

Continuing from
Yesterday . . .

I need a volunteer to
explain this . . .

FIRST INSTANCE COURTS OF ORDINARY JURISDICTION

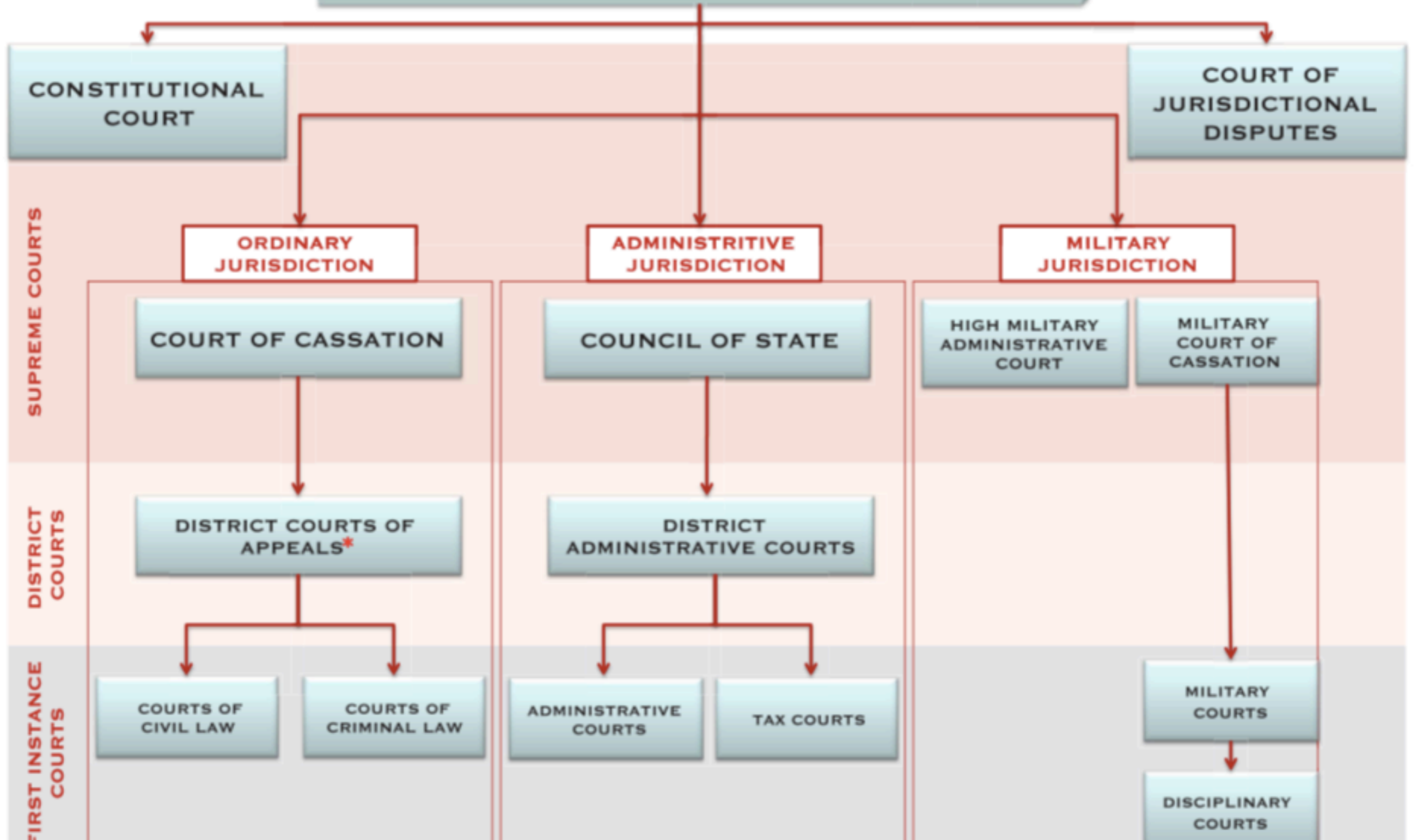
CRIMINAL LAW COURTS		
1- SEVERE CRIMINAL COURTS	1- CRIMINAL COURTS	1- CRIMINAL PEACE COURTS
2- SPECIAL SEVERE CRIMINAL COURTS (AUTHORIZED WITH THE CODE OF CRIMINAL PROCEDURE, ARTICLE 250)	2- CRIMINAL COURTS FOR INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS	
3- COURTS OF TERRORISM	3- JUVENILE CRIMINAL COURTS	
4- JUVENILE SEVERE CRIMINAL COURT	4- CRIMINAL COURTS OF ENFORCEMENT	

