Answers to Issue Spotters,

Using Business Law,

Real-World Case Problems

& Ethical Questions

Chapter 1

Introduction to the Law and

Our Legal System

Answers to Issue Spotters

1A. Under what circumstances might a judge rely on case law to determine the intent and purpose of a statute? Case law includes courts’ interpre­tations of stat­utes, as well as constitu­tional provisions and admin­istrative rules. Statutes often codify common law rules. For these reasons, a judge might rely on the common law as a guide to the intent and purpose of a statute.

2A. The First Amendment provides protection for the free exercise of religion. A state legis­lature enacts a law that outlaws all religions that do not derive from the Judeo-Christian tradition. Is this law valid within that state? Why or why not? No. The U.S. Constitution is the supreme law of the land, and applies to all jurisdictions. A law in vio­lation of the Constitution (in this ques­tion, the First Amendment to the Constitution) will be declared un­constitutional.

Answers to Using Business Law

1–1A. Remedies

(BLT&E page 6)

1. A court order to a party to perform a contract as promised is a remedy in equity. The usual remedy at law is damages, or a payment of money for a harm suffered.

2. A court order to cancel a contract is a remedy in equity.

1–2A. Stare decisis

(BLT&E page 5)

A court can determine the intent of the legislative body that enacted a statute to apply it as the court believes the legislature intended. And a court can overturn a statute that it believes is in violation of the Constitution. Otherwise, however, a court will generally defer to the judgment of the legislature with respect to a statute that the court views as rational. A court will take the same steps in reviewing an administrative rule, deferring to the agency that issued the rule as long as it appears to have a rational basis. (These are applications of the doctrine of judicial review, which is not a power set out in the Constitution but was within the authority of the courts at the time of its adoption and was affirmed brilliantly by the United States Supreme Court in Marbury v. Madison in 1803.)

Answers to Real-World Case Problems

1–3A. Constitutional law

(BLT&E page 7)

The U.S. Constitution is the supreme law of the land. A law in violation of the Constitution, no matter what its source, will be declared uncon­sti­tutional and will not be enforced. In this problem, the court determined that a Massachusetts state statute was in conflict with the U.S. Constitution. The Constitution takes priority. The statute will not be enforced.

In the actual case on which this problem is based, the court held that the statute violated the Constitution, and on appeal, the U.S. Court of Appeals for the First Circuit affirmed this holding. Under the statute’s definitions of large and small wineries, most of the small wineries were in-state and all of the large wineries were out-of-state. The court found that the purpose of the statute had been to “ensure that Massachusetts’ wineries obtained an advantage over their out-of-state counterparts.”

1–4A. Law around the world

(BLT&E page 9)

Common law—general rules developed from custom or judicial deci­sions—spread throughout medieval England after the Norman Conquest in 1066. Courts developed the common law rules from the principles behind the deci­sions in actual legal controversies. Judges attempted to be consistent. When possible, they based their decisions on the principles suggested by ear­lier cases. They sought to decide similar cases in a similar way and considered new cases with care because they knew that their decisions would make new law. Each in­terpretation became part of the law on the subject and served as a legal prece­dent. Later cases that involved similar legal principles or facts could be decided with reference to that precedent. The practice of deciding new cases with refer­ence to former decisions, or precedents, eventually became a cornerstone of the English and American judicial systems. It forms a doctrine called stare deci­sis. Under this doctrine, judges are obligated to follow the precedents estab­lished within their jurisdictions. Generally, those countries that were once colonies of Great Britain retained their English common law heritage after they achieved their independence. Today, common law systems exist in the United States, Ireland, Canada, Australia, New Zealand, and India.

Most of the other European nations base their legal systems on Roman civil law. Civil law is codi­fied law—an ordered grouping of legal principles enacted into law by a legisla­ture or governing body. In a civil law system, the primary source of law is a statutory code, and case precedents are not judicially binding as they are in a common law system. Nonetheless, judges in such systems commonly refer to previous decisions as sources of legal guidance. The differ­ence is that judges in a civil law system are not bound by precedent; in other words, the doctrine of stare decisis does not apply.

1–5A. The common law

(BLT&E page 5 and 7)

The doctrine of stare decisis is the process of deciding case with reference to former decisions, or precedents. Under this doctrine, judges are obligated to follow the precedents established within their jurisdiction.

In this problem, the enforceability of a forum selection clause is at issue. There are two precedents mentioned in the facts that the court can apply The United States Supreme Court has held that a forum selection clause is unenforceable “if enforcement would contravene a strong public policy of the forum in which suit is brought.” And California has declared in other cases that the AOL clause contravenes a strong public policy. If the court applies the doctrine of stare decisis, it will dismiss the suit.

In the actual case on which this problem is based, the court determined that the clause is not enforceable under those precedents.

1–6A. The legal environment

(BLT&E pages 8 & 9)

Areas of the law that apply to the incidents noted in this problem can be classified as civil and criminal.

Civil law covers the duties that exist between persons, who here are Deng and Sears (a corporation can be considered a “person”). Subclassifications of civil law include employment law, which could encompass Deng’s performance review, his work stoppage, his disability claim, and Sears’s policies as an employer with respect to the review standards, employee leave, and employees coming into the office while on leave. If these parties had an express employment contract, or if there were an employees manual that amounted to an implied contract, contract law is another subclassification of civil law that might apply. Intellectual property law could govern the employer’s acquisition and ownership of the computer data that Deng compiled as part of his job. Deng’s disability claim, if fraudulent; his return to the office while on leave, if without permission; his accessing the company’s computers, if without authorization; his deletion of Sears’s data, if without consent; and his malicious prosecution suit fall under the civil law sub-classification of tort law.

Criminal law covers wrongs committed against the public. Criminal acts are prohibited by statute. Here, criminal charges were filed against Deng. These charges might include trespass, burglary, and tampering with computer files without permission.

Answers to Ethical Questions

1–7A. Anticipation of legal problems

(BLT&E page 10)

Legal problems should be antici­pated to prevent legal liability before it arises. One method to anticipate legal problems is to learn about legal rights and duties ahead of time.

1–8A. Good faith

(BLT&E page 7)

Good faith often determines whether an act is legal or illegal, even though good faith is es­sentially a subjective quality. This is in part because the general purpose of the law is, in many ways, to prevent socially undesirable conduct. When this conduct is the result of bad faith, or a “bad mind,” it can be said to be willful, or voluntary. Thus, committing an act in bad faith may lead to legal liability while committing the same act in good faith could result in less, or even no, legal liability. (Involuntary acts are presumably less pre­ventable and may result in an application of less legal responsibility in part for that reason.)