



# **WEST'S BUSINESS LAW**

Text

Cases

Legal, Ethical, Regulatory  
and International Environment

SIXTH EDITION

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- *Study Guide to Accompany West's Business Law* prepared by Barbara Behr, James A Bernstein and Susan Bernstein.
- *Study Guide/Outline to Accompany West's Business Law* prepared by Roger LeRoy Miller and Eric Hollowell.

For more information on the study guides, please see the preface of this text where they are explained in greater detail.

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# PREFACE TO THE INSTRUCTOR

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**B**usiness law and, more generally, the legal environment of business have 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 fruitfully use much of the information they learn in a business law or legal environment course. Every individual throughout a lifetime can use knowledge of contracts, real property law, landlord-tenant relationships, and the like. Consequently, we have fashioned this text as a useful “tool for living” for all students (including those taking the CPA exam).

## KEY AREAS OF EMPHASIS

To make sure that instructors and students alike can rely on the coverage, accuracy, and applicability of *West's Business Law*, we emphasize the following throughout the text:

- **Comprehensiveness**—Virtually every important topic in business law and the legal environment is covered in this book. We have made the text extremely comprehensive to allow instructors complete flexibility in choosing those areas of the law and legal environment that they wish to emphasize.
- **Authoritativeness**—Virtually every aspect of business law and the legal environment has been fully researched for inclusion in this text. Instructors can rely on its accuracy and can find references to case and statutory law, as needed, for any needed external authority. Complete parallel citations are given throughout the text. An extensive set of appendices includes the latest revisions to the UCC and other uniform codes and statutes. Accuracy is the watchword of *West's Business Law*.
- **Ethics**—Because of the importance of ethics, there is an early chapter on the subject, with continuing references to ethics throughout.

- **International**—As the world gets smaller, a knowledge of the international and comparative aspects of the law must become part of any student's background. To this end, *West's Business Law* includes a full chapter on comparative law (Chapter 10); the integration of the United Nations Convention on Contracts for the International Sale of Goods (CISG) throughout all of the chapters on sales law; international considerations at the end of certain cases in every chapter; and finally, a full chapter on international law (Chapter 56).
- **AACSB Curriculum Requirements**—This text explicitly addresses the AACSB's broad array of curriculum requirements by focusing on the global, political, ethical, social, environmental, technological, and cultural-diversity context of many of the cases presented. Specifically, selected cases are preceded by a *Historical and [ . . . ] Setting*, which places the case in a particular political, ethical, social, or other setting. Additionally, *Company Profiles* precede many of the cases in this edition. Finally, the materials in Unit One (Chapters 1 through 10) explore virtually every facet of the AACSB's curriculum requirements. The AACSB's emphasis on the global and ethical context of the law is addressed throughout the rest of the text in the *International and Ethical Considerations* that follow many of the cases and in the *Focus on Ethics* section found at the end of each unit.
- **Personal Law**—To make sure that your students get a sense of how the law can affect them on a personal level, we have developed a *Personal Law Handbook*, which is placed just following Chapter 56.
- **Tomorrow's Technology Today**—Just as the content of *West's Business Law* is authoritative, accurate, and up to date, so is the manner in which the content can be accessed. Students have the option of using *The West's Business Law Interactive CD-ROM Edition* as either a substitute for the printed text or as a complement to the printed text.

## WEST'S BUSINESS LAW MAKES BUSINESS LAW COME ALIVE

Perhaps the most exciting aspect of the Sixth Edition of *West's Business Law* is that the subject

matter comes alive for your students. Within the text itself, the *Company Profiles*, *Historical and Social [or other] Settings*, *International Considerations*, *Ethical Considerations*, and the extensive use of real-world examples throughout guarantee a high-interest level, even when the topic under study is somewhat technical.

But the text itself does not stand alone. Student users of this text have an impressive list of supplements that also make the study of business law and the legal environment come alive. These include audiocassettes of actual arguments before the Supreme Court; videos ranging from *Moot Court* (a simulated Supreme Court case in which Stephen Breyer—who has since been appointed to the Supreme Court bench—was one of the mock Supreme Court justices) to *The Making of a Case* (featuring Richard Dysart, star of "L.A. Law") to twenty original dramatizations (*The Drama of the Law, Parts I and II*) made specifically by the *West's Business Law* author/editorial team to demonstrate the application of legal principles to common business situations. Students can also further develop their understanding of the law and legal environment by using some of the extensive interactive software programs currently available with this text. And, of course, students with CD-ROM players can actively participate in the learning process by using *The West's Business Law Interactive CD-ROM Edition*.

## REVISED ARTICLES 3 AND 4 OF THE UNIFORM COMMERCIAL CODE

At the writing of this edition, thirty-six states have adopted revised Articles 3 and 4 of the UCC. In order to satisfy all users of *West's Business Law*, we have carefully revised all chapters covering Articles 3 and 4. Within the text itself, all explanations are now based on the revised articles. The formal UCC citations within the text and the exhibits, however, refer to the relevant sections in both the revised and the unrevised articles.

