

# DYNAMIC BUSINESS LAW

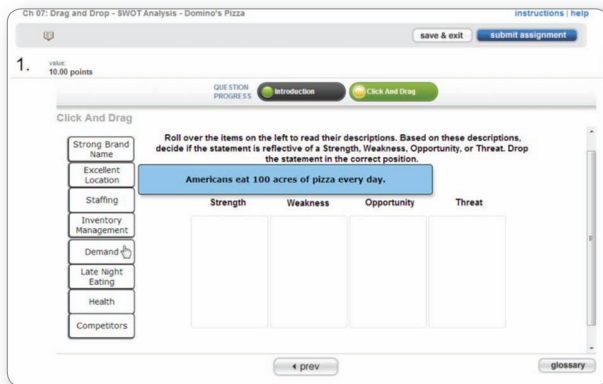
THE ESSENTIALS

LLC evidence venue obligor deposition plaintiff  
jurisdiction subpoena remand  
estoppel novation fiduciary stakeholders  
actus reus PMSI delegation perfection  
franchisor instrument trustee duty  
merger offer usury

KUBASEK  
BROWNE  
HERRON  
DHOOGHE  
BARKACS



## CONNECT FEATURES

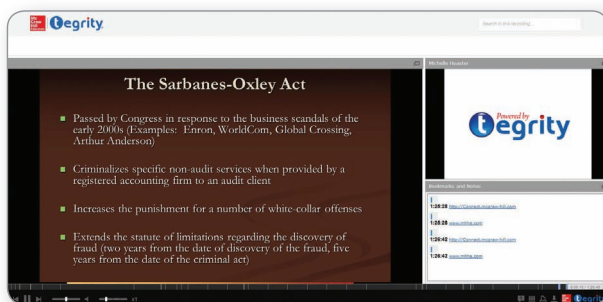
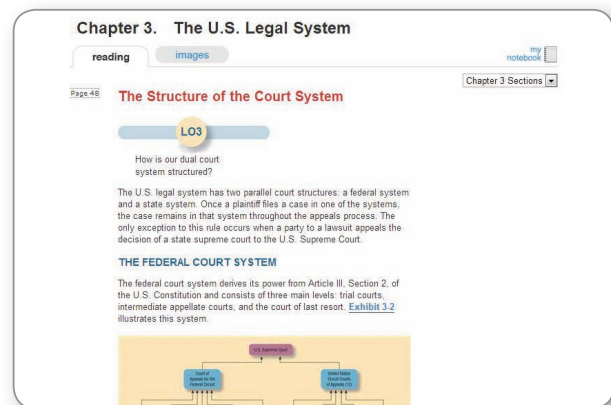


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Interactive Applications offer a variety of automatically graded exercises that require students to apply key concepts. Whether the assignment includes a *click and drag*, *video case*, or *decision generator*, these applications provide instant feedback and progress tracking for students and detailed results for the instructor.

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Connect includes an eBook that allows you to share your notes with your students. Your students can insert and review their own notes, highlight the text, and search for specific information. Using an eBook with Connect gives your students a complete digital solution that allows them to access their materials from any computer.

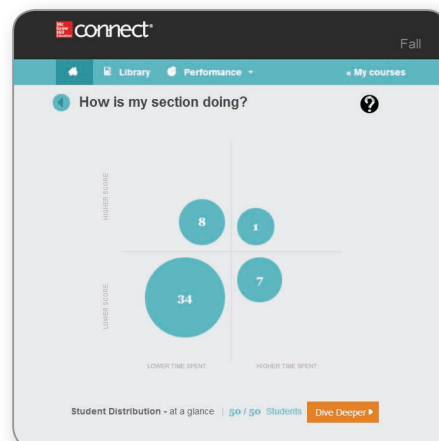


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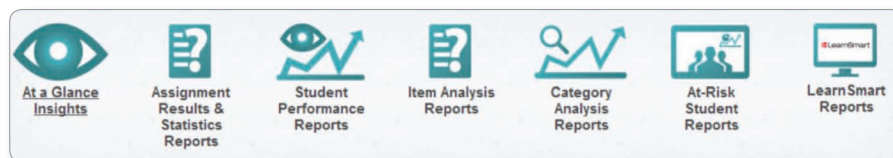
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# Dynamic Business Law

THE ESSENTIALS

Third Edition





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Bowling Green State University

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Miami University

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Education



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# About the Authors

**Nancy K. Kubasek** received her JD from the University of Toledo College of Law in 1981 and her BA from Bowling Green State University in 1978. She joined the BGSU faculty in 1982 and became an associate professor in 1988 and a full professor in 1993.

During her tenure at Bowling Green State University, she has primarily taught courses in business law, legal environment of business, environmental law, health care law, and moral principles. She has published over 75 articles, primarily in law reviews and business journals. Most of her substantive articles focus on environmental questions, and she writes a quarterly column about environmental issues for the *Real Estate Law Journal*. She has helped get students involved in legal research, and a number of her articles are co-authored with students. She has also published a number of pedagogical articles in teaching journals, focusing primarily on teaching critical thinking and ethics.

She wrote the first environmental law text for undergraduate students, *Environmental Law*, and co-authored *The Legal Environment of Business: A Critical Thinking Approach*. She has written supplemental materials, such as study guides, test banks, and instructors' manuals.

Active in many professional organizations, she has served as president of the Academy of Legal Studies in Business, the national organization for professors of legal studies in colleges of business. She has also served as president of the Tri-State Academy of Legal Studies in Business, her regional professional association.

In her leisure time, she and her husband, Neil Browne, fish for halibut and salmon in Alaska and large-mouth bass in Florida. In addition, they are regular participants in polka, waltz, zydeco, and Cajun dance festivals in Europe and the United States. For almost 30 years, they have been successful tournament blackjack players as well. Both are avid exercisers—lifting weights, doing yoga, and running almost every day.

**M. Neil Browne** is senior lecturer and research associate and a distinguished teaching professor emeritus at Bowling Green State University. He received his BA in history and economics at the University of Houston, his PhD in economics at the University of Texas, and his JD from the University of Toledo. He has been a professor at Bowling Green for more than four decades.

Professor Browne teaches courses in jurisprudence, ethical reasoning, critical thinking, and economics at both the undergraduate and graduate levels. He has received recognition as the Silver Medalist National Professor of the Year, the Ohio Professor of the Year, and Distinguished Teacher

and Master Teacher at Bowling Green State University, as well as numerous research awards from his university and from professional organizations. His consulting activities with corporate, government, and educational institutions focus on improving the quality of critical thinking in those organizations. In addition, he serves as a Rule 26 expert with respect to the quality of the reasoning used by expert witnesses called by the party opponent in legal actions.

Professor Browne has published 20 books and more than 130 professional journal articles in law journals and economics, sociology, and higher education journals. His current research interests focus on the relationship between orthodox economic thinking and legal policy. In addition, he is in the midst of writing books about the power of questionable assumptions in economics, the usefulness of asking questions as a learning strategy, and the importance of critical thinking in environmental arguments.

