

BEATTY
SAMUELSON

Legal Environment

SIXTH EDITION



Want to turn C's into A's?

Obviously, right?

But the right way to go about it isn't always so obvious. Go digital to get the grades. MindTap's customizable study tools and eTextbook give you everything you need all in one place.

Engage with your course content, enjoy the flexibility of studying anytime and anywhere, stay connected to assignment due dates and instructor notifications with the MindTap Mobile app...

and most of all...EARN BETTER GRADES.



TO GET STARTED VISIT
WWW.CENGAGE.COM/STUDENTS/MINDTAP



MindTap®

SIXTH EDITION

Legal Environment

Jeffrey F. Beatty

Boston University

Susan S. Samuelson

Boston University

Patricia Sánchez Abril

University of Miami



This is an electronic version of the print textbook. Due to electronic rights restrictions, some third party content may be suppressed. Editorial review has deemed that any suppressed content does not materially affect the overall learning experience. The publisher reserves the right to remove content from this title at any time if subsequent rights restrictions require it. For valuable information on pricing, previous editions, changes to current editions, and alternate formats, please visit www.cengage.com/highered to search by ISBN#, author, title, or keyword for materials in your areas of interest.

Important Notice: Media content referenced within the product description or the product text may not be available in the eBook version.

Legal Environment, Sixth Edition**Jeffrey F. Beatty, Susan S. Samuelson,
and Patricia Sánchez Abril**Vice President, General Manager, Social
Science & Qualitative Business: Erin Joyner

Product Director: Michael Worls

Sr. Product Manager: Vicky True-Baker

Sr. Content Developer: Kristen Meere

Product Assistant: Ryan McAndrews

Marketing Director: Kristen Hurd

Marketing Manager: Katie Jergens

Marketing Coordinator: Christopher Walz

Content Project Manager: Megan Guiliani

Manufacturing Planner: Kevin Kluck

Production Service: Integra Software Services Pvt. Ltd.

Sr. Art Director: Michelle Kunkler

Internal Designer: Beckmeyer Design

Cover Designer: Beckmeyer Design

Cover Image: Summertime, Fowey (oil on board),
Cuming, Fred (b.1930)/Private Collection/Courtesy
of Manya Igel Fine Arts, London/Bridgeman Images

Intellectual Property

Analyst: Jennifer Nonenmacher

Project Manager: Betsy Hathaway

Units 1, 4, 5 Opener Image: Creative Travel Projects/
Shutterstock.com

Unit 2 Opener Image: Biletskiy/Shutterstock.com

Unit 3 Opener Image: Honza Krej/Shutterstock.com

Chapters 1–9 Opener Image: Creative Travel Projects/
Shutterstock.com

Chapters 10–16 Opener Image: Biletskiy/Shutterstock.com

Chapters 17–19 Opener Image: Honza Krej/
Shutterstock.comChapters 20–27 Opener Image: Creative Travel
Projects/Shutterstock.com

© 2017, 2014 Cengage Learning®

WCN: 02-200-203

ALL RIGHTS RESERVED. No part of this work covered by the copyright
herein may be reproduced or distributed in any form or by any means,
except as permitted by U.S. copyright law, without the prior written
permission of the copyright owner.For product information and technology assistance, contact us at
Cengage Learning Customer & Sales Support, 1-800-354-9706For permission to use material from this text or product,
submit all requests online at **www.cengage.com/permissions**Further permissions questions can be emailed to
permissionrequest@cengage.com

Unless otherwise noted all items © Cengage Learning®.

Library of Congress Control Number: 2015943328

Student Edition ISBN: 978-1-305-50748-7

Cengage Learning20 Channel Center Street
Boston, MA 02210
USACengage Learning is a leading provider of customized learning solutions
with employees residing in nearly 40 different countries and sales in
more than 125 countries around the world. Find your local representative
at **www.cengage.com**.Cengage Learning products are represented in Canada by Nelson
Education, Ltd.To learn more about Cengage Learning Solutions, visit
www.cengage.comPurchase any of our products at your local college store or at our
preferred online store **www.cengagebrain.com**

CONTENTS: OVERVIEW

Preface	xv		
UNIT 1			
The Legal Environment	1		
1 Introduction to Law	2		
2 Ethics and Corporate Social Responsibility	24		
3 Dispute Resolution	59		
4 Common Law, Statutory Law, and Administrative Law	92		
5 Constitutional Law	119		
6 Torts and Product Liability	146		
7 Cyberlaw and Privacy	175		
8 Crime	201		
9 International Law	233		
UNIT 2			
Contracts and the UCC	261		
10 Introduction to Contracts	262		
11 Legality, Consent, and Writing	286		
12 Performance, Discharge, and Remedies	312		
13 Practical Contracts	336		
14 The UCC: Sales and Secured Transactions	361		
15 Negotiable Instruments	394		
16 Bankruptcy	421		
UNIT 3			
Agency and Employment Law	449		
17 Agency Law	450		
18 Employment and Labor Law	479		
19 Employment Discrimination	509		
UNIT 4			
Business Organizations	543		
20 Starting a Business: LLCs and Other Options	544		
21 Corporations	569		
22 Securities Regulation	604		
UNIT 5			
Government Regulation and Property	637		
23 Antitrust	638		
24 Intellectual Property	664		
25 Property	692		
26 Consumer Protection	722		
27 Environmental Law	751		
Appendix A			
The Constitution of the United States	A1		
Appendix B			
Uniform Commercial Code (Selected Provisions)	B1		
Appendix C			
Answers to Selected End of Chapter Questions	C1		
Glossary	G1		
Table of Cases	T1		
Index	I1		

Preface	xv		
UNIT 1			
The Legal Environment	1		
Chapter 1 <i>Introduction to Law</i>	2		
1-1 The Role of Law in Society	3		
1-1a Power	3		
1-1b Importance	3		
1-1c Fascination	3		
1-2 Origins of Our Law	4		
1-2a English Roots	4		
1-2b Law in the United States	6		
1-3 Sources of Contemporary Law	6		
1-3a United States Constitution	7		
1-3b Statutes	9		
1-3c Common Law	9		
1-3d Court Orders	10		
1-3e Administrative Law	10		
1-3f Treaties	10		
1-4 Classifications	10		
1-4a Criminal and Civil Law	10		
1-4b Law and Morality	11		
1-5 Jurisprudence	12		
1-5a Legal Positivism	12		
1-5b Natural Law	13		
1-5c Legal Realism	13		
1-6 Working with the Book's Features	14		
1-6a Analyzing a Case	14		
1-6b Exam Strategy	16		
1-6c You Be the Judge	17		
Chapter Conclusion	18		
Exam Review	19		
Multiple-Choice Questions	20		
Case Questions	21		
Discussion Questions	22		
Chapter 2 <i>Ethics and Corporate Social Responsibility</i>	24		
2-1 Introduction	26		
2-2 The Role of Business in Society	27		
2-3 Why Be Ethical?	28		
2-3a Society as a Whole Benefits from Ethical Behavior	28		
2-3b People Feel Better When They Behave Ethically	28		
2-3c Unethical Behavior Can Be Very Costly	29		
2-4 Theories of Ethics	29		
2-4a Utilitarian Ethics	30		
2-4b Deontological Ethics	30		
2-4c Rawlsian Justice	31		
2-4d Front Page Test	31		
2-4e Moral Universalism and Relativism	32		
2-4f Ethics Case: Lincoln at War	32		
2-5 Ethics Traps	33		
2-5a Money	33		
2-5b Competition	34		
2-5c Rationalization	34		
2-5d We Cannot Be Objective about Ourselves	35		
2-5e Conflicts of Interest	35		
2-5f Conformity	36		
2-5g Ethics Case: Diamonds in the Rough	36		
2-5h Following Orders	36		
2-5i Euphemisms and Reframing	37		
2-5j Lost in a Crowd	37		
2-5k Ethics Case: Man Down	38		
2-5l Short-Term Perspective	38		
2-5m Ethics Case: Wobbly Platform	38		
2-5n Blind Spots	39		
2-5o Avoiding Ethics Traps	39		
2-6 Lying: A Special Case	40		
2-6a Ethics Case: Truth (?) in Borrowing	41		
2-7 Implementation: Giving Voice to Values	41		
2-7a Ethics Case: Truth or Consequences	42		
2-8 Applying the Principles	43		
2-8a Personal Ethics in the Workplace	44		
2-8b Ethics Case: Weird Wierdsma	44		
2-8c The Organization's Responsibility to Society	45		
2-8d Ethics Case: Breathing the Fumes	45		
2-8e The Organization's Responsibility to Its Employees	45		
2-8f Ethics Case: The Storm after the Storm	46		
2-8g The Organization's Responsibility to Its Customers	46		
2-8h Ethics Case: Mickey Weighs In	47		