Additionally, whenever there has been a significant change from the unrevised articles, there is a full explanatory footnote.

Next, when appropriate, two answers are given to each of the end-of-chapter case problems involving the application of Articles 3 and 4 of the UCC: the answer under the unrevised UCC and the answer under the revised UCC.

Finally, the *Test Bank* includes a separate set of questions for both the unrevised Articles 3 and 4 and the revised Articles 3 and 4.

Hence, no matter what has happened in your state, you can use *West's Business Law*, Sixth Edition. Even if your state shifts from the unrevised to the revised articles during the life of this edition, you will have no problems with these materials.

## EMPHASIS ON THE INTERNATIONAL SIDE OF THE LAW

As already mentioned, because our world is becoming smaller, we feel that business law and legal environment students must have more than a passing understanding of the international aspects of the law. Consequently, we have emphasized international and comparative law throughout the book. Your students will find the following special features:

- **Comparative Law**—All of Chapter 10 at the end of Unit One is devoted to comparative law. There your students will see how different countries treat contract law, employment law, and the like.
- **International Considerations**—There are more than fifty *International Considerations* judiciously placed at the end of appropriate cases throughout the text. Your students can quickly learn how other countries treat similar legal issues.
- **International Sales Law**—At the end of virtually every chapter in Unit Three (Chapters 20 through 25), there is a section that shows how the CISG mirrors or is different from the UCC.
- **Special Appendices**—The appendices include excerpts from the CISG (in Appendix D), from the General Agreement on Tariffs and Trade (in Appendix O), and from the North American Free Trade Agreement (in Appendix P).

## OTHER SPECIAL FEATURES OF THIS TEXT

In addition to offering coverage of the topics of special concern discussed above, our text provides many other unique features for you and your students.

## CASES

Special attention is given in *West's Business Law* to case selection and presentation, as well as to simplifying the task of finding and analyzing case law.

**CLASSIC AND CONTEMPORARY CASES** You will find a diverse selection of case excerpts in the chapters. We have attempted to provide classic and landmark cases, as well as some of the most modern examples of business law. There are approximately one hundred cases in this edition from 1992, 1993, and 1994.

**AN EFFECTIVE STANDARD CASE FORMAT** Each case presented in *West's Business Law* follows a standard format:

- **Case Title and Full Case Citation**—The case title and full case citation (including all parallel citations) are presented in the margin at the beginning of each case.
- **Background and Facts**—This section contains a summary, in the authors' own words, of the events leading up to the lawsuit.
- **Case Excerpt**—Following the summary of the background of the case, an excerpt from the actual court opinion is presented—in a contrasting type size to differentiate it from the surrounding textual material. Whenever the court opinion contains a term or phrase that may be difficult for the student to understand, a brief explanation is provided in brackets. Important phrases and sentences are italicized, and a bracketed note clearly indicates that the emphasis was added by the authors, not by the court.
- **Decision and Remedy**—In this section, the authors summarize, in their own words, the outcome of the case.

**ADDITIONAL SECTIONS IN THE CASES** Many cases include additional sections, some of which have already been described.

- **Company Profiles**—Over fifty companies are profiled before appropriate cases. A history and makeup of the company involved in the particular case are presented to give your students the real-world background of these cases.
- **Historical and [. . .] Settings**—When appropriate, the global, political, ethical, social, envi-



ronmental, technological, or cultural-diversity context of a case is presented in one of these *Settings*.

- **Comments**—Sometimes a special clarifying comment is added by the authors following the *Decision and Remedy* section.
- **Ethical Considerations**—These sections discuss ethical aspects of the law or laws under consideration.
- **International Considerations**—As explained above, these sections let your students know how the particular issue at bar is treated in other countries.

**CASE CITATIONS FULLY EXPLAINED** In Chapter 1, we use a comprehensive format to explain case citations. In addition to our explanatory text, we offer an exhibit in four-color graphics to lead the student to a full understanding of how to read and understand case citations in this text and in other legal references.

**CASE BRIEFING ASSIGNMENTS** Some professors prefer to have their students brief a few cases. To make these assignments more manageable for both students and professors, we provide in Appendix A a short explanation of how to brief a case, followed by a briefed version of the sample court case presented in Chapter 1 and selected cases for briefing. Case briefing assignments, including questions that should be answered for each of the cases chosen for briefing, are found at the end of the problem sets in eleven of the chapters in the text (one for each unit). Sample answers to the questions listed in the case briefing assignments are found in the *Answers to Questions and Case Problems* manual.

## ETHICS

The teaching of ethics has become an integral part of every introductory course in business law and the legal and regulatory environment of business. To satisfy the increased interest in ethical questions, we have integrated ethics throughout this text.

