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RECHT BERATUNG WEITERBILDUNG

Introduction to US business law

US Court System / Jurisdiction

FS 2024

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Repetition – Last time

- > Structure of the Constitution (Congress, President, Court)
- > 2 fundamental principles to limit power of central government
 - > Federalism
 - > Checks and balances
- > Impeachment
 - > Trump Impeachment 1
 - > Trump Impeachment 2
- > Other legal problems
- > Impact in Impeachment process
 - > Impeachment Biden?



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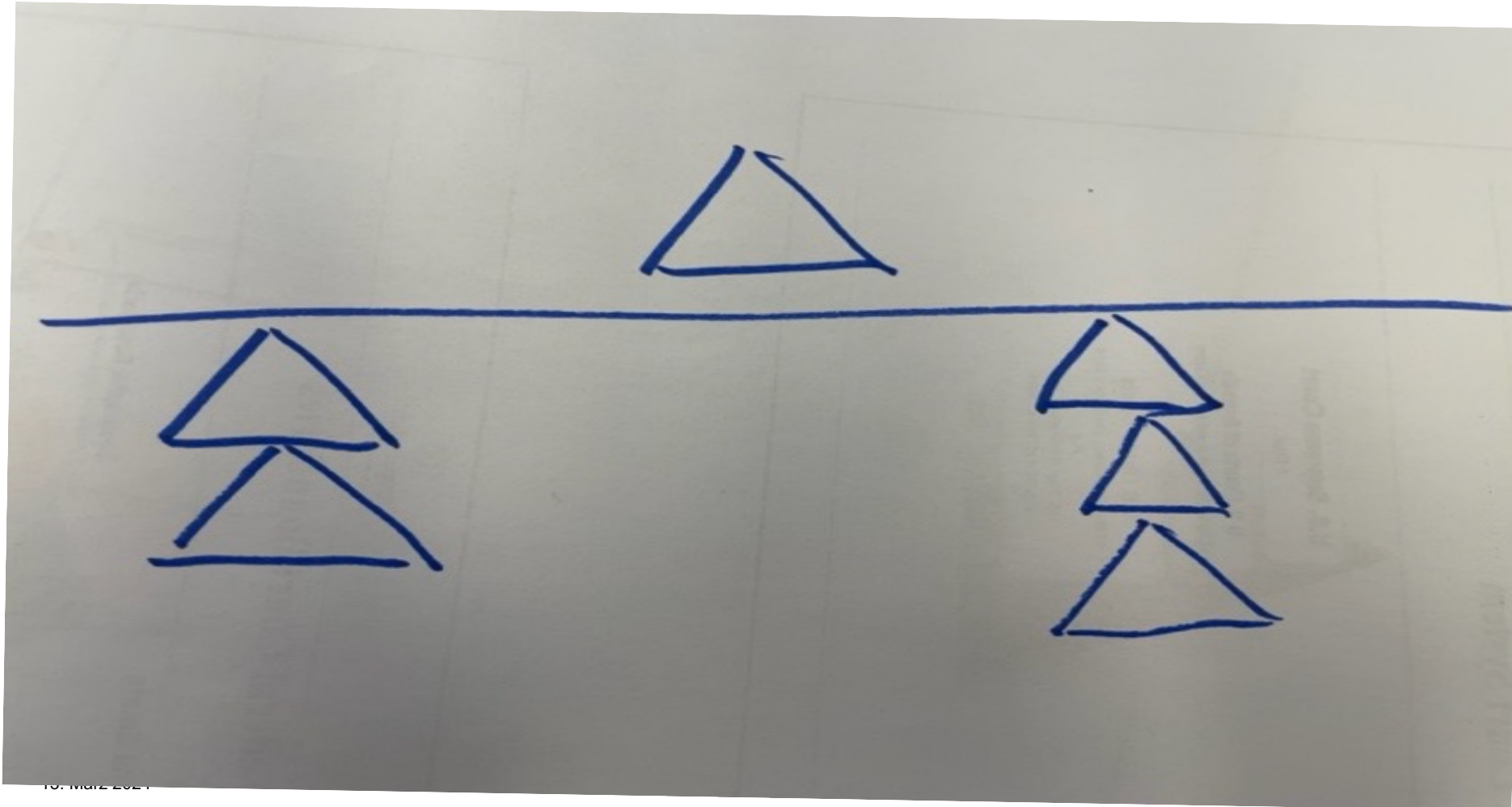
RECHT BERATUNG WEITERBILDUNG

