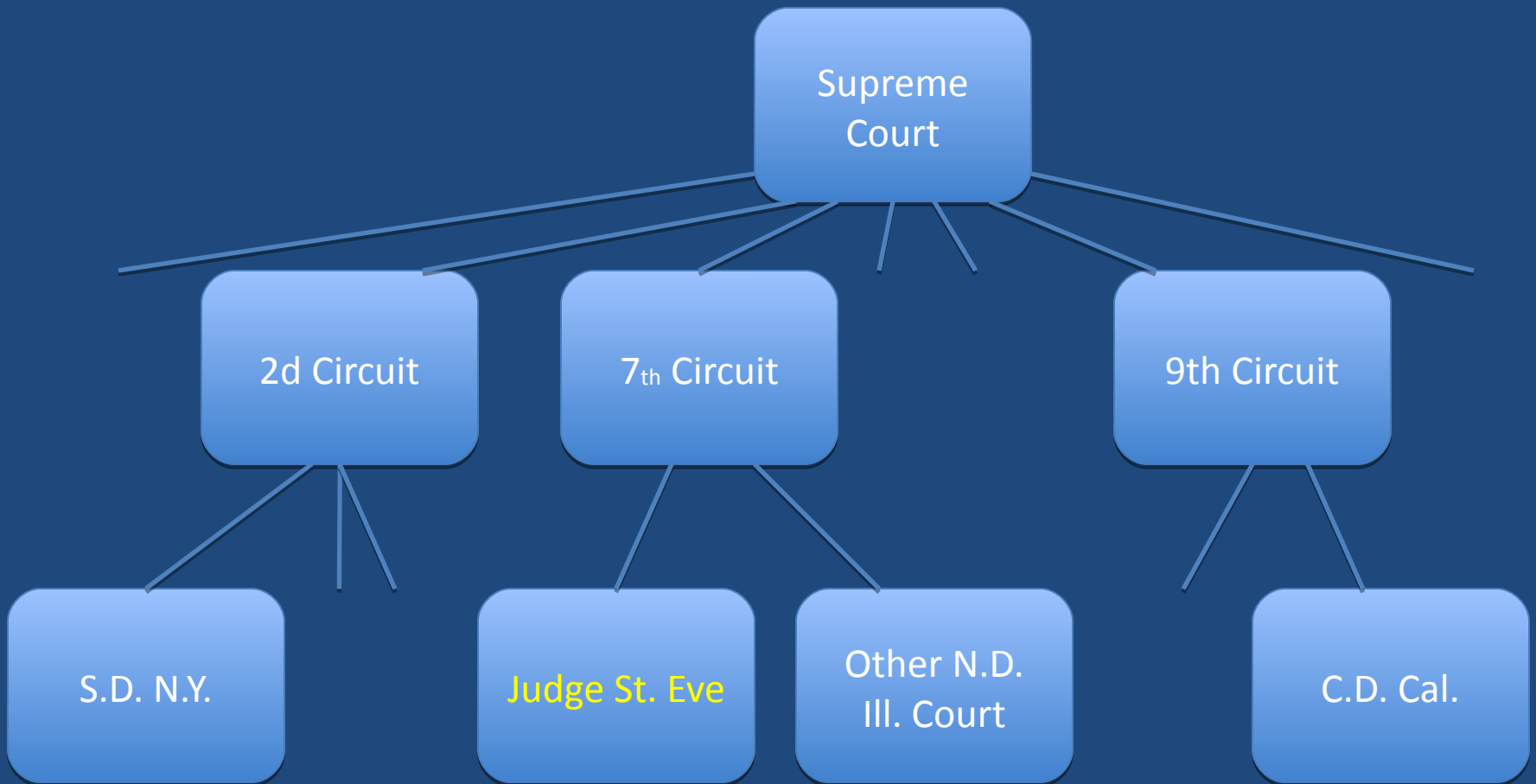
- Federal Judges – lifetime appointment from president
- Appellate Court's review all cases sent to them, but not the Supreme Court



Decision-Making Process

- Court is bound by Mandatory Authority
 - *E.g.*, cases from a higher-court in jurisdiction
- Often, no Mandatory Authority directly “on point”
 - Court consults Persuasive Authority
 - *E.g.*, cases from higher-courts in other jurisdictions, cases from “horizontal” courts, secondary authority
- *E.g.*, Judge St. Eve in N.D. III.

Decision-Making Process



Interpreting Caselaw

ASHCROFT V. AMERICAN CIVIL LIBERTIES UNION (03-218) 542 U.S. 656
(2004)

322 F.3d 240, affirmed and remanded.

Syllabus	Opinion [Kennedy]	Concurrence [Stevens]	Dissent [Scalia]	Dissent [Breyer]
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Opinion of the Court

SUPREME COURT OF THE UNITED STATES

No. 03–218

JOHN D. ASHCROFT, ATTORNEY GENERAL,
PETITIONER v. AMERICAN CIVIL
LIBERTIES UNION et al.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[June 29, 2004]

Justice Kennedy delivered the opinion of the Court.

This case presents a challenge to a statute enacted by Congress to protect minors from exposure to sexually explicit materials on the Internet, the Child Online Protection Act (COPA). 112 Stat. 2681–736, codified at [47 U.S.C. § 231](#). We must decide whether the Court of Appeals was correct to affirm a ruling by the District Court that enforcement of COPA should be enjoined because the statute likely violates the [First Amendment](#).