**AN EARLY CHAPTER ON ETHICS** Chapter 2, which deals with business ethics, sets the tone for ethical analyses throughout the remainder of the text.

**CASE ETHICAL CONSIDERATIONS** As already mentioned, numerous cases contain special con-

cluding sections called *Ethical Considerations*. These sections expose and define the ethical issues brought out in the cases.

**A QUESTION OF ETHICS** Twenty-seven chapters of *West's Business Law*, Sixth Edition, have a special problem at the end of the chapter entitled *A Question of Ethics*. A real-world case is summarized, and then questions about ethical aspects of the case are presented for the student to answer. Suggested answers to these questions are included in the *Answers to Questions and Case Problems*.

**FOCUS ON ETHICS** At the end of each of the eleven units in this text is a special section entitled *Focus on Ethics*. Each of these sections addresses ethical aspects of the law discussed in the preceding unit. While these sections are not intended to substitute for a course in ethics, each section is designed to elicit comments and discussion from the student-readers on ethical issues. For this reason, each *Focus* ends with a set of discussion questions. Brief suggested answers to these questions can be found in the *Instructor's Manual*. Further comments on, and references for, these sections are also given in the *Instructor's Manual*.

## EMERGING TRENDS IN BUSINESS LAW

A number of chapters include a feature entitled *Emerging Trends in Business Law*. These two-page spreads emphasize policy issues that have arisen, or will arise, with respect to certain aspects of business law and the legal environment. Each feature concludes with the following two sections:

- **Implications for the Businessperson**—A list of the steps that businesspersons might take to prevent legal problems in the particular area being discussed.
- **For Critical Analysis**—A set of two or three questions that require the student-reader to critically analyze aspects of the emerging trend discussed in the feature.

The following *Emerging Trends* are included in this edition:

- The Institutionalization of Ethics (Chapter 2)
- Copyright Infringement in the Electronic Age (Chapter 8)
- Getting Together on Corporate Crime (Chapter 9)

- Where Punitive Damages Are Headed (Chapter 25)
- Revising the Bankruptcy Code: Chapter 11 under Attack (Chapter 33)
- The Expanding Scope of the ADA (Chapter 37)
- Limited Liability Companies (LLCs) (Chapter 38)
- Limited Liability Partnerships (LLPs) (Chapter 39)
- Lender Liability under Superfund (Chapter 47)
- The Limitation of Landlords' Liability for Crimes on Leased Premises (Chapter 52)

## 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 fifty-one such summaries, including the following:

- Trial Procedures (Chapter 4)
- Intentional Torts (Chapter 6)
- The Statute of Frauds (Chapter 16)
- Warranties under the UCC (Chapter 24)
- Remedies of the Secured Party upon the Debtor's Default (Chapter 31)
- Forms of Bankruptcy Relief Compared (Chapter 33)
- Role of Directors and Officers (Chapter 42)
- Liability of Accountants and Other Professionals (Chapter 55)

## EXHIBITS

When appropriate, we have illustrated important aspects of the law in graphic or summary form in exhibits. In all, eighty-nine exhibits are now featured in *West's Business Law*, Sixth Edition, including the following:

- *Exhibit 1-6*—How to Read Case Citations
- *Exhibit 4-1*—Stages in a Typical Lawsuit
- *Exhibit 10-2*—The Legal Systems of Nations
- *Exhibit 19-1*—Measurement of Damages—Breach of Construction Contracts
- *Exhibit 22-1*—Letter-of-Credit Transaction
- *Exhibit 29-4*—A Stop-Payment Order
- *Exhibit 32-1*—Suretyship and Guaranty Parties
- *Exhibit 43-3*—The Terminology of Takeover Defenses
- *Exhibit 44-3*—Comparison of Coverage, Application, and Liabilities under Rule 10b-5 and Section 16(b)

- *Exhibit 50-1*—Degree of Care Required of a Bailee
- *Exhibit 56-1*—Multilateral International Organizations in Which the United States Participates

## VOCABULARY STRESSED

In addition to including bracketed explanations of difficult terms and phrases within the court opinions presented in the text, this edition has been completely edited to ensure that every important legal term used by the authors is fully defined when it is first introduced.

At the end of each chapter, all terms that were boldfaced within the chapter are listed in alphabetical order under the heading *Terms and Concepts to Review*. The page on which the term is defined is given after each term. Students can briefly examine the list to make sure that they understand all important terms introduced in the chapter and can immediately review terms that they do not completely understand by referring to the page number given. All boldfaced terms are listed and again defined in the *Glossary* at the end of the text.

## QUESTIONS AND CASE PROBLEMS

Every chapter of this text ends with ten to fourteen questions and case problems. The first three to six of these are hypothetical questions. The remainder are actual case problems, many of which (approximately 75 throughout the book) are from 1992, 1993, and 1994. Some of the case problems are based on cases that can be found in their entirety in the LEGAL CLERK Research Software System (discussed below). Complete answers are given in a separate manual for all questions and case problems in the text, including the ethical questions and case briefing assignments. The *Answers to Questions and Case Problems* is free to adopters and can be placed on reserve in the library, if desired.

