The Legal Environment of Business

13TH EDITION

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PowerPoint Lecture Review Slides
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We welcome and encourage comments from the users of this textbook—both students and instructors. By incorporating your comments and suggestions, we can make this text an even better one in the future.

Roger E. Meiners
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PART ONE

Elements of Law and the Judicial Process

1 Today's Business Environment: Law and Ethics
The legal, social, and ethical pressures that people in business face today in a complex, international political economy are discussed in the context of the origins of our legal system. The focus is on the purposes, sources, and structure of law and the legal system in the context of the modern economy.

2 The Court Systems
The structure and authority of our federal and state court systems are reviewed, followed by a discussion of how a case gets to a court and what powers the courts have over the parties to a case and its resolution.

3 Trials and Resolving Disputes
The steps in litigation are discussed. It begins when a party files a complaint, when they go through the stages of litigation, the forms of relief possible, and the appeals process.

4 The Constitution: Focus on Application to Business
This chapter covers the constitutional limits on government actions, especially with respect to business matters. Congress has nearly unlimited power to regulate and tax, but some protections are provided for civil liberties against an over-reaching state.

5 Criminal Law and Business
Many statutes, increasingly at the federal level, provide the possibility of criminal penalties being imposed for violations that may involve persons in business capacities. The criminal processes are reviewed as are key statutes that specifically target certain actions in business.
1-1 Law and the Key Functions of the Legal System

There is no generally accepted best definition of law. It refers to the rules, standards, and principles that define the behavioral boundaries for people and business activities. Law can also be thought of in abstract terms. According to Justinian's Institutes, a summary of Roman law published in 533 in Constantinople, "The commandments of the law are these: live honorably; harm nobody; give everyone his due."

A bit more specific, a century ago Oliver Wendell Holmes, a legal scholar and Supreme Court justice, offered the following definition:

"Law is a statement of the circumstances, in which the public force is brought to bear ... through the courts."

In his 1934 book, Growth of Law, the famed jurist Benjamin N. Cardozo defined law this way:

A principle or rule of conduct so established as to justify a prediction with reasonable certainty that it will be enforced by the courts if its authority is challenged.

Also consider these two modern definitions from Black's Law Dictionary, the authoritative legal dictionary:

1. Law, in its generic sense, is a body of rules of action or conduct prescribed by [the] controlling authority and having binding legal force.
2. That which must be obeyed and followed by [members of a society] subject to sanctions or legal consequences is a law.

In summary, law may be viewed as a collection of rules or principles intended to limit and direct human behavior. Enforcement of the rules provides greater predictability and uniformity
1-1b Conflict Resolution

A critical function of the law is dispute resolution. Disagreements are inevitable because societies are made up of people with differing desires and values. Karl Llewellyn, a famous legal theorist, stated the following:

What, then, is this law business about? It is about the fact that our society is honeycombed with disputes. Disputes actual and potential, disputes to be settled and disputes to be prevented, both appealing to law, both making up the business of law.... This doing of something about disputes, this doing of it reasonably, is the business of law.

Though most disputes are settled informally, a formal mechanism for dispute resolution is the court system that invokes generally settled rules of law. It is used for private disputes between members of society and for public disputes between individuals and the government. Our court system is intended to provide a fair mechanism for resolving these disputes. As we will see in Chapter 3, businesses are increasingly turning to formal private settlement techniques by alternate dispute resolution outside of the courts, often because the courts are expensive and slow.

1-1c Social Stability and Change

Every society is shaped in part by its values and customs. Law, not surprisingly, plays a role in maintaining the social environment. Integrity is reflected in the enforceability of contracts, respect for other people and their property is reflected in tort and property law, and some measures of acceptable behavior are reflected in criminal laws.

Over time, social attitudes change. Not many years ago, gay partners could be subject to criminal prosecution for a personal, voluntary relationship. Now, traditional marriage is available for gay partners, a change that seemed impossible a couple decades ago.

The legal system provides a way to bring about changes in “acceptable” behavior. For example, in the past, some states required businesses to discriminate against black employees and customers. Attitudes changed, and those laws gradually disappeared in favor of laws requiring the opposite. Grossly discriminatory behavior that was the social norm is no longer acceptable.

Next, we turn to the sources of law and how law is created.

1-2 Sources of Law in the United States

The U.S. Constitution and state constitutions created three branches of government—each of which has the ability to make law. Congress—the legislative branch of government—passes statutes. The executive branch—the President and administrative agencies—issues regulations under those statutes. The courts also create legal precedents through their decisions and by ruling on the constitutionality of actions of Congress or the Executive branch.

1-2a Constitutions

A constitution is the fundamental law of a nation. It establishes and limits the powers of government. Other laws are created through a constitution. The U.S. Constitution (see Appendix C) allocates the powers of government between the states and the federal government. Powers not granted to the federal government are retained by states or are left to the people. A constitution need not be a written document—the United Kingdom’s is not—but it is in most nations. In some countries, the constitution is just for show. A document that looks much like the U.S. Constitution may exist but means little in practice under a dictatorship.

The U.S. Constitution The U.S. Constitution is the oldest written constitution in force in the world. Although it contains some clear rules, such as the President must be at least age 35, it also has many general principles. It sets forth the organizational framework, powers, and
Case Law  Under the common law, a dispute comes to court in the form of a case. A case is a dispute between two or more parties resolved through the legal process. In common law cases, the judge follows the rules of civil procedure, (covered in Chapter 2 and 3) and, to determine the outcome of a particular case, follows earlier judicial decisions that resolved similar disputes. For hundreds of years now, the decisions written by judges, often in the courts of appeals, to explain the rulings in important cases, and many not-so-newsworthy cases, have been published in books called case reporters. The reporters are the official publication of case decisions and are public information (unofficial case reporters are frequently also used). To settle cases similar to past disputes, judges look for guidance by studying decisions from earlier recorded cases. This is referred to as precedent that is applied to the facts of the new cases under consideration and helps to guide the decision.

To settle unique or novel disputes, judges create new common law. Even in such cases, their rulings are based on the principles suggested by previously reported decisions. Because common law is state law, some differences exist across the states in the interpretation of common law principles, but the judges in a state can look to cases from other states to help resolve disputes if no decisions come from their own state. Sometimes judges even look to decisions of courts in other common law countries.

