



BUSINESS LAW TODAY

THE ESSENTIALS
TEXT & SUMMARIZED CASES, 11E

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PROFESSOR FRED GALVES
COURSE
INTRODUCTION

BUSINESS LAW 340

● INTRODUCTION:

- Business Law.
- Basic Working Knowledge of Law (Citizen/Business)
- Ability to Apply the Law
- Answer Basic Legal Questions

● Who Are We?

- ME: Professor Fred Galves
- YOU: Why Are You Taking this Class?

BUSINESS LAW 340

- Course Description & Syllabus:

- Go through Items on Each Page
- Goals
- Expectations
- Grading

- Your Questions/Concerns?

- Everything I Can to Assist You to Be Successful
- But It Is Really ALL Up to YOU!

BUSINESS LAW 340

● For Next Class:

- Reading: Chapters 1 and 7
- Make sure to do Homework/Quiz for each chapter (20 questions)
- Chapter 1 – Constitutional Rights
- Chapter 7 -- Ethics

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● Example for Discussion:

- “Affirmative Action” – What Is It?
- What Is the Goal/Justification?
- FAIR? Or “Reverse Discrimination”?
- Who Should Benefit?
- Making things “Equal”?
- Should We Take Race Into Account, or Should We Ignore Race (be “Colorblind”)--MLK?

Bakke v. Bd. Of Regents

Facts?

Bake was *denied admission even though his credentials were much higher*, as there were *quotas (special program)* that were reserved for minorities from “disadvantaged” groups.

Diversity is an *important goal, but it does not satisfy “strict scrutiny” a “compelling state interest”* – race-based violates 14th Amend.

OK for the school to *attempt to achieve these diversity goals*, but *not through these quotas*

Bakke v. Bd. Of Regents

“*Benign*” discrimination? Discrimination against Whites *not as pernicious* as discrimination against Blacks (the *history*)?

It is OK to take race into account, as *one of many “factors” to be weighed*, it is just that race *cannot be the SOLE factor—a quota*

Justice Marshall: a whole *history of “ingenious ways to violate the Constitution”* against Blacks, and now, when an institution actually tries to do something decent to remedy it, the *Constitution prevents it?*

Bakke v. Bd. Of Regents

Why is it OK to take *age, geography, legacy (parents who are alumni), athletic ability, future financial success, alumni pressure, “playing the tuba in the band, etc., ...* but only race is illegitimate discrimination?

Issues in General:

- (1) Who is and is not a “*minority*”/Box checker?
- (2) What about *economic class* (daughter of a rich Black doctor, private schools v. son of a White working class farmer, public school)?

Bakke v. Bd. Of Regents

(3) “*Innocent White Victims*”—Do *two wrongs make a right*? Colorblindness (MLK, Jr.)

(a) *Running Race metaphor* (starting lines, hurdles, snap shot finish v. the entire race: current merit, future potential)

(b) The “*tennis match*” Metaphor

(c) The “*Taxi cab*” Metaphor

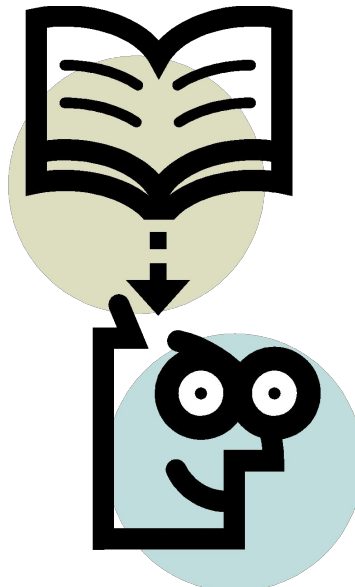
(4) *Class* idea (daughter of a rich Black doctor, private schools v. son of a White working class farmer, public school)—*who is ahead/behind?*

Bakke v. Bd. Of Regents

- (5) *Day of Reckoning*—when should affirmative Action end? *300 years* of slavery/segregation/ Jim Crow, etc. v. *40 years* of Aff. Action (the “boulder example”—carrying the burden)
- (6) *Stigma of Incompetence*—“do you belong”?
 - (a) Legal Aid Harvard Example
 - (b) What about minimum competence, but once above minimum, OK to use race?
- (7) Still a merit-based system, *redefine merit*

Business LAW 340

Issue Spotting and Writing Exercises



Hot Coffee



McDonald's to recover her medical costs of \$20,000.

