2012

BLAW 300-04 The Legal Environment of Business

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SYLLABUS
BLAW 300-04 Legal Environment of Business
Spring Term, 2012

Professor: Kathleen McGarvey Hidy, J.D.

E-mail: hidyk@xavier.edu

Telephone & Office: 513-745-4310; Smith Hall 224

Office Hours: Mondays: By Appointment; Tuesdays: 9 a.m. to 11:30 a.m.; Thursdays: 9 a.m. to 11:30 a.m. Meetings by appointment are available.

Class Meets: Tuesdays and Thursdays: 11:30 a.m. to 12:45 a.m.
Smith Hall 249


Williams College of Business Mission Statement:

The College educates students of business, enabling them to improve organizations and society, consistent with the Jesuit tradition. The mission of the College is in keeping with the university’s mission, articulated by President Michael Graham, S.J. as “Xavier's mission is to serve society by forming students intellectually, morally and spiritually, with rigor and compassion, towards lives of solidarity, service and success.”

Course Description:

A substantive review of significant legal issues which impact businesses operating in the United States, with an emphasis on the analytical underpinnings of law and the ethical principles embedded in legal mandates.

Almost every critical decision businesses face involves some form of legal regulation and requirement imposed on them by the laws of the countries in which they operate. In the United States, businesses confront a multitude of laws which impact their daily operations, marketing, product development, human resources management and their financial profitability. The threat of litigation when a business fails to comply with the legal parameters governing its conduct has a significant and demonstrable effect on
its profitability and long-term strategic planning. Put in simple terms, **THE LAW MATTERS TO BUSINESS.**

The primary purpose of this course is to provide you with a basic understanding of how laws govern businesses operating in the United States. Through analysis and discussion of substantive areas of law, we will explore the legal landscape through which businesses today must travel. The legal mandates imposed on businesses will be examined in light of ethical principles as well. We will examine how the judicial system in the United States enforces these laws and how that system impacts both the profitability and the strategic planning of businesses. The patchwork of state and federal laws which impact businesses operating in the United States is extensive; this course selects those areas of law which you will most likely encounter when you enter the business world. Because the laws themselves change regularly, specific rules you will learn in this course are generalized and cannot be relied upon in actual business settings. However, the broad principles you will learn should equip you to recognize a legal situation you may face in your business career and understand the implications and importance of that situation.

The objectives of this course include:

- Gaining an understanding of key legal principles impacting businesses.
- Developing an ability to use critical thinking and reasoning skills.
- Developing an ability to effectively communicate in both oral and written presentations your analysis of the implications a legal issue may have on a business.
- Using research methods to investigate how legal issues can be examined and analyzed through sources available to business people.
- Developing an appreciation of the importance of substantive laws and the judicial system on businesses operating in the United States.

**Disability Services Office:**

Anyone who believes he/she may need an academic accommodation based on the impact of a disability (e.g. sensory, learning, psychological, medical, mobility) should contact me to arrange an appointment to discuss your needs as soon as possible. I rely on the Disability Services Office for assistance in verifying your eligibility for academic accommodations related to your disability. If you have not previously contacted Disability Services, I encourage you to do so at 513-745-3280 on the Fifth Floor of the Conaton Learning Commons, Room 514 or e-mail Cassandra Jones at jonesc20@xavier.edu, to coordinate reasonable accommodations.

**Requirements:**

1. Attendance is mandatory. Roll will be taken at each class. More than three absences will result in a 4 point deduction per additional absence from your final class participation grade. The only exception to this requirement will be
for pre-approved absences due to University-related activities. **No laptops, cell phones or smart phones may be used during class.** Any exception to this policy must be pre-approved.

2. Three Examinations will be given. No make-up tests will be given except for grave reasons. A make-up examination will be an oral examination, in part.

3. Grading is as follows:

   - Class Participation: 30%
   - Cumulative Test Grade: 45%
   - Research Paper: 25%

4. Letter grades will be assigned along the following spectrum:

   A >= 94, A- >= 90, B+ >= 87, B >= 84, B- >= 80, C+ >= 77, C >= 74, C- >= 70, D+ >= 67, D >= 63, F < 63.

