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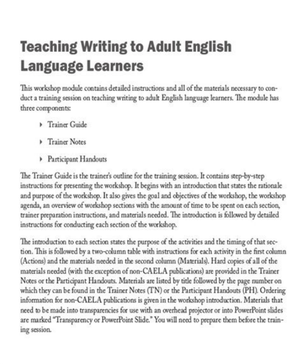


Teaching Writing to Adult English Language Learners

This workshop module contains detailed instructions and all of the materials necessary to conduct a training session on teaching writing to adult English language learners. The module has three components:

- Trainer Guide
- Trainer Notes
- Participant Handouts

The Trainer Guide is the trainer's outline for the training session. It contains step-by-step instructions for presenting the workshop. It begins with an introduction that states the rationale and purpose of the workshop. It also gives the goal and objectives of the workshop, the workshop agenda, an overview of workshop sections with the amount of time to be spent on each section, trainer preparation instructions, and materials needed. The introduction is followed by detailed instructions for conducting each section of the workshop.

The introduction to each section states the purpose of the activities and the timing of that section. This is followed by a two-column table with instructions for each activity in the first column (Actions) and the materials needed in the second column (Materials). Hard copies of all of the materials needed (with the exception of non-CAELA publications) are provided in the Trainer Notes or the Participant Handouts. Materials are listed by title followed by the page number on which they can be found in the Trainer Notes (TN) or the Participant Handouts (PH). Ordering information for non-CAELA publications is given in the workshop introduction. Materials that need to be made into transparencies for use with an overhead projector or into PowerPoint slides are marked "Transparency or PowerPoint Slide." You will need to prepare them before the training session.

AFFIDAVIT OF SERVICE BY HAND (DIVORCE)

Filed in:

- ☐ Federal Circuit Court of Australia
- ☐ Family Court of Australia
- ☐ Family Court of Western Australia
- ☐ Other (specify): _____

The applicant cannot serve the respondent. If the respondent signed the Acknowledgment of Service (Divorce), it must be attached to this form.

Client ID	
File Number	
	COURT USE ONLY
Filed at	
Filed on	
Court location	
Court date	
Court time	

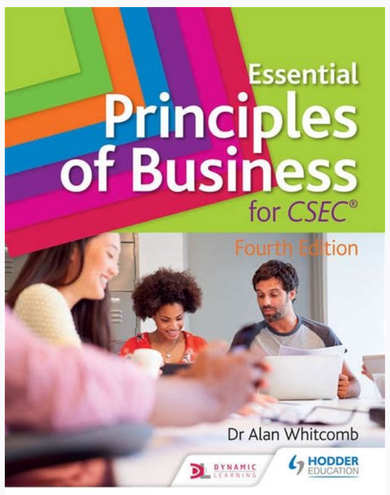
Part A — Person serving documents

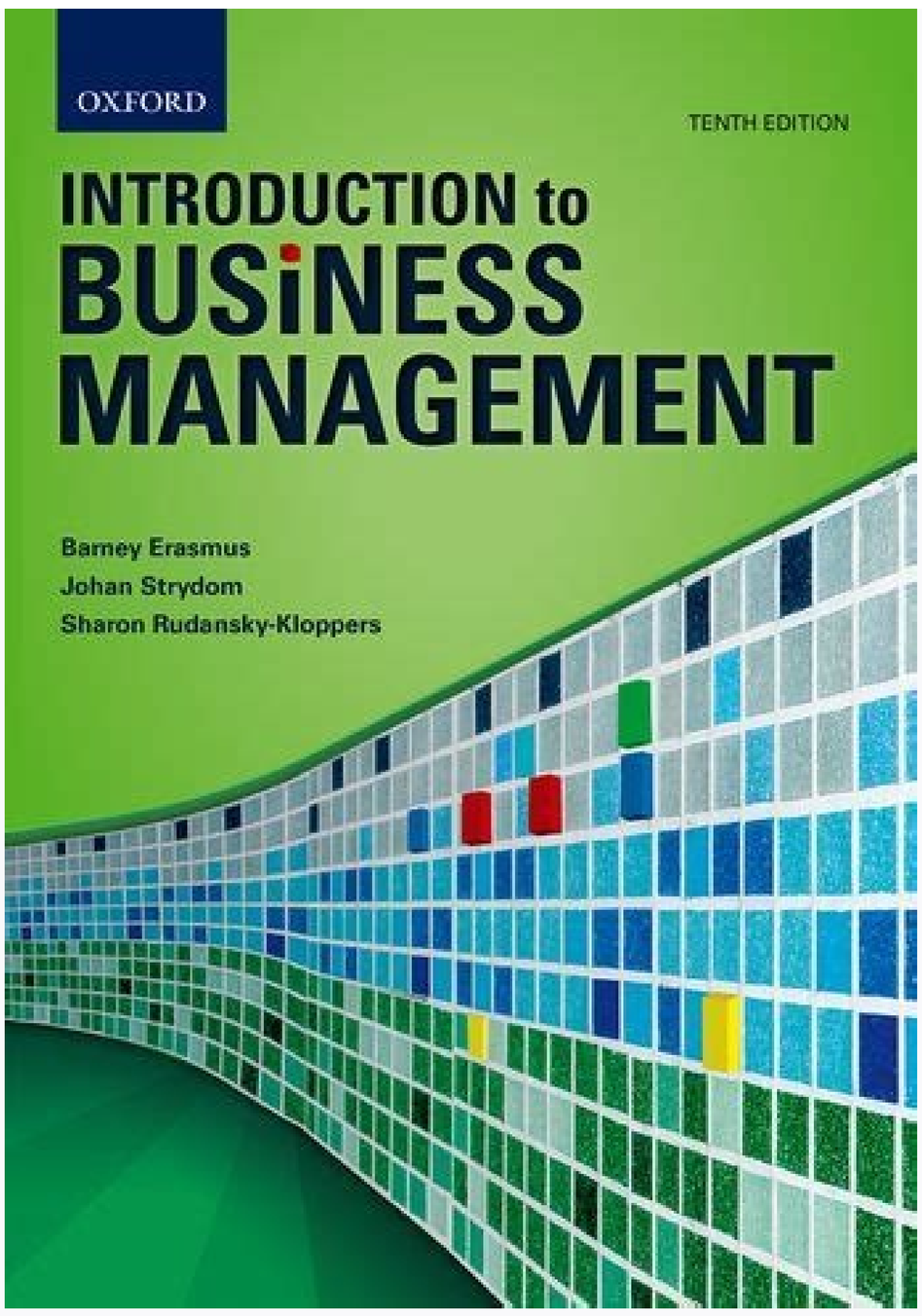
1. Name	Family name Given names
2. Address	State Postcode
3. Occupation	

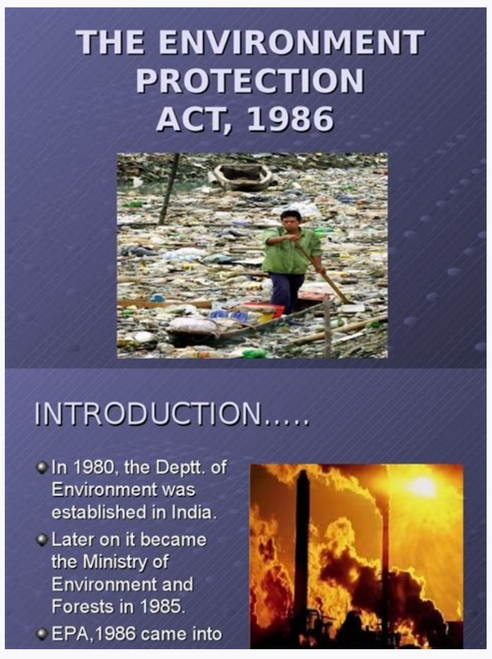
Part B — Details of service

4. Person served (respondent)	Family name Given names
5. Date documents served	/ /
6. What documents were served?	☐ Application for Divorce ☐ Marriage, Families & Separation brochure ☐ Other (give details):
7. How were the documents served?	☐ I handed them to the person at (give address): ☐ I attempted to hand them to the person at (give address): ☐ The person refused to accept them. I put them down and left them in the presence of the person and told the person what they were.

