

## **Syllabus**

### **Course Overview**

In this course, you will delve into the exploration of statutory, contract, and legal entity law for businesses. Through various assignments, discussions, and course readings, you will examine the historical underpinnings and origins of the court system's ability to adjudicate commercial disputes. The learning activities have also been designed to support your development of a legal vocabulary, an understanding of core legal concepts, and basic legal research skills.

### **Course Competencies**

**(Read Only)**

To successfully complete this course, you will be expected to:

- 1 Articulate the importance, context, purpose, and relevance of law in a business environment.
- 2 Evaluate the role of contracts in commercial transactions.
- 3 Evaluate key judicial concepts that influence the decisions related to business.
- 4 Evaluate legal options to create a business entity.
- 5 Develop information literacy skills as applied to business law.

### **Course Prerequisites**

*There are no prerequisites for this course.*

## Syllabus >> Course Materials

### Required

The materials listed below are required to complete the learning activities in this course.

#### Integrated Materials

Many of your required books are available via the VitalSource Bookshelf link in the courseroom, located in your Course Tools. Registered learners in a Resource Kit program can access these materials using the courseroom link on the Friday before the course start date. Some materials are available only in hard-copy format or by using an access code. For these materials, you will receive an email with further instructions for access. Visit the [Course Materials](#) page on Campus for more information.

#### Book

Miller, R. L., & Cross, F. B. (2018). *The legal environment of business: Text and cases* (10th ed.). Boston, MA: Cengage. ISBN: 9781305967304.

#### External Resource

Please note that URLs change frequently. While the URLs were current when this course was designed, some may no longer be valid. If you cannot access a specific link, contact your instructor for an alternative URL. Permissions for the following links have been either granted or deemed appropriate for educational use at the time of course publication.

- Findlaw. (2012). [US Supreme Court opinions. \(2012\)](http://www.findlaw.com/casecode/supreme.html). Retrieved from <http://www.findlaw.com/casecode/supreme.html>
- Legal Information Institute. (n.d.). [Supreme Court: Most recent decisions](http://www.law.cornell.edu/supct/). Retrieved from <http://www.law.cornell.edu/supct/>
- Nolo. (2012). [US Supreme Court center](http://supreme.nolo.com/). Retrieved from <http://supreme.nolo.com/>
- Oyez, Inc. (2017). [U.S. Supreme Court media: Cases - 2017 term](https://www.oyez.org/cases/2017). Retrieved from <https://www.oyez.org/cases/2017>

### Suggested

The following materials are recommended to provide you with a better understanding of the topics in this course. These materials are not required to complete the course, but they are aligned to course activities and assessments and are highly recommended for your use.

### Optional

The following optional materials are offered to provide you with a better understanding of the topics in this course. These materials are not required to complete the course.

### External Resource

Please note that URLs change frequently. While the URLs were current when this course was designed, some may no longer be valid. If you cannot access a specific link, contact your instructor for an alternative URL. Permissions for the following links have been either granted or deemed appropriate for educational use at the time of course publication.

- [The U.S. Small Business Administration.](#)
- [United States Department of Labor.](#)
- United States Department of Labor. (2019). [Bureau of Labor Statistics.](#) Retrieved from <https://www.bls.gov>

## Unit 1 >> Introduction to the Legal Environment of Business

### Introduction

In an introductory course to business law, it is vital that you familiarize yourself with the terminology that will be recurring throughout the text and in our discussions. This is not a class designed to train lawyers, and you are not expected to be an attorney in training. However, the terminology that you will encounter will be useful in both a scholarly and everyday context. Therefore, these first few chapters will be critical for not only grounding yourself in the theoretical and conceptual underpinnings of American law, but also to your understanding of the basic terminology.

Learning about business law entails reviewing court decisions that are pertinent to and help to apply the law that we will be studying. Please pay close attention to the cases that are found within the casebook and try to imagine yourself as either the plaintiff or defendant in these cases to make these controversies more realistic. It will help to make the material more engaging and enjoyable.

The material for this unit will expose you to the vast and often misunderstood architecture of American law and courts. In fact, American jurisprudence is a result of centuries of commercial disputes, transactional lawsuits, scholarly opinions, and, interestingly, centuries of developed systems of law from Great Britain.

### Common Law Tradition

Although American colonists broke with King George III in the 18th century, America today still relies heavily upon the legal traditions of the United Kingdom. Central to this tradition is the common law system, which means that courts do not look at every new case with a fresh pair of eyes, but rather rely heavily upon cases that have been decided in the past. This concept is known as *stare decisis*, or, "what has been decided in the past will guide the future." Although judges will closely review cases based upon the facts presented in each individual instance, they can and must make their decisions based upon decisions arrived upon by courts adjudicating similar cases.

Think of it this way: unless courts applied *stare decisis* in lawsuits involving commercial interests, there would be no consistency whatsoever in how courts interpret and implement the law. Some critics will argue that courts do not always look to the past in applying laws today, but in reality, this is something that is mandated not only by principles of American jurisprudence but is also strictly taught in every American law school.

### Role of the Judicial Branch

The judicial branch, as early as *Marbury v. Madison*, 5 U.S. 137 (1803), has been entrusted with the interpretation of the U.S. Constitution. Early in our nation's history, it was actually an open question as to whether or not American courts, specifically the United States Supreme Court, would have the ultimate authority in deciding what laws are or are not constitutional. That has been decided decisively: the courts have the final word. It has often been remarked, accurately, that American courts are the most powerful in any developed nation, and in fact the United States Supreme Court must be looked upon as the most powerful judicial body in the world.

The vast majority of commercial disputes, however, are settled not in the courts, but are often settled before arriving in front of a judge or are resolved via alternative means of dispute resolution. For those cases that are litigated before the courts, it can be a long, laborious, and expensive process; but ultimately the courts do have the final word in deciding how constitutional principles involved in business law apply to a given conflict between adversarial parties.

### Parallel Systems

As you review the system of laws in the United States, you should see American jurisprudence as traveling along two separate but very similar highways. In truth, the United States maintains a parallel system of courts that are available to litigants. State courts are where the vast majority of commercial transaction disputes are adjudicated. State courts handle the majority of business transactions because, more often than not, disputes often involve two business parties who are either incorporated in or live within the boundaries of the same state. When adversarial parties live in different states, or when their disputes and controversies involve federal questions, then those necessarily go to the federal courts.

In both the state and federal courts, decisions that are arrived at during the first level of adjudication can be appealed through appeals courts. The decisions of those appeals courts can subsequently be taken to a state Supreme Court or the United States Supreme Court. It is important that you review the study materials to understand diagrammatically how business law disputes navigate through the sometimes byzantine system of parallel laws and courts in the United States.

