Business Law and the Legal Environment Standard Edition 10th edition Beatty Solutions Manual

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Solution and Answer Guide

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MULTIPLE CHOICE QUESTIONS

1. The United States Constitution is among the finest legal accomplishments in the history of the world. Which of the following influenced Ben Franklin, Thomas Jefferson, and the rest of the Founding Fathers?
   I. English common-law principles
   II. The Iroquois system of federalism
   a. Only I
   b. Only II
   c. Both I and II
   d. Neither I nor II

   Answer: C.

2. Which of the following parts of the modern legal system are “borrowed” from medieval England?
   a. Jury trials
   b. Special rules for selling land
   c. Following precedent
   d. All of these

   Answer: D

3. Union organizers at a hospital wanted to distribute leaflets to potential union members, but hospital rules prohibited leafleting in areas of patient care, hallways, cafeterias, and any areas open to the public. The National Labor Relations Board (NLRB), a government agency, ruled that these restrictions violated the law and ordered the hospital to permit the activities in the cafeteria and coffee shop. What kind of law was NLRB creating?
   a. A statute
   b. Common law
   c. A constitutional amendment
   d. Administrative regulation

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Answer: D. The NLRB, as an agency, creates regulations. Congress creates statutes, and judges shape the common law.

4. For a statute to become law, Congress must pass it by a:
   I. Majority vote in the House
   II. Majority vote in the Senate
   III. Two-thirds vote in the House, but only if the president has first vetoed it
   IV. Two-thirds vote in the Senate, but only if the president has first vetoed it
   a. Just I and II
   b. Just III and IV
   c. All of these
   d. None of these

   Answer: C

5. Dr. Martin Luther King, Jr., wrote "An unjust law is no law at all." As such, "One has … a moral responsibility to disobey unjust laws." Dr. King's view is an example of:
   a. legal realism.
   b. jurisprudence.
   c. legal positivism.
   d. natural law.

   Answer: D

Additional Exam Strategy Questions

1. The stock market crash of 1929 and the Great Depression that followed were caused, in part, because so many investors blindly put their money into stocks they knew nothing about. During the 1920s, it was often impossible for an investor to find out what a corporation was planning to do with its money, who was running the corporation, and many other vital things. Congress responded by passing the Securities Act of 1933, which required a corporation to divulge more information about itself before it could seek money for a new stock issue. What kind of law did Congress create?

   Strategy: What is the question seeking? The question asks you which *type* of law Congress created when it passed the 1933 Securities Act. What are the primary kinds of law? Administrative law consists of rules passed by agencies. Congress is not a federal agency. Common law is the body of cases decided by judges. Congress is not a judge. Statutes are laws passed by legislatures. Congress is a legislature.

   Solution: The Securities Act of 1933 is a statute.

2. Bill and Diane are hiking in the woods. Diane walks down a hill to fetch fresh water. Bill meets a stranger who introduces herself as Katrina. Bill sells a kilo of cocaine to Katrina, who then flashes a badge and mentions how much she enjoys her job at the Drug Enforcement Agency. Diane, heading back to camp with the water, meets Freddy, a motorist whose car has overheated. Freddy is late for a meeting where he expects to make a $30 million profit; he's desperate for water for his car. He promises to pay Diane $500 tomorrow if she will give him the pail of water, which she does. The next day, Bill is in jail and Freddy refuses to pay for Diane's water. Explain the criminal

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law/civil law distinction and what it means to Bill and Diane. Who will do what to whom, with what results?

Strategy: You are asked to distinguish between criminal and civil law. What is the difference? Criminal law concerns behavior that threatens society and is therefore outlawed. The government prosecutes the defendant. Civil law deals with the rights and duties between parties. One party files a suit against the other. Apply those different standards to these facts.

Solution: The government will prosecute Bill for dealing in drugs. If convicted, he will go to prison. The government will take no interest in Diane's dispute. However, if she chooses, she may sue Freddy for $500, the amount he promised her for the water. In that civil lawsuit, a court will decide whether Freddy must pay what he promised; however, even if Freddy loses, he will not go to jail.

CASE QUESTIONS

1. Lance, a hacker, stole 15,000 credit card numbers and sold them on the dark web, making millions. Police caught Lance, and two legal actions followed, one civil and one criminal. Who will be responsible for bringing the civil case? What will be the outcome if the jury believes that Lance was responsible for identity thefts? Who will be responsible for bringing the criminal case? What will be the outcome if the jury believes that Lance stole the numbers?

