

# Judges and Justices

- Individuals who operate courts
- Judges - Trial court persons
  - Determines the rules of law for case
- Justices - Reviewing court persons
  - Decide an appeal and provide reasons for their decisions

# Jurors

- Fact-finding body
- Trial by jury is guaranteed by the Bill of Rights
- **Petit jury:** Trial jury that returns a verdict in criminal and civil situations
- Consist of 12 persons
  - Smaller juries are acceptable
- Decision must be unanimous
  - Reason is not provided

# Lawyers

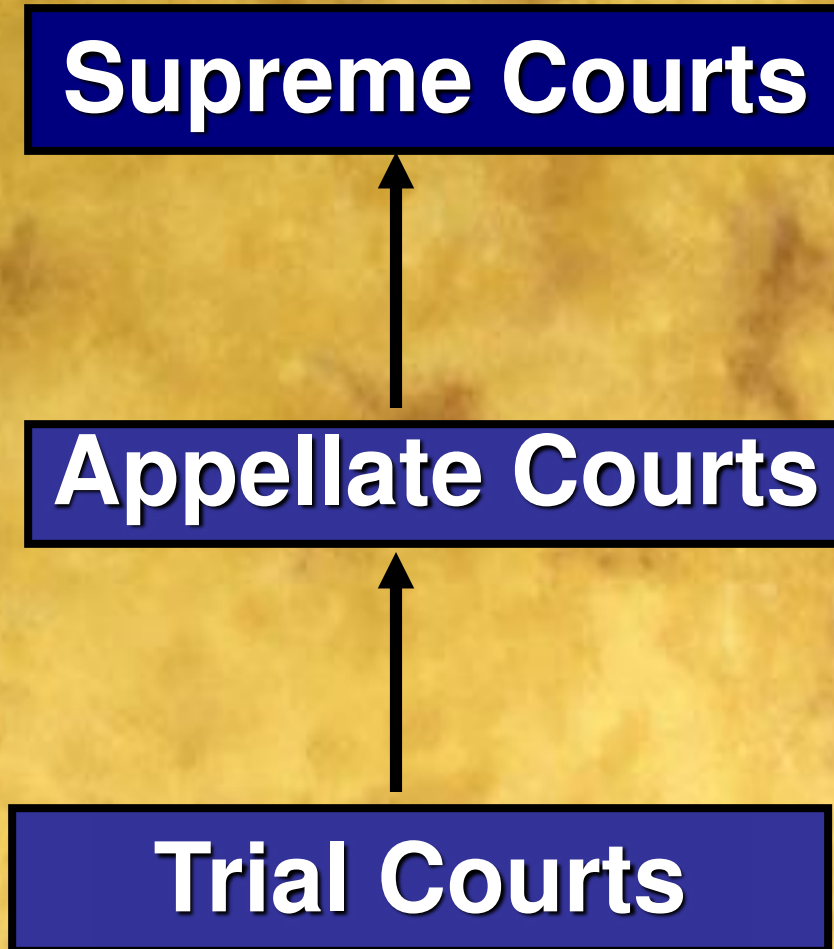
- Serve as representative advocates in court system
- Present evidence, points of law, and arguments
  - Help juries and judges in making decisions
- Primary duty is to the administration of justice



# Lawyers

- Serve as counselor, advocate, and public servant
- Rules of evidence provide confidential communications to a lawyer
- Attorney-client privilege
  - Forbids a lawyer to reveal confidential facts and testify against a client

# Organization of the Court System



Subject Matter  
Jurisdiction –  
Power over  
Particular  
Issues

**think think think**

**TANKTANKTANK**

**Is the state Supreme Court  
always the state's highest court?**

- a. Yes**
- b. No**



# Subject Matter Jurisdiction

- Power over the issues involved in the case
- Jurisdiction can be limited to a subject matter or area in which the parties live
- Probate courts - Deal with wills and estates of deceased persons
- Traffic courts - Deal with traffic violations