## Alternative Dispute Resolution

It is also important to recognize and appreciate, especially given the avalanche of business litigation that we see today in respected publications, that many business parties have decided to completely avoid the system of state and federal courts and to take their disputes to what is known as alternative dispute resolution. When parties decide to settle their agreements through arbitration or through mediation, they are essentially taking a completely different direction in handling their business transactional disputes. They agree beforehand that a disinterested, objective third party will listen to the facts from both sides and arrive at a decision that is binding upon both parties.

Critics have argued that arbitration does not allow for the same appeals that are available to litigants in state and federal courts, and there is some truth to this: usually an arbitrator's decision is final, and oftentimes neither party can appeal to an appeals board. But others argue with a great deal of evidence that this system saves both time and money, and allows for business disputes to be settled in a way that is efficient for both sides. Whichever side of this argument you adhere to, one thing is for certain: alternative dispute resolution is here to stay, and given the skyrocketing costs of litigating in the courts this will be a feature of settling disputes for some time to come for commercial parties.

### Learning Activities

#### u01s1 - Studies

## Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 1, "Law and Legal Reasoning."
- Read Chapter 2, "Courts and Alternative Dispute Resolution."
- Read Chapter 3, "Court Procedures."

## Library Resources

Take time to explore Capella University library's [Legal Research Library Guide](#). Learn how to search for legal cases in LexisNexis, how to find cases on a topic using Law Reviews in Lexis or Legal Opinion search in Google Scholar, and how to access free legal resources on the web. Contact your reference librarian for details and assistance with conducting research.

## Independent Research

Research and select a court decision as the basis for your analysis paper for the Unit 1 assignment, "Case Law Analysis: Judicial Concepts," which is to be submitted by the end of this unit. You may choose a state or federal court case. Use these suggested Web sites for locating a case:

- The Findlaw Web site, [US Supreme Court Opinions](#).
- The NOLO Web site, [US Supreme Court Center](#).
- The OYEZ site, [U.S. Supreme Court Media - Cases - 2017 Term](#).
- The Legal Information Institute's [Supreme Court: Most Recent Decisions](#).
- The Capella University Library's [Legal Research Library Guide](#).

### Wall Street Journal

- Research and select a [Wall Street Journal](#) (WSJ) article related to the courts and business to be used as a reference in this unit's second discussion. The WSJ regularly has informative articles about judicial rulings related to business.

## Multimedia

- Click **Analyzing a Case Law** to view this presentation. Throughout the course, you are required to submit case law analyses papers. This presentation points out key areas of a case law. Use this presentation and the information found on pages 22–24 of your text to help you complete your case analyses. Refer to this media as often as you need to.
- Click **Business Law Foundational Concepts** and review the terms or concepts listed in the Unit 1 tab of the interactive media piece. These are interactive flashcards that you can use to review or learn foundational terms associated with business law. The terms are organized by the unit in which they are covered and by alphabetical order. Refer to this study aid often and as needed.

### **u01s2 - Course-Long Discussion Overview**

As you move through the course and work toward grasping the various business law concepts, you will most likely have many questions and observations, and begin to make connections.

We are using a course-long discussion, titled Reflections on Business Law, to create an informal environment for you to share your observations and experiences and add to each other's experiences. This discussion is the vehicle for you to be reflective; it is a space for capturing key observations and sorting out your thoughts and ideas.

Your posting efforts should not become a burden, but at the same time, we want you to post consistently and genuinely. In other words, your posts should be free-form enough to serve your purpose, yet be of quality online interactions with one another. Use any of these inspiration prompts in drafting your post:

- Did you read a publication or view a video (current events or other genres) that relates to the course concepts? Provide a citation or link to the article or video, so that your readers can reference it.
- Do you have personal or professional experience with the issue or topic? Describe your experiences and share any relevant details and insights.
- Was there a topic or issue that confused you? Explain what you understood about it and what remains confusing for you.
- Was there a topic or issue that you disagreed with? Did you have a different experience with it? Make your argument on why you disagree or describe how you experienced it.
- What other learning connections did you make between these concepts and other courses you have completed?

You are required to complete weekly posts in the Reflections on Business Law discussion. Your first post should have your name in the title, and as the course progresses, you can use that same thread for your subsequent posts. You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style. At a minimum, each post should be 2–3 paragraphs. In Unit 5, submit your posts (a total of five entries) for grading. The grading criteria for this assignment are found in the Reflections on Business Law Evaluation Scoring Guide; make sure you review it so that you can meet the assignment expectations.

## **Response Guidelines**

Read your fellow learners' posts and make comments to their entries as appropriate. Keep in the spirit of being supportive, inquiring critically, or enhancing the thoughts and ideas found in the post.

### **u01a1 - Case Law Analysis - Judicial Concepts**

In this unit you, you will select any business-related case decided by a state court, a federal court, or the United States Supreme Court.

Each case law analysis allows you to express yourself as clearly and fully as possible in dissecting a court decision. The purpose of the assignment is two-fold:

1. To give you the opportunity to read a real court decision.
2. To challenge you to think about how you would have decided the case. In your case law analyses, you must be able to navigate the court's decision and summarize it; you are not expected to act as a judge or an advocate.

Using your selected court decision, prepare an analysis that responds to the following:

1. Articulate the importance, context, purpose, and relevance of law in a business environment:
  - Identify the parties who are before the court.
  - Provide a brief background to problem. Summarize the facts in no more than 2–3 paragraphs.
  - Identify the specific disagreement between the parties.
  - Explain the ruling of the court in no more than 1–2 paragraphs.
2. Evaluate key judicial concepts that influence the decisions related to business:
  - Was there a dissenting opinion? If so, explain why some of the judges or justices disagreed with the majority in the decision.
  - Do you agree with the court's decision? Why or why not?

You may choose any court case, either state or federal, as the basis for each of the case law analyses; however, the case should be applicable to the assignment topic (including being related to business). The recommended Web sites for researching and locating a case are listed in the Resources area.

Your analysis should be no more than two pages, double-spaced. References and citations are to adhere to APA formatting and style guidelines. Prior to submitting your assignment, be sure to review the scoring guide to ensure you have met all of the grading criteria.

Course Resources

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[Capella University Library Legal Research Library Guide](#)

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[Findlaw US Supreme Court Opinions](#)

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[LII: Supreme Court: Most Recent Decisions](#)

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[NOLO US Supreme Court Center](#)

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[Oyez: U.S. Supreme Court Media: Cases - 2017 Term](#)

## u01d1 - Introduction to Business Law

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select from one of the following questions:

1. What are some of the differences between the models for law systems throughout the world? What are some of the benefits of each? What are some of the disadvantages of each?
2. What is the difference between procedural rules and substantive rules? Which are more important for the average person in society to know? Why?
3. How is your country's legal system connected to business, and what is its impact? Is it favorable to the growth of business, or unfavorable? Does it protect some but not others? Does the legal system foster the goal of resolving disputes promptly, equitably, and peacefully?