Professor Browne tries to find time for a broad array of outside activities. He and his wife, Nancy Kubasek, fish for halibut and salmon in Alaska and large-mouth bass in Florida as frequently as possible. In addition, they are regular participants in polka, waltz, zydeco, and Cajun dance festivals in Europe and the United States. For almost 30 years, they have been successful tournament blackjack players as well. Both are avid exercisers—lifting weights, doing yoga, and running almost every day.

**Daniel J. Herron** is a professor of business legal studies at Miami University in Oxford, Ohio. He received his law degree from Case Western Reserve University School of Law in 1978 and is a member of the Ohio and federal bars. He has taught at Miami University, his alma mater, since 1992 and previously taught at the University of Wyoming, Western Carolina University, the University of North Carolina–Wilmington, and Bowling Green State University. He has been a member of the Academy of Legal Studies in Business for nearly 25 years and has served as its executive secretary since 1991. His research interests focus on law and ethics, employment law, and legal history.

He has been married for more than 30 years to his wife Deborah, and they have two children, Elisabeth and Christopher, and a daughter-in-law, Amanda, and one grandchild, Jack. Herron and his wife reside in Oxford, Ohio, with their two beagles, Max and Missy.

**Lucien J. Dhooge** is the faculty director of the Global Executive MBA Program and is the Sue and John Staton Professor of Law at the Georgia Institute of



Technology. He teaches business law, real estate law, and ethics.

After completing an undergraduate degree in history at the University of Colorado in 1980, Professor Dhooge attended the University of Denver College of Law, where he received his JD in 1983. He received his LL.M. in 1995 from Georgetown University Law Center, where he specialized in international and comparative law. Before coming to the College of Management at the Georgia Institute of Technology, Professor Dhooge spent 11 years in private law practice and 12 years serving on the faculty of the University of the Pacific in California.

Professor Dhooge has authored more than 50 scholarly articles, co-authored seven books, and presented research papers and courses throughout the United States as well as in Asia, Europe, and South America. Professor Dhooge is the recipient of numerous research awards given by the Academy of Legal Studies in Business, including seven Ralph C. Hoerber Awards for excellence in research. He was designated the outstanding junior business law faculty member in the United States by the Academy in 2002 and received the Kay Duffy Award for outstanding service in 2005. He was designated as an International Scholar by the Soros Foundation in 2006. Professor Dhooge was the program chair for the Academy's 2009 international conference in Denver and served as the Academy's president from 2009 to 2010. He is a past editor-in-chief of the *American Business Law Journal* and the *Journal of Legal Studies Education*.

A native of Chicago but raised in Denver, Professor Dhooge enjoys spending time with his family and following the fortunes of the Chicago Cubs and Colorado Rockies professional baseball teams.

**Linda L. Barkacs** received her JD from the University of San Diego in 1993. She also has a BA in political science from San Diego State University and an AA in accounting from Irvine Valley College.

Upon graduating from law school and passing the California bar exam, Professor Barkacs became an associate

at a downtown San Diego law firm. During her time with that firm, she was involved in a number of high-profile trials, including a sexual harassment case against the City of Oceanside that resulted in a \$1.2 million verdict. In 1997, Professor Barkacs and her husband Craig (also a professor at USD) started their own law firm specializing in business and civil litigation (in both federal and state courts), employment law cases, and appeals. They were also involved in numerous mediations and arbitrations.

Professor Barkacs began teaching at USD in 1997 and was tenured in 2011. As an educator, she has designed and taught numerous courses on law, ethics, and negotiation. She teaches in USD's undergraduate and graduate programs, including the Master of Science in Executive Leadership (a Ken Blanchard program), the Master of Science in Global Leadership, and the Master of Science in Supply Chain Management. Professor Barkacs often teaches in USD's study-abroad classes and has traveled extensively throughout Europe, Asia, and South America.

Professor Barkacs has received numerous awards for her teaching at USD, including USD's 2010 Professor Impact (MSCM Program); the 2008 USD School of Business Outstanding Undergraduate Business Educator of the Year; and the 2008 and 2007 Professor of the Year, USD Senior Class (universitywide).

She and her husband are principals in The Barkacs Group ([www.tbgexecutivetraining.com](http://www.tbgexecutivetraining.com)), a consulting firm that provides negotiation, ethics, and team training for the private sector. Professor Barkacs has published numerous journal articles in the areas of law, ethics, and negotiation. She and her husband are co-authoring a book on negotiation. She has been the president, vice president, conference chair, and treasurer for the Pacific Southwest Academy of Legal Studies in Business ([www.pswalsb.net](http://www.pswalsb.net)).

Professor Barkacs currently spends her time teaching, publishing, consulting for The Barkacs Group, and doing volunteer work for various civic causes. She enjoys walking, weight-lifting, and spending her free time with her husband and their three cats, Phoenix, Violet, and Vanessa.

# Preface

We wrote this book because our primary sense of who we are as professionals is that we are teachers. We play various roles in our careers, but we are especially dedicated to our students. We want them to listen, read, create, and evaluate more effectively as a result of their experience in a business law class. Above all, we want them to sense the importance and excitement of the law.

We tried to construct a book that contains the basics of business law but does not get bogged down in the kind of details that would be more appropriate in an upper-level law class.

It is our pedagogical features that provide the distinctive value of this book. Each feature stands by itself as an aid to the kind of learning we hope to encourage. Yet the features are also a cohesive unit, contributing both to the liberal education of the students who read it and to their skills as decision makers in a market economy.

Specifically, we provide what competing texts deliver, an examination of the basic questions, concepts, and legal rules of business law. Our text must address the power and authority of constitutions, statutes, case law, and treaties as sources of law. Together, the various elements of what we call “the law” make up the foundation and structure of the market exchange process.

Decisions to trade and produce require trust—trust that consumers, firms, workers, financial institutions, and asset owners will do as they promise and that violations of such promises will be unacceptable in the marketplace. Without guarantees that promises will be kept, market exchanges would grind to a halt. Business law provides these guarantees and the boundaries within which certain promises can be made and enforced.

Market decisions are made in a context—a persistently changing context. The law, in turn, is dynamic in response. New technologies and business practices bring new disputes over rights and responsibilities in a business setting.

Future business leaders need knowledge of existing business law as well as a set of skills permitting them to adjust efficiently and effectively to new legal issues as they arise over the course of their careers.

We are excited about the contents of our features and want to explain the function of each of them in preparing students for leadership positions in business.

## A. WHAT IF . . .

Business law is a set of rules and regulations that modern managers must obey, but those rules and regulations apply in specific situations to particular facts. Those facts create a special setting, one not exactly like

any other business decision. We added a But What If feature to highlight for readers the need to think about the implications of specific facts for the application of business laws.

