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Henry R. Cheeseman

GBS 205

THE LEGAL ENVIRONMENT OF BUSINESS AND ONLINE COMMERCE



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Taken from:

*The Legal Environment of Business and Online Commerce: Business Ethics,
E-Commerce, Regulatory, and International Issues, Fifth Edition*
by Henry R. Cheeseman

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by Henry R. Cheeseman

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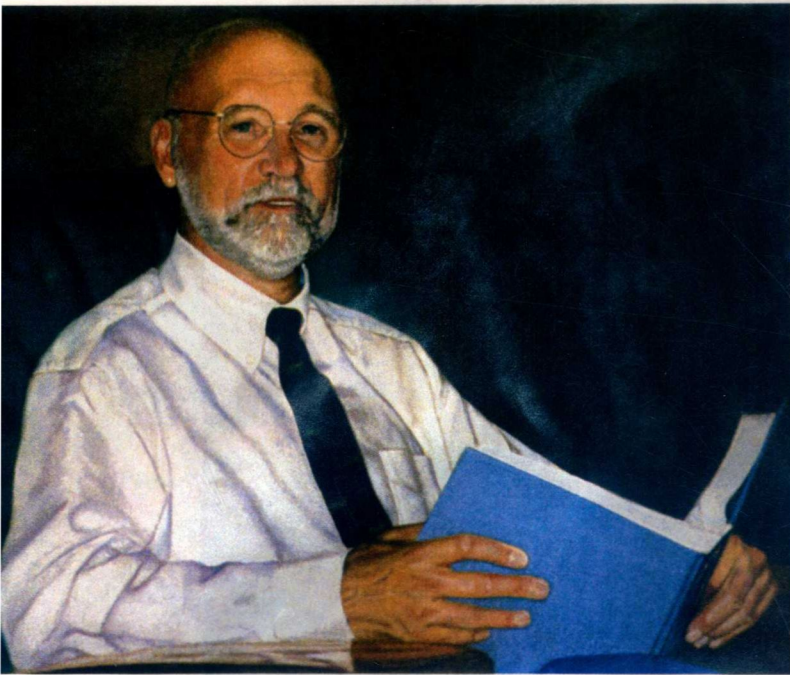
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To all of the men and women who have served or now serve in the air force, army, marines, navy, coast guard, reserves, and national guard. Our politicians make this country's decisions, but it is these women and men who serve with dedication, honor, and bravery. To Mark Dixon, my fellow soldier and friend, who died in the Vietnam conflict.

About the Author



Henry R. Cheeseman is Clinical Professor of Business Law and Director of the Legal Studies Program at the Marshall School of Business of the University of Southern California (USC), Los Angeles, California.

Professor Cheeseman earned a Bachelor's degree in Finance from Marquette University, a Master's degree in both Business Administration and in Tax from the University of Southern California, a Juris Doctor (J.D.) degree from the University of California at Los Angeles (UCLA) School of Law, a Masters of Business Administration with emphasis on Law and Economics from the University of Chicago, and a Master's in Law (L.L.M.) degree from Boston University.

Professor Cheeseman earned the "Golden Apple" Teaching Award on many occasions by having been voted the best professor at the Marshall School of Business of the University of Southern California.

He has been named a Faculty Fellow at the Center for Excellence in Teaching at USC by the Dean of the Marshall School of Business, and USC's Torch and Tassel Chapter of the Mortar Board has named Professor Cheeseman Faculty of the Month of USC.

Professor Cheeseman writes leading business law and legal environment textbooks that are published by Prentice Hall Publishing Company. These include: *Business Law*; *Legal, E-Commerce, Ethical, and International Environments*; *Contemporary Business and Online Commerce*; *The Legal Environment of Business and Online Commerce*; *Essentials of Contemporary Business Law*, and *Introduction to Law: Its Dynamic Nature*.

Professor Cheeseman is an avid traveller and amateur photographer. All interior photos for this book have been taken by Professor Cheeseman.

Preface

To the Students

Each semester, as I stand up in front of a new group of business majors in my legal environment class I am stuck by the thought that cases and statutes aside, I know two very important things that they have yet to learn. The first is that I draw as much from them as they do from me. Their youth, enthusiasm, questions, and even the doubts a few of them hold about the relevance of law to their futures fuel my teaching. They don't know that every time they open their minds to look at a point from a new perspective or critically question something they have taken for granted, I get a wonderful reward for the work that I do.