## Response Guidelines

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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[Undergraduate Discussion Participation Scoring Guide](#)

## u01d2 - Courts and Business Disputes

Are the courts the best forum to resolve business disputes? Please include a reference from *The Wall Street Journal* related to courts and business as part of your posting, and provide relevant examples to support your argument. All references and citations are to adhere to APA style and formatting guidelines.

### Response Guidelines

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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Undergraduate Discussion Participation Scoring Guide

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[The Wall Street Journal](#)

## Unit 2 >> Basics of Contract Law: Formation, Breach, and Remedies

### Introduction

Contracts are the heart and soul of commercial transactions. In this unit, you will explore the different types of contracts that bind parties together in business dealings. It is highly recommended that you review contracts that you have signed recently—a lease, an employment agreement, an extended warranty—to examine not only the language but also the scope of these agreements. You may wish to pay close attention to language in a contract that you have signed that outlines specifically how disagreements will be resolved, and the penalties that adhere to either party for breach of the contract.

### Importance of Contracts

Imagine a business environment that had no contracts as we know them today. Parties would rely simply on trust, gentlemen's agreements, handshakes, and oral assurances. Courts of law would have absolutely no way of determining the intent of either commercial party upon entering into a joint endeavor without such disagreements becoming a "he said, she said" scenario. Judges and juries would have to begin anew to determine the scope of every agreement, and remedies for breaching such agreements would be almost impossible to determine without clear-cut evidence for one party or the other. In short, a commercial transactional world lacking contracts is one built upon false promises and blind trust. Such a world would make it impossible for commercial parties to enter into risky financial propositions, because no assurances could be made about contractual performance or damages. It is for that reason that contract law remains one of the most important components of business law today.

### Consideration, Capacity, and Legality

One of the most important foundational concepts to recognize is that a contract must have something of value at stake, or better known by its legal term, *consideration*. Consideration simply refers to something of value that two parties contract about, so that courts can answer one fundamental question: why have the parties agreed to do something, and what is the value of this shared endeavor?

As you might imagine, consideration is typically money, but it can also be a service or a product. Even in instances where one party does not intend to enrich itself from his or her actions, often a single dollar will be consideration just to signal to the court that something of value, albeit of very tiny value, was at stake. In addition, parties must have the capacity to enter into an agreement, or in other words, the ability to understand the terms of the agreement. Oftentimes when contracts are breached, one party will argue that some mitigating factor limited its ability to fully understand the details of a contract, and therefore that party should be excused from performance. Courts recognize certain classifications of capacity—for example, minors cannot enter into contracts—but overall the courts have been extremely unwilling to find a lack of capacity against parties, especially when a commercial party has been active in the business law landscape for quite some time. It would be incredible to believe that such a person or organization was unsophisticated about business law.

It goes without saying that parties cannot contract for anything illegal—as strange as it may seem, parties sometimes bring their disputes to a court of law even when the controversy in question involves something that is outside the scope of what is permissible. In short, contracts must be entered into for something of value, between two parties that fully understand the terms of the agreement, and for a purpose that is recognized as legal in a public policy context.

## Breach of Contract

Breach of contract is another fundamental issue that we will be studying in this module. Pay very close attention to what happens when one party makes an offer to another, but the other party changes any part of that original offer. When that occurs, the party that made even a slight change has, in the eyes of the law, rejected the original offer and given the original party a new offer because the terms of the original offer were changed. What the party has done is to submit a counter offer, and the original party therefore has the option to pull out of its offer if the counter offer does not meet the terms of the original offer.

Once the battle of the contracts is over and both parties have agreed to a document signifying their cooperation in some commercial endeavor, the text of the contract itself usually spells out what damages will ensue and how one party will compensate the other for any breach. Often this entails monetary compensation, but it can involve something else such as performance of some responsibility. Courts will look within the four corners of the contract to determine not only what the expectations of the parties were, but also to divine whether the parties had agreed to some course of action should one party not perform the terms of the contract.

## The New Frontier: E-Contracts

A fascinating component of this module is the emergence of the *e-contract*, or contracts that have relevance to the evolving commercial universe of cyberspace. The cyberspace commercial environment has exploded in the last ten years, not only within the United States, but around the world. Entire industries have effectively been co-opted by the online universe, including books, music, movies, and a whole host of other products and services. The courts have grappled with how to regulate contracts in an e-commerce world; not only because the parties are usually separated by many hundreds if not thousands of miles, but because the parties may actually live and operate in separate countries. A contract dispute between two parties on eBay might involve litigants in Indiana and India, or between South Carolina and South Africa. How do courts determine what law adheres (or which country's legal system governs) contracts that are formed through an online transaction? The textual readings for this module will help you to understand the contours of this debate. As you move forward in your readings, speculate on and forecast how the courts may interpret e-contracts in the future, and how that might impact the global economy and commercial transactions in cyberspace.

### Learning Activities

#### u02s1 - Studies

## Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 12, "Formation of Traditional and E-Contracts."
- Read Chapter 13, "Contract Performance, Breach, and Remedies."
- Read Chapter 14, "Sales and Lease Contracts."

## Independent Research

Research and select a court decision as the basis for your analysis paper for the "Case Law Analysis: Contract Law" assignment which is to be submitted by the end of this unit. You may choose a state or federal court case; use these suggested Web sites for locating a case:

- The Findlaw Web site, [US Supreme Court Opinions](#).
- The NOLO Web site, [US Supreme Court Center](#).
- The OYEZ site, [U.S. Supreme Court Media - Cases - 2017 Term](#).
- The Legal Information Institute's [Supreme Court: Most Recent Decisions](#).
- The Capella University Library's [Legal Research Library Guide](#).

## Multimedia

- Click **Business Law Foundational Concepts** and review the terms or concepts listed in the Unit 2 tab of the interactive media piece. Refer to this study aid often and as needed.

Course Resources



## u02s2 - Course-Long Discussion Post

Complete your Reflections on Business Law discussion post for this unit. Use any of these inspiration prompts in drafting your post:

- Did you read a publication or view a video (current events or other genres) that relates to the course concepts? Provide a citation or link to the article or video, so that your readers can reference it.
- Do you have personal or professional experience with the issue or topic? Describe your experiences and share any relevant details and insights.
- Was there a topic or issue that confused you? Explain what you understood about it and what remains confusing for you.
- Was there a topic or issue that you disagreed with? Did you have a different experience with it? Make your argument on why you disagree or describe how you experienced it.
- What other learning connections did you make between these concepts and other courses you have completed?

You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style.

## Response Guidelines

Read your fellow learners' posts and make comments to their entries as appropriate. Keep in the spirit of being supportive, inquiring critically, or enhancing the thoughts and ideas found in the post.

## u02a1 - Case Law Analysis - Contract Law

In this unit, you will select a case law pertaining to the topic of contract law.

Each case law analysis allows you to express yourself as clearly and fully as possible in dissecting a court decision. The purpose of the assignment is two-fold:

1. To give you the opportunity to read a real court decision.
2. To challenge you to think about how you would have decided the case. In your case law analyses, you must be able to navigate the court's decision and summarize it; you are not expected to act as a judge or an advocate.