   Solution: The civil cases will be brought by the victims of identity theft, and the outcome of a successful case against Lance would be some type of monetary award for damages suffered. The criminal case will be brought by state prosecutors and the outcome would be imprisonment for Lance.

2. As *The Oculist's Case* indicates, the medical profession has faced many lawsuits for centuries. In Texas, a law provides that, so long as a doctor was not reckless and did not intentionally harm a patient, recovery for "pain and suffering" is limited to $250,000. In many other states, no such limit exists. If a patient will suffer a lifetime of pain after a botched operation, for example, they might recover millions in compensation. Which rule seems more sensible to you—the Texas rule or the alternative?

   Solution: Answers may include the following:

   - Some students may focus on the patients, saying that $250,000 is not enough for some patients who are destined to live their entire lives in pain and unable to accomplish many of their personal and professional goals because of poor health.

   - Other students, however, may focus on the larger healthcare system, noting that unchecked awards could have an adverse effect on the public as a whole. For example, if patients are routinely awarded millions for pain and suffering, doctors will more comprehensive malpractice insurance coverage, and these expenses will be passed along to the public through higher healthcare costs.

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3. Leslie Bergh and his two brothers, Milton and Raymond, formed a partnership to help build a fancy saloon and dance hall in Evanston, Wyoming. Later, Leslie met with his friend and drinking buddy, John Mills, and tricked Mills into investing in the saloon. Leslie did not tell Mills that no one else was investing cash or that the entire enterprise was already bankrupt. Mills remortgaged his home and invested $150,000 in the saloon—and lost every penny of it. Mills sued all three partners for fraud. Milton and Raymond defended on the grounds that they did not commit the fraud; only Leslie did. The defendants lost. Was that fair? By holding them liable, what general idea did the court rely on? What Anglo-Saxon legal custom did the ruling resemble?

   Solution: The partners are indeed liable. *Bergh v. Mills*, 763 P.2d 214 (Wyo. 1988). That is the essence of a partnership: All partners are liable for the acts of any partner committed in the partnership's normal business. This is the general idea of collective responsibility. It relates to the "tithing" of English legal history, in which all tithing members were legally responsible for the conduct of the others.

4. In 2015, terrorists coordinated a series of attacks on civilians in Paris, France. The father of an American woman killed in a nightclub sued various social media companies including YouTube, alleging the sites knowingly allowed terrorists to recruit members and spread extremist propaganda. The sites defended themselves by saying that their policies prohibit terrorist recruitment and that, when alerted to it, they quickly remove offending videos. What type of lawsuit is this—criminal or civil? What responsibilities, if any, should social media sites have for the spread of terrorism?

   Solution: The case is a civil case, but answers will vary as to the scope of the responsibilities social media sites should have for the spread of terrorism.

Discussion Questions

1. In the 1980s, the Supreme Court ruled that it is legal for protesters to burn the American flag. This activity counts as free speech under the Constitution. If the Court hears a new flag-burning case in this decade, should it consider changing its ruling, or should it follow precedent? Is following past precedent something that seems sensible to you: always, usually, sometimes, rarely, or never?

   Solution: Students' answers should demonstrate an understanding of our legal system, which is generally based on past precedent. Answers may include the following:

   - Most students will also recognize the need to periodically (as in usually, sometimes, or rarely) re-evaluate laws and statutes based on evolving social norms and concerns.
   - To never reconsider a ruling would be to deny social change, and to always reconsider every ruling would mean overwhelming our legal system with unnecessary litigation.

2. When should a business be held legally responsible for customer safety? Consider the following statements, and consider the degree to which you agree or disagree.
   - A business should keep customers safe from its own employees.

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- A business should keep customers safe from other customers.
- A business should keep customers safe from themselves (for example, by refusing to serve alcohol to a visibly intoxicated customer).
- A business should keep people outside its own establishment safe if it is reasonable to do so.

Solution: Students' answers will be based largely on the degree to which they believe individuals are responsible for their own actions. Answers may include the following:

- In general, those students who feel that people should be held accountable for their own actions will say that businesses have relatively little responsibility for customer safety, other than to take basic precautions of maintaining a safe facility and ensuring that employees and customers abide by laws.

- Other students may argue that many individuals don't know how or aren't capable of behaving responsibly, which is why businesses should take greater precautions on behalf of their customers.

3. In his most famous novel, *The Red and the Black*, French author Stendhal (1783–1842) wrote: "There is no such thing as 'natural law': This expression is nothing but old nonsense. Prior to laws, what is natural is only the strength of the lion, or the need of the creature suffering from hunger or cold, in short, need." What do you think? Does legal positivism or legal realism seem more sensible to you?

