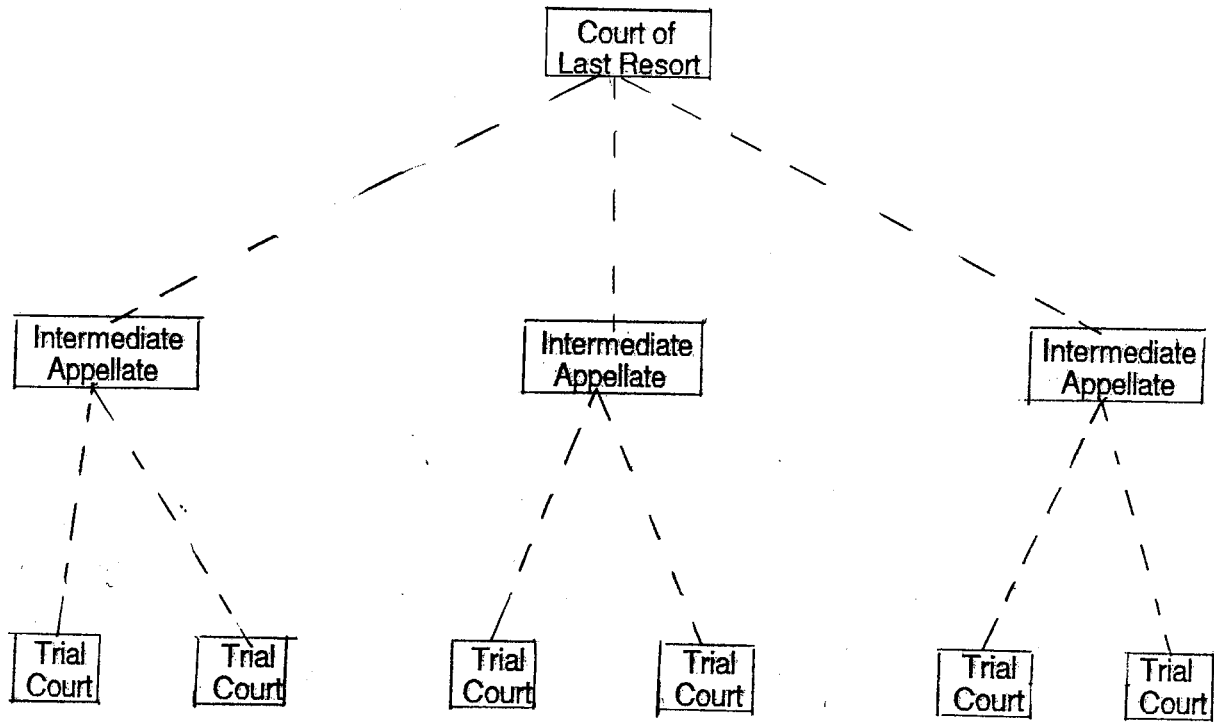


The Appellate Process  
and Precedential Rulings



State Civil Courts

<u>State</u>	<u>General Jurisdiction (Trial Courts)</u>	<u>Intermediate Appellate</u>	<u>Court of Last Resort</u>
Alabama	Circuit	Court of Civil Appeals	Supreme Court
Alaska	Superior	none	Supreme Court
Arizona	Superior	Court of Appeals	Supreme Court
Arkansas	Circuit	Court of Appeals	Supreme Court
California	Superior	Court of Appeals	Supreme Court
Colorado	District	Court of Appeals	Supreme Court
Connecticut	Superior	Appellate Court	Supreme Court
D.C.	Superior	none	Court of Appeals
Delaware	Superior	none	Supreme Court
Florida	Circuit	Court of Appeals	Supreme Court
Georgia	Superior	Court of Appeals	Supreme Court
Hawaii	Circuit	Intermediate Ct. of Appeals	Supreme Court
Idaho	District	Court of Appeals	Supreme Court
Illinois	Circuit	Appellate Court	Supreme Court
Indiana	Circuit/Superior	Court of Appeals	Supreme Court
Iowa	District	Court of Appeals	Supreme Court
Kansas	District	Court of Appeals	Supreme Court
Kentucky	Circuit	Court of Appeals	Supreme Court
Louisiana	District	Circuit Ct. of Appeal	Supreme Court
Maine	Superior	none	Supreme Judicial Ct.
Maryland	Circuit	none	Court of Appeals
Massachusetts	Superior	Appeals Court	Supreme Judicial Ct.
Michigan	Circuit	Court of Appeals	Supreme Court
Minnesota	District	Court of Appeals	Supreme Court
Mississippi	Circuit	Court of Appeals	Supreme Court
Missouri	Circuit	Court of Appeals	Supreme Court
Montana	District	none	Supreme Court
Nebraska	District	Court of Appeals	Supreme Court
Nevada	District	none	Supreme Court
New Hampshire	Superior	none	Supreme Court
New Jersey	Superior	Appellate Div. of Superior Ct.	Supreme Court

