Business Law and the Regulation of Business 14th edition Mann Solutions Manual

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Instructor Manual

Mann/Roberts, Business Law and the Regulation of Business, 14e, (c) 2025, 9780357987650; Chapter 1: Introduction to Law

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Purpose and Perspective of the Chapter

The purpose of this chapter is to explore the definition of law and its significance in business. This chapter will highlight the differentiation between laws and ethics for students to examine with examples and cases to highlight the sources of law and ethics in today's society.

Chapter Objectives

The following objectives are addressed in this chapter:

01.01 Identify and describe the basic functions of law.

01.02 Distinguish between (a) law and justice and (b) law and morals.

01.03 Distinguish between (a) substantive and procedural law, (b) public and private law, and (c) civil and criminal law.

01.04 Identify and describe the sources of law.

01.05 Explain the principle of *stare decisis.*

What's New in This Chapter

Minor edits were made in this chapter (e.g., small adjustments to wording for clarity and/or updating dates used in examples and end-of-chapter questions, case problems, and Taking Sides).

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Chapter Outline

In the outline below, each element includes references (in parentheses) to related content. "##.##" refers to the chapter number and chapter objective; "PPT Slide #" refers to the slide number in the PowerPoint deck for this chapter (provided in the PowerPoints section of the Cengage Instructor Center).

I. Nature of Law (01.01, 01.02, PPT Slides 3-7)

a. Definition of Law

- Legal scholars have defined law in various ways, including:
  - "predictions of the way that a court will decide specific legal

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questions"
    - "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong"

b. Functions of Law
- The functions of law are to maintain stability in the social, political, and economic system through
    - dispute resolution
    - protection of property
    - the preservation of the state while at the same time permitting ordered change
- Disputes are inevitable in a complex society and may involve criminal or noncriminal matters. Law provides rules to resolve disputes and avoid personal revenge.
- Law protects ownership of property and allows for agreements (contracts) to exchange property. (This text deals with many aspects of this including contracts, sales, commercial paper, and business associations.)
- Law preserves the state. It ensures that changes are result of elections, legislation, and referenda rather than revolution, sedition, and rebellion.

c. Law and Morals (01.02, PPT Slides 5-6)
- Though law is affected by morals, law and morality are not the same.
- Some actions have no moral implications but have legal sanctions, whereas other actions have no legal sanctions but do have moral implications.
- Some actions have both moral impact and legal sanction.

d. Law and Justice
- Law and justice are distinct but interrelated concepts.
    - Justice may be defined as "the fair, equitable, and impartial treatment of the competing interests and desires of individuals and groups, with due regard for the common good."
    - Justice depends on the law, but the law does not guarantee justice, since laws can be unjust. (Think back to "legal" slavery and the "legal" actions of Nazi Germany.)

II. Classification of Law (01.03, PPT Slides 8-14)

a. Substantive and Procedural Law
- Substantive law creates, defines, and regulates legal rights and duties.

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- Procedural law sets forth rules for enforcing those rights that are created by the substantive law.

b. Public and Private Law
   - Public law is the branch of substantive law that deals with the government's rights and powers and its relationship to individuals or groups.
   - Private law is that part of substantive law governing individuals and legal entities (such as corporations) in their relationships with one another.

c. Civil and Criminal Law
   - Civil law defines duties and deals with the rights and duties of individuals among themselves. (It is part of private law.)

III. Sources of Law (01.04, 01.05, PPT Slides 15-24)

a. Constitutional Law
   - A constitution sets forth the basic principles by which a government is guided, as well as the limitations on governmental authority.
   - The U.S. Constitution is the supreme law of the nation; a state constitution is the highest law within that state.
   - Federal law is supreme in cases of conflict with state law.
   - Fundamental principles of the U.S. Constitution include **Separation of Powers** (division of power among branches of government) and **Judicial Review** (power of the Supreme Court to determine constitutionality of all laws).

b. Judicial Law
   - Common Law—Case decisions establish precedent in our common law system and must also be consulted when researching a legal question.
     - The principle of *stare decisis* requires that inferior courts stay consistent with prior decisions of higher courts on cases with similar facts.
   - Equity—A supplementary system of judicial relief separates from the common law, based upon settled rules of fairness, justice, and honesty. Remedies include **specific performance, injunction, reformation, rescission,** and **decree.**
   - In most jurisdictions, a single court administers both common law and equity.
   - Restatements of Law—This is an orderly rewriting (or restating) of the general common law of the United States; it is regarded as the authoritative statement of the common law of the United States.

