Answers to Issue Spotters,

Straight to the Point,

Real Law, and Ethical Questions

*Chapter 1*

**Introduction to the Law**

**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 Straight to the Point Questions**

**1A.** ***Why is knowledge of business law essential for any businessperson?*** Knowledge of the laws and regulations governing business is essential to the making of good business decisions. Determining the best course of action in a given situation requires evaluating how the law might apply.

**2A.** ***What is the common law?*** The common law is a body of law developed from court decisions. These decisions reflect the customs and traditions within the jurisdiction of the courts.

**3A.** ***When and why does a court apply the decision of another court to determine the result in a case?*** In a common law system, court decisions, and the principles behind them, are applied to resolve similar disputes in a consistent way. This is the doctrine of precedent, or *stare decisis.*

**4A.** ***What are some of the remedies that a party can obtain from a court to make a wrong situation right?*** The normal remedy at law is the payment of money, or damages. If money is not enough to make a situation right, a party might be ordered to do specifically what he or she promised. Or a contract might be cancelled and the contracting parties returned to the positions they held before the deal.

**5A.** ***Which aspects of a business’s operation do the rules, orders, and decisions of administrative agencies affect?*** The rules, orders, and decisions of administrative agencies affect almost every aspect of a business’s operation. These include a business’s capital structure and financing, hiring and firing procedures, relations with employees and unions, and making and selling of products.

**Answers to Real Law Questions**

**1–1A. Stare decisis**

The doctrine of *stare decisis* is the practice of deciding cases with reference to previous decisions. This is an important principle of our judicial system. Under this doctrine, courts are obligated to follow the precedents established within their jurisdictions. A *precedent* is a decision that stands as an example or authority for deciding subsequent cases involving identical or similar legal principles or facts.

In the facts of this problem, Stephen Kimble owned the patent to a toy glove that could shoot foam intended to look like the web of Marvel Comics’ Spider-Man. He contracted with Marvel Entertainment, LLC to sell its version of the toy in exchange for a royalty of 3 percent on the sales. The contract did not specify an end date. Marvel sued to stop the payments after the patent expired.

A patent is an exclusive right granted to the creator of an invention. Under U.S. law, a patent lasts for twenty years. According to the United States Supreme Court in a case known as the *Brulotte* decision, a contract to pay royalties after a patent has expired is unenforceable.

One argument in favor of applying the doctrine of *stare decisis* to these facts is that a United States Supreme Court decision is controlling until it is overruled by a subsequent decision of the Court or changed by congressional legislation or a constitutional amendment. And the Court is bound by principle that a precedent should not be overruled unless there is a compelling reason to do so.

An argument against applying the doctrine in this situation is that it would interfere with the contract the parties made. And applied generally, the *Brulotte* precedent would undercut the ability of parties to make any contract that would otherwise reflect the true value of a patent.

In the actual case on which this problem is based, a majority of the Court favored the application of the doctrine, even though they agreed that it could hinder competition and innovation.

**1–2A. *Role of law***

Knowledge of the law is essential for any businessperson. To make a good decision, a businessperson must have a basic knowledge of the law relating to that decision. And a businessperson is expected to make a decision that is ethical as well as legal. Many different laws may apply in a single situation. If a dispute cannot be resolved amicably, a lawsuit may result.

In the circumstances of this case, there are employment laws that prohibit discrimination in the workplace. Under these laws, an employer has a significant duty to take complaints of harassment seriously. The employer has an obligation to set up clear policies and procedures and follow those procedures when a complaint is made. If the employer does not take these steps, a lawsuit may result and a large penalty may be assessed.

Here, it appears that Chrysler took sufficient steps to stop and prevent the harassment against its employee so as to avoid a penalty. The company used several strategies to stop and prevent the harassment. These steps included documenting and investigating the incidents, analyzing the graffiti handwriting, and reminding employees that harassment was not acceptable.

In the actual case on which this problem is based, Chrysler's actions had a positive effect—the harassment's frequency gradually decreased and finally ceased. The harasser was never discovered, however. Later, May filed a suit against Chrysler. The court issued a judgment in the employer’s favor, and the U.S. Court of Appeals for the Seventh Circuit affirmed this judgment, based in part on the reasons stated above.

**1–3A. *Constitutional law***

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.”

**Answers to Ethical Questions**

**1–4A. *Anticipation of legal problems***

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.

**1–5A. *The doctrine of precedent***

Almost any definition of ethics, and any set of ethical standards, includes honesty as a component.

In this problem, White operated a travel agency. To obtain low fares for her clients, she submitted fake military identification cards to the airlines. She was charged with the crime of identity theft, which requires the “use” of another’s identification. In a previous case, David Miller, to obtain a loan, represented that certain investors approved of the loan when they did not. Miller’s conviction for identity theft was overturned on the ground that he had not “used” the investors’ identities—he had only *said* that they had done something when they had not. In a second case, Kathy Medlock, the operator of an ambulance service, obtained payment for transporting patients for whom there was no medical necessity to do so by forging a physician’s signature. White’s actions most closely resemble Medlock’s forgery. White not only told the airlines that her clients were members of the military—she created false identification cards and sent them to the airlines.

In all of these cases, the defendants lied about their actions. Whether or not their conduct fell within the meaning of a word within a statute, or matched the actions of a perpetrator in another case, none of these parties can claim to have acted ethically. Honesty is a part of ethical behavior in any set of circumstances, and none these defendants were truthful about their actions.

In the actual case on which this problem is based, the court concluded that White’s actions were most similar to Medlock’s. White was convicted of identity theft. On appeal, the U.S. Court of Appeals for the Sixth Circuit affirmed the conviction.