

Eleventh Edition

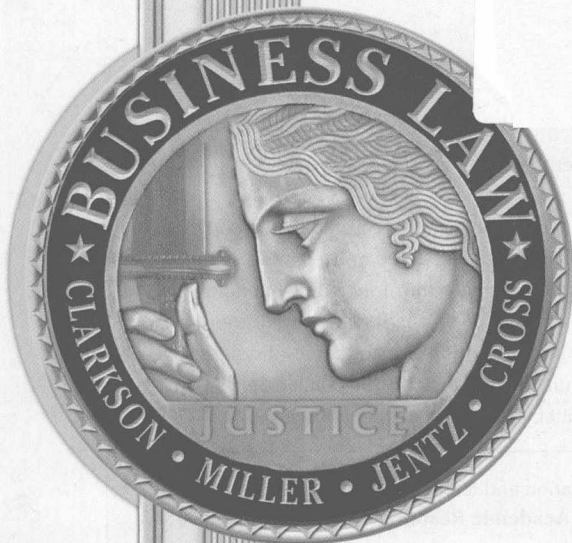


BUSINESS LAW

Text and Cases

Legal, Ethical, Global, and
E-Commerce Environment

Clarkson Miller Jentz Cross



BUSINESS LAW

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LEGAL, ETHICAL, GLOBAL,
AND E-COMMERCE ENVIRONMENTS

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**BUSINESS LAW, 11th Edition
TEXT & CASES**

**Legal, Ethical, Global,
and E-Commerce Environments**

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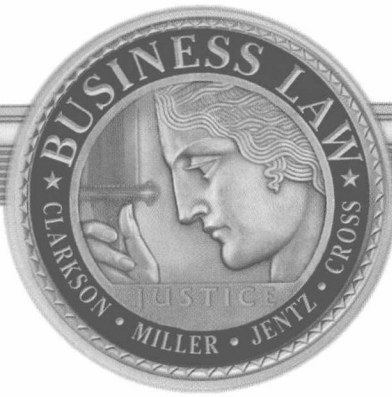
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PREFACE TO THE INSTRUCTOR

The study of business law and, more generally, the legal environment of business has universal applicability. A student entering virtually any field of business must have at least a passing understanding of business law in order to function in the real world. Additionally, students preparing for a career in accounting, government and political science, economics, and even medicine can use much of the information they learn in a business law and legal environment course. In fact, every individual throughout his or her lifetime can benefit from a knowledge of contracts, real property law, landlord-tenant relationships, and other topics. Consequently, we have fashioned this text as a useful “tool for living” for all of your students (including those taking the CPA exam).

For the Eleventh Edition, we have spent a great deal of effort making this book more contemporary, exciting, and visually appealing than ever before to encourage your students to learn the law. We have also designed many new features and special pedagogical devices that focus on the legal, ethical, global, and e-commerce environments, while addressing core curriculum requirements.

What Is New in the Eleventh Edition

Instructors have come to rely on the coverage, accuracy, and applicability of *Business Law*. To make sure that our text engages your students’ interests, solidifies their understanding of the legal concepts presented, and provides the best teaching tools available, we now offer the following items either in the text or in conjunction with the text.

New *Insight* Features

For the Eleventh Edition, we have created **three special new *Insight* features**—*Insight into E-Commerce*,

Insight into Ethics, and *Insight into the Global Environment*. These features, which appear in selected chapters, provide valuable insights into how the courts and the law are dealing with specific contemporary issues. Each of these features ends with a critical-thinking question that explores some cultural, environmental, political, social, or technological aspect of the issue.

1. ***Insight into E-Commerce***—When the topic involves some new technology or how the Internet is affecting a particular area of law, we include an *Insight into E-Commerce* feature. For example, Chapter 1 contains an *Insight into E-Commerce* feature on *How the Internet Is Expanding Precedent*, Chapter 8 has a feature on *Search Engines Versus Copyrights*, and Chapter 41 includes a feature on *Moving Company Information to the Internet*.
2. ***Insight into Ethics***—When the topic has ethical implications, we include an *Insight into Ethics* feature. For example, Chapter 2’s *Insight into Ethics* feature is entitled *Implications of an Increasingly Private Justice System*, Chapter 14’s feature addresses *Internet Click Fraud*, and Chapter 51’s feature covers *An Auditor’s Duty to Correct Certified Opinions*.
3. ***Insight into the Global Environment***—Because business transactions today are increasingly global, we have also included a feature that discusses global implications or explains how foreign nations deal with a particular topic. For example, there is an *Insight into the Global Environment* feature in Chapter 5 titled *Breach of Trust Issues Hit Major German Corporations*, one in Chapter 19 on *International Use and Regulation of the Internet*, and one in Chapter 42 on *Moving Your Small Business Online: Seller Beware*.

