Legal Environment of Business 14th edition Meiners Solutions Manual

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Solution and Answer Guide

Meiners, The Legal Environment of Business, 14e, 9780357451724; Chapter 1: Today's Business Environment: Law and Ethics

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Answer to Discussion Question

Should the common law maxim "Ignorance of the law is no excuse" apply to an immigrant who speaks little English and was not educated in the United States? How about for a tourist who does not speak English? Everyone knows criminal acts are prohibited, but what about subtler rules that differ across countries and so may be misunderstood by foreigners?

Answer: It is generally true that ignorance of the law is no excuse. Citizens are deemed to have constructive knowledge of the law. Yet, as well known as this rule is, it is surprising how often it is proffered as an excuse. (A Westlaw search cases finds hundreds of examples). Examples include: *Deluco v. Dezi* (Conn. Super) (lack of knowledge regarding the state's usury laws is no excuse for the inclusion of an illegal interest rate in a sales contract); and *Plumlee v. Paddock* (ignorance of the fact that the subject matter of the contract was illegal was not excuse). The courts have provided a small exception to the rule when it comes to people in lack of English language skills. Consider *Flanery v. Kuska,* (defendant did not speak English was advised by a friend that an answer to a complaint was not required); *Ramon v. Dept. of Transportation,* (no English and an inability to understand the law required for an excuse); *Yurechko v. County of Allegheny,* (Ignorance and with the fact that the municipality suffered no hardship in late lawsuit filing was an excuse).

Answers to Case Questions

1. *Facts from an English judge's decision in 1884: "The crew of an English yacht . . . were cast away in a storm on the high seas . . . and were compelled to put into an open boat. . . . They had no supply of water and no supply of food. . . . That on the eighteenth day . . . they . . . suggested that one should be sacrificed to save the rest. . . . That next day . . . they . . . went to the boy . . . put a knife into his throat and killed him . . . the three men fed upon the body . . . of the boy for four days; [then] the boat was picked up by a passing vessel, and [they] were rescued. . . . and committed for trial. . . . if the men had not fed upon the body of the boy they would probably not have survived to be so picked up and rescued, but would . . . have died of famine. The boy, being in a much weaker condition, was likely to have died before them. . . . The real question in this case [is] whether killing under the conditions set*

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*forth . . . be or be not murder." Do you consider the acts to be immoral? [*Regina *v.* Dudley and Stephens*, 14 Queens Bench Division 273 (1884)]*

Answer: This points out that the legal system has limits. Its acceptability is dictated by legal culture--which determines whether law will be enforced, obeyed, avoided, or abused. It is limited by the informal rules of the society--its customs and values. One limit is the extent to which society will allow the formal rules to be imposed when a crime is committed in odd circumstances. Here there was an intentional murder. Does the motive for the murder, the effort to save several lives by sacrificing one life, make it a crime that should be punished? Not all crimes are treated the same. It also raises questions about the desirability of not giving judges flexibility in sentencing.

There was a precedent for a light sentence in this case in U.S. law: *U.S. v. Holmes,* 20 F. Cas. 360 (No. 15383) (C.C.E.D. Pa. 1842). The case involved a sinking ocean liner. Several passengers made it to the only lifeboat, which was far too overcrowded. The captain decided to save the women and children and threw several men overboard. The lifeboat was rescued. The grand jury refused to indict the captain from murder, only for manslaughter. He got a six month sentence.

The British judge in the case here imposed the death penalty upon the person who survived. The judge found it difficult to rule that every man on board had the right to make law by his own hand. The Crown reduced the sentence to six months.

2. *Smoking is a serious health hazard. Cigarettes are legal. Should cigarette manufacturers be liable for the serious illnesses and untimely deaths caused by their unavoidably dangerous products, even though they post a warning on the package and consumers voluntarily assume the health risks by smoking? [*Cipollone *v.* Liggett Group, Inc.*, 505 U.S. 504 (1992)]*

Answer: The general rule that exists now is that since the government has ordered the posting of warning labels on cigarettes, and since the dangers of smoking are well known, consumers have been warned and are not due compensation if they kill themselves by smoking. The *Cippoline* case, since reviewed by the Supreme Court, appears to be of limited impact since the victim was adjudged to have become addicted to cigarettes before the warning label was ordered in 1964. If cigarette makers were held responsible for all health problems associated with cigarettes, then, like alcohol and other dangerous products, the damages would likely be so high it would effectively ban the products. Presumably, in a free society if adults are clearly informed of the risks of products that cannot be made safe, they accept the risk. Tobacco and alcohol producers cannot take the dangers out of the products except at the margin by encouraging responsible drinking and the like. Are drugs like cocaine different?

