



The Judicial Branch and Legal System: SS.7.CG.3.9
Judicial Branch
READING #1

Name: _____

Date: _____



SS.7.CG.3.9 Benchmark Clarification 1: Students will examine the processes of the judicial branch (e.g., judicial review, court order, writ of certiorari, summary judgment).

The third branch of government created by Article III of the U.S. Constitution is the judicial branch. The judicial branch includes the Supreme Court, **federal courts**, and **state courts**. Article III of the Constitution outlines the U.S. court structure.

The U.S. Supreme Court is the highest court in the nation. In most cases, the Supreme Court has **appellate jurisdiction**, which means it has the power to review cases already decided in lower courts. Sometimes the U.S. Supreme Court has **original jurisdiction**, which means it has the power to hear a case first. For example, cases involving disagreements between two states would be first heard by the U.S. Supreme Court.

There are thousands of requests for appeals to be heard by the Supreme Court each year. Fewer than 100 are likely to be accepted. Once the Supreme Court reviews an appeal, the Court decides whether or not to hear the case. The Court will issue a **writ of certiorari** if the Court decides to accept the case on appeal.

Because most cases that the Supreme Court accepts on appeal deal with constitutional questions, the Supreme Court uses its power of **judicial review**. Judicial review means that the Supreme Court can decide whether or not a law is constitutional. This power was not originally written into the U.S. Constitution. Instead, the Supreme Court interpreted the Constitution to mean that it does have this power in the **Marbury v. Madison** case (see SS.7.CG.3.11).

Courts use different processes to conduct their work. For example, courts issue **court orders**, which are documents requiring that someone do or not do something. Sometimes, the two opponents in a case may try to speed up the court process by requesting a **summary judgment**. A summary judgment is decided on the basis of evidence given to the court and keeps the case from going to trial.

appellate jurisdiction - the power to hear appeals of cases that have been tried in lower courts

court order - a formal statement from a court that orders someone to do or stop doing something

federal courts - courts that decide on cases involving interpretations of the Constitution and laws passed by Congress; the U.S. Supreme Court is the highest court in the land and is at the top of the federal court system

judicial review - the power of the judicial branch to review the actions of the executive and legislative branches and determine whether or not they are unconstitutional (this includes laws passed by Congress); the U.S. Supreme Court case *Marbury v. Madison* established this power

Marbury v. Madison - U.S. Supreme Court case that established judicial review

original jurisdiction - the power of a court to be the first to hear a case on a specific topic

state courts - courts that deal with issues of law relating to those matters that the U.S. Constitution did not give to the federal government and are included in a state's constitution

summary judgment - a judgment decided by a trial court without the case going to trial; a summary judgment is an attempt to stop a case from going to trial

writ of certiorari - the procedure to see if the U.S. Supreme Court will hear a case; a writ of certiorari is issued when a higher level court agrees to hear an appeal of a lower court's decision