

Solution and Answer Guide

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Chapter 01: Law and Legal Reasoning

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Critical Thinking Questions in Features

Managerial Strategy—Business Questions

1. “When faced with a clearly erroneous precedent, my rule is simple,” writes Supreme Court Justice Clarence Thomas. “We should not follow it.” How do these words offer a cautionary tale for managers relying on stare decisis to make business decisions?

Solution

Simply put, the doctrine of stare decisis applies in all instances, except when it does not. As noted in the text, a court is able to depart from precedent if it feels that legal, social, or technological changes have rendered the previous decision untenable. In this case, just because the United State Supreme Court believes, at present, that automobile salespeople are exempt from the overtime rules of the FLSA, there is a possibility that the Court could reverse itself in the future. In this context, managers need to be aware that (1) any decision they make based on a court decision is subject to change, and (2) if they believe that a previous business law-related court decision is flawed, they can challenge it in court.

2. Should Roberta consider paying her salespeople overtime even though it is not required by federal law? Why or why not?

Solution

Just because Roberta is legally able to avoid paying the salespeople at her new used car dealership overtime, should she? As with so many managerial decisions, the answer to this question involves the tricky determination of costs and benefits. On the one hand, Roberta’s costs will be lower if she does not have to pay overtime to the salespeople. On the other hand, the salespeople may be more motivated if they feel they are being properly compensated for the extra hours they spend on the lot. The extra motivation will likely lead to additional sales, which very well may offset the overtime costs.

Chapter Review

Practice and Review

Suppose that the California legislature passes a law that severely restricts carbon dioxide emissions of automobiles in that state. A group of automobile manufacturers files a suit against the state of California to prevent enforcement of the law. The automakers claim that a federal law already sets fuel economy standards nationwide and that these standards are essentially the same as carbon dioxide emission standards. According to the automobile manufacturers, it is unfair to allow California to impose more stringent regulations than those set by the federal law. Using the information presented in the chapter, answer the following questions.

1. Who are the parties (the plaintiffs and the defendant) in this lawsuit?

Solution

In this situation, the automobile manufacturers are the plaintiffs, and the state of California is the defendant.

2. Are the plaintiffs seeking a legal remedy or an equitable remedy? Why?

Solution

The plaintiffs are seeking an injunction, which is an equitable remedy, to prevent the state of California from enforcing its statute restricting carbon dioxide emissions.

3. What is the primary source of the law that is at issue here?

Solution

This case involves a law passed by the California legislature and a federal statute, thus the primary source of law is statutory law.

4. Read through the appendix that follows this chapter, and then answer the following question: Where would you look to find the relevant California and federal laws?

Solution

Federal statutes are found in the *United States Code*, and California statutes are published in the *California Code*. You would look in both of these sources to find the relevant state and federal statutes.

Practice and Review: Debate This

1. Under the doctrine of *stare decisis*, courts are obligated to follow the precedents established in their jurisdictions unless there is a compelling reason not to. Should U.S. courts continue to adhere to this common law principle, given that our government now regulates so many areas by statute?

Solution

Both England and the U.S. legal systems were constructed on the common law system. The doctrine of *stare decisis* has always been a major part of this system—courts should follow precedents when they are clearly established, excepted when compelling reasons dictate otherwise. Even though more common law is being turned into statutory law, the doctrine of *stare decisis* is still valid. After all, statutes often must to be interpreted by courts. What better basis for judges to render their decisions than by basing them on precedents related to the subject at hand?

In contrast, some students may argue that the doctrine of *stare decisis* is passé. There is certainly less common law governing, say, environmental law than there was 100 years ago. Given that federal and state governments increasingly are regulating more aspects of commercial transactions between merchants and consumers, perhaps the courts should simply stick to statutory language when disputes arise.

Issue Spotters

1. The First Amendment to the U.S. Constitution 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?

Solution

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.