Using your selected court decision, prepare an analysis that responds to the following:

1. Articulate the importance, context, purpose, and relevance of law in a business environment:
  - Identify the parties who are before the court.
  - Provide a brief background of the problem. Summarize the facts in no more than 2–3 paragraphs.
  - Identify the specific disagreement between the parties.
  - Explain the ruling of the court in no more than 1–2 paragraphs.
2. Evaluate key judicial concepts that influence the decisions related to business:
  - Was there a dissenting opinion? If so, explain why some of the judges or justices disagreed with the majority in the decision.
  - Do you agree with the court's decision? Why or why not?

You may choose any court case, either state or federal, as the basis for your case law analysis; however, the case should be applicable to the assignment topic. The recommended Web sites for researching and locating a case are listed in the Resources area.

Your analysis should be no more than two pages, double-spaced. References and citations are to adhere to APA formatting and style guidelines. Prior to submitting your assignment, be sure to review the scoring guide to ensure you have met all of the grading criteria.

Course Resources

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[Findlaw US Supreme Court Opinions](#)

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[LII: Supreme Court: Most Recent Decisions](#)

### **u02d1 - Characteristics of a Contract**

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. What is the difference between an agreement and a contract? What is the difference between an offer and a contract?
2. If you sign a purchase agreement to buy a house but do not give the seller a deposit and, after signing, change your mind before you move in, are you bound by your agreement?
3. If you offer \$500,000 for a person's house and the person responds that they want \$500,001, do you have a contract?
4. Can the parties agree, in a contract for the purchase and sale of a house, that the price for the house will be the market value of comparable houses on the day of closing?
5. Are there situations when someone can be bound to keep their promise even though they received nothing in return for their promise?
6. If the parties sign a purchase and sale agreement for the purchase of a house and the house is destroyed shortly before the deed to the house is signed by the seller, who bears the risk of loss?
7. In the modern world, with the growing maturity of young people, are rules protecting minors from the enforcement of contracts archaic?

### **Response Guidelines**

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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[Undergraduate Discussion Participation Scoring Guide](#)

### **u02d2 - Concepts of Contracts**

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. If a painter does their very best, in good faith, to paint a person's house as promised in a contract but the paint job is very poorly done, is the painter entitled to payment, as promised in the contract?
2. If the cost of paint skyrockets after a painter contracts to paint a house, should the painter be able to pass on the increased cost to the customer?
3. If a painter dies after making a contract to paint a house, should the painter's family be required to complete the job?
4. If a world famous chef breaks a contract to work at a world class restaurant, should the restaurant be able to stop the chef from working at other restaurants?

### **Response Guidelines**

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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Undergraduate Discussion Participation Scoring Guide

### Unit 3 >> Intellectual Property, Creditor-Debtor Relations, and Employment Law

#### Introduction

Intellectual property issues are almost always complex, nuanced, and prone to be discussed in legal jargon, but there are a number of resources that students can turn to concerning keeping up with intellectual property issues. FindLaw's Web site, [FindLaw.com](http://FindLaw.com), is one of the best resources for case law in this topical area.

Concerning the creditor-debtor relationship, as we have seen with the implosion of the mortgage business, there are many news articles in virtually all newspapers and electronic media about the state of banking and credit in the United States. You may find useful reports about the state of creditor-debtor issues from reports from the [Government Accountability Office](http://GovernmentAccountabilityOffice.gov) Web site.

A good place to start to receive up-to-date information about employment law is visiting the websites of some of the relevant government agencies. The [Occupational Safety and Health Administration](http://OccupationalSafetyandHealthAdministration.gov) Web site is highly recommended and has critical information about workplace health and safety. In addition, the [Bureau of Labor Statistics](http://BureauofLaborStatistics.gov) Web site provides very relevant and up-to-date employee data in the United States. Finally, the [United States Department of Labor Web](http://UnitedStatesDepartmentofLabor.gov) site should be mandatory reading.

#### Why Intellectual Property Matters

Read any newspaper or visit any Internet news site, and chances are that at some point you will come across a story about China, India, Vietnam, or another similar developing nation that is accused by the United States or Western European nations of infringing upon intellectual property rights of multinational corporations. Indeed, violations of intellectual property rights have become a critical and debilitating sticking point between Washington and Beijing, and for good reason. Intellectual property protections are the heart and soul of protecting the economic and intellectual investment that entrepreneurs make in a product or service, and without these protections the marketplace would grind to a halt.

The copying of Microsoft software in China is the most egregious example of infringement upon intellectual property rights, but the problem goes far beyond that. From those who copy the latest hit CDs to manufacturers producing fake Louis Vuitton handbags, and even the nearly identical creation of automobiles copied from General Motors cars in China, one thing is certain: each example inextricably leads to an important conversation about what rights are important, how they should be protected in an international context, and what powers government should have to enforce intellectual property rights.

The focus of this unit is necessarily upon the United States, where intellectual property is considered a cornerstone of the business environment. The federal government and state and federal courts have crafted a vast array of resources and protections for entrepreneurs regarding their ideas, products, and services. The proliferation of small businesses and the dominance of Silicon Valley in the high-tech field are all testament to the protections that have been afforded businessmen and women who are seeking to create new ideas or to further innovative technologies. This unit will help you to understand the rationale behind intellectual property, how it is employed in a business setting, and the ramifications for businesses who seek to do business overseas where intellectual property rights may not be as strong or as stringently enforced as they are in developed nations.

#### Creditors, Debtors, and Bankruptcy

In addition, this module will explore the important relationship between creditors and debtors. As we saw with the implosion of the housing market in the United States, millions of Americans experienced overwhelming debt first-hand; lenders who did not properly screen borrowers suffered as well, in some cases receiving massive bailouts from the federal government or by sovereign wealth funds from foreign countries, such as Singapore, Dubai, and Kuwait. This module will explain how that relationship has evolved in a legal context, and how both debtors and creditors have rights regarding their relationship in a lending situation.

Bankruptcy laws in the United States have changed dramatically, and bankruptcy is now much harder to obtain by many individual Americans. Congress reformed the bankruptcy laws due, in part, to a perception that many Americans were relying upon bankruptcy protections to evade creditors after spending money on frivolous, unnecessary, and luxury items. Critics argue that many Americans are deeply in debt not because of frivolous purchases

but because of overwhelming health care costs, exploding higher education fees, and a variety of other expenses that have far exceeded the rate of inflation.

However you feel about the public-policy origins of debt and the rising costs of a variety of services and products, one thing is certain; the bankruptcy laws are much more creditor-friendly than they have ever been, and individuals and businesses who seek the protection of bankruptcy laws will often find that they will not be able to completely escape the reach of those who seek remuneration for debts owed.