   Solution: Natural law should be a question in the back of our minds throughout the course, because it is a reminder of morality, and law without morality is despotism. Nonetheless, Stendhal is obviously correct that both strength and need help to create law. The important thing for this course is continually to apply moral principles to the rules you study and make your own determinations about whether natural law really plays a role.

4. Before becoming a Supreme Court justice, Sonia Sotomayor stated in a speech to students: "I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life." During her Senate confirmation proceedings, this statement was heavily probed and criticized. One senator said that the focus of the hearings was to determine whether Judge Sotomayor would "decide cases based only on the law as made by the people and their elected representatives, not on personal feelings or politics." (Sotomayor convinced many of her critics because the Senate confirmed her by a vote of 68–31.) Should judges ignore their life experiences and feelings when making judicial decisions? Can they?

   Solution: Most students will acknowledge that judges either consciously or subconsciously include their life experiences, education, and social background in forming opinions on questions of law. After all, these aspects of life are so ingrained in our thinking process that it may not be possible to eliminate them. Answers may include the following:

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- Some students will argue that factoring in their life experiences allows judges to form more balanced, equitable, and beneficial decisions.
- Others will argue that judges should actively try to eliminate any personal perspectives and make decisions based solely on the Constitution and the precedents set in earlier court cases.

5. The late Supreme Court Justice Antonin Scalia argued that because courts are not elected representative bodies, they have no business determining certain critical social issues. He wrote:

> Judges are selected precisely for their skill as lawyers; whether they reflect the policy views of a particular constituency is not (or should not be) relevant. Not surprisingly then, the Federal Judiciary is hardly a cross-section of America. Take, for example, this Court, which consists of only nine men and women, all of them successful lawyers who studied at Harvard or Yale Law School. Four of the nine are natives of New York City. Eight of them grew up in east- and west-coast States. Only one hails from the vast expanse in-between. Not a single Southwesterner or even, to tell the truth, a genuine Westerner (California does not count). Not a single evangelical Christian (a group that comprises about one quarter of Americans), or even a Protestant of any denomination. To allow [an important social issue] to be considered and resolved by a select, patrician, highly unrepresentative panel of nine is to violate a principle even more fundamental than no taxation without representation: no social transformation without representation.

Do you agree?

Solution: Justice Scalia makes an interesting point. One of the core principles of our democracy is that all people groups within the U.S. should be represented equally and fairly in critically important decisions. And yet, we have allowed a select panel of individuals (the Supreme Court) who do not fairly represent the public as a whole to make socially transformative decisions for hundreds of years. Answers may include the following:

- Some students will say that this is not how things should work: the Supreme Court's influence should be limited to making rulings based solely on the Constitution and what they believe the Founding Fathers intended.
- Other students may disagree, stating that we can rely on the Supreme Court justices—and particularly the system of checks and balances within the court—to make forward-thinking, transformative decisions based on their knowledge and understanding of our current social norms, ethics, and priorities and not on their personal opinions.

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Instructor Manual

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PURPOSE AND PERSPECTIVE OF THE CHAPTER

The purpose of this chapter is to describe the history of the common law, the various branches of government, different schools of jurisprudence, and how to analyze a case.

LEARNING OBJECTIVES

The following objectives are addressed in this chapter:

1. Recognize the role of law in a society and the roots of law in the United States.
2. Identify the purpose of the U.S. Constitution and the categories of laws.
3. Explain how laws can be classified.
4. Define jurisprudence and the different approaches to it.
5. Describe the process of analyzing a law case.

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WHAT'S NEW IN THIS CHAPTER

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

- No substantive changes.

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CHAPTER OUTLINE

I. Exploring the Law (1-1) (PPT Slides 3-5)
   a. The Role of Law in Society (1-1a)
      i. The law cuts across nearly every aspect of life, especially at work.
      ii. The law is essential; every society throughout history has had a system of laws.
      iii. Since the law plays a large role in everyone's life, it is all the more important to learn about it.
   b. Origins of Our Law (1-1b)
      i. English Roots
         (1) There was a division of land into shires, administered by sheriffs.
         (2) A group of ten men formed a tithing. If any of the ten caused injury to another, or damaged the king's property,

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all ten would be responsible. (Note, this was a precursor to partners sharing liability in a partnership.)

(3) Precedent is a doctrine that requires judges to decide current cases based on previous rulings.

(4) Common law is made up of cases that themselves are based on precedent.