CIVIL LAW COURTS	
1- CIVIL COURTS	1- CIVIL PEACE COURTS
2- COMMERCIAL COURTS	
3- SPECIALIZED COURTS FOR MARITIME	
4- LAND REGISTRY COURTS	
5- LABOR COURTS	
6- FAMILY COURTS	
7- CIVIL COURTS FOR INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS	
8- CIVIL COURTS OF ENFORCEMENT	
9- CONSUMER COURTS	

THE OFFICE OF ENFORCEMENT JUDGES

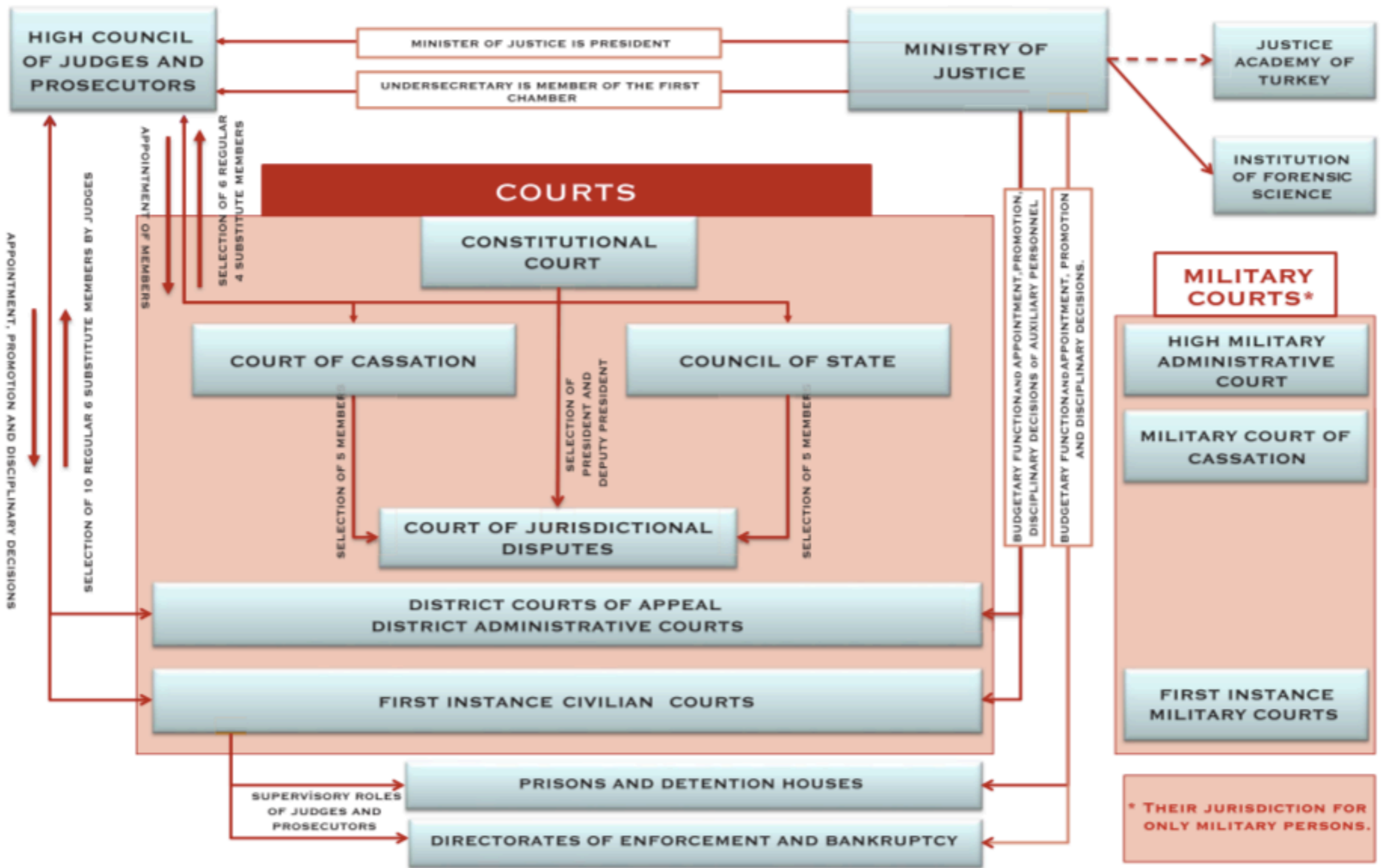
And now, this . . .