Page 1 of 2







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The court awarded him $23,000, calculated as follows: divided by 2 $ 100,000 − 10,000 advance, the only money Colby was promised agent’s fee = 90,000 fee for the two authors, combined = 45,000 Colby’s fee (the other half went to the co-author) − 5,000 = 40,000 owed to McCarger under the earlier agreement Colby’s expectation interest − 17,000 fee Colby eventually received from Contemporary = 23,000 Colby’s expectation damages—that is, the amount he would have received had Burnham finished on time Compensatory damages Are those that flow directly from the contract Incidental damages Are the relatively minor costs that the injured party suffers when responding to the breach The Colby case presented a relatively easy calculation of damages. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. “It happens all the time,” he said.7 Thomas Wierdsma is the senior vice president at The GEO Group, Inc. Thus instructors have up-to-the-minute information on the class’ general understanding of concepts as well as data on the performance of each individual student. But the president was permitted to veto legislation, a nearly equal grant. • Essential functions. The plaintiffs in Duke Power showed that the tests were not a job-related business necessity—workers who had been hired before the tests were introduced performed the jobs well. If contract law changed daily, an entrepreneur who leased factory space and then started buying machinery would be uncertain if the factory would actually be available when she was ready to move in. Decision: No, the plan was constitutional. In theory, insurance contracts need not be in writing because the Statute of Frauds does not apply to any contract that can be performed within one year, and it is possible that the house may burn down or the car may crash within a year. Delaware has a special court (called “Chancery Court”) that hears nothing but business cases and has judges who are experts in corporate law. STATUTE OF FRAUDS Contracts that must be in writing to be enforceable concern: • The sale of any interest in land, • Agreements that cannot be performed within one year, • Promises to pay the debt of another, Copyright 2019 Cengage Learning. Nor may an employer require workers to retire at a certain age. T F Under the 1934 Act, accountants are liable for negligent behavior. Fifteen minutes after Michael returned to his hotel room, Cyrus called to withdraw the job offer. If salespeople are told that an event creates a 75 percent probability of losing their commission, they are more likely to engage in unethical behavior than if they are told that an event creates a 25 percent probability that they will earn their commission. Review the consequences for actual eviction, described in the “Quiet Enjoyment” section. If the bailment is for the sole benefit of the bailee, the bailor must notify the bailee of any known defects. EXAMStrategy Question: To sell its products, Midland Industries would call a random employee at a target company and say, falsely, that it had done business with the target and just needed to confirm a shipping address. or Approved by disinterested shareholders? NEW YORK CONVENTION An international treaty that provides rules for RESULTs the recognition and enforcement of foreign arbitral awards. Probable cause It is likely that evidence of a crime will be found in the place to be searched. His equipment? controlled. They can have a profound impact on your business—and on your life. It might be tempting simply to invalidate defective documents (after all, money is at stake here). This time, however, the company must cancel the order unless the customer returns the notice, indicating that he still wants the item. If there are two surviving children and three grandchildren who are children of a predeceased child at the time the will is probated, how will the estate be divided? WCN 02-200-203 04341_ch09_hr_156-176.indd 174 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 175 (c) The Stored Communications Act (d) The Wiretap Act (e) None CASE QUESTIONS 1. They thought they could always Copyright 2019 Cengage Learning. To be legal, these payments must simply be hastening an inevitable result that does not involve discretionary action. And in many ways, the individual mandate is just a tax on the uninsured. He need not have foreseen exactly what happened. As a result, most of the Juicy Campus posts were more than just juicy: They ranged from shocking accusations to harassment and revenge. Contract law is a story of freedom and power, rules and relationships—with drama to spare. EXAMStrategy Question: Bill and Diane are hiking in the woods. If he had convinced Brady to pay off the loan without getting the car, that would have been merely a delegation. Constructive eviction ___ B. Sokol then found out that the CEO of Lubrizol planned to ask his board for permission to approach Berkshire about a possible acquisition. If your blood alcohol level is, say, 0.08, your coordination and judgment are poor. Decision: Yes, this remedy was appropriate. The Alaska/CCA contract is explicit: CCA must apply the standards of Alaska law to Alaska prisoners. The words Sleekcraft and Slickcraft are very similar. WCN 02-200-203 04341_ch05_hr_079-100.indd 80 9/28/17 9:36 AM Dispute Resolution Chapter 5 81 E x h i b i t 5 . What are the different functions of trial and appellate courts? 19, No. 3, Market Revolution (May, 2005), pp. He is also entitled to receive the property in good condition and to recover damages for harm to the property if the bailee failed to use adequate care. The employees accepted that offer by working, and from that time on, an implied contract governed the employment relationship. (d) fails to follow generally accepted auditing standards. All other physical objects are personal property—a toothbrush, a share of stock, a 1961 Ferrari 250 GT California. Midland would then send the target unordered, overpriced staples such as lightbulbs and cleaning products. Insured 1. Z Zombie directors Directors who serve on a board with less than majority support from shareholders. The danger, of course, with relying on a government of people, rather than laws, is that it is difficult to get wise, honest people to lead society and basically impossible to find anyone remotely as good as Confucius. (c) Yes because the language is ambiguous and should be interpreted against the insurance company. 4-4b Investigation Agencies do a wide variety of work, but they all need broad factual knowledge of the field they govern. But did they have scienter? Registration under the federal Lanham Act is not necessary. In all Chapter 13 cases, the U.S. Trustee appoints a trustee to supervise the debtor. In some states, a court might rewrite the clause, limiting the effect to the seller’s state or some other reasonable area. If the seller has no assets in the country where you won in court, your award may be worthless. As we will see, this question is one of law, economics, ethics, and very hot politics. One tech CEO commented: “You have zero privacy . If you tell others how to fast-forward through the Disney commercials, you have violated the statute. However, many people believe that some types of behavior are always right or always wrong, regardless of what others may think. Janet says the risks of an appeal are that the court will order a new trial, and they would start all over. A police officer had come upon the scene, told his dispatcher to notify Conrail of the danger, and left. Rich, the Coastal lawyer, proceeds to take Beth’s deposition. “Indians” often spend the entire year and thousands of dollars crafting their intricate designs with feathers, beads, and other decorations. He argued that Iqbal’s pleading did not contain enough information to show that discrimination was the cause of the detainment. To be negotiated, order paper must first be indorsed and then delivered to the transferee. Many will try. And if Jamie needs to protect someone, he should have life insurance that covers him all the time, not just when on airplanes. Thus, a partner is liable for any injury that another partner or an employee causes while on partnership business as well as for any contract signed on behalf of the partnership. He was subject to criminal penalties under the Act. Even in cases where it made economic sense to settle, the company’s goal was to be so unreasonable as to discourage other wronged customers from suing. The Fourteenth Amendment provides that “No State shall . AUDITOR INDEPENDENCE An auditor or her family must not maintain a financial or business relationship with a client. Sexual harassment Involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. 4Wightman v. Kim faxes back, offering to pay $115 million. Reasoning: No one could foresee that what the guards did would harm someone standing at the far end of the platform. F The government may not prohibit a political rally, but it may restrict when and where the demonstrators meet. A California court, however, reached the opposite decision in a school case. However, Red Owl did make a promise and expected the Hoffmans to rely on it, which they did. POWERED BY YOU. Research consistently shows little correlation between CEO pay and firm performance. This is a lockout: Management is prohibiting workers from entering the premises and earning their paychecks. EXAMStrategy Question: Josh was a grouchy fellow, often at odds with his family. There is no single test that will perfectly define this group, but generally when the work will test the character, skill, discretion, and good faith of the obligor, she may not delegate her job. Many items have been used for currency over the years, including silver, gold, copper, and cowrie shells. The government has the right to arrest employees working illegally and to bring charges against the business that hired them. BATTERY AND ASSAULT Battery is an intentional touching of another person in a way that is unwanted or offensive. Abby: I agree to paint the house by July 3 for $2,000. (b) the condominium. Chapter 11 has a much more complicated and ambitious goal—resuscitating a business so that it can ultimately emerge as a viable economic concern, as GM did. The internet of things refers to internet-connected everyday devices, vehicles, and even buildings. Once the PTO had granted a trademark for “Pledge” furniture polish, it refused to trademark “Promise” for the same type of product. Should the voters of this country or the WTO decide the issue? It is illegal if: • Two products are clearly separate, • The seller requires the buyer to purchase the two products together, • The seller has significant power in the market for the tying product, and • The seller is shutting out a significant part of the market for the tied product. The appellate court remanded the case so that the trial court could determine whether the bank knew that the money was borrowed for gambling. Thus, if an LLC enters into an agreement (particularly with a member), a legitimate contract needs to be signed. (See the “Result” at the end of this Exam Review section.) 4. Result: “Anywhere else on Earth”? An action does not violate the ECPA if it is unintentional or if either party consents. 1Note that Pike’s Pique is probably not liable under agency law principles that preclude an employer’s liability for an employee’s intentional tort. EXAMStrategy Question: Astro Circuit Corp. Thus, unlike other texts, we (the authors) have reviewed every question in the MindTap product to ensure that it meets the high standards of our book. But not illegal to say with a mortar launcher. Is the tenant correct? So the four rented a steam cleaner, bought supplies, and cleaned the entire apartment. Corporations are best for businesses that will need substantial outside capital and expect to go public shortly. An employer can legally require all employees to have a high school diploma if: (a) all of its competitors have such a requirement. In short, not every case continues past the pleadings process. Artist acknowledges and agrees that Artist has accepted such employment in the Picture with full knowledge of Artist’s required participation in nude scenes and/or in simulated sex scenes and Artist’s execution of the Agreement constitutes written consent by Artist to appear in the nude scenes and simulated sex scenes and to perform therein as reasonably required by Producer. The government will seek to punish the defendant with a prison sentence, a fine, or both. Both Delaware law and the Uniform Limited Liability Company Act (ULLCA) permit oral operating agreements, which adds a whole new level of complication. WCN 02-200-203 04341_ch14_hr_261-277.indd 276 9/28/17 7:16 AM C h a p t e r 14 Sales 277 DISCUSSION QUESTIONS 1. The high court did not dispute the appropriateness of punitive damages, but it reversed because the trial court failed to instruct the jury properly as to how it should determine the assets actually under the defendant’s control, an issue essential to punitive damages, but not to compensatory damages. Per capita Each heir receives the same amount. How good was his work? The next time John comes to the restaurant, Patrick locks the men’s room door while John is inside. What would be your Life Principle in this situation? The sales associate walked away to, I assumed, get my computer. Profits, all in cash, may mount so swiftly that dealers struggle to use the money without attracting the government’s attention. City of New London, Connecticut, 544 O’Connor v. He completely omitted his daughter, instead leaving the rest of his substantial estate to the Society for the Assistance of Convicted Felons. If the state actually wanted to take Kabrina’s land and turn it into a park, the Takings Clause would force it to pay the fair market value. Different terms cancel each other out. BRT claims it had no duty to protect Tony from this harm. Result: If this is an agreement for services, there is no contract. it is expected to and does reach the user or consumer without substantial change in the condition in which it is sold. Lance has one child; Arthur has four. Delegation would violate public policy, or 2. Artist shall have the absolute right to change his mind and not perform in any nude scene or simulated sex scene, notwithstanding that Artist had prior thereto agreed to perform in such scene. The following case involves the age-old question: Who keeps the engagement ring when a relationship sours? WCN 02-200-203 04341_ch12_hr_220-241.indd 233 10/6/17 12:06 PM 234 Unit 3 Contracts and the UCC 12-4d Other Equitable Interests Specific Performance Specific performance Compels parties to perform the contract they agreed to when the contract concerns the sale of land or some other unique asset Leona Claussen owned Iowa farmland. When the winding up is completed, the corporation ceases to exist. The Eighth Amendment prohibits cruel and unusual punishment, which includes penalties that are out of proportion to the crime. She was dependent on a motorized wheelchair; he drove a Rolls-Royce. Which statement is true? The charter includes: • Name. The company did not offer this deal to people who lived in Puerto Rico or were native Spanish-speakers. Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Leonard, an attorney, was negligent when he represented Anthony. (a) Bob may assign his claim, but only with Cathy’s agreement. Although it might sound fairer to give all grandchildren the same inheritance, most people choose a per stirpes distribution on the theory that they are treating their children equally. If one party’s departure from the agency relationship violates the agreement and causes harm to the other party, the wrongful party must pay damages. A partnership dissolves anytime the business cannot continue, such as when (a) a partner leaves and the remaining partners cannot agree unanimously to continue, (b) the partners decide to end the partnership, or (c) the partnership business becomes illegal. So, to rescind a contract, a mistaken party must show something more than just a regrettable deal. But the Herzog family was Jewish, and during World War II, the Hungarian government worked with the Nazis to confiscate all the property of Hungarian Jews. Incidental beneficiary A party who benefits from the contract although the contract was not designed for their benefit donee beneficiary.1 So long as the third party is either a creditor or a donee beneficiary, she may enforce the contract. RPM guarantees a profit margin for the retailer. Pub Zone 364 N.J. Super. Bard paid the government $48 million to settle this case. The new tenant is permitted to use and enjoy the property and must pay the rent. When Arbor goes bankrupt, Lacy sues Ted. There are also two categories of negotiable instruments: notes and drafts. 17-1 THE AGENCY RELATIONSHIP The first step is to determine: Does an agency relationship exist? Tasteless, rude, inappropriate, or vulgar conduct alone is not enough to establish an IIED claim. Because he shared his office computer with another worker, he brought in his personal computer from home to use for office work. Turman Realty Co., Inc., 228 Ga. App. Some states have statutes prohibiting non-competes in certain industries; others limit their duration. (Note to employers: Two-way mirrors in an employee bathroom are a bad idea.) However, the privacy of a cubicle or personal emails depends on the circumstances. Implied warranties Guarantees created by the Uniform Commercial Code and imposed on the seller of goods. If you were a state legislator, how would you vote when this legislation came up for approval? New Hampshire. 1To find nutritional information on this or other products, search the internet for the name of the product with the word “nutrition.” Copyright 2019 Cengage Learning. Also known as special damages. (d) III and IV Case Questions Presented are the answers for the ODD-numbered case questions in the end-of-chapter material. Do the benefits of obtaining a loan outweigh the harm caused by this violation of privacy and loss of control? The evidence is irrelevant. Carter engaged in fraud by deliberately depressing the stock price. 3 Salman v. The restaurant does not allow African-Americans to eat inside; they must get takeout. For individuals, these crimes can result in identity theft, financial fraud, and data loss. BP was found guilty of two serious legal 5U.S. Department of Justice and the U.S. Securities Exchange Commission, “A Resource Guide to the U.S. Foreign Corrupt Practices Act,” . Dissolution. A subpoena duces tecum requires a person to produce certain documents or things. (See the “Result” at the end of this Exam Review section.) 15. Noah sipped a kale smoothie while negotiating, over Skype, with a real estate developer in San Antonio. (e) The due date was specified as “three months after Donna graduates from college.” CASE QUESTIONS 1. Issue: Does the First Amendment protect flag burning? A seller says, “I think land values around here will be going up 20 or 30 percent for the foreseeable future.” That statement is pretty enticing to a buyer, but it is not a false statement of fact. Argument for Comerford: United described the airplane as “excellently maintained,” knowing that Mr. Comerford would rely. (a) Two-thirds of the House of Representatives (b) Two-thirds of the Senate (c) The Supreme Court (d) A and B (e) A, B, and C 4. 2-3a Money Money is a powerful lure because most people believe that they would be happier if only they had more. Others insist on a more pragmatic approach and wonder if the future benefits outweigh the current costs. Five months later, the OCC declared Keystone insolvent and shut it down. RESALE PRICE MAINTENANCE (RPM) Resale price maintenance means the manufacturer sets minimum prices that retailers may charge. 2000). What part of the Constitution addresses most basic liberties? He did not have first-hand knowledge of Norwegian culture and did not speak Norwegian. However, the common law also has had a long-standing rule that a defendant could be liable for supplying some object to a person who is likely to endanger others. it is payable only to bearer. Although Liberatore’s intentional acts were clearly not intended to serve some purpose of his employer, the Church was liable for its negligence in supervising the priest. Not surprisingly, some companies, when faced with such an accusation, prefer to shoot the messenger. Unfortunately, the chest hair on the skin graft was very thick, and it continued to grow after the surgery. Ordinary care ___D. Quantum meruit “As much as he deserved.” The damages Rescind To terminate a contract by mutual agreement. But Tracy will not go to jail. The senior executives could not possibly have believed that statement to be true. On television dramas, witnesses say astonishing things that amaze the courtroom. Racketeering acts Any of a long list of specified crimes, such as embezzlement, arson, mail fraud, and wire fraud. (a) simple; simple (b) simple; two-thirds (c) simple; three-fourths (d) two-thirds; three-fourths 5. Unfortunately, it bombs, and Jackson is so furious that he fires her on the weekend the movie opens. Chaz has been answers his knock. About what James should do? 4-1c Protected Rights The original Constitution was silent about the rights of citizens. This raised Commerce Clause issues. See Fraud; Mistake (in a contract) Consent (to search/warrantless circumstance), 105 Consideration (contract checklist element), 179, 198, 199 exchange, 199, 200–201 value, 199 act, 199 forbearance, 199 promise to act or forbear, 200 Consolidata Services, Inc., 506 Consolidated Omnibus Budget Reconciliation Act (COBRA), 346 Conspiracy (criminal procedure), 104 Constitutional law, 59, 62e government power, 59–60 federalism, 60 separation of powers, 59–60 powers granted congressional power, 60 executive power, 61 judicial power, 61 protected rights, 63 Fifth Amendment, 64–65 First Amendment, 63–64 Fourteenth Amendment, 66 Consumer credit/usury statutes, 464 cards credit/debit/ATM, 466–467 fees (debit and ATM), 467 fees (prepaid debit), 468 liability (ATM), 467–468 liability (credit card), 467 liability (prepaid debit), 468 consumer credit contract, 288 credit reports access to reports and scores, 470 accuracy, 469 FICO score, 470 n. • Partial strikes. A fire did break out, but Rampart allegedly failed to notify Nationwide, causing the fire to spread next door and damage a building owned by Gasket Materials Corp. Most likely not. Some argue that investors have unrealistic expectations about what an audit can accomplish, especially at the prices companies are willing to pay their accountants. Coastal has refused to pay any sum pursuant to the contract. You Be the Judge: Did the hotel have a duty to protect Smith from imminent assault? Engineers predicted that the chance of being discovered was low, and executives thought the cost of being caught would be manageable. The cash value accrues without being taxed until the policy is cashed in. Allowing patents on what is found in nature would inhibit future innovation and would be at odds with the very point of patents, which is to promote creation. The undefeated team sets out to hit as hard as it can on every play and to run up the score as much as possible. 18-2 EMPLOYMENT SECURITY 18-2a Common Law Protections The common law employment-at-will doctrine was created by the courts. Or train them to remind customers that their credit card company might provide coverage? LEXIS 48 (1993). WHEREFORE, plaintiff Elizabeth Smiles demands judgment against defendant Coastal for all monies due under the contract; demands triple damages for Coastal’s knowing, willing, and unreasonable refusal to honor its obligations; and demands all costs and attorney’s fees, with interest. Research indicates, though, that lenders actually target those consumers, repeatedly sending them offers to borrow money. Six years later, the company fired him without cause. Should the doctors’ case be dismissed? But during the discussion, one of the bosses said, “We have to make a management decision.” Once the issue was reframed as “management” not “engineering,” their primary concern was to please their customer, NASA. When the tippee is a relative or friend, courts assume that the tipper received a benefit from passing on that information. Motion to dismiss A request that the court terminate a case because the law does not offer a legal remedy for the plaintiff’s problem. Sales of Babe Ruth autographs (a) Neither I, II, nor III (b) Just I (c) Just II (d) Just III (e) I and III 3. Of the LLC’s initial $10,000, 39.6 percent ($3,960) has gone to the IRS, compared with the corporation’s 48 percent.3 2This is the federal tax rate; most states also levy a corporate tax. WCN 02-200-203 04341_ch14_hr_261-277.indd 266 9/28/17 7:16 AM C h a p t e r 14 Breeder are merchants, and the additional term about credit for unhealthy animals does become part of their agreement. Statutes Laws passed by Congress or state legislatures. Just the fear of crime is expensive—homeowners buy alarm systems, and businesses hire security guards. Cover. If the seller breaches, the buyer may cover by reasonably obtaining substitute goods; it may then obtain the difference between the contract price and its cover price, plus incidental and consequential damages, minus expenses saved.6 Retailer orders 10,000 pairs of ballet shoes from Shoemaker, at $55 per pair, to be delivered on August 1. 27-1a Types of Patents There are three types of patents: design patents, plant patents, and utility patents. If your answers to the two situations presented here are different, why are they different? Must it seek permission before building the road? Quake should take the initiative and present Jones with its own letter of intent, stating that the parties do have a binding agreement for $1 million worth of work. In the following case, the CFPB accused a law firm of violating the Fair Debt Collection Act. 7.5 percent of the gross receipts of the movie 4. (See the result at the end of this Exam Review section.) Results 1. Result: The plaintiff offered enough proof to convince a jury by a preponderance of the evidence that Arnie had damaged her store. A house on a lot is an interest in land. Who was entitled to sue? Resale price maintenance (RPM), also called vertical price-fixing, means the manufacturer sets the minimum prices that retailers may charge. Could he fire Michael if dementia set in? The company’s representative in its state of incorporation ___ B. Strategy: (1) Eric is deceiving people, and that should tell you the type of crime. Environmentalists wanted the term defined to include every smokestack in a factory so that the EPA could regulate each one. Courts typically answer the question by looking at four factors: 1. Yes, the pair engaged in street crime, which is hardly a focus of this text. ACCOUNTANT–CLIENT PRIVILEGE A limited accountant–client privilege exists under federal law for confidential communications between accountants and clients relating to federal tax advice. Damages in contract cases are designed to give the plaintiff the benefit he would have received if the contract had been properly performed. (b) Neither I, II, nor III 5. If insurance companies are forced to pay claims they did not bargain for, everyone’s insurance rates will go up. But the promoter continues to be liable unless the other party agrees to a novation—that is, a new contract with the corporation alone. UCC §2-104: A merchant is someone who routinely deals in the particular goods involved, or who appears to have special knowledge or skill in those goods, or who uses agents with special knowledge or skill in those goods. WCN 02-200-203 04341_ch28_hr_538-559.indd 548 10/6/17 12:30 PM Chapter 28 Real Property and Landlord–Tenant Law 549 EXAMStrategy Question: Leo rents an apartment from Donna for $900 per month, both parties sign- ing a lease. The Post said that it had fired Guzman because the section she edited, Tempo, was unprofitable. I could have paid off my credit card debt with that money, but, instead, I hosted an employee picnic and bought work boots for the low-wage workers. Strategy: At the moment, they could qualify as a close corporation because they only have two shareholders. Issuer 3. Creating a modest exception to the bystander rule, the court ruled that when an employee suffers a serious injury on the job, the employer must take reasonable measures to help him. In the typical living trust, the grantor serves as trustee during his lifetime. A high-end boutique in Phoenix would not permit Dick Kovacic to apply for a job as a salesperson. Other infringement remedies include (1) destruction of the infringing material, (2) up to three times actual damages, (3) any profits the infringer earned on the product, and (4) attorney’s fees. Under the United States Constitution, power that is not expressly given to the federal government is retained by: (a) the courts. capital investments, such as plants and equipment, less the opportunity cost of those investments. However, some lawyers still recommend using the copyright symbol because other countries recognize it. Which approach is better? Answer: This case creates an issue of substantial performance. This chapter described two lawsuits in which juries initially gave awards of $100 million or more. Drawer 1. Under the Due Process Clause of the Constitution, courts can use long-arm statutes only if a defendant has had minimum contacts with a state. But Shanghai ran two different auctions: one for foreign-made cars, in which the government limited the number of license plates to 30 a month and set a high minimum bid, and another auction for Chinese cars, in which 3,000 license plates a month were available, with no minimum bid. These partnerships were formed to cultivate tropical plants in Hawaii. In his defense, Jason said that the question about pets was confusing. LEXIS 329; 2008 WL 45380 United States District Court for the Southern District of Indiana, 2008 Facts: Heritage wanted to buy tribasic copper chloride (TBCC) from Phibro but because of uncertainty in the industry, the two companies could not agree on a price for future years. What happens to the writing requirement, though, when there is no paper? Also called a promissory note. v. Michael refuses to leave and continues to send checks for $800. Three of the president’s key powers concern appointment, legislation, and foreign policy. (c) Ohio’s general trial court has jurisdiction. Decision: No, naturally occurring DNA is not patentable, but manmade cDNA is patentable. The owner can borrow against the cash value, in many cases at a below-market rate. Without telling Maher, Michael began sharing Maher’s tips with Salman, who made over $1.5 million in profits. 2-2 Theories of Ethics 2-2a Utilitarian Ethics 2-2b Deontological Ethics 2-2c Rawlsian Justice 2-2d Front Page Test 2-2e Moral Universalism and Relativism 2-3 Ethics Traps 2-3a Money 2-3b