2-8i The Organization's Responsibility to Overseas Workers	48	Chapter Conclusion	87
2-8j Ethics Case: A Worm in the Apple	48	Exam Review	87
2-9 When the Going Gets Tough: Responding to Unethical Behavior	49	Multiple-Choice Questions	89
2-9a Loyalty	49	Case Questions	90
2-9b Exit	49	Discussion Questions	91
2-9c Voice	50		
2-10 Corporate Social Responsibility (CSR)	50	Chapter 4 Common Law, Statutory Law, and Administrative Law	92
2-10a Ethics Case: The Beauty of a Well-Fed Child	50	4-1 Common Law	93
		4-1a Stare Decisis	93
		4-1b Bystander Cases	93
Chapter Conclusion	51	4-2 Statutory Law	96
Exam Review	51	4-2a Bills	96
Multiple-Choice Questions	53	4-2b Discrimination: Congress and the Courts	97
Case Questions	54	4-2c Debate	98
Discussion Questions	55	4-2d Statutory Interpretation	100
		4-2e Changing Times	102
		4-2f Voters' Role	102
		4-2g Congressional Override	103
Chapter 3 Dispute Resolution	59	4-3 Administrative Law	104
3-1 Three Fundamental Areas of Law	60	4-3a Background	104
3-1a Litigation versus Alternative Dispute Resolution	60	4-3b Classification of Agencies	105
3-2 Court Systems	60	4-4 Power of Agencies	106
3-2a State Courts	60	4-4a Rulemaking	106
3-2b Federal Courts	64	4-4b Investigation	108
3-3 Litigation	68	4-5 Limits on Agency Power	110
3-3a Pleadings	68	4-5a Statutory Control	110
3-4 Trial	78	4-5b Political Control	110
3-4a Adversary System	78	4-5c Judicial Review	111
3-4b Right to Jury Trial	79	4-5d Informational Control and the Public	112
3-4c Voir Dire	79		
3-4d Opening Statements	80	Chapter Conclusion	114
3-4e Burden of Proof	81	Exam Review	114
3-4f Plaintiff's Case	81	Multiple-Choice Questions	116
3-4g Rules of Evidence	81	Case Questions	117
3-4h Motion for Directed Verdict	82	Discussion Questions	118
3-4i Defendant's Case	82		
3-4j Closing Arguments	83	Chapter 5 Constitutional Law	119
3-4k Jury Instructions	83	5-1 Government Power	120
3-4l Verdict	83	5-1a One in a Million	120
3-4m Motions after the Verdict	83	5-2 Overview	120
3-5 Appeals	84	5-2a Separation of Powers	121
3-5a Appeals Court Options	84	5-2b Individual Rights	121
3-6 Alternative Dispute Resolution	85	5-3 Power Granted	121
3-6a Negotiation	85	5-3a Congressional Power	121
3-6b Mediation	85	5-3b Executive Power	125
3-6c Arbitration	86	5-3c Judicial Power	126

5-4 Protected Rights	128	Chapter 7 <i>Cyberlaw and Privacy</i>	175
5-4a Incorporation	129	7-1 Regulation of the Internet	176
5-4b First Amendment: Free Speech	129	7-1a Net Neutrality	176
5-4c Fifth Amendment: Due Process and the Takings Clause	133	7-1b Regulation of User-Generated Content	177
5-4d Fourteenth Amendment: Equal Protection Clause	138	7-2 Consumer Protection	182
Chapter Conclusion	140	7-2a The FTC Act	182
Exam Review	140	7-2b Spam	182
Multiple-Choice Questions	143	7-3 Privacy in a Digital World	183
Case Questions	144	7-3a How We Lose Our Privacy Online	183
Discussion Questions	144	7-3b Regulation of Online Privacy	186
 		Chapter Conclusion	195
Chapter 6 <i>Torts and Product Liability</i>	146	Exam Review	195
6-1 Intentional Torts	148	Multiple-Choice Questions	197
6-1a Defamation	148	Case Questions	198
6-1b False Imprisonment	150	Discussion Questions	200
6-1c Intentional Infliction of Emotional Distress	150	 	
6-1d Additional Intentional Torts	150	Chapter 8 <i>Crime</i>	201
6-2 Damages	151	8-1 A Civil versus a Criminal Case	202
6-2a Compensatory Damages	151	8-1a Prosecution	202
6-2b Punitive Damages	153	8-1b Burden of Proof	203
6-3 Business Torts	154	8-1c Right to a Jury	203
6-3a Tortious Interference with Business Relations	155	8-1d Felonies and Misdemeanors	203
6-4 Negligence	156	8-2 Criminal Procedure	203
6-4a Duty of Due Care	157	8-2a Conduct Outlawed	203
6-4b Breach of Duty	159	8-2b State of Mind	205
6-4c Causation	159	8-2c Gathering Evidence: The Fourth Amendment	206
6-4d Damages	161	8-2d After Arrest	212
6-5 Defenses	162	8-3 Crimes That Harm Businesses (and Their Customers)	215
6-5a Contributory and Comparative Negligence	162	8-3a Larceny	215
6-5b Assumption of the Risk	162	8-3b Fraud	215
6-6 Strict Liability	164	8-3c Arson	218
6-6a Ultrahazardous Activity	164	8-3d Embezzlement	219
6-6b Product Liability	165	8-3e Hacking	219
Chapter Conclusion	168	8-4 Crimes Committed by Business	220
Exam Review	168	8-4a Making False Statements	221
Multiple-Choice Questions	171	8-4b Workplace Crimes	221
Case Questions	172	8-4c RICO	222
Discussion Questions	174	8-4d Money Laundering	223
		8-4e Hiring Illegal Workers	223
		8-4f Foreign Corrupt Practices Act	223
		8-4g Other Crimes	225
		8-4h Punishing a Corporation	225

Chapter Conclusion	226	10-3 Sources of Contract Law	268
Exam Review	226	10-3a Common Law	268
Multiple-Choice Questions	229	10-3b Uniform Commercial Code	268
Case Questions	230	10-4 The Agreement	269
Discussion Questions	231	10-4a Meeting of the Minds	269
		10-4b Offer	269
Chapter 9 <i>International Law</i>	233	10-4c Termination of Offers	273
9-1 International Law: Public versus Private	234	10-4d Acceptance	274
9-2 Actors in International Law	234	10-5 Consideration	276
9-2a The United Nations	234	10-5a What Is Value?	277
9-2b The International Court of Justice	235		
9-2c International Chamber of Commerce	237	Chapter Conclusion	278
9-2d Sovereign Nations	237	Exam Review	279
9-3 The World's Legal Systems	238	Multiple-Choice Questions	282
9-3a Common Law	238	Case Questions	283
9-3b Civil Law	239	Discussion Questions	285
9-3c Islamic Law	240		
9-4 Sources of Law	242	Chapter 11 <i>Legality, Consent, and Writing</i>	286
9-4a Treaties	242	11-1 Legality	287
9-4b Custom and General Principles of Law	248	11-1a Non-Compete Agreements	287
9-5 Interaction of Foreign and Domestic Laws	249	11-1b Exculpatory Clauses	290
9-5a Application of U.S. Law Abroad	249	11-1c Unconscionable Contracts	291
9-5b Foreign Laws and Rulings in the United States	252	11-2 Voidable Contracts: Capacity and Consent	292
9-6 Essential Clauses in International Contracts	254	11-2a Capacity	292
		11-2b Reality of Consent	293
Chapter Conclusion	254	11-2c Mistake	295
Exam Review	254	11-2d Duress	296
Multiple-Choice Questions	257	11-2e Undue Influence	297
Case Questions	258	11-3 Written Contracts	297
Discussion Questions	258	11-3a Common Law Statute of Frauds: Contracts That Must Be in Writing	299
		11-3b The Common Law Statute of Frauds: What the Writing Must Contain	301
		11-3c The UCC's Statute of Frauds	302
		11-3d Parol Evidence	303
		Chapter Conclusion	304
		Exam Review	304
		Multiple-Choice Questions	308
		Case Questions	309
		Discussion Questions	310
UNIT 2		Chapter 12 <i>Performance, Discharge, and Remedies</i>	312
Contracts and the UCC	261	12-1 Performance and Discharge	313
Chapter 10 <i>Introduction to Contracts</i>	262	12-1a Performance	313
10-1 Contracts	263	12-1b Breach	315
10-1a Elements of a Contract	263	12-1c Impossibility	317
10-1b Other Important Issues	263		
10-2 Types of Contracts	264		
10-2a Bilateral and Unilateral Contracts	264		
10-2b Executory and Executed Contracts	264		
10-2c Valid, Unenforceable, Voidable, and Void Agreements	265		
10-2d Express and Implied Contracts	266		
10-2e Promissory Estoppel and Quasi-Contracts	266		

12-2 Remedies	319	14-5 Secured Transactions	375
12-2a Expectation Interest	320	14-5a Article 9: Terms and Scope	375
12-2b Reliance Interest	324	14-5b Article 9 Vocabulary	375
12-2c Restitution Interest	324	14-6 Attachment of a Security Interest	377
12-2d Other Remedies	325	14-6a Agreement	377
12-2e Special Issues	327	14-6b Control and Possession	377
		14-6c Value	377
Chapter Conclusion	329	14-6d Debtor Rights in the Collateral	378
Exam Review	329	14-7 Perfection	378
Multiple-Choice Questions	332	14-7a Nothing Less than Perfection	378
Case Questions	333	14-7b Perfection by Filing	378
Discussion Questions	335	14-7c Perfection by Possession or Control	381
		14-7d Perfection of Consumer Goods	382
Chapter 13 <i>Practical Contracts</i>	336	14-8 Protection of Buyers	383
13-1 The Lawyer	337	14-9 Priorities among Creditors	384
13-1a Lawyers and Clients	338	14-10 Default and Termination	385
13-1b Hiring a Lawyer	338	14-10a Default	385
13-2 The Contract	339	14-10b Termination	386
13-2a Who Drafts It?	339		
13-2b How to Read a Contract	339	Chapter Conclusion	386
13-2c Mistakes	339	Exam Review	386
13-2d The Structure of a Contract	346	Multiple-Choice Questions	390
		Case Questions	391
Chapter Conclusion	355	Discussion Questions	392
Exam Review	355		
Multiple-Choice Questions	357	Chapter 15 <i>Negotiable Instruments</i>	394
Case Questions	358	15-1 Commercial Paper	395
Discussion Questions	359	15-2 Types of Negotiable Instruments	395
		15-3 The Fundamental “Rule” of Commercial Paper	396
Chapter 14 <i>The UCC: Sales and Secured Transactions</i>	361	15-3a Negotiable	396
14-1 Development of the UCC	362	15-3b Negotiated	399
14-1a Harold and Maude, Revisited	362	15-3c Holder in Due Course	400
14-1b Scope of Article 2	363	15-3d Defenses against a Holder in Due Course	402
14-1c Mixed Contracts	363	15-3e Consumer Exception	403
14-1d Merchants	364	15-4 Liability for Negotiable Instruments	404
14-2 Contract Formation	365	15-4a Primary versus Secondary Liability	404
14-2a Formation Basics: Section 2-204	365	15-5 Signature Liability	404
14-2b Statute of Frauds	365	15-5a Maker	405
14-2c Added Terms: Section 2-207	366	15-5b Drawer	405
14-2d Modification	369	15-5c Drawee	405
14-3 Performance and Remedies	370	15-5d Indorser	406
14-3a Buyer’s Remedies	370	15-5e Accommodation Party	406
14-3b Seller’s Remedies	372	15-6 Warranty Liability	407
14-4 Warranties	372	15-6a Basic Rules of Warranty Liability	407
14-4a Express Warranties	372	15-6b Transfer Warranties	408
14-4b Implied Warranties	373		

