***Dynamic Business Law: The Essentials, 4e* (Kubasek)**

**Chapter 1 An Introduction to the Fundamentals of Dynamic Business Law**

1) Business law consists of the enforceable rules of conduct that govern commercial relationships.

2) Many market transactions occur without legal guidelines.

3) Law is rules of conduct in any organized society that are enforced by the governing authority of the community.

4) 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.

5) Crimes are prosecuted not by individuals but by the state or federal government.

6) Private law involves disputes between private individuals or groups and their government.

7) If a pet store dumps waste from its business behind its building, it is a violation of a public law.

8) The U.S. Constitution is the foundation for approximately one-half of all laws in the United States.

9) The legislative branch of government creates statutory law.

10) An alternative name for case law is statutory law.

11) Judicial decisions are law even if the legislative branch should revoke them later by enacting new statutory law.

12) The term *stare decisis* means "standing by the decision."

13) The purpose of *stare decisis* is to create less predictability for businesses and individuals.

14) *Stare decisis* is a legal principle that rulings made by lower courts are binding on higher courts in the same jurisdiction.

15) A decision of a state appeals court is not binding on a trial court located in the same state.

16) A decision from the New Jersey Supreme Court is not binding on a New York trial court, even if New York has no applicable law on the issue involved.

17) The National Conference of Commissioners on Uniform State Laws (NCC) regularly urges states to enact model laws to provide greater uniformity of law.

18) Judges claim the power to issue executive orders on the basis of the Article II, Section 1 constitutional power to "take care that the laws be faithfully executed."

19) A treaty is a non-binding agreement between two states or international organizations.

20) Laws comparing and studying the laws in different countries are known as contributory law.

21) How many of the functional areas of business sit on a foundation of business law?

A) Six

B) Five

C) Four

D) Three

E) Two

22) \_\_\_\_\_\_\_\_ consists of the enforceable rules of conduct that govern commercial relationships.

A) Ethics

B) Equity

C) Business law

D) The Uniform Contracts Code

E) The International Contracts Code

23) "Guaranteeing personal freedoms" is:

A) The exclusive purpose of the law.

B) One of the numerous purposes fulfilled by the law.

C) A purpose of criminal, but not civil, law.

D) A purpose of civil, but not criminal, law.

E) A cultural, but not legal, expectation.

24) Which of the following is one of the numerous purposes fulfilled by the law?

A) Discouraging social justice

B) Limiting personal freedoms

C) Serving as a moral guide by indicating maximum expectations of citizens and organizations

D) Providing order such that one can depend on a promise or an expectation of obligations

E) Serving as a supplement to fighting

25) Which of the following is not one of the numerous purposes fulfilled by the law?

A) Providing order such that one can depend on a promise or an expectation of obligations

B) Serving as an alternative to fighting

C) Facilitating change without requiring a rational consideration of options

D) Encouraging social justice

E) Serving as a moral guide by indicating minimal expectations of citizens and organizations

26) Ordinances address all but which of the following business considerations?

A) Local taxes

B) Environmental standards

C) Zoning

D) Building codes

E) Federal taxes

27) Which of the following is *not* a purpose of the law as set forth in the text?

A) Encouraging taxation

B) Serving as a moral guide by indicating minimal expectations of citizens and organizations

C) Encouraging social justice

D) Guaranteeing personal freedoms

E) Providing order such that one can depend on a promise or an expectation of obligations

28) Which of the following is not a commonly recognized classification of the law?

A) National

B) Federal

C) International

D) Private

E) Philosophical

29) Which of the following involves disputes between private individuals or groups?

A) Public law

B) Private law

C) Governmental law

D) Public law and private law, but not governmental law

E) Public law, private law, and governmental law

30) Which of the following involves disputes between private individuals or groups and their government?

A) Public law

B) Private law

C) Governmental law

D) Public law and private law, but not governmental law

E) Public law, private law, and governmental law

31) Which of the following involves remedies available to an individual when his or her rights are violated?

A) Civil law

B) Criminal law

C) Procedural law

D) Civil law and procedural law, but not criminal law

E) Civil law, criminal law, and procedural law

32) If someone commits an act against the public, he or she will be violating what type of law?

A) Civil law

B) Criminal law

C) Procedural law

D) Civil law and procedural law, but not criminal law

E) Civil law, criminal law, and procedural law

33) In 2009, Mississippi Valley Silica Company was ordered to pay a plaintiff $9 million because the court ruled that it sold sand to the plaintiff's employer with the knowledge that using the sand on a regular basis would expose a worker to a form of cancer, and Mississippi Valley did not alert those who bought the sand about the risk. The $9 million recovery is an example of a \_\_\_\_\_\_\_\_.