3. *Two eight-year-old boys were seriously injured when riding Honda mini-trail bikes. The boys were riding on public streets, ran a stop sign, and were hit by a truck. The bikes had clear warning labels on the front stating they were only for off-road use. The manual stated the bikes were not to be used on public streets. The parents sued Honda. The supreme court of Washington said one basic issue existed: "Is a manufacturer liable when children are injured while riding one of its mini-trail bikes on a public road in violation of manufacturer and parental warnings?" Is it unethical to make products like mini-trail bikes children will use when we know accidents like this will happen? [*Baughn *v.* Honda Motor Co.*, 727 P.2d 655 Sup. Ct, Wash., (1986)]*

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Answer: The court found no liability for the manufacturers. There was no defect; the product was safe for intended use. Safety instructions were clear; the parents let the boys ride the bikes. Anything can be dangerous--baseballs are dangerous when they hit the head, swings are dangerous when kids jump out of them; there is only so much that can be done to make the government the "national nanny" as the *Washington Post* once said about excessive consumer protection. Parents must accept a high degree of responsible for their own children.

4. *Johnson Controls adopted a "fetal protection policy" that women of childbearing age could not work in the battery-making division of the company. Exposure to lead in the battery operation could cause harm to unborn babies. The company was concerned about possible legal liability for injury suffered by babies of mothers who had worked in the battery division. The Supreme Court held the company policy was illegal. It was an "excuse for denying women equal employment opportunities." Is the Court forcing the company to be unethical by allowing pregnant women who ignore the warnings to expose their babies to the lead? [*United Auto Workers *v.* Johnson Controls*, 499 U.S. 187 (1991)]*

Answer: The Court held it a form of sex discrimination to prevent women of child-bearing age from holding the more dangerous jobs. The company argued that it did this to protect itself from possible liability in case of damage to babies and that the decision was ethical. The replacements for these workers were often men or more senior women, who tended to be higher income workers, so this was not a current cost-saving move. Note that a 2002 ruling related to the ADA significantly restricted this earlier case.

5. *McGrory worked for Applied Signal Technology in a supervisory position. He was accused of violating the company's policies on sexual harassment. An internal investigation determined he did not violate the policy but that he was evasive and violated the company's personal ethics code. He was fired and sued for wrongful termination, contending that if he did not violate sexual harassment rules he should not have been subject to termination. Do standards of law and ethics need to be the same for an employer? [*McGrory *v.* Applied Signal Technology*, 152 Cal.Rptr.3d 154 (2013)]*

Answer: The appeals court affirmed that the employer had the right to terminate the employee for failure to be fully cooperative in the investigation of the complaint of sexual harassment that had been filed against him. While he was not found to have violated the harassment policy, he was evasive and uncooperative, which violated the company's code of ethics, which was a justification for termination.

6. *Baker works as a document clerk for the Minnesota Supreme Court. After she had worked there for 13 years the Minnesota judicial branch adopted a policy concerning proper Internet use and stated that employees must adhere to the highest ethical standards when using the Internet. Eleven years later, she was fired for excessive surfing on the Internet during working hours. She contended she did not know about the policy. Is that an adequate defense for her? [*Baker *v.* Minnesota Supreme Court*, 2016 WL 102513 (2016)]*

Answer: The Minnesota high court held that Baker's termination was proper. She violated standards expected of employees. She had been warned about excessive personal Internet use during work time, including buying and selling goods for a little business she ran. The claim that she did not know about the ethics of Internet use was not credible as the policy was posted for all employees who received e-mails about any changes to the policy. The fact that the term "ethical" was used in the policy does not likely impact this decision.

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Answers to Ethics and Social Questions

1. *The federal tax code is riddled with special-interest loopholes. Most of these exist because firms and trade associations lobby Congress and provide campaign support to members of Congress to gain special favors to individual firms or industries. Is it ethical for firms to seek special privilege?*

Answer: The nature of our political system forces firms to participate in the political process. Those that fail to do so, if they are of any size, are more likely to be subject to political attack. In a sense, firms "buy" protection by keeping a flow of contributions going, especially to incumbent members of Congress. Competition also means that if a firm does not lobby for special privilege, then it may suffer if competitors achieve such status in the tax code or some area of regulation. Many business leaders do not much care for the Washington, D.C. operations their firms support but know that it is a part of the modern legal environment of business.