# State Courts

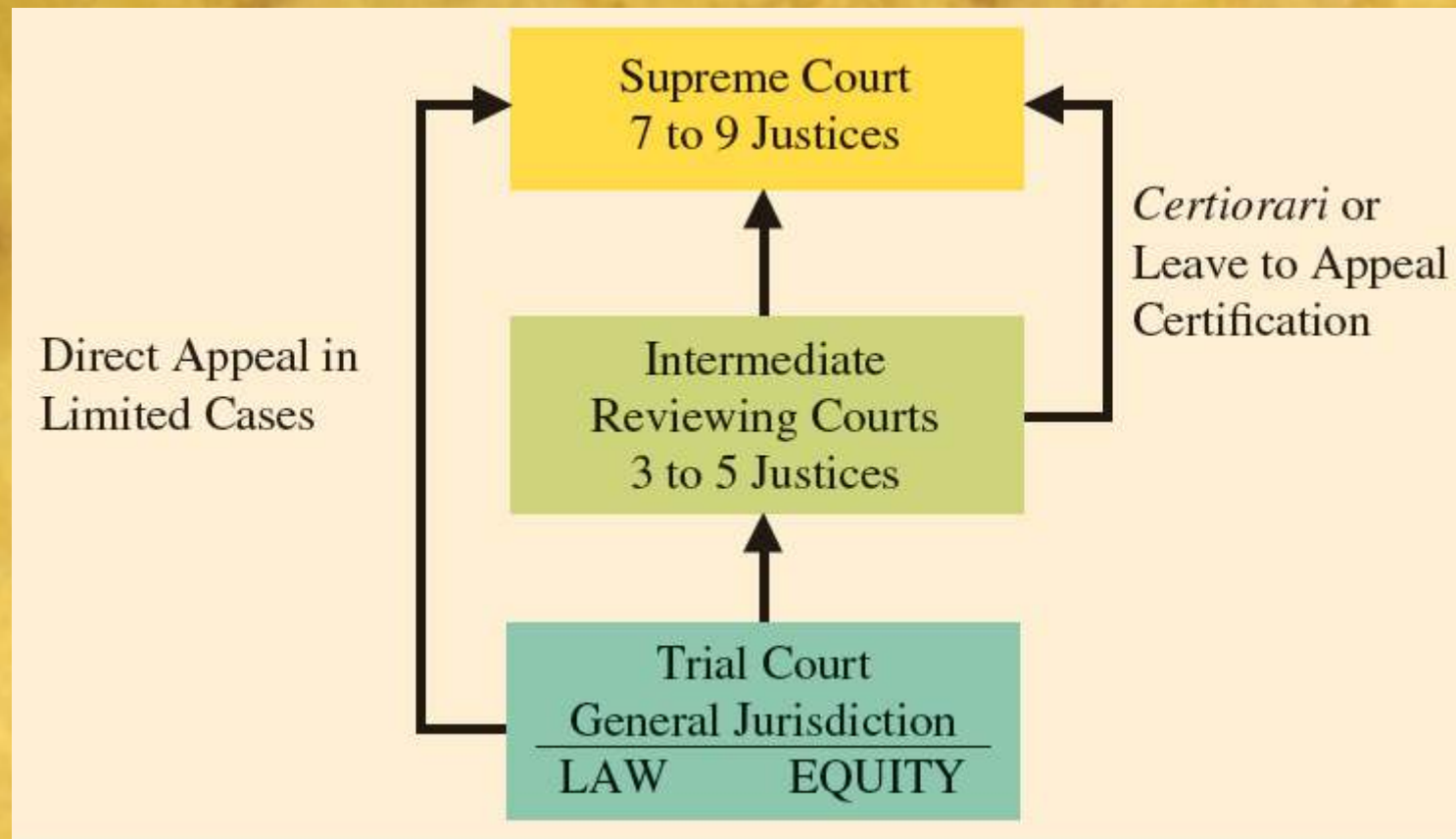
- Sources that create and govern state court systems
  - State constitutions
  - State legislature
  - Other legislation
- **Trial courts:** Initial level for filing lawsuits
  - Referred as superior or circuit or district court
  - Responsible for determining the facts and law in the case



# State Courts

- **Appellate courts:** Review the results of lower courts
  - Some states have one appellate court
  - Certain states have two levels of review
    - **Courts of appeal:** Intermediate courts
    - **Supreme court:** Highest court
  - ***Writ of certiorari:*** Procedure for requesting a second review

