



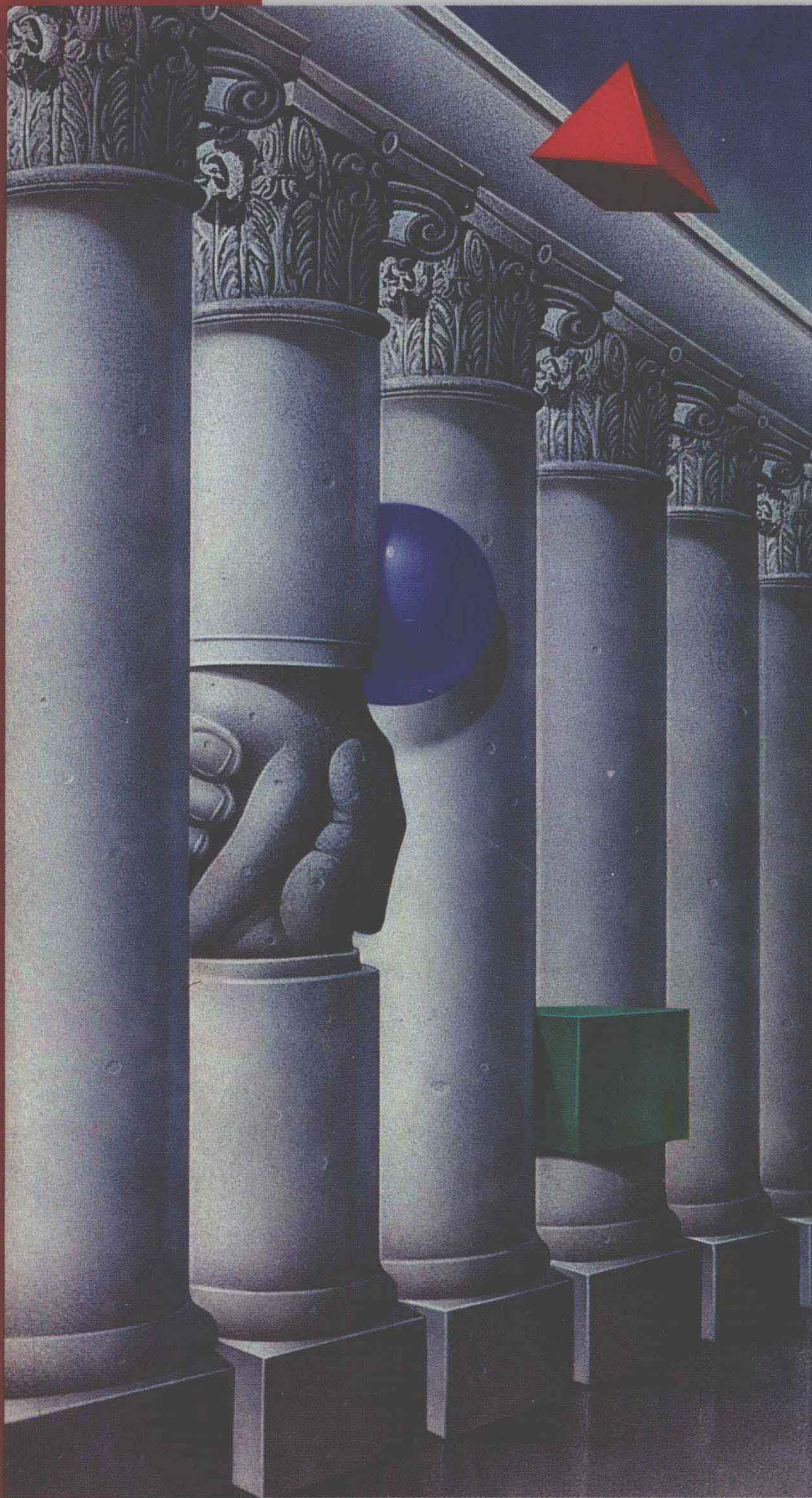
Business Law Today

Miller • Jentz

STANDARD EDITION

Text & Summarized Cases –
Legal, Ethical, Regulatory
and International
Environment

Fifth Edition



Business Law Today

STANDARD EDITION

Text & Summarized Cases

Legal, Ethical, Regulatory, and International Environment

FIFTH EDITION

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Preface to the Instructor

We have always felt that business law and the legal environment should be an exciting, contemporary, and interesting course. *Business Law Today*, Fifth Edition, we believe, imparts this excitement to your students. We have spent a great deal of effort in giving this book a visual appeal that will encourage students to learn the law. We have also worked hard to make sure that *Business Law Today* continues in the established tradition of being the most up-to-date text on the market. The law presented in the Fifth Edition of *Business Law Today* includes new statutes and regulations, as well as the most recent developments in case law.

