

Spring 2018–BUSINESS LAW 280-01 -- 13475 (INTRODUCTION TO BUSINESS LAW) COURSE SYLLABUS

COURSE INFORMATION:

Class #13475 Tuesdays/Thursdays 12:30 p.m. – 1:45 p.m.

Instructor: Professor Sandor E. Samuels

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Class Room: Bookstein Hall, Room 1119.

Office Hours: Tuesdays and Thursdays: 11:00 a.m. to 12:00 noon.; Tuesdays, 2:00 p.m. to 3:30 p.m.

Office hours are also typically available by appointment.

Text: Business Law – The Ethical, Global, and E-Commerce Environment, Mallor, Barnes, Langvardt, Prektert, and McCrory, 16th ed., (2016). ISBN 978-0-07-773371-1.

NOTE: The Mallor text will be our primary textbook during the semester. You **MUST** have the textbook prior to the start of class. **In fact, there is a reading assignment that you MUST complete BEFORE the first class session (see below).**

The Matador Bookstore has the hardcover text available. It costs roughly \$220 new or \$165 used. There is also a rental program through which you can rent a hard copy of the text for around \$100 for the semester. These costs are estimates, they may have changed since the printing of this syllabus. Further, as part of the Business Law Department's efforts to make textbooks more affordable, all students of core BLAW classes are also offered the option of purchasing text materials online. For our class, you may also download the Mallor text materials for BLAW I (BLAW 280) -- Chapters 1, 2, 4, 6, 7, and 9-18 of Mallor. You will find that you will want to print the chapters to bring to class as we will refer to the text in class on many occasions. Finally, to purchase a soft cover ebook, you may need to go to the McGraw Hill bookstore website at <https://create.mheducation.com/shop/>, and enter the specific ISBN number (Mallor, 16th ed. eISBN # 9781308556369).

COURSE OVERVIEW:

The course provides an overview of the legal environment in which business decisions are made. The course will cover topics relating to the court system and procedure. We will analyze how the legal system in the United States 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, which creates legal obligations and enforces agreements.

The course is taught through lecture to some degree, but also through class discussion. We will focus on how the law applies to various factual settings. During the course, 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 discussions. You will learn to apply rules depending on changing facts and circumstances in various cases and hypotheticals. You will learn to argue alternate sides of a dispute regardless of your personal beliefs. You will learn to identify the functions, policies and trends in the law, and to consider the social, economic and ethical influences on the law.

COMMUNICATING/CLASS ROOM DISCUSSION IN THE SOCRATIC METHOD/HOMEWORK:

One of the key goals of this course will be to learn basic principles of law and to evaluate critically those principles in various factual situations. This course will also demand that students communicate, both in writing and orally, the results of their reasoning and thinking; and that communication will involve both oral communication in class and written communication in a few written assignments (and of course the quizzes, mid-term and final exams). In the "real world," understanding the law is important, being able to apply the law to a given set of facts is even more important, but being able to communicate it effectively, in writing and orally, is critical. Students are required to articulate their analysis, to develop and defend positions, both orally and in writing, to think critically, and to engage in problem solving.

Thus, the classroom will be an active learning environment. Classes will be conducted in a combination of lecture, active class discussion and the "Socratic Method" of instruction. **That means that it is critical to read the assigned text and cases before class begins. I cannot emphasize enough the importance of reading the course material in advance of each of our class discussions. My experience in teaching makes it clear that the students who come prepared to class outperform the other students by a huge margin.** On occasion, you may find that the reading material is difficult to understand in advance of class; however, even if you are not able to fully grasp the material reading it on your own, you will still be in a far better position to understand it through class discussion if you prepare the assignments in advance. I will also be available after class and during office hours to explain the concepts you do not master in class.

In class, you should be prepared to orally defend your interpretation of the cases and to answer hypothetical questions in open class discussions. You should learn to argue alternate sides of a dispute regardless of personal belief. Expect to be called on randomly in class. Participation will NOT be limited to "volunteers". Frankly, the success of the class as a whole and your own success within the class are highly dependent on your ability to be prepared for class, including doing the informal briefing and other requirements set forth below.

CASE BRIEFING AND ANSWERING ASSIGNMENTS/GRADING/ CLASS PARTICIPATION:

What is a Case Brief?

