

**LEONARD N. STERN SCHOOL OF BUSINESS  
NEW YORK UNIVERSITY  
Department of Accounting, Taxation and Business Law**

**BUSINESS LAW FOR MANAGERS (B95.2314.91) SUMMER 2009**

- ❑ Westchester
- ❑ MW 6:00pm - 9:00pm (5/18-6/29)
- ❑ W-1039

**PROFESSOR KOWAL**

- ❑ **Office:** KMC 10-87
- ❑ **Office Hours:** Before & After class & By Appointment
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**COURSE DESCRIPTION**

To succeed, business managers and entrepreneurs need to know how to operate in the legal environment of business. This course provides a basic understanding of legal issues that a business manager may face and opportunities to communicate about law and business. The relationship between law and business will be illustrated in class lectures, discussions and selected readings. The objective of the course is to expose students to some of the key legal dilemmas they can expect to encounter in business as entrepreneurs, managers and consultants.

**COURSE MATERIALS**

- 1. Textbook: Managers & The Legal Environment**, by Bagley & Savage, Thomson/West, Sixth Edition.
- 2. Blackboard Page:** contains lecture outlines, practice problems & course information.
- 3. Lexis-Nexis** (one of the world's primary legal databases)  
Accessible through NYU's Bobst Library on line database. Go to the NYU Home page, click on Bobst Library, click on "articles via databases", under popular databases "click on "Lexis-Nexis" & log on using your NYU Net ID.

**CLASSROOM GUIDELINES**

- 1. Attendance:** Attendance in every class is extremely important. If you must miss a class, please contact me in advance by e-mail. It is your responsibility to find out what materials were covered and obtain class handouts. Several unexcused absences may be reflected in a lower grade
- 2. Class Preparation:** Read all of the assigned materials prior to class and be prepared to discuss any assigned material. Since I frequently call on students during class let me know before class if something has prevented you from being adequately prepared.
- 3. Seating:** Since class participation is important I will try to learn your names quickly

Bring your nameplate to each class to help me learn your name. Please correct me if I mispronounce your name.

**4. Classroom Participation:** This course requires classroom participation. I am aware that some of you may be shy about speaking out in the classroom. I respect this but strongly encourage you to participate.

**5. Examinations:** The midterm and final examinations will be non-cumulative and open notes (your notes & my lecture outlines). The exams will include material covered in the textbook, handouts and class sessions. A make-up exam is possible if I am notified prior to the scheduled examination and appropriate documentation is provided. Students who may need special consideration because of disability should see me during office hours early in the semester.

**6. ETHICAL GUIDELINES: STUDENT CODE OF CONDUCT**

All students are expected to follow the **Stern MBA Code of Conduct** ([http://w4.stern.nyu.edu/scorp/committee.cfm?doc\\_id=4797](http://w4.stern.nyu.edu/scorp/committee.cfm?doc_id=4797))

A student’s responsibilities include, but are not limited to, the following:

- A duty to acknowledge the work and efforts of others when submitting work as one’s own. Ideas, data, direct quotations, paraphrasing, creative expression, or any other incorporation of the work of others must be clearly referenced.
- Examples of what constitutes plagiarism can be found at <http://w4.stern.nyu.edu/citl/>
- A duty to exercise the utmost integrity when preparing for and completing examinations, including an obligation to report any observed violations.

At the professor’s discretion, student work may be submitted to <http://www.turnitin.com> in order to detect instances of suspected plagiarism.

<b>COURSE ASSIGNMENTS &amp; GRADING (approximately)</b>
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ASSIGNMENTS	GRADE PERCENTAGE	FORMAT	DATE
<b>Midterm</b>	25%	Multiple choice Open notes	June 8
<b>Final Exam</b>	25%	Multiple choice Open notes Non-cumulative	June 29
<b>Position Paper</b>	30%	5 page paper	July 6
<b>News Report</b>	20%	10 minute in class presentation	TBD

## **POSITION PAPER ASSIGNMENT**

**DUE: Monday July 6<sup>th</sup> on Blackboard**

### **Paper Topics**

Choose a legal controversy or issue that is of interest to you from **one** of the topics in our syllabus. Picking a substantive topic is key to writing a successful paper. SEE paper topic suggestions listed below.