Doctrine of Stare Decisis  The deciding of new cases by referencing previous decisions is the foundation of the Anglo-American judicial process used in varying degrees in Australia, Britain, Canada, New Zealand, India, South Africa, and other former British colonies, including the United States. The use of precedent in deciding current cases is a doctrine called stare decisis, meaning “to stand on decided cases.” Under this doctrine, judges are expected to stand by established rules of law. According to Judge Richard Posner:

Judge-made rules are the outcome of the practice of decision according to precedent (stare decisis). When a case is decided, the decision is thereafter a precedent, i.e., a reason for deciding a similar case the same way. While a single precedent is a fragile thing ... an accumulation of precedents dealing with the same question will create a rule of law having virtually the force of an explicit statutory rule.

Value of Precedent  Stare decisis has several benefits. First, consistency in the legal system improves the ability to plan business decisions. Second, as a rule is applied in many disputes involving similar facts, people become increasingly confident the rule will be followed in the resolution of future disputes and order business and personal affairs given the rules of law. Third, the doctrine creates a legal system that neutralizes the prejudices of individual judges. If judges use precedent as the basis for decisions, they are less likely to make decisions based on their personal biases.

Changes in Law and Society  An advantage of dispute resolution through the common law is its ability to adapt. Although most cases are decided on the basis of precedent, judges are not prohibited from modifying legal principles if conditions justify a new rule. As changes occur in technology or in social values, the common law evolves and provides new rules that better fit the new environment. A court may modify or reverse an existing legal principle. If that decision is appealed to a higher court for review, the higher court may accept the new rule as the one to be followed or retain the existing rule. In the case Davis v. Baugh Industrial Contractors, Inc. that follows, we see a state high court deciding to change a common law rule.

Reporting Court Cases  Like all cases presented in this book, the Davis v. Baugh Industrial Contractors, Inc. case begins with its legal citation. There were several parties to the case on both sides, but the citation only refers to the lead plaintiff (Davis), who brought the suit, and the first defendant (Baugh) named in the suit.
scientific and complex. Landowners increasingly hire contractors for their expertise and a non-expert land­owner is often incapable of recognizing substandard performance....

We conclude that the Doctrine of Completion and Acceptance is outmoded, incorrect, and harmful and join the modern majority of states that have abandoned it in favor of the [modern] approach [holding a builder or contractor liable for injury due to negligent work]. We reverse the superior court order ... and remand for further proceedings in keeping with this holding.

Questions for Analysis

1. The court rejected the old common law rule concerning completion and acceptance of a construction job that was in effect prior to this decision and ordered a new trial. What was the key reason for that decision? How does the new rule affect liability?

2. A judge on the court dissented from the decision. Explaining his opposition to the decision of the majority, he said this change in the law should have been done by the legislature in a statute, not the court. Is there a practical problem with that view?

Reported cases are called “primary sources” because they are the law. But, when trying to understand an area of law, it is common to rely upon “secondary sources” that explain the law. When secondary sources are respected they may be referred to by judges when issuing decisions in cases.

For example, the Restatement of Torts is an authoritative source on the law of torts. It is one of the many Restatements of the Law published on all major areas of common law by the American Law Institute (ALI; see www.ali.org). The ALI describes itself as “the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law.” It appoints “reporters” to contribute to Restatements according to their area of expertise. The reporters are lawyers, judges, and law professors who contribute to an ongoing review of the law. Every several decades, there may have been enough change in an area of law for reporters to believe that a new Restatement should be published. For instance, the Restatement (Third) of Torts is now published alongside the older Restatement (Second) of Torts. This does not mean that the older Restatement is not a good source on the law; indeed it still dominates. However, courts are beginning to refer to the Restatement (Third) of Torts as we will see in future chapters.

1-2e The Executive

In addition to being the one who signs (or vetoes) bills passed by the legislature, the president or governor is another source of law. He or she creates law by issuing executive orders, requiring agencies to do certain things within the executive’s scope of authority, such as an order to give preference to buying recycled products or to restrict financial transactions by suspected terrorist organizations.

The chief executive can also influence the duties and responsibilities of administrative agencies. One administration, for example, may not pursue environmental, antitrust, or international trade regulation as strongly as another administration. Thus, some industries or companies may face a more hostile legal environment under one administration than under another.

1-2f International Sources of Law

Firms and people doing business in another country are subject to its laws and are subject to the laws of their home country. International law affecting business also includes treaties, which are international agreements, including trade agreements among countries. There are also rules enacted by multinational regional or global entities, such as the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO). The decisions of international tribunals can also affect firms.
1-3a Public and Private Law

Some examples of public and private law are provided in Exhibit 1.3. **Public law** concerns the legal relationship between members of society—businesses and individuals—and the government. Public law includes statutes enacted by Congress and state legislatures and regulations issued by administrative agencies.

**Private law** sets forth rules governing the legal relationships among members of society. It helps to resolve disputes and to provide a way for the values and customs of society to influence law. Private law is primarily common law and is enforced mostly through the state court systems. Unlike public law, which at times makes major changes in legal rules, private law tends to be quite stable and changes slowly.

1-3b Civil and Criminal Law

When a legislative body enacts a statute, it decides whether the law is to be civil, criminal, or both. That is, when Congress or a state legislature passes a statute that contains sanctions for violations, it will state what punishment may be imposed. Many laws, an estimated 3,000 at the federal level, have the possibility of a criminal charge in case of violation. Most criminal law statutes may, in case of a claimed violation, have a lesser civil charge brought that would result in perhaps a fine rather than a criminal charge. Unless a statute is expressly designated as criminal, it is considered to be civil law. Examples of civil and criminal law are provided in Exhibit 1.4.

**Criminal law** concerns legal wrongs or crimes committed against the state. As determined by federal or state statute, a crime is classified as a *felony* or a *misdemeanor*. A person found guilty of a criminal offense may be fined, imprisoned, or both. To find a person guilty of a crime, the trial court must find that the evidence presented showed beyond a *reasonable doubt* the person committed the crime. The severity of punishment depends in part on whether the offense was a felony or a misdemeanor. Offenses punishable by imprisonment for more than a year are classified as felonies. Misdemeanors are less serious crimes, punishable by a fine and/or imprisonment for less than a year. We discuss criminal law with respect to business in Chapter 5.

**Civil law** is concerned with the rights and responsibilities that exist among members of society or between individuals and the government in noncriminal matters. A person or business found liable for a *civil wrong* may be required to pay money damages to the injured party, to do or refrain from doing a specific act, or both. In finding the wrongdoer liable, the jury (or the judge in a nonjury trial) must find that the *preponderance of the evidence* favors the injured party, a lower standard of proof than is required in criminal cases.