15-6c Comparison of Signature Liability and Transfer Warranties	410
15-6d Presentment Warranties	410
15-7 Other Liability Rules	412
15-7a Conversion Liability	412
15-7b Impostor Rule	412
15-7c Fictitious Payee Rule	412
15-7d Employee Indorsement Rule	413
15-7e Negligence	413
Chapter Conclusion	414
Exam Review	414
Multiple-Choice Questions	418
Case Questions	418
Discussion Questions	420
Chapter 16 <i>Bankruptcy</i>	421
16-1 Overview of the Bankruptcy Code	422
16-1a Rehabilitation	423
16-1b Liquidation	423
16-1c Chapter Description	423
16-1d Goals	423
16-2 Chapter 7 Liquidation	424
16-2a Filing a Petition	424
16-2b Trustee	426
16-2c Creditors	426
16-2d Automatic Stay	426
16-2e Bankruptcy Estate	427
16-2f Payment of Claims	429
16-2g Discharge	431
16-3 Chapter 11 Reorganization	438
16-3a Debtor in Possession	438
16-3b Creditors' Committee	438
16-3c Plan of Reorganization	439
16-3d Confirmation of the Plan	439
16-3e Discharge	440
16-3f Small-Business Bankruptcy	440
16-4 Chapter 13 Consumer Reorganizations	441
16-4a Beginning a Chapter 13 Case	442
16-4b Plan of Payment	443
16-4c Discharge	443
Chapter Conclusion	443
Exam Review	444
Multiple-Choice Questions	445
Case Questions	447
Discussion Questions	448

UNIT 3

Agency and Employment Law 449

Chapter 17 <i>Agency Law</i>	450
17-1 Creating an Agency Relationship	451
17-1a Consent	451
17-1b Control	452
17-1c Fiduciary Relationship	452
17-1d Elements Not Required for an Agency Relationship	452
17-2 Duties of Agents to Principals	453
17-2a Duty of Loyalty	453
17-2b Other Duties of an Agent	456
17-2c Principal's Remedies when the Agent Breaches a Duty	457
17-3 Duties of Principals to Agents	457
17-3a Duty to Indemnify	458
17-3b Duty to Cooperate	458
17-4 Terminating an Agency Relationship	459
17-4a Termination by Agent or Principal	459
17-4b Principal or Agent Can No Longer Perform Required Duties	460
17-4c Change in Circumstances	460
17-4d Effect of Termination	461
17-5 Liability to Third Parties	461
17-5a Principal's Liability for Contracts	461
17-5b Agent's Liability for Contracts	464
17-5c Principal's Liability for Torts	466
17-5d Agent's Liability for Torts	472
Chapter Conclusion	473
Exam Review	473
Multiple-Choice Questions	476
Case Questions	477
Discussion Questions	478
Chapter 18 <i>Employment and Labor Law</i>	479
18-1 Introduction	480
18-2 Employment Security	481
18-2a Family and Medical Leave Act	481
18-2b Common-Law Protections	482
18-2c Whistleblowing	487
18-3 Workplace Freedom	489
18-3a Off-Duty Activities	489
18-3b Free Speech in the Workplace	490
18-3c Polygraph Tests	491
18-3d Guns	492

18-4 Workplace Safety	493
18-4a OSHA	493
18-4b Workplace Bullying	493
18-5 Financial Protection	493
18-5a Fair Labor Standards Act: Minimum Wage, Overtime, and Child Labor	494
18-5b Workers' Compensation	494
18-5c Health Insurance	495
18-5d Social Security	495
18-5e Pension Benefits	495
18-6 Labor Unions	495
18-6a Key Pro-Union Statutes	496
18-6b Labor Unions Today	497
18-7 Organizing a Union	497
18-7a Exclusivity	497
18-7b Organizing: Stages	497
18-7c Organizing: Actions	498
18-8 Collective Bargaining	499
18-9 Concerted Action	500
18-9a Strikes	500
18-9b Replacement Workers	500
18-9c Picketing	501
18-9d Lockouts	501

Chapter Conclusion	501
Exam Review	501
Multiple-Choice Questions	505
Case Questions	506
Discussion Questions	507

Chapter 19 *Employment Discrimination* 509

19-1 Introduction	510
19-2 The United States Constitution	511
19-3 Civil Rights Act of 1866	511
19-4 Equal Pay Act of 1963	511
19-5 Title VII of the Civil Rights Act of 1964	511
19-5a Prohibited Activities	511
19-5b Religion	518
19-5c Sex	518
19-5d Attractiveness	519
19-5e Family Responsibility Discrimination	520
19-5f Sexual Orientation	521
19-5g Gender Identity and Expression	521
19-5h Background and Credit Checks	521
19-5i Immigration	522
19-5j Defenses to Charges of Discrimination	522
19-6 Pregnancy Discrimination Act	524
19-7 Age Discrimination in Employment Act	524
19-7a Disparate Treatment	524

19-7b Disparate Impact	526
19-7c Hostile Work Environment	526
19-7d Bona Fide Occupational Qualification	526
19-8 Discrimination on the Basis of Disability	527
19-8a The Rehabilitation Act of 1973	527
19-8b Americans with Disabilities Act	527
19-9 Genetic Information Nondiscrimination Act	531
19-10 Hiring Practices	532
19-10a Interviews	532
19-10b Social Media	533
19-11 Enforcement	533
19-11a Constitutional Claims	533
19-11b The Civil Rights Act of 1866	533
19-11c The Rehabilitation Act of 1973	533
19-11d Other Statutory Claims	534
Chapter Conclusion	534
Exam Review	535
Multiple-Choice Questions	539
Case Questions	540
Discussion Questions	541

UNIT 4

Business Organizations 543

Chapter 20 *Starting a Business: LLCs and Other Options* 544

20-1 Sole Proprietorships	545
20-2 Corporations	546
20-2a Corporations in General	546
20-2b Special Types of Corporations	548
20-3 Limited Liability Companies	550
20-3a Formation	551
20-3b Flexibility	552
20-3c Transferability of Interests	552
20-3d Duration	553
20-3e Going Public	553
20-3f Changing Forms	553
20-3g Piercing the Company Veil	553
20-3h Legal Uncertainty	554
20-3i Choices: LLC or Corporation?	554
20-4 Social Enterprises	555
20-5 General Partnerships	556
20-5a Tax Status	556
20-5b Liability	556
20-5c Formation	556
20-5d Management	557
20-5e Raising Capital	559

20-5f Transfer of Ownership	559
20-5g Dissociation	559
20-6 Limited Liability Partnerships	559
20-7 Professional Corporations	560
20-8 Joint Ventures	560
20-9 Franchises	561
20-9a Advantages of a Franchise	561
20-9b The Drawbacks of a Franchise	561
20-9c Legal Requirements	562

Chapter Conclusion	564
Exam Review	565
Multiple-Choice Questions	566
Case Questions	567
Discussion Questions	568

Chapter 21 Corporations **569**

21-1 Promoter's Liability	570
21-2 Incorporation Process	570
21-2a Where to Incorporate?	571
21-2b The Charter	571
21-3 After Incorporation	575
21-3a Directors and Officers	575
21-3b Bylaws	576
21-4 Death of the Corporation	576
21-4a Piercing the Corporate Veil	576
21-4b Termination	578
21-5 Management Duties	578
21-5a The Business Judgment Rule	578
21-6 Shareholder Rights	583
21-6a What Can Shareholders Do?	584
21-6b Right to Dissent	594
21-6c Right to Protection from Other Shareholders	594
21-6d Enforcing Shareholder Rights	595

Chapter Conclusion	596
Exam Review	597
Multiple-Choice Questions	600
Case Questions	601
Discussion Questions	602

Chapter 22 Securities Regulation **604**

22-1 Introduction	605
22-1a The Securities and Exchange Commission	605
22-1b What Is a Security?	605

22-2 Securities Act of 1933	606
22-2a Exempt Securities	606
22-2b Exempt Transactions	607
22-2c Public Offerings	612
22-2d Sales of Restricted Securities	614
22-2e Liability under the 1933 Act	615
22-3 Securities Exchange Act of 1934	616
22-3a Registration Requirements	616
22-3b Liability under the 1934 Act	617
22-3c Insider Trading: §§16 and 10(b)	624
22-4 Blue Sky Laws	628
22-4a Exemption from State Regulation	628
22-4b State Regulation	628
22-4c Facilitating State Regulation	629

Chapter Conclusion	629
Exam Review	630
Multiple-Choice Questions	633
Case Questions	634
Discussion Questions	635