A) frivolous lawsuit

B) jury nullification

C) public law remedy

D) civil law remedy

E) criminal law remedy

34) A majority of citizens in a democracy can agree to 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 \_\_\_\_\_\_\_\_.

A) the electoral college

B) good faith and fair dealing

C) *respondeat superior*

D) *stare decisis*

E) the law

35) Assume a businessperson who owns a computer equipment store is delinquent in paying rent to the landlord. The resulting dispute involves \_\_\_\_\_\_\_\_.

A) public law

B) federal law

C) the Uniform Contracts Code

D) private law

E) equity

36) If a computer store dumps waste behind its building in violation of local, state, or federal environmental regulations, the resulting dispute focuses on \_\_\_\_\_\_\_\_ law.

A) public

B) preferential

C) consensual

D) private

E) black letter

37) Which type of law involves the rights and responsibilities involved in relationships between persons, and between persons and their government?

A) Criminal

B) Procedural

C) Civil

D) Natural

E) Positive

38) Crimes are prosecuted by:

A) Only injured individuals

B) Any interested person, whether injured or not

C) State governments only

D) The federal government only

E) The state or federal government

39) Assume a restaurant chain is forced to pay damages to a person who suffered food poisoning after eating at the restaurant. What type of law is involved?

A) Public law only

B) Private law only

C) Civil law only

D) Public, private, and civil law

E) Private law and civil law

40) Assume the Securities and Exchange Commission (SEC) prosecutes someone for insider trading. That prosecution is an example of \_\_\_\_\_\_\_\_.

A) criminal law

B) procedural law

C) civil law

D) natural law

E) adherence to the Uniform Criminal Code

41) The \_\_\_\_\_\_\_\_ is the supreme law of the land.

A) United States Constitution

B) Declaration of Independence

C) U.S. Code

D) International Contracts Code

E) Uniform Commercial Code

42) The United States Constitution and \_\_\_\_\_\_\_\_ establish the fundamental principles and rules by which the United States and the several states are governed.

A) the administrative rules

B) the procedural rules

C) the constitution of each state

D) the bylaws of each state

E) both the procedural rules and the bylaws of each state

43) The laws put forth by the legislative branch are referred to as:

A) Administrative Codes

B) Statutes

C) Uniform Rules

D) Executive Orders

E) Secondary Laws

44) Legislative acts passed by state legislatures can be found in \_\_\_\_\_\_\_\_.

A) the United States Code

B) state codes

C) the Uniform Register

D) the State Reporter

E) the State Reference Manual

45) Legislative acts passed by the United States Congress can be found in the \_\_\_\_\_\_\_\_.

A) U.S.Code

B) various state codes

C) Uniform Register

D) Uniform Contracts Code

E) Restatement (Second) of Statutory Law

46) Which of the following is a term used to refer to laws that are contained in one convenient location?

A) Area laws

B) Codes

C) Classifications

D) Filings

E) Reports

47) What are local legislative laws called?

A) Area laws

B) Ordinances

C) Classifications

D) Filings

E) Reports

48) The National Conference of Commissioners on Uniform State Laws (NCC) was an important source of the \_\_\_\_\_\_\_\_.

A) Uniform Contracts Code

B) International Criminal Court

C) Uniform Commercial Code

D) Uniform Criminal Code

E) International Commercial Code

49) When the organization in charge of proposing uniform laws proposes a statute, which of the following is true?

A) All states must adopt the uniform statute within one year.

B) All states must adopt the uniform statute within six months.

C) The uniform statute automatically goes into effect without any action by state legislatures.

D) A state legislature is not required to adopt the uniform statute, but if the state legislature decides to go forward with adoption, all portions of the statute must be adopted.

E) A state legislature can ignore the proposed uniform law, adopt it in full, or adopt it in part.

50) An alternative name for case law is \_\_\_\_\_\_\_\_.

A) common law

B) statutory law

C) constitutional law

D) equity

E) ethics

51) The term \_\_\_\_\_\_\_\_ involves the use of past decisions to guide future decisions.

A) *res ipsa loquitur*

B) precedent

C) restatement

D) *respondeat superior*

E) *certiorari*

52) The \_\_\_\_\_\_\_\_ is a significant body of law for business activities. It includes sales laws and other regulations affecting commerce, such as bank deposits and collections, title documents, and warranties.