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- Covers many areas, including torts, contracts, agency, property, and trusts.

c. Legislative Law

- Legislative law consists of statutes passed by legislatures. Statutes may repeal judge-made law if the statute is not unconstitutional.
  - Legislatures have the freedom to choose the issues they want to address and can make or change laws relatively quickly.
  - Courts may only address issues that are presented in actual cases, leading to a more haphazard approach to establishing or revising laws.
- The need for uniformity among state statutes led to the codification of large parts of business law.
  - The most successful example of this effort is the Uniform Commercial Code (UCC), prepared under the joint sponsorship and direction of the National Conference of Commissioners on Uniform State Laws and the American Law Institute (ALI).
  - The NCCUSL has drafted over 200 uniform laws including the Uniform Partnership Act, the Uniform Limited Partnership Act, and the Uniform Probate Code.
  - The ALI has developed several model statutory formulations, including the Model Code of Evidence, the Model Penal Code, and a Model Land Development Code.
  - In addition, the American Bar Association has promulgated the Model Business Corporation Act.
  - All fifty states, the District of Columbia, and the Virgin Islands have adopted the UCC. (Louisiana has adopted only part.)
- Treaties—Agreements between or among independent nations; if signed by the President and approved by the Senate, it has the legal force of a federal statute.
- Executive Orders—The President has power to issue executive orders, which carry the authority of a law.

d. Administrative Law

- The branch of public law that governs the powers and procedures of governmental entities (other than courts and legislatures); often involves public health, safety, and welfare.
- Administrative law is created by administrative agencies in the form of rules, regulations, orders, and decisions to carry out the regulatory powers and duties of those agencies.

IV. Legal Analysis (PPT Slides 25-30)

- Decisions in state trial courts generally are not published but are filed in

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the office of the clerk of the court.

- Decisions of state courts of appeals are published in volumes called "reports," numbered consecutively. Some states rely on a commercial reporter and no longer publish official reports. The decisions of courts in the federal system are found in a number of reports.
- For instance, *Lefkowitz v. Great Minneapolis Surplus Store, Inc.*, 251 Minn. 188, 86 N.W.2d 689 (1957), indicates that the opinion in this case may be found in Volume 251 of the official Minnesota Reports at page 188; and in Volume 86 of the North Western Reporter, Second Series, at page 689; and that the opinion was delivered in 1957.
- Normally, the reported opinion in a case includes:
  1. the essential facts, the nature of the action, the parties, what happened to bring about the controversy, what happened in the lower court, and what pleadings are material;
  2. the issues of law or fact;
  3. the legal principles involved;
  4. the application of these principles; and
  5. the decision.

- When briefing a case, one must determine: (1) the facts of the case, (2) the issue or question involved, (3) the decision of the court, and (4) the reasons for the decision.
- All cases are decided with these four presuppositions in mind:
  - the court must decide the issue before it;
  - the court may not decide anything other than the issue before it;
  - the court decides this particular case based on general rules; and
  - everything a judge says in an opinion must be interpreted in relation to this particular case.
- **Case:** *Caldwell v. Bechtel, Inc.*

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Solution and Answer Guide

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Answers to Questions and Case Problems 1

ANSWERS TO QUESTIONS AND CASE PROBLEMS

1. You have an employee who has a chemical imbalance in the brain that causes him to be severely unstable. The medication that is available to deal with this schizophrenic condition is extremely powerful and decreases the taker's life span by one to two years for every year that the user takes it. You know that his doctors and family believe that it is in his best interest to take the medication. What course of action should you follow?

> **Answer:** This question illustrates one scenario where arguments against corporate social responsibility could come into play. If you take the "anti-social responsibility" position that a corporation has—as its primary objective—a fundamental responsibility to maximize profits, the employer could make the medication a requirement for the employee to remain in the workforce. It could be argued that this decision may also decrease the possibility of injury or deterioration in working conditions for other employees. The other side of the argument, however, is that this type of decision is too personal for a corporation to make. The ultimate determination should reside with the employee, and it should be his free decision to take or not take the medication. This puts the responsibility back where it belongs: on the employee and his family.