We also believe that a thorough understanding of “black letter law” in the traditional business law topics—contracts, sales, torts, agency, business organizations, and other basic topics—is important. You will find that coverage of traditional business law has not been sacrificed in the process of creating this text. Additionally, *Business Law Today* explicitly addresses the American Assembly of Collegiate Schools of Business’s (AACSB’s) broad array of curriculum requirements. As you will see, many of the features and special pedagogical devices in this text focus on the global, political, ethical, social, environmental, technological, and cultural contexts of business law.



A Flexible Teaching/Learning Package

We realize that different people have different teaching philosophies and learning goals. We believe that the Fifth Edition of *Business Law Today* and its extensive supplements offer business law instructors a flexible teaching/learning package. For example, although we have attempted to make the materials flow from chapter to chapter, most of the chapters are self-contained. In other words, you can use the chapters in any order you wish.

Additionally, the extensive number of supplements accompanying *Business Law Today* allows instructors to choose those supplements that will most effectively complement classroom instruction. Suggestions on how you can adapt the *Business Law Today* teaching/learning package to fit your particular teaching and learning goals are given in the *Instructor’s Course Planning Guide*. Furthermore, each chapter of the *Instructor’s Manual* contains teaching suggestions, possible discussion questions, and additional information on key statutes or other legal sources that you may wish to use in your classroom. These and numerous other supplementary materials (including printed and multimedia supplements) all contribute to the goal of making *Business Law Today* the most flexible teaching/learning package on the market today.



Emphasis on Technology and the Internet

To ensure that *Business Law Today*, Fifth Edition, is truly up to date and reflects current law to the fullest extent possible, we have added an entirely new chapter titled “Cyberlaw in the Legal Environment” (Chapter 7). The chapter describes how existing laws are being applied to electronic transactions conducted over the Internet and how, in some areas, new laws have been enacted specifically to cover certain aspects of electronic commerce and other activities. In addition to this new chapter, the Fifth Edition has several other components focusing on technology.

BUSINESS LAW TODAY ON THE WEB

When you visit us at <http://blt.westbuslaw.com>, you will find, at a minimum, the following:

- Interactive quizzes for every chapter in *Business Law Today*, Fifth Edition.
- An “Internet Activities Book” containing one or more Internet exercises for every chapter in this text.
- Current legal events updated regularly and keyed to chapters in this text.
- Summaries of new cases from various West legal publications, as well as many other legal publications, all linked to this text.
- Links to other important legal resources available for free on the Web.
- “E-mail the Authors” feature.

ONLINE LEGAL RESEARCH GUIDE

With every new book, your students receive a free copy of *Online Legal Research*. This is the most complete brief guide to using the Internet that exists today. It was developed and written especially to accompany *Business Law Today*. There is even an appendix on how to evaluate information obtained from the Internet.

MULTIMEDIA INTERACTIVE QUICKEN®BUSINESS LAW PARTNER®CD-ROM

With this edition of *Business Law Today*, your students can explore the law in a practical, interactive way if you order with each copy of the text the *Quicken® Business Law Partner®* CD-ROM. With each copy of the CD-ROM is the *Quicken® Business Law Partner® CD-ROM and Applications* booklet prepared by Roger LeRoy Miller and William Eric Hollowell. This booklet guides the student to the multimedia part of the CD-ROM. In addition, it presents problems that are linked to the appropriate chapters in *Business Law Today*. Ask your sales representative how you can bundle this CD-ROM and booklet with each copy of the text.

SPECIAL TECHNOLOGY FEATURES AND PEDAGOGY

The following special features and pedagogy in the Fifth Edition of *Business Law Today* are designed to acquaint your students with technological trends in business law, as well as with the broad array of legal resources available on the Web.