## Employment-at-Will in the United States

What often surprises Europeans who visit American workplaces or study U.S. employment and labor law is the fact that the American worker—compared to France, Germany, and Italy—lacks many of the protections from layoffs and firings that can be found in Western Europe. Indeed, the American concept of employment-at-will, whereby either an employee or employer can terminate the working relationship at any time for virtually any reason, is unique to American employment law, and has deep and lasting ramifications upon how the employer-employee relationship evolves and develops.

The intellectual firmament of employment-at-will stands as a defense against involuntary servitude—in other words, preventing someone from working against their will. This gives American workers maximum flexibility to choose their workplaces, chart their career paths, and pursue better and more lucrative job opportunities when they arise. However, employment-at-will also carries severe downsides for the American employee. There are few, if any, protections for workers from being let go during an economic downturn, posing significant risks for workers in economic sectors that are extraordinarily cyclical, such as manufacturing. The absence of any incentive for employers to keep workers during economic downturns has probably led to an increased trend toward outsourcing, downsizing, and streamlining operations. Finally, the employment-at-will relationship also leaves the employer-employee relationship in a constant state of uncertainty. An employee hired today may leave next year, next month, or next week. Because of that, it is difficult for employers to predictably manage and forecast their workforce.

Supporters of the employment-at-will relationship argue that low unemployment rates have largely ameliorated any concerns that terminated workers will be unable to find new work. In addition, supporters argue that American companies are more flexible and nimble than their European counterparts because they can hire and fire depending upon cyclical economic cycles. Finally, an argument can be made that the symmetry of employment-at-will, which grants equal rights to employers and employees to terminate the working relationship, presents an equilibrium of power that may not exist in Europe, where employees may hold stronger rights regarding their employers. However you stand on this issue, one thing is certain; employment-at-will is a very strong underlying force in American employment law, and has been consistently upheld in the courts.

## Combating Employment Discrimination

Employment discrimination is another major theme of this module, and a number of benchmark federal laws are examined. What is significant to note is that the employment-at-will legal concept does not allow an employer to terminate the American worker for any reason. Arbitrary and capricious firings based upon race, religion, gender, sexual orientation, or disability, are prohibited and workers can—and have—successfully sued employers who have been found to fire based on those discriminatory criteria.

However, it would be a mistake to argue that proving discrimination in the workplace is an easy feat. In fact, it is quite the opposite. Many worker discrimination suits are never brought to litigation, and proving the intent of an employer in an alleged discriminatory firing of an employee is extraordinarily difficult. Many such cases are settled prior to litigation, and the success rate for employees challenging such firings in court is fairly low. What the readings strongly indicate is that workers seeking to bring a suit on discriminatory grounds need to have a plethora of evidence, and must be able to document that discrimination in a way that is persuasive and compelling.

### Learning Activities

#### u03s1 - Studies

## Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 8, "Intellectual Property Rights."
- Read Chapter 9, "Internet Law, Social Media, and Privacy."
- Read Chapter 15, "Creditor-Debtor Relations and Bankruptcy."
- Read Chapter 20, "Employment Law."

## Optional Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 21, "Employment Discrimination."

## Independent Research

Research and select a court decision as the basis for your analysis paper for the Unit 3 assignment "Case Law Analysis: Intellectual Property," which is to be submitted by the end of this unit. You may choose a state or federal court case; use these suggested Web sites for locating a case:

- The Findlaw Web site, [US Supreme Court Opinions](#).
- The NOLO Web site, [US Supreme Court Center](#).
- The OYEZ site, [U.S. Supreme Court Media - Cases - 2017 Term](#).
- The Legal Information Institute's [Supreme Court: Most Recent Decisions](#).
- The Capella University Library's [Legal Research Library Guide](#).

## Multimedia

Complete the interactive media:

- [Business Law Foundational Concepts](#).
  - Review the terms or concepts listed in the Unit 3 tab of the interactive media piece. Refer to this study aid often and as needed.
- [Labor Law Timeline](#).

### u03s2 - Course-Long Discussion Post

Complete your Reflections on Business Law discussion post for this unit. Use any of these inspiration prompts in drafting your post:

- Did you read a publication or view a video (current events or other genres) that relates to the course concepts? Provide a citation or link to the article or video, so that your readers can reference it.
- Do you have personal or professional experience with the issue or topic? Describe your experiences and share any relevant details and insights.
- Was there a topic or issue that confused you? Explain what you understood about it and what remains confusing for you.
- Was there a topic or issue that you disagreed with? Did you have a different experience with it? Make your argument on why you disagree or describe how you experienced it.
- What other learning connections did you make between these concepts and other courses you have completed?

You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style.

## Response Guidelines

Read your fellow learners' posts and make comments to their entries as appropriate. Keep in the spirit of being supportive, inquiring critically, or enhancing the thoughts and ideas found in the post.

### u03a1 - Case Law Analysis - Intellectual Property

In this unit, you will select a case law pertaining to the topic of *intellectual property*.

Each case law analysis allows you to express yourself as clearly and fully as possible in dissecting a court decision. The purpose of the assignment is two-fold:

1. To give you the opportunity to read a real court decision.
2. To challenge you to think about how you would have decided the case. In your case law analyses, you must be able to navigate the court's decision and summarize it; you are not expected to act as a judge or an advocate.

Using your selected court decision, prepare an analysis that responds to the following:

1. Articulates the importance, context, purpose, and relevance of law in a business environment:
  - Identify the parties who are before the court.
  - Provide a brief background to the problem. Summarize the facts in no more than 2–3 paragraphs.
  - Identify what is the specific disagreement between the parties.

- Explain the ruling of the court in no more than 1–2 paragraphs.
2. Evaluates key judicial concepts that influence the decisions related to business:
- Was there a dissenting opinion? If so, explain why some of the judges or justices disagreed with the majority in the decision.
  - Do you agree with the court's decision? Why or why not?

You may choose any court case, either state or federal, as the basis for your case law analysis; however, the case should be applicable to the assignment topic. The recommended Web sites for researching and locating a case are listed in the Resources area.

Your analysis should be no more than two pages, double-spaced. References and citations are to adhere to APA formatting and style guidelines. Prior to submitting your assignment, be sure to review the scoring guide to ensure you have met all of the grading criteria.

Course Resources

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[Capella University Library Legal Research Library Guide](#)

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[Findlaw US Supreme Court Opinions](#)

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[LLI: Supreme Court: Most Recent Decisions](#)

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[NOLO US Supreme Court Center](#)

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[Oyez: U.S. Supreme Court Media: Cases - 2017 Term](#)

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### **u03d1 - Creditors, Debtors, and Bankruptcy**

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. Should the law allow debtors to avoid payment of their debts if those debts cause the debtors to lose their homes or suffer other extreme hardship?
2. Should a business be able to erase its obligations to workers if those obligations would cause the business to be unable to pay dividends to its shareholders?
3. Should a student ever be able to obtain forgiveness of her obligation to pay tuition?
4. Should a parent ever be able to obtain forgiveness of his obligation to pay child support?