(a) **Case Study: The Oculist's Case (1329)**: **5-10 minutes total.** The defendant's lawyer argued for the case against him to be dismissed on the grounds that the plaintiff had willingly submitted himself to the defendant's medicines and his care. Judge Denum agreed based on precedent established in an earlier, similar case.

ii. Law in the United States

(1) The colonists brought the common law tradition to what would become the United States.

(2) As time passed, the law was adapted to the change from an agrarian to an urban industrial society.

c. **Knowledge Check Activity (1) PPT Slide 5: 1 minute(s) total (5 minutes with discussion and review of answer).** Test students' knowledge on the judge's rationale for the ruling. After answer is provided, review with students how the plaintiff volunteering to receive medical care prevents recovery from the defendant.

II. Sources of Contemporary Law (1-2) (PPT Slides 6-13)

a. United States Constitution (1-2a)

i. Branches of Government

(1) Government is divided into three separate branches to reduce concentration of power:

(a) Legislative, which creates laws,

(b) Executive, which enforces laws, and

(c) Judiciary, which interprets laws.

ii. Checks and Balances

(1) Each branch can check the power of the others.

(a) The president can veto legislation passed by Congress.

(b) Congress can impeach the president.

(c) The president appoints judges approved by the Senate.

iii. Federal Form of Government

(1) The government in Washington creates and enforces national laws, but state governments exercise great power in local affairs.

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(2) This overlapping authority causes legal complexity.

iv. Fundamental Rights

(1) These rights are guaranteed by the Constitution. Some include:

(a) Freedom of speech.
(b) Freedom of religion.
(c) Freedom from unlawful search and seizure.

b. Statutes (1-2b)
   i. A statute is a law created by the legislature.
c. Common Law (1-2c)
   i. It is made up of the accumulation of cases based on precedent.
d. Court Orders (1-2d)
   i. Orders issued by a court that can place obligations on a party or compel a party to do or refrain from an action.
e. Administrative Law (1-2e)
   i. These laws are regulations created by administrative bodies. Administrations such as the Environmental Protection Agency (EPA) and the Internal Revenue Service (IRS) are themselves created by Congress.
f. Treaties (1-2f)
   i. These agreements are between two or more sovereign countries. The president makes treaties, but they must be approved by the Senate by a two-thirds vote.
g. **Knowledge Check Activity (2) PPT Slide 13: 1 minute(s) total (5 minutes with discussion and review of answer).** Ask students to discuss their respective views regarding a new flag burning case. Also discuss the stability precedent brings to the law and possible reasons to avoid precedent.

III. Classifications (1-3) (PPT Slides 14-15)

a. Criminal and Civil Law (1-3a)
   i. Criminal Law prohibits certain behavior for the benefit of society.
   ii. Civil law regulates the rights and duties between parties.
b. Law and Morality (1-3b)
   i. Law is related to morality in some ways, but not in others.

(1) For example, laws based on religious discrimination versus laws prohibiting murder.

(2) **Ethics:** Leo owns a flower production facility near Bogota, Colombia. It's the busiest season of the year, and one of his employees has asked to work twenty hours a day for seven days a week so she can earn enough to pay for her daughter's lifesaving surgery. Leo wants to help, but he faces two ethical dilemmas: He would be violating

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Colombian employment law by allowing an employee to work so much overtime. He's also concerned that other employees with similar financial needs will ask for the same treatment. What are Leo's legal and ethical obligations?

IV. Jurisprudence (1-4) (PPT Slides 16-18)

a. Jurisprudence is the philosophy of law.
b. Legal Positivism (1-4a)
    i. The law is whatever the sovereign says it is.
c. Natural Law (1-4b)
    i. St. Thomas Aquinas stated that an unjust law is not a law at all and can be disobeyed.
d. Legal Realism (1-4c)
    i. This theory is not focused on the law as written but examines who enforces the law and what process is used for enforcement.

V. Working with the Book's Features (1-5) (PPT Slides 19-25)

a. Analyzing a Case (1-5a)
    i. Cases are at the center of the law and illustrate legal controversies.
        (1) **Knowledge Check Activity (3) PPT Slide 23: 1 minute(s) total (5 minutes with discussion and review of answer).** Ask students to distinguish between federal statutes, state statutes, and other sources of law.
b. **Case Study: *Kuehn v. Pub Zone*: PPT Slide 24, 5-10 minutes total.**
In this case, the Plaintiff Karl Kuehn is suing the Defendant Pub Zone. The issue is if the Pub Zone has a duty to protect Kuehn from injuries he sustained from the Pagan biker gang. Pub Zone knew that the Pagans are a dangerous biker gang and therefore their knowledge of this fact created a duty to protect Plaintiff Kuehn from danger.
    i. Analysis
        (1) Note the parties: Plaintiff, Karl Kuehn is suing the Defendant, The Pub Zone.
        (2) The issue is the question the court is trying to answer.
        (3) Each party brings different arguments to court—each argument is the specific party's answer to the issue.
c. Exam Strategy (1-5b)
    i. This feature shows students how to analyze cases and legal issues.