2. Apex Corporation learns that a federal administrative agency is considering a rule that will have a negative impact on the firm's ability to do business. Does the firm have any opportunity to express its opinion about the pending rule? Explain.

Solution

Yes. Administrative rulemaking starts with the publication of a notice of the rulemaking in the Federal Register. Among other details, this notice states where and when the proceedings, such as a public hearing, will be held. Proponents and opponents can offer their comments and concerns regarding the pending rule. After reviewing all the comments from the proceedings, the agency's decision makers consider what was presented and draft the final rule.

Business Scenarios and Case Problems

1. **Binding versus Persuasive Authority.** A county court in Illinois is deciding a case involving an issue that has never been addressed before in that state's courts. The Iowa Supreme Court, however, recently decided a case involving a very similar fact pattern. Is the Illinois court obligated to follow the Iowa Supreme Court's decision on the issue? If the United States Supreme Court had decided a similar case, would that decision be binding on the Illinois court? Explain. (See *The Common Law*.)

Solution

A decision of a court is binding on all inferior courts. Because no state's court is inferior to any other state's court, no state's court is obligated to follow the decision of another state's court on an issue. The decision may be persuasive, however, depending on the nature of the case and the particular judge hearing it. A decision of the United States Supreme Court on an issue is binding, like the decision of any higher court, on all inferior courts. The United States Supreme Court is the nation's highest court, however, and thus, its decisions are binding on all courts, including state courts.

2. **Sources of Law.** This chapter discussed a number of sources of American law. Which source of law takes priority in the following situations, and why? (See *Sources of American Law*.)
 1. A federal statute conflicts with the U.S. Constitution.

Solution

1. The U.S. Constitution—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.

2. A federal statute conflicts with a state constitutional provision.

Solution

2. The federal statute—Under the U.S. Constitution, when there is a conflict between a federal law and a state law, the state law is rendered invalid.

3. A state statute conflicts with the common law of that state.

Solution

3. The state statute—State statutes are enacted by state legislatures. Areas not covered by state statutory law are governed by state case law.
4. A state constitutional amendment conflicts with the U.S. Constitution.

Solution

4. The U.S. Constitution—State constitutions are supreme within their respective borders unless they conflict with the U.S. Constitution, which is the supreme law of the land.
3. **Remedies.** Arthur Rabe is suing Xavier Sanchez for breaching a contract in which Sanchez promised to sell Rabe a Van Gogh painting for \$150,000. (See *The Common Law*.)
 1. In this lawsuit, who is the plaintiff, and who is the defendant?

Solution

1. In a suit by Arthur Rabe against Xavier Sanchez, Rabe is the plaintiff and Sanchez is the defendant.
2. If Rabe wants Sanchez to perform the contract as promised, what remedy should Rabe seek?

Solution

2. Specific performance is the remedy that includes an order to a party to perform a contract as promised.

3. Suppose that Rabe wants to cancel the contract because Sanchez fraudulently misrepresented the painting as an original Van Gogh when in fact it is a copy. In this situation, what remedy should Rabe seek?

Solution

3. Rescission is a remedy that includes an order to cancel a contract.
4. Will the remedy Rabe seeks in either situation be a remedy at law or a remedy in equity?

Solution

4. In both cases, these remedies are remedies in equity.

4. **Philosophy of Law.** After World War II ended in 1945, an international tribunal of judges convened at Nuremberg, Germany. The judges convicted several Nazi war criminals of “crimes against humanity.” Assuming that the Nazis who were convicted had not disobeyed any law of their country and had merely been following their government’s (Hitler’s) orders, what law had they violated? Explain. (See *The Common Law*.)

Solution

Crimes against humanity constituted, at the time of the Nuremberg trials, a new international crime, consisting of “murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious ground.” In response to the defendants’ assertion that they had only been following orders, the Nuremberg judges explained in part that these were familiar crimes within domestic jurisdictions and that thus the accused must have known, when they committed their acts, that they would be considered criminal.