Hot Coffee – Spot the Issue

1. What is at issue here? (What are we trying to solve?)
2. What rules govern?
3. Analyze the case using the facts and the rules.
 - What are some key facts? Identify applicable rules.
 - Weave facts and rules to prove or disprove claim
4. Conclusion. (What should happen?)

Sorry I'm Late

Frank worked for Southworst Airlines, a low cost US airline, as a baggage handler. He had been an employee of Southworst for seven years. Southworst has a performance policy that reads in part; *“any employee that is late for work more than 3 times in a 12 month period is subject to termination”*. Last Thursday, Frank arrived late to work for the fourth time in 11 months because his 14 year old Labrador Retriever, Roscoe, was hit by a car in the morning and died in his arms.

Upon arriving to work one hour late Valerie, Frank's manager who does not like him, fired him on the spot without even listening to why he was late. She then commented “Too bad, so sad. Seee ya! Wouldn't wanna' be ya!” Frank was very upset and considered striking her in the face. As he was leaving the office, Frank saw Susie who couldn't believe that Frank was fired. She said “Wow. I have been late like . . . six or seven times and I'm still here.” Frank knew then that he was not being treated fairly. Once he calmed down, Frank decided to sue Southworst for wrongful termination.

Sorry I'm Late – Spot the Issue

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Oops! What was That?

At 7:30pm on October 31, Lucy Skywalker was driving her vehicle along a windy, unlighted stretch of road in a somewhat rural neighborhood with no sidewalks. It had rained most of the day but the sky cleared up later in the evening. There were cars parked sporadically along the roadside. As it started to get dark, Skywalker noticed children along the road ahead of her *trick or treating*; with many wearing dark clothes. She was cautiously driving down the road using her high beams as needed and she slowed down whenever she was unable to see clearly.

At one point she pulled over and stopped after Batman darted into the street. One of the parents waved in appreciation. As she watchfully resumed her driving, all of sudden Skywalker felt her car hit something so she immediately pulled over and exited her car to investigate. When she reached what she thought she had run over, she saw a child in a Darth Vader costume lying in the road. Darth Vader was severely injured. Darth Vader's parents filed a civil law suit against Skywalker.

Outline your finding in this matter.

Oops! - Spot the Issue

1. What is at issue here?
2. What rules of law govern?
3. Analyze the case using the facts and the rules.
 - a. What are some key facts? Identify applicable rules.
 - b. Weave facts and rules to prove or disprove claim
4. Conclusion? (What should happen?)

Hmm . . . What did you say happened?

Jenny Hamilton worked as a retail store manager for the Rockville Galleria. She claimed that she was sexually harassed by Susie, her female regional supervisor, and that she was fired because she filed a complaint about Susie's behavior. Her employer, Rockville, claimed that Hamilton was fired because her store was poorly managed.

Hamilton alleged that her supervisor's behavior included the supervisor telling her that she is gay, inviting Hamilton out for drinks after work several times, smiling in a sexual manner, excessively complimenting Hamilton's appearance, and in Hamilton's opinion, attempting to touch her breast on one occasion in the storage room. Jenny's best staff member is the only witness to some of Susie's behavior, but she is not certain what she saw. However, there is high managerial turnover in the regional supervisor's area and a few other potential harassment complaints.

Lastly Frank, one of Jenny's employees, claimed he overheard Susie telling another employee that seeing her managers in stores is really attractive to her. After she was terminated, Jenny filed a harassment lawsuit against Rockville. Is Rockville liable?

What did you say? - Spot the issue

1. What is at issue here?
2. What rules of law govern?
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 - a. What are some key facts? Identify applicable rules.
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4. Conclusion? (What should happen?)

Crusty Delivery

A-Plus Delivery Service asks Best Pizza Company if it can deliver pizzas to its customers for \$5,000 per month. A-Plus requires payment in advance to ensure outstanding service. Best pays and A-Plus starts delivering pizzas. After two weeks, A-Plus fails to deliver pizzas and as a result, Best loses profits and customers.

Best sues A-Plus for breach.

Is Best entitled to damages?