The other thing I know is that both teaching and learning the legal and ethical environments are all about stories. The stories I tell provide the framework on which students will hang everything they learn about the law in my class. It is my hope that long after the specific language of cases or statutes have faded, they will retain that framework. Several years from now, "unintentional torts" may draw only a glimmer of recognition with business managers who learn about them as students in my class this year. However, they will likely recall the story of the woman who sued McDonald's for serving her coffee that was too hot and caused her injuries. The story sticks and gives students the hook on which to hang the concepts.

I remind myself of these two facts every time I sit down to work on writing and revising *The Legal Environment of Business and Online Commerce* as well. My goal is to present the legal environment and ethics in a way that will spur students to ask questions, to go beyond rote memorization. Business law is an evolving outgrowth of its environment, and the legal environment keeps changing. In addition to the social, ethical, and international contexts I have incorporated in previous editions of *The legal Environment of Business and Online Commerce*, this fifth edition emphasizes coverage of Internet law and online commerce as two vital catalysts to the law and a key part of its environment.

It is my wish that my commitment to these goals shines through in this labor of love, and I hope you have as much pleasure in using it as I have had in creating it for you.

Henry Cheeseman



An Integrated Supplements Package

To ensure consistency of style, approach, and coverage among the key *print* and *online supplements*, these critical pieces were created by an author team working in conjunction with Henry Cheeseman. The supplements include:

Companion Website Access at www.prenhall.com/cheeseman. This Website will contain an Online Study Guide, including true/false and multiple choice questions, as well as PowerPoint presentations for each chapter. **New!** Free downloadable Student Study Guide with extra true/false, multiple choice, fill-in-the blank and essay questions for extra practice!

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Test Item File A bank of questions specially designed to aid in the preparation of tests. Each question includes a corresponding difficulty level, enabling the easy creation of tailor-made testing material.

TestGen Test management software containing all the material from the Test Item File. This software is completely user friendly and allows instructors to view, edit, and add test questions with a few clicks of the mouse.

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Instructor's Resource Center on CD A compilation of instructor's tools, including the Instructor's Manual, PowerPoints, Test Item File, and TestGen.

Acknowledgments

When I first began writing this book, I was a solitary figure researching cases in the law library and writing text at my desk. As time passed, others entered upon the scene—editors, research assistants, reviewers, production personnel—and touched the project and made it better. Although my name appears on the cover of this book, it is no longer mine alone. I humbly thank the following persons for their contributions to this project:

The Exceptional Supplements Team and Prentice Hall Professionals

Many thanks to Kerri Tomasso, the Prentice Hall Project Manager who produced the extensive supplements that support this edition of *The Legal Environment of Business and Online Commerce*. The supplements package has been authored by a remarkable team, with exceptional contributions from Ramona Atkins and Linda Fried. I'd also like to recognize Melissa Feimer, my production editor, who skillfully and cheerfully navigated a complex project on a tight deadline. Last, I appreciate the support of Jeff Shelstad, Editorial Director, and Wendy Craven, Executive Editor.

Reviews

I would like to personally thank the following reviewers, who have spent considerable time and effort reviewing the manuscripts for previous and current editions of *The Legal Environment of Business and Online Commerce* and whose comments, suggestions, and criticisms are seen in the final project.

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My family: My wife Shou-Yi Kang; my parents—Henry B. and Florence, deceased; my twin brother Gregory and his wife Lana; my sister Marcia; my nephew Gregory and niece Nikki, and the two new additions to the family, my great nieces Lauren and Addison.

The students at the Marshall School of Business at the University of Southern California (USC). Their spirit, energy, and joy is contagious, and I love teaching them (and as important, they teaching me).

Ashley Anderson, an undergraduate and pre-law student at the Marshall School of Business at USC, who has done an absolutely excellent job as my research assistant for the fifth edition of *The Legal Environment of Business and Online Commerce*.

While writing this Preface and Acknowledgment, I have thought about the thousands of hours I have spent researching, writing, and preparing this manuscript. I loved every minute, and the knowledge gained has been sufficient reward for the endeavor.

I hope this book and its supplementary materials will serve you as well as they have served me.

*With joy and sadness,
emptiness and fullness,
honor and humility,
I surrender the fruits of this labor*

Henry R. Cheeseman

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Legal Foundations and Global Environment

“Where there is no law, there is no freedom.”

—John Locke

Second Treatise of Government, Sec. 57

Chapter Objectives

After studying this chapter, you should be able to:

1. Define law and describe the functions of law.
2. Explain the development of the U.S. legal system.
3. List and describe the sources of law in the United States.
4. Describe the international civil law legal system used in some other countries.
5. Apply critical legal thinking in analyzing judicial decisions.

Chapter Contents

- What Is Law?
- Schools of Jurisprudential Thought
- History of American Law
- Sources of Law in the United States