In terms of a philosophy of law, it might be said that these criminals violated “natural law.” The oldest and one of the most significant schools of jurisprudence is the natural law school. Those who adhere to the natural law school of thought believe that government and the legal system should reflect universal moral and ethical principles that are inherent in human nature. Because natural law is universal, it takes on a higher order than positive, or conventional, law. The natural law tradition presupposes that the legitimacy of conventional, or positive, law derives from natural law. Whenever it conflicts with natural law, conventional law loses its legitimacy. For example, a precept of natural law may be that murder is wrong, which is a value reflected by specific laws prohibiting murder. If a specific, written law *requires* murder, it conflicts with the natural law precept, in which case individuals should disobey the written law and obey the natural law.

5. **Spotlight on AOL—Common Law.** AOL, LLC, mistakenly made public the personal information of 650,000 of its members. The members filed a suit, alleging violations of California law. AOL asked the court to dismiss the suit on the basis of a “forum-selection” clause in its member agreement that designates Virginia courts as the place where member disputes will be tried. Under a decision of the United States Supreme Court, a forum-selection clause is unenforceable “if enforcement would contravene a strong public policy of the forum in which suit is brought.” California has declared in other cases that the AOL clause contravenes a strong public policy. If the court applies the doctrine of *stare decisis*, will it dismiss the suit? Explain. [*Doe 1 v. AOL, LLC*, 552 F.3d 1077 (9th Cir. 2009)] (See *The Common Law*.)

Solution

The doctrine of *stare decisis* is the process of deciding cases with reference to former decisions, or precedents. Under this doctrine, judges are obligated to follow the precedents established within their jurisdiction.

In this problem, the enforceability of a forum selection clause is at issue. There are two precedents mentioned in the facts that the court can apply. The United States Supreme Court has held that a forum selection clause is unenforceable “if enforcement would

contravene a strong public policy of the forum in which suit is brought.” And California has declared in other cases that the AOL clause contravenes a strong public policy. If the court applies the doctrine of *stare decisis*, it will allow the suit to move forward.

In the actual case on which this problem is based, the court determined that the clause is not enforceable under those precedents.

6. **Business Case Problem with Sample Answer—Reading Citations.** Assume that you want to read the entire court opinion in the case of *Friends of Buckingham v. State Air Pollution Control Board*, 947 F.3d 68 (4th Cir. 2020).

Refer to the appendix to this chapter, and then explain specifically where you would find the court’s opinion. (See *Finding Case Law*.)

—For a sample answer to Problem 1–6, go to Appendix E.

Solution

The court’s opinion in the case *Friends of Buckingham v. State Air Pollution Control Board* can be found in volume 947 of the Federal Reporter, third series, on page 68. The Federal Reporter contains the decisions of all the United States Courts of Appeals, including, as is the case here, the Fourth Circuit Court of Appeals. Also, this case was decided (though not necessarily filed) in 2020.

7. **A Question of Ethics—The Doctrine of Precedent.** Sandra White operated a travel agency. To obtain lower airline fares for her nonmilitary clients, she booked military-rate travel by forwarding fake military identification cards to the airlines. The government charged White with identity theft, which requires the “use” of another’s identification. The trial court had two cases that represented precedents.

In the first case, David Miller obtained a loan to buy land by representing that certain investors had approved the loan when, in fact, they had not. Miller’s conviction for identity theft was overturned because he had merely said that the investors had done something when they had not. According to the court, this was not the “use” of another’s identification.

In the second case, Kathy Medlock, an ambulance service operator, had transported patients for whom there was no medical necessity to do so. To obtain payment, Medlock had forged a physician’s signature. The court concluded that this was “use” of another person’s identity. [*United States v. White*, 846 F.3d 170 (6th Cir. 2017)] (See *Sources of American Law*.)

1. Which precedent—the *Miller* case or the *Medlock* case—is similar to White’s situation, and why?

Solution

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.