In addition, this feature provides a reminder that applying the law is a complex activity, requiring a thorough knowledge of the law. An alert business manager needs to consider how each of the facts in the dilemma she or he faces may have legal implications that are not always clear when simply reading the law for the first time. The facts of a case guide the application.

Those who have formal legal training know that a common form of teaching law is to pose hypotheticals. The But What If feature mimics that approach. In other words, at first glance the law seems to point in a certain direction, thereby giving business decision makers confidence that they know what is legally permissible or required, but changing a single fact can sometimes dramatically alter the eventual application of the law. An awareness of the significance of facts in the law can greatly enhance legal compliance and save firms huge expenses.



### BUT WHAT IF . . .

Recall that in the Case Opener, Catepillar filed a motion to exercise its right of removal to move the case to federal court. If it had not filed that motion, would the case have been held in state court, even though it fell under concurrent jurisdiction?

## B. Global Boxes

This feature highlights the emerging, interconnected market. Where relevant, the chapters contain Global Context boxes. Because so many market decisions are made in an international context, learners need to familiarize themselves with the likelihood that a particular legal principle

essential to doing business in one country may not be appropriate in other countries. The Global Context boxes illustrate how unique the law in a certain country often is. After reading these stories of difference, readers will certainly understand better the need to discover relevant law in all jurisdictions where their market decisions have legal implications.

We believe that students learn innumerable valuable lessons about American business law by contrasting the concepts of our business law system with those of our primary

trading partners. We typically use Canada, Japan, China, Russia, Mexico, and the European Union for our comparisons because modern business managers will more likely be interacting with the law in those particular jurisdictions.

## C. Critical Thinking

### CASE 3-1

ILLINOIS v. HEMI GROUP LLC  
622 F.3d 754 (2010)

#### CRITICAL THINKING

Why is the court reluctant to extend *in personam* jurisdiction whenever a firm with online presence offers to make a sale of products in the state in question? Why is there a reluctance to extend *in personam* jurisdiction broadly?

After each case in the book, we have provided critical-thinking questions to highlight the need to think critically about the reasoning the court used. In addition, we include in every chapter a Point/Counterpoint problem that encourages the reader to evaluate the conflicting reasoning surrounding a key issue in the chapter.

But we do much more than just ask a lot of critical-thinking questions at particular loca-

tions throughout the chapters. We encourage the use of a step-by-step critical thinking approach that has been developed and used in classrooms in many countries. We do not just repeatedly urge students to think critically. Instead, we describe for them what is meant by that phrase in the context of business law.

We include this step-by-step approach in Appendix 1A at the end of Chapter 1. Instructors who wish to emphasize critical thinking can use that appendix as a structured approach for learning how to evaluate legal reasoning.

## D. Ethical Reasoning

Our book emphasizes consideration of all stakeholder interests in every market decision. Business ethics should never be an afterthought or something firms consider only because they think they must. In response to requests from our users, we created a separate chapter, Chapter 2, devoted entirely to business ethics. We expanded the discussion of business ethics while simplifying the framework for applying ethical reasoning.

Instead, business ethics is what provides the social legitimacy for markets, what distinguishes markets from the life of the jungle. Although market decisions are calculating and purposeful, they must at the same time reflect awareness that the good and the right provide social borders that elevate those decisions above simple greed and egoism.



### GLOBAL Context

#### The Court Structure in England

Even though we trace the roots of the U.S. legal system back to England, changes have occurred in both countries' court structures; as a result, the court structures in the United States and England share similarities but also have distinct features. The lowest criminal courts in England are the magistrates courts, which hear minor offenses. More serious cases are tried before a judge and jury in the crown court, which also hears cases appealed from the magistrates courts on factual points. The high court (in the Queen's Branch Division) hears appeals on points of law, and the court of appeal in the Criminal Division hears appeals on sentences and convictions.

Civil cases are first heard in the county courts (for minor claims) or the high court, which is divided into three divisions: Queen's Bench, Family, and Chancery. Cases may be appealed to the court of appeal (Civil Division). Cases may also be appealed from the county court to the high court.

The House of Lords is the supreme court of appeal. Its cases are heard by up to 13 senior judges known as *law lords*. In addition to the courts, there are specialized tribunals, which hear appeals on decisions made by various public bodies and government departments in areas such as employment, immigration, social security, tax, and land.

Ethical discussion focuses on the basic observation that we are socially and globally interdependent as entrepreneurs, asset owners, workers, businesspeople, and consumers. Our inescapable contact with one another requires our aspirations to be defined, at least in part, by their impact on others.

Our text has several ethical reasoning possibilities in each chapter. But for the reader to use this emphasis requires a practical step-by-step approach. In other words, students need more than just a discussion about values or ethics.

They need to have some sense that the discussion is headed somewhere. They want to know, “How will my behavior be any more ethical after I have read the chapter and participated in the class discussions?” Our text answers their question.

Chapter 2 provides a clear explanation of our approach—an approach that students can use on a regular basis. The language and organization of our model of ethical reasoning leans implicitly on standard ethical theories, but it meets the challenge of a fast-paced business world. It pushes stakeholders to the forefront of market decisions, where they belong, and does so in a manner that is both powerful and doable without becoming tedious.

Business ethics serve as the guidelines we use to shape the world we wish to create. As such, they provide guidance for the kind of business behavior we want to reinforce. After each case discussion, we pause to think about the ethics of business law by asking a question derived from the practical approach to business ethics developed in Chapter 2.

## E. E-Commerce Boxes

A central feature of modern business decisions is new technology, specifically the rapid spread of electronic commerce. This development has created new challenges and opportunities that were unforeseeable until very recently. By including boxes that call attention to these challenges, we think we can convince students most effectively of the pervasive influence of this new, complicating aspect of business decisions.

### BUSINESS Ethics Flashpoint 2.1

#### Chevron in Ecuador

In 1964, Texaco Petroleum (now known as Chevron), along with the Gulf Oil Corporation (Gulf), was invited by the Ecuadoran government to conduct exploratory activities in the eastern region of Ecuador. This region was known as the Oriente.

In 1967, Texaco and Gulf discovered large quantities of oil in the Oriente. After building a pipeline that would allow for the transfer of oil to the Pacific coast, Texaco began exporting the oil.

Texaco acted as the operator in a partnership, known as a consortium, between Texaco and Gulf. In 1973, production reached 200,000 barrels of oil per day. During this period,

contaminants with which Texaco polluted the area. The people of the Oriente reported higher rates of cancer than the general population of Ecuador and in other Amazonian provinces. Birth defects were also attributed to the environmental pollution. However, despite these adverse effects on the surrounding population, Texaco did not endeavor to address these problems during its operations.