UNIT 5

Government Regulation and Property **637**

Chapter 23 Antitrust **638**

23-1 In the Beginning	639
23-1a Sherman Act	639
23-1b Chicago School	640
23-1c Post Chicago School	640
23-2 Overview of Antitrust Laws	641
23-3 Cooperative Strategies	642
23-3a Horizontal Cooperative Strategies	642
23-3b Vertical Cooperative Strategies	646
23-3c Mergers and Joint Ventures	649
23-4 Aggressive Strategies	651
23-4a Monopolization	651
23-4b Predatory Pricing	652
23-4c Tying Arrangements	654
23-4d Controlling Distributors and Retailers	655
23-4e Vertical Price Fixing	656

Chapter Conclusion	658
Exam Review	658
Multiple-Choice Questions	660
Case Questions	661
Discussion Questions	662

Chapter 24 Intellectual Property	664		
24-1 Introduction	665	25-7 Landlord's Duties	702
24-2 Patents	665	25-7a Duty to Deliver Possession	702
24-2a Types of Patents	665	25-7b Quiet Enjoyment	702
24-2b Requirements for a Patent	667	25-7c Duty to Maintain Premises	703
24-2c Patent Application and Issuance	670	25-8 Tenant's Duties	704
24-2d International Patent Treaties	671	25-8a Duty to Pay Rent	704
24-3 Copyrights	671	25-8b Duty to Use Premises for Proper Purpose	706
24-3a Copyright Term	673	25-8c Duty Not to Damage Premises	706
24-3b Infringement	673	25-8d Duty Not to Disturb Other Tenants	706
24-3c Defenses to Copyright Infringement	674	25-9 Injuries	706
24-3d Digital Music and Movies	677	25-9a Tenant's Liability	706
24-3e International Copyright Treaties	679	25-9b Landlord's Liability	706
24-4 Trademarks	680	25-10 Personal Property	708
24-4a Types of Marks	680	25-11 Gifts	708
24-4b Ownership and Registration	680	25-11a Intention to Transfer Ownership	709
24-4c Valid Trademarks	681	25-11b Delivery	709
24-4d Infringement	682	25-11c <i>Inter Vivos</i> Gifts and Gifts <i>Causa Mortis</i>	710
24-4e Federal Trademark Dilution Act of 1995	684	25-11d Acceptance	711
24-4f International Trademark Treaties	684	25-12 Bailment	712
24-5 Trade Secrets	684	25-12a Control	713
		25-12b Rights of the Bailee	713
Chapter Conclusion	686	25-12c Duties of the Bailee	714
Exam Review	687		
Multiple-Choice Questions	688	Chapter Conclusion	715
Case Questions	690	Exam Review	715
Discussion Questions	691	Multiple-Choice Questions	718
		Case Questions	719
		Discussion Questions	720
Chapter 25 Property	692		
25-1 Nature of Real Property	693	Chapter 26 Consumer Protection	722
25-2 Estates in Real Property	694	26-1 Introduction	723
25-2a Concurrent Estates	695	26-2 Sales	723
25-3 Nonpossessory Interests	697	26-2a Deceptive Acts or Practices	723
25-3a Easements	698	26-2b Unfair Practices	725
25-3b Profit	698	26-2c Abusive Acts	725
25-3c License	698	26-2d Additional Sales Rules	726
25-3d Mortgage	698	26-3 Consumer Credit	727
25-4 Land Use Regulation	699	26-3a Payday Loans	728
25-4a Nuisance Law	699	26-3b Truth in Lending Act—General Provisions	728
25-4b Zoning	699	26-3c Home Loans	729
25-4c Eminent Domain	700	26-3d Plastic: Credit, Debit, and ATM Cards	731
25-5 Landlord-Tenant Law	700	26-3e Electronic Fund Transfers	734
25-5a Three Legal Areas Combined	700	26-3f Credit Reports	736
25-5b Lease	701	26-3g Debt Collection	738
25-6 Types of Tenancy	701	26-3h Equal Credit Opportunity Act	740
25-6a Tenancy for Years	701		
25-6b Periodic Tenancy	701		
25-6c Tenancy at Will	701		
25-6d Tenancy at Sufferance	702		

26-4 Magnuson-Moss Warranty Act	742	27-6 Natural Resources	768
26-5 Consumer Product Safety	742	27-6a National Environmental Policy Act	768
		27-6b Endangered Species Act	769
Chapter Conclusion	743	Chapter Conclusion	771
Exam Review	743	Exam Review	772
Multiple-Choice Questions	747	Multiple-Choice Questions	774
Case Questions	748	Case Questions	775
Discussion Questions	750	Discussion Questions	776
Chapter 27 <i>Environmental Law</i>	751		
27-1 Introduction	752	Appendix A	
27-1a Environmental Protection Agency	752	The Constitution of the United States	A1
27-2 Air Pollution	753	Appendix B	
27-2a Clean Air Act	754	Uniform Commercial Code (Selected Provisions)	B1
27-2b Greenhouse Gases (GHGs) and Global Warming	756	Appendix C	
27-3 Water Pollution	758	Answers to Selected End of Chapter Questions	C1
27-3a Clean Water Act	759		
27-3b Other Water Pollution Statutes	763	Glossary	G1
27-4 Waste Disposal	763	Table of Cases	T1
27-4a Resource Conservation and Recovery Act (RCRA)	764	Index	I1
27-4b Superfund	765		
27-5 Chemicals	766		
27-5a Toxic Substances Control Act	767		
27-5b Pesticides	767		

Looking for more examples for class? Do you want the latest developments? Visit our blog at **Bizlawupdate.com**. To be notified when we post updates, just “like” our Facebook page at Beatty Business Law or follow us on Twitter @bizlawupdate.

NOTE FROM THE AUTHORS

New to This Edition

Cyberlaw and Privacy

We all face profound issues about how to maintain privacy in a digital world. Yes, we want to use the Internet, but we also want to protect our personal data. The cyberlaw chapter now includes a thorough discussion of privacy both on- and offline. It is essential information for anyone who has ever connected to the Internet or worried that private data could become public. This chapter has been moved to follow the Torts chapter.

International Law

In a global world, students clamor for more international law, and many schools require coverage of international issues in every course. The international law chapter has been completely rewritten to provide students with an understanding of the basic structure and impact of international law. It includes discussions concerning: (1) how international law is created, (2) major treaties and other sources of international law, (3) the world’s different legal systems, (4) the application of U.S. law overseas, and (5) the enforceability of foreign laws and treaties in the United States.

A Focus on Students

We have increased coverage of topics that are of particular interest to students, such as social media and technology. Also, the bankruptcy chapter includes a new section on student loans. The crime chapter explores the application of constitutional standards of privacy to new technology such as DNA tests, digital cameras, social media, cell phones, and computers. The consumer law chapter looks at the legal issues raised when students spend money through direct debit, ATM cards, and prepaid debit cards.

Enhanced Digital Content—*MindTap*[™]

Our goal—and yours—is for the students to learn the material. With that singular goal in mind, we have created what we feel is an extremely useful tool for both instructors and students. *MindTap*[™] is a fully online, highly personalized learning experience combining readings, multimedia, activities, and assessments into a singular Learning Path. *MindTap* guides students through their course with ease and engagement. Instructors can personalize the Learning Path by customizing Cengage Learning resources and adding their own content via apps that integrate into the *MindTap* framework seamlessly with Learning Management Systems.

We recognize that the online experience is as important to the students—and you—as the book itself. Thus, unlike other texts, we (the authors) have reviewed every question in the *MindTap* product to ensure that it meets the high standards of our book.

We have heard that business law instructors want to help students: **Prepare** for class; **Engage** with the course concepts to reinforce learning; **Apply** these concepts in real-world scenarios; and use legal reasoning and critical thinking to **Analyze** business law content.

Accordingly, our *MindTap* product provides a four-step Learning Path designed to meet these critical needs while also allowing instructors to measure skills and outcomes with ease.

1. **Prepare**—Interactive worksheets are guided readings designed to prepare students for classroom discussion by ensuring reading and comprehension. Students will be involved in the reading process with Interactive Cases, Interactive Exhibits, and Videos integrated right into the e-book.
2. **Engage**—Real-world videos with related questions help engage students by displaying the relevance of business law in everyday life.
3. **Apply**—Brief hypothetical case scenarios help students practice spotting issues and applying the law in the context of short factual scenarios.
4. **Analyze**—Case-problem blueprints promote deeper critical thinking and legal reasoning by building on acquired knowledge to truly assess students' understanding of legal principles.

Each and every item in the Learning Path is assignable and gradable. This gives instructors information about which concepts the class finds difficult and also which students are struggling. Additionally, students gain knowledge about where they stand—both individually and compared to the highest performers in class.

To view a demo video and learn more about *MindTap*, please visit www.cengage.com/mindtap.

The Beatty/Samuelson Difference

When we began work on the first edition of this textbook, our publisher warned us that our undertaking was risky because there were already so many legal environment texts. Despite these warnings, we were convinced that there was a market for a legal environment book that was different from all the others. Our goal was to capture the passion and excitement—the sheer enjoyment—of the law. Business law is notoriously complex, and as authors we are obsessed with accuracy. Yet this intriguing subject also abounds with human conflict and hard-earned wisdom, forces that we wanted to use to make this book sparkle.

Once we have the students' attention, our goal is to provide the information they will need as businesspeople and as informed citizens. Of course, we present the *theory* of how laws work, but we also explain when *reality* is different. To take some examples, traditionally legal environment textbooks have simply taught students that shareholders elect the directors of public companies. Even executive MBA students rarely understand the reality of corporate elections. But our book explains the truth of corporate power. The practical contracts chapter focuses not on the theory of contract law but on the real-life issues involved in making an agreement: Do I need a lawyer? Should the contract be in writing? What happens if the contract has an unclear provision or an important typo? What does all that boilerplate mean anyway?