1. US Court Systems

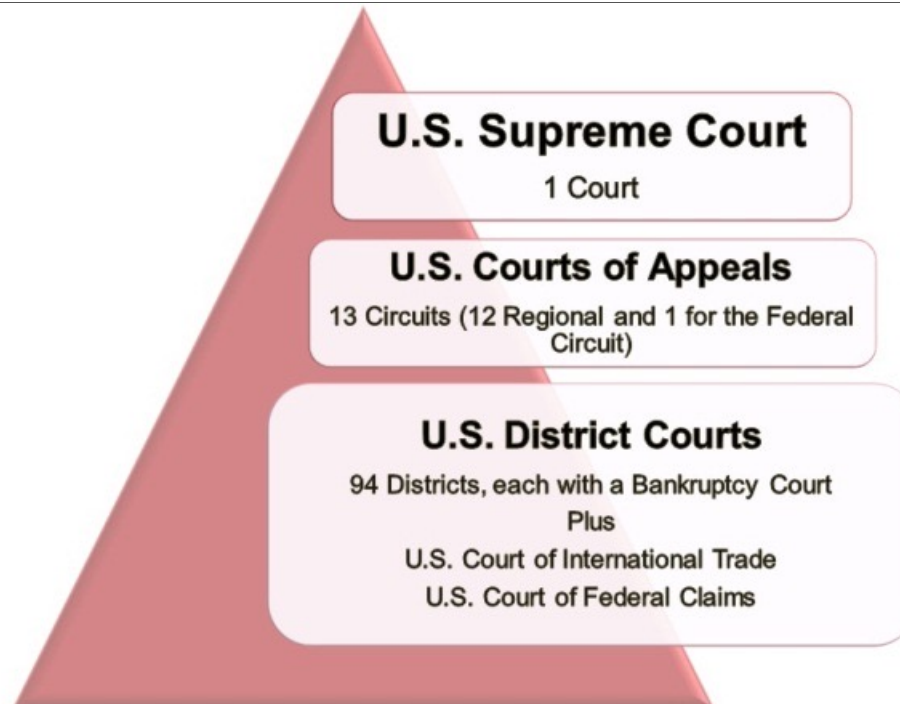
2 court systems

- > The US has two court systems
 - > States and federal courts
 - > Both fully fledged with courts, procedures, people, etc.
- > Constitutional basis
 - > State courts – state Constitutions
 - > Federal courts
 - > Art III Section 1
 - > The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.
 - > General courts/special courts (like tax, int. Trade, military, claims, etc.)

Two court systems leading up to the USSC

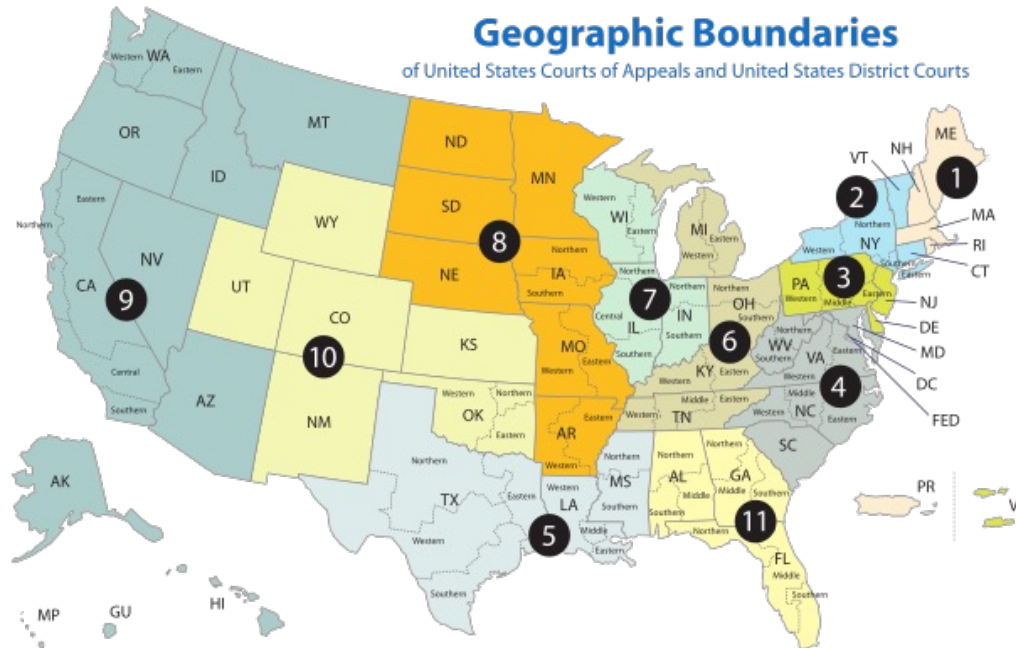


US Court System



Federal Court Boundaries (Courts of Appeal)