## PERSONAL LAW HANDBOOK

At the end of the regular text, your students will find a *Personal Law Handbook*. We view this as a practical guide to applications of the law to personal, financial, business, and consumer problems. Under no circumstances do we ever suggest that the student act as his or her own attorney. Indeed, the maxim that "he who acts as his own attorney



has a fool for a client'' is stressed at the beginning of the handbook. The topics we have chosen to cover in the *Personal Law Handbook* are as follows:

- Renting a Home
- Family Law (including divorce settlements)
- Consumer Law
- Employment Law
- Owning and Operating Motor Vehicles
- Criminal Law
- Jury Duty

## APPENDICES

Because the majority of students keep their business law texts as a reference source, we have included a full set of appendices. They are as follows:

- A. How to Brief a Case and Selected Cases
- B. The Constitution of the United States
- C. The Uniform Commercial Code
- D. The United Nations Convention on Contracts for the International Sale of Goods (Excerpts)
- E. The Uniform Partnership Act
- F. The Revised Uniform Partnership Act (Excerpts)
- G. The Revised Uniform Limited Partnership Act
- H. The Revised Model Business Corporation Act
- 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 Administrative Procedure Act of 1946 (Excerpts)
- O. The General Agreement on Tariffs and Trade (Excerpts)
- P. The North American Free Trade Agreement (Excerpts)
- Q. A Guide to Research in Business Law—Including Using the Internet
- R. Spanish Equivalents for Important Legal Terms in English

## THE RESEARCH GUIDE AND USING THE INTERNET

You will notice that we have included an appendix (Appendix Q) on research in business law. For

those instructors who require their students to do research projects covering legal topics, this is an invaluable research guide.

Additionally, your students can find out how to do legal research using the Internet. This unique section presents what is currently available on the "electronic superhighway" as it relates to business law and the legal environment.

## THE WEST'S BUSINESS LAW INTERACTIVE CD-ROM EDITION

Increasingly, students and instructors alike are turning to the CD-ROM format to obtain information and to study. Your students can now order *West's Business Law* in its entirety as an electronic book on CD-ROM. But simply transferring the text files of this book to a CD-ROM does little good. Consequently, West Publishing Company has developed the first truly interactive electronic book in business law and the legal environment. The CD-ROM Edition provides the following:

- Video segments
- Voice/audio accompaniment where appropriate (for example, excerpts of oral arguments before the United States Supreme Court)
- Biographical enrichment material of important jurists and others
- Advanced topics as enrichment materials
- The availability of full case presentation
- Appropriate statute excerpts corresponding to their particular references within the text
- A notebook function so that students can make their own notes
- A built-in study guide
- Selected supplements that accompany *West's Business Law*

The *West's Business Law Interactive CD-ROM Edition* can be ordered as a substitute for the printed text. Alternatively, your students can obtain it for an additional charge as a supplement to the printed text. In this way, they can use the printed text to read the assigned material and go to the electronic book to obtain enrichment videos, audios, and the like.

## THE COMPLETE SUPPLEMENTS PACKAGE

While some of the supplements, such as the CD-ROM Edition, have already been mentioned, there are numerous other supplements that make up the complete *West's Business Law*, Sixth Edition, teaching/learning package.

### A PLANNING GUIDE

To simplify and make more efficient the work effort of the instructor using *West's Business Law*, Sixth Edition, we offer a unique guide that integrates all of the printed, software, video, and CD-ROM supplements. For each chapter in *West's Business Law*, Sixth Edition, this guide will give you helpful suggestions on what parts of the complete learning/teaching package to use.

### PRINTED SUPPLEMENTS

The printed supplements for *West's Business Law*, including the *Planning Guide* just mentioned, have a single goal in mind: to make the task of teaching and the task of learning more enjoyable and more efficient.

**INSTRUCTOR'S MANUAL** The *Instructor's Manual* has been written by text author Roger LeRoy Miller, together with William Eric Hollowell. Having one of the authors of the main text write the *Instructor's Manual* has resulted in complete agreement between what is stressed in the text and what is fully outlined in the *Instructor's Manual*. A computerized version of the *Instructor's Manual* is also available. (This version is described below, under software supplements.)

**TWO STUDY GUIDES** You have the choice of ordering one of two available study guides. One guide has been prepared by Professor Barbara E. Behr, James A. Bernstein and Susan Bernstein and is entitled *Study Guide to Accompany West's Business Law*.

The other study guide, entitled *Study Guide/Outline to Accompany West's Business Law*, has been prepared by text author Roger LeRoy Miller, together with William Eric Hollowell.

A computerized version of the study guide by Barbara Behr—called *Microguide*—is also available. (See below, under software supplements.)

