

Business Law I
THE LEGAL ENVIRONMENT OF BUSINESS
Law and Legal Reasoning
(Chapter 1)

1. **Laws and government regulations affect almost all business activities.**
 - a. A single business decision is affected by many different areas of the law.
 - b. Example: MACY's
 - i. Contracts
 - ii. Sales
 - iii. Negotiable Instruments
 - iv. Creditor's Rights
 - v. Intellectual property
 - vi. Internet law, Social Media, Privacy
 - vii. Product liability
 - viii. Torts
 - ix. Agency
 - x. Business Organizations
 - xi. Environmental law
 - xii. Courts and court procedures
 - xiii. Real property and Leases
 - c. **CONSIDERATIONS – IDENTIFY ISSUES IN ADVANCE**
 - i. Generally no wrong answer
 - ii. **LEGAL REASONING (IRAC method)**
 - (1) **Issue** – What are the key facts and issues?
 - (2) **Rule** – What rules of law apply to the case?
 - (3) **Application/Analysis** – How do the rules of law apply to the particular facts and circumstances of this case?
 - (4) **Conclusion** – What conclusion should be drawn?
2. **Non-laws** – Norms, ethics affect almost all business activities, too.
 - a. Ethics – the principles governing what constitutes right or wrong behavior.
3. **Law** – Enforceable rules governing relationships among and between individuals and society.
 - a. Substantive – define, describe, regulate and create legal rights and obligations.

- b. Procedural – outline the methods of enforcing the rights established by substantive law
 - c. Civil – rights and duties between persons and the government
 - i. John Doe versus
 - d. Criminal – concerned with wrongs committed against the public
 - i. People versus
4. **Function of law** – To provide stability, predictability, continuity and accountability.
- i. Exs. - Traffic laws, theft, murder, etc.
 - ii. Business exs. - immigration violations, employment discrimination, insider trading, employment discrimination, etc.
5. **Sources of Law** – the levels of authority
- a. Constitutions
 - i. US – the supreme law of the land
 - (1) Supreme Court final venue
 - (2) No law may violate
 - ii. States
 - (1) Every state has one
 - (2) Supreme law of that state
 - (3) No state or local law can violate
 - b. Statutes – Enacted by Legislative bodies at any level of government.
 - i. Federal
 - (1) Created by Congress
 - (2) Published in Codes
 - (3) Affects all states
 - ii. State
 - (1) Created by State legislatures
 - (2) Affects only that particular State
 - iii. Municipalities
 - (1) Created by City/County Councils
 - (2) Generally called Ordinances
 - (3) Affects only local jurisdiction
 - iv. Uniform Law
 - (1) Example - UCC (Uniform Commercial Code)
 - (a) Adopted by all states and territories

- (b) Governs commercial transactions
- c. Regulations –
 - i. created by administrative agencies
 - (1) Government agency created to perform a specific function
 - (2) Highly specialized to be experts
 - (3) Coordinated at all levels for a regulatory, national scheme
 - ii. Found in CFR, COMAR
 - iii. Impact practically every element of business
 - (1) Examples
 - (a) FDA
 - (b) EPA
 - (c) EEOC
 - (d) SEC
 - (e) FTC
- d. Case law – PART OF THE COMMON LAW TRADITION
 - i. Interpretations of constitutional provisions, statutes and regulations
 - ii. Judge made law
 - iii. Emerges over time
 - iv. Issued as Opinions
 - v. Published in Reporters
 - (1) Published versus unpublished opinions
 - vi. Cases of first impression
 - vii. Precedent - a decision that furnishes an example or authority for deciding subsequent cases involving the same or similar legal principles or facts.
 - (1) Controlling Precedents – These are binding authorities which is any source of law that a court must follow when deciding a case. They include constitutions, statutes, and regulations that govern the issue being decided.
 - (2) Departures from a Precedent – Courts may depart from a precedent if it decides that precedent should no longer be followed. For instance, if the court feels the ruling is incorrect, or technology or social change renders it inapplicable
 - viii. Stare Decisis - “to stand on decided cases.” - judges are obligated to follow the precedents established w/in their jurisdictions.

- (1) Provides consistency, efficiency, stability and predictability
- (2) A court should not overturn its own precedents *unless* there is compelling reason to do so.
- (3) Decisions made by a higher court are binding on lower courts
 - (a) Supreme Court decisions are controlling

ix. Overturn by:

- (a) Distinguishing the issues
- (b) Subsequent decision
- (c) Further legislation
- (d) Constitutional amendment

x. Citation – identifies the publication in which a legal authority can be found.

xi. PARTIES TO A CASE

- (1) Plaintiff (the party bringing the case) v. Defendant (the party whom the case is brought against).
- (2) Petitioner (the party appealing the case) v. Respondent (the party whom the appeal is taken).
- (3) Appellant (the party appealing the case) v. Appellee (the party whom the appeal is taken).
- (4) Judge and Justice usually has the same meaning.

xii. DECISIONS AND OPINIONS

- (1) Opinion – The explanations of decisions reached in court.
- (2) Unanimous decision – When all the judges agree.
- (3) Majority Opinion – The decision of the majority of judges hearing the matter is outlined.
- (4) Concurring Opinion – Written by a judge that agrees with result.
- (5) Dissenting Opinion – The views of judges who disagree with the majority view.
- (6) Plurality Opinion – This occurs when there is no single position fully supported by a majority of judges. This is the opinion that has the support of the largest number of judges.
- (7) Per Curiam Opinion – An opinion that does not indicate which judge wrote the opinion.

e. Common law

i. Historical laws

ii. English legal system - 1066

iii. Foundational

iv. Courts of law

- (i) Remedy for damages is money (economic compensation)

v. Courts of Equity

- (i) Founded on notions of justice and fair dealing

1. Maxims

(ii) Remedies

1. Specific performance
2. Injunction
3. Rescission

vi. Modern Courts combine both