Two Critical-Thinking Questions at the End of Every Case Presented in This Text

In every chapter of the Tenth Edition of *West's Business Law*, we included one longer case excerpt followed by two case-ending questions designed to guide students' analysis of the case and help build their legal reasoning skills. For the Eleventh Edition, we continue to offer one longer excerpt—now labeled an **Extended Case**—with two critical-thinking questions in every chapter. These extended cases may be used for case-briefing assignments and are also tied to the *Special Case Analysis* questions found in every unit of the text.

Because of the popularity of the case-ending questions, for this edition, we've also included two questions for all cases. In addition to the *What If the Facts Were Different?* questions and *Impact of This Case on Today's Law* sections that appeared in the Tenth Edition, we've devised an entirely new set of questions. These new *Dimension* questions focus on meeting aspects of your curriculum requirements, including:

- *The Ethical Dimension*
- *The E-Commerce Dimension*
- *The Global Dimension*
- *The Legal Environment Dimension*

Suggested answers to all questions following cases can be found in both the *Instructor's Manual* and the *Answers Manual* that accompany this text. (The full title of this manual is *Answers to Questions and Case Problems and Alternate Problem Sets with Answers*.)

Greater Emphasis on Critical Thinking and Legal Reasoning

Today's business leaders are often required to think "outside the box" when making business decisions. For this reason, **we have added a number of critical-thinking elements for the Eleventh Edition** that are designed to challenge students' understanding of the materials beyond simple retention. Your students' critical-thinking and legal reasoning skills will be increased as they work through the numerous pedagogical devices within the book. Almost every feature and every case presented in the text conclude with some type of critical-thinking question. These questions include *For Critical Analysis*, *What If the Facts Were Different?* and the *Ethical*, *E-Commerce*, *Global*, and *Legal Environment Dimension* questions discussed previously. They also include the new *Special Case*

Analysis questions and the questions in the *Reviewing* features, which are described next.

New Special Case Analysis Questions

Through the years, instructors have frequently requested that we teach their business law students how to analyze case law. We discuss the fundamental topic of how to read and understand case law in Chapter 1 and cover How to Brief Cases and Analyze Case Problems in Appendix A. For this edition, we have gone one step further: in selected chapters of the text, we provide a *Special Case Analysis* question that is based on the *Extended Case* excerpt in that chapter. The *Special Case Analysis* questions are part of the *Questions and Case Problems* that appear at the end of the chapter. We offer one of these special questions for every unit in the text to build students' analytical skills. The *Special Case Analysis* questions test students' ability to perform IRAC (Issue, Rule, Application, and Conclusion) case analysis. Students must identify the legal issue presented in the chapter's extended case, understand the rule of law, determine how the rule applies to the facts of the case, and describe the court's conclusion. Instructors can assign these questions as homework or can use them in class to elicit student participation and teach case analysis.

Reviewing Features in Every Chapter

For the Eleventh Edition of *Business Law*, we have included a new and improved feature at the end of every chapter that helps solidify students' understanding of the chapter materials. The feature appears just before the *Terms and Concepts* and is entitled *Reviewing [chapter topic]*. Each of these features presents a hypothetical scenario and then asks a series of questions that require students to identify the issues and apply the legal concepts discussed in the chapter. These features are designed to help students review the chapter topics in a simple and interesting way and see how the legal principles discussed in the chapter affect the world in which they live. An instructor can use these features as the basis for in-class discussion or encourage students to use them for self-study prior to completing homework assignments. **Suggested answers to the questions posed in the *Reviewing* features can be found in both the *Instructor's Manual* and the *Answers Manual* that accompany this text.**

The *Reviewing* features are also tied to a new set of questions for each chapter in the Web-based

CengageNOW system, to be discussed next. Students can read through the scenario in the text and then answer the four Applications and Analysis questions online. **By using the CengageNOW system, students will receive instant feedback on their answers to these questions, and instructors will obtain automatically graded assignments that enable them to assess students' understanding of the materials.**

Improved Content and Features on CengageNOW for Business Law: Interactive Assignment System

For those instructors who want their students to learn how to identify and apply the legal principles they study in this text, we have created new content and improved the features of our Web-based product for this edition. The system provides interactive, automatically graded assignments for every chapter and unit in this text. For each of the fifty-two chapters, we have devised different categories of multiple-choice questions that stress different aspects of learning the chapter materials. By using the optional **CengageNOW** system, students can complete the assignments from any location via the Internet and can receive instant feedback on why their answers to questions were incorrect or correct (if the instructor wishes to allow feedback). Instructors can customize the system to meet their own specifications and can track students' progress.