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Valdez 7-2d Business Torts Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 8: Negligence, Strict Liability, and Product Liability 8-1 Negligence 8-1a Duty of Due Care 8-1b Special Duty: Landowners 8-1c Special Duty: Professionals 8-1d Breach of
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What Is Value? The officers testified that Miranda had also made an oral confession during the interrogation. These are the circumstances under which a credit card company is not allowed to bill customers, but most will not seek payment from cardholders who seem to have a reasonable claim against a merchant. A holographic will must be in a
testator's own handwriting—it cannot be typed or written by someone else. A personal representative appointed by the probate court to oversee the probate process for someone who has died intestate (or without appointing an executor). First of all, as we have seen, CEO pay went up at twice the rate of the stock market, which means that the
average CEO did much better than the average investor. S ecurities Exchange Act of 1934 5. Reasoning: POM ads used medical symbols, referenced medical journals, and reported that the company had spent substantial amounts on medical research. The Artist must in good faith make himself available whenever the director needs him 5. It deals
with two fundamental issues: Which law applies to a private agreement? William Colby was a former director of the CIA. None of these rights is more important than the authority to raise and spend money (the "power of the purse"), because every branch of government is dependent upon Congress for its money. When you check your suitcase with
the airline, you are again the bailor, and the airline is the bailee. An issuer is a company that sells its own stock. Express authority ___ E. A senior vice president congratulates himself on a cagey stock purchase but is horrified to receive, not profits, but a prison sentence. Similarly, we all tend to believe that we have done more than our fair share of
work at home, on our team, in our study group. To raise this large amount of money, Iris asks that Leo allow her to work 140 hours a week during high season—that is, 20-hour days, 7 days a week. Wendy's argues that since its meat complied with federal and state standards, the hamburgers were merchantable as a matter of law. Who should be at
fault? Strategy: Is Michael covered by the ADA? Burger King Corporation, 391–392 New York Central & Hudson River R. Public international law   Rules and norms governing relationships among states and international organizations. result. During a meeting at a McDonald's restaurant, a Best representative told her that the company would
arrange for a complete refinancing of her home, pay off two of her creditors, and give her an additional $5,000 in spending money. Ann is Becky's best friend. Fourteen years later, the relationship was on the brink. Fraud refers to various crimes, all of which have a common element: deception for the purpose of obtaining money or property.
Hernandez sued Rayner, who settled the case based on the amount of his insurance coverage. Second, Maria's two children were in the backseat. The judges said that was not good enough. If he dies without a will, Kevin will inherit nothing. Students and professors should rejoice with this publication." Current.   This 6th edition contains more than 25
new cases. No matter what the testator's intent, courts generally do not enforce a will unless each requirement of the law has been fully met. WCN 02-200-203 04341_ch30_hr_576-592.indd 586 8/28/17 7:46 AM Chapter 30 Estate Planning 587 prohibited. • When the purpose of the trust has been fulfilled. Or just think in terms of lives saved or sick
days avoided? (b) The president may veto the bill, in which case it is dead. In fact, the company had been stolen a few years earlier—its operations and related revenues all transferred away. Tyrone will pay $50 per case. When the system works correctly, this is the one part of the law over which we the people have control. A famous cartoon depicts a
dog at a computer. T F If the insured makes any false statement in the application process, the insurance policy is voidable. Piggy sent him special checks that he could use to draw down a line of credit. Because most companies incorporated in Delaware do not actually have an office there, they hire a registered agent to serve as their official presence
in the state. Criminal procedure   The process by which criminals are investigated, accused, tried, and sentenced. Nuncupative Will Nuncupative will A few states will also accept a nuncupative will for personal property but not for real estate. If you attempt to open a soda bottle by knocking the cap against a counter and the glass shatters
and cuts you, the manufacturer owes nothing. Soley, 547–548 Lenz v. Purchase money security interest (PMSI)   An interest taken by the person who sells the collateral or advances money so the debtor can buy it. However, a court found the hospital was not liable to the affected workers because it is reasonable for employers to store sensitive
employee data electronically, even knowing that some of it will inevitably be stolen. CONCURRENT ESTATES   When two or more people own real property at the same time, they have a concurrent estate. (d) refuses to pay a valid claim until after four years of litigation. Partition, or division of the property among the co-tenants. Argument for
Parents: Your honors, life on a family farm involves community living. WCN 02-200-203 04341_ch17_hr_315-335.indd 324 10/6/17 12:14 PM C h a p t e r 17 You Be the Judge: Are the musicians employees or independent ■■ contractors? Bruno has failed to perform his part of the contract, and Lydia may use Bruno's nonperformance as a defense
against Doug. The Lakers will: (a) win a case of defamation. So have Nike, Coca-Cola, and Gap, among many others. WCN 02-200-203 04341_ch11_hr_198-219.indd 200 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 201 For consideration to be adequate in the eyes of the law, it must provide some benefit to the promisor or some
detriment to the promisee, but these need not amount to much. Moreover, as mentioned in Chapter 9 on cyberlaw and privacy, blogs and social media ads must clearly and conspicuously indicate if the endorser has received anything of value. Did the insurance company violate its covenant of good faith and fair dealing? In these cases, does an
organization have a duty to take care of its workers? When she was able to focus on business lungs filled with water. During NLRB hearings concerning his termination, Castro revealed for the first time that he was in the United States illegally. George then buys hundreds of yards of costly silk and gets to work cutting and sewing. Is it worth it to
harm Louisa for the chance of protecting thousands of innocent investors? THEORIES OF ETHICS • Utilitarian thinkers such as John Stuart Mill believe that the right decision maximizes overall happiness and minimizes overall pain. The SEC delayed an offering of stock by Google, Inc., after Playboy magazine published an interview with its founders.
When he had a chance to buy three pounds, a quantity only a dealer would purchase, he not only did so, but bargained with skill, showing knowledge of the business. Taylor instructed Claudia to email him if the Fords rejected the offer. While showing the check to Liza, Tony cackles to himself and says, "Can you believe what that goof did? The U.S.
Trustee typically appoints the seven largest unsecured creditors to the committee, although the court has the right to require the appointment of some small-business creditors as well. It promoted this cookie as a vitamin-laden, natural whole food. Carnero was paid in pesos, and his contract was governed by Argentine law. And Maureen, another
student, reaches the bottom of a steep run and slams into a snowmobile that Sara Beth parked there. 70. Son felt guilty over Kim's losses. He swerves into the wrong lane and causes an accident, seriously injuring Marta. One day, you show up at work and find your desk in the hallway. Third, there is no evidence that the franchises were unprofitable
or in danger of bankruptcy. Under this statute: • It is illegal for any employee or agent of a U.S. company (and some foreign compa- nies) to give anything of value to any foreign official for purposes of influencing an official decision. • This is someone else's responsibility. WCN 02-200-203 04341_ch10_hr_177-197.indd 178 10/6/17 11:47 AM C h a p t
e r 10 Forming a Contract 179 We make promises and agreements all the time—from the casual "I'll call you later" to more formal business contracts. When both parties are merchants, additional terms generally become part of the bargain.1 Both Pet Shop and 1There are three circumstances in which additional terms do not become part of the
agreement: when the original offer insisted on its own terms; when the additional term materially alters the offer—that is, makes a dramatic change in the proposal; and when the offeror promptly objects to the new terms. Design Patents A design patent protects the appearance, not the function, of an item. The incorporator signs the charter and
delivers it to the secretary of state. Answer: d.light is a benefit corporation. At the Foot Forum, a teenager limps in wearing ragged sneakers and sneaks out wearing Super Sneakers, valued at $145. It was a proposal written by legal scholars, not a law drafted by members of Congress or state legislatures. • The CISG applies automatically when
contracts are formed between two parties located in different signatory countries. WCN 02-200-203 04341_gls_hr_G1-G14.indd 9 9/28/17 7:30 AM G10 G lo s s a ry Q Res ipsa loquitur   Means "the thing speaks for itself" and Qualified mortgage (QM)   A mortgage that, according to the CFPB, complies with TILA. At the same time, Hardie deposited
cash advances from his personal credit cards into the TPO checking account. The owner is the landlord, and the person allowed to possess the property is the tenant. What are the advantages and disadvantages of hiring a lawyer to draft or review a contract? During that year, Harleysville paid for seven months of lost income but declined to pay more.
In filling out the application, he answered "no" to questions asking whether he had had any of the following conditions: heart murmur, growths, skin disorders, immune deficiencies, sexually transmitted diseases, or any disorders of the glands. The adversary system presumes that by putting a witness on the stand and letting both lawyers question her,
the truth will emerge. For example, it would be illegal to run a magazine advertisement showing reality star Kim Kardashian holding a can of soda, without her permission. Lenny calls Jane to his bedside and hands her a fistful of cash, saying, "I'm dying; these are yours." Jane sheds a tear and then sprints to the bank. Consideration 1. The company
never recovered or reopened. The prosecutor must show that the defendant committed two or more racketeering acts, which are any of a long list of specified crimes: embezzlement, arson, mail fraud, wire fraud, and so forth. Cook responded that many environmental policies do make economic sense. A total of 20 percent of all genes were patented,
and the companies that owned these patents were valued at billions of dollars. What did the landlord actually do? Administrative agencies do this day-to-day work. Should the Big Four be broken into smaller firms to enhance competition? awarded in a quasi-contract case. It controls how much stock can be sold to whom and under what circumstances.
Note that Regulation Crowdfunding provides for little oversight. When an acceptance contains additional terms, the UCC and the common law contain different rules. 7.   Result: Lonny Joe had no bailment with the electrician because the electrician never assumed control of the car. State laws sometimes permit the appointment of a custodian to
protect a debtor's assets. They might use text messages and emails threatening to arrest you. COURT SYSTEMS   There are many systems of courts, one federal and one in each state. WCN 02-200-203 04341_ch24_hr_460-481.indd 471 10/6/17 12:28 PM 472 Unit 6 Government Regulation who gets a letter from an attorney knows the stakes are now
higher. René then berated her, asking her, "How can you spread your legs after the second day?" He gave Gatter an ultimatum: quit working for IKA, or break up with Marcel. Section 2.   The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different
day. Strategy: If the insured makes a material misstatement during the application process, the insurer has the right to void a policy, whether or not the misstatement relates to the cause of death. The drafters intended the UCC to facilitate the easy formation and enforcement of contracts in a fast-paced world. (You can tell where this is going,
right?) Contracts Checklist Offer Acceptance Consideration Legality Capacity Consent Writing Copyright 2019 Cengage Learning. Additional terms become a part of the contract except in three specified instances. Suppose that Emma is an employee of the agency Big Egos and Talents, Inc. 25. (Unfortunately for the defendants, they still went to jail
on other charges.) Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ifc_hr.indd 1 9/27/17 4:19 PM Fit your coursework into your hectic life. 12These examples are from Richard Locke, Matthew Amengual, and Akshay Mangla, "Virtue Out of Necessity?: Compliance, Commitment and the Improvement of Labor Conditions in Global Supply
Chains," Politics & Society, September 2009, 37: 319–351. T F A severability provision asks the court simply to delete the offending clause and enforce the rest of the contract. Robinson-Patman Act 4. Muslim workers at a meat-packing plant want to pray at sundown but break times were specified in the labor contract and sundown changes from day
to day. To win, Vazquez must show that Starwood's decision was a pretext or had a discriminatory intent. John did not owe his father a legal duty, but simply intended to make him a gift, so, Clarence is an intended donee beneficiary, and can sue the landscaping company to enforce the contract himself. It is important to think through your Life
Principles now, so that you will be prepared when facing ethics dilemmas in the future. Louise emails Sonya, "I will sell you my house at 129 Brittle Blvd. When the partners stopped paying rent and abandoned the premises, they both were held personally liable for the rent. • Statutory prohibition. WCN 02-200-203 04341_ch21_hr_398-419.indd 401
10/6/17 12:27 PM 402 Unit 5 The Lifecycle of a Business Written consent A signed document that takes the place of a shareholders' or directors' meeting To make these and other corporate decisions, the shareholders or directors may hold a meeting or, in the more typical case for a small company, they act by written consent. Harry will be dining at
the Ritz, not in federal prison, because he has no fiduciary duty to MediSearch. The UCC provides that no one can be a holder in due course of an instrument with this language. Because the technol- ogy is new, Manufacturer sells the product "as is." Plaintiff later sues Manufacturer for breach of warranty and wins. Any discussion of international
trade issues must begin with free trade, which has been a contentious issue since David Ricardo first advocated it in the early nineteenth century. Often, though, their bargain will also benefit someone else. A typical close corporation has a small number of shareholders (usually fewer than 50), stock that is not publicly traded, and shareholders who
play an active role in the management of the enterprise. If, however, the foreign government is doing something that only a government has the power to do (e.g., printing money, making laws), it is a state activity, and the country is immune from related litigation. These restrictions can drastically lower the total verdict. For example, an
anchorwoman for an NBC news affiliate in Miami might agree that she will not anchor any other Miami station's news for one year after she leaves her present employer. For any legal system to thrive, it must have clear rules, shared values, and a system of enforcement that its subjects acknowledge and respect. An employee who takes a leave must
