

Snazzlefrag's Intro to Business Law CLEP Study Notes

Contact: <http://www.degreeforum.net/members/snazzlefrag.html>

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Analytical View: Law is shaped by logic.

Command View (Positivism): Law is set of rules enforced by the ruling party.

Critical View: Law is unnecessary. Disputes should be solved by arbitrary but fair rules.

Historical View: Law is an aggregate of social traditions and customs.

Law & Economics View: Law should promote market efficiency.

Legal Realism: Law is good if serves society. Case law/Precedents.

Natural Law View: Law is based on what is correct. Should be based on morality and ethics.

Sociological View: Law is a means of achieving social Justice and Stability.

Traditional View: Body of Rules.

Business Ethics: Conflict of Interest, Confidentiality, Good Faith, Responsibility, Rights of Others.

Duty (Kant): The action/intent = morality (not the consequences). Universal/not means-end.

Ethical Fundamentalism: Corporate Codes of Ethics to determine right/wrong.
"Outside source"

Ethical Relativism: Decide for yourself what is right and wrong. "No universal standards"

Kantian (Duty): Do your "Duty" regardless of consequences to bottom-line. "Do unto others as..."

SR-Corporate Citizenship: Responsibility to do good. Solve social problems. "Give back/reciprocate"

SR-Maximizing Profits: Serve the bottom-line/shareholders.

SR-Moral Minimum: Make profit but avoid harm to others.

SR-Stakeholder Interests: Consider effects of actions on others as well as stakeholders.

Social Justice (Rawl): (Locke/Rouss) Contract. Distrib Justice. "Original Position/Veil of Ignorance".

Utilitarian(Bentham/Mill): "Consequences", greatest good. Difficult to apply.
"Philosophy of Business"

Contracts: Capacity, Agreement (Meeting of Minds), Consideration, Legality.

Implied-in-fact (action/behavior), **Implied-in-law** (quasi/unjust enrich/detr),
Express (written/oral).

Agreement: Intent. Definite/reasonably certain. Communicated.

Beneficiaries: Creditor or Donee.

Consideration: Something of value given in exchange for a promise (not gifts).

Exceptions: duty(cops), moral oblig(family), past consideration, illusory promise(chose not to).

Executory Contract: Entered into, but not yet performed.

Forbearance: Promise not to do something. This is valid consideration.

Liquidated Damages: Specified dollar amount upon breach of contract.

Mutual Mistake=voidable, **Unilateral Mistake**=valid (unless other knows, clerical error, unconsc).

Novation: 3rd Party takes over duties of one of the original parties (by agreement).

Rescission: Contract is rescinded/cancelled (for: breach, fraud, duress, undue influence, mistake).

Rights: Assigned. Not Personal Services, Credit, Prohib Clause) **Duties: Delegated** if Routine

Statute of Frauds (GB): Memo+Sig. Innocent Misrepresentation. Only executory contracts. Void!

Memorandum Required: \$500+(UCC201), >1yr, Land, 3rd party debt, Exec of Will, Prenup.

Unilateral: Promise IF perform act. **Bilateral:** Both sides exchange promises/obligations.

Void: Illegal/invalid. **Voidable:** Person has right to end contract. **Unenforceable:** Valid but legality.

Foreign Commerce Clause: Congress power to regulate commerce with foreign nations.

Treaty Clause: President power to make treaties w/ advice and consent (2/3 of Senate).

1 Freedom of **speech**, press, petition.

2 **Bear Arms.**

3 Not to quarter soldiers in peacetime (except by law).

4 Security against **unreasonable search and seizure**(Exclusionary Rule).

5 Remain Silent/witness against self/**double jeopardy**/just compensation/eminent domain.

6 Criminal: **Public Trial by Jury** (criminal prosecution)

7 Civil: Trial by Jury (lawsuits over \$20)

8 Excessive Bail, Fines, **Cruel & Unusual Punishment**

9 Other rights exist outside of the Constitution.

10 Residual Power goes to the states and the people.

11 One state cannot sue another. 1798

12 Separate voting for the President and Vice-president. 1804

13 (Civil War) Abolishes Slavery. 1865

14 (Civil War) "Equal Protection of the Law"....Citizenship (birth, naturalization). 1868

15 (Civil War) Right to Vote. 1870

16 Allows Taxes. 1913

17 Direct election of Senators. 1913

18 National Prohibition. 1919

19 Women's Suffrage. 1920

20 Lame-duck. 1933

21 Repeal of Prohibition. 1933

22 Two Term Limit on President. 1951

- 23 Right to vote for President given to Washington, DC. 1961
- 24 Prohibition of Poll Tax (on voting). 1964
- 25 Succession of President or Vice-president. 1967
- 26 Voting Age: 18. 1971
- 27 Pay raises for Congress (only next election). 1992

Antitrust Law: Statutory/regulatory/case law.

Sherman(Crim),Clayton,Patman,FTC.Restrict on trade.