2. *"Fair trade" goods have become popular, as some people are willing to pay more to know the goods come from workers paid a decent price for their efforts. However, some retailers who sell fair trade goods mark them up substantially more than nonfair trade goods. One study showed that coffee growers got an average of 44 cents a pound more for fair trade coffee, but the coffee at retail was marked up an additional $3.46 per pound. At one supermarket chain, fair trade bananas that cost an extra 3.6 cents per pound were marked up four times the price of non-fair trade bananas. Fair trade goods are claimed to be a form of social responsibility. Is that true if it just means higher profit margins?*

Answer: The high mark up suppresses the demand for fair trade goods, thereby reducing the market for fair trade goods. If the retail prices reflected the actual additional cost, not the profit maximizing price to the retailer that exploits the goodwill from "fair trade," then it is hard to argue that the company is being particularly socially responsible.

3. *A chemical company located a new plant in a depressed area with high unemployment in West Virginia. It built a state-of-the-art plant that had the latest pollution control technology meeting all EPA requirements. It created 2,500 jobs. The company was attacked for polluting a previously pristine area. Had the plant been built in an industrial area, such as the coast near Houston, no one would have been likely to complain. Was the company socially irresponsible for building the plant in such an area?*

Answer: The company was in a no-win situation. It was attacked by environmentalists and some locals for "destroying" the environment, even though the pollution was acceptable. When the company later stated it would close the plant, which as not profitable, it came under fire for destroying jobs. It eventually upgraded the plant and kept it open, but it was never a profitable operation. The plant should probably not have been built in such a remote location, as that made it a target. Built in a higher-density area and there would have been fewer issues as the environmental impact on an existing industrial area would have been small. Corporate social responsibility can involve difficult tradeoffs that do not always allow a win-win result.

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4. *Discussion of ethics issues focuses on company examples. What personal ethics matter? Surveys indicate that many students have cheated in classes one way or another, pad their resumes when seeking jobs, and have improperly downloaded copyrighted music. Does ethics "begin at home"?*

Answer: If ethics is to be theoretical or applied only in formal situations, then it means little in practice.

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Instructor Manual

Meiners, Legal Environment of Business, 14ed, 9780357451724; Chapter 01: Today's Business Environment: Law and Ethics

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Purpose and Perspective of the Chapter

The purpose of this chapter is to establish a foundation for the course, by introducing key terminology and concepts that students will used through the book.

Cengage Supplements

The following product-level supplements provide additional information that may help you in preparing your course. They are available in the Instructor Resource Center.

- PowerPoint Deck

Chapter Objectives

The following objectives are addressed in this chapter:

1. Describe the basic functions of law
2. Distinguish between law and ethics
3. Describe sources and classifications of law
4. Explain the principle of *stare decisis*

Key Terms

Law - enforceable rules of conduct set forth by a government to be followed by the citizens of the society.
Constitution - the fundamental law of a nation; a written document establishing the powers of the government and its basic structure; the controlling authority over all other law.
Common law - law developed by American and English courts by decisions in cases. Unlike statutes, it is not passed by a legislative body and is not a specific set of rules; rather, it must be interpreted from the many decisions that have been written over time.
Case - a dispute between two or more parties that is resolved through the legal process.
Case reporters - books containing the decisions issued by federal and state courts in which judges provide the legal reasoning for decisions issued.
Precedent - a decision in a case that is used to guide decisions in later cases with similar fact situations.
***Stare decisis* -** the use of precedent by courts; the use of prior decisions to guide decision making in cases before the courts.
Executive orders - under powers granted by the Constitution, or by Congress in legislation, an order by the president to establish or enforce a legal requirement.
Public law - a classification of law, generally denoting laws that affect relationships between people and their governments.

