

BUSINESS LAW I (280)

W McTaggart

Spring 2009

Office: JH3251

Telephone: (818) 677-3984

Cell: (213) 810-4269

E-mail: wmctaggart@sbcglobal.net

For email messages, type "BLAW 280" in the reference portion.

Office Hours: Thursdays 4:00 – 5:00p.m. and by appointment

Text: Business Law Text and Cases, Clarkson *et al.*, Eleventh Edition

Objectives of the Course

Business Law 280 (3 units) is designed to provide students with an understanding of the legal environment in which business decisions are made. The course will cover the topics of the court system and procedure. We will analyze how the legal system has been created, and how it is modified to address changing concerns. We will study the law of torts - the legal concept of "private wrongs" which set standards of conduct in our society. We will then cover the law of contracts: the law which enforces agreements.

You will analyze how law applies to factual settings. You will read court decisions, prepare written briefs of the decisions, orally defend your interpretations of the cases, and answer hypothetical questions in open class discussion. You will learn to distinguish the application of rules depending on changing circumstances in various cases and hypotheticals. You will learn to argue alternate sides of a dispute regardless of personal belief. You will learn to identify the functions, policies, and trends in the law, and to consider social, economic and ethical influences on the law.

Exams are composed of one or more essay questions which require you to analyze factual situations, identify legal issues and apply the law in determining the outcome of hypothetical cases. Exams sometime include multiple-choice questions.

Course topics

- I. The Legal System (10% of class time)
 - A. Purposes of law
 - B. Historical background
 - 1. Common law: flexibility of system designed to find remedies for evolving notions of fairness and rights
 - a. Courts of law
 - b. Courts of equity
 - 2. Constitutional law
 - 3. Statutory law
 - C. Legal Reasoning
 - 1. Case law analysis, role of precedent
 - 2. Statutory Interpretation
 - a. plain meaning
 - b. legislative history

- c. public policy
 - d. precedent
 - D. Distinction between state and federal law
 - E. Distinction between civil and criminal law
 - F. Procedural (sufficient to understand cases studied)
 - 1. Court structure
 - a. jurisdiction
 - b. trial courts distinguished from appellate courts
 - 2. Stages of lawsuit
 - a. pleadings
 - b. discovery
 - c. trial
 - d. appeal (NB: importance of distinguishing questions of law from questions of fact)
 - 3. Alternate dispute resolution
 - a. dispute avoidance techniques
 - b. arbitration
- II. Remedies (5% of class time)
 - A. Damages
 - 1. Compensatory: purpose, duty to mitigate
 - a. actual
 - b. general
 - B. Punitive damages: purpose
 - C. Liquidated damages: purpose, enforceability
 - D. Extraordinary relief
 - 1. Specific performance
- III. Torts (25% of class time)
 - A. Intentional: applicability of punitive damages
 - 1. Related to the person
 - a. assault
 - b. battery
 - c. false imprisonment
 - d. intentional infliction of emotional distress
 - 2. Related to intangibles: reputation, privacy
 - a. defamation
 - b. invasion of privacy
 - 3. Related to property rights
 - a. trespass
 - b. conversion
 - c. nuisance
 - d. fraud/misrepresentation (coordinated with later discussion in contracts)
 - B. Negligence
 - 1. prima facie case
 - 2. defenses
 - C. Strict liability
 - 1. products liability

- IV. Contracts (60% of class time)
 - A. Agreement: offer, acceptance, including applicability of UCC
 - B.. Consideration
 - C. Reality of consent
 - 1. Misrepresentation/fraud
 - 2. Mistake
 - 3. Duress
 - 4. Undue influence
 - D. Capacity
 - E. Legality
 - F. Writing: Statute of Frauds
 - G. Rights of third parties
 - H. Performance, remedies, quasi-contract (coordinated with earlier discussion)

Class Preparation

The assignments are listed *infra*. Normally we complete one assignment each class. Always be one full assignment ahead. If, for instance, we begin but do not finish an assignment, prepare the next full assignment for the next class. Assignments include reading from the text. In addition, there are cases, case problems and questions which must be briefed in writing. A "case" is a court case which is contained in the text. A "case problem" is an end-of-chapter question, which, again, must be briefed. These case problems are also actual court cases, but do not include the court's decisions - that will be your job to analyze. When a case problem contains questions, simply ignore them, and instead brief the case. If you have questions about the assigned material, please ask.

