Appellate Process

- “appellate” = appeal from a previously rendered decision
- Can only appeal a final judgment or order
- Asking appellate judges whether the decision of the trial court is correct
Functions of Appellate courts

- Error correction
- Uniform application of the law
- Make and clarify law through decisions/precedents that fill gaps
Court of last resort

- Generally discretionary review
  - Court gets to choose whether to hear your appeal

- When will it want to review?
  - Gap filling
  - Major blunder by intermediate court of appeal
  - To change or clarify the law
Technical Components of Appeal

- Notice of Appeal
- Transmittal of Record
- Record Appendix/Joint Appendix
- Briefs
- Oral Argument
- Opinion
Limits of Appellate Review

- Final judgment or order
- Discretionary review
- “Reversible Error”
  - Error
  - Basis of judgment
    - Material/prejudicial v. harmless
- Preserved below
- Raised on appeal
Standard of Review

- Refers to level of scrutiny an appellate court will give to any given appeal.

- Level of scrutiny a function of what the issue is that is now on appeal, and who the decision-maker was at the trial court.
Standards of Review

- Questions of Law
  - Judge
  - De novo

- Questions of Fact
  - Judge
  - Clear Error

- Questions of Fact
  - Jury
  - Reasonableness

- Decisions of Administrative Agencies
  - Substantial Evidence
  - Chevron standard

- Discretionary Matters
  - Abuse of discretion

No deference [appellant wants]

Great deference [appellee wants]
Questions of Law

- Decided by a judge
  Interpretation of a statute; summary judgment

- Reviewed *De Novo*
  “We review the District Court’s interpretation of state law *de novo*, giving no deference to the analysis of the District Court.”
Questions of Fact decided by a Judge

- **Decided by a judge**
  Findings of fact of the trial court as fact-finder (bench trial), or when there are ultimate, subsidiary, or collateral issues of fact

- **Reviewed for Clear Error**
  “We will reverse a District Court’s finding of fact if, although evidence exists to support the finding, we are left with a definite and firm conviction that a mistake has been committed.”
Questions of Fact decided by a Jury

- **When jury acted as fact-finder**
  Jury verdict in civil or criminal cases

- **Reviewed for Reasonableness**
  - “The jury’s verdict will be sustained if any *reasonable construction* of the evidence exists to support the verdict.”
  - “Evidence is viewed in the light most favorable to the verdict.”
Decisions of Administrative Agencies

- No jury
- May be an administrative law judge or agency representative
  - Fact-finding component of agency decision
    - Reviewed for “substantial evidence”
- Deference also afforded the agency on issues of law where the agency has specialized knowledge of the subject matter
Agency decisions regarding interpretation of federal law

- When agency expressly delegated authority by legislature
- *Chevron* deference
  
  Reviewed to see if interpretation of federal law is “arbitrary, capricious, or manifestly contrary to the statute.”
Discretionary Matters

- Decided by a judge
  Refers to all areas where the judge has the discretion to admit or exclude evidence

- Reviewed for “abuse of discretion”
  “A district court has broad discretion to admit or exclude evidence. We will reverse a judgment only for a clear and prejudicial abuse of that discretion.”
Standard of Review revisited

- Must always know what type of question you are appealing, and who the original decision maker was.

- Standard of review will color your entire appeal.

- One of the first things the appellate court wants to know – how is it to review decision of trial court.