Federal Courts

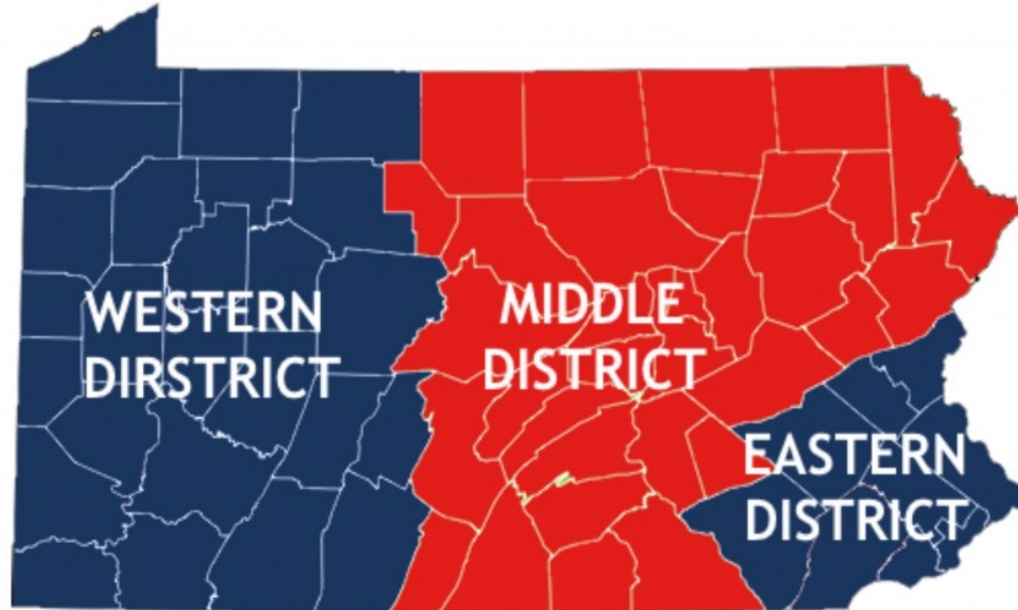


Exempel: Courts in Louisiana

3 federal courts/43 state courts



Federal courts in Pennsylvania



Jurisdiction of Federal Courts

- > Federal courts hear cases
 - > involving the constitutionality of a law,
 - > cases involving the laws and treaties of the U.S. ambassadors and public ministers,
 - > disputes between two or more states,
 - > admiralty law, also known as maritime law,
 - > bankruptcy cases
 - > Diversity cases!

Courts

- > First instance courts
 - > Always 1 judge and mostly a jury
- > Courts of appeal
 - > 3 judges (the rule)
 - > Sometimes more
- > USSC
 - > All 9 judges

- > Civil and criminal (administrative)
- > Case allocation randomly

Court Structure

The Federal Court System	The State Court System
<p>Article III of the Constitution invests the judicial power of the United States in the federal court system. Article III, Section 1 specifically creates the U.S. Supreme Court and gives Congress the authority to create the lower federal courts.</p>	<p>The Constitution and laws of each state establish the state courts. A court of last resort, often known as a Supreme Court, is usually the highest court. Some states also have an intermediate Court of Appeals. Below these appeals courts are the state trial courts. Some are referred to as Circuit or District Courts.</p>
<p>Congress has used this power to establish the 13 U.S. Courts of Appeals, the 94 U.S. District Courts, the U.S. Court of Claims, and the U.S. Court of International Trade. U.S. Bankruptcy Courts handle bankruptcy cases. Magistrate Judges handle some District Court matters.</p>	<p>States also usually have courts that handle specific legal matters, e.g., probate court (wills and estates); juvenile court; family court; etc.</p>
<p>Parties dissatisfied with a decision of a U.S. District Court, the U.S. Court of Claims, and/or the U.S. Court of International Trade may appeal to a U.S. Court of Appeals.</p>	<p>Parties dissatisfied with the decision of the trial court may take their case to the intermediate Court of Appeals.</p>
<p>A party may ask the U.S. Supreme Court to review a decision of the U.S. Court of Appeals, but the Supreme Court usually is under no obligation to do so. The U.S. Supreme Court is the final arbiter of federal constitutional questions.</p>	<p>Parties have the option to ask the highest state court to hear the case.</p>
	<p>Only certain cases are eligible for review by the U.S. Supreme Court.</p>