When the Syllabus indicates a requirement to informally "brief" a specific case, you will need to do so in writing. **The Syllabus specifies the two dates in the semester in which two FORMAL case briefs are to be submitted for a grade.** These formal briefs are due at the start of the class period on those due dates. Also, as is noted in the Assignments section of the Syllabus, you should informally brief

the other cases assigned as a tool for note taking, as a means of preparing for class discussion and as a means of practicing brief-writing in advance of the formal written assignments. Since I will call on students at random during class to discuss assigned cases, having at least an informal brief in hand will help you be prepared and serves as great practice for written communication. On other occasions during the semester, I may require students to submit other homework beyond what is listed in the syllabus. This might be as little as handing in a statement of the "Issue" in a case (see below) in order to make sure students are "getting" the concepts presented in class.

How to Write a "Brief"

We will discuss brief-writing extensively in class, but the following provides a very good guide, too. When you submit the full written briefs, you will need to use the following **"I-R-A-C" (Issue-Rule-Application-Conclusion) format**:

Issue: What question must be answered in order to reach a conclusion in the case? The Issue **MUST** be expressed in the form of 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 the Defendant Osco, Inc. owe a duty of care to the Plaintiff Miller when Miller was trespassing on Osco's property?"), or you can frame it so that the issue can apply to all cases that present a similar question (e.g. "Is a duty owed whenever there is an employment relationship?"), the latter approach being preferred. Many cases present more than one issue; if there is more than one issue, it is OK to write more than one, but be sure to list the principal one and focus on that.

Rule: The rule is the law that applies to the principal 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 harm to the plaintiff.) not a conclusion to the particular case being briefed, (e.g. "The plaintiff was negligent."). Typically, the Rule can be expressed in one or two sentences. The Rule should always relate to the Issue. If you see that the two are unrelated, then either the Issue is wrong or the Rule is wrong

Application: The Application is a discussion of how the rule applies to the facts of a particular case. Essentially, the "Application" is a description of the relevant facts, the parties' arguments and positions in the case, and the court's thought process by which it answered the Issue and established the Rule. While the Issue and Rule are normally only one or two sentences each, the Application section of a Brief should be two to four paragraphs long. It should be written debate, not simply a statement of the conclusion. Do not begin with your conclusion. Whenever possible, present both sides of any issue. The Application shows how you are able to track the arguments of each party in the case and the court's reasoning. It is also permissible to put the relevant facts of the case in a separate section of the brief labeled "Facts."

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. Most briefs should not have to

exceed more than two pages in length PER CASE. To help you in briefing cases in class, you should review the Appendix on pages 22-23 of the Mallor text, including the sample brief for Price v. High Pointe Oil Company, Inc. found on page 23.

Turning in Formal Briefs and Answers to Chapter Questions and Other Class Assignments

As noted above, on at least two occasions, you will be asked to formally prepare and turn in briefs of cases in the textbook for a separate grade. For these, you are expected to bring the hard copies of the briefs to class on the due date. On at least one other occasion, you will also be asked to submit for a grade answers to assigned Problem Cases at the end of one of the chapters. These Problem Cases will be good practice for the types of questions you will be asked on quizzes and exams.

Grading

Grading is based on a combination of evaluation of written assignments, class participation, quizzes, the mid-term exam and the final exam. The grade allocation will be based on points roughly as follows:

- A. Written assignments – Briefs and other homework collectively comprise roughly 20% - 25% of the course grade. There may be other homework assignments given during the semester that will be included in this category of points.
- B. Class participation – Class participation comprises roughly 5%-10% of the course grade – See further below.
- C. Midterm exam – The midterm exam comprises roughly 20% of the course grade – closed book, but one single-sided page of notes allowed.
- D. Short quizzes on tort and contract law – Quizzes comprise roughly 20% of the course grade – closed book.
- E. Final exam – The final exam comprises roughly 30% of course grade – closed book, but one single-sided page of notes allowed.

Grading Scale

The final grade, which is based on an individual's point total, will be determined on a curve.

Class participation

As noted above, your semester grade is affected by whether you have been prepared when called on for discussion and presentation of case briefs, as well as your general participation in class discussions. Class participation incorporates attendance, demonstration of preparedness when called on involuntarily, the quality of the briefs you turn in each week, and contributions made to class discussions. At the end of the semester, I will assign a number of points to each student's point total based on the factors set forth above.

Exams

The mid-term, short quizzes and final exams will be composed of: (i) one or more short essay questions which require you to analyze the facts, identify legal issues and apply the law in determining the outcome of hypothetical cases; (ii) short answer questions involving analysis of fact situations; and (iii) multiple-choice, true-false and/or fill-in-the-blank questions often focusing on key terms and basic principles.