1. **Chapter Review Questions**—The first set of ten to fifteen questions reviews the basic concepts and principles discussed in the chapter. These questions often include questions based on the cases presented in the text.
2. **Brief Hypotheticals**—The next group of seven to ten questions emphasizes spotting the issue and identifying the rule of law that applies in the context of a short factual scenario.
3. **Legal Reasoning**—The third category includes five questions that require students to analyze the factual situation provided and apply the rules of law discussed in the chapter to arrive at an answer.
4. **IRAC Case Analysis**—The next set of four questions for each chapter requires students to perform all the basic elements of legal reasoning (identify the *issue*, determine the *rule* of law, *apply* the rule to the facts presented, and arrive at a *conclusion*). These questions are based on the *Extended Case* excerpts that appear in each chapter.

5. **Application and Analysis**—The final set of four questions for each chapter is new and is linked to the *Reviewing* features (discussed previously) that appear in every chapter of the text. The student is required to read through the hypothetical scenario, analyze the facts presented, identify the issues in dispute, and apply the rules discussed in the chapter to answer the questions.

6. **Essay Questions**—In addition to the multiple-choice questions available on CengageNOW, we now also provide essay questions that allow students to compose and submit essays online. Students' essays are automatically recorded to the gradebook, which permits instructors to quickly and easily evaluate the essays and record grades.

7. **Video Questions**—CengageNOW also now includes links to the Digital Video Library for *Business Law* so that students can access and view the video clips and answer questions related to the topics in the chapter.

8. **Cumulative Questions for Each Unit**—In addition to the questions relating to each chapter, the CengageNOW system provides a set of cumulative questions, entitled "Synthesizing Legal Concepts," for each of the eleven units in the text.

9. **Additional Advantages of CengageNOW**—Instructors can utilize the system to upload their course syllabi, create and customize homework assignments, keep track of their students' progress, communicate with their students about assignments and due dates, and create reports summarizing the data for an individual student or for the whole class.

Expanded Ethics Coverage and New Questions of Ethics in Every Chapter

For the Eleventh Edition of *Business Law*, we have significantly revised and updated the chapter on ethics and business decision making (Chapter 5). The chapter now presents a more practical, realistic, case-study approach to business ethics and the dilemmas facing businesspersons today. The emphasis on ethics is reiterated in materials throughout the text, particularly the *Focus on Ethics* features that conclude every unit, the *Insight into Ethics* features, and the pedagogy that accompanies selected cases and features. We also discuss **corporate governance issues** as appropriate within the ethics chapter, the corporations chapters, and the *Focus on Ethics* feature that concludes Unit Eight on business organizations.

For this edition, we have also added ***A Question of Ethics based on a case from 2006 or 2007 to every chapter of the text.*** These problems provide modern-day examples of the kinds of ethical issues faced by businesspersons and the ways courts typically resolve them.

More on the Sarbanes-Oxley Act of 2002

In a number of places in this text, we discuss the Sarbanes-Oxley Act of 2002 and the corporate scandals that led to the passage of that legislation. For example, Chapter 5 contains a section examining the requirements of the Sarbanes-Oxley Act relating to confidential reporting systems. In Chapter 41, we discuss this act in the context of securities law and present an exhibit (Exhibit 41–4) containing some of the key provisions of the act relating to corporate accountability with respect to securities transactions. Finally, in Chapter 51, we again look at provisions of the Sarbanes-Oxley Act as they relate to public accounting firms and accounting practices.

Because the act is a topic of significant concern in today's business climate, we also include excerpts and explanatory comments on the Sarbanes-Oxley Act of 2002 as Appendix H. Students and instructors alike will find it useful to have the provisions of the act immediately available for reference.

Business Law on the Web

For the Eleventh Edition of *Business Law*, we have redesigned and streamlined the text's Web site so that users can easily locate the resources they seek. When you visit our Web site at academic.cengage.com/blaw/clarkson, you will find a broad array of teaching/learning resources, including the following:

- **Relevant Web sites** for all of the *Emerging Trends* features that are presented in this text.
- **Sample answers** to the *Case Problem with Sample Answer*, which appears in the *Questions and Case Problems* at the end of every chapter. This problem/answer set is designed to help your students learn how to answer case problems by acquainting them with model answers to selected problems. In addition, we offer the answers to the hypothetical *Questions with Sample Answers* on the Web site as well as in the text (Appendix I).
- **Videos** referenced in the new *Video Questions* (discussed shortly) that appear in selected chapters of this edition of *Business Law*.