- **Technology and the Law**—The majority of the chapters in the Fifth Edition now contain one of these special features, each of which explores a development in cyberlaw relating to the chapter topic. Virtually all of the technology features in the Fourth Edition have been replaced or rewritten, and many more have been added for the Fifth Edition.

- **On the Web**—These margin features, which are new to this edition, give specific Uniform Resource Locators (URLs), or Internet addresses, so that students can access online information concerning a topic being discussed in the text.
- **URLs for Cases**—Whenever possible, we have included URLs that can be used to access the cases presented in the text of *Business Law Today*. When a URL is available, it appears just below the case citation.
- **Online Activities**—To familiarize your students with online legal resources and help them learn to navigate the Internet, we have included at the end of every chapter one or more Internet exercises. Some of the exercises refer students to Internet exercises presented in the “Internet Activities Book” on the *Business Law Today* Web site at <http://blt.westbuslaw.com>.
- **Before the Test**—At the end of every chapter, just following the *Online Activities*, students are directed to the *Business Law Today* Web site, where they can access twenty interactive questions relating to the topics covered in the chapter.

More on LLCs and LLPs

Because of the growing importance of limited liability companies and limited liability partnerships, we have added an entirely new chapter on “Limited Liability Companies and Partnerships” (Chapter 30). This chapter provides your students with the most current information on these special business organizational forms.

Other Key Features

In addition to the *Technology and the Law* features discussed above, virtually all of the chapters in this text have one or more of the following special sections, which are designed both to instruct and to pique the interest of the business law student. To emphasize critical thinking, many of these features conclude with a question section titled *For Critical Analysis*. These critical-analysis questions, which may serve as a basis for classroom discussion, require the student to reflect on some aspect or implication of the topics discussed in the features.

- **Landmark in the Law**—This feature, which appears in most of the chapters in this edition, discusses a landmark case, statute, or other law that has had a significant effect on business law.
- **Business Law in Action**—Nearly every chapter of the text contains one of these features, which present examples of how laws relating to chapter topics are applied to specific situations that have recently arisen in the business arena.
- **Application**—Almost all of the chapters have an *Application* section, which presents the student with some practical advice on how to apply the law discussed in the chapter to real-world business problems. Each *Application* ends with a “Checklist” for the future businessperson on how to avoid legal problems.
- **The Letter of the Law**—This feature, which is new to the Fifth Edition, provides students with a glimpse at sometimes humorous, sometimes serious illustrations of how the letter of the law has been phrased, interpreted, or applied. Each feature concludes with a section called *The Bottom Line*, which consists of a statement summarizing the implications of the illustrated topic for businesspersons.
- **Ethical Issues**—In addition to a chapter on ethics, chapter-ending ethical questions, and the *Ethical Considerations* following many of the cases presented in this text, we have included special features called *Ethical Issues*. These features, which are closely integrated with the text, open with a question addressing an ethical

dimension of the topic being discussed. Each *Ethical Issue* has been given a number so that it can be easily located for review or discussion.

- ***International Perspectives***—These features give students an awareness of the global legal environment by indicating how international laws or the laws of other nations deal with specific legal concepts or topics being discussed in the chapter.



A Special Case Format

In each chapter, we present cases that have been selected to illustrate the principles of law discussed in the text. The cases are numbered sequentially for easy referencing in class discussions, homework assignments, and examinations. In choosing the cases to be included in this edition, our goal has been to include the most recent cases from the late 1990s, as well as classic cases in business law.

Each case presented in *Business Law Today* follows a basic case format consisting of the following sections:

- Case title and full case citation (including parallel citations).
- Facts.
- Issue.
- Decision.
- Reason.

In addition, each case is preceded by either a *Company Profile* providing background information on a party to the case or by a *Historical and [Social or Other] Setting* placing the case in its social, cultural, technological, international, economic, or other relevant setting. Concluding each case is a *For Critical Analysis* section, which consists of a question that requires the student to think critically about a particular issue raised by the case. The section addresses the AACSB's curriculum requirements by focusing on how particular aspects of the dispute or the court's decision relate to ethical, international, technological, cultural, or other types of issues.



Other Special Pedagogical Devices

We have included in *Business Law Today* a number of additional pedagogical devices, including those discussed below.