Crusty Delivery – Spot the Issue

1. What is at issue here? (What are we trying to solve?)
2. What rules of law govern?
3. Analyze the case using the facts and the rules.
 - a. What are some key facts? Identify applicable rules.
 - b. Weave facts and rules to prove or disprove claim
4. Conclusion. (What should happen?)

It's just a candy bar . . .

Ed, a doctor from the local hospital, is a friend of Fran, the owner of a candy store. Every day, Ed spends about five minutes in Fran's candy store during his break, looking at the candy and usually buying one or two candy bars. One afternoon Ed goes into Fran's store, looks at the candy and picks up a \$1 candy bar. Fran is busy talking and checking out another customer so to avoid interrupting, Ed merely waves the candy bar at Fran without saying a word as he is walking toward the door. Fran smiles but keeps talking to the customer as Ed walks out.

Using the rules of contracts, determine if Ed and Fran have a contract. If so, how would it be classified in terms of formation and is it enforceable?

It's just a candy bar . . . Spot the Issue

1. What is at issue here?
2. What rules of law govern?
3. Analyze the case using the facts and the rules.
 - a. What are some key facts? Identify applicable rules.
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4. Conclusion? (What should happen?)

A Heart Story

Jason, a seven year old child, was born with a genetic heart ailment and is in desperate need of a heart transplant. He has been examined by several cardiologists who are confident that replacing his heart is the correct procedure and that he has a very high likelihood of leading a normal healthy life post-surgery. The doctors are also aware that there is a 1% risk of severe permanent brain damage caused by the length of time to complete the surgery. There are no documented cases of brain damage from this procedure, however the risk is always present. Due to the strong likelihood of the surgery going very well, the risk was not disclosed to Jason or his parents. After 14 hours of surgery, Jason's new heart was functioning as anticipated and he was quickly breathing on his own. However a few days after the respirator was removed, the doctors became concerned about Jason's lack of movement and his loss of motor skills. Shortly thereafter, Jason was diagnosed with severe brain damage. Jason's parents sued.

Identify and explain the cause of action Jason's parents would bring against the doctors and the hospital. What defenses might the doctors and the hospital raise? How would the court likely rule?

A Heart Story - Spot the Issue

1. What is at issue in this case?
2. What action will Jason's parents raise against the doctors and/or facility?
3. What area of law? Explain the elements of the action while using the facts to establish the elements and determine liability.
4. What are some key facts?
5. Briefly explain the rationale for the conclusion you reach regarding liability.
6. Identify any possible defenses.

You're Flooded!

A water pipe bursts, flooding a General Business Company (GBC) utility room and tripping the circuit breakers on a panel in the room. GBC contacts Hal, a licensed electrician with 10 years of experience, to investigate the damage and turn the breakers “on”. Hal attempts to turn on one of the breakers without testing for short circuits, which he knows should be done. Hal is electrocuted, and files a suit against GBC for damages.

You're Flooded! - Spot the Issue

1. What is at issue in this case?
2. What action will Hal raise against GBC?
3. What area of law? Explain the elements of the action while using the facts to establish the elements and determine liability.
4. What are some key facts?
5. Briefly explain the rationale for the conclusion you reach regarding liability.
6. Identify any possible defenses.

What Happened to the Money?

Sympathy Enterprises, Inc operates a cemetery. After receiving tens of thousands of dollars in payments for pre-need and perpetual-care burial contracts, the corporation failed to make deposits into the appropriate accounts. When customers passed away, Sympathy Enterprises was unable to provide the services that the customers had contracted for. Jack Smith, president and CEO of Smith Enterprise, was sued by the customers' next-of-kin for the corporation's failure to make the necessary deposits as agreed. There is no evidence to suggest that Jack Smith's duties included an accounting responsibility or the responsibility to withhold or deposit funds.

What Happened to the Money?

1. What is at issue in this case?
2. What action will the next-of-kin most likely bring against Smith?
3. What law or rule governs here?
4. What are some key facts?
5. Is the corporation liable?
6. Should Smith be held liable?
7. Why or why not?
8. What might Smith argue?

Hey, Watch Out for My Head!