# Figure 3.1 - State Court System



# Federal Courts

- **Article III Of Constitution**
- **Reviews:**

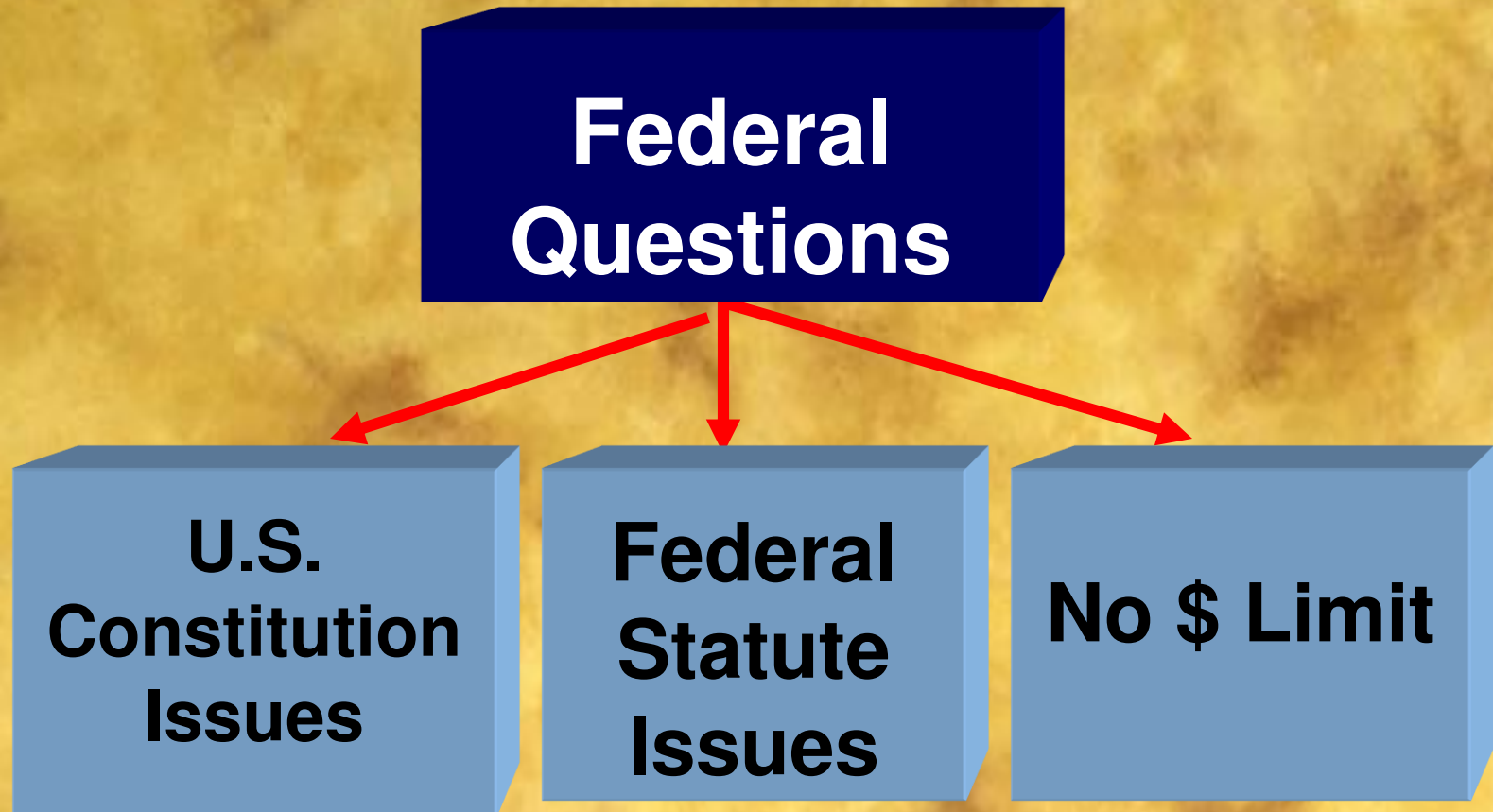
- Questions of Federal Law
- U.S. As Party
- State Disagreements
- Suits Between Citizens Of Different States