SPECIAL PEDAGOGICAL DEVICES IN THE TEXT

- *Learning Objectives*.
- *Contents* (an outline of the chapter's first-level and second-level headings).
- Margin definitions.
- *Margin On the Web* features directing students to relevant Web sites.
- Highlighted and numbered examples illustrating legal principles.
- Quotations.
- Exhibits and forms (about one hundred).
- Photographs (with critical-thinking questions).
- Judiciously selected cartoons.

CHAPTER-ENDING PEDAGOGY

- *Key Terms* (with appropriate page references).
- *Chapter Summary* (in graphic format with page references).
- *For Review* (a series of brief review questions).

- *Questions and Case Problems* (including hypotheticals and case problems; many of the case problems are based on cases from the late 1990s).
- *A Question of Ethics and Social Responsibility*.
- *For Critical Analysis*.
- *Online Activities*.
- *Before the Test* (online chapter-by-chapter quizzes).

UNIT-ENDING PEDAGOGY—CUMULATIVE BUSINESS HYPOTHETICALS

Each unit in *Business Law Today*, Fifth Edition, concludes with a section that introduces a hypothetical business firm and then asks a series of questions about how the law applies to various actions taken by the firm. To answer the questions, the student must apply the laws discussed throughout the unit. Suggested answers to the unit-ending cumulative questions are included in the *Answers Manual*. Each of these sections has been newly created for the Fifth Edition.

UNIT-ENDING PEDAGOGY—EXTENDED CASE STUDIES

New to the Fifth Edition is a special, two-page feature called *Extended Case Study: The Law in Context*. This feature, which appears just following the *Cumulative Business Hypothetical* at the end of each unit, focuses on a specific court case relating to a topic covered in the unit. Each feature opens with an introductory section, which discusses the background and significance of the case being presented. Then we present excerpts from the court's majority opinion and, when one exists, from a dissenting opinion in the case. These excerpts are followed by a section titled *Media Coverage*, which presents excerpts from a news article discussing the case. In the *Going Online* section that follows, the student is directed to one or more Web sites at which the case itself or further information on the case can be found. The feature concludes with a series of questions, under the heading *Questions for Analysis*, that prompt the student to think critically about the legal, ethical, economic, international, or general business implications of the case.

APPENDICES

To help students learn how to find and analyze case law, we have included a special appendix at the end of Chapter 1. There your students will find information, including an exhibit, on how to read case citations, how to locate cases in case reporters, and what the different components of URLs (Internet addresses) mean. The appendix to Chapter 1 also presents an annotated sample court case to help your students understand how to read and understand the cases presented within this text.

Because the majority of students keep their business law text as a reference source, we have included at the end of the book the following full set of appendices (Appendix E and Appendix G are new to the Fifth Edition):

- A. The Constitution of the United States.
- B. The Uniform Commercial Code, including the 1994 revised version of Article 8.
- C. The Uniform Partnership Act.
- D. The Revised Model Business Corporation Act (Excerpts).
- E. The Uniform Limited Liability Company Act (Excerpts).
- F. The Restatement (Second) of Torts (Excerpts).
- G. The Restatement (Third) of Torts: Products Liability (Excerpts).
- H. The Sherman Antitrust Act of 1890 (Excerpts).

- I. The Securities Act of 1933 (Excerpts).
- J. The Securities Exchange Act of 1934 (Excerpts).
- K. Title VII of the Civil Rights Act of 1964 (Excerpts).
- L. The Americans with Disabilities Act of 1990 (Excerpts).
- M. The Civil Rights Act of 1991 (Excerpts).
- N. The United Nations Convention on Contracts for the International Sale of Goods (Excerpts)
- O. Spanish Equivalents for Important Legal Terms in English.



Supplemental Teaching Materials

This edition of *Business Law Today* is accompanied by a vastly expanded number of teaching and learning supplements. Individually and in conjunction with a number of our colleagues, we have developed supplementary teaching materials that we believe are the best available today. Each component of the supplements package is listed below.