2. You have a very shy employee from another country. After a time, you notice that the quality of her performance is deteriorating. You find an appropriate time to speak with her and determine that she is extremely distraught. She tells you that her family has arranged a marriage for her and that she refuses to obey their contract. She further states to you that she is thinking about committing suicide. Two weeks later, after her poor performance continues, you determine that she is on the verge of a nervous breakdown; and once again she informs you that she is going to commit suicide. What should you do? Consider further that you can petition a court to have her involuntarily committed to a mental hospital. You know, however, that her family would consider such a commitment an extreme insult and that they might seek retribution. Does this prospect alter your decision? Explain.

> **Answer:** A good, responsible manager would be hard-pressed to demand that the employee either improve her on-the-job performance or face dismissal. However, initiating an involuntary committal to a mental hospital could constitute an improper invasion of rights with many legal repercussions. An interim step of providing appropriate psychological social counseling (perhaps at company expense) would seem to best fit into the concept of good corporate management. This would benefit not only the individual but the corporation, as it may be able to

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keep a valued employee. The cost of counseling is likely to be less expensive than hiring and training a new employee.

3. You receive a telephone call from a company that you never do business with requesting a reference on one of your employees, Mary Sunshine. You believe Mary performs in a generally incompetent manner, and you would be delighted to see her take another job. You give her a glowing reference. Is this right? Explain.

Answer: Pawning off an incompetent employee would certainly help the profitability of an employer. However, relatively accurate referrals are expected, and good corporate citizenship would impose a moral responsibility to act properly. The employer would be better advised to give a more accurate, but not overly negative, description of Mary's job performance (while staying within the conditional privilege of avoiding a defamation action), rather than generate animosity and gain a reputation as a liar among other businesses in the area.

4. You have just received a report suggesting that a chemical your company uses in its manufacturing process is very dangerous. You have not read the report, but you are generally aware of its contents. You believe that the chemical can be replaced fairly easily, but that if word gets out, panic may set in among employees and community members. A reporter asks if you have seen the report, and you say no. Is your behavior right or wrong? Explain.

Answer: Weighing the arguments for profitability to shareholders and fairness to shareholders and employees against the arguments for good corporate citizenship and long-run profits, an appropriate response might be that you are aware of the report but haven't thoroughly read or studied it. Proceeding with a course that acknowledges (at least internally) past dangerous practices, while immediately correcting the current problems, and correcting future problems in a timely manner, may be an appropriate legal as well as moral response to this problem. This is one of the reasons many corporations have a corporate spokesperson to give appropriate and consistent responses.

5. You and Joe Jones, your neighbor and friend, bought lottery tickets at the corner drugstore. While watching the lottery drawing on television with you that night, Joe leaped from the couch, waved his lottery ticket, and shouted, "I've got the winning number!" Suddenly, he clutched his chest, keeled over, and died on the spot. You are the only living person who knows that Joe, not you, bought the winning ticket. If you substitute his ticket for yours, no one will know of the switch, and you will be $10 million richer. Joe's only living relative is a rich aunt whom he despised. Will you switch his ticket for yours? Explain.

Answer: Perhaps an advocate of utilitarianism or social egalitarianism might feel that switching the ticket would be morally appropriate on the premise that it maximized pleasure and was an appropriate distribution of wealth. However, such a moral rationalization would demonstrate the flaws in both theories. There is no escaping the fact that switching the tickets would be improper under the law and most moral theories.

6. Omega, Inc., a publicly held corporation, has assets of $100 million and annual earnings in the range of $13 to $15 million. Omega owns three aluminum plants, which are profitable, and one plastics plant, which is losing $4 million a year. Because of its very high operating costs, the plastics plant shows no sign of ever becoming profitable, and there is no evidence that the plant and the underlying real estate will increase in value. Omega decides to sell the plastics plant. The only bidder for the plant is Gold, who intends to use

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the plant for a new purpose: to introduce automation, and to replace all existing employees. Would it be ethical for Omega to turn down Gold's bid and keep the plastics plant operating indefinitely for the purpose of preserving the employees' jobs? Explain.

Answer: Indefinite maintenance of the plastics plant may strike one as being the morally correct thing to do. The moral basis for such a decision would be essentially egalitarianism where the wealth generated by many is redistributed to benefit others. However, as the basis for an economic system, such an approach may be doomed to ultimate failure in that it does not rectify anything and only prolongs a perhaps snowballing problem that could taint and impair the job security of everyone employed by Omega. If managerial and operational changes truly cannot rectify the net loss situation suffered by the plastics plant, sale of the plant to Gold may, in a broader context, be the morally correct thing to do.