5. Class Participation: This grade is a composite of each student’s (1) daily in-class discussions of the material in the Text and the Application Assignments; and (2) written analysis of the Application Assignments. Evaluations will be based on a student’s preparation of these materials. Knowledgeable class participation is strongly encouraged and will be rewarded with a favorable class participation grade. Conduct contrary to the 2011-2012 Student Handbook, available on-line, will negatively impact this grade. (“Xavier embraces certain values, which enhance the integrity of the educational community. A student’s behavior should reflect the values of respect for oneself, respect for others, respect for authority, respect for property, and honesty and integrity.”)

6. Each assignment listed on the Reading List as an “Application Assignment” should be prepared as follows: a one page analysis of the case or handout should be prepared so that you are ready for a detailed discussion of the facts, the significant legal issue or issues, and the reasoning supporting the court’s decision contained in the case or handout. Appendix I at pages 651-653 of the Text provides instructions on case briefing which is comparable to the requirements of an Application Assignment. Application Assignments may be handwritten. Each assignment is due and will be collected in class on the day indicated below. No assignment will be collected after that date, with the following exception: If you are absent from class on a day an assignment is due, you may hand the assignment in on the day you return to class and receive partial credit. No assignment may be submitted via email. Assignments may be submitted in advance of the due date.
7. Cumulative Test Grade: Tests will be comprised of objective questions (multiple choice and true/false) as well as short answer questions based on business hypotheticals involving legal issues. The University Policies on Academic Integrity will be strictly enforced.

8. Extra Credit of up to three additional test points will be awarded for a five minute in-class oral presentation of a current event (i.e. a current legal issue, dispute or case which impacts business) which has been reported in a media source. A sign-up sheet for Extra Credit is available during class periods.

9. Research Paper: This paper should present a legal problem or legal issue and analyze how it impacts an industry or business. Additional information regarding the research paper is provided in the Supplemental Syllabus attached to this Syllabus.

10. Reading Assignments (Subject to Revision): Please note that cases in each chapter which are not specifically assigned as an Application Assignment may be skipped over. These cases will not be discussed in class and they will not be the subject of testing. Key Terms and Review Questions and Problems at the end of each chapter should be reviewed. The Text contains an excellent Glossary beginning on page 683 which is a useful and valuable review tool for the Terms and Concepts. A good online legal dictionary can be found at: http://dictionary.lp.findlaw.com/.

11. Blackboard.xu.edu. Please refer to this site for supplemental information to assist you in this course. Please notify me if you are not able to access Blackboard for this course.
<table>
<thead>
<tr>
<th>Date</th>
<th>Assignment</th>
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<tbody>
<tr>
<td>1/10</td>
<td>Course Introduction. Review of Syllabus and Discussion of Course Objectives.</td>
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<tr>
<td>1/12</td>
<td>Chapter 1: Law as the Foundation of Business; Review of Ethical Principles; Application Assignment: Handout “60 Minutes’ Interview Could lead to Lawsuit Against Clemens.”</td>
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<tr>
<td>1/17 &amp; 1/19</td>
<td>Chapter 3: The Court System; Application Assignment: Case 3.1 due on 1/19; Handout “Justices to Hear Microsoft Patent Case” due on 1/19.</td>
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<tr>
<td>1/24 &amp; 1/26</td>
<td>Chapter 4: Litigation; Application Assignments: Case 4.1 due on 1/24; Case 4.2 &amp; Handout “Analysts See Merck Victory in Vioxx Deal” due on 1/26.</td>
</tr>
<tr>
<td>1/31 &amp; 2/2</td>
<td>Chapter 5: Negotiation and Alternative Dispute Resolution Systems; Application Assignment: Case 5.2 due on 1/31; Application Assignments Handouts “Keeping Arbitrations on Track” and “The Cost of Not Settling a Lawsuit” due on 2/2.</td>
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<tr>
<td>2/7</td>
<td>Examination on Chapters 1,3,4 &amp; 5.</td>
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<tr>
<td>2/16</td>
<td>Chapter 9: Contractual Issues.</td>
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<tr>
<td>3/1</td>
<td>Library Training for Research Papers in Library Training Room.</td>
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<tr>
<td>University Holiday – No Class 3/6 &amp; 3/8</td>
<td>Mid-Term Grades will be posted on-line by Monday, March 5th.</td>
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<td>3/29, 4/3, 4/10</td>
<td>University Holiday – No Class on 4/5 Chapter 15: Sarbanes-Oxley and Securities Regulations; In-class viewing of the movie, Enron, on 3/29; Application Assignments: Handouts “The Heir Who Won’t Be King” due on 4/3; Case 15.3 and Handout “A Thin Line Separates Insider Trading and Legal Research” due on 4/10.</td>
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<tr>
<td>4/12, 4/17, 4/19 &amp; 4/24</td>
<td>Chapter 20: Discrimination in Employment; Application Assignments: Handout “Controversy Shrouds Scarves” due on 4/17; Case 20.1 due on 4/19; Case 20.2 and Handout “Social Media History Becomes a New Job Hurdle” due on 4/24. Research Papers due on Thursday, 4/12 during class period.</td>
</tr>
<tr>
<td>5/1</td>
<td>Examination on Chapters 14, 15, 20 &amp; 2 is during the Examination Period scheduled for 10:30 a.m. to 12:20 p.m. on Tuesday, May 1st.</td>
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**SUPPLEMENTAL SYLLABUS**