PRINTED SUPPLEMENTS

- *Instructor's Course Planning Guide.*
- *Instructor's Manual.*
- *Study Guide.*
- A comprehensive *Test Bank.*
- *Answers Manual.*
- *Instructor's Manual* for the *Drama of the Law* video series.
- *Case Printouts* (including printouts of cases referred to in selected features).
- *Handbook on Critical Thinking and Writing.*
- *Handbook of Landmark Cases and Statutes in Business Law.*
- *A Guide to Personal Law.*
- *Lecture Outline System.*
- *Online Legal Research.*
- *Quicken® Business Law Partner® CD-ROM and Applications*
- Regional Reporters.

SOFTWARE AND VIDEO SUPPLEMENTS

- Thomson Learning Testing Tools—including Testing Tools Test, Testing Tools Manager, and Testing Tools Online.
- Computerized *Instructor's Manual.*
- Computerized *Answers Manual.*
- *Quicken® Business Law Partner® CD-ROM.*
- Interactive Software—Contracts and Sales.
- “You Be the Judge” software.
- Case-Problem Cases on Diskette.
- PowerPoint Slides.
- Transparency Acetates.
- Westlaw®.
- West's Business Law and Legal Environment Audiocassette Library.
- Videocassettes, including new videos on specific legal applications. (For further information on video supplements, access the *Business Law Today* Web site at <http://blt.westbuslaw.com>.)



For Users of the Fourth Edition

We thought that those of you who have been using *Business Law Today* would like to know some of the major changes that have been made for the Fifth Edition. The book is basically the same, but we think that we have improved it greatly, thanks in part to the many letters, telephone calls, and reviews that we have received.

NEW CHAPTERS AND ORGANIZATIONAL CHANGES

- An entirely new chapter on cyberlaw, titled “Cyberlaw in the Legal Environment” (Chapter 7) has been added for the Fifth Edition. The chapter focuses on how cyberspace is affecting business practices and the legal environment in a number of areas. Topics covered in the chapter include court practices and procedures, jurisdictional issues, free speech, cyber crimes, cyber torts, virtual property rights, e-commerce, e-money, and marketing on the Internet.

- A newly created chapter titled “Limited Liability Companies and Partnerships” (Chapter 30) expands the Fourth Edition’s coverage of limited liability companies and partnerships, and incorporates the materials on limited partnerships that were previously presented within the chapter on partnerships.

- The materials on private franchises and special business forms (joint ventures, business trusts, and others) now appear in a separate chapter at the end of the business organizations unit as Chapter 31, “Special Business Forms and Private Franchises.”

- The chapter titled “Ethics and Social Responsibility,” which was placed as Chapter 4 in the Fourth Edition, has been repositioned for the Fifth Edition so that it follows the chapters on torts, criminal law, and cyberlaw; it now appears as Chapter 8, concluding Unit One of the text.

NEW FEATURES AND PEDAGOGY

- *The Letter of the Law*.
- *Ethical Issues* (these replace the Fourth Edition’s Ethical Perspectives).
- *Extended Case Study: The Law in Context* (at the end of each unit).
- *On the Web* margin notes.
- Internet URLs for cases presented in the text.
- *Online Activities* (at the end of each chapter).
- *Before the Test* (at the end of each chapter—online chapter quizzes).
- Highlighted and numbered examples.

SIGNIFICANTLY REVISED CHAPTERS

Every chapter of the Fifth 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 addressed in the special features of the Fifth Edition. Other major changes and additions made for this edition include the following:

- Chapter 2 (Constitutional Law) now contains an expanded discussion of federalism and the balance of powers. The subsections on the constitutional protections in criminal proceedings were moved to Chapter 6 and are now discussed in the context of criminal law.

- Chapter 5 (Business Torts and Intellectual Property) now includes a discussion of the Trademark Dilution Act of 1995, the Digital Millennium Copyright Act of 1998, and state food-disparagement statutes (including a discussion of the case brought against Oprah Winfrey for trade libel).