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Private law - a classification of law, generally denoting laws that affect relationships between people.
Criminal law - governs or defines legal wrongs, or crimes, committed against society. Wrongdoers are punished for violating the rules of society. A person found guilty of a criminal offense is usually fined or imprisoned.
Felony - a serious class of crime—such as rape, murder, or robbery—that may be punishable by imprisonment in excess of one year or death.
Misdemeanor - a lesser crime that is neither a felony nor treason, punishable by a fine and/or imprisonment in other than state or federal penitentiaries.
Reasonable doubt - the belief that prevents one from being convinced of a defendant's guilt.
Civil law - (l) laws, written or unwritten, that specify the duties that exist between and among people, as opposed to criminal matters; or (2) codified or statutory law, used in many Western European countries and Japan, as distinguished from the common or judge-made law used in the United Kingdom and the United States.
Preponderance of the evidence - in civil trials, the burden of persuasion to win a verdict requires that the plaintiff prove its claim by having the majority or bulk of the evidence on its side.
Substantive law - law that defines the rights and duties of persons to each other, as opposed to procedural law, which is law that defines the manner in which rights and duties may be enforced.
Procedural law - the rules of the court system that deal with the manner in which lawsuits are initiated and go forward. Court systems generally have rules regarding pleadings, process, evidence, and practice.
Ethics - rules or standards governing the conduct of members of a profession and how such standards are put into action within an organization.
Integrity - living according to a moral code and standards of ethics.
Morality - concerns conformity to rules of correct conduct within the context of a society, religion, or other institution.
Compliance program - under the federal Sentencing Guidelines, a company that maintains a compliance program with regulations that apply to the company will be subject to less punishment in case of violations of the law than if there is no good-faith effort to have internal procedures to help ensure that the law is followed within the organization.
Corporate social responsibility - the belief that businesses have a duty to society that goes beyond obeying the law and maximizing profits.

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What's New in This Chapter

The following elements are improvements in this chapter from the previous edition:

- New chapter-opening scenario to help introduce how law and legal reasoning are a part of everyday business operations and decisions.
- Discussion of courts following precedent expanded.
- New Issue Spotter on ethics codes

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Chapter Outline

Managers face an increasingly complicated world. Law is a part of the environment and it grows ever more complex as it impacts on parts of business that saw little regulatory interference in years past. Managers must be aware of legal issues, just as they must know something about accounting, personnel management, and other parts of the business environment. Increasingly, ethical issues have come to the forefront and businesses are expected to handle matters with that in mind.

I. **LAW AND THE KEY FUNCTIONS OF THE LEGAL SYSTEM—**Many definitions can be given to law because it is a general concept. Holmes and Cardozo provide definitions that show that law is, generally, a set of rules that govern conduct that will be enforced by the courts. It includes formal rules, which include what we usually refer to as law, and informal rules that come from a society's culture and ethics.
   a. **Improving Social Stability by Influencing Behavior—**Law and the legal system define acceptable human behavior and provide a means for controlling unacceptable behavior. To encourage or discourage behavior the legal system needs some measure of "force"—the ability to threaten and impose sanctions including fines and imprisonment. What is the "public interest" varies a lot across countries. Selling dope in Amsterdam is legal; it may result in execution in other countries.
   b. **Conflict Resolution—**The law and the legal system provide a formal mechanism and structure for the resolution of disputes--the court system. Private and public disputes may be resolved within this formal structure of the legal system, which provides substantive and procedural rules for conflict resolution.
   c. **International Perspective: Emerging Nations and the Law**—Haiti, like other very poor countries, does not have an effective rule of law. The more corrupt a country, such as measured by Transparency International, the poorer it is likely to be. The Dominican Republic, which occupies the other half of the island Haiti is on, is less corrupt and much wealthier. How to instill an effective, accepted rule of law is not easy or well understood.

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d. **Social Stability and Change—**The law and the legal system must work to preserve society's values, customs, and traditions. The legal culture and its acceptance are important in explaining the extent to which laws are enforced, obeyed, avoided, or abused. The law and the legal system must provide a means through which the governing authority can bring about important changes in acceptable behavior. Racial discrimination used to be an accepted part of the law and culture; that has changed significantly in the last 40 years. The laws and attitudes about gay marriages are changing now.