Nobel Laureate Paul Samuelson famously said, “Let those who will write the nation's laws, if I can write its textbooks.” As authors, we never forget the privilege—and responsibility—of educating a generation of business law students. Our goal is to write a legal environment text like no other—a book that is precise and authoritative yet a pleasure to read.

Strong Narrative. The law is full of great stories, and we use them. Your students and ours should come to class curious and excited. Look at Chapter 3, on dispute resolution. No tedious list of next steps in litigation, this chapter teaches the subject by tracking

a double-indemnity lawsuit. An executive is dead. Did he drown accidentally, obligating the insurance company to pay? Or did the businessman commit suicide, voiding the policy? The student follows the action from the discovery of the body, through each step of the lawsuit, to the final appeal.

Every chapter begins with a story, either fictional or real, to illustrate the issues in the chapter. Over the years, we have learned how much more successfully we can teach when our students are intrigued. They only learn when they want to learn.

Context. Many of our students were not yet born when Bill Clinton was elected president. They come to college with varying levels of preparation; many arrive from other countries. We have found that to teach business law most effectively we must provide its context. In the chapter on employment discrimination, we provide an historical perspective to help students understand how the laws developed. In the chapter on securities laws, we discuss the impact of the Depression on the major statutes. Only with this background do students grasp the importance and impact of our laws.

Student Reaction. Students have responded enthusiastically to our approach. One professor asked a student to compare our book with the one that the class was then using. This was the student's reaction: "I really enjoy reading the [Beatty/Samuels] textbook, and I have decided that I will give you this memo ASAP, but I am keeping the book until Wednesday so that I may continue reading. Thanks!:-)"

This book works, as some unsolicited comments indicate:

From Amazon:

- "Glad I purchased this. It really helps put the law into perspective and allows me as a leader to make intelligent decisions. Thanks."
- "I enjoyed learning business law and was happy my college wanted this book. THUMBS UP!"
- "Got it for class but that being said it is a very easy read and I actually enjoyed it!"

From undergraduates:

- "This is the best textbook I have had in college, on any subject."
- "The textbook is awesome. A lot of the time I read more than what is assigned—I just don't want to stop."
- "I had no idea business law could be so interesting."

From MBA students:

- "Actually enjoyed reading the text book, which is a rarity for me"
- "The law textbook was excellent through and through."

From a Fortune 500 vice president, enrolled in an executive MBA program:

- "I really liked the chapters. They were crisp, organized, and current. The information was easy to understand and enjoyable."

From business law professors:

- "The clarity of presentation is superlative. I have never seen the complexity of contract law made this readable."
- "Until I read your book I never really understood UCC 2-207."
- "With your book, we have great class discussions."

From a state supreme court justice:

- “This book is a valuable blend of rich scholarship and easy readability. Students and professors should rejoice with this publication.”

Current. This sixth edition contains more than 25 new cases. Almost all were reported within the last two or three years. We never include a new court opinion merely because it is recent. Yet the law evolves continually, and our willingness to toss out old cases and add important new ones ensures that this book—and its readers—remain on the frontier of legal developments.

Look, for example, at the important field of corporate governance. All texts cover par value, and so do we. Yet a future executive is far more likely to face conflicts over Sarbanes-Oxley, executive compensation, and shareholder proposals. We present a clear path through this thicket of new issues. In Chapter 21, for example, read the section about the election and removal of directors. Typically, students (even those who are high-level executives) have a basic misconception about the process of removing a director from office. They think that it is easy. Once they understand the complexity of this process, their whole view of corporate governance—and compensation—changes. We want tomorrow’s business leaders to anticipate the challenges that await them and then use their knowledge to avert problems.

Authoritative. We insist, as you do, on a law book that is indisputably accurate. A professor must teach with assurance, confident that every paragraph is the result of exhaustive research and meticulous presentation. Dozens of tough-minded people spent thousands of hours reviewing this book, and we are delighted with the stamp of approval we have received from trial and appellate judges, working attorneys, scholars, and teachers.

We reject the cloudy definitions and fuzzy explanations that can invade judicial opinions and legal scholarship. To highlight the most important rules, we use bold print, and then follow with vivid examples written in clear, forceful English. We cheerfully venture into contentious areas, relying on very recent appellate decisions. Where there is doubt about the current (or future) status of a doctrine, we say so. In areas of particularly heated debate, we footnote our work: We want you to have absolute trust in this book.

Humor. Throughout the text we use humor—judiciously—to lighten and enlighten. An Amazon reviewer said, “I’m glad the professor chose this book because the authors seemed to have a sense of humor... .” Not surprisingly, students have applauded—but is wit appropriate? How dare we employ levity in this venerable discipline? We offer humor because we take the law seriously. We revere the law for its ancient traditions, its dazzling intricacy, its relentless, though imperfect, attempt to give order and decency to our world. Because we are confident of our respect for the law, we are not afraid to employ some levity. Leaden prose masquerading as legal scholarship does no honor to the field.

Humor also helps retention. Research shows that the funnier or more bizarre the example, the longer students will remember it. Students are more likely to remember a contract problem described in a fanciful setting, and from that setting recall the underlying principle. By contrast, one widget is hard to distinguish from another.

The Flipped Classroom. If you’re an instructor who has adopted the principles of a flipped classroom, or would like to do so, this book offers the perfect opportunity. The book is so clearly written and engaging that students actually do the reading and understand it. This means instructors do not have to spend all of class time explaining the basics.

MindTap provides further assurance that students will have done and understood the reading. By assigning sections of *MindTap* for students to complete prior to class, instructors know that students will come to class ready to apply what they’ve read. The e-book includes videos that explain some of the more challenging topics and interactive cases that help students apply the concepts to the case. Because students have done this work prior to

class, instructors are free to offer more applied activities in class. In our own teaching, for example, we begin class by going over the concepts that the students have found particularly challenging. Then we do break-outs where the students work in groups to solve problems. Not only does this approach enhance student learning, but also student engagement and enjoyment.

Features

We chose the features for our book with great care. Each one supports an essential pedagogical goal. Here are some of those goals and the matching feature.

Exam Strategy

GOAL: To help students learn more effectively and to prepare for exams. In preparing this sixth edition, we asked ourselves: What do students want? The short answer is—a good grade in the course. How many times a semester does a student ask you, “What can I do to study for the exam?” We are happy to help them study and earn a good grade because that means they will also be learning.

About six times per chapter, we stop the action and give students a two-minute quiz. In the body of the text, again in the end-of-chapter review, and also in the Instructor’s Manual, we present a typical exam question. Here lies the innovation: We guide the student in analyzing the issue. We teach the reader—over and over—how to approach a question: to start with the overarching principle, examine the fine point raised in the question, apply the analysis that courts use, and deduce the right answer. This skill is second nature to lawyers, but not to students. Without practice, too many students panic, jumping at a convenient answer and leaving aside the tools that they have spent the course acquiring. Let’s change that. Students report that the Exam Strategy feature is highly useful.

You Be the Judge

GOAL: Get students to think independently. When reading case opinions, students tend to accept the court’s “answer.” Judges, of course, try to reach decisions that appear indisputable, when in reality they may be controversial—or wrong. From time to time we want students to think through the problem and reach their own answer. Virtually every chapter contains a You Be the Judge feature, providing the facts of the case and conflicting appellate arguments. The court’s decision, however, appears only in the Instructor’s Manual. Because students do not know the result, discussions are more complex and lively.

Ethics

GOAL: Make ethics real. We ask ethics questions about cases, legal issues, and commercial practices. Is it fair for one party to void a contract by arguing, months after the fact, that there was no consideration? What is a manager’s ethical obligation when asked to provide a reference for a former employee? What is wrong with bribery? We believe that asking the questions and encouraging discussion remind students that ethics is an essential element of justice and of a satisfying life.

Cases

GOAL: Let the judges speak. Each case begins with a summary of the facts and a statement of the issue. Next comes a tightly edited version of the decision, in the court’s own language, so that students “hear” the law developing in the diverse voices of our many judges. In the principal cases in each chapter, we provide the state or federal citation, unless it is not available, in which case we use the LEXIS and Westlaw citations. We also give students a brief description of the court.

Exam Review and Practice Exam

GOAL: Encourage students to practice! At the end of each chapter, we provide a summary of the legal rules and several additional Exam Strategy exercises for practice. We also challenge the students with 15 or more problems—Multiple Choice, Essay Questions, and Discussion Questions. The questions include the following:

- *You Be the Judge Writing Problem.* The students are given appellate arguments on both sides of the question and must prepare a written opinion.
- *Ethics.* This question highlights the ethics issues of a dispute and calls upon the student to formulate a specific, reasoned response.
- *CPA Questions.* Where relevant, practice tests include questions from previous CPA exams administered by the American Institute of Certified Public Accountants.

Answers to the odd-numbered questions are available in Appendix C of the book.

Author Transition

With great courage and determination, Jeffrey Beatty fought an unremitting ten-year battle against a particularly aggressive form of leukemia. Jeffrey, a gentleman to the core, was immensely kind, funny, and humane—someone who sang and danced, and who earned the respect and affection of colleagues and students alike. He believed intensely in the fundamental nobility of the law. In writing these books, he wanted students to see and understand the impact of law in their everyday lives as well as its role in supporting human dignity; what's more, he wanted students to laugh.

Jeffrey was a hard act to follow. We feel immensely grateful to have found a worthy successor in Patricia Sánchez Abril. A tenured member of the faculty at the University of Miami School of Business Administration, Patricia is a devoted teacher who has won awards for her teaching in both the undergraduate and graduate programs. She has also published widely in scholarly journals and has won awards for her scholarship. In 2011, the Academy of Legal Studies in Business honored her with its Distinguished Junior Faculty Award.