be allowed to return to the same or an equivalent job with the same pay and benefits. However, research indicates that workplaces with guns are five times as likely to suffer a homicide as one in which they are banned. 1Under §3-305 of the UCC, once the debt is discharged by a bankruptcy court, the creditor cannot collect on a negotiable
instrument. Medford established title to the Disputed Area through adverse possession. REMEDIES   A remedy is the method a court uses to compensate an injured party. Whether or not Shinault violated the law, what ethical obligation did Singleton's supervisor have to protect her from this type of behavior? The carrier is then liable unless it can
show that it was not negligent and that the loss was caused by an act of God (such as a hurricane) or some other extraordinary event, such as war. Discounting may or may not harm products, but, they insist, RPM certainly hurts consumers. Strikes The NLRA guarantees employees the right to strike, but with some limitations. Driving in such a
condition is dangerous. Is it legal to consider that information in making a decision? 14-2 Warranty A contractual assurance that goods will meet certain standards WARRANTIES A warranty is a promise that goods will meet certain standards. For example, CropLife America lobbied against a bill that would support research on the effects of chemicals
on children. As the Dalton case suggests, however, these policies violate the NLRA if they unreasonably limit employee speech about work conditions. 22-2f Payment of Claims Imagine a crowded delicatessen on a Saturday evening. Cheryl is a bank teller. 13-1 CREATING A CONTRACT Before we begin our discussion of written contracts, it is
important to ask: Do you need a written agreement at all? In short, they deliberately duped and defrauded investors. The next year he obtained a second one-year lease. You might think that, if this were true, lenders would avoid customers with a history of bankruptcy. NCMIC was attracted to the deal because dentists typically have a good credit
rating, and were agreeing to pay a high interest rate. WCN 02-200-203 04341_ch30_hr_576-592.indd 587 8/28/17 7:46 AM 588 Unit 7 Property Strategy: The answer depends upon the type of trust she has established. Artist may wear pants or other covering that does not interfere with the shooting of the nude scenes or simulated sex scenes. The
General Agreement on Trade in Services (GATS) and the Trade Related Aspects of Intellectual Property (TRIPS) extend GATT principles to services and intellectual property, respectively. If the toaster happens to strike him, Ms. Wilson has also committed battery. So, although all levels of government have the power to take property, they must pay
the owner a fair price. The more important the interest, the more formal the procedures must be. State courts set general timelines of a few months in order for a divorce to go through. Argument for Ridgaway's Estate: The defendants are not liable for being members of Silk, LLC, they are liable for their own misdeeds as employees of the LLC.
CHAPTER 9 1. The following case is about a tiny country with big dreams of becoming a gambling giant. Any health benefit was at best slight and obtained only in studies that were scientifically invalid. Decision: Yes, the prisoner was the intended beneficiary of the prison contract. When a debtor defaults, the secured party has two principal options:
(1) It may take possession of the collateral or (2) it may file suit against the debtor for the money owed. Generally, a finder is permitted to keep abandoned property, provided he can prove that the owner intended to relinquish all rights. However, she is wrong in their interpretation. It has three components: direct, consequential, and incidental
damages. Davis, 190 Iowa 720 (1921). Facts are critical. What should Steve do? Was this pollution? Issue: Did Actavis violate the Sherman Act? Defamation.   Employers may be liable for defamation when they give false and unfavorable references about an employee. But could a U.S. court meddle in a conflict where would they find it? Implied
contract → (4) An agreement based on the words and actions of the parties C. WCN 02-200-203 04341_ch18_hr_336-355.indd 343 10/6/17 12:23 PM 344 Unit 4 Agency and Employment and Employment Law that an employee engaging in concerted activity could not be fired for saying that his supervisor was a "f-g liar." Furthermore, Brune's email went only to a
limited number of colleagues, not to students, parents, or the general public. Ethics Imagine that you are Robert Eckert, CEO of Mattel, Inc. A12. PROXY   A proxy authorizes someone else to vote in place of the shareholder. The audit failed to reveal, however, that the company had loans outstanding on all of this inventory. YOU BE THE JUDGE
WRITING PROBLEM Jerome Schneider wrote several books on how to avoid taxes. The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States. If Ted sues Marsha, his best claim will be: (a) assault. To Mill, a correct decision
was one that maximizes overall happiness and minimizes overall pain, thereby producing the greatest net benefit. Preece v. Exam Review 1. Switzer bought the stock but was acquitted of insider trading charges because the insider had not breached his fiduciary duty. The FTC does not require websites to have a privacy policy, but if they do have one,
it cannot be deceptive and they must comply with it. Sarah lives in Vermont. Buyer in ordinary course of business (BIOC) Someone who buys goods in good faith from a seller who routinely deals in such goods 16-4a Buyers in Ordinary Course of Business A buyer in ordinary course of business (BIOC) is someone who buys goods in good faith from a
seller who routinely deals in such goods. The copyright for a work describing how to perform a process does not extend to the process itself. All intellectual property rights to the movie 2. That afternoon, she jumped from the roof of her apartment building, killing herself. Promoter   Someone who organizes a corporation. If the ring dropped from your
pocket or was stolen, you are not liable. Do these facts change any of your answers? If he goes forward with the purchase, he may not rescind. In 1980, the Supreme Court ruled that living organisms could be patented. BREACH OF TRUST   Accountants have a legal obligation to: • Keep all client information confidential and • Use client information
only for the benefit of the client. Result: A PMSI is one taken by the person who sells the collateral or advances money for its purchase. As the world gets smaller, these issues will become more and more pressing. Proof of claim   A form stating the name of an unsecured creditor and the amount of the claim against the debtor. • Breach. Generally, a
principal is liable for the physical torts of an employee but generally is not liable for the physical torts of an independent contractor. But, after the managers fired the waiter, a court found that they had violated the Stored Communications Act by coercing the hostess into disclosing her password.17 Internet service providers (ISPs) Companies that
connect users to the internet Foreign Espionage Former National Security Agency (NSA) contractor Edward Snowden set off an international firestorm when he leaked information revealing the extent of U.S. surveillance on everyone from U.S. citizens to world leaders and international charities. The person who enters into the insurance contract and
pays the premiums. While Figgins was gone, Sue overruled the admissions committee to admit the child of a wealthy alumnus. Rachel darts after the dog, afraid he will jump in a nearby pond and emerge smelling of mud. Revocable   A trust that the grantor can terminate or change at any time. Janet focuses on Tony's successful life, his business and
strong marriage, and the tragedy of his accidental death. Although Tobacco Company never found out who stole the truck originally, it did discover Zeke's role. DEBIT AND ATM CARD FEES   Banks may not overdraw an account and charge an overdraft fee unless the consumer signs up for an overdraft plan. Dershowitz met with greater success at
the bar than in the kitchen—the deli failed after barely a year in business. Reasoning: The Supreme Court had heard a series of cases in which the police had not only engaged in lengthy secret interrogations but had also beaten, hanged, and whipped suspects. 4 Stephanie Armour, "Data Brokers Come under Fresh Scrutiny," The Wall Street Journal,
February 12, 2014. SEC rules on independence specifically prohibit accountants or their families from owning stock in a company that their firm audits. WCN 02-200-203 04341_ch13_hr_242-260.indd 248 10/6/17 12:09 PM C h a p t e r 13 13-2 Practical Contracts 249 he Structure T of a Contract A contract is not only an agreement—it is also a
reference document. A union may not favor some members over others, nor may a union discriminate against a member based on characteristics such as race or gender. (a) I only (b) II only (c) Both I and II (d) None of these 4. He has acknowledged that the script calls for nude scenes, and he has agreed, in principle, to appear in them. She felt so
overburdened that she decided to end her life by locking herself inside the trunk of her 1973 Ford LTD. A court will normally attempt a partition by kind, meaning that it actually divides the land equally among the co-tenants. The Jannusches appealed. Cipriani had exclusive control at the party, which took place at a banquet hall that the company
operated. Nancy learns that the building she bought has a terrible heating system. Ford's motion for summary judgment is granted. They have, for example, almost always rejected BFOQ claims that are based on customer preference. MATCHING QUESTIONS Match the following terms with the correct description: ___A. WCN 02-200-203
04341_ch31_hr_593-610.indd 610 9/28/17 6:45 AM APPENDIX A A1 THE CONSTITUTION OF THE UNITED STATES Preamble We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to
ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. Individuals usually file under Chapter 7 if they can meet the income requirements because then they emerge from bankruptcy debt free (except for debts that are not dischargeable). Rowley alleged that the city had unreasonably withheld
permission to assign and had caused her serious financial losses as a result. Bank sued Kendall for payment on the promissory note. Section 7 of the National Labor Relations Act (NLRA or Wagner Act) guarantees employees the right to: • Organize and join unions, • Bargain collectively through representatives of their own choosing, and • Engage in
other concerted activities. Perhaps you are thinking, "That will never happen to me." In fact, the average person is seven times more likely to be disabled for at least 90 days than he is to die before age 65. He subsequently filed a Chapter 7 bankruptcy petition. In that case, regulation would not be appropriate or necessary. I went into rehab and have
been clean ever since. Foreign Policy.   The president conducts the nation's foreign affairs, coordinating international efforts, negotiating treaties, and so forth. WCN 02-200-203 04341_ch03_hr_039-057.indd 50 8/24/17 1:47 PM Chapter 3 International Law 51 U.S. Recognition and Enforcement of Foreign Judgments Imagine that you obtain a court
judgment for a million dollars against a foreign seller who sent you defective goods. BAILMENT A bailment is the rightful possession of goods by someone who is not the owner. After two years, the case ends with a settlement and uncertainty—both typical lawsuit results. Decision: Yes, Turley's claim was valid. How did that happen? Non-conforming
goods do not.2 Frame Shop orders from Wholesaler a large quantity of walnut wood, due on March 15, to be used for picture frames. Microsoft's system automatically determines which datacenter will store emails based on the user's self-reported country code. Someone opened an E*Trade account in Moore's name. PROBABLE CAUSE   The
magistrate will issue a warrant only if there is probable cause. The most common remedy, used in the great majority of lawsuits, is money damages. Do people have a reasonable expectation of privacy when their smartphones inadvertently place calls? The "Deluxe Business Owner's" policy provided replacement cost for damage to buildings and
inventory. Gene Jannusch suggested the parties sign something, but the Naffzigers replied that they were "in no position to sign anything" because they had received no loan money from the bank and lacked a lawyer. WCN 02-200-203 04341_ch22_hr_420-438.indd 428 8/26/17 11:29 AM Chapter 22 Bankruptcy 429 Because discharge is a fundamental
pillar of the bankruptcy process, creditors are not permitted to unfairly pressure the bankrupt. Before Prosenjit Poddar killed Tatiana Tarasoff, he confided his murderous plans to his psychologist who did not warn anyone of the impending crime. Was is it ethical to deny treatment to a patient? In re Brican Am. LLC Equip. A contract carrier does not
make its services available to the general public, but engages in continuing agreements with particular customers. If it was not abandoned, did Francia attempt to locate the owner? That litigation could so easily have been avoided. For example, Hugh Aaron worked for a company that sold plastic materials.2 One of the firm's major clients hired a new
purchasing agent who refused to buy any product unless he was provided with expensive gifts, paid vacations, and prostitutes. Punitive damages are intended to punish the defendant for conduct that is extreme and outrageous. Raul refuses. Our business deal was no more than $10 a pound! Copyright 2019 Cengage Learning. The impaired person
has the right to disaffirm the contract, just as a minor does. Pauline advanced the money for Winona to buy the tank, so Pauline does have a PMSI. Does our legal system rely primarily on the rule of law or the rule of people? No customer buys more tacos because the franchise is a limited liability company instead of a corporation. (e) Dolly wins
$100,000. 20-3d Transferability of Interests As a general rule, unless the operating agreement provides otherwise, existing members of an LLC cannot transfer their ownership rights, nor can the LLC admit a new member without the unanimous permission of the other members. (c) they see someone on the street who could possibly have committed a
criminal act. (BBC) broadcast a television program alleging that Terry Venables, a former professional soccer coach, had fraudulently obtained a £1 million loan by misrepresenting the value of his company. Suppose a man discovers that his daughter has broken virtually every law in this book—she has engaged in insider trading, price-fixing, and
fraud, to name just a few. EXAMStrategy Question: Barwell, Inc., sold McMann Golf Ball Co. a "preformer," a machine that makes golf balls, for $55,000. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof. David rushed to catch the prize but was injured
when his fellow spectators trampled him to snatch it away. Issue: Which law applied to this contract—the CISG, Argentine law, or New Jersey law? Agreements that Cannot Be Performed within One Year Contracts that cannot be performed within one year are unenforceable unless they are in writing. Indeed, there are lots of good reasons why stores
might adopt such a strategy—to build customer loyalty, lure customers away from competitors, or serve as loss leaders to generate increased sales on other, higher-priced products (French fries, anyone?). If properly filled out, checks are negotiable. Issue 3. Casinos responded to cases like Sadri by changing their practices. On what theory would they
be liable? The Louisiana Civil Code limits an innkeeper's liability for stolen property to $500 and only covers cash, jewelry, rare art items, furs, cameras, and negotiable instruments. In the most famous case, the government accused Martha Stewart, the celebrity homemaker and entrepreneur, of engaging in insider trading. In re Cosmo Nick Fiscante,