### EXHIBIT 1.3 MAJOR AREAS OF PUBLIC AND PRIVATE LAW

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1-4 Business Ethics and Social Responsibility

Public confidence in many major institutions is low. Surveys indicate the least trusted institutions are law firms, Wall Street, Congress, big companies, labor unions, and the media. Most trusted are, often, the military, medical personnel, and small businesses. This must be taken with a grain of salt. Despite not trusting Congress, most people like their members of Congress, and reelection rates are high. Despite claiming to mistrust big companies or Wall Street, most people buy products and services from big companies and keep their money in Wall Street firms. Nevertheless, when a firm suffers a scandal, the loss of reputation means lost sales and a decline in the value of the company. Trust is critical in business relationships, so building and maintaining a reputation for ethical standards is valuable.

1-4a Ethics, Integrity, Morality, and the Law

The concepts of ethics, integrity, morality, and the law are related but are different. Ethics, in the context of business practitioners, has to do with rules or standards governing the conduct of members of a profession and how standards are put into action within an organization. Integrity means living by a moral code and standards of ethics. Morality concerns conformity to rules of correct conduct within the context of a society, religion, or other institution.

The law is often distinct from those concepts because ethics, integrity, and morality concern voluntarily adopted standards of conduct. The law contains rules that are not moral or ethical but are imposed upon people. Slavery was legal until the 1860s, and even after it was abolished, laws existed for another century mandating race discrimination, making it difficult for African-Americans to own property, receive a decent education, or compete in the labor market. During the days of legal segregation, subverting the law may have been unlawful, but such acts were not immoral or unethical. Indeed, people who engaged in acts that intentionally defied the law, such as Martin Luther King, Jr., are regarded as having great integrity.

Business Ethics Peter Drucker, one of the most noted management consultants of all time, said that one should not make a distinction between business ethics and personal ethics. We should put into practice what we believe and not compromise based on moral relativism or business necessity of the time or place.

Consider this situation: The company Lockheed was in a struggle for survival in the 1970s because its commercial aircraft were not selling well. To obtain a large order from All Nippon Airways in Japan, the company had to bribe members of the Japanese government. Paying the bribes, and getting the order for new aircraft, did not put money in the pockets of the Lockheed executives, but it saved thousands of jobs at Lockheed. When the bribes became known, the Lockheed executives were ousted. Forgetting that the bribes were illegal under U.S. law, was the bribe ethical because it saved many jobs?

Drucker said no; a bribe is a bribe. If business is not worth doing on a competitive basis, it should be abandoned. Lockheed should have gotten out of the commercial aircraft business (which it soon did) and look for something more profitable to pursue; it should not have relied on bribes to stay in a market. A firm that must do that to survive cannot survive on its merits. Once business leaders go down the path of justifying various acts, even if not for personal profit, ethics have been lost.

Political Reality Scams do not just occur in other countries. In the United States, for example, many "pay to play" cases have come to light. That is, in some cases, firms have had to pay bribes, directly or indirectly, to city, state, or federal government officials to have a chance to receive lucrative contracts. If uncovered, criminal charges may be involved; but even if you are sure the payments would go undiscovered, you must ask yourself if the business is worth getting in any case.
1-4c Ethics Codes and Compliance Programs

Ethics codes matter little unless a serious effort ensures compliance within an organization. Ethics and legal requirements may be blended in compliance codes. To be effective, such codes require diligent enforcement by management. According to the Department of Justice (DOJ), the existence of an effective corporate compliance program is a key factor in the agency’s decision whether to prosecute an organization or to recommend leniency to a court when a legal problem arises. This will be discussed more in Chapter 5.

The U.S. Sentencing Guidelines, which list punishment recommendations for various crimes, state that a company found guilty of violating a law may have its fines reduced by as much as 95 percent if it is found to have an effective, strong compliance program in place. A good ethics compliance program can result in a civil proceeding rather than a criminal prosecution of legal violations. Prevention is less costly than a cure. But remember that compliance programs are internal management tools for avoiding legal problems or reducing possible punishment when problems arise. Ethics training at work has been rising steadily over time, which is evidence of intent to instill good practices that go beyond legal requirements.

Many companies have employees take online legal and ethics training. It is a cost-effective way to ensure employees are informed about employment discrimination, payoffs, conflicts of interest, and other matters that can spell big trouble for businesses. Employees may also be tested online regarding their knowledge of law and ethics. Many employers find online training more effective than gathering people in auditoriums for instruction, where “participants” may tune out the information being presented.

1-4d Ethics and Corporate Social Responsibility

Peter Drucker, the “Father of Modern Management,” discussed the ethics of social responsibility. Sometimes, this is called corporate social responsibility. Drucker asserted that the social responsibility ethic applied to those in leadership positions. The first responsibility of a business

INTERNATIONAL PERSPECTIVE

Does Regulation Improve Business Ethics?

Financial scandals have been a reason for expanded securities regulation. The drug trade has resulted in increased control of money transfers. When problems arise, a call usually occurs for more regulation to prevent future problems.

All nations have regulations and bureaucracy. But the wrong kind of regulation, especially when coupled with a corrupt bureaucracy, stifles business and reduces economic opportunities for ordinary people. The World Bank program, Doing Business 2016, notes that the more regulation a country has, the more corruption it is likely to have and the lower its standard of living.

The World Bank gives examples. To get government permission to start a small business in Indonesia, an entrepreneur must go through 13 procedures that will take almost two months and cost the equivalent of 20 percent of a year's average income. In Bangladesh, to enforce a contract will take about four years and cost 67 percent of the value of the claim. In Iraq, to get documents to export goods costs about $3,000 (in Hungary, the cost is $0). Countries that regulate business the most include Congo, Guatemala, Haiti, Mali, Paraguay, the Philippines, and Venezuela. The countries that regulate the least include Australia, Denmark, Hong Kong, the Netherlands, New Zealand, Norway, Singapore, and the United Kingdom.

To be “good” regulation, there must be ethics in government. In many countries, regulation simply provides a legal excuse to collect bribes. The regulations stay as they are because political interests want to keep the system in place, including established business interests wanting protection against new competitors.
When Lamson complained to the general manager (GM), he was told to go home.