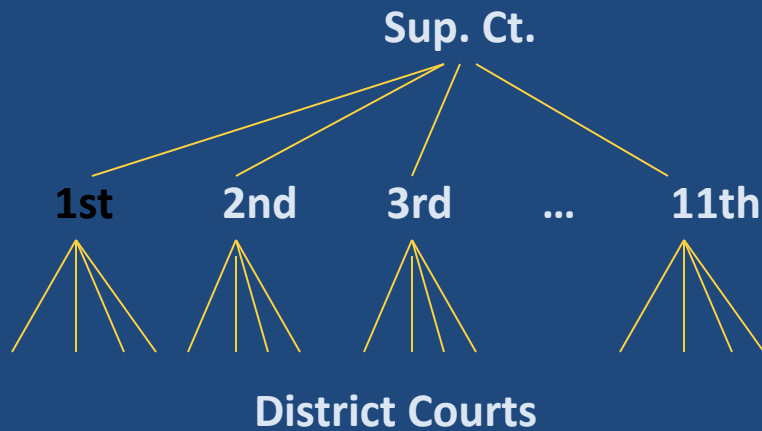
In enacting COPA, Congress gave consideration to our earlier decisions on this subject, in particular the decision in *Reno v. American Civil Liberties Union*, [521 U.S. 844](#) (1997). For that reason, “the Judiciary must proceed with caution and . . . with care before invalidating the Act.” *Ashcroft v. American Civil Liberties Union*, [535 U.S. 564](#), 592 (*Ashcroft I*) (Kennedy, J., concurring in judgment). The imperative of according respect to the Congress, however, does not permit us to depart from well-established [First Amendment](#) principles. Instead, we must

Court will look to see how other cases interpreted and applied the law to similar facts.

Federal Circuit (1983)

- Specialty Court for Patent Cases

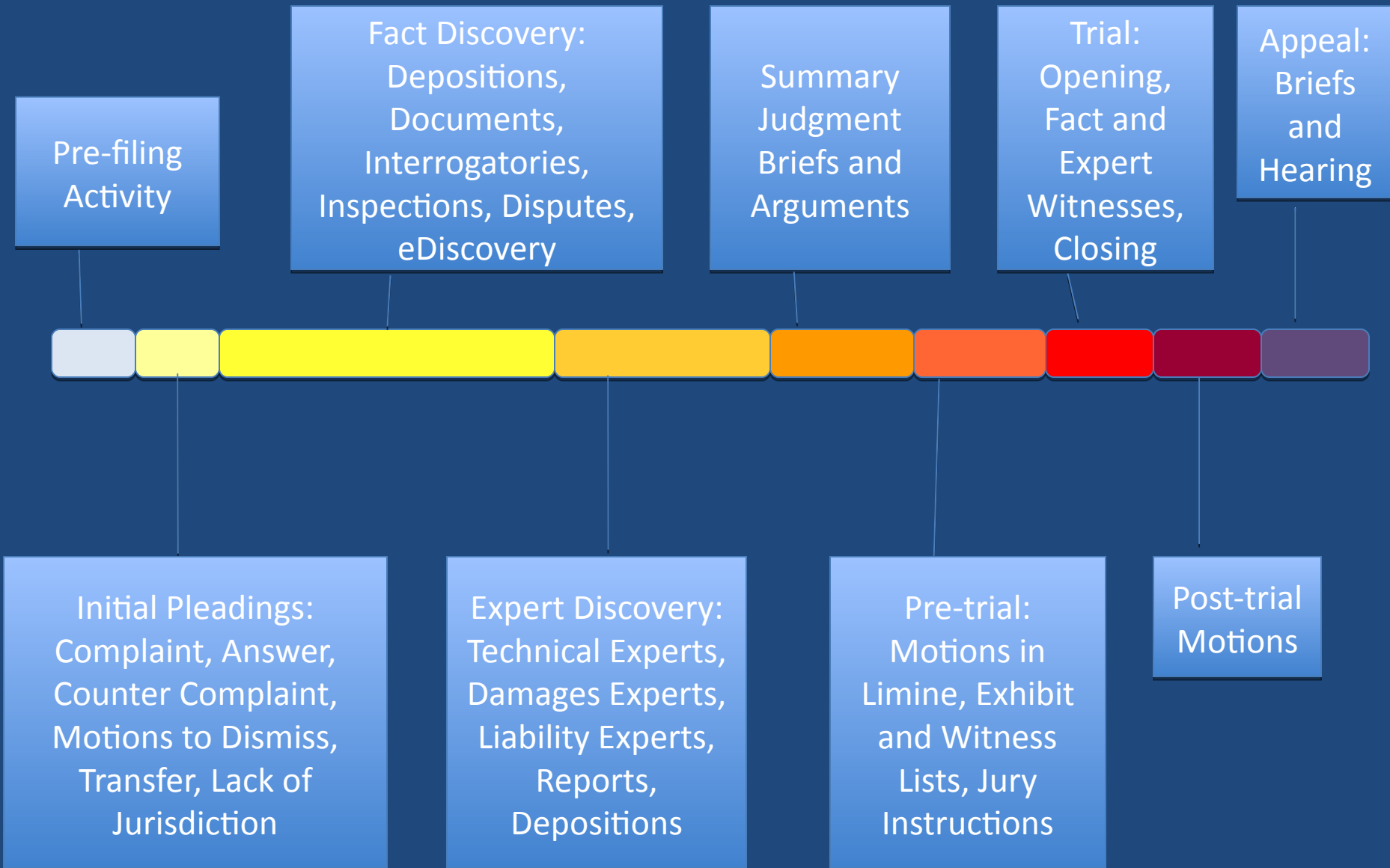
Pre Fed.Cir.



Post Fed.Cir.



Anatomy of Civil Litigation



Litigation Stats

- Average IP case takes over 2 years to trial
 - Districts vary: “Rocket dockets” v. slow dockets
- Average patent case costs over **\$5M** to trial
- What does all this mean?