In addition to suffering from diseases related to toxic contaminants, the indigenous population in the Oriente suffered economic losses. For example, 75 percent of Oriente residents reported that they had suffered from loss of their crops as well as loss of animals on which they relied because of Texaco’s toxic discharges into the environment. Texaco’s clearing substantial parts of natural habitat to

#### ETHICAL DECISION MAKING

What ethical considerations do you think the judge relied on in making the decision in this case?

### E-COMMERCE and the Law

#### The Sliding-Scale Standard for Internet Transactions

Does a business that has Internet contact with a plaintiff in a different state satisfy the minimum-contacts standard?

A federal district court established the following sliding-scale standard in a 1997 case:<sup>9</sup>

[T]he likelihood that personal jurisdiction can be constitutionally exercised is directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet. This sliding scale is consistent with well developed personal jurisdiction principles.

At one end of the spectrum are situations when a defendant clearly does business over the Internet. If the defendant enters into contracts with residents of a foreign

jurisdiction that involve the knowing and repeated transmission of computer files over the Internet, personal jurisdiction is proper.

At the opposite end are situations when a defendant has simply posted information on an Internet website that is accessible to users in foreign jurisdictions. A passive website that does little more than make information available to those who are interested in it is not grounds for the exercise of personal jurisdiction.

The middle ground is occupied by interactive websites through which a user can exchange information with the host computer. In these cases, the exercise of jurisdiction is determined by examining the level of interactivity and the commercial nature of the exchange of information that occurs on the website.

<sup>9</sup> *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 at 1124 (1997).

# Walkthrough

**We have designed our features around the things we do in our classes to encourage excitement about business law. We believe they provide Business Law Plus.**

**We also have a variety of supplementary material available for instructors, to aid in course development, and for students, to provide additional study.**

**Instructor's Manual** Written by our co-author Lucien Dhooge, this resource includes lecture notes, case briefs, answers to all questions in each chapter, assignment ideas, teaching assistance (emphasizing practical tips that new or part-time teachers can try right away), and suggested handouts.

**Test Bank** Prepared by Lisa Mayer, of Bergen Community College, our test bank contains a variety of true/false, multiple-choice, and essay questions as well as scenario-based questions, which are application-based and use a situation described in a narrative, with three to five multiple-choice test questions based on the situation.

**EZ Test Online** McGraw-Hill's EZ Test Online is a flexible and easy-to-use electronic testing program. The program allows instructors to create tests from book-specific items, accommodates a wide range of question types, and enables instructors to add their own questions. Multiple versions of the test can be created, and any test can be exported for use with course management systems such as WebCT, Blackboard, or any other course management system. EZ Test Online is accessible to busy instructors virtually anywhere via the web, and the program eliminates the need for them to install test software. Using EZ Test Online also allows instructors to create and deliver multiple-choice or true/false quiz questions by using iQuiz for iPod. For more information about EZ Test Online, please see the website at [www.eztestonline.com](http://www.eztestonline.com).

**PowerPoint Presentation Slides** Developed by Jeff Penley at Catawba Valley Community College, two sets of slides are available for instructors. The Basic set consists of an outline of each chapter. The Premium set expands on this outline to include hypotheticals and ethical dilemmas, allowing the instructor to incorporate application into the lecture.

## You Be the Judge Online ([www.mhhe.com/ybtj](http://www.mhhe.com/ybtj))

This interactive product includes 18 hypothetical business law cases. All the cases are based on real cases within our business law texts. Each case allows you to watch interviews of the plaintiff and defendant before the courtroom argument, see the courtroom proceedings, view relevant evidence, read other actual cases relating to the issues in the case, and then create your own ruling. After your verdict is generated, you can view what an actual judge ruled (unscripted) in the case and then get the chance to defend or change your ruling.



## McGraw-Hill *Connect*<sup>®</sup> Business Law



### **Less Managing. More Teaching. Greater Learning.**

McGraw-Hill *Connect Business Law* is an online assignment and assessment solution that connects students with the tools and resources they'll need to achieve success.

McGraw-Hill *Connect Business Law* helps prepare students for their future by enabling faster learning, more efficient studying, and higher retention of knowledge.

### **McGraw-Hill *Connect Business Law* Features**

*Connect Business Law* offers a number of powerful tools and features to make managing assignments easier, so faculty can spend more time teaching. With *Connect Business Law*, students can engage with their coursework anytime and anywhere, making the learning process more accessible and efficient. *Connect Business Law* offers you the following features.

#### **Simple Assignment Management**

With *Connect Business Law*, creating assignments is easier than ever, so you can spend more time teaching and less time managing. The assignment management function enables you to:

- Create and deliver assignments easily with selectable end-of-chapter questions and test bank items.
- Streamline lesson planning, student progress reporting, and assignment grading to make classroom management more efficient than ever.
- Go paperless with the eBook and online submission and grading of student assignments.

#### **Smart Grading**

When it comes to studying, time is precious. *Connect Business Law* helps students learn more efficiently by providing feedback and practice material when they need it, where they need it. When it comes to teaching, your time also is precious. The grading function enables you to:

- Have assignments scored automatically, giving students immediate feedback on their work and side-by-side comparisons with correct answers.
- Access and review each response; manually change grades or leave comments for students to review.
- Reinforce classroom concepts with practice tests and instant quizzes.



### **Instructor Library**

The *Connect Business Law* Instructor Library is your repository for additional resources to improve student engagement in and out of class. You can select and use any asset that enhances your lecture. The *Connect Business Law* Instructor Library includes:

- *eBook.*
- *Instructor's Manual.*
- *PowerPoint files.*
- *Videos and Instructional Notes.*
- *Business Law Newsletter archives.*
- *Access to interactive study tools.*

### **Student Study Center**

The *Connect Business Law* Student Study Center is the place for students to access additional resources. The Student Study Center:

- Offers students quick access to lectures, practice materials, eBooks, and more.
- Provides instant practice material and study questions, easily accessible on the go.
- Gives students access to the Personalized Learning Plan described in the sections that follow.

### **Student Progress Tracking**

*Connect Business Law* keeps instructors informed about how each student, section, and class is performing, allowing for more productive use of lecture and office hours. The progress-tracking function enables you to:

- View scored work immediately and track individual or group performance with assignment and grade reports.
- Access an instant view of student or class performance relative to learning objectives.
- Collect data and generate reports required by many accreditation organizations, such as AACSB.

### **Lecture Capture**

Increase the attention paid to lecture discussion by decreasing the attention paid to note taking. For an additional charge, Lecture Capture offers new ways for students to focus on the in-class discussion, knowing they can revisit important topics later. Lecture Capture enables you to:

- Record and distribute your lecture with a click of a button.
- Record and index PowerPoint presentations and anything shown on your computer so that it is easily searchable, frame by frame.
- Offer access to lectures anytime and anywhere by computer, iPod, or mobile device.
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# An Introduction to the Fundamentals of Dynamic Business Law

## LEARNING OBJECTIVES

After reading this chapter, you will be able to answer the following questions:

- LO 1-1** What is business law?
- LO 1-2** How does business law relate to business education?
- LO 1-3** What are the purposes of law?
- LO 1-4** What are alternative ways to classify the law?
- LO 1-5** What are the sources of the law?
- LO 1-6** What are the various schools of jurisprudence?