1. In the two cases cited by the court, were there any ethical differences in the actions of the parties? Explain your answer.

Solution

No, in the two cases cited by the *White* court—and in the *White* case—there were no ethical differences in the actions of the parties.

Almost any definition of ethics, and any set of ethical standards, includes honesty as a component. In the *White* case, Sandra White lied to the airlines that her clients were members of the military, and created false identification cards to obtain cheaper fares. In the first case cited by the *White* court, David Miller, to obtain a loan, represented that certain investors approved of the loan when they did not. In the second case cited by the *White* court, 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.

In all of these cases, the defendants lied. Whether or not their conduct fell within the meaning of a word within a statute, or matched the unlawful actions of each other, 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.

Critical Thinking and Writing Assignments

1. **Business Law Writing.** John's company is involved in a lawsuit with a customer, Beth. John argues that for fifty years higher courts in that state have decided cases involving circumstances similar to his case in a way that indicates he can expect a ruling in his company's favor. Write at least one paragraph discussing whether this is a valid argument. Write another paragraph discussing whether the judge in this case must rule as those other judges did, and why. (See *The Common Law*.)

Solution

John's argument is valid. Under the doctrine of *stare decisis*, judges are generally bound to follow the precedents set in their jurisdictions by the judges who have decided similar cases. A judge does not always have to rule as other judges have, however. A judge can depart from precedent. One argument that a party might offer to counter an assertion of precedent is that the times have changed—the social, economic, political, or other circumstances have changed—and thus it is time to change the law.

2. **Time-Limited Group Assignment—Court Opinions.** Go to the section entitled *Reading and Understanding Case Law* in the appendix at the end of this chapter, and read through the subsection entitled "Decisions and Opinions."
 1. One group will explain the difference between a concurring opinion and a majority opinion.

Solution

A majority opinion is a written opinion outlining the views of the majority of the judges or justices deciding a particular case. A concurring opinion is a written opinion by a judge or justice who agrees with the conclusion reached by the majority of the court but not necessarily with the legal reasoning that led the conclusion.

2. Another group will outline the difference between a concurring opinion and a dissenting opinion.

Solution

A concurring opinion will voice alternative or additional reasons as to why the conclusion is warranted or clarify certain legal points concerning the issue. A dissenting opinion is a written opinion in which judges or justices who do not agree with the conclusion reached by the majority of the court expound their views on the case.

The third group will explain why judges and justices write concurring and dissenting opinions, given that these opinions will not affect the outcome of the case at hand, which has already been decided by majority vote.

Solution

Obviously, a concurring or dissenting opinion will not affect the case involved—because it has already been decided by majority vote. Nevertheless, such opinions often are used by another court later to support its position on a similar issue.

Appendix Exhibit

1. For a federal district court to hear a case, the “amount in controversy” must be at least \$75,000. Jones paid \$5,000 for the motor and \$304 in freight charges. What other losses or injuries might Jones claim in order to cross the “amount in controversy” threshold? Explain.

Solution

The amount in controversy in a dispute is measured by the value of the object of the litigation. This is not necessarily the amount of money sought or the award obtained through a judgment—it is the value of the consequences that may result from the litigation. It should be considered from the perspective of the plaintiff, with a focus on the economic value of the rights the plaintiff seeks to protect.

In the *Adelman’s* case, Jones could have sought the price of the nonconforming goods, the freight charges, and other costs directly related to the alleged breach of contract—lost profits attributable to the time that the truck was out of operation due to the defective motor, for example.

In the facts of the actual case, Jones asked for damages for emotional distress, punitive damages, and attorney fees, based on a tort claim. The appellate court was “convinced” that “Jones’s alleged monetary damages would result in an amount in controversy of \$138,171, well above the \$75,000 requirement.” And “there is no evidence that Jones’s damages claims were made in bad faith,” which is clearly an important factor.