A) Federal Business Code

B) Model Business Code

C) Uniform Contracts Code

D) Uniform Commercial Code

E) International Commercial Code

53) When courts rely on precedent, they are obeying \_\_\_\_\_\_\_\_.

A) legislative stasis

B) *res judicata*

C) *stare decisis*

D) *in rem*jurisdiction

E) federal law

54) A case that has been used in accordance with *stare decisis* as a binding precedent is \_\_\_\_\_\_\_\_, which abolished discriminatory policies for individuals of different racial backgrounds.

A) *Curtis v. School Board*

B) *Laughlin v. Glover*

C) *Grover v. BreeBee*

D) *Brown v. Board of Education*

E) *Story v. Price*

55) In which of the following cases did the U.S. Supreme Court rely on precedent to strike down a school's admissions policy that reserved slots for members of minority races?

A) *Story v. Price*

B) *Brown v. Board of Education*

C) *University of California v. Bakke*

D) *Grover v. University of Mississippi*

E) *Adkins v. Price*

56) Which of the following are summaries of common law rules in a particular area of the law that have been enacted by most states?

A) Restatements of the Law

B) Codifications of the Law

C) Reporters

D) Reports of the Law

E) Codes of Reporters

57) Which of the following is an example of an independent federal administrative agency?

A) The Consumer Product Safety Commission

B) The Occupational Safety and Health Administration

C) The Small Business Administration

D) The National Science Foundation

E) The Veteran's Administration

58) Which of the following is true regarding administrative agencies?

A) There are state administrative agencies, but no federal administrative agencies.

B) There are federal administrative agencies, but no state administrative agencies.

C) There are state and federal administrative agencies, but no local administrative agencies.

D) Administrative agencies exist only at the local county level.

E) Administrative agencies exist at the federal, state, and local level.

59) \_\_\_\_\_\_\_\_ are summaries of the common law rules in a particular area of the law that have been enacted by most states.

A) Appellate briefs

B) Amicus briefs

C) Statutes

D) Codifications

E) Restatements

60) Which of the following is true regarding treaties at the federal level?

A) A treaty is generally negotiated by the executive branch and must then be approved by two-thirds of the Senate.

B) A treaty is generally negotiated by the executive branch and must then be approved by two-thirds of the House of Representatives.

C) A treaty is generally negotiated by the executive branch and must then be approved by two-thirds of the Senate and two-thirds of the House of Representatives.

D) A treaty is generally negotiated by the executive branch and no approval by the Senate or House of Representatives is required.

E) A treaty is generally negotiated by the executive branch and must then be approved by two-thirds of the Senate and two-thirds of the state legislatures.

61) The cost-benefit analysis approach to legal change is tied closely to the pursuit of \_\_\_\_\_\_\_\_.

A) fairness

B) efficiency

C) equity

D) self-actualization

E) legal realism

62) One of the most often-used guidelines for shaping the law is tradition, or custom, which is also called \_\_\_\_\_\_\_\_.

A) the historical school

B) legal realism

C) cost-benefit analysis

D) identification with the vulnerable

E) none of these

63) In which school of jurisprudence is the concept of *stare decisis* rooted?

A) The historical school

B) Legal realism

C) Cost-benefit analysis

D) Legal positivism

E) Cultural retrenchment

64) Laws that help establish the conditions of trade between countries are:

A) The Uniform Commercial Code and the U.S. Constitution

B) Executive Orders and Administrative Codes

C) The North American Free Trade Agreement and the Bill of Rights

D) The North American Free Trade Agreement and the General Agreement on Tariffs and Trade

E) The General Agreement on Tariffs and Trade and the Uniform Commercial Code

65) Comparative law:

A) Compares and studies the laws in different countries.

B) Compares and studies state constitutions.

C) Compares and studies executive orders.

D) Compares and studies laws of federal administrative agencies.

E) Compares and studies laws of the European Union.

66) Candy wants to start an Internet business. The Chinese government tells her that certain items on her site are objectionable and illegal, and that if she wants to do business in China, she must remove the objectionable material. Which of the following is true?

A) Candy is within her rights and should stand her ground. She is a U.S. citizen, and so long as she obeys U.S. laws, she can do business in China.

B) Candy is within her rights only if she petitioned her state senator and obtained his or her permission to proceed.

C) If Candy wants to do business in China, she must abide by Chinese law.