**LO 1-1**

This book is for future business managers, especially those who wish to be leaders. An essential factor in preparing for that career is awareness of the legal issues arising in business. Businesses need to finance capital growth, purchase inputs, and hire and develop employees. In addition, they must sell to consumers, please owners, and comply with government rules. All these activities are full of potential legal conflicts.

A theme of this book will be a surprising number of legal implications that result from what on the surface might look like a simple, everyday business decision. Think along with us about the desire of a young entrepreneur who has a new idea and wants to develop its market potential.

In the seemingly ever-expanding market for smart phone apps, individuals are often rewarded for creating apps that make lives simpler or that entertain people. You have watched the business success of hundreds of smart phone applications. You have certainly downloaded your share of them. You have an idea for a phone app that you believe has the potential to become the next Vine or Instagram.

Your proposed app will allow users to search for lawyers based on the location and specialization that the user desires. The app will also rate different lawyers and provide personal information about the lawyers who are being rated. Your goal is to make it easier for uninformed consumers to locate the lawyer best suited for their needs.

You and a friend, who has a background in computer science, develop software to run the application. You also create a design for the app: what the app will look like and how it will function.

After you complete the design of the app, you decide that you would like to upload it to the Apple App Store. You contact Apple, and a representative tells you that you will be able to upload the application if you pay a fee and sign a few forms.

In this textbook, you will find legal concepts and terms that will allow you to see this scenario with different eyes. What you will learn will warn you about the dangers of letting the excitement of the moment—your big moment—cause you to forget that business is a series of conflicts in part. And in those struggles, you need to understand your interests and responsibilities. From the instant you first interact with another party in a business relationship, insights from your study of business law should kick in to protect you.

Let's walk through just a small sample of the legal issues you will face as you try to make your app the next big thing.

Because you need a platform on which to sell your app, you will need to establish a contract with an app store such as the Apple App Store. This book will teach you about the elements required to establish a legal contract. In other words, only certain kinds of legal agreements will provide legal protection if a later dispute arises. Whether these elements are met will dictate whether the party with whom you are contracting is obligated to perform a certain duty. For example, if you believe that Apple has a legal duty to put your app in its App Store or, perhaps, place your app in a particular position in its online store, you would have to prove that a contract creating such a duty exists.

The knowledge you will gain regarding contract law will also help you understand the complexity of the relationship between you and the user purchasing your app. For example, if the app you created malfunctions after a user has purchased it, how will you and the customer settle a dispute? Will you go to court, or would you prefer disputes to be settled through alternate dispute resolution methods such as arbitration? Will you create a binding arbitration clause to require consumer disputes to be resolved through arbitration? After reading this textbook, you will become more aware of the various conflict resolution mechanisms available to businesses and consumers.

In addition to the contractual issues underlying your app business, you will also need to be aware of possible tort issues related to your app. (A tort at its simplest level is legal language for a civil [non-criminal] harm committed against another in which the injured party can sue for damages.) For example, because your app will compare the desirability of certain lawyers to others, the lawyers whom you are rating might feel threatened by your app. Will these lawyers be able to file a suit in tort against you for defamation or privacy torts such as false light or public disclosure of private facts?

Alternatively, what can you do when a competing business writes a column in a newspaper mocking and generally trashing your new app? To answer that question, you need a good understanding of the torts of disparagement or slander of quality, two torts that you might be able to use to defend your business against fraudulent claims. The sections in this textbook on tort law will enable you to ask questions about potential tort claims related to the eventual marketing of your app.

Later, when you market your app, you will also have to be aware of the restrictions on advertising that exist under consumer protection laws. Will you make any promises to consumers regarding your app in your advertisements? Will these advertisements constitute legally permitted puffery, or will they be deceptive advertisement under the Federal Trade Commission Act? As you read about consumer law in this textbook, you will learn about the restrictions the law places on advertising.

When you design your app, you will have to make sure that you do not infringe on the intellectual property—such as patents or trademarks—of other app businesses. What words and symbols will you use? Do those words and symbols constitute trademark infringement? This book will explain the intellectual property law that governs the invention of an app.

Finally, once you have studied this book, you will realize the importance of carefully selecting the form of business organization you and your friend choose for operating this app. For example, will you operate the app under a sole proprietorship or a partnership agreement? As you will learn, each of these forms of business organization provide you with different advantages and disadvantages.

**Business law** consists of the enforceable rules of conduct that govern commercial relationships. In other words, buyers and sellers interact in market exchanges within the rules that indicate the boundaries of legal business behavior. Constitutions, legislatures, regulatory bodies, and courts spell out what market participants may or may not legally do.

Understanding business law is necessary for future businesspeople because there simply is no market transaction that occurs outside legal guidelines. All contracts, employment decisions, and payments to a supplier are limited and protected by business law. Each of the six functional areas of business—management, production and transportation, marketing, research and development, accounting and finance, and human resource management—sits on a foundation of business law.

## Law and Its Purposes

Many of us might like to impose rules on others, defining their rights and responsibilities. Few of us can do this as individuals, but a majority of citizens in a democracy can agree to establish rules for business behavior. They can permit certain authorities to make and enforce rules describing what behavior is permitted and encouraged in their community. These rules are what we refer to as the **law**, and they are enforceable in the courts of that community. Exhibit 1-1 lists a few of the numerous purposes fulfilled by the law.

Exhibit 1-1 is a reminder of why we are very proud when we say we are a society of laws. The respect we give to the law as a source of authority is in part a recognition of the fact that in the absence of law, we would rely solely on the goodwill and dependability of one another. Most of us greatly prefer the law to that option.

## Classification of the Law

There are many ways of thinking about the law. For example, we can divide law into *national* versus *international* law, *federal* versus *state* law, and *public* versus *private* law. **Private law** involves disputes between private individuals or groups. As an illustration, if a businessperson owns a computer equipment store and is delinquent in paying rent to the landlord, the dispute

- Providing order such that one can depend on a promise or an expectation of obligations.
- Serving as an alternative to fighting.
- Facilitating a sense that change is possible, but only after a rational consideration of options.
- Encouraging social justice.
- Guaranteeing personal freedoms.
- Serving as a moral guide by indicating minimal expectations of citizens and organizations.

### business law

The enforceable rules of conduct that govern the actions of buyers and sellers in market exchanges.

### L0 1-2

### L0 1-3

### law

Rules of conduct in any organized society that are enforced by the governing authority of the community.

### L0 1-4

### private law

Law that involves suits between private individuals or groups.

### Exhibit 1-1

Purposes of the Law

**public law**

Law that involves suits between private individuals or groups and their government.