141 Bankr. F Auditors are liable under the 1933 Act only if they intentionally misrepresent financial statements. CHAPTER 17 1. The burden of proof in civil cases is fairly low. An appeals court ruled that this massive, bulk collection of phone records was illegal and overbroad. 8. Or should the law be done away with altogether? You are a vice
president in charge of personnel at a large manufacturing company. How did this family go so terribly wrong? However, Brune would never have lied if Stein had not carried out an improper investigation. See Privacy (in digital world); Regulation (in digital world) Direct examination, 92 Disney authenticity vs discrimination, 365 support for healthy
foods, 30 Dispute resolution. YOU BE THE JUDGE WRITING PROBLEM United Technologies advertised a used Beechcraft Baron airplane for sale in an aviation journal. U.S. Court of Appeals C. See Uniform Commercial Code (UCC)/Article 9/ secured transactions Securities Act of 1933 (the 1933 Act), 441 liability, 442 third party by accountants, 508
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Shareholders election of corporate directors, 401–402, 401e, 409–410 independent directors, 410 plurality vs majority voting, 409 proxy access, 409–410 executive compensation government regulation, 412 pay for performance, 410–411, 411e reasons for inaccurate performance measures, 411–412 rights, 408 to information, 408 meetings, 409
proxies, 409 relationship with managers, 408 to vote, 408 Shari'a law, 43 Shell corporations, 400–401 Sherman Act of 1890. Heir → (1) Someone who inherits assets Chapter 31 A. And they worry that the lawyers will interfere in the business deal itself, at best causing unnecessary hindrance, at worst killing the deal. one person. Imagine that you had
been born into different circumstances—say, a country where the literacy rate is only 25 percent and almost all of the population lives in desperate poverty. Under contract law, Chaz owes Trustie only $6,000, so that is all he has to pay Reggie, even though the note says $15,000. There is one judge, and there will often (but not always) be a jury.
Rather, the plaintiff must prove that Insurance 599 the insurer: (1) did not have a reasonable basis for denying benefits, (2) knew of or recklessly disregarded its lack of reasonable basis, and (3) breached its duty of good faith and fair dealing through a motive of self-interest or ill will. All manner of businesses hope to avoid large tort judgments by
requiring their customers to give up any right to recover. Each was paid an hourly wage. But what happens when a driverless car harms someone? The prosecutor must then show that the defendant used these racketeering acts to accomplish one of the three purposes listed above. Answer: A court held that Atlas had violated GINA, which prohibits
employers from requesting genetic information from its workers. Should an intoxicated person be the only one liable if harm results? When members of an LLC do choose to have an operating agreement, the law respects their freedom to contract and gives them wide latitude in drafting the agreement, particularly as regards the relationship among
themselves. A pre-trial procedure involving oral questions answered under oath 4. If they did not intend to benefit her, she probably has no power to enforce the agreement. The judge asks the foreman if the jury has reached a decision. Example: • W. No Bill of Attainder or ex post facto Law shall be passed. Here, we focus on data privacy, or people's
right to control information about themselves. When conducting an audit, accountants verify information provided by management. The company then indorsed the note over to its lawyers to pay past and future legal fees. WCN 02-200-203 04341_ch18_hr_336-355.indd 340 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 341 18-2b
Family and Medical Leave Act The Family and Medical Leave Act (FMLA) guarantees both men and women up to 12 weeks of unpaid leave each year for childbirth, adoption, or a serious health condition of their own or in their immediate family. This requirement is called scienter. 2. Result: An S corporation can have only one class of stock. Statutes
affect each of us every day, in our business, professional, and personal lives. As the saying goes, Reggie steps into Trustie's shoes. Any regulation based on race or ethnicity is nearly certain to be void; one based on gender is likely to be void. If they make no agreement in advance about the term of the agreement, either principal or agent can
terminate at any time. George plans to manufacture and sell silk scarves during the holiday season. During an office party, many of the employees, including the president, Betts, were playing with an electric auto condenser, which gave a slight shock when touched. Argument for Kim: As a part of the deal made at the sushi restaurant, Kim agreed
not to sue Son. The gunshot wound was unrelated to his cocaine use. The U.S. government investigated JPMorgan Chase & Company's practice of hiring the children of top Chinese officials in Hong Kong. She sued. Maybe the driver was tired, or drunk, or high on drugs. T F A party may take a security interest in tangible things, such as goods, but not
in intangible things, such as bank accounts. But they are not necessarily enforceable through the legal system. The agency persuaded the owner's certified public accountant, James Checksfield, to spy on him for eight years. A reaffirmation must be approved by the court if the debtor is not represented by an attorney or if, as a result of the reaffirmed
debt, the bankrupt's expenses exceed his income. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 13 9/28/17 7:29 AM I14 Index Social media and employment pitfalls, 368–369 and workplace freedom, 344 Social Security, 346 Sole discretion clause in contract, 251 Sole proprietorships, 379 advantages and disadvantages, 379 Sovereign immunity, 42
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his siblings each had their share of chores and responsibilities, but they also enjoyed benefits, including a house, meals, and assistance with work. Remember that the filing may be done on paper or electronically. The rules for checks are different from those for other negotiable instruments. Argument for Providence: This section of Providence is
zoned to prohibit topless dancing, just as it is zoned to bar manufacturing. (d) win, but only if she did not think the "no refund" policy applied to her. Is this true? No one can qualify as a holder in due course if she is on notice that (1) someone else has a claim to the instrument or (2) there is a dispute between the original parties to the instrument. In
Chapter 8, we examine negligence and strict liability, which involve injuries and losses caused by neglect and oversight rather than by deliberate conduct. (2) The clinic simultaneously authenticates a security agreement. Suspending Antigua's GATS obligations would have virtually no impact on the United States at all. A vice president from the
customer service team told me that the company's l argest customer was going to be conducting an on-site audit. WCN 02-200-203 04341_ch04_hr_058-078.indd 66 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 67 the statutes that govern the nation. Her boss tells her she can have Fridays off for as long as
she works there. T F Unless the contract provides otherwise, both sides in a contract dispute pay their own legal fees. Interrogatories ___E. And the incident is ancient history—the dentist's current finances are strong. While receiving payments, a worker must make a good-faith effort to look for other employment. These agreements may be long or
short, written or oral, negotiable or not. And so the Constitution divides legal authority into three pieces: legislative, executive, and judicial power. 2-2e Moral Universalism and Relativism Moral universalism A belief that some acts are always right or always wrong For many ethics dilemmas, reasonable people may well disagree about what is right.
The parties created a bailment, and the hotel is liable. In 1928, the Supreme Court answered that question when it ruled that the Fourth Amendment did not require the government to obtain a warrant before listening to, or recording, private telephone conversations.1 The Court reasoned that wiretaps were not an invasion of privacy because they did
not involve physical intrusion. WCN 02-200-203 04341_ch28_hr_538-559.indd 542 10/6/17 12:30 PM Chapter 28 28-4 Real Property and Landlord–Tenant Law 543 LAND USE REGULATION 28-4a Nuisance Law A nuisance is an unprivileged interference with a person's use and enjoyment of her property. A PMSI in consumer goods perfects
automatically, without filing. 24-3d Plastic: Credit, Debit, and ATM Cards Credit Cards Fees.   During the economic crisis that began in 2008, many consumers struggled to pay their credit card bills. Harry and George are now tenants in common, and the right of survivorship is destroyed. But that standard means that private accounts are not really
private. CISG 4. The court concluded these crass statements did not rise to the requisite level of major outrage. In one of its most significant modifications of contract law, the UCC changes that outcome. COMMUNICATIONS DECENCY ACT OF 1996 (CDA)   Under the CDA, ISPs and web hosts are not liable for information that is provided by
someone else. The Sarbanes-Oxley Act of 2002 protects employees of public companies who provide evidence of fraud to investigators. Long Island Railroad 248 N.Y.339 Court of Appeals of New York, 1928 CASE SUMMARY Facts: Helen Palsgraf was waiting on a railroad platform. Strict liability 2. After the test drive, Bien indicates he does not want
the car, but Maturelli escorts him back inside and fills out a sales sheet. Once again, the Constitution gives powers in general terms. They are included here because they represent an important option for entrepreneurs. He made his move, quickly hooking up the car to his tow truck and driving away. Two individuals and two counties in North
Carolina filed suit against the U.S. government, alleging that the anti-taking provision of the ESA as applied to the red wolves on private land exceeded Congress's power under the Interstate Commerce Clause of the U.S. Constitution. (If anyone ever tells you that, run!) The gallery permitted purchasers to trade in a painting in return for any other
artwork the gallery owned. Martin is a rich businessman in perfect health. Did the city have the power to deny the Delucas' request? 2005). Who Pays Who Plays Note You make a promise that you will pay. A company fired an armored truck driver because he disobeyed company policy by leaving his vehicle to help two women who were being
attacked by a bank robber. Discuss the relevant law and predict the outcomes. Steve supervises a team of account managers. These types of patents protect the design of products ranging from Star Wars action figures to Coca-Cola bottles, Nike shoes to Ferrari chassis. The company then reassigned Kedkad to Dubai, but he told the company he could
not go because of the Post-Traumatic Stress Disorder (PTSD) he had acquired from his exposure to horrible violence in Libya. American Viscose was out of business by then. In March, while Chuck is vacationing on his land, he permits Kyle to enter the land and dig the foundation for a new cottage. ILLEGAL CONTRACTS   Illegal contracts are void
and unenforceable. He wanted to take care of Kathleen. These coercive practices do not work, and compliance is at best sporadic. Each rested on, but was not attached to, a built-in brick platform. When they met, Baer pitched a different idea, concerning "a film or television series about the New Jersey Mafia." He did not realize Chase was already
working on such an idea. The company's cigarettes kill 200,000 American customers each year, while its weekly profit is roughly $100 million. 6 Harmon v. A priest alerted him that Mary Guzelian, a street person who roamed his district, had trash bags in her ghetto apartment stuffed with cash, bonds, and bankbooks. Sports Clip offered only haircuts
and primarily served men and boys. 22-2g Discharge Fresh start After the termination of a bankruptcy case, creditors cannot make a claim against the debtor for money owed before the initial bankruptcy petition was filed. When Ann was released from the center, she requested return of the violin, but her mother refused. Punishments for violations of
this act can be severe. Note The maker of the instrument promises to pay a specific Misrepresentation A statement that is factually wrong. Exclusionary Rule Under the exclusionary rule, any evidence the government acquires illegally may not be used at trial. Under this statute, commercial email: • May not have deceptive headings (From, To,
Reply To, Subject), • Must offer an opt-out system permitting the recipient to unsubscribe (and must honor those requests promptly), • Must clearly indicate that the email is an advertisement, • Must provide a valid physical return address (not a post office box), and • Must clearly indicate the nature of pornographic messages. Nothing in the contract
terms demonstrates that it could not be fulfilled within one year, so it is enforceable. • If one party to the conversation consents, secret recording is legal under federal law. T F To survive a motion to dismiss, a plaintiff need only present enough facts to show that the wrongdoing was possible. Are these rules unacceptably inconsistent? The publishers
all agreed with Apple's plan and then withheld their books from Amazon until it 2United States v. A bargaining unit is a "group of employees with a clear and identifiable community of interests." Election.   If more than 50 percent of the workers vote for the union, the NLRB designates it as the exclusive representative of all members of the bargaining
unit. Huff appealed. (a) Yes, because both countries are signatories. They agree on a price and want to make some notation of the agreement even before their lawyers work out a detailed purchase and sales agreement. Tracing   An auditor takes an item of original data and tracks it forward to ensure that it has been properly recorded throughout the
bookkeeping process. Conforming goods satisfy the contract terms. To win a defamation case, a public official must prove that the harmful statement was made with malice. Argument for Friedman: The undercover agent had to ask three times before Friedman sold him a small amount of drugs. Every Bill which shall have passed the House of
Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. The Supreme Court
decided that resale price maintenance is a rule of reason, not a per se violation, of the antitrust laws. However, under the UCC, the writing need not completely summarize the agreement. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which
the two Houses shall be sitting. Trial and Appeal At trial, it is the prosecution's job to convince the jury beyond a reasonable doubt that the defendant committed every element of the crime charged. Amendment III [1791]. Do you have 20/20 corrected vision? The high cost of developing intellectual property, combined with the low cost of reproducing
it, makes it particularly vulnerable to theft. Spielberg could rescind the contract to buy the script. Issues: Was Gatter sexually harassed? Hazardous wastes must be (1) tracked from creation to final disposal and (2) disposed of at a certified facility. Couplers allow for this detour. 1As reported in David Segal, "Selling It with Extras, or Not at All," The
New York Times, September 8, 2012. Jake is not liable if a vagrant wanders onto his land and is burned by defective electrical wires. When Diminishing arrives, on schedule, in bankruptcy court, both banks will race to seize the rolling stock. Earth's atmosphere, thereby causing global warming. She could ask the court to permit a class action. Only
their first names are used unless the individual has consented or the events are a matter of public record. 1 A simple security agreement: (1) The manufacturer sells a CT scan machine to a clinic, taking $500,000 and the clinic's promise to pay the balance over five years. Also, both of the Kellys are healthy, educated, and employed. Should she tell