7. You are the sales manager of a two-year-old electronics firm. At times, the firm has seemed to be on the brink of failure, but recently it has begun to be profitable. In large part, the profitability is due to the aggressive and talented sales force you recruited. Two months ago, you hired Alice North, an honors graduate from the State University, who decided that she was tired of the Research Department and wanted to try sales.

Almost immediately after you sent Alice out for training with Brad West, your best salesperson, he began reporting to you an unexpected turn of events. According to Brad, “Alice is terrific: she's confident, smooth, and persistent. Unfortunately, a lot of our buyers are good old boys who just aren't comfortable around young, bright women. Just last week, Hiram Jones, one of our biggest customers, told me that he simply won't continue to do business with ‘young chicks’ who think they invented the world. It's not that Alice is a know-it-all. She's not. It's just that these guys like to booze it up a bit, tell some off-color jokes, and then get down to business. Alice doesn't drink, and although she never objects to the jokes, it's clear she thinks they're offensive.” Brad felt that several potential deals had fallen through “because the mood just wasn't right with Alice there.” Brad added, “I don't like a lot of these guys' styles myself, but I go along to make the sales. I just do not think Alice is going to make it.”

When you call Alice in to discuss the situation, she concedes the accuracy of Brad's report but indicates that she's not to blame and insists that she be kept on the job. You feel committed to equal opportunity but don't want to jeopardize your company's ability to survive. Explain what you should do.

Answer: This is a common problem with a myriad of legal and moral implications. From a profitability standpoint, especially in the case of a company on the brink of economic failure, ignoring the requirements and whims of customers can amount to economic death. From a legal standpoint, the Equal Opportunity laws operate harshly against an employer that discriminates on the basis of sex or race in hiring and promotional activities. Employees are frequently aware of their rights, yet wish to help the business of an employer and otherwise act as a good “team player.” A possible response might be (with the consent of Alice) attempting to divide sales accounts to give to Alice those accounts where her sex would be a neutral or perhaps positive factor, while retaining for Brad oversight of the “good old boy” accounts. Such an approach would acknowledge both her legal rights and her justifiable expectations while not undermining the profitability of a company whose very existence is at issue. Best utilization of employees is critical to any corporation, and this includes sensitivity to both the employees’ needs and the customers’ needs.

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8. Major Company subcontracted the development of part of a large technology system to Start-up Company, a small corporation specializing in custom computer systems. The contract, which was a major breakthrough for Start-up Company and crucial to its future, provided for an initial development fee and subsequent progress payments, as well as a final date for completion.

Start-up Company provided Major Company with periodic reports indicating that everything was on schedule. After several months, however, the status reports stopped coming, and the company missed delivery of the schematics, the second major milestone. As an in-house technical consultant for Major Company, you visited Start-up Company and found not only that it was far behind schedule but also that they it lied about its previous progress. Moreover, you determined that this slippage put the schedule for the entire project in severe jeopardy. The cause of Start-up's slippage was the removal of personnel from your project to work on short-term contracts to obtain money to meet the weekly payroll.

Your company decided that you should stay at Start-up Company to monitor its work and to assist in the design of the project. After six weeks and some progress, Start-up is still way behind its delivery dates. Nonetheless, you are now familiar enough with the project to complete it in-house with Major's personnel.

Start-up is still experiencing severe cash flow problems and repeatedly requests payment from Major. But your CEO, furious with Start-up's lies and deceptions, wishes to “bury” Start-up and finish the project using Major Company's internal resources. She knows that withholding payment to Start-up will put it out of business. What do you do? Explain.

> **Answer:** We don't know if the development fee was ever paid to Start-up Company. Major had an obligation to pay the initial development fee. If it was paid and Start-up did not produce the required progress reports, then Major is correct to withhold payment. Situational ethics will come into play when you decide whether or not to give Start-up more time to complete the work. If the start-up fee was not paid and it was Major’s failure to pay on schedule that caused Start-up to divert their personnel, then Major needs to take some share of the blame.