II. **SOURCES OF LAW IN THE UNITED STATES**—Law in the U.S. comes from a mix of common, or judge-made law, and statutory law.

a. **Constitutions**—A constitution is a fundamental source of law. In most countries, it forms the most fundamental source of law dictating the structure of government and limits on governmental authority.

i. The U.S. Constitution—It is the oldest written constitution in force in the world, it establishes the branches of the US government and specifies their powers. See Appendix C for full text.

ii. State Constitutions—Specifies the structure of state governments, including their court systems, limits on taxes, and the powers of various authorities. It may not conflict with the U.S. Constitution.

b. **Legislatures and Statutes**—Legislatures are the key sources of statutory law. The powers of both Congress and the state legislatures are restricted by constitutions.

i. United States Congress—The Congress was created by the Constitution which specifies its various, including the powers to borrow money, declare war, and so forth. Thousands of bills are introduced each year; about 200 are actually voted upon.

ii. State Legislatures—State legislatures are bicameral (in two parts, typically a house and a senate) except Nebraska. As in Congress, bills go through a committee system prior to dual house passage and signature by governor. National Conference of Commissioners on Uniform State Laws provides text for state statutes, such as the UCC, UPA, and other laws commonly adopted in part or in whole.

c. **Administrative Agencies and Regulations**—Administrative agencies are typically created by legislatures or the executive branch of the government. Agencies are delegated authority to act on certain matters. As empowered under the applicable enabling statute, agencies pass regulations implementing the statute. Those regulations have the same legal authority as a law passed by a legislature. An agency may also have law enforcement authority.

d. **The Judiciary and Common Law—**Judge-made law or the common law dates to the colonial period, and was derived from English common law. English common law began with the establishment of the King's Courts (Curia Regis) after 1066. The

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King's Courts were an integral part of the William the Conqueror's efforts to unify England. They were supplemented by local courts and church courts. Important sources of law within the judicial branch of the government now includes (1) the judge-made common law and (2) the judicial review of agency administrative actions and activities.

i. Case Law—The King's Courts helped to develop and apply a common and uniform set of laws throughout the country. The decisions of the courts were written down (court reporters) and then were expected to be followed in subsequent disputes; precedent had been created. As now, judges look to other court decisions for guidance.
ii. Doctrine of Stare Decisis—The use of past cases (precedents) in deciding cases forms the doctrine of stare decisis. Precedent has nearly the same force as a statute; judges are expected to follow it.
iii. Value of Precedent—Stare decisis promotes several functions in our legal system:
    1. Clarity and Consistency—businesses can have reasonable expectations about the future enforcement of their agreements and the legal standards to be applied.
    2. Uniformity—encourages businesses to expand and foster economic activity when they are confident of the legal environment as it encompasses an economic activity.
    3. Neutralize Judicial Prejudices—serves to neutralize the prejudices of individual judges by pressuring them to follow precedent rather than their own personal biases and beliefs. Judges who do follow precedent will likely see their decisions overturned upon appeal.
iv. Changes in Law and Society—A distinct advantage of the common law is that it changes readily to reflect evolution in technology and social attitudes. The law adapted to the existence of e-mail, faxes, and other methods of communication that people wish to use.
v. Reporting Court Cases—The *Davis* case in the text shows how common law rules change with the times, as the Washington supreme court abandons a traditional liability rule. See Appendix B for a discussion of elements of a case and how presented in text.

e. ***CASE STUDY ACTIVITY: 5 MINUTES TOTAL: Davis v. Baugh Contractors—****Baugh did construction work for Glacier that included installing underground pipes that should have lasted many years. When a leak soon developed, Glacier dug down to see what the problem was. While an employee was investigating the leak, a wall in the construction area collapsed, killing Davis. Heirs sued Baugh for negligence. Traditional rule: Baugh, the contractor, was not liable once the property owner accepted the finished work, so suit dismissed. Decision: Washington State Supreme Court held that the old rule, the Completion and Acceptance Doctrine, is overturned. It is outmoded*

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and harmful. Under the modern approach, a contractor is liable for negligence in work that could be reasonably foreseen to cause injury if defective. Davis' heirs may sue Baugh. Questions: 1. The court rejected the common law rule concerning completion and acceptance that had been in effect until this decision (and ordered a new trial). What was the key reason for that decision? How does the new rule affect liability? Answer: The old rule had been abandoned by most states already. It was outmoded because the complexity of construction has increased such that it is much less likely that a buyer can look at construction and know of defects that may be hidden compared to when buildings were of a much more simple design. 2. A judge on the court dissented from the decision. Explaining his opposition to the decision of the majority, he said this change in the law should have been done by the legislature in a statute, not the court. What are the practical problems with such a view? Answer: Legislatures rarely care to fiddle with relatively technical rules of law. Their time is spent dealing with broader issues or ones that have an immediate political payoff. Getting legislatures to focus on code rules can be difficult. Further, the construction industry was lined up in opposition to changing the rule. The legislature would be more likely to crater to such organized opposition than the court. There was no organized support on the other side in this matter. Finally, this is a common law, not a statutory doctrine. While legislatures can override common law, courts can change it too.