**CASE PRINTOUTS** Most of the cases in the main body of the text have been reprinted in their entirety and published in a separate booklet, called *Case Printouts to Accompany West's Business Law*. This supplement is available free to adopters.

**ANSWERS MANUAL** A complete answers manual entitled *Answers to Questions and Case Problems* is available to all adopters. Each answer is presented in a standard format:

- *Point of Law*—The point of law to which the problem relates is first stated in boldface.
- *Section Reference*—The point of law is followed by the chapter section number in which the point of law is discussed.
- *Answer*—The specific answer to the question or problem is then given.

**ADVANCED TOPICS AND CONTEMPORARY ISSUES: EXPANDED COVERAGE** A specially prepared paperback text entitled *Advanced Topics and Contemporary Issues: Expanded Coverage to Accompany West's Business Law* has been created by text author Frank B. Cross. The book is available to students at their instructor's option. *Advanced Topics* provides supplemental detailed coverage on the following topics:

1. Business Ethics
2. International Business Law
3. Individual Employee Rights
4. Employment Discrimination Law
5. Occupational Safety and Workers' Compensation
6. Accountant Liability
7. Securities Law and Regulation
8. Mergers and Acquisitions
9. Insurance Law
10. Real Estate Law
11. Banking Regulation and Liability
12. Unfair Competition
13. Advertising Law
14. Environmental Liability
15. Health Care Law
16. Sports and Entertainment Law
17. Hospitality Management Law
18. Communications Law
19. Government Contracts
20. Legal Representation of Business

Additionally, each chapter ends with *Ethical Perspectives* and *International Perspectives*.

**HANDBOOK OF SELECTED STATUTES** This supplement is available for your students upon request. It includes excerpts from the following statutes:

- The Federal Trade Commission Act of 1914
- The National Labor Relations Act of 1935
- The Occupational Safety and Health Act of 1970
- The Privacy Act of 1974
- The Foreign Corrupt Practices Act of 1977
- The Electronic Fund Transfer Act of 1978
- The Counterfeit Access Device and Computer Fraud and Abuse Act of 1984
- The Electronic Communications Privacy Act of 1986
- The False Claims Reform Act of 1986
- The Family and Medical Leave Act of 1993

**SELECTED STATE SUPPLEMENTS** For selected states, a state supplement will describe the differences between the law as presented in the text and the state's law for the court system, contracts, the UCC, and other selected topics.

**HANDBOOK ON CRITICAL THINKING AND WRITING** A booklet entitled *Introduction to Critical Thinking and Writing in Business Law* provides students with an overview of techniques used in critical thinking. It allows students to examine and analyze legal assumptions and arguments. Copies are available to adopters and their students when requested.

**A COMPREHENSIVE TEST BANK** To ensure consistency between the teaching materials and the text, one of the authors, Roger LeRoy Miller, has co-written the examination bank. There are approximately 2,500 multiple-choice questions with answers and over 1,600 true-false questions with answers. These questions are available in printed form or, as discussed below, on software.

**A SECOND TEST BANK** Approximately three thousand additional questions are available in this companion test bank.

**CITATION-AT-A-GLANCE** This handy reference card provides a quick, portable reference to the basic rules of citation for the most commonly cited legal sources, including judicial opinions, statutes, and second sources, such as legal encyclopedias and legal periodicals. *Citation-at-a-*

*Glance* uses the rules set forth in *A Uniform System of Citation*, Fifteenth Edition (1991). Classroom quantities are available to qualified adopters.

**TRANSPARENCY ACETATES** The supplements package contains over one hundred transparency acetates for overhead projection in the classroom. Included in this package are actual key business forms.

**REGIONAL REPORTERS** West's regional reporters cover all state appellate court decisions. Qualified adopters may select from the following reporters: Pacific, North Western, South Western, North Eastern, Atlantic, South Eastern, and Southern.

## SOFTWARE SUPPLEMENTS

Software supplements represent an increasingly significant portion of the *West's Business Law* teaching/learning package.

**LEGAL CLERK SOFTWARE** The LEGAL CLERK Research Software System is an interactive software package that simultaneously introduces students to the rudiments of computer-aided legal research and reinforces the underlying concepts of business law and legal environment. LEGAL CLERK provides a valuable learning tool to help your school meet AACSB recommendations for using microcomputers in business law and legal environment courses.

LEGAL CLERK covers three subject areas of business law and the legal environment: (1) UCC/Article 2—Sales, (2) Government Regulation and the Legal Environment of Business, and (3) Contracts. Instructors may select one version or all three versions for their classes. Cases appearing in LEGAL CLERK are clearly identified in the text with a computer logo. The logos are color coded to help users easily identify which version of LEGAL CLERK contains specific cases.



Uniform Commercial Code/Article 2—Sales (Version 1.0)



Government Regulation and the Legal Environment of Business (Version 1.0)



Contracts (Version 1.0)

Each version is accompanied by an *Instructor's Resource Guide* and, for student purchase, a *Student User's Guide*.