Lyon Forest is professional golfer that was preparing to play in the Sacramento Open Golf Tournament. He has been very successful as of late and is sponsored by Ahdidahs. Yesterday, while practicing his cut shot from 180 yards out, he broke his 7 iron. Unable to order another before the tournament, he went to the Golf Shop and bought a club that was like the Ahdidahs one he broke but a different brand. He bought a Noke brand club. Noke is well known for its extensive product testing. He didn't talk to anyone at the shop. The very first time he swung the club during his warm up session the head of club flew off, sailed across the crowd, and smacked Stephanie in the head near her eye. Stephanie suffered a concussion, temporarily lost sight in her left eye, and was briefly hospitalized. The video tape showed that there was nothing Lyon did during his warm up that could have caused such an accident to happen and the design and manufacturing of the club appeared to be fine.

Stephanie sued.

Who will Stephanie sue and what action(s) will she bring? Briefly outline an analysis of Stephanie's case.

Looking for Work

Blanco Inc is a consulting firm and has a 50 employees and is looking to hire five more. These employees travel on consulting jobs in seven states. Blanco has an employment record of hiring only white males.

Leon, an African American male, sues.

Discuss what cause of action he may bring and the likely defense Blanco may raise.

. . . Still Looking for Work

Nuevo Films Inc. is making a film about Africa and needs to employ approximately 100 extras for this picture. To hire these extras, Nuevo advertises in all major newspapers in Southern California. The ad states that only African Americans need to apply.

Tad, a Caucasian, wants to be in the film and sues Nuevo.

Discuss what cause of action Tad may bring and the likely defense Nuevo may raise.



Making an Ethical Decision

A practical tool for thinking through tough choices

from

Markkula Center for Applied Ethics





Get the Facts

What are the relevant facts of the case? What facts are not known? Do I know enough to make a decision?

Which individuals and groups have an important stake in the outcome?

* Input in this box will be deleted when the app is closed.

Enter individuals and groups...

With the facts and the stakeholders in mind, choose an option that you think might be the best thing to do in this circumstance. Now, evaluate that option from five different ethics perspectives. For each, drag the slider on the scale to indicate how ethical you think your choice would be from that perspective.

Continue



Utility

Does this action produce the most good and do the least harm for all who are affected? What good and what harm will or may result?

How will I measure a good outcome? Happiness? Financial impact?

While the potential harm from this action may affect only a few people, is the harm so great that it would outweigh the good this action might bring to many others?

Move the slider to evaluate the option you are considering.



More Info

Continue



Rights

Does my action best respect the rights of all who have a stake?

Does this action respect the dignity of others?

If I take this action, am I treating others simply as a means to an end?

Does the action hurt or help others in securing a minimum level of well-being?

Move the slider to evaluate the option you are considering.

*More Respect
for Rights*

*Less Respect
for Rights*



More Info

Continue



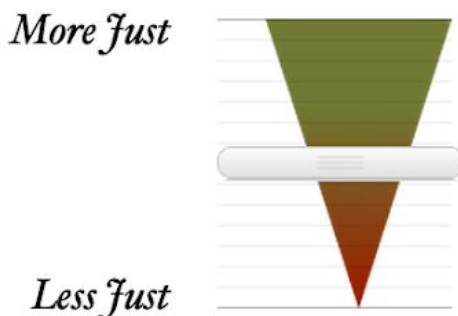
Justice

Does this action treat people equally or proportionally? Does it give each person affected his or her due?

Might I have some prejudice or interest that might make me favor one person over another?

Am I treating each individual the same way, or is there a valid reason to treat someone differently?

Move the slider to evaluate the option you are considering.



More Info

Continue



Common Good

Does this action best serve the community as a whole, not just some members? Will this option be equally to everyone's advantage?

Does this action contribute to the conditions of social life that give everyone an opportunity to thrive?

How will my action affect the resources everyone must share, such as the environment?

Move the slider to evaluate the option you are considering.

Increases Common Good



Decreases Common Good

More Info

Continue



Virtue

Does this option lead me to act as the sort of person I want to be?

What character traits would I be exhibiting if I chose this action? Honesty or deceit? Compassion or selfishness? Prudence or irresponsibility?

What habits of character would I be developing if I took this action? What would a person I respect say about this choice?

Move the slider to evaluate the option you are considering.

More Virtuous



Less Virtuous

More Info

Continue