Andersons Business Law and The Legal Environment Comprehensive 24th edition Twomey Solutions Manual

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Solution and Answer Guide

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Chapter 1: The Nature and Sources of Law

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Answers to the End-of-Chapter Questions

Questions and Case Problems

1. The Family Educational Rights and Privacy Act (FERPA) protects students' rights to keep their academic records private. What duties are imposed and upon whom because of this protection of rights? Discuss the relationship between rights and duties.

   Answer: *Privacy as a right*. The right is the student's and is one that allows students to have their grades remain private. The schools have a duty to ensure grades are not released to third parties without permission of the student.

2. List the sources of law.

   Answer: *Sources of law*. Statutory law such as ordinances, case law, precedent, common law, uniform state laws, constitutions, administrative regulations, treaties.

3. What is the difference between common law and statutory law?

   Answer: *Common law/sources of law*. Statutes are codified law; the common law evolves by case precedent and has existed in unwritten form since England in some areas of law.

4. Classify the following laws as substantive or procedural:

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a. A law that requires public schools to hold a hearing before a student is expelled.
b. A law that establishes a maximum interest rate for credit transactions of 24 percent.
c. A law that provides employee leave for the birth or adoption of a child for up to 12 weeks.
d. A law that requires the county assessor to send four notices of taxes due and owing before a lien can be filed (attached) to the property.

Answer: *Classifications of law.*

a. Procedural
b. Substantive
c. Substantive
d. Procedural

5. What do uniform laws accomplish? Why do states adopt them? Give an example of a uniform law.

Answer: *Uniform state laws*. Law is not uniform throughout the United States because of a historical accident: the United States was never a single nation. As of now, there are 50 state governments and a federal government within the area we call the United States. This means that 51 political bodies have the freedom to their own law (provided constitutional rights are not violated). As a practical matter, this has not resulted in 51 different sets of rules of law because the common law has tended to dominate the legal system of most communities. As stated in the text, the uniform laws have been a "nationalizing" force. It is likely that among areas that are truly "in business," there will be greater uniformity in the near future. In contrast, as to other matters where the need for uniformity is not as great, we can expect local variations in the law, encouraged by local economic and cultural differences. The Uniform Commercial Code and Uniform Partnership Act are examples of uniform laws.

6. Cindy Nathan is a student at West University. While she was at her 9:00 a.m. anthropology class, campus security entered her dorm room and searched all areas, including her closet and drawers. When Cindy returned to her room and discovered what had happened, she complained to the dorm's senior resident. The senior resident said that this was the university's property and that Cindy had no right of privacy. Do you agree with the senior resident's statement? Is there a right of privacy

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in a dorm room?

Answer: *Privacy.* Several issues should be raised:

a. Terms and conditions of dorm residency
b. Access issues and safety issues

There can be a right of privacy in a dorm room subject to disclosed university policies, processes and procedures. Just as landlords have access for emergencies, the university could have some limited access without breaching privacy.

7. Professor Lucas Phelps sent the following e-mail to Professor Marlin Jones: "I recently read the opinion piece you wrote for the *Sacramento Bee* on affirmative action. Your opinion is incorrect, your reasoning and analysis are poor, and I am embarrassed that you are a member of the faculty here at Cal State Yolinda." Professor Jones forwarded the note from Professor Phelps to the provost of the university and asked that Professor Phelps be disciplined for using the university e-mail system for harassment purposes. Professor Phelps objected when the provost contacted him: "He had no right to forward that e-mail to you. That was private correspondence. And you have no right of access to my e-mail. I have privacy rights." Do you agree with Professor Phelps? Was there a breach of privacy?

   Answer: *Privacy*. Professor Phelps is wrong. His musings on his employer's e-mail system are not private. There is no expectation of privacy and anything written can be reviewed by his employer.

8. Under what circumstances would a court disregard precedent?

   Answer: *Precedent*. Courts could disregard precedent when facts differ, circumstances change and social mores differ. Cases are examined for similarities as well as distinguishing factors. Courts don't follow precedent when differences exist.

9. What is the difference between a statute and an administrative regulation?

   Answer: *Sources of law*. A statute is passed by an elected body. A regulation is passed by an administrative agency. An administrative regulation is one passed by a federal or state agency. Its procedures for adoption are different from a statute which is a

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law enacted by Congress, a state legislature or a city or county governing body. Statutes are generally passed by elected officials whereas regulations are the actions of appointed officials who are government employees. Administrative regulations must be grounded in statutory authority.

10. The Eminem ad for Chrysler that ran during the Super Bowl in February 2011 was rated as one of the best ads for the game. In May 2011, Audi ran an ad at a German auto show that had the "feel" of the Eminem Chrysler "Lose Yourself" ad. Subsequently, the German auto show ad made its way onto the Internet. The German ad caught the attention of Eminem and 8 Mile, Eminem's publishing company. They notified Audi that the ad constituted an unauthorized use of their intellectual property. Explain what rights Eminem and 8 Mile have and how the courts can help.