**LEGAL REVIEW SOFTWARE** This software allows students to review legal concepts found in all three LEGAL CLERK versions. A *LEGAL REVIEW Student User's Manual* can be purchased by the student.

**COMPUTERIZED INSTRUCTOR'S MANUAL** For those instructors who wish to modify the *Instructor's Manual* by adding their own notes or who wish to print out some of the class-enrichment materials, we provide a fully computerized version of the *Instructor's Manual*. You may order the manual in any popular format.

**COMPUTERIZED STUDY GUIDE—MICROGUIDE** The questions from the study guide by Barbara Behr, James A Bernstein and Susan Bernstein are on diskette, allowing your students to practice taking computerized tests. Multiple-choice, true-false, and fill-in test questions are included. *Microguide* runs on IBM PCs and compatible microcomputers or Macintosh microcomputers (with Hypercard).

**COMPUTERIZED TEST BANK—WESTEST** The test bank is available on the latest version of WESTEST, a highly acclaimed computerized testing system that is offered for IBM PCs and compatible microcomputers or the Macintosh family of microcomputers.

**INTERACTIVE SOFTWARE—CONTRACTS AND SALES** For those students who have their own computers or who have access to computers through friends, libraries, or learning labs, we have developed unique interactive programs for the teaching and learning of contracts and sales. These programs use HyperText and allow for flexibility in learning the subject matter based on each user's level of understanding.

**“YOU BE THE JUDGE”** This software provides case problems for ten topic areas. The user is supplied with the facts and is then asked how the issue should be decided. A word processor, integrated into the software, allows the user to key in his or her response and print it. A glossary of key legal terms is also included.

**CASE-PROBLEM CASES ON DISKETTE** Cases for virtually all of the case problems found at the ends of all chapters of the text are now available in ASCII format on diskette. These can be imported into any word-processing program, such as Microsoft Word or WordPerfect.

**WESTLAW** WESTLAW, the premiere computerized legal-research system, is renowned for its ability to help law professors, law students, attorneys, and paralegals do research in the law. Qualified adopters of *West's Business Law*, Sixth Edition, are allowed free hours of WESTLAW. Contact your West sales representative for more details.

**CD-ROM RESOURCES FOR BUSINESS LAW & LEGAL ENVIRONMENT** This CD-ROM was designed to aid in your class preparation by providing instant and easy access to important cases, key legislation and regulation, relevant articles of the UCC, and more. This CD-ROM includes West's PREMISE<sup>®</sup> software, which allows you to search for and retrieve specific items in a matter of seconds. Here are the six sections (or books) in this CD-ROM:

- Selected Congressional Acts
- Selected Constitutions
- Selected Federal Regulations
- Selected Uniform Laws
- Selected Business Law and Legal Environment Cases
- The North American Free Trade Agreement (NAFTA)

### **WEST'S BUSINESS LAW AND LEGAL ENVIRONMENT AUDIOCASSETTE LIBRARY**

Some instructors and students find it interesting to listen to actual arguments made before the Supreme Court. For adopters of *West's Business Law*, Sixth Edition, you can order any of the following audiocassettes.

- *Austin v. Michigan Chamber of Commerce*
- *Employment Division, Department of Human Resources of the State of Oregon v. Smith*
- *United Automobile Workers v. Johnson Controls, Inc.*

- *Shearson/American Express, Inc. v. McMahon*
- *Chemical Waste Management, Inc. v. Hunt*
- *Feist Publications, Inc. v. Rural Telephone Service Co.*
- *Sedima, S.P.R.L. v. Imrex Co.*
- *Jacobson v. United States*
- *Summit Health, Ltd. v. Pinhas*
- *Kirkpatrick & Co. v. Environmental Tectonics Corp., International*

### ENHANCING THE LEARNING EXPERIENCE: VIDEOCASSETTES AND VIDEODISC

No introductory business law and legal environment text would be complete without supplemental visual materials. We are proud to have an extensive videocassette library that is available for adopters of *West's Business Law*, Sixth Edition. These instructional videos can help you in the teaching of business law and legal environment in a variety of areas, including ethics and social responsibility, employment law, and others.

Technology has provided instructors of business law with yet another way to present teaching materials: the laser videodisc. We are making available for this edition a videodisc that provides you with the latest method for presenting important topics to your students.

For more information, contact your West sales representative.

### FOR USERS OF THE FIFTH EDITION

First of all, we want to thank you for helping make *West's 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. The major additions and changes are summarized below.