him about the mistake? deliver the paper. A finding of undue hardship is an incredibly high hurdle to overcome. Traditional contracts tended to use archaic words—whereas and heretofore were common. But Sheehan himself spent seven hours frantically trying to locate his supposedly injured children, who in fact were fine. In other words, she is not
guilty if she acted under duress. North American Free Trade Agreement (NAFTA)   A treaty that reduced trade barriers among Canada, the United States, and Mexico. But there are some differences. Today, the Wiretap Act makes it illegal to intercept or record face-to-face oral communications and telephone calls during their transmission.16 It also
prohibits disclosing the contents of an illegal recording. Does Stephanie get the car? Would that help you decide what to do? As a result, many homes were abandoned for long periods. The good news under this system is that policyholders have the largest possible choice of doctor and treatment. REMEDIES   An injured seller may resell the goods
and obtain the difference between the contract and resale prices. Average winter visibility in the Grand Canyon would be improved by, at most, 7 percent, but perhaps less. Auctions.   Internet auctions are the number one source of consumer complaints about online fraud. Auth. – A ceiling fan – A bathtub – The carpeting – A floor lamp – A dishwasher
– A television Which of the above are Jamal's personal property? Trusts, however, are private documents and are not available to the public. (d) People make their best ethical decisions instinctively, rather than thinking through a problem. He finds solo practitioners, buys their assets, signs them to a long-term contract, and then improves their
management and billing processes so effectively that both he and the dentists are better off. Being a director is a good job—prestigious, well paid, with nice perks. Are these "don't be a hero" policies reasonable? EXAMStrategy Question: Marko, a sporting goods retailer, speaks on the phone with Wholesaler about buying 500 footballs. Tenancy in
common is the "default setting" when multiple people acquire property. They have recently taken a number of trips for the holidays and to visit family. Laura, a tire wholesaler, signs and sends a memo to Scott, a retailer, saying, "Confm yr order today—500 tires cat #886—cat price." Scott realizes he can get the tires cheaper elsewhere and ignores
the memo. If you go out drinking and make a foolish agreement, you are probably stuck with it. However, sometimes their contract affects a third party, one who had no role in forming the agreement itself. (c) Valerie will win only if she can prove that Car Moves agreed to strict liability. Imagine that you are a legislator from one of these countries.
14. Result: Customer preference does not justify discrimination except in cases of sexual privacy. 24-2d Bait-and-Switch Bait-and-switch A practice where sellers advertise products that are not generally available but are being used to draw interested parties in so that they will buy other items FTC rules prohibit bait-and-switch advertisements: A
merchant may not advertise a product and then disparage it (or otherwise make it unavailable) to consumers in an effort to sell a different (more expensive) item. Now we need to classify them. In this case, Adrienne would not be liable because the landlord is not in the same class as First Bank, for whom Adrienne knew she was preparing the
documents. (b) The burden is on Max to prove that the valet service caused the dent. The main elements of this crime are as follows. I'll pay you $800 per week for a 35-hour week, for six months starting Monday." This is a valid offer. Strategy: A misrepresentation is material if it affects the insurer's decision to issue a policy or set a premium
amount. Once arrested, he faces a 20-year sentence. Were the lawyers holders in due course? The quantity of goods is required because this is the one term for which there will be no objective evidence. Issues: Did Nationwide act in bad faith? Even if he outlived Kathleen, his assets would go to charity rather than his children. This incident was a test
staged by a news station. If it was not willing to commit, let it say so openly. Millie lends Arthur, her next-door neighbor, $25,000. One court has, indeed, accepted as a will a handwritten Post-it note that had not been witnessed. After the death of Babe Ruth, one of the most famous baseball players of all time, his daughters registered the name "Babe
Ruth" as a trademark. Because they knew that if they failed to sell $200 in extras, they would be in serious trouble and might even be fired.1 This practice is classic bait and switch, and, as we will see, it is illegal. The donor intends to transfer ownership of the property to the donee immediately. Such an indirect reference to a replacement for a
repealed statute did not provide sufficient notice to Kedkad that his rights were being severely limited. However, there are some general requirements. • If a partner engages in a conflict of interest, he must turn over to the partnership any profits he earned from that activity. Does her failure to stop the assault make her liable? The next day, HBI
ended Mendenhall's contract, claiming his tweets offended the public. For example, a physician sued State Farm Insurance, alleging that the company had hired doctors to produce false medical reports that the company used to cut off claims by injured policy holders. An obligor may delegate his duties unless: 1. In the end, both neighbors won:
Medford obtained ownership of the Disputed Area and Cruz earned the right to access the pier through the Disputed Area—without having to jump the fence. He worked remotely from their home, so that he could care for Noah. At Boston University she won the Broderick Prize for excellence in teaching. Because the doctors effectively controlled
such a high percentage of the patients needing the service, other oxygen companies could not enter the market. For topics covered by the CPA exam, administered by the American Institute of Certified Public Accountants, the Exam Review includes questions from previous CPA exams. You Be the Judge Rodriguez v. 1Roe v. Rich also questions several
neighbors as to how depressed Tony had seemed and how unusual it was that Blue was tied up. When it began hosting gambling websites, its economy thrived, boosted by U.S. gamblers. He is familiar with the following data:8 Percent of Adults Who Smoke Group Group Percent of Adults Who Smoke Native Americans 42 Asian women 8 People living
below poverty level 36 Living above poverty level 22.5 People with less than a high school education 32 College graduates 13 Unemployed 45 Full-time employed 28 James fears that the policy will prevent HIC from hiring the very people who need jobs the most. The students do not have large parties, but they often have friends over at night. In 12
months, your only access to the house may be through the chimney. • Debtor, for our purposes, refers to a person who has some original ownership interest in the collateral. Who wins and why? Close corporation → (4) Created by state law E. The prospectus for this investment neglected to mention that the partnerships did not have enough cash on
hand to grow the plants. Section 3.   If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. Higher pay can increase 5Rachel Donadio, "On Gay Priests, Pope Francis Asks, 'Who Am I to Judge,'" The New York Times, July 30, 2013 Copyright 2019 Cengage
Learning. The company sued the Bank to get the money back. CPA QUESTION   A principal will not be liable to a third party for a tort committed by an agent: (a) unless the principal instructed the agent to commit the tort. Myriad Genetics, Inc., 524 Awtry v. Second, it creates a system of checks and balances among the branches. Norv's strongest
evidence of a contract is the fact that Jackson gave him forms on which to order BMWs. Jackson answered that it was his standard practice to give such forms to prospective dealers, so Copyright 2019 Cengage Learning. Dacor ordered air hoses from Sierra Precision, specifying the exact size and couplings so that the hose would fit safely into Dacor's
oxygen units. Why would a company do that? Within a year, customers returned a dozen Dacor units, complaining that the hose connections had cracked and were unusable. (a) (b) (c) (d) Purchasing an automobile for $35,000 Leasing an automobile worth $35,000 Purchasing a sound system worth $501 Purchasing a sound system worth $499 2.
Offers may be terminated by revocation, rejection, expiration, or destruction of the agreement's subject matter. Why does it matter whether the parties had a sale or a lease? FUTA establishes some national standards, but states are free to set their own benefit levels and payment schedules. GAAS   "Generally accepted auditing standards" are the
rules for conducting audits. Was Buckeye a holder in due course? (a) A creditors' committee, if appointed, will consist of unsecured creditors. Agent   In an agency relationship, the person who is acting on behalf of a principal. INJUNCTION   An injunction is a court order that requires someone to do something or refrain from doing something. In the
meantime, I pray you to accept assurances of my high veneration and esteem for your person and character. 2Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington all have community property laws; Wisconsin's system is a variation of the same principle. if it is payable to or indorsed to her; for bearer paper, anyone in
possession. 2.   Result: The court ruled in favor of Benzaquin, because a reasonable person would understand the words to be opinion and ridicule. Mitigation The duty to keep losses at a minimum Duty to Use Premises Properly A lease normally lists what a tenant may do in the premises and prohibits other activities. But still she owes $2,500, almost
as much as she borrowed. 24-2f Telemarketing The telephone rings: "Could I speak with Alexander Johannson? (b) Stephanie gets the car because this is a valid gift causa mortis. Legality: Illegal bargains are not enforceable. In some cases, the Code dispenses altogether with the writing requirement. Is the family entitled to the proceeds of the policy?
But that letter didn't mean anything. Reasonably Ordinary or usual under the circumstances Good faith An honest effort to meet both the spirit and letter of a contract Sole discretion The absolute right to make any decision on an issue 2. And the audits were becoming less effective because partners were increasingly afraid to deliver bad news for
fear of losing both audit and consulting fees.1 To save money, the firm began to force partners to retire at 56. CONSPIRACY   It is illegal to conspire to commit a crime, even if that crime never actually occurs. If the new shipping date is within 30 days of the original one and the customer does not cancel, the order is still valid. Artist might, for
example, want to assign his right to receive payment under the contract to his ex-wife. If a state legislature or Congress concludes that certain behavior harms public safety and welfare, it passes a statute forbidding that activity; in other words, declaring it criminal. Equitable interest. WCN 02-200-203 04341_ch08_hr_137-155.indd 154 9/28/17 7:17
AM Chapter 8 Negligence, Strict Liability, and Product Liability 155 2. After the conversation, Marko writes this message by hand: "Confirming our discussion—you will deliver to us 'Pro Bowl' model Copyright 2019 Cengage Learning. The monthly rent was $900. The short answer is that very few businesses deliberately choose to be a general
partnership. Apologize for lying, for not being honest, forthright, upstanding, moral, considerate, much less intelligent or wise. WCN 02-200-203 04341_ch03_hr_039-057.indd 45 8/24/17 1:47 PM 46 Unit 1 The Legal Environment North American Free Trade Agreement (NAFTA) A treaty that reduced trade barriers among Canada, the United States,
and Mexico General Agreement on Trade in Services (GATS) A treaty on transnational services Agreement on Trade Related Aspects of Intellectual Property (TRIPS) A treaty on intellectual property The North American Free Trade Agreement (NAFTA) is an RTA that has had a large impact on the United States. WCN 02-200-203 04341_ch11_hr_198-
219.indd 210 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 211 to sell a lot in Happydale. T F An agreement to sell cocaine is a voidable contract. In what kind of world do we want to live? Suppose a state legislature approves an education plan for the next year that udgets $35 million for boys' athletics and $25 million for girls'
athletics. 1   The Constitution established a federal government of checks and balances. Such a gift is revocable any time before the donor dies, so Cassandra gets her book back. Orion Group v. Barky is a mixed-breed dog, worth about $100. SLAPP   A SLAPP, or strategic lawsuit against public participation, is a defama- tion lawsuit whose main
objective is to silence speech through intimidation, rather than win a defamation case on the merits. They ran up debts of $5,500 on the credit card and did not pay. Stakeholders include employees, customers, and the communities and countries in which a company operates. The incorporation documents are submitted by lawyers or other
professionals who do not actually own the organization, without revealing the names of the true owners. In some cases, strict performance does make sense. ETHICS Life insurance policies place the burden on beneficiaries to notify the insurance company when an insured dies. WCN 02-200-203 04341_ch20_hr_377-397.indd 397 10/9/17 1:51 PM
CORPORATIONS CHAPTER 21 In February 2004, Mark Zuckerberg started a social networking website in his dorm room at Harvard. 11-1b What Constitutes Exchange? com—which included a picture of him altered to statements were posted look like a devil. Proceeds of the sale would go to restore its endowment and build a new science building.
A heart surgeon must perform bypass surgery with the care of a trained specialist in that field. Negligence ___E. (b) No because Barry was underpaying him. The city refused permission. 161, 1994 U.S. Dist. ExamStrategy Question: When Jeff said he did not want to invest in Edge Energies limited partnerships, the general partner suggested he call
Jackson, the partnerships' accountant. Decision: No. Martino had to return the ring. As a general rule, leases must therefore be in writing, although many states have created an exception for short-term leases of a year or less. WCN 02-200-203 04341_ch14_hr_261-277.indd 267 9/28/17 7:16 AM Unit 3 268 Contracts and the UCC Consequential
damages Damages resulting from the unique circumstances of the injured party Incidental and Consequential Damages.   An injured buyer is generally entitled to incidental and consequential damages. WCN 02-200-203 04341_ch18_hr_336-355.indd 352 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 353 3. Exculpatory clause   A
contract provision that attempts to release one party from liability in the event the other party is injured. Many workers left the farms and villages for large factories in the city. An example of true impossibility is: (a) (b) (c) (d) strict performance. WCN 02-200-203 04341_ch09_hr_156-176.indd 162 8/24/17 12:19 PM Chapter 9 Reasoning: To state a
claim for intrusion, a plaintiff must demonstrate that the defendant intentionally invaded in a highly offensive way. Now, the employment relationship is more strictly regulated by statutes and by the common law. The police should not be allowed to conduct random searches of cars that have been stopped for a trivial traffic offense. (d) both. Federal
courts have two key functions: adjudication and judicial review. 2-4a Personal Ethics in the Workplace Should you behave in the workplace the way you do at home, or do you have a separate set of ethics for each part of your life? • Lost property is something accidentally given up. Janet Booker decides to file the Enviro-Vision suit in the Oregon trial
court. Out of this idea grew the fundamental principle of international law: sovereignty, which means that each government has the absolute authority to rule its people and its territory. NLRB v. What if the suspect and the tenant disagree, with the tenant granting permission while the suspect forbids the police to enter? Required level of care in a