f. **The Executive**—The president has the ability to issue executive orders—an order or regulation issued by the president (or an administrative authority under the president's direction) for the purpose of interpreting, implementing, or giving administrative effect to a provision of the Constitution or of some law or treaty.

g. **International Sources of Law**—Important sources of law include the laws of the individual countries, treaties and trade agreements among those countries, and the rules enacted by international organizations such as the UN, WTO and CISG. Congress must vote to approve treaties with other nations.

h. **Knowledge Check Activity: 2 minutes total.** Tests students' understanding of judicial precedent.

III. **CLASSIFICATIONS OF LAW—**The law could be classified in several ways, including: by its source, or according to whether it could be classified as being private or public law, civil or criminal law; or, substantive or procedural law. It is important to note that these categories are not mutually exclusive. For example, a law could be private, civil and substantive.

a. **Private and Public Law—**Public law is concerned with the legal relationships between society members and the government (or other) authority. Private law sets forth the legal relationships among society members.

b. **Civil and Criminal Law—**Civil law is concerned with the rights and duties that exist among individual society members, or between society members and the government (or other) authority in noncriminal matters. Civil law requires that the wrongdoer be found liable by a preponderance of the evidence. Criminal law

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concerns legal wrongs, or crimes, committed against all of society. Criminal law requires that the wrongdoer be found guilty beyond a reasonable doubt. One area of criminal law is white collar crime, particularly computer-related crime.

c. **International Perspective: Civil Law Systems—**Most nations of the world use a code-based system of laws rather than having part of their legal system from common law. Codes are old; much of the code law in Europe has origins in Roman code law. So when people do business in other countries, it must be remembered that the rules may not be the same and that terms may have different legal meaning. Under code law, judges play a much more active role in litigation and legal procedure is quite different, so U.S. firms in other countries must hire local counsel.

d. **Substantive and Procedural Law**—Substantive law includes common law and statutory law that define and establish legal rights and regulate behavior. Note the importance that procedure be followed for substantive issues to be heard. [Note that in any area of law, ignorance is no excuse.]

IV. **BUSINESS ETHICS AND SOCIAL RESPONSIBILITY—**Opinion polls indicate that many believe that business is less ethical today than in years past. This may well not be so, but a part of the decline in trust in institutions (such as Congress) in general.

a. **Ethics, Integrity, Morality and the Law**—These terms are not the same. Ethics, in business, has to do with rules or standards of conduct and how those standards are put into practice. Integrity means living by a moral code. Morality concerns conformity to rules of conduct in the context of a society or other institution. Law is often confused with ethics. Some laws are immoral or unethical.

i. Business Ethics—Peter Drucker, among others, noted that business ethics and personal ethics should not be held distinct. We should put into practice what we believe in all parts of our lives. Moral relativism is business will produce bad results. Bad ethics in business is bad ethics; no way around it.

ii. Political Reality—Bribes, one way or another, are required to do much business in many countries. While the Foreign Corrupt Practices Act will be discussed in Ch. 22, the general point is, can one justify paying bribes to corrupt officials to get business, because if you do not, someone else will? No. In the U.S., campaign contributions are essentially required if a firm wishes to have better treatment at the hands of politicians. This can be seen as indirect corruption.

b. **Perceptions of Ethics and Responses**—Corporations face problems with public perceptions of their honesty and with employee honesty. Corporate codes of ethics have not seemed to improve the situation. Some studies show that corporations that make the most effort to inform employees of ethical standards are most likely to be subject to federal regulatory investigations. Most Americans think there is more dishonesty now than a decade ago. To stem this problem,

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more companies hire ethics specialists. Talk is not enough; there must be incentives to act more honestly.

c. **Ethics Codes and Compliance Programs—**Talking about ethics and compliance is one thing; making it happen is another. To reduce legal punishment, more and more companies are adopting *compliance programs* that meet DOJ standards. Companies that have effective programs face lower levels of punishment under the Sentencing Guidelines.