The final and mid-term exams will be "semi-closed book". "Semi-closed" means that you may bring a maximum of ONE SIDE OF ONE 8.5" BY 11" PIECE OF PAPER ONLY containing notes (typed or handwritten) to the exam and you may use that single sheet during the exam. All other study materials must be completely out of sight. Whatever font or margins you want to use on the one side of paper are acceptable.

HOWEVER, PLEASE NOTE THAT ALL QUIZZES WILL BE CLOSED BOOK - NO MATERIALS WILL BE PERMITTED TO BE USED ON QUIZZES.

Reading Assignments

The following chart outlines the Class Sessions, Topics and Work to be done in time for that class. In other words, for the date shown, the applicable "Work" is to be completed prior to the start of that day's class. (Of course, this syllabus is subject to change during the semester and assignments may be altered. Announcements will be made in class; therefore, attendance in class is essential. If you must miss class, you are nevertheless responsible for what was discussed in that class.

PLEASE BE PREPARED FOR CLASS. IN MY EXPERIENCE, THE STUDENTS WHO ARE MOST PREPARED FOR CLASS (THROUGH READING MATERIAL ON TIME, PREPARING BRIEFS, ETC.) NOT ONLY "SCORED" BETTER ON THE HOMEWORK ASSIGNMENTS AND CLASS PARTICIPATION, BUT ALSO SCORED HIGHER ON THE EXAMS, AND THUS, EARNED HIGHER GRADES IN THE CLASS.

I cannot emphasize enough the value of being prepared in advance of class. Much of the material will be hard to "get" on your own, but if you prepare by reading the assignments and attempting to brief the cases in advance of class, even if you don't "get it" on your own at first, it is highly likely that you will be able to grasp the material during class when it is discussed. If, however, you still do not understand a concept after discussion in class, please ask either during class or come to my office during my office hours.

ASSIGNMENTS

Date	Class Topics	Work Due
Class 1 Tuesday January 23	Discussion of Syllabus and Class organization issues; Nature of Law – Legal reasoning, case law	Read pages 2 through 8. Skip Advance Dental Care case. Read page 9 – Classification of Law. Your first assignment is to brief and to be prepared to discuss Price v. High Pointe Oil. YOU MUST COMPLETE THIS READING AND BRIEFING ASSIGNMENT BEFORE THE FIRST CLASS. Use the IRAC analysis discussed above in this Syllabus and in the Appendix on pages 22-23.
Class 2 Thursday January 25	Statutory Interpretation	Read pages 12 (beginning with The Functions of Law) - 21. Be prepared to answer the question at the end of the "Cyberlaw In Action" box on page 16 comparing Chicago Lawyers Committee v. Craigslist case with Fair Housing Councils of the San Fernando Valley and San Diego v. Roommates.com (see question 10 on page 27). Also be prepared to discuss the Hagan v. Coca Cola Bottling Company case and the James v. City of Costa Mesa case. Again, no written assignment is due, but prepare to discuss.
Class 3 Tuesday January 30	Resolution of Private Disputes – Federal Courts, State Courts and Civil Procedure; Pleadings	Read pages 28-30 (skip Abdouche v. Lopez and the Global Business Environment); pages 35-41 (up to Discovery). Brief and be prepared to discuss Hertz Corp. v. Friend (turn this brief in). My middle name is Eli and my dog's name is Sadie. You will need to know these two facts.
Class 4 Thursday February 1	Discovery; Summary Judgment Trials and Appeals;	Read pages 41-50 (skip Cyberlaw in Action on page 42). Informally brief Walmart Stores v. Dukes (turn this brief in) Review Problems 1 and 8 on pages 55 and 57 and be prepared to discuss the answers to these Problems.
Class 5 Tuesday February 6	Alternative Dispute Resolution (ADR) Torts (Introduction)	Be sure to familiarize yourself with the concepts of "ADR" referenced in pages 50-54. Informally brief At&T Mobility v. Concepcion (turn this brief in). Be sure you can identify the differences between Arbitration and Mediation. As a supplemental reading, the Wikipedia entry on these two types of ADR is worth reading if you are having trouble understanding these concepts from the Mallor text. Read pages 181-185. Informally brief Mathias v. Accor Economy Lodging.
Class 6 Thursday February 8	Intentional Torts (Battery, Assault, Emotional Distress, False Imprisonment)	Read pages 186-194 (until Defamation) (but skip Durham v. McDonald's Restaurants). Brief and be prepared to discuss Howard v. Wilson (turn this brief in) and Pope v. Rostraver Shop and Save.