- **Internet exercises** for every chapter in the text (at least two per chapter). These exercises have been refocused to provide more practical information to business law students on topics covered in the chapters and to acquaint students with the legal resources that are available online.
- **Interactive quizzes** for every chapter in this text.
- **Glossary terms** for every chapter in the text.
- **Flashcards** that provide students with an optional study tool to review the key terms in every chapter.
- **PowerPoint slides** that have been revised for this edition.
- **Legal reference materials** including a "Statutes" page that offers links to the full text of selected statutes referenced in the text, a Spanish glossary, and links to other important legal resources available for free on the Web.
- **Law on the Web features** that provide links to the URLs that appear at the end of every chapter in the text.
- **Link to CengageNOW for Business Law: Interactive Assignment System** with different types of questions related to every chapter in the text and one set of cumulative questions for each unit in the text.
- **Link to our Digital Video Library** that offers a compendium of more than sixty-five video scenarios and explanations.
- **Online Legal Research Guide** that offers complete yet brief guidance to using the Internet and evaluating information obtained from the Internet. As an online resource, it now includes hyperlinks to the Web sites discussed for click-through convenience.
- **Court case updates** that present summaries of new cases from various West legal publications, are continually updated, and are specifically keyed to chapters in this text.

A Comprehensive Digital Video Library

For this edition of *Business Law*, we have included special *Video Questions* at the end of selected chapters. Each of these questions directs students to the text's Web site (at academic.cengage.com/blaw/clarkson) to view a video relevant to a topic covered in the chapter. This is followed by a series of ques-

tions based on the video. The questions are again repeated on the Web site, when the student accesses the video. An access code for the videos can be packaged with each new copy of this textbook for no additional charge. If Digital Video Library access did not come packaged with the textbook, students can purchase it online at academic.cengage.com/blaw/dvl.

These videos can be used for homework assignments, discussion starters, or classroom demonstrations and are useful for generating student interest. Some of the videos are clips from actual movies, such as *The Jerk* and *Bowfinger*. By watching a video and answering the questions, students will gain an understanding of how the legal concepts they have studied in the chapter apply to the real-life situation portrayed in the video. **Suggested answers for all of the Video Questions are given in both the Instructor's Manual and the Answers Manual that accompany this text.** The videos are part of our Digital Video Library, a compendium of more than sixty-five video scenarios and explanations.

Additional Special Features of This Text

We have included in *Business Law*, Eleventh Edition, a number of pedagogical devices and special features, including those discussed here.

Emerging Trends

Presented throughout this text are a number of features titled *Emerging Trends*. These features examine new developments in business law and the legal environment and their potential effect on businesspersons. Here are some examples of these features:

- *E-Discovery and Cost-Shifting* (Chapter 3).
- *Stand-Your-Ground Laws* (Chapter 9).
- *Removing Class-Action Lawsuits to the Federal Courts* (Chapter 23).
- *New Issues in Online Privacy and Employment Discrimination* (Chapter 34).

Contemporary Legal Debates

Contemporary Legal Debates features are also interspersed throughout this edition of *Business Law*. These features introduce the student to a controversial issue that is now being debated within the legal community. A *Where Do You Stand?* section concluding each fea-

ture asks the student to identify her or his position on the issue. Some examples of these features are:

- *Tort Reform* (Chapter 6).
- *Are Online Fantasy Sports Gambling?* (Chapter 13).
- *A Shareholder Access Rule* (Chapter 39).
- *Should the EPA Take the Threat of Global Warming into Account?* (Chapter 45).

Concept Summaries

Whenever key areas of the law need additional emphasis, we provide a *Concept Summary*. These summaries have always been a popular pedagogical tool in this text. There are now more than fifty of these summaries, many of which have been modified to achieve greater clarity.

Exhibits

When appropriate, we also illustrate important aspects of the law in graphic form in exhibits. In all, more than one hundred exhibits are featured in *Business Law*, Eleventh Edition. For this edition, we have added eight new exhibits, and we have modified existing exhibits to achieve better clarity. Some examples of the new exhibits are:

- Exhibit 2–3 Basic Differences in the Traditional Forms of ADR
- Exhibit 8–2 Existing Generic Top Level Domain Names
- Exhibit 26–2 Defenses against Liability on Negotiable Instruments
- Exhibit 38–1 Offshore Low-Tax Jurisdictions
- Exhibit 39–1 Directors' Management Responsibilities
- Exhibit 41–1 Basic Functions of the SEC

An Effective Case Format

For this edition, we have carefully selected recent cases that not only provide on-point illustrations of the legal principles discussed in the chapter but also are of high interest to students. In all, more than 70 percent of the cases in the Eleventh Edition are from 2006 or 2007.