After the sale, relations worsened. The GM told Lamson that another sales manager was making an extra $600 profit per sale. Lamson checked the records and found it was $100 per sale. The GM hired RPM to run another sale. He and Lamson argued. Lamson said it sounded as if the GM wanted him out and the GM said, "You're right." He told Lamson to cooperate with RPM. Lamson sent the company owner a letter complaining of RPM’s tactics, saying it violated company rules regarding sales ethics. He did not want to see "the values, ethics, morals, and honorable dealings" of the company lost. He asked him to rethink the "profit at any cost mentality."

The owner said that the company would still be "treating customers with the highest ethical standards" and that RPM promised "no misrepresentations or illegal statements." When Lamson did not cooperate with RPM during the next sale, he was fired. He sued for wrongful discharge, contending that he was fired for complaining about sales tactics that may have been illegal and that violated the company's code of ethics. The jury held for Lamson. The company appealed, contending that Lamson had no cause of action.

Case Decision Edmonds, Presiding Judge.

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Nor can we conclude ... that plaintiff's internal complaints of unlawful sales practices are of the same public importance as the reports of health and safety violations in our earlier case law. Here, plaintiff did not report or threaten to report RPM's activities to anyone outside of defendant, and there is no evidence that defendant intended to "silence" him in a manner that would conceal illegal activities. On these facts, we cannot conclude that plaintiff's internal complaints about defendant's use of a sales firm serves a societal duty.... Thus, we conclude that plaintiff's internal complaints, standing alone, did not serve an important societal obligation for purposes of a common-law wrongful discharge claim.

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In sum, the evidence, viewed in the light most favorable to plaintiff, does not establish a legally cognizable basis for a claim for wrongful discharge. The employment relationship between plaintiff and defendant was an at-will employment relationship, which meant that plaintiff could be discharged for any reason, unless the discharge was for exercising a job-related right reflecting an important public policy or for fulfilling an important public duty. Here, the evidence is undisputed that plaintiff was not explicitly or impliedly directed to participate in any unlawful activity.... Even if defendant's actions, viewed together as plaintiff posits, were pretextual because defendant no longer desired to employ plaintiff and expected that he would not attend the March 2004 sale, plaintiff was not discharged for fulfilling what the law would recognize as an important public duty. In other words, defendant took no action concerning plaintiff that amounted to a tort under the applicable law regarding at-will employment relationships. Regardless of whether plaintiff's refusal to work on the ground that his presence would "condone" RPM's sales tactics was laudable, his actions do not fall within the narrowly defined exceptions created by the law of wrongful discharge, and defendant's conduct is not actionable in a court of law.

For all of the reasons stated above, the trial court should have granted defendant's motion for a directed verdict. Reversed.

Questions for Analysis

1. Suppose some of the sale tactics used by RPM violated Oregon law. What could Lamson do about it? Unless he suffered the effects of an illegal practice by making a purchase based on such practice, he had no complaint at law. Who would know more about such practices: those involved in putting them in place or a customer? Do you think other car dealers would want to hire Lamson?

2. Why do you think the courts are shy to get involved in such incidents? Should the courts be enforcers of a company's ethical practices and codes of ethics?
be immoral? [Regina v. Dudley and Stephens, 14 Queens Bench Division 273 (1884)]

2. Smoking is a serious health hazard. Cigarettes are legal. Should cigarette manufacturers be liable for the serious illnesses and untimely deaths caused by their unavoidably dangerous products, even though they post a warning on the package and consumers voluntarily assume the health risks by smoking? [Cipollone v. Liggett Group, Inc., 505 U.S. 504 (1992)]

3. Two eight-year-old boys were seriously injured when riding Honda mini-trail bikes. The boys were riding on public streets, ran a stop sign, and were hit by a truck. The bikes had clear warning labels on the front stating they were only for off-road use. The manual stated the bikes were not to be used on public streets. The parents sued Honda. The supreme court of Washington said one basic issue existed: "Is a manufacturer liable when children are injured while riding one of its mini-trail bikes on a public road in violation of manufacturer and parental warnings?" Is it unethical to make products like mini-trail bikes children will use when we know accidents like this will happen? [Baughn v. Honda Motor Co., 727 P.2d 655 Sup. Ct, Wash., (1986)]

4. Johnson Controls adopted a "fetal protection policy" that women of childbearing age could not work in the battery-making division of the company. Exposure to lead in the battery operation could cause harm to unborn babies. The company was concerned about possible legal liability for injury suffered by babies of mothers who had worked in the battery division. The Supreme Court held the company policy was illegal. It was an "excuse for denying women equal employment opportunities." Is the Court forcing the company to be unethical by allowing pregnant women who ignore the warnings to expose their babies to the lead? [United Auto Workers v. Johnson Controls, 499 U.S. 187 (1991)]

5. McGrory worked for Applied Signal Technology in a supervisory position. He was accused of violating the company's policies on sexual harassment. An internal investigation determined he did not violate the policy but that he was evasive and violated the company's personal ethics code. He was fired and sued for wrongful termination, contending that if he did not violate sexual harassment rules he should not have been subject to termination. Do standards of law and ethics need to be the same for an employer? [McGrory v. Applied Signal Technology, 152 Cal.Rptr.3d 154 (2013)]

6. Baker works as a document clerk for the Minnesota Supreme Court. After she had worked there for 13 years the Minnesota Judicial Branch adopted a policy concerning proper Internet use and stated that employees must adhere to the highest ethical standards when using the Internet. Eleven years later, she was fired for excessive surfing on the Internet during working hours. She contended she did not know about the policy. Is that an adequate defense for her? [Baker v. Minnesota Supreme Court, 2016 WL 102513 (2016)].

**ETHICS QUESTIONS**

1. The federal tax code is riddled with special-interest loopholes. Most of these exist because firms and trade associations lobby Congress and provide campaign support to members of Congress to gain special favors to individual firms or industries. Is it ethical for firms to seek special privilege?

2. "Fair trade" goods have become popular, as some people are willing to pay more to know the goods come from workers paid a decent price for their efforts. However, some retailers who sell fair trade goods mark them up substantially more than non-fair trade goods. One study showed that coffee growers got an average of 44 cents a pound more for fair trade coffee, but the coffee at retail was marked up an additional $3.46 per pound. At one supermarket chain, fair trade bananas that cost an extra 3.6 cents per pound were marked up four times the price of non-fair trade bananas. Fair trade goods are claimed to be a form of social responsibility. Is that true if it just means higher profit margins?

3. A chemical company located a new plant in a depressed area with high unemployment in West Virginia. It built a state-of-the-art plant that had the latest pollution control technology meeting all EPA requirements. It created 2,500 jobs. The company was attacked for polluting a previously pristine area. Had the plant been built in an industrial area, such as the coast near Houston, no one would have been likely to complain. Was the company socially irresponsible for building the plant in such an area?

