

Radio Glencoe Podcast

It's the Law

Episode 1: Law 101

ANNOUNCER

Welcome to Glencoe's *Business and Personal Law* podcast series. You're listening to *It's the Law*.

SETH

Hello, and welcome to *It's the Law*. I'm Seth Abrams. Today's show is devoted to helping you understand some of the basics of our judicial system. Of course the law is very complex, but we thought it would be nice to give you, the listeners, an opportunity to call or e-mail in some questions regarding the basics. Law 101. Joining us today to answer your questions and quandaries is an illustrious panel: law professor Rose DeLoit, Los Angeles entertainment attorney Blake Drummond, and criminal defense attorney Isabel Jimenez. Welcome, and thank you all for being here.

SETH

Before we start taking questions from listeners, I'd like to ask all of you to speak to our listeners about why a solid knowledge and understanding of business and personal law is important to their futures. Keeping in mind of course that our listeners are smart, eager young people making big decisions about their lives, and who, hopefully, have had very little practical experience in this area. Ms. DeLoit let's start with you.

ROSE

Well, as an educator, I am naturally an advocate for learning, and I suppose what I would say to young people is that while the law is indeed a very complicated system, the more you know about it and the more you educate yourself about how it works, the less likely you are to find yourself on the wrong side of it someday.

BLAKE

And assuming we're talking mostly about those who aren't planning careers in law – where this concept is a given – what young people have to remember is the old adage, "Ignorance of the law is no defense." Even if you don't know you're breaking the law or are in some way disregarding the law, whether criminally or civilly, you are still responsible for paying the penalty, whatever that may be – fines, community service, or time behind bars.

SETH

How often does that really happen? I mean somebody not knowing whether or not something is lawful or not?

ISABEL

Oh, much more than you realize. We aren't talking about big-ticket crimes. If you are somebody who doesn't know robbing a bank is against the law, I would suggest you are either a very bad liar or crazy. What Blake means is that if you, say, put a new roof on your garage and don't know you need a building permit to do that, you have nobody else to blame but yourself when you are forced, at your own expense, by the city building inspector to remove it or to pay a huge fine.

BLAKE

Even if you had *intentionally* decided not to seek a permit and knew you were breaking the law – the penalty would be just as severe. So in other words, whether you're breaking the law knowingly or unknowingly, the result is the same, and so is the penalty.

ROSE

And let's not forget that laws vary from state to state and city to city. You might be able to put a new roof on your garage without a permit in Fresno, but in Sacramento, you'd better have a permit or you may be in big trouble with the city.

SETH

So you would all agree that educating yourself about the law is the best way to avoid problems with it and that the more young people know about the law, the better equipped they are for life.

ISABEL

Absolutely. Knowledge is power. But when it comes to *criminal* activity, most of us know what's legal and what's illegal instinctively, because criminal laws are designed around laws of ethical standards. We don't need a law to tell us it's not right to steal. But we *do* need a law that protects us from people who, unfortunately, steal anyway.

SETH

I guess if you have to ask yourself the question "is this legal?," chances are it's not. Sort of like the "smell test."

BLAKE

That's oversimplifying. Sometimes a business deal that smells fine is fraught with problems and illegalities. And that's why lawyers are so important. We can sniff out, if you will, and identify the problems.

SETH

Let's go to our first caller – Lauren in Baltimore. Go ahead, you're on *It's the Law*.

LAUREN

Hi. What do they mean when they say "discovery"? I always hear that term on legal dramas and sometimes when I watch Court TV, but I don't really understand what it means.

ISABEL

Discovery is the process by which all the facts and evidence are presented to the court before a trial. The court will then determine what is admissible at trial. Methods of discovery would include things like depositions, mental evaluations, requests for certain documents, physical evidence, photographs. That kind of stuff.

SETH

Moving on to Jack, from Omaha. Jack sent an e-mail. "Why do we need pre-trial hearings? Why not just start the trial? Seems like a waste of time with the courts backed up the way they are." Blake, you want to take this one?

BLAKE

Well, you can often settle a case in a pre-trial hearing and avoid a trial altogether, which is clearly a good thing and can save lots of court time. Anything that can decrease the court's workload is beneficial to everybody, but pre-trial hearings are essential. What a pre-trial hearing also does is lay out the rules and the plan for trial, even things like scheduling, so that the trial runs as smoothly as it can. It's like a team meeting in the locker room before a game – except both teams are there.

SETH

I have an e-mail from Belinda in Houston. Belinda writes: "Why is it necessary that each state have its own constitution? Why can't we all just live by the rules of the United States Constitution?" Rose?