I. The research paper should present a legal problem or legal issue and analyze how it impacts an industry or business. The paper should be 6 to 10 pages in length, typed and double-spaced, not including the bibliography. The bibliography should provide complete references to sources and should contain, at a minimum, five sources. Possible sources include: articles from news journals and newspapers, law cases, treatises, law reviews, books and interviews. Internet websites may constitute a source but a website’s value will be weighted according to the website’s objectivity and credibility. Wikipedia is not an acceptable source. **The Text may be reviewed for background information but may not be used as a source for the research paper.** Cases found in the Text may be used and cited as a source if a Lexis or Westlaw citation is used for the case.
II. The University Policies on academic integrity will be strictly enforced. Each paper must be submitted to TURNITIN.COM to verify that it represents the student’s work. The link for this is on Blackboard under the “Assignments” tab. Additional information will be provided in class regarding the mechanics of this. Please review the article on Plagiarism posted on Blackboard and consult the professor with any questions as to what constitutes Plagiarism.

III. Research papers are due on Thursday, April 12th, during the class period. A paper is deemed “late” if handed in after this time period and date. A ten point deduction off the grade of the paper will be taken for each day a paper is “late”.

IV. Sample topics for the research paper are listed below. Please note that students may propose other topics not listed. All paper topics are subject to my approval. Citations in the research paper should follow the Harvard Blue Book Style Sheet format detailed below.

Sample Topics:
Chapters 4, 5 – Litigation and Alternative Dispute Resolution
Class Action Litigation
Discovery Abuses
Litigation Reform
Alternative Dispute Resolution
The Federal Arbitration Act

Chapter 8 - Contracts
reality of consent (i.e. fraud, duress, mistake, undue influence)
statute of frauds
mergers and acquisitions

Chapter 10 - Torts in the Business Environment
Fraud
Punitive damages
Worker’s Compensation
Negligence
Negligent hiring
defamation
strict liability
joint and several liability
Market share theory
respondeat superior
products liability
defective design v. defectively produced
professional malpractice

Chapter 11 – Intellectual Property
Trade Secrets
Patent Law
Trademark Law
Copyright Law

Chapter 14 - Business Organizations
Limited partnership
Subchapter S Corp
piercing the corporate veil
tax considerations
control of organization
minority shareholders
derivative action
fiduciary relationship of board of directors
buy sell agreement
preemptive right, not have stock ownership position diluted
independent contractor v. employee
liability based upon public policy - wrongful discharge
liability of corporate officers
conflicts of interest
business judgment rule
criminal liability of executives

Chapter 15 – Sarbanes-Oxley and Securities Regulation
The Sarbanes Oxley Act of 2002
White-collar crime
Securities regulation
The Securities Act of 1933
The Securities Exchange Act of 1934
Insider trading

Chapter 19 & 20- Employment law and Discrimination
Title VII of the Civil Rights Act of 1964
patterns and practices of discrimination
religious accommodation
sex discrimination
comparable worth
sexual harassment
affirmative action and reverse discrimination
seniority systems
Civil rights act of 1866
age discrimination
handicap discrimination
documentation of disciplinary actions (paper fortress)
whistleblowers
Limitations to "At Will" employment
Workplace privacy

Blue Book Style Sheet

I. Periodicals (Law Reviews): - Author's first and last name, Title of the Article (underlined if you can not italicize), Volume Number of the periodical Name of the Journal (law review) (do not use the word "volume" or "vol" in the cite) First page the article appears on (do not use the word "page", or "p." or "pp."), page of the quote or attribution (year the article was printed).