TURKISH JUDICIARY



And now, this . . .

TURKISH JUDICIAL SYSTEM



And now, more about the Jury System

At the end of the trial, they go back home.

They don't rely on a government paycheck

But how do Judges get to be judges?

The Missouri Non-partisan court plan

How does a jury know what the law is?

The Judge “instructs” them (in Missouri, MAI).

2.00(A) Explanatory Instruction Before Jury Selection

The trial of a lawsuit involves a considerable amount of time, effort and expense, and the parties are entitled to have their rights finally determined. The failure on your part to follow the rules and instructions I give to you may result in a miscarriage of justice, and a new trial may be required.

Here are some official jury
instructions from Missouri's
“Approved Instructions”

3.01

Your verdict will depend on the facts you believe after considering all the evidence. The party who relies upon any disputed fact has the burden to cause you to believe that such fact is more likely true than not true. In determining whether or not you believe any fact, you must consider only the evidence and the reasonable conclusions you draw from the evidence.

17.01 Single Negligent Act Submitted

Your verdict must be for plaintiff¹ if you believe:

First, defendant violated the traffic signal, and

Second, defendant was thereby negligent,² and

Third, as a direct result of such negligence² plaintiff sustained damage.

* [unless you believe plaintiff is not entitled to recover by reason of Instruction Number *].

4.01 Damages

If you find in favor of plaintiff, then you must award plaintiff such sum as you believe will fairly and justly compensate plaintiff for any damages you believe plaintiff sustained as a direct result of the occurrence mentioned in the evidence.

11.01 Highest Degree of Care

The phrase “highest degree of care” as used in this [these] instruction[s] means that degree of care that a very careful person would use under the same or similar circumstances.

Instruction No. _____

Your verdict must be for plaintiffs if you believe:

First, plaintiffs Timothy and Andrea Miravalle purchased” a used 2005 Mercedes SL500 automobile from defendant Dean Team-Kirkwood, Inc., and

Second, such purchase was primarily for personal, family or household purposes, and

Third, in connection with the sale” of the used 2005 Mercedes SL500 automobile, defendant Dean Team-Kirkwood, Inc., concealed a material fact and

Fourth, as a direct result of such conduct, plaintiffs sustained damage.

Here is a jury instruction in a
Consumer Fraud Case.

What if the jury is terrible?

Missouri Rule 78.02. New Trial - Against Weight of Evidence - Limitation

Only one new trial shall be allowed on the ground that the verdict is against the weight of the evidence.

Rule 59. New Trial; Altering or Amending a Judgment

(a) In General.

(1) *Grounds for New Trial.* The court may, on motion, grant a new trial on all or some of the issues—and to any party—as follows:

(A) after a jury trial, for any reason for which a new trial has heretofore been granted in an action at law in federal court

Should a Jury Ever
Disobey a Judge?

**WHO WOULD EVER SUGGEST
SUCH A THING?**

It is not only [the juror's] right, but his duty...to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court.

John Adams, 1771

**Jurors should acquit, even against the
judge's instruction...if exercising their
judgement with discretion and honesty
they have a clear conviction that the
charge of the court is wrong.**

-Alexander Hamilton, 1804

But at least no judge
would ever say things
like this, right?

[The jury has an] unreviewable and irreversible power...to acquit in disregard of the instructions on the law given by the trial judge...The pages of history shine on instances of the jury's exercise of its prerogative to disregard uncontradicted evidence and instructions of the judge; for example, acquittals under the fugitive slave law.

D.C. Circuit Court of Appeals, *United States v. Dougherty*, 1972

But aren't people too
emotional to serve as
jurors?

Here are some quotes:

“You never know with juries. I’d take a judge every time, unless of course I was guilty.”