Potential Entrant Effect: Keep price low in case new competition enters market.
Mergers limit.

Primary line injuries: Price discrim affects sellers (sell at lower prices than direct competitors).

Secondary line injuries: Price discrim affects buyers (competitors can buy at lower prices).

Tertiary line injuries: Price discrim affects customers (pay higher prices b/c of prim/sec line).

Procedural Law: Rules, procedures. Enforces substantive law in a court.

Public Law (Criminal): Constitutional, Administrative, Criminal law. B/n Citizens + Govt.

Private Law (Civil): Tort, Contract law. B/n two individuals (injured party whole/disputes).

Substantive Law: Defines legal rights & obligations.

Agency: Agent=acts on behalf of Principal (person who uses an agent).

Bankruptcy: 7=Individual/Liquidation. 11=Business Reorganization. 13-Rehab (installments etc.)

Demurrer: Motion to Dismiss

Slander: False oral communication to a third person (not to a person's face).

Tort: Personal Injury/Property Damage/Emotional Distress. Intentional Tort or Negligent Tort.

Intentional: A&B, Trespass, False Imp,Defam(slander), **Conversion** (keep/destroy), Inv Privacy.

Negligent: Duty of Care, Injury, **Cause in fact** (actual), **Proximate Cause** (legal).
Negligence Per Se(ordinance). Res Ipsa Loquitur(scalpel).

Warranty of Title: Owns the item/No liens/No copyrights, trademarks infringed.

Bakke v UCal: Outlawed quotas, but allows race as basis for **affirmative action**.

Civil Rights Act (Title VII): Discrimination. Race, color, sex, religion, national origin.
15+ employees

Disparate Treatment: Specific Individual. **Disparate Impact:** Entire class/Environment/Statistics.

Clayton Act 1917: **Antitrust**. Punish probable impact, Sherm=actual impact. Intrlckng Drctrshp/mergrs

Clean Air Act 1963/1990: (Nixon) Smog, soot, Carbon Monoxide, Sulfur Dioxide, Acid Rain.

Clean Water Act 1972: (Nixon) "fishable & swimmable". Limit pollutants in navigable waters.

Consolidated Omnibus Budget Reconciliation Act (COBRA) Continue health

insurance.

Comp Environmental Response, Compensation, & Liability Act 1980.

CERCLA/Superfund.

EEOC: "Probable Cause" that discrimination occurred. Adverse Impact/Disparate Impact(motive).

Employ Retirement Income Security Act: Regulates pension plans. Pens Benefit Guar Corp.

Endangered Species Act 1973: Fish & Wildlife, Marine Fisheries Service.

EPA 1970: (Nixon) Establish/enforce protection standards, research, monitor, assist CEQ.

Fair Labor Standards Act 1938: minimum wage, overtime, child labor (<14 no, 14-18 limited)

Federal Environmental Pesticide Control Act 1972: Regulates manuf, labeling, and use.

FMLA: 12wks unpaid leave/year. Birth,adoption,illness. All govt, private cos 50+ workers.

FTC Act 1914: Strengthen Sherman Act (anti-monopoly), broaden Clayton, antitrust, civil cases.

Harris v Forklift: "reasonableness" standard for **sexual harrassment**. Hostile Environment.

Marbury v Madison (Marshall): **Judicial Review**.

National Environmental Policy Act 1969: (Nixon) Protect/clean the environment. Impacts.

Council of Environmental Quality (CEQ)

National Labor Relations Act 1935: "**Wagner Act**". Rights of unions. Collective Bargaining.

Nuclear Regulatory Commission 1975: Setup by Energy Reorganization Act 1974.

Nuclear Waste Policy Act 1982: Govt disposal of radio-active waste, nuclear fuel. Yucca Mt, NV.

Oil Pollution Control Act 1990: Exxon Valdez.

OSHA 1970: Createad OSHAdministration, Nat Institute for OSH (resrch/recmnd). OSHReviewComm.

Price-Anderson Act 1957: Limits monetary liability of nuclear accidents. \$200m ins. \$80m each.

Resource Conservation & Recovery Act 1976: Hazardous/non-hazardous waste. Only solid waste.

Richmond v Croson: **Affirmative Action**. "strict scrutiny", "Prove widespread dscrim in industry".

Robinson-Patman Act: **Antitrust**. Bans price dscrim but allows price differentials (ie, petrol prices).

Securities Exchange Act 1934: stock trading, insider trading etc. Created SEC: regs brokerage.

Sherman Antitrust Act 1890: Fixing/boycott/quota/horiz market divis/tying/MONOP. "rule of reason"

Social Security Act 1935: aged, disabled, widowed. Employee + Employer contribs.

Toxic Substances Control Act 1976: EPA can control substances BEFORE damage occurs.

UCC: All 50. Art 2=\$500+, Warranty of Title, Express & Implied Warranties, lease pymnt \$1000+.

Worker Adjustmnt & Retrainng Notifictn Act 1989: 100+ must give 60dys notice of closure/layoffs.