- Chapter 6 (Criminal Law) includes a discussion of the Economic Espionage Act of 1996, which criminalized the theft of trade secrets, and a fuller discussion of the distinction between criminal and civil law. Sections on white-collar crimes and corporate criminal liability were also added to the chapter.
- Chapter 18 (Warranties and Product Liability) contains a new section on the *Restatement (Third) of Torts: Products Liability* and incorporates provisions from this new *Restatement* in the discussion of strict product liability.
- Chapter 23 (Creditors' Rights and Bankruptcy) reflects the 1998 adjustments to dollar amounts for exempted property and distributions under the Bankruptcy Code.
- Chapter 29 (Investor Protection) includes a discussion of the "Plain English" requirements of the Securities and Exchange Commission (SEC) and examines the reversal by the SEC of its earlier rulings on shareholder proposals relating to equal employment opportunity.
- Chapter 32 (Antitrust Law) discusses, in an *Ethical Issue*, the Curt Flood Act of 1998, which modified professional baseball's exempt status under antitrust laws. A technology feature discusses the case brought by the Justice Department against Microsoft Corporation.
- The chapters on employment (Chapters 34 and 35) incorporate references to the latest developments in the areas of labor and employment law, including 1998 decisions by the United States Supreme Court.

WHAT ELSE IS NEW?

In addition to the changes noted above, you will find a number of other new items or features in *Business Law Today*, Fifth Edition, as listed below.

- **New Cases and Case Problems**—Numerous new cases were added for the Fifth Edition, including thirty-eight cases decided in 1998. Additionally, virtually every chapter has one new case problem dating from the late 1990s. As mentioned earlier in this preface, all of the unit-ending hypothetical questions are new.
- **New Exhibits**—We have modified exhibits contained in the Fourth Edition of *Business Law Today*, Fifth Edition, whenever necessary to achieve greater clarity or accuracy. In addition, new exhibits have been added for this edition, including a series of Web home pages (in Chapter 7); Exhibit 30–2, a two-page exhibit comparing business organizational forms (sole proprietorships, partnerships, corporations, limited partnerships, limited liability companies, and limited liability partnerships) with respect to how they are formed, the liability of the owners, and other characteristics; and Exhibit 38–3 (John Lennon's will).
- **New Appendices**—Appendix E, "The Uniform Limited Liability Company Act (Excerpts)," and Appendix G, "The Restatement (Third) of Torts: Products Liability (Excerpts)," are both new to the Fifth Edition. Additionally, the Uniform Commercial Code is presented in its entirety in Appendix B. Appendix B also now includes the 1994 revised version of Article 8.

NEW SUPPLEMENTS

- *Online Legal Research*.
- *A Guide to Personal Law* (now offered separately from the text).
- *Quicken® Business Law Partner® CD-ROM and Applications*
- PowerPoint Slides.
- A greatly enhanced Web site at <http://blt.westbuslaw.com>.



Acknowledgments

Numerous careful and conscientious users of *Business Law Today* were kind enough to help us revise the book. In addition, the staff at West Publishing Company went out of its way to make sure that this edition came out early and in accurate form. Our editors, Rob Dewey and Scott Person, gave us countless new ideas, many of which have been incorporated into this new edition. Our fearless and tireless Webmaster, Kurt Gerdenich, guided us throughout the project so that we ended up with the most advanced and useful Web site around. We learned much from our marketing manager, Mike Worls, and we keep on learning from his in-field experiences. We thank also Kristen Meere, who mans the “hotline” and who relays new issues and ideas to us all of the time. We have enjoyed the support and respect of “the Chief” Bob Lynch for years. We hope to continue to satisfy his demands. Our production manager and designer, Bill Stryker, made sure that we came out with an error-free, visually attractive edition. We will always be in his debt. Finally, we continue to be the grateful beneficiaries of the great work of our long-time developmental editor, Jan Lamar. She continues to deserve our thanks for her efforts in coordinating reviews and in guaranteeing the timely and accurate publication of all supplemental materials. Finally, we wish to thank Megan Ryan, our production editor for all of the supplements, for the great job she has done.

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We know that we are not perfect. If you or your students find something you don't like or want us to change, write to us. That is how we can make *Business Law Today* an even better book in the future.

Roger LeRoy Miller
 Gaylord A. Jentz



Dedication

To Kim and Bob Disbrow,
whose skills and performance
continue to amaze me
(and everyone else, too).
R.L.M.

To my wife, JoAnn; to my children,
Kathy, Gary, Lori, and Rory; and to
my grandchildren, Erin,
Megan, Eric, Emily, Michelle,
Javier, Carmen, and Steve.
G.A.J.

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