As mentioned, for this edition we have included one *Extended Case* per chapter that is presented entirely in the court's language and does not include any paraphrased section on the case's background and facts or the decision and remedy. The remaining cases in each chapter appear in our usual *Business*

Law format, which now includes two case-ending questions for every case in this edition of the text. We also provide bracketed definitions for any terms in the opinion that might be difficult for students to understand. Cases may include one or more of the following sections, a few of which have already been described:

- **Company Profiles**—Certain cases include a profile describing the history of the company involved to give students an awareness of the context of the case before the court. Some profiles include the URL for the company's Web site.
- **What If the Facts Were Different?**—One case in each chapter concludes with this special section. The student is asked to decide whether a specified change in the facts of the case would alter its outcome. **Suggested answers to these questions are included in both the *Instructor's Manual* and the *Answers Manual* that accompany this text.**
- **The Ethical [E-Commerce, Global, or Legal Environment] Dimension**—As discussed previously, these special new questions ask students to explore different aspects of the issues of the case and help instructors meet core curriculum requirements for business law. **Suggested answers to these questions are included in both the *Instructor's Manual* and the *Answers Manual* that accompany this text.**
- **International Considerations**—These sections let your students know how the particular issue before the court is treated in other countries.
- **Impact of This Case on Today's Law**—Because many students are unclear about how some of the older cases presented in this text affect today's court rulings, we include a special section at the end of landmark and classic cases that clarifies the relevance of the particular case to modern law.

Two Test Banks Available

To provide instructors with even greater flexibility in teaching, we offer two separate test banks, each with a complete set of questions for every chapter of *Business Law*, Eleventh Edition. These two test banks have been significantly revised and many new questions added. Those instructors who would like to alternate the tests they give their students each semester can now do so without having to create additional testing materials. In addition, instructors who would like to pick and choose from the questions offered have twice as many

options for questions in each category (true/false, multiple choice, essay).

Questions and Case Problems with Sample Answers

In response to those instructors who would like students to have sample answers available for some of the questions and case problems, we have included two questions with sample answers in each chapter. The *Question with Sample Answer* is a hypothetical question for which students can access a sample answer in Appendix I at the end of the text. Every chapter also has one *Case Problem with Sample Answer* that is based on an actual case and answered on the text's Web site (located at academic.cengage.com/blaw/clarkson). Students can compare the answers provided to their own answers to determine whether they have done a good job of responding to the question and to learn what should be included when answering the end-of-chapter questions and case problems.

The Most Complete Supplements Package Available Today

This edition of *Business Law* is accompanied by a vast number of teaching and learning supplements. We have already mentioned the CengageNOW for *Business Law*: Interactive Assignment System and the supplemental resources available on the text's Web site at academic.cengage.com/blaw/clarkson. In addition, there are numerous other supplements, including those listed below, that make up the complete teaching/learning package for the Eleventh Edition. For further information on the *Business Law* teaching/learning package, contact your local sales representative or visit the *Business Law* Web site.

Printed Supplements

- ***Instructor's Manual***—Includes case synopses, additional cases addressing the issue for selected cases, background information, teaching suggestions, and lecture enhancements, as well as suggested answers to all the case-ending and feature-ending questions, the questions in the *Reviewing* features at the end of each chapter, and additional materials on the *Focus on Ethics* sections at the end of each unit. (Also available on the *Instructor's Resource CD*, or IRCD.)

- **Study Guide**—Includes essay questions and sample CPA exam questions.
- **Two comprehensive Test Banks**—*Test Bank 1* and *Test Bank 2* each contain approximately 1,040 multiple-choice questions with answers, more than 1,040 true/false questions with answers, and two short essay questions per chapter (104 in each *Test Bank*). Additionally, there is one question for every *Emerging Trends* and *Contemporary Legal Debates* feature, and two multiple-choice questions for each *Focus on Ethics* section. (Also available on the IRCD.)
- **Answers to Questions and Case Problems and Alternate Problem Sets with Answers**—Provides answers to all the questions and case problems presented in the text, including the new *Special Case Analysis* questions, *A Question of Ethics*, and *Video Questions*, as well as suggested answers to all the case-ending questions, feature-ending questions, and the questions in the *Reviewing* features at the end of each chapter. (Also available on the IRCD.)
- **Digital Video Library**—Provides access to more than sixty-five videos, including the *Drama of the Law* videos and video clips from actual Hollywood movies. Access to our Digital Video Library is available in an optional package with each new text at no additional cost. If the Digital Video Library access did not come packaged with the textbook, your students can purchase it online at academic.cengage.com/blaw/dvl.
- **Videos**—Qualified adopters using this text have access to the entire library of videos in VHS format, a vast selection covering most business law issues. For more information about these videotapes, visit academic.cengage.com/blaw/vl.