#### NEW CHAPTERS

To keep pace with current legal trends and developments, we have added new materials to each edition of *West's Business Law*. To ensure that the Sixth Edition is as up to date as possible, we have

added the following new chapters on topics of special interest today:

- Chapter 4 (Court Procedures)
- Chapter 10 (Comparative Law)
- Chapter 37 (Employment Discrimination)

#### CHAPTERS THAT HAVE BEEN EXTENSIVELY REVISED

- Chapter 5 (Constitutional Authority to Regulate Business) has been extensively revised. The chapter now offers more detail on the relative powers of the federal government and state governments under the commerce clause, and the concept of preemption is given fuller treatment. The section on freedom of speech has been expanded to present a fuller discussion of the types of speech that are (or are not) protected under the First Amendment. Additionally, the coverage of due process has been expanded, and a new section on the privileges and immunities clause has been added to the chapter.
- Chapter 6 (Torts and Strict Liability) now includes subsections on the duty of care as it applies to landowners and professionals, as well as an explanation of the general lack of a duty to rescue. The chapter also contains a new section on special negligence statutes and doctrines, including dram shop acts, Good Samaritan statutes, and negligence *per se*. The section on strict liability has also been expanded.
- Chapter 20 (Introduction to Sales Contracts and Their Formation) has been revised to include a discussion of international sales contracts and the United Nations Convention on Contracts for the International Sale of Goods (materials that were presented in Chapter 24 of the Fifth Edition).
- Chapter 26 (Basic Concepts, Negotiability, and Transferability), Chapter 27 (Holder in Due Course and Defenses), and Chapter 28 (Liability and Discharge) have all been rewritten as necessary to base the text of these chapters on the revised Articles 3 and 4 of the Uniform Commercial Code.
- Chapter 33 (Bankruptcy) now places less emphasis on Bankruptcy Code chapter numbers (such as Chapter 7) and more emphasis on the type of bankruptcy proceeding (such as liquidation proceedings). The concept of debtor in possession is treated more fully, and an



*Emerging Trends in Business Law* explores the controversy surrounding reorganizations under Chapter 11 of the Bankruptcy Code.

- Chapter 36 (Employment and Labor Relations) has been restructured consequent to the treatment of employment discrimination in the entirely new Chapter 37. Chapter 36 also presents new materials relating to statutory protection for whistleblowers, privacy rights, the requirements of the Occupational Safety and Health Administration, the Family and Medical Leave Act of 1993, the Immigration Act of 1990, and the Consolidated Omnibus Budget Reconciliation Act of 1985.
- Chapter 38 (Forms of Business Organizations and Private Franchises) contains a new discussion of the limited liability company, and an *Emerging Trends in Business Law* indicates the growing use of this new business organizational form within the business community. The discussion of joint ventures has been significantly expanded.
- Chapter 39 (Partnerships—Nature, Formation, and Operation) and Chapter 40 (Partnerships—Termination and Limited Partnerships) now include footnote references to the Revised Uniform Partnership Act (RUPA) whenever the RUPA significantly changes or modifies an aspect of the partnership law being discussed in the text.
- Chapter 41 (Corporations—Formation and Financing) now contains the section on corporate financing that was previously in the chapter on investor protection. The materials on corporate management have been moved to Chapter 42.
- Chapter 42 (Corporations—Directors, Officers, and Shareholders) offers a streamlined presentation, in one chapter, of the rights and duties of directors, officers, and shareholders, including the roles that directors and shareholders play in corporate management. The chapter also contains a new discussion of shareholder proposals in proxy materials.
- Chapter 44 (Corporations—Investor Protection) has been updated throughout, and the section on exemptions to registration requirements under the 1933 Securities Act has been rewritten to reflect current law.
- Chapter 45 (Administrative Law) has been reorganized and rewritten as necessary to make

the discussion of administrative law and procedures more understandable for students. The chapter now contains an entirely new section on the delegation doctrine and a fuller description of the types of administrative agencies. Additionally, an exhibit has been added to clarify the structural relationship between administrative agencies and the federal government. The chapter also now contains a discussion of the relationship between federal and state administrative agencies.

- Chapter 46 (Consumer Law) has been significantly revised to reflect current consumer protection law. New sections have been added on fax and telephone advertising and the Consumer Leasing Act of 1988. The section on mail order merchandise now includes a discussion of the Federal Trade Commission's "Mail or Telephone Order Merchandise Rule" of 1993, and the section on credit protection has been modified as necessary to bring it up-to-date.
- Chapter 55 (Liability of Accountants and Other Professionals) contains a significantly revised section on the liability of accountants to third parties under the common law.
- Chapter 56 (The International Legal Environment) now contains sections on the regional trade agreements affecting the global business context, including the European Union, the General Agreement on Tariffs and Trade of 1994, and the North American Free Trade Agreement of 1993.

## NEW FEATURES AND SUPPLEMENTS

To make *West's Business Law* as useful as possible for both the instructor and the student, we have included in the Sixth Edition text a number of new pedagogical features and have expanded the supplements package. These new elements are listed below to give you a brief overview of what is new to this edition. Each item has been discussed in greater detail in the preceding sections of this preface.

### NEW *EMERGING TRENDS IN BUSINESS LAW*

There are now ten *Emerging Trends in Business Law*, all of which are either new or completely revised.