TEACHING MATERIALS

For more information about any of these ancillaries, contact your Cengage Learning Consultant for more details, or visit the Beatty & Samuelson *Legal Environment, 6th edition*, website at www.cengagebrain.com.

Instructors' Supplements

MindTap

MindTap[™] is a fully online, highly personalized learning experience combining readings, multimedia, activities, and assessments into a singular Learning Path. Instructors can personalize the Learning Path by customizing Cengage Learning resources and adding their own content via apps that integrate into the *MindTap* framework seamlessly with Learning Management Systems. To view a demo video and learn more about *MindTap*, please visit www.cengage.com/mindtap.

Instructor's Manual

The Instructor's Manual, available on the Instructor's Support Site at www.cengagebrain.com, includes special features to enhance class discussion and student progress:

- *Exam Strategy Problems.* If your students would like more Exam Strategy problems, there is an additional section of these problems in the Instructor's Manual.
- *Dialogues.* These are a series of questions and answers on pivotal cases and topics. The questions provide enough material to teach a full session. In a pinch, you could walk into class with nothing but the manual and use the Dialogues to conduct a full class.
- *Action Learning Ideas.* Interviews, quick research projects, drafting exercises, classroom activities, commercial analyses, and other suggested assignments get students out of their chairs and into the diverse settings of business law.
- *Skits.* Various chapters have lively skits that students can perform in class, with no rehearsal, to put legal doctrine in a real-life context.
- *Succinct Introductions.* Each chapter has a theme and a quote of the day.
- *Current Focus.* This feature offers updates of text material.
- *Additional Cases and Examples.* For those topics that need more attention or coverage, use the additional cases and examples provided in the Instructor's Manual.
- *Solutions.* Answers are available for the You Be the Judge cases from the text and to the Exam Review questions found at the end of each chapter.

Cengage Learning Testing Powered by Cognero

Cognero is a flexible online system that allows you to author, edit, and manage test bank content from multiple Cengage Learning solutions; create multiple test versions in an instant; and deliver tests from your LMS, your classroom, or wherever you want.

PowerPoint Lecture Review Slides

PowerPoint slides are available for instructors to use with their lectures. Download these slides online.

Business Law Digital Video Library

This dynamic online video library features more than 90 video clips that spark class discussion and clarify core legal principles. The students have access to many of the videos in *MindTap*. The library is organized into five series:

- *Legal Conflicts in Business* includes specific modern business and e-commerce scenarios.
- *Ask the Instructor* contains straightforward explanations of concepts for student review.
- *Drama of the Law* features classic business scenarios that spark classroom participation.
- *Real World Legal* takes students out of the classroom and into real-life situations, encouraging them to consider the legal aspects of decision making in the business world.
- *Business Ethics in Action* challenges students to examine ethical dilemmas in the world of business.

Access to the full Business Law Digital Video Library is available as an optional package with each new student text at no additional charge. For more information about the Business Law Digital Video Library, visit www.cengagebrain.com.

INTERACTION WITH THE AUTHORS

This is our standard: Every professor who adopts this book must have a superior experience. We are available to help in any way we can. Adopters of this text often call us or email us to ask questions, obtain a syllabus, offer suggestions, share pedagogical concerns, or inquire about ancillaries. One of the pleasures of working on this project has been this link to so many colleagues around the country. We value those connections, are eager to respond, and would be happy to hear from you.

Susan S. Samuelson
 Phone: (617) 353-2033
 Email: ssamuels@bu.edu

Patricia Sánchez Abril
 Phone: (305) 284-6999
 Email: pabril@miami.edu

ACKNOWLEDGMENTS

We are continually grateful to the following people, who have provided insightful and helpful comments on this book through all its editions:

Manzoor Ahmad
 Compton Educational Center,
 El Camino College

Steven J. Arsenault
 College of Charleston

Lois Beier
 Kent State University

Martha Broderick
 University of Maine

Amy Chatagner
 Mississippi Gulf Coast
 Community College

Burke Christensen
 Eastern Kentucky University

Linda Christiansen
 Indiana University Southeast

Michael J. Costello
 University of Missouri–St. Louis

G. Howard Doty
 Nashville State Technical
 Community College

Teri Elkins
 University of Houston

Lizbeth G. Ellis
 New Mexico State University

Paul Fiorelli
 Xavier University

Suzanne M. Gradisher
 University of Akron

Gary Greene
 Manatee Community College

Elizabeth Grimm-Howell
 University of Missouri–St. Louis

Richard Guarino
 California State University, Sacramento

Stephen Hearn
 Louisiana Tech University

Wendy Hind
 Doane College

Timothy Jackson
 School of Business, California Baptist
 University

William C. Kostner

Doane College

Ronald B. Kowalczyk

Elgin Community College

Colleen Arnott Less

Johnson & Wales University

Maurice J. McCannSouthern Illinois University
Carbondale**Russ Meade**

Gardner-Webb University

Michael Monhollon

Hardin-Simmons University

Carol Nielsen

Bemidji State University

Margaret A. Parker

Owens Community College

Barbara Redman

Gainesville State College

Bruce L. Rockwood

Bloomsburg University

Rebecca RutzMississippi Gulf Coast Community
College—Jackson County Campus**Rachel Spooner**

Boston University School of Management

Cheryl Staley

Lake Land College

Paulette L. Stenzel

Michigan State University

Kenneth Ray Taurman, Jr.

Indiana University Southeast

Daphyne Saunders Thomas

James Madison University

Glen M. Vogel

Hofstra University

Deborah Walsh

Middlesex Community College

ABOUT THE AUTHORS

Jeffrey F. Beatty was Associate Professor of Business Law at the Boston University School of Management. After receiving his B.A. from Sarah Lawrence and his J.D. from Boston University, he practiced with the Greater Boston Legal Services, representing indigent clients. At Boston University, he won the Metcalf Cup and Prize, the university's highest teaching award. He also wrote plays and television scripts that were performed in Boston, London, and Amsterdam.

Susan S. Samuelson is Professor of Business Law at Boston University's School of Management. After earning her A.B. at Harvard University and her J.D. at Harvard Law School, she practiced with the firm of Choate, Hall and Stewart. She has written many articles on legal issues for scholarly and popular journals, including the *American Business Law Journal*, *Ohio State Law Journal*, *Boston University Law Review*, *Harvard Journal on Legislation*, *National Law Journal*, *Sloan Management Review*, *Inc. Magazine*, *Better Homes and Gardens*, and *Boston Magazine*. At Boston University, she won the Broderick Prize for excellence in teaching. For 12 years, she was the Faculty Director of the Boston University Executive MBA program.

Patricia Sánchez Abril is Associate Professor of Business Law at the University of Miami School of Business Administration. Her research has appeared in the *American Business Law Journal*, *Harvard Journal of Law & Technology*, *Florida Law Review*, *Houston Law Review*, *Wake Forest Law Review*, *Northwestern Journal of Technology and Intellectual Property*, and *Columbia Business Law Journal*, among other journals. In 2011, the *American Business Law Journal* honored her with its Distinguished Junior Faculty Award in recognition of exceptional early career achievement. In 2014, one of her articles on privacy won the Outstanding Proceedings competition at the annual conference of the Academy of Legal Studies in Business. She has won awards for her teaching in both the undergraduate and graduate programs at the University of Miami.

For Jeffrey, best of
colleagues and dearest of
friends.

S.S.S.



The Legal Environment

INTRODUCTION TO LAW

The Pagans were a motorcycle gang with a reputation for violence. Two of its rougher members, Rhino and Backdraft, entered a tavern called the Pub Zone, shoving their way past the bouncer. The pair wore gang insignia, in violation of the bar's rules. For a while, all was quiet, as the two sipped drinks at the bar. Then they followed an innocent patron toward the men's room, and things happened fast.

“Wait a moment,” you may be thinking. “Are we reading a chapter on business law or one about biker crimes in a roadside tavern?” Both.

Law is powerful, essential, and fascinating. We hope this book will persuade you of all three ideas. Law can also be surprising. Later in the chapter, we will return to the Pub Zone (with armed guards) and follow Rhino and Backdraft to the back of the pub. Yes, the pair engaged in street crime, which is hardly a focus of this text.

However, their criminal acts will enable us to explore one of the law's basic principles—negligence. Should a pub owner pay money damages to the victim of gang violence? The owner herself did nothing aggressive. Should she have prevented the harm? Does her failure to stop the assault make her liable?

We place great demands on our courts, asking them to make our large, complex, and sometimes violent society into a safer, fairer, more orderly place. The *Pub Zone* case is a good example of how judges reason their way through the convoluted issues involved. What began as a gang incident ends up as a matter of commercial liability. We will traipse after Rhino and Backdraft because they have a lesson to teach anyone who enters the world of business.



**Should a pub owner
pay money damages to
the victim of gang
violence?**

1-1 THE ROLE OF LAW IN SOCIETY

1-1a Power

The strong reach of the law touches nearly everything we do, especially at work. Consider a mid-level manager at Sublime Corp., which manufactures and distributes video games.

During the course of a day's work, she might negotiate a deal with a game developer (contract law). Before signing any deals, she might research whether similar games already exist, which might diminish her ability to market the proposed new game (intellectual property law). One of her subordinates might complain about being harassed by a coworker (employment law). Another worker may complain about being required to work long hours (administrative law). And she may consider investing her own money in her company's stock, but she may wonder whether she will get into trouble if she invests based on inside information (securities law).

It is not only as a corporate manager that you will confront the law. As a voter, investor, juror, entrepreneur, and community member, you will influence and be affected by the law. Whenever you take a stance about a legal issue, whether in the corporate office, in the voting booth, or as part of local community groups, you help to create the fabric of our nation. Your views are vital. This book will offer you knowledge and ideas from which to form and continually reassess your legal opinions and values.