4. Discussion of ethics issues focuses on company examples. What personal ethics matter? Surveys indicate that many students have cheated in classes one way or another, pad their resumes when seeking jobs, and have improperly downloaded copyrighted music. Does ethics "begin at home"?
2-1 The Court Systems

The federal court system was created in response to the following provision of the United States Constitution:

*The judicial Power of the United States shall be vested in one supreme Court and in such inferior Courts [courts subordinate to the Supreme Court] as the Congress may from time to time ordain and establish.*

The federal court system developed into a three-level system consisting of the U.S. district courts, the U.S. courts of appeals, and the U.S. Supreme Court. In addition, there are specialized courts, such as the bankruptcy courts. Because the 13 original states had courts before the federal system was created, they have the oldest court systems. The state and federal court systems have many similarities but important differences exist.

2-1a Federal Judges

Federal judges are nominated by the president and confirmed by a majority vote in the U.S. Senate. The Constitution guarantees federal judges the right to serve "during good behavior," so they enjoy a lifetime appointment. Judges below the Supreme Court level retire at age 70, but may remain on "senior status," still hear cases, and are paid. There are about 1,200 federal judges.

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**EXHIBIT 2.1 SELECTION METHODS FOR APPEALS COURT AND TRIAL COURT JUDGES**

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<tr>
<th>MERIT SELECTION BY NOMINATING COMMISSION AND GOVERNOR</th>
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<th>NON-PARTISAN ELECTIONS</th>
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Source: American Judicature Society
or local government employee who violates state constitutional rights. The State counters that Hartsoe’s claims are based on judicial actions by Judge Christopher for which she had jurisdiction as a state district court judge....

[Under state law] “a member, officer, or agent of the judiciary is immune from suit for damages arising from the lawful discharge of an official duty associated with judicial actions of the court.” Judicial immunity applies with no stated limitation, and judges are absolutely immune from suit for civil damages for acts performed in their judicial capacities....

All of the acts that form the basis for Hartsoe’s complaint occurred while Judge Christopher was acting in her role as a state district court judge, a fact Hartsoe conceded during the summary judgment hearing. Therefore, the District Court properly granted Judge Christopher judicial immunity from Hartsoe’s claims....

We affirm the District Court’s judgment.

Questions for Analysis

1. Why would constitutional rights not be treated differently than issues that arise under statutory law or common law?

2. What can a party to a case do if they are convinced the judge is biased against them?

2-1d Organization of the Court Systems

State and federal court systems have lower courts of original jurisdiction, where disputes are first brought and tried, and courts of appellate jurisdiction, where the decisions of a lower court may be taken for review. In the federal and state systems, courts of original jurisdiction are trial courts. One judge presides. The courts’ principal function is to determine the facts in the dispute and to apply the appropriate law to those facts in making a decision or judgment. As we discuss in the next chapter, the jury is responsible for deciding the facts in a case; if there is no jury, the judge decides the facts.

Appellate courts are concerned with correcting errors in the application of the law and making sure proper procedure was followed in the trial court proceeding. Normally, three judges review decisions at the intermediate appeals court level. The state supreme courts (which have different names in some states) provide review with participation of all members. The number of judges on the highest appellate court varies across the states from five to nine. The basic structure of the American court system is illustrated in Exhibit 2.2. Though we focus more on federal courts here, as it serves as a general model, the majority of litigation occurs in state courts.

2-2 The Federal Courts

The U.S. Constitution intends for the judiciary to have significant independence from the other branches of government as part of the system of checks and balances. This is unlike most countries, where judges are civil servants who have less independence than judges in the United States. Even though some state judges are in political positions, federal judges, once on the bench, are independent.

2-2a Federal District Courts

As the trial courts of the federal system, U.S. district courts are the courts of original jurisdiction. District courts are the only federal courts that use juries. Most cases involving questions of federal law originate in these courts. The boundary of a district court’s jurisdiction does not cross state lines. There are a total of 94 federal districts in the court system. Each state has at least one federal district court; the more populated states are divided into two, three, or—as in California, New York, and Texas—four districts. In addition, federal district courts exist in the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. There are 670 federal district judges, so many districts have multiple judges.
2-2b Federal Appellate Courts

U.S. courts of appeals may review federal district court decisions. Established in 1891, the U.S. courts of appeals are the intermediate-level appellate courts in the federal system. There are 12 geographically based courts of appeals, one for each of the 11 circuits into which the United States is divided, and one for the District of Columbia that hears many cases involving federal regulations. The division of the states into circuits and the location of the U.S. courts of appeals are seen in Exhibit 2.3.

The U.S. courts of appeals exercise only appellate jurisdiction. If either party to litigation is dissatisfied with a federal district court's decision, it has the right to appeal to the court of appeals for the circuit in which that district court is located. The Fourth Circuit U.S. Court of Appeals headquartered in Richmond, Virginia, for example, will hear appeals only from the federal district courts in the states of Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

Although they have many judges, the U.S. courts of appeals assign three-judge panels to review most district courts decisions appealed within their circuits. Occasionally, all the active judges in a circuit will hear a case in what is known as an en banc proceeding. As a practical matter, because it is so difficult to obtain review by the U.S. Supreme Court, the courts of appeals make the final decision in most cases.

2-2c Specialized Federal Courts

Although the U.S. Supreme Court, courts of appeals, and district courts are the most visible, there are also courts with limited or special jurisdiction within the federal court system. These courts are defined by subject matter. U.S. bankruptcy courts exist alongside the district courts.
INTERNATIONAL PERSPECTIVE

The French Court System

Like most European countries, France is a civil-law country; its legal system is based on written (code) law. There is no judge-made common law. The structure of the French system appears similar to that of the U.S. federal court system. There is a supreme court (cour de cessation), a court of appeals (cour d'appel), and a court of general jurisdiction (tribunal d'instance).

The appellate process in France is different from that in the United States. In contrast to the powers held by the U.S. Supreme Court, the cour de cessation does not have the authority to pronounce judgment. Rather, it has power to reject an appeal or to invalidate a decision and return the case to the cour d'appel for reconsideration.

If the appeal is rejected, the proceedings are finished. If the decision of the cour d'appel is invalidated, that court will reconsider the case before a five-judge panel. However, the judges are not bound by the higher court's determination of the law as they would be in the United States. They may accept or reject it. They may also consider new facts.