**NEW CONCEPT SUMMARIES** There are now fifty-one *Concept Summaries*, twelve more than in



the last edition. Twenty-six of these concept summaries are new. The following *Concept Summaries* are new to the Sixth Edition:

- *Concept Summary 1.1*—Sources of American Law
- *Concept Summary 3.1*—Types of Courts
- *Concept Summary 3.2*—Jurisdiction
- *Concept Summary 3.3*—Alternative Dispute Resolution (ADR)
- *Concept Summary 4.1*—Pretrial Procedures
- *Concept Summary 4.2*—Trial Procedures
- *Concept Summary 4.3*—Posttrial Options
- *Concept Summary 6.1*—Intentional Torts
- *Concept Summary 6.2*—Negligence
- *Concept Summary 9.1*—Crimes Affecting Business
- *Concept Summary 13.1*—Consideration
- *Concept Summary 14.1*—Legal Effect of Incapacity
- *Concept Summary 15.1*—Genuineness of Assent
- *Concept Summary 16.1*—Legality
- *Concept Summary 16.2*—The Statute of Frauds
- *Concept Summary 19.1*—Damages
- *Concept Summary 19.2*—Equitable Remedies
- *Concept Summary 22.1*—Performance and Obligation
- *Concept Summary 29.1*—Honoring Checks
- *Concept Summary 31.2*—Remedies of the Secured Party upon the Debtor's Default
- *Concept Summary 41.1*—Classification of Corporations
- *Concept Summary 41.2*—Corporate Formation and Financing
- *Concept Summary 42.1*—Role of Directors and Officers
- *Concept Summary 42.2*—Role of Shareholders
- *Concept Summary 49.1*—Personal Property
- *Concept Summary 54.2*—Trusts

**NEW EXHIBITS** There is a total of eighty-nine exhibits in this edition, seven more than in the last edition. Of those eighty-nine, seventeen are entirely new. They are the following:

- *Exhibit 9-2*—Major Steps in Processing a Criminal Case
- *Exhibit 10-1*—Excerpt from the Code Napoléon
- *Exhibit 10-2*—The Legal Systems of Nations

- *Exhibit 10-3*—Number of Lawyers per 100,000 Citizens
- *Exhibit 10-4*—Civil Code Tort Definitions
- *Exhibit 26-1*—Basic Types of Instruments
- *Exhibit 26-6*—Converting Order Paper to Bearer Paper and Vice Versa
- *Exhibit 27-1*—Taking for Value
- *Exhibit 32-1*—Suretyship and Guaranty Parties
- *Exhibit 34-1*—IRS Factors for Determining Employee Status
- *Exhibit 41-2*—Types of Corporate Bonds
- *Exhibit 44-2*—A Sample Restricted Stock Certificate
- *Exhibit 45-1*—Executive Departments and Important Subagencies
- *Exhibit 45-2*—Selected Independent Regulatory Agencies
- *Exhibit 45-3*—A Page from the *Federal Register*
- *Exhibit 45-4*—Sample Letter Requesting Information from an Executive Department or Agency
- *Exhibit 54-1*—A Sample Will

**NEW CASES** Of the 242 in-text cases, 149 are new. Approximately 100 of the new cases are from 1992, 1993, and 1994.

**NEW CASE PROBLEMS** Of the 362 case problems, 159 are new to this edition. Of the new case problems, 73 are from 1992, 1993, and 1994.

#### NEW FEATURES IN SELECTED CASES

- Company Profiles
- International Considerations

**PERSONAL LAW HANDBOOK** This new handbook appears within the text, just following Chapter 56.

#### NEW SUPPLEMENTS—PRINTED

- *Instructor's Manual* to accompany *Drama of the Law, Part II*
- *Study Guide/Outline to Accompany West's Business Law, Sixth Edition*
- Handbook of Selected Statutes
- State supplements
- A second test bank
- Citation-at-a-Glance

## NEW SUPPLEMENTS—VIDEO

- *Drama of the Law, Part II* (ten videos)

## NEW SUPPLEMENTS—AUDIO

- West's Business Law and Legal Environment Audiocassette Library

## NEW SUPPLEMENTS—MULTIMEDIA

- *West's Business Law Interactive CD-ROM Edition*
- CD-ROM Resources for Business Law & Legal Environment
- Interactive Software—Sales

## NEW APPENDICES

- D. The United Nations Convention on Contracts for the International Sale of Goods (Excerpts)
- F. The Revised Uniform Partnership Act (Excerpts)
- G. The Revised Uniform Limited Partnership Act
- 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 Administrative Procedure Act of 1946 (Excerpts)
- O. The General Agreement on Tariffs and Trade (Excerpts)
- P. The North American Free Trade Agreement (Excerpts)

## USING THE INTERNET

- There is information on how to use the Internet to study law in Appendix Q (A Guide to Research in Business Law—Including Using the Internet).

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