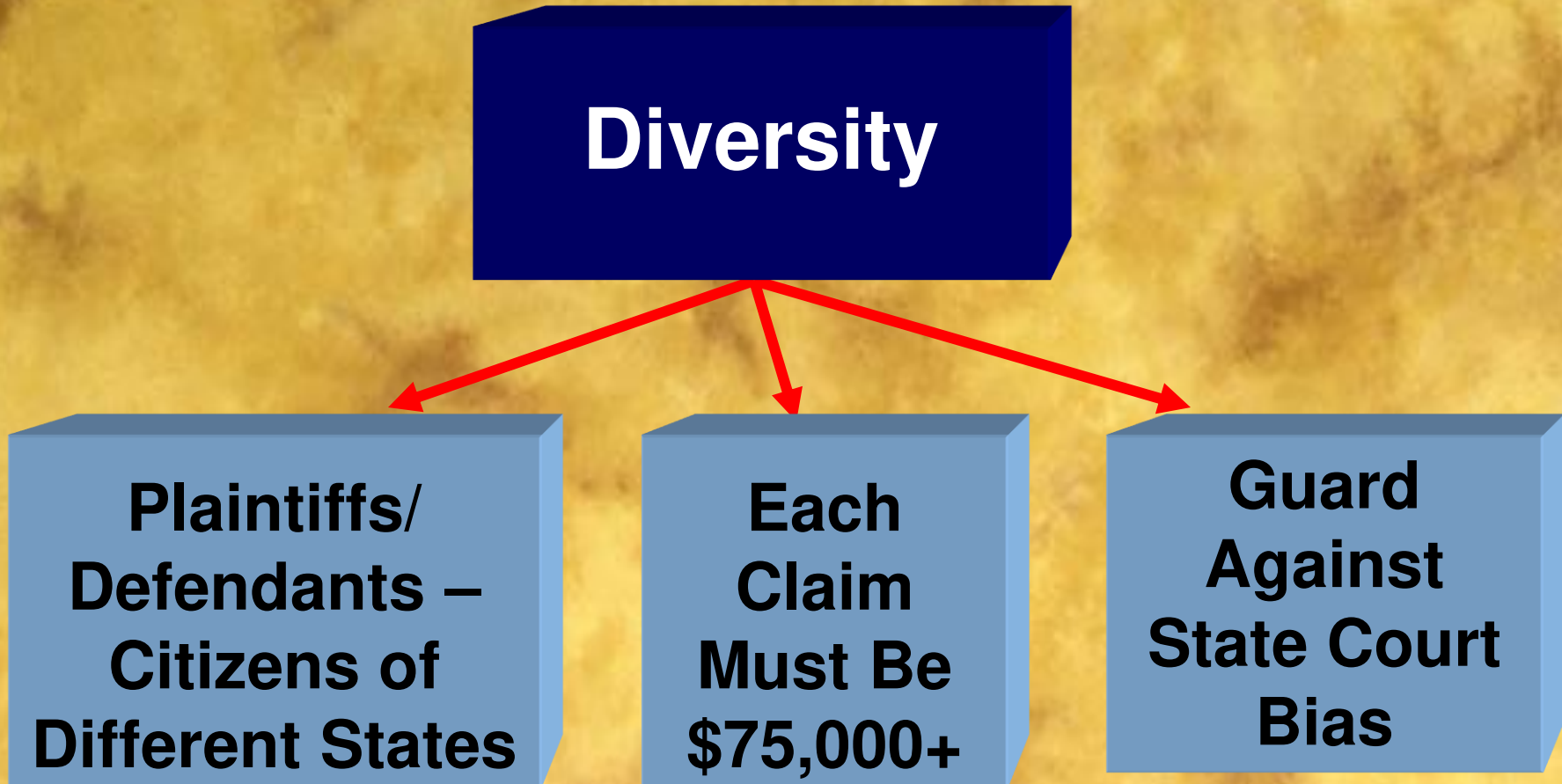
**Federal  
Jurisdiction**



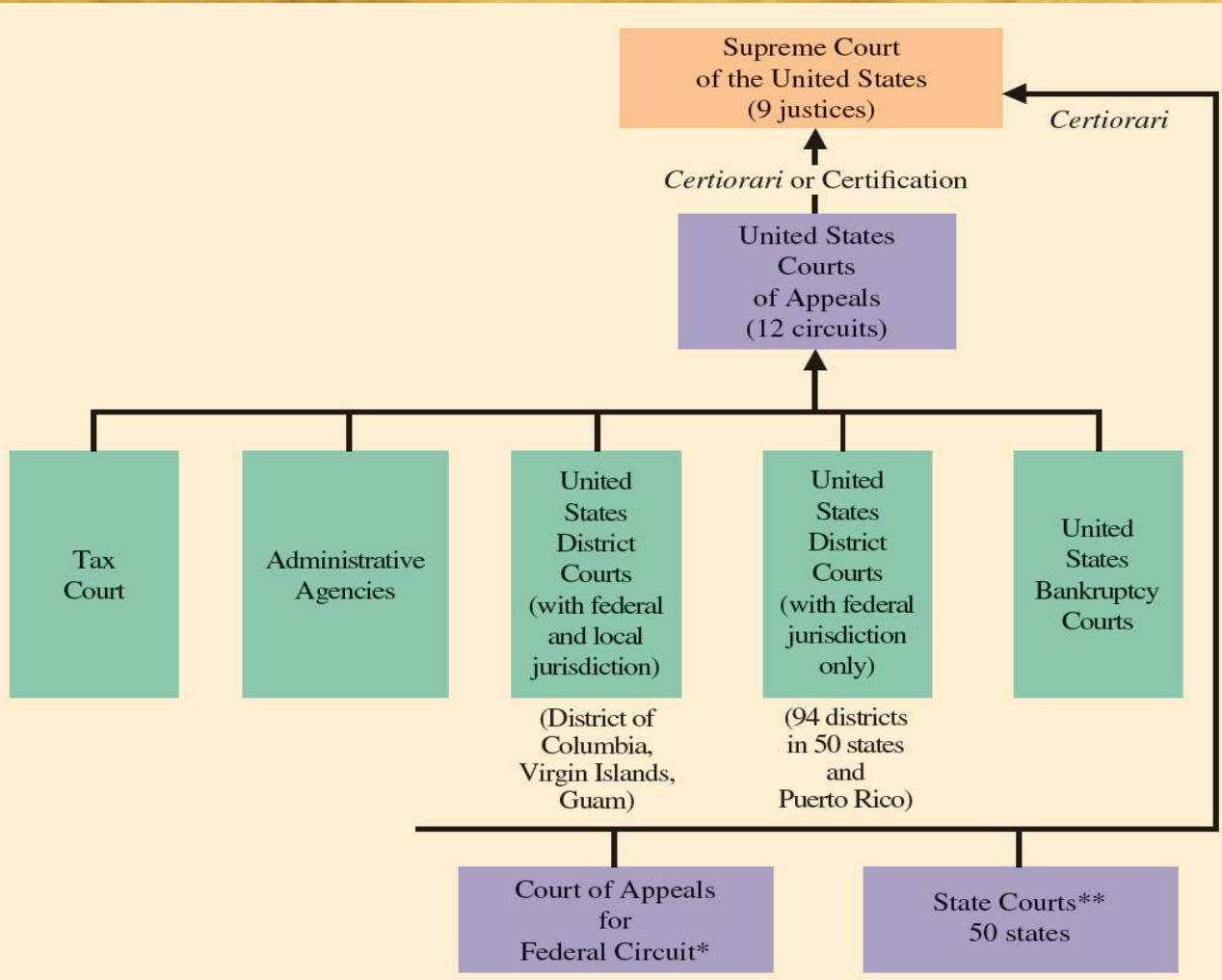
# Federal Question Cases



# Diversity Of Citizenship



# Figure 3.2 - Federal Court System



\*Same as other United States Courts of Appeal.

\*\**Certiorari*.



# District Courts

- Trial courts of the federal judicial system
- One court in every state and the District of Columbia
- **Federal Rules of Civil Procedure:**  
Provide the details concerning procedures to be followed in federal court litigation

# Appellate Courts

- 12 Courts of Appeal
- Special Court of Appeals hears appeals from
  - Special courts
  - Administrative decisions
- Other courts have been created to handle special subject matter
  - Court of Appeals for Armed Forces

**pop pop pop**

**QUIZQUIZQUIZ**

**General role of an appellate court is to:**

- a. Review questions of fact**
- b. Review questions of fact and law**
- c. Review questions of law**
- d. Review only constitutional questions**



# Decisions by the U.S. Supreme Court

- Review by the U.S. Supreme Court requires a petition for a *writ of certiorari*
- Supreme Court resolves cases involving major constitutional issues or interpretation of federal law
- Final judgments of the highest state court are reviewed only by the Supreme Court of the U.S.

# Power of Judicial Review

- **Judicial review:** Ultimate power to invalidate actions by the president or the Congress
- **Judicial restraint:** Power should not be used except in unusual cases
- **Judicial activism:** Power should be used when the needs of society justify its use



# Judicial Restraint

- Philosophy is referred as strict constructionism or judicial abstention
- Followers favor a very limited role for the courts in system of government
- Belief that change in society should result from the political process
- Supporters take a pragmatic approach to litigation



# Judicial Activism

- Supporters favor a more expansive role for the courts in system of government
- Activists are value oriented and policy directed
- Courts are more result conscious and place less reliance on precedent

**think think think**

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**Is the power of judicial review  
important?**

- a. Yes**
- b. No**

# Case 3.1: Supreme Court's Influence on Law

## ➤ Case

- National Federation of Independent Business v. Sebelius
- 567 U.S. \_\_\_, 132 S. Ct. 2566 (2012)
- U.S. Supreme Court

## ➤ Issue

- Plaintiffs challenged the constitutionality of individual mandate and Medicaid expansion of the Affordable Care Act



# Nature of the Judicial Process

Case To Be Decided

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graph TD; A[Case To Be Decided] --> B{Use Existing Statutes & Precedent}; A --> C{Create Law Where None Exists}; A --> D{Refuse To Apply Case Law or Find Unconstitutional}; B --- E[Will Ruling Provide Justice and Sound Precedent?]; C --- E; D --- E;
```

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