II. Newspapers: - Author's Full name (if the article is signed, no name if unsigned), title of the article (underlined if you can not italicize), title of the newspaper, date of the newspaper, at p age number, column numbers.
i.e. Tom Getschow, Overdriven Execs, Some Middle Managers Cut Corners to Achieve High Corporate Goals, Wall St. J., Nov. 8, 1999, at 34, col. 4.
III. Magazines: - Author's full name, Title of the article (underline if you can not italicize), name of the magazine, cover date of the issue, at first page of the article, page number of the cite.


IV. Books: - Author's first and last name, title of the book  Page number (year of publication).
i.e. Marvin Clinard & Peter Yeager, Corporate Crime 66 (1980).

V. Statutes: - Title of the Act, Public law number (if available), Volume number of U.S. Code U.S.C. or U.S.C.A. Section number (year of the code or supplement).

VI. Cases: - Case name, volume of the reporter  Title of the reporter  First page that the case is found in the reporter, page(s) of the cite (circuit number [if a federal case] year).
i.e. Bush v. Harvey Transfer Co., 146 Ohio St. 657 (1946)., or
i.e. DiSilvestro v. United States, 767 F. 2d 30, 31-32 (2d Cir. 1985)., or

VII. Id. - Id. is used when the next cite uses the same information (except there may be a different page number of the new cite). [Please note both id and supra are underlined, this is done if you do not have the ability to italicize.]
16 Id. at 410.

VIII. Supra - Supra refers to a new cite referring to a previous cite with at least one intervening cite.
i.e. 12 George Stricharchuk, Business Crack Down on Workers Who Cheat to Help the Company, Wall St. J., June 13, 1986 at 25, col. 4.
14 Stricharchuk, supra note 12, at 25, col. 4.

IX. Lexis - When printing a case from Lexis, note the fact that you are citing from Lexis, parenthetically. You will not be able to cite to actual page numbers, unless the star paging feature is available.

X. Internet – Author, the title or top level heading of the material cited, and the URL, the most recent modification date or the date you visited the cite.
Christopher A. Myers, and Laura Eilers, Personal Liability for Organizational Fraud & Abuse: Boards of Directors May be Held Responsible (visited August 19, 1999)

XI. Miscellaneous style rules
A. When quoting more than fifty (50) words from one source, skip a line, indent the entire quote five (5) spaces, and single space (also, do not use quotation marks "" at the beginning or end of the quote).
The publication giving rise to Falwell's suit occurred in the November 1983 issue of Hustler, which contained a parody of certain advertisements for Campari Liqueur. The actual Campari advertisements had featured interviews with well-known persons who discussed their "first time." The "first time" referred to in the advertisements was the particular celebrity's first consumption of Campari Liqueur. It was apparent, however, that the advertisements contained double entendres of a sexual nature. The parody in Hustler pictured Falwell as the celebrity supposedly being interviewed. In the "interview" which was written by Hustler personnel, Falwell referred to his "first time" - allegedly an incestuous encounter between a drunken Falwell and his drunken mother in an outhouse.1

B. When you are quoting a quote (the source you are quoting, quotes another source): (1) if the quote is more than fifty words, follow the guidelines in XI.A, and put quotation marks within the quote, and (2) if the quote is less than fifty (50) words, use single quotes around the quotation:

i.e. Commentators have addressed whether public figures asserting intentional infliction of emotional distress could provide a way of circumventing traditional defamation obstacles. This was noted in the famous Falwell v. Hustler case. The Supreme Court of the United States, "continued with a ringing endorsement of significant free speech principles, noting the 'robust political debate' contemplated by the first amendment necessarily will lead to statements critical of public officials and public figures."2


2 Id. at 692.

If you are quoting or paraphrasing a law review article which is quoting or paraphrasing a case, you may cite the law review article without going to the original source. An example of this is footnotes 1 and 2 above, when the Langvardt article cites language from the Supreme Court in Falwell v. Hustler. You do not have to go to the Falwell case to get the cite for this quote.

C. All cites are treated as sentence which must end with a punctuation mark (usually a period).