Software, Video, and Multimedia Supplements

- **Instructor's Resource CD-ROM (IRCD)**—The IRCD includes the following supplements: *Instructor's Manual*, *Answers Manual*, *Test Bank 1* and *Test Bank 2*, Case-Problem Cases, Case Printouts, Lecture Outline System, PowerPoint slides, ExamView, *Instructor's Manual for the Drama of the Law* video series, *Handbook of Landmark Cases and Statutes in Business Law and the Legal Environment*, *Handbook on Critical Thinking and Writing in Business Law and the Legal Environment*, and *A Guide to Personal Law*.
- **ExamView Testing Software** (also available on the IRCD).
- **Lecture Outline System** (also available on the IRCD).
- **PowerPoint slides** (also available on the IRCD).
- **WebTutor**—Feature chat, discussion groups, testing, student progress tracking, and business law course materials.
- **Case-Problem Cases** (available only on the IRCD).
- **Transparencies** (available only on the IRCD).
- **Westlaw®**—Ten free hours for qualified adopters.

For Users of the Tenth Edition

First of all, we want to thank you for helping make *Business Law* the best-selling business law text in America today. Second, we want to make you aware of the numerous additions and changes that we have made in this edition—many in response to comments from reviewers. For example, we have added more examples and incorporated the latest United States Supreme Court decisions throughout the text as appropriate. We have substantially revised and reorganized the business organizations unit (Unit Eight), particularly the chapters on corporations (Chapter 38 through 40), which have been changed to be more in line with the reality of modern corporate law. We have simplified and streamlined the chapter on securities law (Chapter 41), and we have revised and reorganized the property chapters (Chapters 47 and 48).

Significantly Revised Chapters

Every chapter of the Eleventh Edition has been revised as necessary to incorporate new developments in the law or to streamline the presentations. A number of new trends in business law are also addressed in the cases and special features of the Eleventh Edition. Other major changes and additions made for this edition include the following:

- **Chapter 2 (Courts and Alternative Dispute Resolution)**—To provide greater clarity on important foundational issues, many parts of this chapter were reworked, including the discussions of personal jurisdiction, Internet jurisdiction, standing to sue, and appellate review. A chart was added to illustrate the differences among various methods of alternative dispute resolution, and we present a

2006 United States Supreme Court decision on arbitration clauses. In addition, the discussion of electronic filing systems and online dispute resolution was updated. An *Insight into Ethics* feature was added to discuss how the use of private judges is affecting the justice system.

- Chapter 3 (Court Procedures)—The section on electronic evidence and discovery issues has been updated to include the federal rules that took effect in 2006.
- Chapter 4 (Constitutional Authority to Regulate Business)—The chapter has been thoroughly revised and updated to incorporate recent United States Supreme Court decisions, such as the case on Internet wine shipments and the dormant commerce clause. New examples have been added throughout, and the materials reworked to focus on business context. The chapter includes discussions of the USA Patriot Act's effect on constitutional rights and recent decisions on preemption, unprotected speech, freedom of religion, and privacy rights. A *Contemporary Legal Debates* feature addresses whether *State Regulation of Internet Prescription Transactions Violates the Dormant Commerce Clause*.
- Chapter 5 (Ethics and Business Decision Making)—This chapter has been significantly revised and now includes a new section that provides step-by-step guidance on making ethical business decisions. Several new cases were added, and an *Insight into the Global Environment* feature addresses ethical issues faced by German corporations.
- Chapter 6 (Intentional Torts)—A discussion of the compensatory and punitive damages available in tort actions was added, and a *Contemporary Legal Debates* feature addresses *Tort Reform*. Two cases from 2007 are included, one on the scope of an Internet service provider's immunity for online defamation and the other on invasion of privacy. New subsections discuss trends in appropriation (right of publicity) claims and abusive or frivolous litigation.
- Chapter 8 (Intellectual Property and Internet Law)—The materials on intellectual property rights have been thoroughly revised and updated to reflect the most current laws and trends. Several recent United States Supreme Court cases are presented (the 2007 patent decision, *KSR International Co. v. Teleflex, Inc.*, is the *Extended Case*, and the 2006 trademark decision in *Menashe v. V Secret Catalogue, Inc.* is also included). A subsection on counterfeit goods and a 2006 law addressing counterfeit goods has been added to the trademark section. The materials on domain names, cybersquatting, and licensing have been revamped. The section on patents was expanded and new examples were added. The discussion of file-sharing was updated, and a 2007 case is presented in which Sony Corporation brought a successful suit for copyright infringement against an individual who had downloaded eight songs. The chapter also includes updated information on international treaties protecting intellectual property and an *Insight into E-Commerce* feature on *Search Engines versus Copyright Owners*.
- Chapter 9 (Criminal Law and Cyber Crime)—New materials on identity theft and criminal spamming laws were added, and the existing materials were streamlined to focus more on corporate criminal liability. An updated discussion of sentencing guidelines is included, and the discussion of defenses to criminal charges was revised. An *Emerging Trends* feature covers *Stand-Your-Ground Laws* (state laws allowing the use of deadly force in homes and vehicles to thwart violent crimes such as robbery, carjacking, and sexual assault).
- Chapters 10 through 19 (the Contracts unit)—Throughout this unit, we have added more examples to clarify and enhance our already impressive contract law coverage. We have also included more up-to-date information and new features on topics likely to generate student interest, such as the *Contemporary Legal Debates* feature entitled *Are Online Fantasy Sports Gambling?* (in Chapter 13) and the feature on *Internet Click Fraud* (in Chapter 14). We have changed the titles of Chapters 14 and 15 to clearly describe the contents of each chapter in plain English (for example, the title "Mistakes, Fraud, and Voluntary Consent" replaces the former title "Genuineness of Assent"). We have chosen cases, problems, and examples for this unit that garner student interest, such as the Mike Tyson example in Chapter 16, and have revised the text to improve clarity and reduce legalese.
- Chapters 20 through 23 (the unit on Domestic and International Sales and Lease Contracts)—We have streamlined and simplified our coverage of the Uniform Commercial Code. We have added numer-