9. A customer requested certain sophisticated tests on equipment he purchased from your factory. Such tests are very expensive and must be performed by a third party. The equipment was tested as requested and met all of the industry standards but showed anomalies that could not be explained.

Though the problem appeared to be very minor, you decided to inspect the unit to try to understand the test data—a very expensive and time-consuming process. You informed the customer of this decision. A problem was found, but it was minor and was highly unlikely ever to cause the unit to fail. In addition to the time and expense required to rebuild the equipment, notifying the customer that you were planning to rebuild the unit would also put your overall manufacturing procedures in question. Should you fix the problem, ship the equipment as is, or inform the customer? Explain.

> **Answer:** You must inform the customer. The customer apparently has the right to request such testing, and as such you have ethical responsibility to inform the customer of all factors. The ultimate decision should be made by the customer. However, you have the obligation to comply with the legal and governmental responsibilities within your industry.

10. You are a project manager for a company making a major proposal to a Middle Eastern country. Your major competition is from Japan.

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a. Your local agent, who is closely tied to a very influential sheikh, would receive a 5 percent commission if the proposal were accepted. Near the date for decision, the agent asks you for $150,000 to "grease the skids" so that your proposal is accepted. What do you do?
b. What do you do if, after you say no, the agent goes to your vice president, who provides the money?
c. Your overseas operation learns that most other foreign companies in this Middle Eastern location bolster their business by exchanging currency on the gray market. You discover that your division is twice as profitable as budgeted due to the amount of domestic currency you have received on the gray market. What do you do?

Answer:
(a) This may cross the line from ethical to legal requirements. If this is not illegal, then in applying the doctrine of ethical relativism, you must decide what is subjectively right for you. You also need to check the company code of conduct and any other applicable policy.

(b) Again when applying the doctrine of ethical relativism, if you feel strongly enough, you may have to quit your job or request a transfer to another division. If this activity is not legal, you have the obligation to report it to your company's superiors.

(c) The Utilitarianism cost–benefit analysis will allow you to first quantify this in monetary terms and then compare the direct and indirect costs and benefits. This process may achieve the most profit but may ignore justice in the process.

11. Explain what relevance ethics has to business.

Answer: Business ethics is the study and determination of what is right and good in business settings. Business ethics seeks to understand the moral issues that arise from business practices, institutions, and decision making, and their relationship to generalized human values. Unlike legal analyses, analyses of ethics have no central authority, such as courts or legislatures, upon which to rely; nor do they follow clear-cut universal standards. Nonetheless, despite these inherent limitations, it still may be possible to make meaningful ethical judgments.

12. How should the financial interests of stockholders be balanced with the varied interests of stakeholders? If you were writing a code of conduct for your company, how would you address this issue?

Answer: Finding this balance has been the struggle for most, if not all, businesses throughout time. Historically, the stockholder model for the role of business has been the norm. Under this theory, a corporation is viewed as private property owned by and for the benefit of its owners—the stockholders of the corporation. The stakeholder model, on the other hand, holds that corporations are responsible to society at large and more directly to all those constituencies on which they depend for their survival. Thus, it is argued that a corporation should be managed for the benefit of all of its stakeholders—stockholders, employees, customers, suppliers, and managers, as well as the local communities in which it operates. (Student answers will vary but should address these two models.)

13. A company adopts a policy that (a) prohibits romantic relationships between employees of different rank and (b) permits romantic relationships between employees of the same rank only if both employees waive in writing their rights to sue the company should the

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relationship end. Violation of this rule is grounds for dismissal. Is this rule ethical? If not, how should it be revised? Explain.

Answer: Student answers will vary but should address ways to find a balance between individual freedoms or rights and the good of the company. Presumably, this policy was made for a purpose that serves to protect the company (which in turn protects the employee's job and other stakeholders' interests.) A discussion of the theory of utilitarianism would be appropriate in answering this question.

14. A company prohibits any employee from making disparaging comments about the company through any social media, including online blogs, email, posts, and other electronic media. Violation of this rule is grounds for dismissal. Explain whether this rule is ethical. If not, how should it be revised? Explain.

Answer: Student answers will vary but should address ways to find a balance between individual freedoms or rights and the good of the company. An argument against this policy would probably be grounded in the Constitutional protection of free speech, which an argument in favor of the policy would center on the good that comes from protecting the company. A discussion of the theory of utilitarianism would be appropriate in answering this question.

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