D) By international law, there is a set fee of $10,000 that Candy can pay if she wants to obey only U.S. law. If she pays that amount, she can continue in China without any modification.

E) By international law, there is a set fee of $5,000 that Candy can pay if she wants to obey only U.S. law. If she pays that amount, she can continue in China without any modification.

67) The Stolen Book. Betty tells Susan that Bob stole her business law book from her car. The next day Susan confronts Bob and slaps him for stealing her book. Bob has Susan arrested for slapping him. Susan sues Bob for damages in the amount of the book and for maliciously having her arrested. Claiming that she lied, Bob sues Betty for defamation. The lawsuit Susan has against Bob for damages for stealing her book involves which of the following?

A) Public law

B) Private law

C) Administrative law

D) Both public and private law

E) Comprehensive law

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A) Public law

B) Private law

C) Administrative law

D) Both public and private law

E) Comprehensive law

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A) Criminal law

B) Civil law

C) Insider law

D) Both criminal and civil law

E) Administrative law

70) The Stolen Book. Betty tells Susan that Bob stole her business law book from her car. The next day Susan confronts Bob and slaps him for stealing her book. Bob has Susan arrested for slapping him. Susan sues Bob for damages in the amount of the book and for maliciously having her arrested. Claiming that she lied, Bob sues Betty for defamation. Bob is anxious to see Susan punished for slapping him. Which of the following is true regarding action Bob can take?

A) Bob can hire his own lawyer to prosecute Susan and send her to jail but cannot bring a civil action if he prosecutes criminally.

B) Bob's privately retained lawyer may not prosecute Susan alone but may insist on jointly trying the criminal case with the government lawyer.

C) Bob can bring an additional civil action against Susan for slapping him only if he loses the criminal case.

D) Bob can hire his own lawyer to prosecute Susan and send her to jail, and Bob can also bring an additional civil action against Susan for slapping him.

E) Bob's privately retained lawyer may not prosecute Susan because that is the government's job, but the privately retained lawyer can bring a civil action against Susan.

71) To the Dogs. Alice loves all animals and is starting a new grooming business for dogs. She believes that animals are very important and plans to exceed any applicable regulations regarding cleanliness and health standards. Alice thinks some local regulations make no sense. For example, there is a local ordinance that all dogs must be kept on a leash at all times when not in a fenced area. Although Alice lives on a large lot with plenty of room for dogs to run free, she plans to obey the leash regulation and all others. She is aware, however, that members of the community have had success in changing local regulations by petitioning the city council. Alice plans to proceed in that manner to attempt a change in the leash law. Alice's plan to seek change through following what others have done in the past by petitioning city council is rooted in which of the following?

A) Legal positivism

B) The historical school

C) Legal realism

D) Natural law

E) Cost-benefit analysis

72) International Expansion. Zach wants to expand his coffee business internationally - into Zeno, a small remote country in Africa. His best friend Zora asks him if he plans to hire legal counsel for the expansion. Zach replies, "Of course not. The U.S. has the strictest laws regarding contracts, employment, and business practices. So long as I'm legal here, I'm legal anywhere. Besides, I studied up on Zeno law ten years ago, and I know it all." Zach proceeds and lands in jail in the remote country of Zeno for violating recently passed laws protecting employees and mandating certain benefits. Authorities there claim that he sexually harassed an employee, failed to pay sufficient wages, and failed to give employees Zeno's mandated 12 weeks of vacation per year.

The type of law involved in comparing laws between the U.S. and Zeno is \_\_\_\_\_\_\_\_.

A) comparative law

B) contributory law

C) comprehensive law

D) complete law

E) delineated law

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Which of the following is true regarding Zach's legal problems in Zeno?

A) Zach can rely upon the federal statutory laws of the U.S. as a defense but not his U.S. Constitutional rights.

B) Zach is entitled to all U.S. Constitutional rights in Zeno because he is a U.S. citizen, but he cannot rely on U.S. statutory rights.

C) Zach can rely upon the federal statutory laws of the U.S. as a defense, and he is also entitled to all U.S. Constitutional rights in Zeno because he is a U.S. citizen.

D) Zach must obey the laws of Zeno when operating a business in Zeno and cannot rely upon U.S. laws as a defense.

E) Zach is subject to civil laws but not criminal laws of Zeno.