d. **International Perspective: Does Regulation Improve Business Ethics?** World Bank study of business practices and legal rules indicates that corrupt countries tend to have more regulation. Government control often gives corrupt bureaucrats greater ability to extort. Many simple steps in business in poor countries require many more legal, bureaucratic steps than they do in Western countries, making it all the harder for ordinary people to earn a living.

e. **Ethics and Corporate Social Responsibility—**CSR can be very vague. Peter Drucker put it in the contest of business leadership. Leaders must be sure the corporate mission is fulfilled. Earning a profit for investors is socially responsible. Part of doing that means minimizing errors that are harmful to the value of the organization over time. Google tries to incorporate this notion with the "Don't be evil" rule. Some companies have staffs that consider operations within the company within the social responsibility context, as well as issues of company participation in community activities. The Lamson case makes clear—law and ethics can be quite distinct.

f. ***CASE STUDY ACTIVITY: 5 MINUTES TOTAL: Lamson v. Crater Lake Motors****—Lamson was long time sales manager at a car dealership. He advocated honest dealing with customers; no high-pressure sales tactics. The company hired an outside marketing firm. It used techniques Lamson thought were unethical—but they worked. He objected to the decline in ethical standards and would not cooperate with the marketing firm. He was fired and sued, saying the company violated its own code of ethics. Jury held for him. Employer appealed. Decision: Reversed. There is no legal basis for a suit for wrongful discharge. It was an at-will relationship; the company need not have a reason to dismiss Lamson. There may have been dubious tactics, but Lamson cannot cite illegal actions by the marketing firm or his employer. Questions: 1. Suppose some of the sale tactics used by RPM violated Oregon law. What could Lamson do about it? Unless he suffered the effects of an illegal practice by making a purchase based on such practice, he had no complaint at law. Who would know more about such practices; those involved in putting them in place or a customer? Do you think any other car dealer would want to hire Lamson if he went public about his complaints? Answer: The court noted that Lamson may have had a case under Oregon law if he was told to hide something that could involve health and safety conditions, but nothing else. Hence, while certain sales practices are illegal, there was nothing Lamson could do about it except for what he did—complain internally. If he complained to the state,*

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which would be unlikely to do anything, he could have been fired for that. Those who act as whistleblowers, internally or externally, put themselves at great risk and are unlikely to be hired by another company. No one wants a snitch in their employ. The accountant who blew the whistle at Enron and helped bring the house of cards down had a very difficult time finding another job despite her high-level experience. 2. Why do you think the courts are shy to get involved in such incidents? Should the courts be enforcers of company's ethical practices and codes of ethics? Answer: Codes of ethics are internal documents that usually have no legal consequence. The job of courts is to enforce the law, not act as arbiters in cases of codes of ethics. It would be a great expansion of power and duties for courts to act as evaluators of ethical issues in companies that went beyond legal obligations.

g. **Poll Activity: 1 minutes total.** Has students evaluate their beliefs in law and mortality.
h. **Poll Activity: 1 minutes total.** Has students evaluate their beliefs in law and justice.
i. **Think Pair Share Activity: 10 minutes total.** Have students form pairs or small groups and discuss the scenario presented.

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Discussion Questions

You can assign these questions several ways: in a discussion forum in your LMS; as whole-class discussions in person; or as a partner or group activity in class.

1. It is generally true that ignorance of the law is no excuse. Citizens are deemed to have constructive knowledge of the law. Yet, as well know as this rule is, it is surprising how often it is proffered as an excuse. (A Westlaw search cases finds hundreds of examples). Examples include: *Deluco v. Dezi* (Conn. Super) (lack of knowledge regarding the state's usury laws is no excuse for the inclusion of an illegal interest rate in a sales contract); and *Plumlee v. Paddock* (ignorance of the fact that the subject matter of the contract was illegal was not excuse). The courts have provided a small exception to the rule when it comes to people in lack of English language skills. Consider *Flanery v. Kuska,* (defendant did not speak English was advised by a friend that an answer to a complaint was not required); *Ramon v. Dept. of Transportation,* (no English and an inability to understand the law required for an excuse); *Yurechko v. County of Allegheny,* (Ignorance and with the fact that the municipality suffered no hardship in late lawsuit filing was an excuse).