    Answer: *Law and equity*. Equitable remedies suitable here; an injunction to stop the ad from being run. Legal remedies include money damages for use of Eminem's image. Now courts can award either legal or equitable remedies.

    Eminem and 8 Mile obtained an injunction against Audi—the company was prohibited from running the ad because of a likelihood of confusion and the continuing problem of use of an image or likeness without permission. Emphasize that only equitable remedies help Eminem and 8 Mile—damages cannot recoup for the continuing use.

11. Arizona Revised Statute § 28-8336 establishes a license tax for "a nonresident whose aircraft is based in this state for more than ninety days but less than two hundred ten days in a calendar year." The Arizona Department of Transportation defined a day (for purposes of taxes and licensing) as any day when the plane's tires are on the ground in Arizona, even if those tires were there for only part of a day. The taxpayer says that what counts should be whether the plane was on the ground for a full day. What will the court look at to determine the definition of a day? *BSI Holdings, LLC v. Arizona Department of Transportation,* 417 P.3d 782.

    Answer: *Laws and precedent.* The court looked at how the term day is defined for other tax issues, in computing legal deadlines, in residency questions to make the determination and concluded that an aircraft does not lose its base in the state simply by leaving for part of a day, nor does it acquire a state base merely by briefly

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touching down in the state. *BSI Holdings, LLC v. Arizona Department of Transportation,* 417 P. 3d 782 (Az. 2018).

12. What is the principle of stare decisis?

    Answer: *Common law. Stare decisis* is "Let the decision stand" or following case precedent.

13. Explain how Twitter, Facebook, and LinkedIn have resulted in the development of new laws and precedent.

    Answer: *Law and precedent.* The social media have resulted in many new laws (cyberbullying) as well as case law on issues such as whether Google, Yahoo, etc., must reveal identities. Throughout the remaining chapters you will study examples of issues evolving and precedent being set.

    These forms of social media have expanded greatly how widespread personal information is available to many we would not necessarily voluntarily give it to. So, for example, when you are authorized as someone's friend, you can click on the Facebook sites of their friends and obtain information without them realizing that so many have such access. Employers can gain information through a Google search and social media sites that you might not volunteer. As a result, laws have developed to require elections on privacy controls for these sites. Other laws have developed to provide access to information about who is posting what on certain sites when criminal activity results.

14. During the 2001 baseball season, San Francisco Giants player Barry Bonds hit 73 home runs, a new record that broke the one set by Mark McGwire in 2000 (72 home runs). When Mr. Bonds hit his record-breaking home run, the ball went into the so-called cheap seats. Alex Popov was sitting in those seats and had brought along his baseball glove for purposes of catching any hits that might come into the stands. Everyone sitting in the area agreed that Mr. Popov's glove touched Bonds's home-run ball. Videotape also shows Mr. Popov's glove on the ball. However, the ball dropped and, following a melee among the cheap-seat fans, Patrick Hayashi ended up with Bonds's home-run ball. Mr. Popov filed suit for the ball, claiming it as his property. Such baseballs can be very valuable. The baseball from Mr. McGwire's record-

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breaking home run in 2000 sold for $3 million. List those areas of law that will apply as the case is tried and the owner of the baseball is determined.

Answer: *Sources of law*. In this example, the court making the decision will be required to draw on any property law (personal) in the state as well as the common law on property ownership. There may also be some ordinances that cover sporting events or finding property. If there are intellectual property rights in the baseball, then federal law will apply. The areas of law that would govern would include state laws, statutes and case precedent on the transfer of property rights. There might also be some ordinances that would govern conduct and rights at public events such as a baseball game as well as rights on lost property.

15. Alma Alvarado has just started her own tax preparation firm. She has leased office space in a building, and she is incorporating her business as a Subchapter S corporation under the Internal Revenue Code. She has purchased desks, chairs, computers, and copiers from Staples through a line of credit they have established for her. Alma is a CPA in the state of Arizona and her license fees and continuing education hours are due within 90 days. Alma will begin with only a clerical person as an employee to serve as receptionist and bookkeeper. List all of the areas of the law that affect Alma in her new business. 63744_

Answer: *Types of laws.* The areas of law are private law (for her lease); state law for her CPA license renewal and incorporation; federal laws (Internal Revenue Code) for the knowledge and information for preparing the tax returns, state and federal employment law will apply to her relationship with her employee—wages, overtime, workers' compensation, unemployment compensation, equality in the workplace, etc. That relationship will also have private law as Alma develops office rules and procedures. Local law applies to any use of the buildings and safety codes for the office and building. Credit and contract law (UCC and federal credit regulations) will apply to the contracts and purchases with Staples.

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