ous new examples throughout the unit to increase student comprehension. Because no state has adopted the 2003 amendments to Articles 2 and 2A, we eliminated references to these amendments throughout the chapters.

- Chapters 24 through 27 (the unit on Negotiable Instruments)—We have updated this unit throughout to accommodate the reality of digital banking and funds transfers. In Chapter 24, we added an *Insight into the Global Environment* feature exploring the negotiability of checks in other nations. We added a new *Concept Summary* in Chapter 25 and replaced the *Concept Summary* on defenses in Chapter 26 with a more visually appealing exhibit on the same topic. In Chapter 27, we revised the materials to incorporate the Check-Clearing in the 21st Century Act (Check 21 Act) and included an *Emerging Trends* feature discussing how *Using Digital Cash Facilities Money Laundering*.
- Chapters 28 through 30 (the unit on Creditors' Rights and Bankruptcy)—This unit has been revised to be more up to date and comprehensible. Chapter 29 (Secured Transactions) was substantially reorganized to clarify the general rules of priority and the exceptions to those rules. The bankruptcy law chapter (Chapter 30) is based on law after the 2005 Reform Act and includes updated dollar amounts of various provisions of the Bankruptcy Code.
- Chapter 33 (Employment and Labor Law) and Chapter 34 (Employment Discrimination)—These two chapters covering employment law have been thoroughly updated to include discussions of legal issues facing employers today. Chapter 33 includes updated minimum wage figures and Social Security and Medicare percentages. It also discusses overtime rules and provides the most current information on unionization, strikes, and employment monitoring. Chapter 34 now includes the latest developments and United States Supreme Court decisions, such as a decision that applied Title VII of the Civil Rights Act of 1964 to an employer with fewer than fifteen employees and another that set the standard of proof for retaliation claims. The text discussion of burden of proof in unintentional discrimination cases has been revised and clarified. A feature examines *New Issues in Online Privacy and Employment Discrimination*.
- Chapters 35 through 42 (the Business Organizations unit)—This unit has been substantially reorganized

and updated to improve the flow and clarity, and provide more practical information and recent examples. In Chapter 35 (Sole Proprietorships and Franchises), we added a section on the Franchise Rule that includes the 2007 amendments to the rule. In Chapter 36 (Partnerships and Limited Liability Partnerships), we added several examples, reworked the section on fiduciary duties, and clarified the materials on dissociation. The most significant changes to the unit were made in the corporations chapters (Chapters 38 through 40). Chapter 38 now includes a more updated discussion of promotional activities, and the materials on incorporation procedures were completely revised to reflect current state laws. New sections were added on offshore low-tax jurisdictions, venture capital, and private equity financing. In Chapter 39, we added coverage of the landmark case *Guth v. Loft* (on the duty of loyalty), a new exhibit, and updated materials on Sarbanes-Oxley. We also added discussions of various committees of the board of directors, corporate sentencing guidelines, and proxies, including new e-proxy rules. The topic of shareholder voting concerning executive pay is discussed, and a *Contemporary Legal Debates* feature explores the possibility of a *Shareholder Access Rule*. Chapter 40 has been revised to include share exchanges, clarify successor liability, improve coverage of appraisal rights, and rework the material on tender offers. We include discussion of takeover defenses and directors' fiduciary duties. The chapter on securities law (Chapter 41) was revamped to make this difficult topic more understandable to students. The chapter now includes a new exhibit and overview of the functions of the Securities and Exchange Commission and a practical explanation of the *Howey* test. We also provide a simplified list of contents of a registration statements and an updated discussion of the registration process that clarifies current rules on a free writing prospectus. The final chapter in this unit (Chapter 42 on Law for Small Businesses) has also been considerably revised to address practical considerations, such as choosing to do business as a limited liability company, protecting trademarks, and avoiding liability. It also includes a feature on what businesspersons should consider before moving their small business online.