If the case is appealed a second time to the cour de cessation, a panel of 25 judges hears the case. If this appeal is rejected, the proceedings end; if the cour d'appel decision is invalidated, the case is returned to it for reconsideration. On the second appeal, however, cour d'appel must follow the higher court's decisions on points of law.

almost any kind of dispute and are able to grant nearly every type of relief. In most states, the amount in controversy, however, must exceed a specific amount, often $2,000 to $5,000.

State courts of general jurisdiction, or trial courts, are organized into districts, often on the county level. These district courts have different names in different states. In some states, the courts of general jurisdiction are called Superior Courts. The equivalent courts in Pennsylvania and Ohio are called the Courts of Common Pleas, and in Florida and Oregon, the Circuit Courts. In Kansas, Louisiana, Maine, and other states, the courts of general jurisdiction are called District Courts. Oddly, in New York, they are called Supreme Courts.

Courts of limited or special jurisdiction include municipal courts, justice of the peace courts, and other more specialized courts (such as probate courts, which handle matters related to wills and trusts). The jurisdiction of the municipal courts is similar to that of the district courts except that municipal courts typically hear claims that involve less money. Litigants not satisfied with the decision of the limited jurisdiction court may appeal to the court of general jurisdiction. On appeal, the parties will get a new trial or, in legal terminology, a trial de novo.

Many states provide small claims courts that have limited jurisdiction. The amount in controversy in many small claims courts may not exceed $5,000 ($10,000 in California). Subject matter includes debts, contract disputes, warranty claims, personal injuries, and security deposits. Small claims courts are particularly good for collecting small debts because procedure is much less formal, and representation by an attorney is unnecessary and often not permitted. Small claims courts are a faster and less expensive forum than are district courts. Most state courts have websites to guide you through the procedure.

2-3b State Courts of Appellate Jurisdiction

Every judicial system allows the review of trial court decisions by a court with appellate jurisdiction. In general, a party has the right to appeal a trial court judgment to at least one higher court. When a court system contains two levels of appellate courts, as is true in about half the states, appeal usually is a matter of right at the first level and at the discretion of the court at the second. In states with no appellate courts, appeals go from the trial court to the state supreme court.
When a plaintiff files a lawsuit, the plaintiff must choose the correct court to resolve the dispute. The plaintiff must select a court that has both:

1. Subject-matter jurisdiction
2. Personal jurisdiction over (a) the person of the defendant or (b) the property of the defendant

If a court should rule in a particular case and jurisdiction was lacking, the judgment of that court will be declared null and void upon appeal. Without jurisdiction a court cannot exercise authority to determine the outcome of a legal dispute.

2-4a Subject-Matter Jurisdiction

Subject-matter jurisdiction is created by a constitution or a statute regarding the types of disputes a court can accept to resolve. It often includes requirements on the amount in controversy and the areas of the law the court may cover. For example, state law might restrict disputes in district (trial) courts to civil cases involving more than $2,000, or they might require that all cases involving wills be heard by a probate court. That is, the state legislature places limitations on the subject-matter jurisdiction of various courts.

Lighter? Side of the Law

Do as I Say, Not as I Do

A Texas judge tried a criminal case that attracted a lot of media attention. She instructed the jury not to discuss the case, which includes not saying anything about the case on social media. Then she posted comments about the case on her Facebook page.

The State Commission on Judicial Conduct ordered the judge to complete four hours of instruction on “proper and ethical use of social media by judges.” She appealed saying she did nothing wrong and a three-judge panel agreed with her that the rules about the use of social media is “murky.”

Source: Houston Chronicle

Subject-Matter Jurisdiction in the Federal Courts

Under the U.S. Constitution, the federal courts may only hear cases within the judicial power of the United States. That is, federal courts have the judicial power to hear cases involving a federal question:

The judicial Power shall extend to all Cases ... arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority ....

This includes cases based on the relationship of the parties involved: [The judicial Power shall extend] to all Cases affecting ... Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States ... and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

When federal jurisdiction is based on the parties involved, most litigation is generated by cases (1) in which the United States is a party to the suit or (2) involving citizens of different jurisdictions. The purpose for allowing federal jurisdiction when a dispute arises between citizens of different states—referred to as diversity-of-citizenship or diversity jurisdiction—is to provide a neutral forum for handling such disputes.

The writers of the Constitution worried that state courts might be biased in favor of their own citizens and against “strangers” from other states or countries. To obtain diversity jurisdiction, there must be total diversity of citizenship among the parties. That is, all parties on one
the proper court should be used. If both parties are residents of Dallas County, Texas, the state
district court in Dallas County would be proper. If the defendant is a resident of another state,
obtaining jurisdiction can be more difficult. The most obvious method for obtaining in personam
jurisdiction over nonresident defendants is to serve them with process while they are
within the state. The nonresident defendant need only be passing through the state to be legally
served with a summons.

While it would seem as if defendants could avoid lawsuits by staying out of state, often the
court can still exert jurisdiction. If the defendant committed a wrong, such as causing an auto­
mobile accident within the court’s territorial boundaries, or has done business within the state,
the court can exercise jurisdiction under the authority of the state’s long-arm statute (see
Exhibit 2.5). A long-arm statute is a state law that permits a state’s courts to reach beyond the
state’s boundaries for jurisdiction over nonresident defendants.

**Jurisdiction over Out-of-State Business Defendants** Long-arm statutes are aimed mostly
at nonresident businesses. State courts have jurisdiction over a business entity in the following three
situations:

1. The court is in the state in which the business was established.
2. The court is in the state where the business has its headquarters or its main operation.
3. The court is in a state in which the entity is doing business.

Though the first two points rarely create legal uncertainty, the third basis for jurisdiction has
been subject to constitutional scrutiny by the U.S. Supreme Court. As Exhibit 2.5 shows, the stat­
utes often list “transacting any business” in the state as a basis for jurisdiction. According to the
Supreme Court in the landmark case *International Shoe Company v. Washington* (66 S.Ct. 154,
1945), a state’s long-arm statutes must identify certain minimum contacts between the corpora­
tion and the state where the suit is being filed to qualify as transacting business.
Chapter 2: The Court Systems

The proper exercise of personal jurisdiction over nonresident defendants by an Idaho court involves satisfying two criteria: First, the court must determine that the nonresident defendant’s actions fall within the scope of Idaho’s long-arm statute. Second, the court must determine that exercising jurisdiction over the nonresident defendant comports with the constitutional standards of the Due Process Clause of the U.S. Constitution.