— Kenneth Eade,

**As a lawyer, particularly in criminal law,
you really do have to try to tell your story
to the jury and hope that the judge
makes rulings that allows your story to
get through.**

Marcia Clark

“Jury selection is strictly an emotional process. They're looking for people they can manipulate. Both sides are.”

Joseph Wambaugh

Why so much arguing
about venue?

Here is more information
about Stare Decisis

**These are quotes from actual
appellate cases.**

We must be “mindful of the sanctity of stare decisis.”

“Stare decisis is the cornerstone of our legal system.”

“If stare decisis is no longer a viable part of our legal system, then has the court become merely another legislative branch”

Hence, “we are not at liberty to disregard the decided cases” or “depart from precedent.”

**Therefore “ . . . stare decisis
must prevail,” and it must
prevail “free of reluctance,
hesitancy or doubt as to the
propriety or fairness of
doing so.”**

**Why have SD? Because
of “the crowded docket”
and the “due
administration of justice.”**

**After all, these dockets
contain so many
“things of crying
need,” and we need to
“close litigation that
would otherwise be
endless.”**

Another reason for SD is to establish “needed stability and predictability in the law.”

We must “keep the scales of justice even and steady, and not be liable to waiver with every new case presented.”

**Then again . . . even though SD
“serves exceedingly well in most
instances,” we should depart from SD
where there are good “reasons” for
doing so.**

**After all, “the fact that a rule has long
been followed does not require that
we continue to follow it, if the reason
for the rule has ceased to operate . . .”**

**Therefore, never follow SD
where precedent is “clearly
erroneous and manifestly
wrong.”**

**“[S]trike, heavy-handed, such
antiquated rules . . . as allow
outrageous injustice to be
perpetrated.”**

New Topic!

Here are a few types
of cases I handle in
my consumer practice.

“Unfair and Deceptive Practices Statutes.”

Many states have these. Here's Missouri's:

407.020. 1. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce



These cases can be filed by the State Attorney General or by private attorneys like the man wearing the tie.

Many of these
consumer statutes
allow “fee shifting,”
“class actions” and
“punitive damages”

Types of consumer
cases:

Automobile

Financial (sometimes)

Insurance (nope)

**The Reason I left the
Missouri Attorney
General's office**

Other types of Cases I bring:

Tort Cases

Breach of Contract

Violating Finance Laws

Declaratory Judgments

Public Interest

She borrowed \$100, and paid back \$3,592

By Jim Gallagher St. Louis Post-Dispatch Jul 11, 2015 (0)

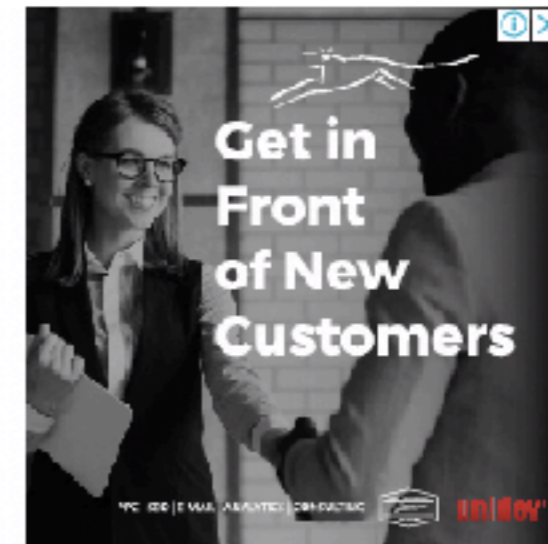


The Loan Express offices, at 2018 Olive Street. (Post-Dispatch)



Erica Hollins borrowed \$100 in 2006 at the Loan Express store

www.stltoday.com/content/tncms/live/#1 In a new tab, she had paid back \$3,592.



A case My law Firm Filed and Lost

The appellate judge
wrung his hands

“Thus, at this stage of the case, there is no remedy for this injustice. The legislature ought to examine Section 408.500 and related statutes and return them to their original purpose of allowing small loans at manageable interest rates to aid our fellow citizens in managing the obligations of their daily lives.”

A word about specialized proceedings

Unlawful Detainer

Collections Cases
(with and without
attorneys)

Tomorrow . . .

Nuts and Bolts