You will be called on at random throughout the semester to read your briefs and problems in class. You will not be graded on the briefs or problems. These are learning tools, not finished product. However, if you are unprepared or absent, this will affect your grade as discussed below. It is your responsibility to be prepared for every class. If you are absent, it is still your responsibility to be prepared. Exchange contact information with another student in the class to find out any missed information – you should contact that fellow student and not the professor to learn of missed work, unless you have a particular question or problem. Once during the term you may give me a note at the start of class stating that you are unprepared and no negative mark will be made. You must be present in class to give such a note - it is not available as an excuse for an absence. You may not tape record the class without permission.

Briefing Cases

To brief cases, case problems and questions, use the following "IRAC" format:

Issue: What question must be answered in order to reach a conclusion in the case? This should be a legal question which, when answered, gives a result in the particular case. Make it specific (e.g. "Has there been a false imprisonment if the plaintiff was asleep at the time of 'confinement'?") rather than general (e.g. "Will the plaintiff be successful?") You may make it referable to the specific case being briefed (e.g. "Did Miller owe a duty of care to Osco, Inc.?") or which can apply to all cases which present a similar question, (e.g. "Is a duty owed whenever there is an employment relationship?") Most cases present one issue. If there is more than one issue, list all, and give rules for all issues raised.

Rule: The rule is the law which applies to the issue. It should be stated as a general principal, (e.g. A duty of care is owed whenever the defendant should anticipate that her conduct could create a risk of

BLAW 280 p. 3 of 8

harm to the plaintiff.) not a conclusion to the particular case being briefed, (e.g. "The plaintiff was negligent.")

Application: The application is a discussion of how the rule applies to the facts of a particular case. While the issue and rule are normally only one sentence each, the application is normally paragraphs long. It should be written debate - not simply a statement of the conclusion. Whenever possible, present both sides of any issue. Do not begin with your conclusion. The application shows how you are able to reason on paper and is the most difficult (and, on exams, the most important) skill you will learn.

Conclusion: What was the result of the case?

With cases, the text gives you a background of the facts along with the judge's reasoning and conclusion. When you brief cases, you are basically summarizing the judge's opinion. With case problems, the editors have given you a summary of the facts of an actual case, but have not given you the judge's opinion. Your job is to act as the judge in reasoning your way to a ruling, again using the IRAC format. While most of these case problems are followed by a question, ignore the question and instead brief the problem.

Most briefs are one page long. They must be brought to class on the day they are to be discussed. Once an assignment has been discussed, you no longer need to bring it to class. Since the briefs are not normally turned in, they may be either handwritten or typed.

Exams and Grading

There will be two midterms, a paper and a final. The final exam is cumulative and will be given on the last day of class. The grade allocation is as follows:

Quiz 1: 10% of course grade
First Midterm: 20% of course grade
Quiz 2: 10% of course grade
Second Midterm: 20% of course grade
Final Exam: 40% of course grade

Your grade is affected by whether you have been prepared when called on for case briefs. As noted above, you may give a note once during the term stating that you are unprepared, and no negative mark will be made. However, if you are called on and have not given an "unprepared" note or are absent you will receive an "unprepared" mark. If you are absent when called on you are "unprepared." One such mark will be dropped from consideration in grading. Any unprepared marks beyond that will cause your final grade in the course to be reduced by 0.1 for each such mark.

The grade reached after averaging the assignments and exams will be the minimum grade you can receive in the course. At the professor's sole discretion, your course grade may be raised based on classroom participation and improvement. One way to increase participation is to bring news articles related to topics studied in the class.