## **Response Guidelines**

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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[Undergraduate Discussion Participation Scoring Guide](#)

## **Unit 4 >> The Business Entity and Agency Law**

### **Introduction**

No discussion about business entities would be complete—or even informed—without some knowledge of the taxation issues surrounding corporations. It is for that reason that the ongoing political debate in Washington and in statehouses around the country about appropriate corporate tax levels should be followed as we maneuver through this course. Not surprisingly, the Wall Street Journal stands as one of the best resources for tax issue reporting.

The *U.S. Small Business Administration* has a variety of resources that help to guide would-be and bona fide entrepreneurs in how to form the correct entity as they launch or formalize their business endeavors. Check your state's Secretary of State office for additional rules about corporations and the pros and cons of each entity available to businesses.

## Why the Business Form Is Important

The fundamental question that surrounds the creation of any business is what corporate form the business should construct. This is not a question without significant consequence: the business form that an entrepreneur assumes can dictate not only how much tax the entity will pay, but also what protections the law will provide the leadership of the business organization. Litigation and the threat of litigation—often seen by business law observers as one of the most detrimental threats in the commercial world—can be mitigated significantly by the entity an entrepreneur assumes. Additionally, the choice of corporate form has tremendous implications regarding state and federal taxation upon business earnings, but many choices are coupled with onerous tax reporting requirements. As you maneuver through this course, consider the competing entities that business can embrace, and the implications and rationale for choosing one over another.

## The Notion of Limited Liability

As you read the textual assignments for this course, you will be able to compare and contrast multiple legal entities that public policy has dictated should be offered to those who launch entrepreneurial initiatives. However, also understand that many businesses have not chosen any formal corporate form. Indeed, when a business chooses to pay taxes as if business income is personal income, it is better known as the sole proprietorship. Significantly, a sole proprietorship requires no separate tax filing, does not require visiting the Secretary of State's office in any state capital, and relieves the entrepreneur or entrepreneurs of the burdensome reporting requirements that those who form partnerships and corporations must adhere to regarding the Internal Revenue Service.

On the other hand, those who operate as a sole proprietorship assume significant and serious liability should the entrepreneurial entity be sued. Damages awarded from just a single lawsuit can cripple a once-thriving business. For that reason, many entrepreneurial organizations have chosen limited liability corporations or limited liability partnerships, which—while imposing greater administrative burdens on management—provide a powerful and durable shield for corporate officers from litigation concerning the acts of the partnership or corporation. There is little question that the major attraction for forming a corporation or partnership is to mitigate personal liability for those who lead the entrepreneurial entity. The surging growth of the LLC, for example, is testament to the belief of many business persons that success in an ultracompetitive business environment is tied closely to addressing the omnipresent risk of litigation and lawsuits.

## Corporations and Piercing the Corporate Veil

Another fundamental aspect of our conversation during this unit regards how the courts treat decisions made in the corporate boardroom. Unless corporate officers engage in demonstrable malfeasance or gross negligence in the execution of their official duties, state and federal courts have consistently upheld the integrity of the decision-making process among corporate executives. This legal concept, known as the *Business Judgment Rule*, requires the courts to provide maximum deference to corporate officers in decisions made as part of their official duties, and this deference will not be interfered with unless there is a strong public policy rationale for doing so.

The public policy rationale for protecting corporate decision-making is clear; if every decision reached by a corporate board or executive officer was open to successful challenge by plaintiffs, then no corporation will be able to execute business decisions in a way that could mitigate risk and ensure long-term financial stability and growth. Even today, whenever a company's share price nosedives, plaintiffs immediately challenge the integrity of boardroom decision-making; while many of these decisions are settled out of court, it does display some of the serious and chronic litigation minefields that threaten the financial integrity of entrepreneurial interests. It is for this strong public policy reason that the courts will only challenge corporate decision-making, or *pierce the corporate veil*, in extraordinary circumstances when there is a very strong public policy rationale for penalizing the organization.

## Agency – What It Is and What It Is Not

The agency relationship is a major cornerstone of this unit. Many businesses rely upon legions of agents who act, operate, and communicate on behalf of the business organization. This unit will explore exactly what agents can and cannot do in the context and scope of their relationship with their employer, and also unravels what duties and rights agents have towards business organizations. In a day and age when independent contractors are relied upon more than ever, and where many businesses have decided to outsource a wide variety of jobs that were once exclusively done in-house, the importance of the agency relationship is perhaps greater today than it has ever been. Given that modern reality, in this course you will explore the business context of agency and the risks and challenges involved in that vital and legally significant relationship.

## Other Considerations

As you review the readings for the business environment during this course, consider how different corporate entities might impact entrepreneurial interests in relation to the global economy. Are the protections afforded corporate officers warranted in today's business landscape? Are there additional

protections that the courts could provide to companies and partnerships given the litigation landscape of modern America? Are there elements of the different business entities that we've studied that should be strengthened, weakened, or eliminated altogether?

One thing is certain: an organization's choice of business entity will have long-term ramifications upon the financial stability of the business, and the ability of those organizations to compete in an ultra-competitive global economy.

## Learning Activities

### u04s1 - Studies

## Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 16, "Small Businesses and Franchises."
- Read Chapter 17, "Limited Liability Business Forms."
- Read Chapter 18, "Corporations."
- Read Chapter 19, "Agency Relationships."

## Independent Research

Research and select a court decision as the basis for your analysis paper for the Unit 4 assignment, "Case Law Analysis: Business Entities," which is to be submitted by the end of this unit. You may choose a state or federal court case; use these suggested Web sites for locating a case:

- The Findlaw Web site, [\*US Supreme Court Opinions\*](#).
- The NOLO Web site, [\*US Supreme Court Center\*](#).
- The OYEZ site, [\*U.S. Supreme Court Media - Cases - 2017 Term\*](#).
- The Legal Information Institute's [\*Supreme Court: Most Recent Decisions\*](#).
- The Capella University Library's [\*Legal Research Library Guide\*](#).

## Multimedia

Click **Business Law Foundational Concepts** and review the terms or concepts listed in the Unit 4 tab of the interactive media piece. Refer to this study aid often and as needed.

Course Resources

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Business Law Foundational Concepts

### u04s2 - Course-Long Discussion Post

Complete your Reflections on Business Law discussion post for this unit. Use any of these inspiration prompts in drafting your post:

- Did you read a publication or view a video (current events or other genres) that relates to the course concepts? Provide a citation or link to the article or video, so that your readers can reference it.
- Do you have personal or professional experience with the issue or topic? Describe your experiences and share any relevant details and insights.
- Was there a topic or issue that confused you? Explain what you understood about it and what remains confusing for you.
- Was there a topic or issue that you disagreed with? Did you have a different experience with it? Make your argument on why you disagree or describe how you experienced it.
- What other learning connections did you make between these concepts and other courses you have completed?

You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style.