Class 7 Tuesday February 13	Defamation	<p>Page 194 (Defamation) - 208 (Skip Cyberlaw in Action on page 197). Be prepared to discuss <i>Bertrand v. Mullin</i> and <i>Obsidian Finance Group v. Cox</i>. Also read the short supplemental reading on <i>New York Times v. Sullivan</i> using the following link: www.hrcr.org/safrica/expression/nytimes_sullivan.html</p> <p>While the <i>New York Times v. Sullivan</i> case is discussed in the Mallor text on page 187, it is a critical case to understand defamation of public figures. Be sure to read the supplemental reading for its discussions of the pro's and con's of the US Supreme Court decision and be prepared to discuss.</p>
Class 8 Thursday February 15	Invasion of Privacy, Nuisance and Conversion issues	<p>Read pages 208-219. Informally brief <i>Stephens v. Pillen</i>. FORMALLY BRIEF JORDAN V. JEWEL FOOD STORES, INC. This is your first written assignment to be turned in. YOUR BRIEF OF THE JORDAN CASE IS TO BE TURNED IN PRIOR TO THE START OF CLASS 9.</p>
Class 9 Tuesday February 20	30 MINUTE QUIZ ON NATURE OF LAW AND ON INTENTIONAL TORTS Begin Discussion of Negligence	<p>THE QUIZ WILL COVER ITEMS COVERED IN CLASSES 1-8. MULTIPLE CHOICE, SHORT ANSWER AND TRUE/FALSE QUESTIONS.</p> <p>Read pages 225-230 up to <i>Was the Duty Breached</i>. Informally brief <i>Shafer v. TNT Well Service</i> (turn this brief in).</p>
Class 10 Thursday February 22	Negligence – Duty/Breach of duty concepts	<p>Read pages 230 (from <i>Was the Duty Breached</i>) – top of 240. Informally brief <i>Currie v. Chevron</i>, <i>Dick's Sporting Goods v. Webb</i> (turn this brief in), and <i>Lord v. D&J Enterprises, Inc.</i></p>
Class 11 Tuesday February 27	Special Duties – Duties to persons/property; Negligence per se; Causation; Proximate Cause; Intervening Cause	<p>Read pages 240 (Negligence per se) – 252, (but skip <i>Atlantic Coast Airlines v. Cook</i>). Informally brief <i>Kaltman v. All American Pest Control</i>, <i>Black v. William Insulation</i>, and <i>Stahlecker v. Ford Motor Company</i> (turn this brief in). Additional reading and viewing: Read the Wikipedia summary of the famous <i>Palsgraf v. Long Island Railroad</i> case and watch the You Tube video of the Lego version (really!) of the case facts. Here is the link: http://www.youtube.com/watch?v=mDEbTudkjhc&feature=related.</p>

Class 12 Thursday March 1	Res Ipsa Loquitur; Negligence Defenses; Comp. Negligence; Assumption of Risk; Strict Liability; Tort Reform	Read pages 252-258. Informally brief Dyer v. Maine Drilling & Blasting, Inc. (turn this brief in) and be prepared to discuss it. Answer Chapter Problems 1 and 3 on pages 258 and 259.
Tuesday March 6	NO CLASS	NO CLASS
Class 13 Thursday March 8	Completion of any remaining Tort issues	Mid-Term Review
Class 14 Tuesday March 13	MID-TERM EXAM FULL PERIOD	The mid-term exam covers the material read and discussed from Classes 1-13
Class 15 Thursday March 15	Intro to Contracts; UCC v. Common Law; Non-Contract Obligations	Read pages 320-333 (to Promissory Estoppel) Informally brief Lambert v. Barron, Audio Visual Artistry v. Tanzer (turn this brief in), and Symons v. Heaton, and be prepared to discuss them.
MARCH 19 - 25	NO CLASSES SPRING BREAK	NO CLASSES SPRING BREAK
Class 16 Tuesday March 27	Promissory Estoppel; Offers: Special Offer Problem Areas	Read pages 333-335, and 339-349. Informally brief Aceves v. U.S. Bank, Meram v. McDonald (turn this brief in), J.D Fields & Company v. United States Steel International, Inc., (but skip Kolodziej v. Mason), and be prepared to discuss them.
Class 17 Thursday March 29	Termination of Offers; Revocation of Offers	Read pages 350-356. Informally brief Hines v. Overstock.com and D'Agostino v. Federal Insurance Company, and be prepared to discuss them. Answer Chapter Problems 3 and 5 on page 357.
Class 18 Tuesday April 3	Acceptance of Contracts -- 1 * Intent	Read pages 360-top of 367. Informally brief Trademark Properties v. A&E Television Networks (turn this brief in), Pride v. Lewis, and Duro Textiles, LLC v. Sunbelt Corporation.
Class 19 Thursday April 5	Acceptance of Contracts -- 2 * When is acceptance communicated? * Forms of communication * Acceptance issues	Read pages 367-376, but skip Cabot Oil v. Daugherty Petroleum. Informally brief The United States Life Insurance Company in the City of New York v. Wilson (turn this brief in), Bauer v. Qwest Communications Company, and be prepared to discuss them. Answer Chapter Problems 1 and 8 on pages 377 and 379
Class 20 Tuesday	30 minute quiz on offer/acceptance	Study material covered in Classes 14 through 18 to prepare for the Quiz