2. The nature of our political system forces firms to participate in the political process. Those that fail to do so, if they are of any size, are more likely to be subject to political attack. In a sense, firms "buy" protection by keeping a flow of contributions going, especially to incumbent members of Congress. Competition also means that if a firm does not lobby for special privilege, then it may suffer if competitors achieve such status in the tax code or some area of regulation.

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Many business leaders do not much care for the Washington, D.C. operations their firms support but know that it is a part of the modern legal environment of business.

3. The high mark up suppresses the demand for fair trade goods, thereby reducing the market for fair trade goods. If the retail prices reflected the actual additional cost, not the profit maximizing price to the retailer that exploits the goodwill from "fair trade," then it is hard to argue that the company is being particularly socially responsible.

4. The company was in a no-win situation. It was attacked by environmentalists and some locals for "destroying" the environment, even though the pollution was acceptable. When the company later stated it would close the plant, which as not profitable, it came under fire for destroying jobs. It eventually upgraded the plant and kept it open, but it was never a profitable operation. The plant should probably not have been built in such a remote location, as that made it a target. Built in a higher-density area and there would have been fewer issues as the environmental impact on an existing industrial area would have been small. Corporate social responsibility can involve difficult tradeoffs that do not always allow a win-win result. If ethics is to be theoretical or applied only in formal situations, then it means little.

5. What is personal ethics and how does holding oneself out as professional ethical while engaging in behaviors such as improperly downloading copyrighted music mean?

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Appendix

Generic Rubrics

Providing students with rubrics helps them understand expectations and components of assignments. Rubrics help students become more aware of their learning process and progress, and they improve students' work through timely and detailed feedback.

Customize these rubric templates as you wish. The writing rubric indicates 40 points and the discussion rubric indicates 30 points.

Standard Writing Rubric

Criteria	Meets Requirements	Needs Improvement	Incomplete
Content	The assignment clearly and comprehensively addresses all questions in the assignment. 15 points	The assignment partially addresses some or all questions in the assignment. 8 points	The assignment does not address the questions in the assignment. 0 points
Organization and Clarity	The assignment presents ideas in a clear manner and with strong organizational structure. The assignment includes an appropriate introduction, content, and conclusion. Coverage of facts, arguments, and conclusions are logically related and consistent. 10 points	The assignment presents ideas in a mostly clear manner and with a mostly strong organizational structure. The assignment includes an appropriate introduction, content, and conclusion. Coverage of facts, arguments, and conclusions are mostly logically related and consistent. 7 points	The assignment does not present ideas in a clear manner and with strong organizational structure. The assignment includes an introduction, content, and conclusion, but coverage of facts, arguments, and conclusions are not logically related and consistent. 0 points
Research	The assignment is based upon appropriate and adequate academic literature, including peer reviewed journals and other scholarly work. 5 points	The assignment is based upon adequate academic literature but does not include peer reviewed journals and other scholarly work. 3 points	The assignment is not based upon appropriate and adequate academic literature and does not include peer reviewed journals and other scholarly work. 0 points
Research	The assignment follows the required citation guidelines. 5 points	The assignment follows some of the required citation guidelines. 3 points	The assignment does not follow the required citation guidelines. 0 points
Grammar and Spelling	The assignment has two or fewer grammatical and spelling errors. 5 points	The assignment has three to five grammatical and spelling errors. 3 points	The assignment is incomplete or unintelligible. 0 points

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Standard Discussion Rubric

Criteria	Meets Requirements	Needs Improvement	Incomplete
Participation	Submits or participates in discussion by the posted deadlines. Follows all assignment. instructions for initial post and responses. 5 points	Does not participate or submit discussion by the posted deadlines. Does not follow instructions for initial post and responses. 3 points	Does not participate in discussion. 0 points
Contribution Quality	Comments stay on task. Comments add value to discussion topic. Comments motivate other students to respond. 20 points	Comments may not stay on task. Comments may not add value to discussion topic. Comments may not motivate other students to respond. 10 points	Does not participate in discussion. 0 points
Etiquette	Maintains appropriate language. Offers criticism in a constructive manner. Provides both positive and negative feedback. 5 points	Does not always maintain appropriate language. Offers criticism in an offensive manner. Provides only negative feedback. 3 points	Does not participate in discussion. 0 points

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