## Response Guidelines

Read your fellow learners' posts and make comments to their entries as appropriate. Keep in the spirit of being supportive, inquiring critically, or enhancing the thoughts and ideas found in the post.



## u04a1 - Case Law Analysis - Business Entities

In this unit you, you will select a case law pertaining to the topic of *business entities*.

Each case law analysis allows you to express yourself as clearly and fully as possible in dissecting a court decision. The purpose of the assignment is two-fold:

1. To give you the opportunity to read a real court decision.
2. To challenge you to think about how you would have decided the case. In your case law analyses, you must be able to navigate the court's decision and summarize it; you are not expected to act as a judge or an advocate.

Using your selected court decision, prepare an analysis that responds to the following:

1. Articulates the importance, context, purpose, and relevance of law in a business environment:
  - Identify the parties who are before the court.
  - Provide a brief background to problem. Summarize the facts in no more than 2–3 paragraphs.
  - Identify what is the specific disagreement between the parties.
  - Explain the ruling of the court in no more than 1–2 paragraphs.
2. Evaluate legal options to create a business entity.
  - Was there a dissenting opinion? If so, explain why some of the judges or justices disagreed with the majority in the decision.
  - Compare to other types of business entities-would the party have been in a better position if they formed as a different type of legal business entity?
  - Do you agree with the court's decision? Why or why not?

You may choose any court case, either state or federal, as the basis for your case law analysis; however, the case should be applicable to the assignment topic. The recommended Web sites for researching and locating a case are listed in the Resources area.

Your analysis should be no more than two pages, double-spaced. References and citations are to adhere to APA formatting and style guidelines. Prior to submitting your assignment, be sure to review the scoring guide to ensure you have met all of the grading criteria.

Course Resources

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[Capella University Library Legal Research Library Guide](#)

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[Findlaw US Supreme Court Opinions](#)

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[LII: Supreme Court: Most Recent Decisions](#)

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[NOLO US Supreme Court Center](#)

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[Oyez: U.S. Supreme Court Media: Cases - 2017 Term](#)

## u04d1 - Business Entities - Part 1

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. What are the advantages and disadvantages of forming a limited liability company?
2. Should a member of a limited liability company be liable for obligations that arise after the member has left the company?
3. How can a corporation be properly punished if it commits a tort or a crime?
4. Are the steps required to incorporate too easy or too difficult?
5. Should shareholders ever be held personally liable for the wrongdoing of the corporations in which they hold shares?

6. Should members of the board of directors ever be held personally liable for the wrongdoing of the corporations in which serve?

## Response Guidelines

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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Undergraduate Discussion Participation Scoring Guide

### u04d2 - Business Entities - Part 2

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. Is it ever a good idea to do business without creating some form of a limited liability business organization?
2. What are the factors to consider when deciding whether to buy into a franchise such as McDonalds?
3. What are the differences between a partnership and a limited liability business organization?

## Response Guidelines

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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Undergraduate Discussion Participation Scoring Guide

## Unit 5 >> Tort Law, Consumer Protection, and Product Liability

### Introduction

As you examine the readings from the text during this unit, be sure to make the crucial distinction between torts involving individuals and torts regarding businesses. The cases that you study provide very rich resources that gave you a critical and succinct understanding of how federal courts interpret negligence doctrines as they apply to commercial transactions, and be sure to place yourself in the role of either the plaintiff or defendant to understand the full ramifications of tort law in a commercial setting.

## The Basis of Tort Law

One of the most important concepts of the law is the notion that if one party damages another in a noncriminal context, then the aggrieved party is entitled to restitution to make him or her whole. In a legal context, making another party whole (note: this is a fairly common term that you will hear again and again in a legal context) is the entire purpose of tort law. In other words, a judge or jury will attempt to determine exactly what needs to be done when an aggrieved party can demonstrate damages, and what those damages should be in order to return a party to the state that he or she was prior to the alleged action.

The reason why torts is a crucial element in a business context is because virtually all commercial enterprises deal with the public at some point, and by providing products, services, or any sort of commercially-relevant activities to the public, this exposes commercial concerns to lawsuits and litigation even when completely unintentional things inflict damages to ordinary consumers. As you maneuver through the unit this week, be sure to keep in mind that there is a significant difference between tort law and criminal law. Criminal penalties only attach to individuals with an illegal motive or with criminal negligence. Regarding tort law, society recognizes that sometimes businesses, out of ordinary negligence or ignorance, may cause injury to another party with no intent whatsoever to harm. Nonetheless, the law imposes standards by which such injured parties can seek recompense via the American judicial system.

## Strict Liability and Product Liability

Of particular importance is strict liability, which is one of the strongest standards in the law. This unit will explain the contours of strict liability, but keep in mind as you read the text this week that in very few instances does American law mandate the imposition of strict liability upon anyone. If strict liability is imposed on a party, it is because there is a serious and critical public policy reason for doing so. For example, products that seriously maim another with demonstrable negligence can fall under the strict liability standard.

More commonly, product liability is something that many businesses will encounter at some point. When a commercial party submits a product or a service into the stream of commerce, then the commercial entity that created the product or service is responsible, within certain boundaries, for any injuries or damages caused by that product to anyone down the line. Courts will always look at causation to determine whether or not the product or service did, in fact, cause the alleged injury and whether the injured party did anything that may have aggravated the injury or worsened the results of the injury. In both strict liability and product liability, it is vital to understand that society has developed these standards by which commercial parties can be found liable, not because there is any intent to hamstring the role of commercial organizations, but rather to recognize that consumers are entitled to baseline protections, especially when companies and organizations are aware of the risks of the products and do little, if anything, to ameliorate or to address those problems prior to submitting them into the stream of commerce.

## Consumer Protection

Another key factor covered in this unit is the notion of consumer protection. Consumer protection in the United States is largely dependent upon the political winds in Washington, DC. Organizations and agencies such as the Consumer Product Safety Commission are only as strong and as effective as those in the White House or Congress intend for those organizations to be in the performance of their duties. Indeed, federal and state agencies involved in consumer protection are dependent upon annual appropriations that govern the size of their staff and scope of their budgets—and therefore the reach of their responsibilities and ability to address serious consumer product issues.

Contemplate the role of the global economy as it impacts the legal environment of consumer protection. When a consumer in the United States is injured by a product manufactured in China or India, it is vastly more difficult for a litigant in the United States to obtain damages from a party that is located in Mumbai or Shanghai, as opposed to Minneapolis or Seattle. The courts have been struggling to determine ways to more effectively streamline these cases so that litigants can receive recompense, but with the increasingly international component to American consumerism, this is a complicating factor that courts around the country grapple with on a daily basis.

## The Public Policy Nexus

As you might imagine, there are many Americans that feel that tort law—and the judicial system in general—unduly exposes businesses to the reach of frivolous lawsuits. In the eyes of many ordinary Americans, legions of so-called *professional litigants* seek to obtain damages from well-intentioned companies who do no harm in the marketplace. However, in a more global context, it is important to realize that with millions of products that enter the stream of commerce, the law recognizes a special duty on the part of manufacturers and retailers to not only understand the risks and potential harms of those products but also to implement sufficient warnings, safeguards, and protections for consumers.