April 10	issues (multiple choice and short answer) Introduction to Consideration	Read pages 381-387 up to Preexisting Duties. Informally brief Franchise Holding II, LLC v. Huntington Restaurants Group, Inc., Gottlieb v. Tropicana Hotel and Casino (turn this brief in), and Day v. Fortune Hi-Tech Marketing, Inc., and be prepared to discuss them.
Class 21 Thursday April 12	Consideration * Absence of * Pre-Existing/Past duties	Read pages 387 (from "Pre-Existing Duties") to 398. Informally brief Margeson v. Artis (turn this brief in), Doe v. Roman Catholic Archdiocese of Indianapolis, and McClelan v. Charly, and be prepared to discuss them. Answer Chapter Problems 5 and 10 on pages 399 and 401.
Class 22 Tuesday April 17	Consent Misrepresentation Fraud	Read pages 402-408. Informally brief Stephen A. Wheat Trust v. Sparks (turn this brief in) and Timothy v. Keetch, and be prepared to discuss them. PASS OUT ASSIGNMENT DUE NOVEMBER 21
Class 23 Thursday April 19	Mistake Duress Undue influence	Read pages 409-418. Informally brief Hicks v. Sparks (turn this brief in) and Sumerel v. Goodyear Tire and Rubber, and be prepared to discuss them. Also be prepared to discuss Cyberlaw in Action and Ethics in Action on page 416. Answer Chapter Problems 7 and 9 on pages 419-420.
Class 24 Tuesday April 24	Capacity to contract	TURN IN HOMEWORK ASSIGNMENT ON FRAUD AND MISTAKE AT THE BEGINNING OF CLASS Read pages 421-430. Informally brief Galloway v. Iowa, Zelnick v. Adams, and Rogers v. Household Life Insurance Co. Also be ready to discuss questions at the end of Ethics in Action on page 424. Answer Chapter Problems 1 and 6 on pages 431 and 432. FORMALLY BRIEF COMA CORPORATION V. KANSAS DEPARTMENT OF LABOR. THIS BRIEF MUST BE SUBMITTED BEFORE THE START OF CLASS 25.
Class 25 Thursday April 26	Illegality/Legality of Contract; Exculpatory Clause	Read pages 434-445 (UP TO UNFAIRNESS IN AGREEMENTS) Informally brief Clark's Sales and Service, Inc. v. Smith and DeWolfe v. Hingman and be prepared to discuss them.
Class 26 Tuesday May 1	Unfairness in Agreements; Contracts of Adhesion	Read pages 445-453. Informally brief Moore v. Woman to Woman Obstetrics & Gynecology (turn this brief in) and Gamboa v. Alvarado, and be prepared to discuss them. Be prepared to discuss the Ethics in Action on page 449 Answer Chapter Problems 2 and 3 on page 454
Class 27 Thursday May 3	Statute of Frauds/Writings; Parol Evidence	Read pages 456-468 (through cyberlaw in action). Informally brief Dynergy, Inc. v. Yates and Linscott v. Shasteen (turn this brief in).

		And Read pages 470 (Parol Evidence) - 474. Informally brief <i>Jacco & Associates, Inc. v. HVAC, Inc.</i>
Class 28 Tuesday May 8	Breach of Contract; Contract Remedies	Read pages 504-516. Informally brief <i>Harrison v. Family Home Builders, LLC, East Capitol View Community Development Corporation v. Robinson, and George v. A.L. Hoyt & Sons.</i> Answer Chapter Problems 3 and 9 on pages 522 and 524.
Class 29 Thursday May 10	Review for Final Exam	Be prepared to ask questions to help review for the final exam. I will conduct a review session. The final will be cumulative; however, it will emphasize Contract Law issues