Grading System (taken from "Regulations", CSUN catalog)

GRADE	DEFINITION	GRADE POINTS
A	Outstanding	4.0

BLAW 280 p. 4 of 8

A-		3.7
B+		3.3
B	Very Good	3.0
B-		2.7
C+		2.3
C	Average	2.0
C-		1.7
D+		1.3
D	Barely Passing	1.0
D-		0.7
F	Failure	0

General Instructions on Taking Exams

Answer each question fully, clearly, and in the order given. Mere conclusions receive no credit. You should:

- Discuss the issue.
- Define and discuss any principles of law, legal theories, etc., relevant to the question.
- Fully apply the given facts to the legal principles on which you rely. Do not ignore any facts, even if they do not support your conclusions. Do not assume that I know that you know something - tell me in your exam what you know, defining every legal term used.
- The actual conclusions you reach could be the least important part of your answer - but you must base your conclusions on complete and intelligent applications of the facts to the legal principles involved.
- If further facts could affect the outcome of the problem, state with particularity what they are, and how they could affect the outcome.
- You may either use the "IRAC" format or write in straight paragraph form. Either way, you need to cover the same information: the issues involved, the applicable legal rules, and an application of the law to the facts to reach your outcome. Discuss all issues - some questions have more than one issue.
- If you need scratch paper to make notes, use your exam itself. Although you must turn it in, it will not be graded. You may also designate a page of your bluebook as "notes" and it will not be graded.

Caution:

- Use non-erasable dark blue or black ink for your essays. Do not use white-out or tear pages out of your blue book.
- Bring one large bluebook and one 882 scantron to the midterms and final. Do not write your name on the bluebook - they will be exchanged in class. When you get the bluebook in class that you will use for your exam, write your name on the inside back cover of the bluebook. Do not write your name on the front cover of the bluebook. The purpose of this requirement is to ensure blind grading. Write on every line of the blue book. Write on only one side of each page; however you may use the facing page to insert information. Write your name on the exam itself. When you complete the exam, place the exam and scantron inside your bluebook and turn in the whole as a package. Failure to follow all of these directions will cause a 0.1 reduction in your exam grade. Failure to return the exam itself will result in a grade of "F" for the exam and may be referred to the Dean's office for further proceedings.
- All exams are closed book. Make sure that all study materials are completely out of sight. Make sure that all books, notes, book bags, and purses are placed in front of the class at the start of the exam. There is a presumption of cheating if any study materials are within view during exams. Note: all cases of cheating result in a grade of "F" for the course and are referred to the Dean's office for further action.

ASSIGNMENTS

[Please note that assignments are subject to change]

DATE	READINGS	WORK DUE
1/20	Over view of the legal system, courts, procedure finding the law	None
1/22	Chapter. 1 – Introduction to Law and Legal Reasoning; Appendix A – How to Brief Cases and Analyze Case Problems [ppA-1 - A-3]	Questions 1-1 - 1-10;
1/27	Chapter 2 – Courts and Alternate Dispute Resolution	Brief: <i>Mastondrea v. Occidental Hotels</i> (pp. 32 -33); <i>Buckeye Check Cashing Inc. v. Cardegna</i> (pp. 44 – 45); Case Problem 2-8; Questions 2-1 - 2-5;
1/29	Chapter 3 – Court Procedures	Brief: <i>Cruz v. Fagor America, Inc.</i> (pp. 58 – 59) Questions 3-1; 3-6;
2/3	QUIZ # 1	NONE
2/5	Chapter 4 – Constitutional Authority to Regulate Business	Questions 4-1; 4-2; 4-6 (optional brief)
2/10	Chapter 5 – Ethics and Business Decision Making	Brief: Case problem 5-6 Questions 5-1; 5-6; 5-10; 5-11;
2/12	Chapter 6 - Intentional Torts	Brief: <i>Anderson v. Mergenhagen</i> (pp. 128 -129); <i>Fair Housing Council of San Fernando Valley v. Roomate.com LLC</i> (pp. 137 – 138);
2/17		Brief: Case problem 6-9; Questions 6-1; 6-8; 6-10
2/19	Chapter 7 - Negligence [pp. 144 – 153] [including Special Negligence Statutes]	Brief: <i>Izquierdo v. Gyroscope, Inc.</i> (pp. 145 – 146); <i>Palsgraf v. Long Island Railroad Co.</i> (pp. 148 -149)
2/24		Brief: <i>Sutton v. Eastern New York Soccer Association, Inc.</i> (pp. 150 – 151);
2/26	Chapter 7 – Strict Liability [pp 153 - 154]; Ethics and Torts and Crimes [pp. 211 – 214]	Brief: Case problem 7-5.; Questions 7-2; 7-4; 7-7; 7-9;
3/3	MIDTERM #1	
3/5	CONTRACTS Chapter 10 – Nature and Terminology	Brief: <i>Ardito v. City of Providence</i> (pp. 219 -220); <i>Gary Porter Construction v. Fox Construction, Inc.</i> (pp. 221 – 222)