### **Requirements**

Typed & Double-spaced

Five page limit

Outside research: include at least 4 outside sources **One** of which should be an **Original** legal source (a case or a law).

**Wikipedia & Prof. Kowal's handouts & the textbook are NOT valid outside sources!!!**

### **Organization**

#### **Introduction:**

Briefly describe the legal issue, topic or case that your paper concerns

#### **Facts:**

Provide background information about the legal issue, topic or case.

#### **Analysis:**

The most important part of your paper! Analyze the possible positions that could be taken regarding this legal issue.

#### **Conclusion/Position:**

State your conclusion and your personal position regarding your legal issue.

#### **Bibliography Plus Footnotes or Endnotes:**

List of all references used. If you use a web reference you will need to provide more information than just the URL or web address – you will need to provide the name of the article, author, date and where the article is located. Our textbook is full of footnotes. Use the footnote format in the textbook as a guide for proper footnoting. Also see Bobst Library citation guide quoted below.

**Law Cases:** If you use law cases you will need to provide the full name of the case (plaintiff & defendant), the court it was decided in (including geographic location) and the date of the court's decision. If you are unclear about how to cite a legal case then refer to the textbook where there are many examples of how to cite a case.

#### **Research**

The "Facts" and "Analysis" sections of your paper will require some outside research. Use at least 4 new outside sources (other than the textbook). At least **ONE** of these

outside sources must be an **ORIGINAL** legal source, i.e. a court decision, case or statute/law. Other outside sources can be periodicals, newspapers, Internet sites but **NOT Wikipedia!!** For legal research I would recommend that you begin with Lexis.nexis (available to NYU students via Bobst Library online databases). If you have any questions please email Prof. Kowal.

### **Bobst Library On Citation**

<http://library.nyu.edu/tools/styleguide/index.html>)

“Bibliographies generally use a hanging indent format. Also, titles of books and titles of journals are always underlined. The following examples use the MLA Bibliography format.

#### **Books**

Author Lastname, Firstname. Title of Book. Publication City: Publisher, Year.

##### ***one author***

Coren, Stanley. Sleep Thieves: An Eye-Opening Exploration into the Science and Mysteries of Sleep. New York: Free Press, 1996.

##### ***two or three authors***

Pascualy, Ralph A. and Sally Warren Soest. Snoring and Sleep Apnea: Personal and Family Guide to Diagnosis and Treatment. New York: Raven Press, 1994.

##### ***more than three authors***

Reite, Martin, et al. Concise Guide to Evaluation and Management of Sleep Disorders. Washington, DC: American Psychiatric Press, 1990.

##### ***editors***

Pressman, Mark R. and William C. Orr, eds. Understanding Sleep: The Evaluation and Treatment of Sleep Disorders. Washington, DC: American Psychological Association, 1997.

##### ***institutional author***

European Congress on Sleep Research. The Sleep 1982: Physiology, Pharmacology, Sleep Factors, Memory, Sleep Factors, Memory, Sleep Deprivation, Hypnotics. Basel; New York: Karger, 1983.

#### **Essays and Book Chapters**

Author Lastname, Firstname. "Essay or Chapter Title." Title of Book. Editor of Book Firstname Lastname. Publication City: Publisher, Year. Page numbers of essay or chapter.

##### ***in a book or anthology***

Rechtschaffen, Allan. "The Single-Mindedness and Isolation of Dreams." The Mythomanias: The Nature of Deception and Self-Deception. Ed. Michael S. Mysobodsky. Mahwah NJ: Lawrence Erlbaum Associates, 1997. 135-157.

#### **Articles**

Article Author Lastname, Firstname. "Article Title." Source Name. Volume. Issue Date: pages.

##### ***scholarly journal***

Martensen, Robert L. "The Somnolence of Sleep Research." JAMA: Journal of the American Medical Association 274.20 (1995): 16-43.