**civil law**

The body of laws that govern the rights and responsibilities either between persons or between persons and their government.

**criminal law**

The body of laws that involve the rights and responsibilities an individual has with respect to the public as a whole.

between them entails private law. **Public law** involves disputes between private individuals or groups and their government. For instance, if a computer store dumps waste behind its building in violation of local, state, or federal environmental regulations, the resulting dispute focuses on public law.

Another distinction among types of laws is civil law versus criminal law. **Civil law** involves the rights and responsibilities found in relationships between persons and between persons and their government. It also involves the remedies available when someone's rights are violated. One example of a civil law case involving a large business organization occurred in 1993. The Jack-in-the-Box restaurant chain was ordered to pay damages after a two-year-old child died of food poisoning from *E. coli* and several other people became ill from eating the tainted meat.

In contrast to civil law, **criminal law** applies to situations in which someone commits an act against the public as a unit. These crimes are prosecuted not by individuals but by the state or federal government.

One example of a criminal law is the prohibition against insider trading on the stock exchange. Insider trading occurs when an individual uses insider, or secret, company information to increase her or his own finances or those of family or friends. For example, several years ago an IBM secretary allegedly told her husband, who told several other people, that the company was going to take over operations of Lotus Development. This information was spread among a number of individuals before it was publicly announced.

On the basis of this leak, 25 people bought stock that increased greatly in value following IBM's public announcement. The Securities and Exchange Commission filed charges against the 25 stock purchasers because they were creating an unfair trading environment for the public.

**L0 1-5**

## Sources of Business Law

How is law created, and where do we look to find the laws?

### CONSTITUTIONS

The United States Constitution and the constitution of each state establish the fundamental principles and rules by which the United States and the individual states are governed. The term **constitutional law** refers to the general limits and powers of the federal and state governments as stated in their written constitutions. The U.S. Constitution is the supreme law of the land, the foundation for all laws in the United States. It is the primary authority when we are trying to identify the relationship between business organizations and government.

### STATUTES

Legislative actions, called *statutes*, are another important source of law. The assortment of rules and regulations put forth by legislatures is what we call **statutory law**. These legislative acts can be found in the U.S. Code when they are passed by Congress or in the various state codes when they are enacted by state legislatures. The codes are a collection of all the laws in one convenient location.

Because so much business activity occurs within the jurisdiction of state courts, business managers must be familiar with the local city and county ordinances that govern matters not covered by federal or state codes. These ordinances address important business considerations such as local taxes, environmental standards, zoning ordinances, and building codes.

For example, if you want to open a Krispy Kreme franchise in Santa Fe, New Mexico, you must follow local guidelines regarding the area where you may build your store, the materials that you may use to build, and the state minimum wage that you must pay to employees making donuts. The regulations will be different if you want to open your franchise in Toledo, Ohio, or in Seattle, Washington.

Although they are not a source of law in the same sense as constitutions and statutory law, **model** or **uniform laws** serve as a basis for some statutory law at the state level. Business activity is made more difficult when state laws vary. To prevent such problems, a group of legal

**constitutional law**

The general limits and powers of a government as interpreted from its written constitution.

**statutory law**

The assortment of rules and regulations put forth by legislatures.

**model laws**

Laws created to account for the variability of laws among states. These laws serve to standardize the otherwise different interstate laws. Also called *uniform laws*.

scholars and lawyers formed the National Conference of Commissioners on Uniform State Laws (NCC). The NCC regularly urges states to enact model laws to provide greater uniformity of law. The response is entirely in the hands of the state legislatures. They can ignore a suggestion or adopt part or all of the proposed model law.

The proposals of the NCC, though not laws themselves, have been adopted on more than 200 occasions by state legislatures. The NCC is an especially important influence on business law. Paired with the publications of the American Law Institute, the NCC became the source of the *Uniform Commercial Code (UCC)*. The UCC is a body of law so significant for business activities that it will be the focus of intensive study in several chapters of this text. The UCC laws include sales laws and other regulations affecting commerce, such as bank deposits and collections, title documents, and warranties. For example, these laws govern the different types of warranties that companies such as Microsoft, Sony, and Honda provide with their products.

## CASES

Constitutions, legislatures, and administrative agencies encourage certain behavior and prevent other actions. But the boundaries of these laws are seldom self-explanatory. Consequently, law must be interpreted.

**Case law** is the collection of legal interpretations made by judges. An alternative name for case law is **common law**. These interpretations are law unless they are revoked later by new statutory law.

Case law is especially significant for businesses because a modern business often operates in multiple legal jurisdictions. Because statutory laws are subject to interpretation, one court may have interpreted particular laws one way at one business location, and a second court may interpret a similarly worded statute differently at a second business location.

Courts issue judicial decisions that often include interpretations of statutes and administrative regulations. These decisions contain the reasoning the courts use to arrive at their decisions. The reasoning depends heavily on **precedent**, the use of past decisions to guide future decisions. An earlier decision in a similar fact pattern is a precedent that guides later decisions, thereby providing greater stability and predictability to the law.

The 2014 case of *Air Wisconsin Airlines Corp. v. Hoepfer* (No. 12-315, slip op. Sup. Ct. January 27, 2014) provides an illustration of how important knowledge of business law and precedent can be. Mr. Hoepfer was a pilot for Wisconsin Air. He needed to be certified to fly a new kind of aircraft his employer bought. At the conclusion of his fourth failed attempt to be certified, Mr. Hoepfer raised his voice, tossed his headset, used profanity, and accused the instructor of railroading him.

The manager who booked a return flight for Hoepfer discussed Hoepfer's behavior with officials of Wisconsin Air. They knew that Hoepfer was licensed to carry a firearm. Consequently, an airline executive warned the TSA (Transportation Security Administration). During the call, the executive said that the airline was concerned about Hoepfer's mental stability and the whereabouts of his firearm.

The TSA removed the pilot from the airplane, searched him, and questioned him about the whereabouts of his firearm. Hoepfer sued for defamation. The jury found for Hoepfer, and the Colorado Supreme Court agreed with the jury on appeal.

When the U.S. Supreme Court heard the case, it reversed the decision, finding against Hoepfer's defamation claim. In the course of that opinion, Justice Sotomayor, writing for the Court, relied heavily on the earlier *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496 (1991) case for precedent.

Hoepfer maintained that the Wisconsin Air executive who warned the TSA should have qualified the concern about the location of Hoepfer's weapon by saying that "it had no reason to think he actually was armed." But Justice Sotomayor pointed out that *Masson* provided that in a defamation action, a materially false statement would have to be one that would have had a different effect on the mind of the listener from that which the truth would have produced and, in this case, a reasonable TSA officer would have searched the pilot for a gun after hearing that the pilot was upset.

It is crucial for business managers to pay attention to changes in the law and cases in which new precedents are set. These precedents must be taken into account when making future

### case law

The collection of legal interpretations made by judges. They are considered to be law unless otherwise revoked by a statutory law. Also known as *common law*.