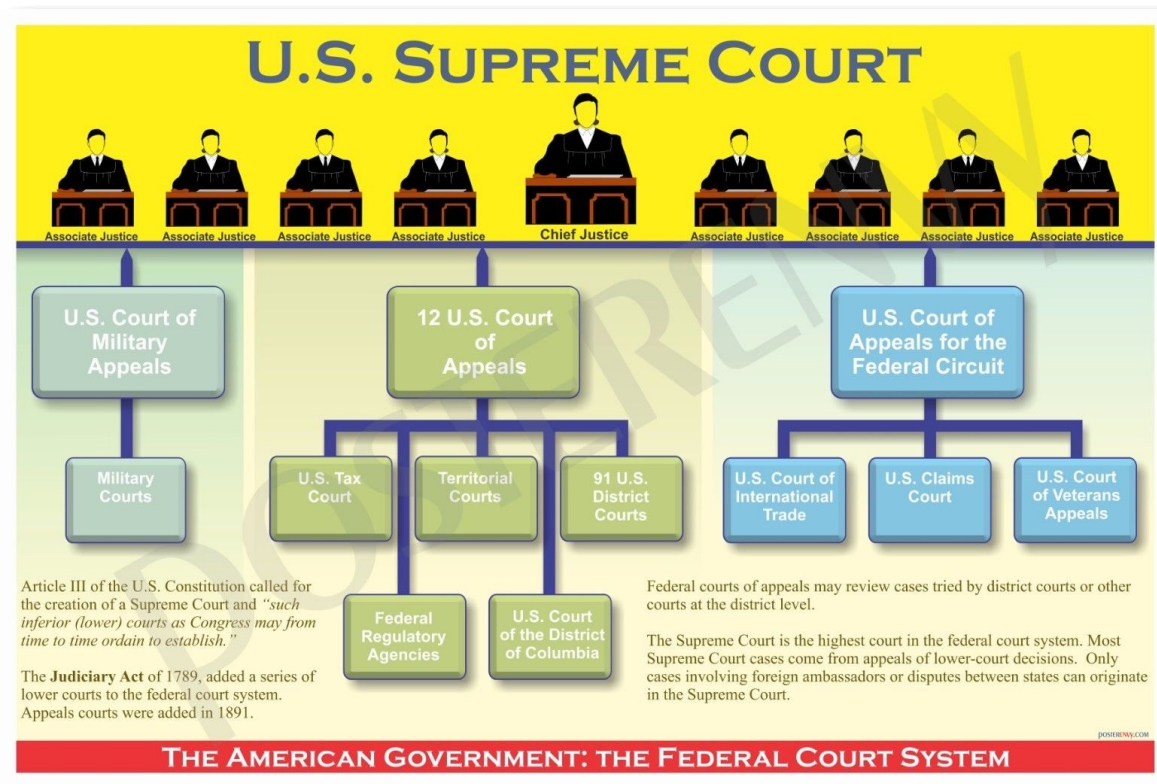
Selection of Judges

The Federal Court System	The State Court System
<p>The Constitution states that federal judges are to be nominated by the President and confirmed by the Senate.</p> <p>They hold office during good behavior, typically, for life.</p> <p>Through Congressional impeachment proceedings, federal judges may be removed from office for misbehavior.</p>	<p>State court judges are selected in a variety of ways, including</p> <ul style="list-style-type: none">•election,•appointment for a given number of years,•appointment for life, and•combinations of these methods, e.g., appointment followed by election.

Types of cases heard

The Federal Court System	The State Court System
<ul style="list-style-type: none"> •Cases that deal with the constitutionality of a law; •Cases involving the laws and treaties of the U.S.; •Cases involving ambassadors and public ministers; •Disputes between two or more states; •Admiralty law; •Bankruptcy; and •Habeas corpus issues. 	<ul style="list-style-type: none"> •Most criminal cases, probate (involving wills and estates) •Most contract cases, tort cases (personal injuries), family law (marriages, divorces, adoptions), etc. <p>State courts are the final arbiters of state laws and constitutions. Their interpretation of federal law or the U.S. Constitution may be appealed to the U.S. Supreme Court. The Supreme Court may choose to hear or not to hear such cases.</p>

US Supreme Court (I)



US Supreme Court (II)

- > How Supreme Court became supreme:
 - > Marbury v. Madison, (5 U.S. 137, 1803)
 - > Facts:
 - > Marbury got appointed by the outgoing Secretary of State John Marshall as justice of peace in DC
 - > Republicans v. Federalists
 - > The new secretary of State James Madison did not deliver the already signed and sealed document, based on a statutory act
 - > Marbury applied directly to the Supreme Court as provided by the Judiciary Act of 1789
 - > Chief Justice was John Marshall (!) - Bad luck!
- > **«The Constitution is what the Judges say it is“!** Chief Justice Hughes (1907)

US Supreme Court (III)



This is the first group photograph taken of the Justices, and includes Clerk of the Court D.W. Middleton (standing at left). March 1867

US Supreme Court 2024 (IV)



The Supreme Court as composed June 30, 2022 to present.