##### ***popular journal***

Boiter, Cynthia. "Terrors in the Night." Parenting Dec. 1995: 215.

***newspaper***

Hamlin, Suzanne. "Sleepy? Maybe it's the Turkey." *New York Times* 23 Nov. 1994, late ed.: C4.

***encyclopedia***

"Dreams." *Encyclopedia of Psychology*. New York: Wiley, 1984.

**Full-Text Articles in Databases**

Article Author Lastname, Firstname. "Article Title." Source Name Volume. Issue Date: page(s). Database. Subscription Service. Library where accessed, City, State. Date of Access. .

\* If the article is in PDF format, you can cite it as you would an article found in a print journal-- the above citation directions are for articles found in full-text through a database, in HTML format.

***scholarly journal***

Williamson, Alan. "The Poet-Critic." *The American Poetry Review* 24 (January/February 1995): 37-40. WilsonOmni. Wilson Web. NYU's Bobst Lib., New York, NY. 5 Jan. 2003. .

***popular journal***

Kuchment, Anna. "DNA, Five Decades On." *Newsweek* 24 Feb. 2003: 58. Periodical Abstracts. ProQuest. NYU's Bobst Lib., New York, NY. 10 March 2003. .

***newspaper***

Lacey, Mark. "Kenya's Ruling Party is Defeated After 39 Years." *New York Times* 30 Dec. 2002, late ed.: A1. Lexis-Nexis Academic Universe. Lexis-Nexis. NYU's Bobst Lib., New York, NY. 6 Feb. 2003. .

**Electronic Citations**

Author Lastname, Firstname. Document Title. Source Title, Volume. Issue (if appropriate). Date of Internet Publication. Name of Institution or Organization Sponsoring the Website (if appropriate). Date of Access. .

***professional web site***

Weinstein, Philip. The William Faulkner Society Home Page. 4 April 2002. William Faulkner Society. 4 Nov. 2002. .

***scholarly project***

Center for Reformation and Renaissance Studies. Ed. Michael Ulliot. 4 Nov. 2002. U of Toronto. 5 Nov. 2002. .

**Government Documents**

Government Department or Commission, Office. Title of Report. Editor of Report. Place of Publication: Publisher, Year.

Citing Within the Paper

*Please note that when using footnotes or parenthetical citations, you still need to include a "bibliography" or a "works cited" section at the end of your paper.*

**Footnotes**

Just as for a bibliography, different style guides require footnotes to be formatted in different ways. You should consult the most recent guide for your discipline for details.

**Example:** Using the MLA style to cite a reference with a footnote, insert a number at the place where you want to acknowledge another author's words, facts, or ideas. Then, at the

bottom of the page, repeat the number and follow it with the citation information. For example.<sup>1</sup> (see below).

Footnote numbers should start with 1, and follow sequentially. If you cite a source a second time, you do not need to include the full citation, just the author's name and page number.<sup>2</sup> (see below).

The footnote style is basically the same as for bibliographies, except that:

- The author's name is not inverted
- Include the page number you are citing
- Book Publication information is in parentheses
- Footnotes do not use a hanging indent - indent the first line only.

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<sup>1</sup>Stanley Coren. *Sleep Thieves: An Eye-Opening Exploration Into the Science and Mysteries of Sleep.* (New York: Free Press, 1996) 142.

<sup>2</sup>Coren 143.

## **LEGAL CITATIONS**

### **How to Cite Judicial Opinions**

*Kootenai Envtl. Alliance, Inc. v. Panhandle Yacht Club, Inc.*, 671 P.2d 1085 (Idaho 1983).

*Czapinski v. St. Francis Hosp., Inc.*, 2000 WI 80, 236 Wis. 2d 316, 613 N.W.2d 120.

### **Constitution Citations**

U.S. Const. art. III, § 2, cl. 2.

U.S. Const. amend. XIII, § 2.

N.Y. Const. art. I, § 9, cl. 2.