ROSE

That's a very good question. In many ways we do all live under the rules of the U.S. Constitution, because laws made at the state level can often be overturned at the federal level by the Supreme Court. But the U.S. Constitution does state clearly that powers not specifically granted to the federal government are reserved for the states. That said, the federal court system can, in many instances, take jurisdiction over cases when it deems it appropriate.

SETH

Can you please define jurisdiction for us?

ROSE

Simply put, *jurisdiction* is a court's power to hear a case and rule on it.

SETH

And how do the courts get that power?

ISABEL

Back to that famous document. Article VI of the U.S. Constitution – which is called the Supremacy Clause – states that the U.S. Constitution and the laws of the United States are the highest laws of the country. No judicial body or branch of government can trump the Supreme Court.

SETH

Okay, let's take a call from Chloe in Miami, Florida. Chloe, go ahead, you're on *It's The Law*.

CHLOE

Hello. Can somebody please explain to me what a Grand Jury is?

ISABEL

I was a prosecutor with the District Attorney's office before I became a defense attorney. Our office, the DA's office, would ask that a panel or jury hear the evidence the DA's office had against a potential defendant, that is, somebody we wanted to charge with a crime. The prosecuting attorney is essentially asking this jury to allow the state to go to trial. Grand juries, by the way, conduct their hearings in private. They are not deciding guilt or innocence, but rather whether or not they believe there is a strong possibility that a crime has been committed. If they do agree with the prosecutor, then they will hand down what's called an "indictment." If no indictment is handed down, then there is no trial.

SETH

Then what happens if there is an indictment?

ROSE

Then an arraignment is the next step.

SETH

And how is that different from a pre-trial hearing?

ROSE

An arraignment will determine whether or not there will even be a trial. If a defendant pleads guilty, then there is not need for a trial and the judge may impose a sentence immediately. If, however, a defendant pleads *not* guilty, then the case goes to trial. A pre-trial hearing is just what it implies. The trial is going to happen – unless they come to a settlement in a civil trial, or the defendant agrees to a plea bargain in a criminal trial. But typically, those offers have already been presented and rejected by the time a pre-trial hearing takes place.

SETH

Okay, we need to take a quick break. We'll be right back.

ANNOUNCER

You're listening to Glencoe's *Business and Personal Law* podcast series.

SETH

We're back with our panel of law experts talking about some of the basics of the law, and we're taking your calls and e-mails. We have time for just a couple more questions. Let's go to John in St. Louis. Go ahead, you're on *It's the Law*.

JOHN

Hello. I have a question for the panel. Can you talk a little more about how the federal court system is set up? I'm not sure I understand the difference between a U.S. District Court, and a U.S. Court of Appeals.

ROSE

The federal courts are set up on three levels. The first level is the U.S. District Courts. That's where most federal cases begin. Each state has at least one district court, and many have more than that. The second level is the U.S. Courts of Appeals, which consists of 13 different courts in 13 different judicial districts around the country. Courts of appeal are called intermediate courts. They hear appeals from the lower courts and have the authority to overturn the verdicts or rulings of lower courts. A U.S. Court of Appeals has 3 judges. There are no witnesses, and no evidence is presented. They are simply arguing the law and whether the lower court applied the law properly. A decision by an appeals court can be overturned by the third level in the federal court system, and that is the U.S. Supreme Court. That's the law of the land. As somebody said earlier, nobody trumps the U.S. Supreme Court.

SETH

We have a call from Danielle in Tacoma, you have a question?

DANIELLE

Hi. I know that sometimes people can work out their differences without going to court, but I'm confused about the difference between arbitration and mediation.

SETH

Rose?

ROSE

Well, when two parties agree to meet with a *mediator*, to help them resolve their differences, then each party maintains their bargaining power. The mediator can guide them and help them work things out, but does not have the final say. Now, in *arbitration*, the parties relinquish their control – their power – and hand it over to an *arbitrator*. The arbitrator, who is hired and paid for his or her services, then hands down a decision that both parties are legally bound to, almost like a judge. The advantage to this approach is that an arbitrator is seeing a case objectively and without preference, and is more likely to make an unbiased and fair decision.

ISABEL

ADRs – Alternate Dispute Resolutions – are becoming more and more popular as an alternative to civil lawsuits, and can save thousands of dollars in legal fees, court costs, and of course, court time.

BLAKE

But that doesn't mean we still don't need lots of good attorneys!

SETH

We are out of time. This has been terrific. Very informative. Thank you for being here, and thank *you* for listening. And be sure to join us next time on *It's the Law*.

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