

Chapter 3: The Court System

-Cases-

1. A group of securities investors signed agreements which required that any disputes between them and the investment company would be settled by submitting the claims to binding arbitration rather than filing a lawsuit in court. When the investors' investments went bad, they brought suit in court alleging fraud and unauthorized transactions in violation of the securities laws, in spite of their written agreement to submit the matter to arbitration. Should their case be heard in court? [*Rodriquez de Quijas v. Shearson/American Express*, 490 U.S. 477(1989)]

2. Charlotte and John were married and had two children. John deserted his family, and Charlotte had not heard from him in eight years. Charlotte then filed for social security benefits for their children on the grounds that John was presumed dead. The Social Security Administration refused to pay the benefits because Charlotte had not proven John to be dead. Should she have to? Why or why not? [*Edwards v. Califano*, 619 F. 2d 865 (10th Cir. 1980)]

3. During the Persian Gulf conflict in 1990, the United States sent thousands of soldiers to the Iraq and Kuwait area. Because the government was concerned that Iraq might use chemical warfare, it wanted to use two experimental drugs that it believed would protect the soldiers against chemical attack. The drugs had not been approved by the Food and Drug Administration (FDA), which is the government agency responsible for approving the use of drugs. The FDA required the government to get permission from each soldier before using the drug on him or her. The government thought this was impractical, so it petitioned the FDA to modify this rule to allow for the drug to be used in combat-related situations without complying with the permission requirement. The FDA agreed. John Doe, a soldier stationed in the Persian Gulf, filed a class action lawsuit on behalf of himself and other soldiers challenging the rule that the unapproved drug could be used on soldiers without giving them notice or receiving their permission. The government argued that the court was unable to decide the issue because only the executive and legislative branches had authority over the government during times of war. Is the government correct? [*Doe v. Sullivan*, 938 F. 2d 1370 (D.C. Cir. 1991)]

4. Gafford was a meeting planner at General Electric in Jefferson County, Kentucky. After being passed over for several promotions, she sued GE for discrimination in Kentucky state court. Had she been

successful in her suit, she would have been entitled to more than \$50,000 in back pay. GE petitioned the court to move the case to federal court based on diversity jurisdiction. GE alleged that its primary place of business was at the home office in New York, and not, as Gafford alleged, in Jefferson County where it operated a plant employing more than 9,000 people. GE also argued that the federal court was the proper jurisdiction because the matter at issue was more than \$50,000 (the minimum needed at the time for the federal court to have jurisdiction over a diversity of citizenship case). Will GE get to move the case to federal court? [Gafford v. General Electric, 997 F. 2d 150 (6th Cir. 1993)]

5. Marie Kelly sued the Zaks after she was injured in a head-on collision. The automobile that hit her was driven by Donald Gwinnell. Donald had been at the Zaks' home immediately before the accident and had been served a large amount of alcohol by the Zaks. The Zaks then allowed Donald to drive himself home during which time he struck the car driven by Marie Kelly. If state law does not impose liability on the Zaks for Donald's acts, can the courts hold them liable for Kelly's injuries? Why or why not? [Kelly v. Grinnell, 476 A. 2d 1219 (N.J. 1984)]

6. When an adult is found guilty of a crime, he is convicted and his conviction becomes part of his permanent record. When a juvenile is found guilty of committing a crime, he is adjudicated delinquent and his record is sealed (except under extraordinary circumstances). Once he becomes an adult, his juvenile delinquency record disappears. When an adult is sentenced to jail or prison, he has to serve his sentence until it is completed, no matter how old he becomes. When a juvenile is sentenced to a juvenile detention facility, he must be released by his 21st birthday, no matter what crime he has committed. Do you think this is fair? Why or why not?