### **Statute Citations**

42 S.C. § 405(a) (2000).

43 Iowa Code § 259A.5 (2007).

44 Cal. Prob. Code § 141 (2007).

### **Electronic Sources**

Steve Kenney & John Borking, *The Value of Privacy Engineering*, 2002(1) J. Info. L. & Tech., <http://elj.warwick.ac.uk/jilt/02-1/kenny.html>.

World Bank, *Old Age Security: Pension Reform in China 2* (1997), [http://www-wds.worldbank.org/servlet/WDS\\_IBank\\_Servlet?pcont=details&eid=000178830\\_98101912211149](http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000178830_98101912211149).

American Bar Association, Section on Legal Education and Admissions to the Bar, *Legal Education and Bar Admission Statistics, 1963-2005*, available at [http://www.abanet.org/legaled/statistics/le\\_bastats.html](http://www.abanet.org/legaled/statistics/le_bastats.html) (last visited May 23, 2007)."

## **Paper Topic Ideas**

### **Employment Law**

1. Drug testing laws

2. Sexual orientation discrimination: Employment Non-Discrimination Act (ENDA)

3. Americans with Disability Act:

Disability. See *Orr v. Wal-Mart Stores, Inc.* 297 F.3d 720 (8<sup>th</sup> Cir. 2002) & *Toyota v. Williams*, 534 U.S. 184 (2002)

Undue hardship/reasonable accommodation. See *Lyons v. Legal Aid Society*, 68 F.3d 1512 (2d. Cir. 1995); *Myers v. Hose*, 50 F.3d 278 (4<sup>th</sup> Cir. 1995); *PGA Tour, Inc. v. Martin*, 531 U.S. 1049 (2001)

**4. Age Discrimination in Employment Act.**

Downsizing/mandatory retirement. See *Cullen v. Olin Corp.*, 195 F.3d 317 (7<sup>th</sup> Cir. 1999); *Meacham v. Knolls Atomic Powerlab*, US Supreme Court (2008).

**5. Fair Labor Standards Act.**

*KE v. Saigon Grill, Inc.* (US Dist. Ct. SDNY 2008)

**Torts**

**1. Tort Reform & Frivolous Lawsuits**

**2. Duty to Rescue & Good Samaritan Statutes**

**3. Dram Shop Acts & Social Host Liability (drinking in bars and at parties)**

**4. Misappropriation of Person's Likeness for Commercial Use:**

See *Midler v. Ford Motor*, 849 F.2d 460 (9<sup>th</sup> Cir.1988); *White v. Samsung Electronics America, Inc.*, 971 F.2d 1395 (9<sup>th</sup> Cir.1992).

**5. Online Defamation & Internet Service Providers: Communications Decency Act of 1996.**

See *Carafano v. Metrosplash.com, Inc.* 339 F.3d 1119 (9<sup>th</sup> Cir. 2003) (online dating service & identity theft)

**6. SPAM & Trespass to Personal Property**

**7. Right to Privacy:**

See *Nussenzweig v. DiCorcia* 814 NYS2d 891.

**Product Liability**

**1. Punitive Damages:**

*Philip Morris USA v. Williams* (US Supreme Court case 2/20/07); *BMW v. Gore* 517 US 559 (1996); *State Farm Mutual Auto Insurance Co. v. Campbell* 538 US 408 (1992); *Exxon Shipping v. Grant Baker*, No. 07-219 US Supreme Court 2008

**2. Second-hand smoking**

**3. Design defects.**

*Clark v. Brass Eagle, Inc.*, 866 So.2d 456 (Miss. 2004) (paintball gun); *McCathern v. Toyota Motor*, 23 P.3d 320 (2001) (Toyota rollover)

**4. Product misuse.**

*Ward v. Hammer* 341 F.Supp. 2d 499 (NJ 2004) (baking soda & cocaine)

**5. FDA/Federal Preemption**

*Levine v. Wyeth*, 944A.2d 179 (Vt. 2006), *Riegel v. Meditronic*, 169 L.Ed. 2d 892 (US Supreme Court 2008)