### precedent

A tool used by judges to make rulings on cases on the basis of key similarities to previous cases.



business decisions. For instance, courts sometimes make new rulings regarding the kinds of warnings companies should be required to provide to consumers about potential harm that could result from their products.

One example was a case filed against McDonald's. After a woman was severely burned by very hot coffee, the company was found negligent for failing to provide a warning label on its hot-beverage cups. Now many retailers of hot beverages provide warning labels on their beverage cups because of the precedent that was set by this case.

### stare decisis

“Standing by the decision”; a principle stating that rulings made in higher courts are binding precedent for lower courts.

When courts rely on precedent, they are obeying **stare decisis** (“standing by the decision”). Following stare decisis creates greater predictability for both businesses and individuals that look to the courts for the rules on which they should rely when they engage in market exchanges. In accordance with stare decisis, rulings that are made in higher courts become binding precedent for lower courts.

Even though this practice is meant to create a consistent and reliable justice system, different judges may view the facts of a case in different ways. In addition, courts are sometimes presented with a new issue and do not have a binding decision to follow. In such instances, they may look to decisions made in similar cases by nonbinding courts in other states or jurisdictions.

If a new issue comes before two state courts and there is no binding decision from the state supreme court, both state courts need to look for other rulings on similar cases. They are not bound by each other's decision, so they might have different decisions on the same subject. The decisions in these lower courts can be appealed to the state appeals court, however, and the appeals court's decision can be appealed to the state supreme court.

One example of a case that has been used in accordance with stare decisis as a binding precedent is *Brown v. Board of Education*,<sup>1</sup> which abolished discriminatory policies for individuals of different racial backgrounds. For instance, in *Regents of the University of California v. Bakke*,<sup>2</sup> the plaintiff, a white male, had applied to the University of California at Davis medical school 2 years in a row and been denied admittance. He alleged that the admissions process was discriminatory because out of 100 slots, 16 were reserved for members of minority races.

The U.S. Supreme Court found that the school's admissions policy was not legal, referencing *Brown* and stating that the basic principle behind it and similar cases was that individuals could not be excluded on the basis of race or ethnicity. The Court wrote, “Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake.”

Just as state statutes have been strongly influenced by the suggestions of the NCC, common law evolves with the assistance of a mechanism called **Restatements of the Law**. These Restatements are summaries of the common law rules in a particular area of the law that have been enacted by most states.

In addition to the Restatements, many influences are at work in the minds of judges when they interpret constitutions, statutes, and regulations. For example, the values and social backgrounds of the judges function as lights and shadows, moving the judges toward particular legal decisions.

### Restatements of the Law

Summaries of common law rules in a particular area of the law. Restatements do not carry the weight of law but can be used to guide interpretations of particular cases.

## ADMINISTRATIVE LAW

Constitutions and statutes are never complete in the sense of covering all the detailed rules that affect government and business relations. The federal government, as well as state and local governments, has dozens of administrative agencies whose task is to perform a particular government function. For example, the Environmental Protection Agency (EPA) has broad responsibilities to enforce federal statutes in the area of environmental protection.

**Administrative law** is the collection of rules and decisions made by all these administrative agencies. Just glance at Exhibit 1-2 to get a sense of the scope of a few of the major federal administrative agencies.

Businesses function within the rules established by agencies like these. For example, the Occupational Safety and Health Administration (OSHA) oversees health and workplace safety and makes sure that employees are working in conditions that are not hazardous. One instance in which OSHA exercised its authority occurred in 1994, when OSHA settled a complaint with

### administrative law

The collection of rules and decisions made by administrative agencies to fill in particular details missing from constitutions and statutes.

<sup>1</sup> 347 U.S. 483 (1954).

<sup>2</sup> 438 U.S. 265 (1978).

INDEPENDENT AGENCIES	EXECUTIVE AGENCIES
Commodity Futures Trading Commission (CFTC)	Federal Deposit Insurance Corporation (FDIC)
Consumer Product Safety Commission (CPSC)	Occupational Safety and Health Administration (OSHA)
Equal Employment Opportunity Commission (EEOC)	General Services Administration (GSA)
Federal Trade Commission (FTC)	National Aeronautics and Space Administration (NASA)
Federal Communications Commission (FCC)	Small Business Administration (SBA)
Interstate Commerce Commission (ICC)	International Development Cooperative Agency (IDCA)
National Labor Relations Board (NLRB)	National Science Foundation (NSF)
National Transportation Safety Board (NTSB)	Veterans Administration (VA)
Nuclear Regulatory Commission (NRC)	Office of Personnel Management (OPM)
Securities and Exchange Commission (SEC)	

**Exhibit 1-2**

Major Federal Administrative Agencies

United Parcel Service (UPS). The company was not providing adequate safety measures and equipment for workers who handled hazardous waste, and OSHA was responsible for making sure that UPS adapted its practices to follow federal safety guidelines.

## TREATIES

A *treaty* is a binding agreement between two states or international organizations. Treaties may be called several things: international agreements, covenants, exchanges of letters, conventions, or protocols. In the United States, a treaty is generally negotiated by the executive branch. To be binding, it must then be approved by two-thirds of the Senate.

A treaty is similar to a contract in two important ways. Both treaties and contracts are attempts by parties to determine rights and obligations among themselves. In addition, when a party fails to obey a treaty or an international contract, international law imposes liability on that party.

## EXECUTIVE ORDERS

The president and state governors can issue directives requiring officials in the executive branch to perform their functions in a particular manner. The Code of Federal Regulations (CFR) contains all the executive orders created by the president. (The CFR is online at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html)) Presidents claim the power to issue such orders on the basis of their Article II, Section 1, constitutional power to “take care that the laws be faithfully executed.”

An illustration of an especially controversial executive order is Order 9066, issued by President Franklin Roosevelt during World War II. On the basis of this order, Japanese-Americans on the West Coast, as well as thousands of Italian-American and German-American families, were sent to internment camps for the duration of the war.

## SCHOOLS OF LEGAL INTERPRETATION

When legislators or courts make law, they do so guided by certain habits of mind and specific beliefs about human nature. These views guide them toward particular legal solutions and away from others. This section briefly describes several of the more common guides to legal interpretation.

The point of learning about these alternative methods for interpreting the implications of particular legal facts is to encourage you to see the law as a human creation shaped by many perspectives and approaches to what a court decision or statute means.

**Natural Law** The term **natural law** refers to the idea that there are certain ethical laws and principles that are morally right and above the laws devised by humans. This concept suggests

### LO 1-6

#### natural law

A school of jurisprudence that recognizes the existence of higher law, or law that is morally superior to human laws.



that individuals should have the freedom to disobey a law enacted by a majority of people if their individual conscience goes against the law and they believe the law is wrong. The idea that people have basic human rights, for example, is rooted in the concept of natural law.