Front row, left to right: Associate Justice Sonia Sotomayor, Associate Justice Clarence Thomas, Chief Justice John G. Roberts, Jr., Associate Justice Samuel A. Alito, Jr., and Associate Justice Elena Kagan. Back row, left to right: Associate Justice Amy Coney Barrett, Associate Justice Neil M. Gorsuch, Associate Justice Brett M. Kavanaugh, and Associate Justice Ketanji Brown Jackson.

US Supreme Court (V)

- > The Justices: one Chief Justice and eight Associate Justices.
 - > John G. Roberts, Jr. is the 17th Chief Justice (1955/2005/R)
 - > Thomas Clarence (1948/1991/R)
 - > Samuel Alito (1950/2006/R)
 - > Sonia Sotomayor (1954/2009/D)
 - > Elena Kagan (1960/2009/D)
 - > Neil Gorsuch (1967/2017/R)
 - > Brett Kavanaugh (1965/2018/R)
 - > Amy Coney Barrett (1972/2020/R)
 - > Ketanji Brown Jackson (1970/2022/D)

Federal Courts – State Courts (I)

Special Federal Courts with original jurisdiction over specific subject matter

- > US bankruptcy courts
- > US tax courts
- > US court of private land claims
- > US court of international trade
- > US court of federal claims
- > US foreign intelligence surveillance court
- > US alien terrorist removal court

Powerful federal courts

- > Judges appointed by President with consent of Senat
- > High quality
- > Appointed for life
- > Just one appeal
- > USSC selects its cases (ca 80/year)
- > All can do constitutional review!
- > Is USSC supreme?
- > In the USA important issues are often decided by courts and not or less by parliaments

VII. Obama care

<http://abcnews.go.com/WNT/video/supreme-court-justices-feelings-obamacare-16007065>

Judicial Activism vs. Judicial Restraint

- > Is there a «living constitution» vs. Originalists
- > The lack of agreement regarding the policy making power of courts is reflected in the debate over judicial activism versus judicial restraint. Judicial activists believe that the federal courts must correct injustices that are perpetuated or ignored by the other branches.

US Supreme Court

> **Antonin Scalia – living Constitution?**

<https://www.youtube.com/watch?v=DTRe5xDLfXw>

<https://thecitywidementalhealthproject.wordpress.com/2013/06/25/supremes-gut-voting-rights-act-confirms-scalias-the-constitution-is-dead-statement/>

US Supreme Court

- > The Justices!
 - > Nine Justices make up the current Supreme Court: one Chief Justice and eight Associate Justices.
 - > The Honorable John G. Roberts, Jr. is the 17th Chief Justice of the United States, and there have been 101 Associate Justices in the Court's history

A new Justice arrives:

<http://www.youtube.com/watch?v=wUfl9-cwJt4>

Enforcement

- > Courts have limited power to implement the decisions that they make.
- > For example, if the president or another member of the executive branch chooses to ignore a ruling, there is very little that the federal courts can do about it.
- > For example, the Supreme Court ruled against the removal of the Cherokee from their native lands in 1831. President Andrew Jackson disagreed. He proceeded with the removal of the Cherokee, and the Supreme Court was powerless to enforce its decision.

More...

> „Understanding Federal Courts“

> <https://www.uscourts.gov/sites/default/files/understanding-federal-courts.pdf>



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2. Jurisdiction

Jurisdiction

- > Federal Courts/State Courts
 - > Personal jurisdiction (federal employee)
 - > Territorial jurisdiction (traffic accident)
 - > Subject matter jurisdiction (state/federal law)
 - > Diversity jurisdiction (states)
- > Conflicts
 - > exclusive/concurrent (f.e. diversity cases)
- > Where to sue/get sued?
 - > „forum shopping“
 - > How/why to pick the right court! (very important!)

As a general rule

- > Claims based on federal law = federal courts
- > Claims based on state law = state courts
- > Diversity jurisdiction = federal courts
- > Unless specific courts!

Exempel

- > Bill is crossing the street in New Orleans (LA) and gets run over by a car driven by John, a Marti Gras fellow from New Orleans who drives a car owned by his boss from Texas.
- > Where to sue?
- > Which court has jurisdiction based on what?
 - > State law = state court?
 - > Diversity = federal court?

Next time!

> **Date**

– Civil litigation

Thank you – see you next week!