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d. You Be the Judge (1-5c)
    i. These are cases where the holding is omitted. Students are encouraged to find each sides' arguments and attempt to answer the issue in the case.
e. **You Be the Judge: *Del Lago Partners, Inc. v. Smith*: PPT Slide 25, 5 minutes total.** At the Del Lago hotel bar one night, a large group of fraternity brothers and a wedding party were both partying. They got into a verbal argument that went on for one and a half hours, during which time the bartender never called for security. When a physical fight broke out, no one came to stop it. One fraternity brother named Bradley Smith was seriously injured and sued Del Lago for negligence. The hotel's argument was that its employees did not have a duty to an adult who voluntarily participated in the drinking and the fight. Smith's argument was that the bartender knew that there was an unreasonable risk of harm to its patrons and therefore should have called for security before the fight began.

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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. Discussion: Sources of law in the U.S. [Exploring the Law (1-1)], (PPT Slides 3-5)
    a. Writing prompt asking students to examine the multiple sources of law in colonial America.
    b. America's Founding Fathers borrowed heavily from English law when creating our legal system. However, their intention was to protect the rights of the people from the government, so they did not want to duplicate the English system of law. What are two other important factors they took into consideration when establishing our early laws?
        i. The Founding Fathers created a national government but insisted on allowing individual states to maintain control in many areas.
        ii. In the Constitution, the Founding Fathers also guaranteed many rights to the people alone, ordering national and state governments to keep clear.

2. Discussion: Question of enforcement. [Sources of Contemporary Law (1-2)], (PPT Slides 6-13)

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a. Writing prompt asking students, while it is agreed that the executive branch has the power to enforce laws, what if a president decides to order the Environmental Protection Agency (EPA) to not enforce a clean water regulation?
b. Would this be within the president's power? What is the extent of enforcement?
    i. Answer defending the president: The executive has the discretion to decide what and where to enforce any law passed by Congress.
    ii. Answer against the president: The executive has interfered with the power that Congress delegated to the EPA.

3. Discussion: Ethics and legality. [Classifications (1-3)], (PPT Slides 14-15)
    a. Writing prompt encouraging students to consider the moral and ethical aspects of law as applied to a fact pattern.
    b. Morality and law are closely linked, but there are some areas of law that do not offer a clear ethical or moral path to follow. Scenario: If you are out walking along a country lane and see a young child playing with matches near a barn filled with hay, what are your legal and ethical obligations in this situation?
        i. In terms of ethical conduct, most people would say you should attempt to intervene and protect the child. Do you agree?
        ii. In terms of the law, you are not obligated to intervene. Why do you suppose the law does not require you to take action in this situation?

4. Discussion: Jurisprudence in action. [Jurisprudence (1-4)], (PPT Slides 16-18)
    a. Writing prompt asking students to apply the various schools of jurisprudence to a fact pattern.
    b. A city passes a law against loitering. It reads, "The following shall be deemed loiterers, people begging, traders in stolen property, people wandering around from place to place without a lawful purpose and habitual loafers and punished upon conviction by a fine of $500.00 and or 30 days' imprisonment." How would a legal positivist view obeying this law? How would issues of vagueness play a role in the analysis? Would a natural law theorist consider this an unjust law? How could legal realism examine the enforcement and process behind this law?

        i. The Legal Positivist school could argue this law passed by the sovereign is legal; however, there would likely be problems with enforcement. What is a lawful purpose? How many times is one deemed habitual in terms of loafing?

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ii. A Natural Law theorist could argue that this law is unjust based on vagueness, citing the issues noted above regarding lawful purpose, etc.
iii. A Legal Realist could argue that this law's true purpose is to deem various actions as loitering. A legal realist would look at who exactly is this law enforced against, i.e., the young, immigrants, etc.

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ADDITIONAL ACTIVITIES AND ASSIGNMENTS

1. **Research Project:**
   a. Ask students for their views on each jurisprudential school.
   b. Have students apply jurisprudential ideas to hypotheticals.

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