For instance, Dow Chemical wants its suppliers to conform to U.S. environmental and labor laws, not just the local laws in the supplier's country, where regulations may not be as stringent. This reaction reflects the beliefs that people have a right to be treated fairly in their jobs and that they have a right as human beings to a clean environment.

### legal positivism

A school of jurisprudence that holds that because society requires authority, a legal and authoritarian hierarchy should exist. When a law is made, therefore, obedience is expected because authority created it.

**Legal Positivism** **Legal positivism** is an interpretive guide that urges us, as its followers, to design our legal system on the basis of the belief that legitimate political authority deserves our obedience when it issues a rule. This idea stresses that society requires authority and the hierarchy that such authority demands. When a duly authorized branch of government issues a law, positivism would urge us to see our proper role as obedience. The law is then a set of appropriate commands.

This view sees law as something quite distinct from morality. Moral questions about the law should not interfere with our inclination to obey it. A judge with leanings in the direction of legal positivism, for example, might write that she is deciding to enforce the law in question but that her decision does not necessarily mean that she sees the law as the morally correct rule.

### identification with the vulnerable

A school of jurisprudence that holds that society should be fair. Particular attention is therefore paid to the poor, the ill, and the elderly.

**Identification with the Vulnerable** Closely linked to pursuing legal change through natural law is pursuing change through **identification with the vulnerable**. Some members of our society can take care of themselves in terms of most life situations. Others, especially the ill, children, the aged, the disabled, and the poor, require assistance to meet their fundamental needs of life, health, and education.

This guide to legal change is tied closely to the pursuit of fairness in our society. The metaphor of a level playing field is linked with some higher law or body of moral principles that connects all of us in the human community. We might look at a particular employment contract, for example, and react by observing that "it is just not fair." Our caring impulse as a human feels outrage at that legal arrangement. That outrage can be a stimulus for legal change. One example of identification with the vulnerable is minimum-wage laws. They reflect the beliefs that workers should receive a minimum hourly wage and that employers should not be allowed to pay them less.

### historical school

A school of jurisprudence that uses traditions as the model for future laws and behavior. Also called *tradition* or *custom*.

**Historical School: Tradition** One of the most often used guidelines for shaping the law is **tradition**, or *custom*, which is also called the **historical school**. Stare decisis is rooted in this perspective. When we follow tradition, we attempt to link our future behavior to the behavior of those who faced similar problems in earlier historical periods. The logic of the approach is that we need not reinvent the wheel each time a legal problem arises. Past practice is assumed to have been the product of careful thought.

### legal realism

A school of jurisprudence that holds that context must be considered as well as law. Context includes factors such as economic conditions and social conditions.

**Legal Realism** **Legal realism** is based on the idea that, when ruling on a case, judges need to consider more than just the law. This school of thought dictates that they also take factors such as social and economic conditions into consideration when making a judgment. Followers of legal realism argue that the law must not be the sole factor in deciding a case since legal guidelines were designed by humans and exist in an ever-changing society.

Judges who follow this school of thought are more likely to depart from past court decisions to account for the fact that our society is constantly shifting and evolving. Those who subscribe to legal realism also believe that the law can never be enforced with complete consistency. They argue that because judges are human, they will bring different methods of reasoning to very similar cases.

One example of a law that has been enacted to reflect changes in our society is the Family and Medical Leave Act (FMLA). This act mandates that businesses employing more than 50 people must provide their workers with up to 12 weeks' unpaid leave every year to take care of family-related affairs such as caring for ill parents, adopting a child, or having a child. The FMLA protects pregnant women who take time off work because their employers must provide them with the same pay and the same or an equivalent job when they return to work. This act

reflects the fact that more mothers are working outside the home and more women are returning to work soon after they have a child. The FMLA also protects new parents against some types of employer discrimination that might occur after they return to work.

**Cost–Benefit Analysis** From this perspective, we need to examine all the costs and benefits for alternative laws or decisions and place monetary values on those costs and benefits. If we possessed those calculations, we could use **cost–benefit analysis** as a guide to legal change, choosing the legal alternatives that maximized the ratio of benefits to costs. For instance, in a contract dispute, someone using this approach would attempt to attach responsibility for the problem in such a way that total benefit is maximized in relation to costs.

This approach to legal change is tied closely to the pursuit of efficiency. If a law yields more benefits than costs, then we have saved resources. Those resources can, in turn, be used to provide us with more goods and services. Our economy is thus more efficient in the sense of producing more for less.

For example, regulations enacted by the EPA can affect costs and benefits in the national economy. Polluted land is an economic loss because it cannot be used for farming or recreation. Polluted water can be toxic for fish and cannot be used for drinking. Polluted air can cause health problems and result in higher health care costs. Although EPA regulations may end up costing companies more initially to control pollutants, the cost of environmental cleanup, and the loss of productivity in the economy as a whole, may be greater than the resources companies expend to control pollution.

#### cost–benefit analysis

An economic school of jurisprudence in which all costs and benefits of a law are given monetary values. Laws with the highest ratios of benefits to costs are then preferable to those with lower ratios.

## Global and Comparative Law

Comparative and international law is extremely important for future business managers. Because of advances in technology and transportation, trade with other countries is far easier today than it was in past years. Now it is possible to make different components for the same product in various countries all over the world and then assemble them in another country. It is possible to operate an antique store in Poughkeepsie but sell to customers in Moscow or Taipei through a website.

As a result of this ease in trade, business managers must be familiar with global trade laws that regulate business practices among nations. For instance, the United States and other countries have entered into agreements such as the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT). These agreements help establish the conditions of trade between countries.

It is also important for future business managers to understand comparative law, comparing and studying the laws in different countries. Business managers need to be aware of various trade laws and restrictions in different countries so that they can act accordingly when they set out to do business in those countries. The European Union, for example, has laws that differ from those of the United States in terms of regulating the taxes on Internet sales and the amount of pollution that can be released into the environment. Companies doing business in the EU must take these standards into account.

An example of a company that has conformed to a foreign country's laws is the search engine company Google, which has agreed to restrict the content of searches performed on Google.cn, the Chinese version of the company's search engine. Google took this action to satisfy regulations set by the Chinese government, which did not want its citizens to have access to certain websites or pieces of information. To do business in China, Google had to conform to these standards. This loss of freedom of information or access to information was considered by some to be such an evil that they felt Google had violated its own mission statement: "Do no evil."

As an illustration of the importance of being aware of the diversity of law in different countries, just imagine the problems that could arise if you were to need space for your business in Vietnam, but the only property law you knew was U.S. property law.

In the United States, we take for granted the right to purchase a piece of property if we have the money to do so. Property is not so freely available and transferable in all nations. Vietnam's new constitution, written in 1992, provides guidelines for the allocation, transfer, and sale of private property. However, it still asserts that the people, or the state, own all the land.