**Intellectual Property**

**1. Copyright**

*You-Tube v. Viacom*

**2. Copyright**

*MGM Studios v. Grokster*, 545 U.S. 913

**3. Copyright**

*Author's Guild v. Google* (NY 2005)

**4. Patent: Business Methods**

Blockbuster v. Netflix; In re Bilski (Federal Circuit 2008)

**5. Patent**

Microsoft/AT&T patent case (US Supreme Court February 2007)

**6. Patent: Medical Devices**

KSR International v. Teleflex (2007)

**7. Patent**

Minerva Industries v. Apple, Inc. (Texas 2008)

**8. Trademark: Counterfeit Goods**

Tiffany v. eBay; LVMH v. eBay

**9. Trademark**

Apple Corps v. Apple Computer

**10. Trademark**

Starbucks & Asian Knockoffs (Shanghai)

**11. Trademark**

Elvis Presley Enterprises v. Capece, 141 F.3d 188 (5<sup>th</sup> Cir. 1998); A&H Sportswear v. Victoria's Secret stores, 166 F.3d 197 (3d Cir. 1999)

**Criminal Law**

**1. Search & Seizure**

**2. Legalization of Marijuana: Medicinal Use**

Gonzales v. Raich, 545 US 1 (2005)

**NEWS REPORT ASSIGNMENT**

Students will present 10-minute news reports on current legal events that are relevant to the course. Students may use any media they wish to present, i.e. Power point, handouts, video clips, etc. Sign ups for the news reports will be on the first day of class. You will be working with a student from the class. You may choose who you wish to work with.

**News Report Requirements**

1. Choose a current business law event and present it to the class.
2. 10 minute classroom presentation
2. Include in your presentation how your topic is relevant to our study of law & business
3. Elicit participation from the class.

**COURSE SCHEDULE**

The schedule set forth below is subject to change as the need arises. All changes will be announced in class & on Blackboard. If you miss a lecture it is your responsibility to find out about any announced changes. All chapters are in the **Managers and the Legal Environment** textbook.

<b>Courts with Integrity &amp; Individual Rights</b>		
May 18	Courts, Sources of Law and Litigation Constitutional Bases for Business Regulation	Chapter 3 Cases 3.1, 3.2 & 3.4 Chapter 4 Cases 4.1, 4.2, 4.3 & 4.4

May 20	Contracts	Chapter 7 Cases 7.1, 7.2, 7.4, 7.5 & Penzoil pp.242-47 Chapter 8: only read pp. 251-52, 257-61, 264, 273- 75 & Case 8.5
May 25	<b>NO CLASS MEMORIAL DAY</b>	
May 27	Contracts	Chapter 7 & 8 (cont'd)
June 1	The Employment Agreement & Employment Discrimination	Chapter 12 & 13 Cases 12.1, 12.3, 12.4 Omit pp. 454-458
June 3	Torts  Product Liability	Chapter 9 Cases 9.3, 9.5 Chapter 10 Cases 10.2, 10.3, 10.4, 10.5
June 8	<b>MIDTERM EXAM</b>	
	<b>Business Rights &amp; Fiduciary Duty</b>	
June 10	Agency  Intellectual Property	Chapter 5 Cases 5.1, 5.4, 5.5, 5.6 ,9.4 Chapter 11 Cases 11.1, 11.2, 11.3
June 15	Forms of Business Directors, Officers & Controlling Shareholders	Chapter 20 Cases 20.2, 20.3, 20.4 Chapter 21 Cases 21.2, 21.2, 21.3
June 17	Forms of Business Directors, Officers & Controlling Shareholders	Chapter 19 Chapter 20 Omit pp. 758-776
June 22	Securities Fraud & Insider Trading Criminal Law	Chapter 23 Cases 23.1, 23.2, 23.6, 23.7 Chapter 14 Case 15.1
	<b>Financial Transactions</b>	
June 24	Debtor-Creditor Relations & Bankruptcy	Chapter 24
June 29	<b>FINAL EXAM</b>	