1-1b Importance

Law is also essential. *Every* society of which we have any historical record has had some system of laws. For example, consider the Visigoths, a nomadic European people who overran much of present-day France and Spain during the fifth and sixth centuries A.D. Their code admirably required judges to be “quick of perception, clear in judgment, and lenient in the infliction of penalties.” It detailed dozens of crimes.

Our legal system is largely based upon the English model, but many societies contributed ideas. The Iroquois Native Americans, for example, played a role in the creation of our own government. Five major nations made up the Iroquois group: the Mohawk, Cayuga, Oneida, Onondaga, and Seneca. Each nation governed its own domestic issues. But each nation also elected “sachems” to a League of the Iroquois. The league had authority over any matters that were common to all, such as relations with outsiders. Thus, by the fifteenth century, the Iroquois had solved the problem of *federalism*: how to have two levels of government, each with specified powers. Their system impressed Benjamin Franklin and others and influenced the drafting of our Constitution, with its powers divided between state and federal governments.¹

1-1c Fascination

In 1835, the young French aristocrat Alexis de Tocqueville traveled through the United States, observing the newly democratic people and the qualities that made them unique. One of the things that struck de Tocqueville most forcefully was the American tendency to file suit: “Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question.”² De Tocqueville got it right: For better or worse, we do expect courts to resolve many problems.

Not only do Americans litigate—they watch each other do it. Every television season offers at least one new courtroom drama to a national audience breathless for more

¹Jack Weatherford, *Indian Givers* (New York: Fawcett Columbine, 1988), pp. 133–150.

²Alexis de Tocqueville, *Democracy in America* (1835), Vol. 1, Ch. 16.

cross-examination. Almost all of the states permit live television coverage of real trials. The most heavily viewed event in the history of the medium was the O. J. Simpson murder trial, in which a famous football star was accused of killing his wife. In most nations, coverage of judicial proceedings is not allowed.³

The law is a big part of our lives, and it is wise to know something about it. Within a few weeks, you will probably find yourself following legal events in the news with keener interest and deeper understanding. In this chapter, we develop the background for our study. We look at where law comes from: its history and its present-day institutions. In the section on jurisprudence, we examine different theories about what “law” really means. And finally we see how courts—and students—analyze a case.

1-2 ORIGINS OF OUR LAW

It would be nice if we could look up “the law” in one book, memorize it, and then apply it. But the law is not that simple, and *cannot* be that simple, because it reflects the complexity of contemporary life. In truth, there is no such thing as “the law.” Principles and rules of law actually come from *many different* sources. This is so, in part, because we inherited a complex structure of laws from England.

Additionally, ours is a nation born in revolution, and created, in large part, to protect the rights of its people from the government. The Founding Fathers created a national government but insisted that the individual states maintain control in many areas. As a result, each state has its own government with exclusive power over many important areas of our lives. To top it off, the Founders guaranteed many rights to the people alone, ordering national *and* state governments to keep clear. This has worked, but it has caused a multilayered system, with 50 state governments and one federal government all creating and enforcing law.

1-2a English Roots

England in the tenth century was a rustic agricultural community with a tiny population and very little law or order. Vikings invaded repeatedly, terrorizing the Anglo-Saxon peoples. Criminals were hard to catch in the heavily forested, sparsely settled nation. The king used a primitive legal system to maintain a tenuous control over his people.

England was divided into shires, and daily administration was carried out by a “shire reeve,” later called a sheriff. The shire reeve collected taxes and did what he could to keep peace, apprehending criminals and acting as mediator between feuding families. Two or three times a year, a shire court met; lower courts met more frequently. Today, this method of resolving disputes lives on as mediation, which we will discuss in Chapter 3.

Because there were so few officers to keep the peace, Anglo-Saxon society created an interesting method of ensuring public order. Every freeman belonged to a group of 10 freemen known as a “tithing,” headed by a “tithingman.” If anyone injured a person outside his tithing or interfered with the king’s property, all 10 men of the tithing could be forced to pay. Today, we still use this idea of collective responsibility in business partnerships. All partners are personally responsible for the debts of the partnership. They could potentially lose their homes and all assets because of the irresponsible conduct of one partner. That liability has helped create new forms of business organization, including limited liability companies.

When cases did come before an Anglo-Saxon court, the parties would often be represented by a clergyman, by a nobleman, or by themselves. There were few professional

³Regardless of whether we allow cameras, it is an undeniable benefit of the electronic age that we can obtain information quickly. From time to time, we will mention websites that are interesting and relevant to the topic at hand. We do not endorse or advocate on behalf of any group or company; we simply wish to alert you to what is available.

lawyers. Each party produced “oath helpers,” usually 12, who would swear that one version of events was correct. The Anglo-Saxon oath helpers were forerunners of our modern jury of 12 persons.

In 1066, the Normans conquered England. William the Conqueror made a claim never before made in England: that he owned all of the land. The king then granted sections of his lands to his favorite noblemen, as his tenants in chief, creating the system of feudalism. These tenants in chief then granted parts of their land to *tenants in demesne*, who actually occupied a particular estate. Each tenant in demesne owed fidelity to his lord (hence, “landlord”). So what? Just this: Land became the most valuable commodity in all of England, and our law still reflects that. One thousand years later, American law still regards land as special. The Statute of Frauds, which we study in the section on contracts, demands that contracts for the sale or lease of property be in writing. And landlord-tenant law, vital to students and many others, still reflects its ancient roots. Some of a landlord’s rights are based on the 1,000-year-old tradition that land is uniquely valuable.

In 1250, Henry de Bracton (d. 1268) wrote a legal treatise that still influences us. *De Legibus et Consuetudinibus Angliae (On the Laws and Customs of England)*, written in Latin, summarized many of the legal rulings in cases since the Norman Conquest. De Bracton was teaching judges to rule based on previous cases. He was helping to establish the idea of **precedent**. **The doctrine of precedent, which developed gradually over centuries, requires that judges decide current cases based on previous rulings.** This vital principle is the heart of American common law. Precedent ensures predictability. Suppose a 17-year-old student promises to lease an apartment from a landlord, but then changes her mind. The landlord sues to enforce the lease. The student claims that she cannot be held to the agreement because she is a minor. The judge will look for precedent, that is, older cases dealing with the same issue, and he will find many holding that a contract generally may not be enforced against a minor. That precedent is binding on this case, and the student wins. **The accumulation of precedent, based on case after case, makes up the common law.**

Today’s society is dramatically different from that of medieval English society. But interestingly, legal disputes from hundreds of years ago are often quite recognizable today. Some things have changed but others never do.

Here is an actual case from more than six centuries ago, in the court’s own language. The plaintiff claims that he asked the defendant to heal his eye with “herbs and other medicines.” He says the defendant did it so badly that he blinded the plaintiff in that eye.

Precedent

The tendency to decide current cases based on previous rulings

Common law

Judge-made law

THE OCULIST’S CASE (1329)

LI MS. Hale 137 (1), fo. 150, Nottingham⁴

Attorney Launde [for defendant]: Sir, you plainly see how [the plaintiff claims] that he had submitted himself to [the defendant’s] medicines and his care; and after that he can assign no trespass in his

person, inasmuch as he submitted himself to his care: But this action, if he has any, sounds naturally in breach of covenant. We demand [that the case be dismissed].

⁴J. Baker and S. Milsom, *Sources of English Legal History* (London: Butterworth & Co., 1986).

Excerpts from Judge Denum’s Decision: I saw a Newcastle man arraigned before my fellow justice and me for the death of a man. I asked the reason for the indictment, and it was said that he had slain a man under his care, who died within four days afterwards. And because I saw that he was a [doctor] and that he had not done the thing feloniously but [accidentally]

I ordered him to be discharged. And suppose a blacksmith, who is a man of skill, injures your horse with a nail, whereby you lose your horse: You shall never have recovery against him. No more shall you here.

Afterwards the plaintiff did not wish to pursue his case any more.

This case from 1329 is an ancient medical malpractice action. Attorney Launde does not deny that his client blinded the plaintiff. He claims that the plaintiff has brought the wrong kind of lawsuit. Launde argues that the plaintiff should have brought a case of “covenant”; that is, a lawsuit about a contract.

Judge Denum decides the case on a different principle. He gives judgment to the defendant because the plaintiff voluntarily sought medical care. He implies that the defendant would lose only if he had attacked the plaintiff. As we will see when we study negligence law, this case might have a different outcome today. Note also the informality of the judge’s ruling. He rather casually mentions that he came across a related case once before and that he would stand by that outcome. The idea of precedent is just beginning to take hold.

1-2b Law in the United States

The colonists brought with them a basic knowledge of English law, some of which they were content to adopt as their own. Other parts, such as religious restrictions, were abhorrent to them. Many had made the dangerous trip to America precisely to escape persecution, and they were not interested in recreating their difficulties in a new land. Finally, some laws were simply irrelevant or unworkable in a world that was socially and geographically so different. American law ever since has been a blend of the ancient principles of English common law and a zeal and determination for change.

During the nineteenth century, the United States changed from a weak, rural nation into one of vast size and potential power. Cities grew, factories appeared, and sweeping movements of social migration changed the population. Changing conditions raised new legal questions. Did workers have a right to form industrial unions? To what extent should a manufacturer be liable if its product injured someone? Could a state government invalidate an employment contract that required 16-hour workdays? Should one company be permitted to dominate an entire industry?

In the twentieth century, the rate of social and technological change increased, creating new legal puzzles. Were some products, such as automobiles, so inherently dangerous that the seller should be responsible for injuries even if no mistakes were made in manufacturing? Who should clean up toxic waste if the company that had caused the pollution no longer existed? If a consumer signed a contract with a billion-dollar corporation, should the agreement be enforced even if the consumer never understood it? New and startling questions arise with great regularity. Before we can begin to examine the answers, we need to understand the sources of contemporary law.