- Chapter 43 (Administrative Law)—This chapter has been reworked to focus on the practical significance of administrative law for businesspersons. A

new section was added on the Administrative Procedures Act, and another section addresses how the courts give *Chevron* deference to agency rules. Informal agency actions are covered, and a new subsection discusses the exhaustion doctrine.

- Chapter 45 (Environmental Law)—The materials on air pollution and the subsection on wetlands have been updated. All of the cases in the chapter are from the United States Supreme Court, and a *Contemporary Legal Debates* feature discusses the 2007 Supreme Court decision in *Massachusetts v. Environmental Protection Agency* relating to global warming.
- Chapter 46 (Antitrust Law)—We added new examples and coverage of leading cases throughout the chapter, particularly in the discussions of price fix-

ing, relevant product market, and relevant geographic market.

- Chapters 47 and 48 (the Property unit)—We reorganized and reworked the materials in the two property chapters as reviewers requested. Chapter 47 now begins with a section discussing the differences between personal and real property, and why the law makes this distinction. The materials on forms of property ownership (such as fee simple and joint tenancy) were moved from the personal property chapter (Chapter 47) to the real property chapter (48). The coverage of bailments was updated and simplified. Chapter 48 also includes more information on real estate sales contracts, including listing agreements, escrow agreements, marketable title, title searches, and title insurance.

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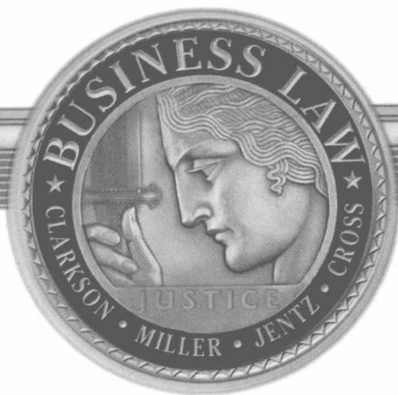
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PREFACE TO THE STUDENT

Welcome to the world of business law and the legal environment. You are about to embark on the study of one of the most important topics you should master in today's changing world. A solid understanding of business law can, of course, help you if you are going into the world of business. If you decide on a career in accounting, economics, finance, political science, or history, understanding how the legal environment works is crucial. Moreover, in your role as a consumer, you will be faced with some legal issues throughout your lifetime—renting an apartment, buying a house, obtaining a mortgage, and leasing a car, to mention only a few. In your role as an employee (if you don't go into business for yourself), you will need to know what rights you have and what rights you don't have. Even when you contemplate marriage, you will be faced with legal issues.

What You Will Find in This Text

As you will see as you thumb through the pages in this text, we have tried to make your study of business law and the legal environment as efficient and enjoyable as possible. To this end, you will find the following aids:

1. **Mastering Terminology**—through **key terms** that are boldfaced, listed at the end of each chapter, and explained fully in the **Glossary** at the end of the book.
2. **Understanding Concepts**—through numerous **Concept Summaries** and **exhibits**.
3. **Observing the Law in the Context of the Real World**—through a **Reviewing feature** at the end of every chapter.
4. **Seeing How Legal Issues Can Arise**—through **Video Questions** based on Web-available short videos, many from actual Hollywood movies.
5. **Figuring Out How the Law Is Evolving**—through a feature called **Emerging Trends**.
6. **Determining Today's Legal Controversies**—through a feature called **Contemporary Legal Debates**.
7. **Gaining Insights into How the Law Affects or Is Affected by Other Issues**—through three new **Insight** features called **Insight into E-Commerce**, **Insight into Ethics**, and **Insight into the Global Environment**.

The above list, of course, is representative only. You will understand much more of what the law is about as you read through the **court cases** presented in this book, including **extended case excerpts**, which will give you a feel for how the courts really decide cases, in the courts' language.

Improving Your Ability to Perform Legal Reasoning and Analysis

Although business law may seem to be a mass of facts, your goal in taking this course should also be an increased ability to use legal reasoning and analysis to figure out how legal situations will be resolved. To this end, you will find the following key learning features to assist you in mastering legal reasoning and analysis:

- **Finding and Analyzing Case Law**—In Chapter 1, you will find a section with this title that explains:
 1. Legal citations.
 2. The standard elements of a case.
 3. The different types of opinions a court can issue.
 4. How to read and understand cases.
- **Briefing a Case**—In Appendix A, you will see how to brief and analyze case problems. This explanation teaches you how to break down the elements of a case and will improve your ability to answer the **Case Problems** in each chapter.