Blimka alleges that the defendants directed misrepresentations to him in Idaho via electronic means and that he sustained injury when he took delivery of the jeans in Idaho, only then learning that they had been misrepresented.

In this case, the allegedly fraudulent representations were directed at an Idaho resident and the injury occurred in this state. Thus, we hold that Blimka’s allegation of fraud was sufficient to invoke the tortious acts language of [the long-arm statute] with respect to both defendants.

Where an Idaho resident alleges that a defendant in Maine intentionally directed false representations to, and caused injury in, Idaho that resident need not travel to Maine to pursue his or her claim against the perpetrator of the fraud. The defendants’ actions satisfy minimum contacts with respect to the fraud allegations.

Additionally, because the defendants purposefully directed their allegedly false representations into Idaho, the exercise of personal jurisdiction is presumed not to offend traditional notions of fair play and substantial justice. Idaho has an ever-increasing interest in protecting its residents from fraud committed on them from afar by electronic means.

In sum, neither the Idaho long-arm statute nor the Due Process Clause precluded the district court from exercising personal jurisdiction over the defendants and entering a binding judgment against them in this case. As a result, the district court’s decision to deny the defendants’ motion for relief from judgment was not an abuse of that court’s discretion and will not be disturbed by this Court.

We hold that the acts of the defendants were sufficient to subject them to the jurisdiction of the Idaho courts for the purpose of this litigation. The decision of the district court is affirmed. Blimka is awarded attorney fees and costs on appeal.

Questions for Analysis

1. The Idaho high court held that Idaho courts have jurisdiction over an out-of-state seller who misrepresented goods sold over the Internet. Does this mean most Internet-based sellers are subject to jurisdiction in every state where they have a customer?
2. Why did My Web not move the case from Idaho state court to federal court?

2-4c Jurisdiction over Property

In lawsuits based on a dispute over property, a court in the state where the property is located has jurisdiction to resolve claims against that property, whether the property owner is there or not. The court is said to have in rem jurisdiction (rem means “the thing”).

Property in an in rem proceeding can include tangible property, such as real estate and personal property, and intangible property, including bank accounts and stocks. Even if a court cannot obtain jurisdiction over the person of the defendant, it still may have jurisdiction based on the existence of the defendant’s property within the state.

Suppose Andy and Carol are in a dispute over who owns a piece of property in Illinois. Andy sues Carol in state court in Illinois to obtain a court decree about property ownership. Carol lives in Alabama and refuses to respond to the suit. Even though the Illinois court does not have jurisdiction over Carol in Alabama, it has jurisdiction over the property in Illinois, so it may decide who is the rightful owner.

2-5 Relations between the Court Systems

Some disputes can be resolved only in the state courts, some disputes only in the federal courts, and some disputes in the federal or the state court systems. If a case could go to federal or state
EXHIBIT 2.6 JURISDICTION RELATIONSHIPS BETWEEN COURT SYSTEMS

Which court system has jurisdiction?

**State Court System**

- Plaintiff and defendant both live in State A.
  - Dispute involves a matter of state law.

- Plaintiff lives in State A.
  - Defendant lives in State B.
  - Dispute involves a matter of state law.
  - Any amount in controversy.

- Plaintiff lives in State A.
  - Defendant lives in State B.
  - Dispute involves a matter of state law.
  - Amount in controversy is more than $75,000.

- Plaintiff lives in State A.
  - Defendant 1 lives in State A.
  - Defendant 2 lives in State B.
  - Dispute involves a matter of state law.
  - Any amount in controversy.

- Plaintiff 1 lives in State A.
  - Plaintiff 2 lives in State B.
  - Defendant lives in State B.
  - Dispute involves a matter of state law.
  - Any amount in controversy.

- Plaintiff and defendant live in State A.
  - Dispute involves a federal question.

- Plaintiff lives in State A.
  - Defendant lives in State B.
  - Dispute involves a federal question.

- Plaintiff and defendant live in State A.
  - Dispute involves a federal question.
  - Congress has conferred exclusive jurisdiction on federal courts.

- Plaintiff lives in State A.
  - Defendant lives in State B.
  - Dispute involves a federal question.
  - Congress has conferred exclusive jurisdiction on federal courts.

**Federal Court System**

Concurrent Jurisdiction and Removal When concurrent jurisdiction exists, the plaintiff may bring suit in the state court or the federal court system. For example, a suit by an employee for race discrimination in employment under 42 U.S.C. § 1983 (to be discussed in Chapter 16) could be brought in federal or state court because Congress did not choose to limit such actions to federal courts. If the plaintiff chooses the state court system, the defendant could have the
Case Decision Brandeis, Justice.

***

First. Swift v. Tyson held that federal courts exercising jurisdiction on the ground of diversity of citizenship need not, in matters of general jurisprudence, apply [the common law] of the state as declared by its highest court; that they are free to exercise an independent judgment as to what the common law of the State is—or should be....

Second. Experience in applying the doctrine of Swift v. Tyson had revealed its defects.... Diversity of citizenship jurisdiction was conferred [by the Constitution] to prevent discrimination in state courts against those not citizens of the State. Swift v. Tyson introduced grave discrimination by non-citizens against citizens. It made rights enjoyed under the [state's common law] vary according to whether enforcement was sought in the state or in the federal court.... Thus, the doctrine rendered impossible equal protection of the law. In attempting to promote uniformity of law throughout the United States, the doctrine had prevented uniformity in the administration of the law of the State.

***

Third. Except in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State. And whether the law of the State shall be declared by its Legislature in a statute or by its highest court in a decision is not a matter of federal concern.... Congress has no power to declare substantive rules of common law applicable in a State.... And no clause in the Constitution purports to confer such a power upon the federal courts.

Fourth. The defendant contended that by the common law of Pennsylvania ... the only duty owed to the plaintiff was to refrain from willful or wanton injury.... The Circuit Court of Appeals ... declined to decide the issue of state law. As we hold this was error, the judgment is reversed and the case remanded to it for further proceedings in conformity with our opinion.

Reversed.

Case Note The concept of federal common law in diversity-of-citizenship cases was ended. Hence, Pennsylvania law applied and Tompkins was a trespasser and Erie was not liable for his injuries.

Questions for Analysis

1. Why had the decision in Swift v. Tyson prevented uniformity in the administration of state law?
2. After Erie, which court's procedural law must be applied in a diversity-of-citizenship case?