1-3 SOURCES OF CONTEMPORARY LAW

Throughout the text, we will examine countless legal ideas. But binding rules come from many different places. This section describes the significant categories of laws in the United States.

1-3a United States Constitution

America's greatest legal achievement was the writing of the United States Constitution in 1787. It is the supreme law of the land.⁵ Any law that conflicts with it is void. This federal Constitution does three basic things. First, it establishes the national government of the United States, with its three branches. Second, it creates a system of checks and balances among the branches. And third, the Constitution guarantees many basic rights to the American people.

Branches of Government

The Founding Fathers sought a division of government power. They did not want all power centralized in a king or in anyone else. And so, the Constitution divides legal authority into three pieces: legislative, executive, and judicial power.

Legislative power gives the ability to create new laws. In Article I, the Constitution gives this power to the Congress, which is comprised of two chambers—a Senate and a House of Representatives. Voters in all 50 states elect representatives who go to Washington, D.C., to serve in the Congress and debate new legal ideas.

The House of Representatives has 435 voting members. A state's voting power is based on its population. Large states (Texas, California, and Florida) send dozens of representatives to the House. Some small states (Wyoming, North Dakota, and Delaware) send only one. The Senate has 100 voting members—two from each state.

Executive power is the authority to enforce laws. Article II of the Constitution establishes the president as commander in chief of the armed forces and the head of the executive branch of the federal government.

Judicial power gives the right to interpret laws and determine their validity. Article III places the Supreme Court at the head of the judicial branch of the federal government. Interpretive power is often underrated, but it is often every bit as important as the ability to create laws in the first place. For instance, the Supreme Court ruled that privacy provisions of the Constitution protect a woman's right to abortion, although neither the word "privacy" nor "abortion" appears in the text of the Constitution.⁶

At times, courts void laws altogether. For example, in 1995, the Supreme Court ruled that the Gun-Free School Zones Act of 1990 was unconstitutional because Congress did not have the authority to pass such a law.⁷

Checks and Balances

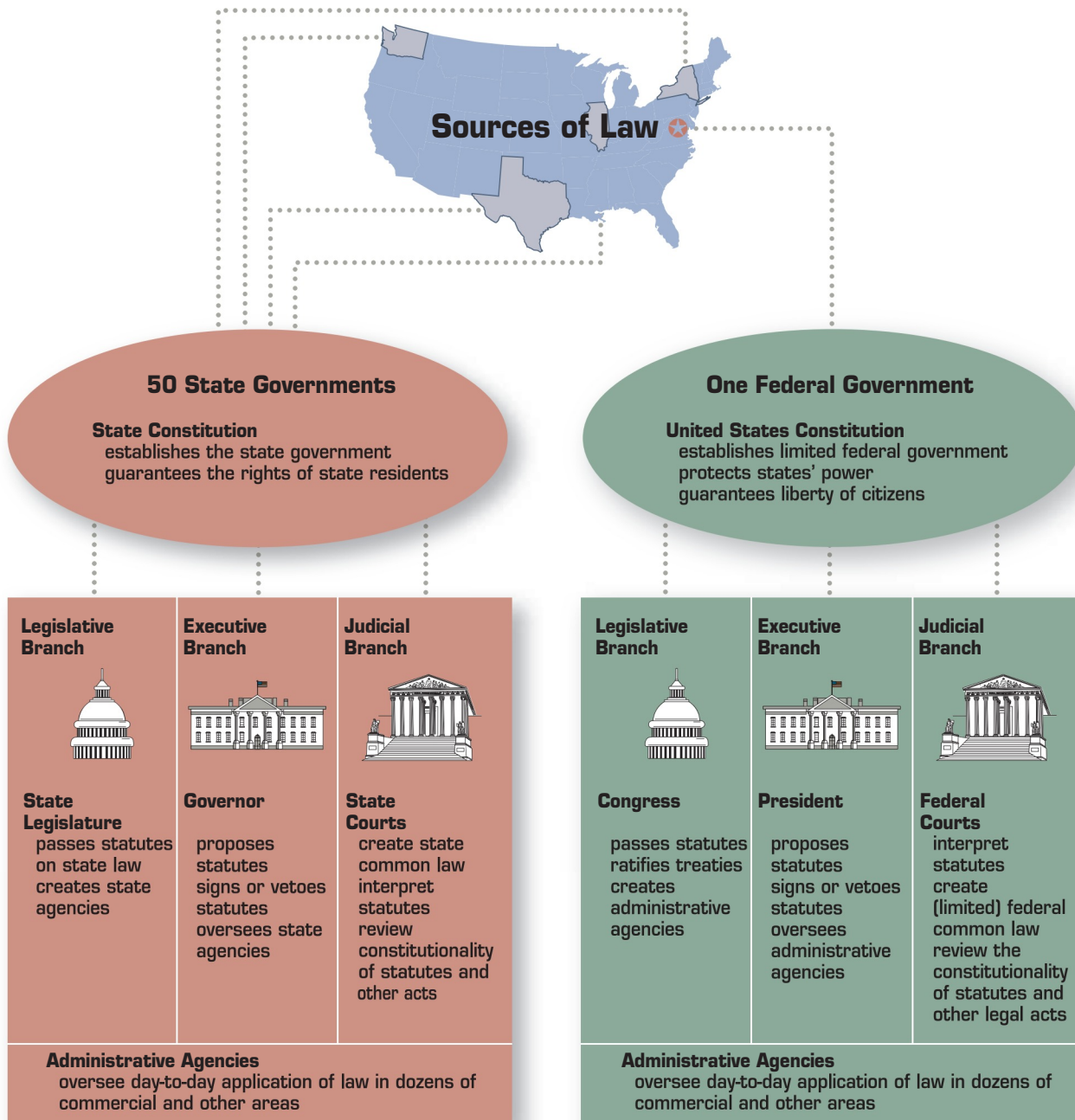
The authors of the Constitution were not content merely to divide government power three ways. They also wanted to give each part of the government some power over the other two branches. Many people complain about "gridlock" in Washington, but the government is slow and sluggish by design. The Founding Fathers wanted to create a system that, without broad agreement, would tend towards inaction.

The president can veto Congressional legislation. Congress can impeach the president. The Supreme Court can void laws passed by Congress. The president appoints judges to the federal courts, including the Supreme Court, but these nominees do not serve unless approved by the Senate. Congress (with help from the 50 states) can override the Supreme

⁵The Constitution took effect in 1788, when 9 of 13 colonies ratified it. Two more colonies ratified it that year, and the last of the 13 did so in 1789, after the government was already in operation. The complete text of the Constitution appears in Appendix A.

⁶Roe v. Wade, 410 U.S. 113 (1973).

⁷United States v. Alfonso Lopez, Jr., 514 U.S. 549 (1995).



Federal Form of Government. Principles and rules of law come from many sources. The government in Washington creates and enforces law throughout the nation. But 50 state governments exercise great power in local affairs. And citizens enjoy constitutional protection from both state and federal government. The Founding Fathers wanted this balance of power and rights, but the overlapping authority creates legal complexity.

Court by amending the Constitution. The president and the Congress influence the Supreme Court by controlling who is placed on the court in the first place.

Many of these checks and balances will be examined in more detail later in this book, starting in Chapter 4.

Fundamental Rights

The Constitution also grants many of our most basic liberties. For the most part, they are found in the amendments to the Constitution. The First Amendment guarantees the rights of free speech, free press, and the free exercise of religion. The Fourth, Fifth, and Sixth Amendments protect the rights of any person accused of a crime. Other amendments ensure that the government treats all people equally and that it pays for any property it takes from a citizen.

By creating a limited government of three branches, and guaranteeing basic liberties to all citizens, the Constitution became one of the most important documents ever written.

1-3b Statutes

The second important source of law is statutory law. The Constitution gave to the United States Congress the power to pass laws on various subjects. These laws are called **statutes**, and they can cover absolutely any topic, so long as they do not violate the Constitution.

Almost all statutes are created by the same method. An idea for a new law—on taxes, health care, texting while driving, or any other topic, big or small—is first proposed in the Congress. This idea is called a *bill*. The House and Senate then independently vote on the bill. To pass Congress, the bill must win a simple majority vote in each of these chambers.

If Congress passes a bill, it goes to the White House for the president’s approval. If the president signs it, a new statute is created. It is no longer a mere idea; it is the law of the land. If the president refuses to approve, or *veto*s a bill, it does not become a statute unless Congress overrides the veto. To do that, both the House and the Senate must approve the bill by a two-thirds majority. If this happens, it becomes a statute without the president’s signature.

Statute

A law created by a legislature

1-3c Common Law

Binding legal ideas often come from the courts. Judges generally follow *precedent*. When courts decide a case, they tend to apply the legal rules that other courts have used in similar cases.

The principle that precedent is binding on later cases is called *stare decisis*, which means “let the decision stand.” *Stare decisis* makes the law predictable and this, in turn, enables businesses and private citizens to plan intelligently.

It is important to note that precedent is binding only on *lower* courts. For example, if the Supreme Court decided a case in one way in 1965, it is under no obligation to follow precedent if the same issue arises in 2015.

Sometimes, this is quite beneficial. In 1896, the Supreme Court decided (unbelievably) that segregation—separating people by race in schools, hotels, public transportation, and other public services—was legal under certain conditions.⁸ In 1954, on the exact same issue, the court changed its mind.⁹

In other circumstances, it is more difficult to see the value in breaking with an established rule.

⁸Plessy v. Ferguson, 163 U.S. 537 (1896).

⁹Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).