3/10		Brief: <i>Wagner v. Columbia Pictures Industries, Inc.</i> (pp. 226 – 227); Case Problem 10-6; Questions 10-1; 10-5; 10-7;
3/12	Chapter 11 - Agreement	Brief: <i>Lucy v. Zehmer</i> (pp. 233 – 234); <i>Baer v. Chase</i> (pp. 237 -238); Case Problem 11-9
3/17	Chapter 12 - Consideration	Brief: <i>Hamer v. Sidway</i> (pp. 250 – 251); <i>Barfield v. Commerce Bank</i> (pp. 252 – 253); Case Problem 12-6;
3/19	QUIZ #2 Chapter 13 - Capacity & Legality	Brief: <i>Yale Diagnostic Radiology v. Estate of Harun Fountain</i> (pp. 267 – 268); <i>Thibodeau v. Comcast Corp.</i> (pp. 277 – 278); Case Problem 13-6;
3/24	Chapter 14 - Mistake, Fraud & Voluntary Consent	Brief: <i>Vokes v. Arthur Murray, Inc.</i> (pp. 290 – 291); Case Problem 13-6;
3/26	Chapter 15 - Statute of Frauds - Writing Requirement	Brief: <i>Yocca v. Pittsburgh Steelers Sports, Inc.</i> (pp. 313 – 314); Case Problem 15-7;
3/31	Cesar Chavez Holiday	NONE
4/2	MIDTERM #2	
4/7 – 4/9	SPRING BREAK	None
4/14	Chapter 16 - Third Party Rights	Brief: Case Problem 16-7; Questions 16-1; 16-6;
4/16	Chapter 17 - Performance & Discharge	Brief: <i>Jacob & Youngs v. Kent</i> (pp. 339 – 340); <i>Facto v. Pantagis</i> (pp. 347 – 348); Question 17-9;

4/21	Chapter 18 - Breach of Contract & Remedies	Brief: <i>Hadley v. Baxendale</i> (pp. 355 – 356); <i>Hanson v. Boeder</i> (pp. 357 – 358); <i>Stainbrook v. Low</i> (pp. 360 – 361); Case Problem 18-6; Questions 18-1; 18-2
4/23	Chapter 19 – E-Contracts & E-Signatures	Brief: <i>Feldman v. Google, Inc</i> (pp. 371 – 372); <i>Mortgage Plus, Inc. v. DocMagic, Inc.</i> (pp. 374 – 375); <i>Amber Chemical, Inc. v. Reilly Industries, Inc.</i> (pp. 378 – 379); Case problem 19-7;
4/28	Contract Law and the Application of Ethics [pp. 387 – 390]	Discussion Questions p. 390;
4/30	Catch up, wrap up	None
5/5	Review – Contracts	None
5/7	Review – the Full Course	None
5/12	FINAL EXAMINATION [2:00-3:15 pm CLASS]	
5/14	FINAL EXAMINATION [9:30-10:45 am CLASS]	