74) International Expansion. Zach wants to expand his coffee business internationally - into Zeno, a small remote country in Africa. His best friend Zora asks him if he plans to hire legal counsel for the expansion. Zach replies, "Of course not. The U.S. has the strictest laws regarding contracts, employment, and business practices. So long as I'm legal here, I'm legal anywhere. Besides, I studied up on Zeno law ten years ago, and I know it all." Zach proceeds and lands in jail in the remote country of Zeno for violating recently passed laws protecting employees and mandating certain benefits. Authorities there claim that he sexually harassed an employee, failed to pay sufficient wages, and failed to give employees Zeno's mandated 12 weeks of vacation per year.

Which of the following is true regarding Zach's defense that he thought he knew the law of Zeno because he had studied it some years before and that the laws under which he was arrested were new?

A) Rules in international business change frequently, and Zach had a duty to stay current. It is not a defense that he studied the law at one time and that the laws at issue were new.

B) Zach is entitled to rely as a defense on the fact that he had studied the law at one time. Officials in Zeno were charged with publicizing any changes.

C) If Zach can prove that the laws at issue were passed within the last twelve months before he was arrested, he will get out of jail because under international law, there is a twelve month grace period for foreigners.

D) If Zach can prove that the laws at issue were passed within the last six months before he was arrested, he will get out of jail because under international law, there is a six-month grace period for foreigners.

E) Zach cannot be prosecuted so long as he was not aware he was violating the law. He did not have the requisite intent to perform a criminal act regardless of whether the laws were new.

75) Inattentive Driving. While cutting class and driving off campus to check on her new dress for the upcoming formal, Molly, a busy college student, is busy talking on her cell phone with her friend Sharon. Molly is trying to talk Sharon into going to the dance with her brother, who has a big crush on Sharon. Unfortunately for Molly, there is a statute in her state outlawing talking on a cell phone while operating a motor vehicle. Molly crashes into the side of Sam's new convertible when she looks down to pick up a can of soda she just dropped onto her new jeans. A police officer just down the street comes over to investigate. Molly explains to him that it was difficult to hold the cell phone in one hand, the soda in the other, and also drive. The officer was not impressed. Around that time Sam comes along. He is furious regarding the significant dent in his new car. Molly says she has insurance and that she will cover the whole incident. Sam says that is insufficient. The officer is annoyed because it is his lunch break. He tells Molly that she must obey the law and proceeds to write several citations to her. Which type or types of law is or are involved in the above situation considering Molly's interaction with both the officer and Sam?

A) Public law only

B) Private law only

C) Civil law and private law only

D) Criminal law and public law only

E) Public law, private law, civil law, and criminal law

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A) Molly can be given a ticket and prosecuted criminally by government officials, but she may not be sued for a civil violation.

B) Molly can be sued for a civil action and must pay for Sam's car, but she cannot be prosecuted for a criminal violation.

C) Molly can be sued in a civil action by Sam, and the government can also prosecute her for a criminal violation.

D) So long as Molly has insurance and can pay for Sam's vehicle damage, she cannot be prosecuted in a civil or criminal action.

E) Sam can prosecute Molly in a criminal action, but he cannot sue her in a civil action.

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A) A statute

B) A type of common law

C) An executive order

D) A uniform law

E) A negative law

78) List the purposes of the law and discuss why these purposes are necessary for an ordered society.

79) Define "*stare decisis,*" discuss when it occurs in the legal system, and explain why *stare decisis* is important to businesses and individuals.

80) Explain in what ways a treaty between a foreign country and the United States is similar to a contract.

81) Explain the function of administrative agencies and why they are necessary. List five independent agencies and five executive agencies.

82) Judge Susie Justice, who is newly appointed to the bench, is presented with a question of law involving a cat named Chester who scratched a neighbor's antique jalopy. The neighbor, George, demands justice in the form of full payment from Chester's owner, Bill, and also requests that Chester be shipped to the local animal shelter. Bill says that he should not have to pay anything because Chester had never scratched before, that Chester should be allowed to stay in the neighborhood, and that he should be reimbursed for his legal fees by George who is a grump and never should have brought the lawsuit. Judge Justice is perplexed and wants to make a good decision since she is new to the bench. Describe how the judge should go about reaching a decision. Discuss in your answer the impact of cases from other jurisdictions assuming there is no relevant law in Judge Justice's jurisdiction. Also, assuming there is relevant law in this jurisdiction, discuss the applicable legal standard the judge should apply if she finds a relevant statute that conflicts with earlier case law.

83) Describe contrasts between the cost-benefit school of jurisprudence and the identification with the vulnerable school of jurisprudence.