2-5d Applying the Appropriate Law in State Court

When a state court hears a case involving events that took place in more than one state or in another state, a conflict-of-law problem may arise. The court determines whether its law or the law of another state should be applied. To clarify the law, states statutes provide conflict-of-law rules. Some general conflict-of-law rules that affect businesses are presented in Exhibit 2.7.

Conflict-of-law, or choice-of-law, rules vary according to the nature of the dispute. In contract cases, for example, the traditional rule is that the law of the state in which the contract was made determines the interpretation of the contract if the contract did not state what law would be used to govern disputes. In tort cases, the general rule is that courts apply the law of the place where the tort occurred. However, courts evaluate the interests of the states involved in a dispute. The state with the most significant interest in the case would be the state whose law would be applied.

States do not all use the same rules, but they tend to be similar. They account for the interests of parties in the fair resolution of disputes, for the interests of the governments in the effective application of laws and the policy rationales upon which they are based, and for the benefits that exist when of citizens can better predict the legal consequences of their actions.
because there is a more convenient court that could hear the case. When considering the motion, a court considers where the actions related to the case took place, where the witnesses and evidence are located, whether the parties will be unfairly burdened by using a particular court, and whether problems of conflicts of law might be avoided by transferring the case.

**SUMMARY**

- Civil litigation involves the use of law and the legal process to resolve disputes among businesses, individuals, and governments. Litigation through the court systems is a way to resolving disputes peacefully.
- Judges are responsible for upholding the legal system's reputation for honesty and impartiality. Federal judges are nominated by the president and confirmed by the Senate. They enjoy lifetime employment once appointed. State judges are appointed or elected.
- The court system is made up of the state court systems and the federal court system. Most state courts follow the *Federal Rules of Civil Procedure* to govern the important procedural aspects of the litigation process.
- Jurisdiction means "the power to speak of the law." A court must have jurisdiction to hear and resolve a dispute: subject-matter jurisdiction and personal jurisdiction.
- Subject-matter jurisdiction is a constitutional or statutory limitation on the disputes a court can resolve. Typical subject-matter limits may include minimum requirements on the amount in controversy in the dispute.
- Courts of original jurisdiction in the federal and the state court systems are trial courts. They have authority to hear most disputes and provide a wide range of relief. Courts with appellate jurisdiction have the power to review cases decided by courts below them. About half of the states have a second level of appeal in their supreme courts, as is true in the federal system.
- The federal court system has limited subject-matter jurisdiction. They are limited by the Constitution to cases involving (1) a federal question or (2) diversity-of-citizenship cases when the parties are from more than one jurisdiction. By law, more than $75,000 must be at stake in diversity cases. The state court systems can hear most disputes, including federal question cases where Congress has not limited jurisdiction to the federal court system.
- In addition to meeting the subject-matter jurisdictional requirements of a court, the parties—the plaintiff and the defendant—must meet personal jurisdictional requirements of the court. A state court’s personal jurisdiction is limited to the boundaries of its state.
- Personal jurisdiction normally is not an issue, unless the defendant is not a resident of the state in which the plaintiff wants to bring the action. Jurisdiction over the defendant is obtained by personal service of process. For out-of-state defendants, the court may exercise jurisdiction under the state’s long-arm statute. The plaintiff must show that the out-of-state defendant is transacting business in the state.
- When the court is unable to establish its jurisdiction through personal service on the defendant, the court may be able to establish *in rem* jurisdiction over property owned by the defendant that is located within the state.
- The federal courts in diversity-of-citizenship cases must apply the appropriate state common and statutory law.
- In state court cases, when the incident in question took place in another state, the court must look to the forum state’s conflict-of-law or choice-of-law rule to determine what substantive law will apply to resolve the dispute.
- Litigation must occur in the proper venue. In the interest of fairness, a case may be moved to another forum in the same court system, usually because of strong publicity that makes a fair trial difficult. A case may also be moved because the forum for a trial is not convenient for most parties relevant to litigation.
Oldfield suffered an injury he claims was due to the negligence of the boat operator. He sued Parrot Bay in federal court, claiming diversity of citizenship. Parrot Bay did not respond; Oldfield was awarded a default judgment for $750,000 as requested. Parrot Bay appealed. What argument is on Parrot Bay’s side? [Oldfield v. Pueblo de Bahia Lora, S.A., 558 F.3d 1210, 11th Cir. (2009)]

5. An accident in Florida killed three of the four members of a family from Alabama who were riding in their Kia automobile bought in Alabama. Suit was filed in Alabama state court against Kia by the survivor of the accident. Kia requested the trial be moved to Florida on the ground of forum non conveniens because almost all of the witnesses were in Florida. Was that motion reasonable? [Ex parte Kia Motors America, 881 So.2d 396, Sup. Ct., Ala. (2003)]

6. Jones lived in California. She met Williams, a therapist in New Mexico. For four years, Williams provided Jones weekly psychotherapy and dream counseling by telephone from New Mexico. Several times, Williams went to California to provide treatment for Jones there. Williams’ wife, Ritzman, provided Jones weekly Shamanic counseling over the phone. Jones then sued Williams and Ritzman in federal court in California for medical malpractice. Defendants moved to dismiss the complaint for lack of personal jurisdiction. Did Williams or Ritzman have sufficient contacts in California to be subject to jurisdiction? [Jones v. Williams, 660 F.Supp.2d 1145, N.D. Calif. (2009)]

7. Koh, a California resident, won a judgment in California of $240,000 against Inno-Pacific Holdings, Ltd., a Singapore company, but Inno-Pacific did not pay the judgment. Koh discovered that the company had an interest in land in Washington State, so he filed suit in Washington to seize the property to satisfy his judgment. The trial court in Washington dismissed the suit, because it lacked personal jurisdiction over Inno-Pacific. Koh appealed. On what basis could the Washington court have jurisdiction? [Koh v. Inno-Pacific Holdings, Ltd., 54 P.3d 1270, Ct. App., Wash. (2002)]

8. An attorney was appointed by a judge to divide and sell property that had been jointly held by a couple that split up and could not agree on how to handle the property. One of the property owners thought the attorney made mistakes in selling the property and sued him. He defended that he was entitled to judicial immunity and could not be sued as he was acting on behalf of the court. Is that right? [Price v. Calder, 770 S.E.2d 752, Ct. App., N.C. (2015)]

ETHICS QUESTION

Should judges consider the social consequences of their decisions that go beyond legal issues? What if the case involves an individual who has committed a crime and the judge is asked to release the defendant on a mere legal “technicality”?