Whether you agree or disagree with the vitality of the judicial system in enforcing consumer protection laws, you may wish to see it in a public policy context and also to understand the vital role that politics plays in the strength of consumer protections and in the resolution of tort lawsuits in the judicial system.

### Learning Activities

#### u05s1 - Studies

## Readings

In your Cross and Miller *The Legal Environment of Business* text, complete the following:

- Read Chapter 6, "Tort Law."
- Read Chapter 7, "Strict Liability and Product Liability."
- Read Chapter 24, "Consumer Protection."

## Independent Research

Research and select a court decision as the basis for your analysis paper for the Unit 5 assignment, "Case Law Analysis: Tort Laws," which is to be submitted by the end of this unit. You may choose a state or federal court case; use these suggested Web sites for locating a case:

- The Findlaw Web site, [US Supreme Court Opinions](#).
- The NOLO Web site, [US Supreme Court Center](#).
- The OYEZ site, [U.S. Supreme Court Media - Cases - 2017 Term](#).
- The Legal Information Institute's [Supreme Court: Most Recent Decisions](#).
- The Capella University Library's [Legal Research Library Guide](#).

## Multimedia

- [Business Law Foundational Concepts](#).
  - Review the terms or concepts listed in the Unit 5 tab of the interactive media piece. Refer to this study aid often and as needed.
- Complete [Who Wants to Be a Millionaire?](#) to test your knowledge of legal terminology in this interactive media piece. This is a fun way for you to assess your command of the foundational legal terminology.

### u05s2 - Final Course-Long Discussion Post

Complete your fifth and final Reflections on Business Law discussion post. Use any of these inspiration prompts in drafting your post:

- Did you read a publication or view a video (current events or other genres) that relates to the course concepts? Provide a citation or link to the article or video, so that your readers can reference it.
- Do you have personal or professional experience with the issue or topic? Describe your experiences and share any relevant details and insights.
- Was there a topic or issue that confused you? Explain what you understood about it and what remains confusing for you.
- Was there a topic or issue that you disagreed with? Did you have a different experience with it? Make your argument on why you disagree or describe how you experienced it.
- What other learning connections did you make between these concepts and other courses you have completed?

You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style.

## Response Guidelines

Read your fellow learners' posts and make comments to their entries as appropriate. Keep in the spirit of being supportive, inquiring critically, or enhancing the thoughts and ideas found in the post.

### u05a1 - Case Law Analysis - Tort Laws

In this unit, you will select a case law pertaining to the topic of *tort law*.

Each case law analysis allows you to express yourself as clearly and fully as possible in dissecting a court decision. The purpose of the assignment is two-fold:

1. To give you the opportunity to read a real court decision.

2. To challenge you to think about how you would have decided the case. In your case law analyses, you must be able to navigate the court's decision and summarize it; you are not expected to act as a judge or an advocate.

Using your selected court decision, prepare an analysis that responds to the following:

1. Articulates the importance, context, purpose, and relevance of law in a business environment:
  - Identify the parties who are before the court.
  - Provide a brief background to problem. Summarize the facts in no more than 2–3 paragraphs.
  - Identify what is the specific disagreement between the parties.
  - Explain the ruling of the court in no more than 1–2 paragraphs.
2. Evaluates key judicial concepts that influence the decisions related to business:
  - Was there a dissenting opinion? If so, explain why some of the judges or justices disagreed with the majority in the decision.
  - Finally, do you agree with the court's decision? Why or why not?

You may choose any court case, either state or federal, as the basis for your case law analysis; however, the case should be applicable to the assignment topic. The recommended Web sites for researching and locating a case are listed in the Resources area.

Your analysis should be no more than two pages, double-spaced. References and citations are to adhere to APA formatting and style guidelines. Prior to submitting your assignment, be sure to review the scoring guide to ensure you have met all of the grading criteria.

Course Resources

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[Capella University Library Legal Research Library Guide](#)

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[Findlaw US Supreme Court Opinions](#)

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[LLI: Supreme Court: Most Recent Decisions](#)

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[NOLO US Supreme Court Center](#)

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[Oyez: U.S. Supreme Court Media: Cases - 2017 Term](#)

### **u05a2 - Reflections on Business Law Evaluation**

Submit your five Reflections on Business Law discussion posts for grading. Prior to submitting your posts, you may review and revise them to reflect additional thoughts or current understanding of the topic for each post.

At a minimum, each post should be 2–3 paragraphs. The grading criteria for this assignment are found in the Reflections on Business Law Evaluation Scoring Guide; make sure you review it so that you can meet the assignment expectations.

You are expected to write at a level consistent with undergraduate writing expectations. Provide necessary citations in APA formatting and style.

### **u05d1 - Tort Law**

Tort law permeates society and daily life. Think of a tort issue in your life or in the life of someone close to you. Describe the issue. Perhaps you did not pursue litigation, but after your knowledge in this class, do you think you should have? Perhaps you pursued litigation and lost. Is it clear why you lost? Do not feel compelled to share more information than you are comfortable discussing.

Demonstrate your understanding of legal terminology and incorporate legal terminology where relevant. Specifically, identify the elements of the tort cause of action and apply facts to each element. If the case is not clear cut, it will be where an element is not clearly met. If an element of a cause of action is clearly not met, there is not a legitimate cause of action.

You must answer both questions to receive credit. Please remember to log into class throughout the week to contribute to ongoing legal discourse.

## Response Guidelines

Read the postings of your classmates and comment on at least two classmates' posts. Make sure your comment is a relevant, informative comment. It is imperative that you demonstrate critical thinking in your own post as well as your responses to classmates.

Course Resources

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Undergraduate Discussion Participation Scoring Guide

### u05d2 - Commercial Tort Law

Using the information you have gained from this week's readings and from your independent research, select one of the questions below to serve as your discussion post. All references and citations are to adhere to APA style and formatting guidelines.

Select one of the following questions:

1. Should the owner of a car be liable to a thief for the thief's injuries if the stolen car has no brakes?
2. Does a person watching a person being robbed have a duty to help the person being robbed?
3. Should a person who has been careless be liable for all damage caused by their carelessness or should there be limits?
4. Should courts punish companies who have been careless by awarding large amounts of money to those who have been injured?
5. Are there situations where companies should be liable to those who have been injured even if the company has not been careless?

## Response Guidelines

Respond to the posts of at least two learners. If possible, use the following guidelines to create your responses:

- Compare and contrast your posting with theirs. How did their posts influence your thinking?
- What suggestions can you make to strengthen their posting?
- How did their posting aid in your understanding of the topic?
- Include any additional points that would be constructive and supportive for your peers.

Try to select peers who have not received feedback yet.

Course Resources

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