State Civil Courts - Continued

<u>State</u>	<u>General Jurisdiction (Trial Courts)</u>	<u>Intermediate Appellate</u>	<u>Court of Last Resort</u>
New Mexico	District	Court of Appeals	Supreme Court
New York	Supreme	Appellate Div. of Supreme Ct.	Court of Appeals
North Carolina	Superior	Court of Appeals	Supreme Court
North Dakota	District	Court of Appeals	Supreme Court
Ohio	Common Pleas	Courts of Appeal	Supreme Court
Oklahoma	District	Civil Appeals	Supreme Court
Oregon	Circuit	Court of Appeals	Supreme Court
Pennsylvania	Common Pleas/ Commonwealth	Superior/Commonwealth	Supreme Court
Rhode Island	Superior	none	Supreme Court
South Carolina	Circuit	Court of Appeals	Supreme Court
South Dakota	Circuit	none	Supreme Court
Tennessee	Circuit	Court of Appeals	Superior Court
Texas	District	Court of Appeals	Supreme Court
Utah	District	Court of Appeals	Supreme Court
Vermont	Superior	none	Supreme Court
Virginia	Circuit	Court of Appeals	Supreme Court
Washington	Superior	Court of Appeals	Supreme Court
West Virginia	Circuit	none	Supreme Ct. of Appeals
Wisconsin	Circuit	Court of Appeals	Supreme Court
Wyoming	District	none	Supreme Court

Word "agency" was inserted in order that this section shall apply to actions by agencies of the Government and to conform with special acts authorizing such actions. (See definitive section 451 of this title.)

The phrase "Except as otherwise provided by Act of Congress," at the beginning of the section was inserted to make clear that jurisdiction exists generally in district courts in the absence of special provisions conferring it elsewhere.

Changes were made in phraseology.

### § 1346. United States as defendant

(a) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

(b) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 6226, 6228(a), 7426, or 7428 (in the case of the United States district court for the District of Columbia) or section 7429 of the Internal Revenue Code of 1986.

(f) The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

(June 25, 1948, c. 646, 62 Stat. 933; Apr. 25, 1949, c. 92, § 2(a), 63 Stat. 62; May 24, 1949, c. 189, § 80(a), (b), 63 Stat. 101; Oct. 31, 1951, c. 655, § 50(b), 65 Stat. 727; July 30, 1954, c. 648, § 1, 68 Stat. 589; July 7, 1958, Pub.L. 85-508, § 12(a), 72 Stat. 348; Aug. 30, 1964, Pub.L. 88-519, 78 Stat. 699; Nov. 2, 1966, Pub.L. 89-719, Title II, § 202(a), 80 Stat. 1148; July 23, 1970, Pub.L. 91-350, § 1(a), 84 Stat. 449; Oct. 25, 1972, Pub.L. 92-562, § 1, 86 Stat. 1176; Oct. 4, 1976, Pub.L. 94-455, Title XII, § 1204(c)(1), Title XIII, § 1308(b)(7), 90 Stat. 1697, 1719; Nov. 1, 1978, Pub.L. 95-563, § 14(a), 92 Stat. 2389; Apr. 2, 1982, Pub.L. 97-164, Title I, § 129, 96 Stat. 39; Sept. 3, 1982, Pub.L. 97-248, Title IV, § 402(c)(17), 96 Stat. 669; Oct. 22, 1986, Pub.L. 99-514, § 2, 100 Stat. 2095; Oct. 29, 1992, Pub.L. 102-572, Title IX, § 902(b)(1), 106 Stat. 4516.)

### HISTORICAL AND STATUTORY NOTES

#### Revision Notes and Legislative Reports

1948 Acts. Based on Title 28, U.S.C., 1940 ed., §§ 41(20), 931(a), 932 (Mar. 3, 1911, c. 231, § 24, par. 20, 36 Stat. 1093; Nov. 23, 1921, c. 136, § 1310(c), 42 Stat. 311; June 2, 1924, c. 234, § 1025(c), 43 Stat. 348; Feb. 24, 1925, c. 309, 43 Stat. 972; Feb. 26, 1926, c. 27, §§ 1122(c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, c. 753, §§ 410(a), 411, 60 Stat. 843).

Section consolidates provisions of section 41(20) conferring jurisdiction upon the district court, in civil actions against the United States, with the first sentence of section 931(a) relating to jurisdiction of the district courts in tort claims cases, and those provisions of section 932 making the provisions of said section 41(20), relating to counterclaim and set-off, applicable to tort claims cases, all of Title 28, U.S.C., 1940 ed.

Provision in section 931(a) of Title 28, U.S.C., 1940 ed., for trials without a jury, is incorporated in section 2402 of this revised title. For other provisions thereof, see Distribution Table.

Words "commencing an action under this section" in subsec. (c) of this revised section cover the provision in section 932 of Title 28, U.S.C., 1940 ed., requiring that the same provisions "for counterclaim and set-off" shall apply to tort claims cases brought in the district courts.

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