bailment made for the sole benefit of the bailee 3. Reasonable expectation of privacy The test to analyze whether privacy should be protected 2. (c) Millie has an attached, unperfected security interest in the ring. Qualified privilege Employers are liable only for false state- refers to cases where the facts imply that the defendant's negligence caused the harm. Feeling sentimental on a night of goodbyes, Becky gives Ann a necklace that has been in Becky's family for 50 years. The court ruled that there was no confusion—fallwell.com had a clear disclaimer. Under their health insurance plan, the family had to pay 20 percent of the cost of their medical care. That is easy, since the death certificate clearly demonstrates it and since Coastal does not seriously contest it. Tenancy at Will A tenancy at will has no fixed duration and may be terminated by either party at any time. Thus, there is no advantage to using the LLC form of organization for a publicly traded company. WCN 02-200-203 04341_ch06_hr_101-120.indd 104 8/24/17 1:38 PM Chapter 6 Crime 105 Plain View. When Rashad Walker opened his door in response to a police officer's knock, he was holding a marijuana joint in his hand. Who wins when both parties are partly responsible? When it is later discovered that the land never belonged to Arthur, James can rescind the contract. BLUE SKY LAWS All states and the District of Columbia regulate the sale of securities. Upon discovering the error, Marc returned the modem to Comcast, which promised to correct his account. • Adaptive Test Prep for students, where they can generate their own practice quizzes with questions similar to those found on most exams. Which of the following parties is not affected by perfection of a security interest? EXAMStrategy Question: Lonny Joe owned two rare 1955 Ford Thunderbird automobiles, one red and one green, both in mint condition. • Prevention of significant deterioration (PSD) program. Unfortunately, they did not renew the LLP registration each year, as the statute required. Those are cases of third party beneficiary. The burden on a plaintiff in a bad faith case is high. These wage provisions do not apply to managerial, administrative, or professional staff. That counted as personal gain, and he spent a year and a half in prison. Stacey tucks her nine-year-old daughter, Beth, into bed. Because of this building, their neighborhood swarmed with drug dealers and prostitutes. T F When Ms. Palsgraf sued the railroad, the court found that the railroad should have foreseen what might go wrong. Stick to the question: Should you grant summary judgment? Indeed, there was a candidate with these credentials who was unable to find a job as a lawyer in any San Francisco law firm. The UCC will control Derrick's suit. Result: In cases involving the sale of land or some other unique asset, a court will grant specific performance, ordering the parties to perform the agreement. In a tort case, it is up to the injured party to seek compensation. Fair use doctrine Permits limited use of copyrighted material without permission of the author. If your grandparents were to die leaving a large estate, and all of their children were also dead, would you have a larger inheritance under a per stirpes or a per capita distribution? RICO RICO prohibits using two or more racketeering acts to accomplish any of these goals: (1) investing in or acquiring legitimate businesses with criminal money, (2) maintaining or acquiring businesses through criminal activity, or (3) operating businesses through criminal activity. But you also want to make sure that the movie does not hurt your career. Or are auditors taking risks because they believe that regulators are afraid to kill a Big Four firm? EXAMStrategy Question: Sam had a checking account at Piggy Bank. For this reason, sole proprietorships work best for businesses without large capital needs. Philip Morris, Inc., 129–130 F Browning v. Paul Termarco and But the pair's entrepreneurial vision did not end with Gene Murdoch are hot dogs. It illustrates the purpose of the CDA—and its costs. 6In re Carlisle Etcetera LLC, 114 A.3d 592 (Del. In this market, eggs from smart, pretty women are the most valuable. It is a good practice to remind yourself of your values. He took his fiduciary obligations seriously and would not have participated in a scheme that looked to him like undue influence. Under Chapter 13, the bankrupt consumer typically keeps most of her assets in exchange for a promise to repay some of her debts using future income. Restitution ___C. Ball-Mart, a baseball card store, had a 1968 Nolan Ryan rookie card in almost per- fect condition for sale. MANAGER'S PROTECTION FROM LIABILITY Even if a manager violates the business judgment rule, he is still protected from liability (and his decision is upheld) under any of the following circumstances: • The disinterested members of the board of directors form a special committee that approves the decision. How likely is it that a parent with sufficient mental capacity to make a valid will would forget a child? 2-4j Ethics Case: A Worm in the Apple "Riots, Suicides and More," blares an internet headline about a FoxConn factory where iPhones and other Apple products are assembled. Kraft, Inc., makes Kraft Singles, which are individually wrapped process cheese food slices. Defective pipes flooded the bathroom. The government, organizations, and individuals all have the right to file civil lawsuits seeking damages and, if necessary, injunctions. Warm was in the business of selling such heaters and installed the heater itself. When Winstar's real revenues fell, it began to report fake ones. After two days, with his losses totaling more than $22,000, he went home. Resale Price Maintenance Resale price maintenance (RPM) or vertical price-fixing A manufacturer sets minimum prices that retailers may charge. Phil claims that Dick agreed to sell him 3,000 acres of farmland in Ohio, worth over $2 million. An injured buyer can use money damages to purchase a virtually identical auto. Order paper must include the words "Pay to the order of" someone. Was Pauline's security agreement a PMSI? LEXIS 88702 (D.N.J.2009). Covenants are the promises the parties make about what they will do in the future. 5-5a Mediation Mediation A form of ADR in which a neutral third party guides the disputing parties toward a voluntary settlement Arbitration A form of ADR in which a neutral third party has the power to impose a binding decision Mediation is the fastest-growing method of dispute resolution in the United States. 9UCC §2-709. MAKING FALSE STATEMENTS It is illegal to make false statements or engage in a cover up during any dealings with the U.S. government. Answer: They should and did claim that they borrowed the money to gamble. A debtor is not required to file the following document with his voluntary petition: (a) Budget statement for the following three years (b) Statement of financial affairs (c) List of creditors (d) Claim of exemptions (e) Schedule of income and expenditures 5. Ignoring the shareholder vote is a violation of that duty. EPA 135 S. Without a security interest, the Term Loan was much less likely to be repaid. But they must pay the cost themselves, plus as much as an additional 2 percent to cover administrative expenses. If the partnership wants to buy an office building and a partner hears of one for sale, she must give the partnership an opportunity to buy it before she does. Because his contract was for the sale of land, it was governed by the common law of contracts. Today, the hottest disputes about implied contracts often arise in the employment setting. RIGHT TO ASSIGN A party generally may assign contract rights unless doing so would substantially change the obligor's rights or duties, is forbidden by law, or is validly precluded by the contract. Strategy: Recall that trademark registration requires a use—or bona fide intent to use—in commerce. WCN 02-200-203 04341_ch20_hr_377-397.indd 395 10/9/17 1:51 PM 396 Unit 5 The Lifecycle of a Business the LLC. Domestic corporation A corporation is a domestic corporation in the state in which it incorporates. Do they have the right to order a report on Clyde? If Betty is hired for three years as manager of Burger Brain, the agreement is unenforceable unless put in writing. Reasoning: A self-dealing transaction is valid only if it is "entirely fair," meaning that both the process and the price are fair. WCN 02-200-203 04341_ch28_hr_538-559.indd 553 10/6/17 12:30 PM 554 Unit 7 Property 8. WTF? So, in 1945, 50 nations signed the Charter of the United Nations, binding themselves to its terms and obligations. The parties to a contract do not have to arbitrate a dispute unless the contract specifically requires it. T F The federal government has the power to take private property for public use, but local governments have no such power. The jury also heard evidence that the defendant had raped another eight-year-old. 1993). Strategy: When faced with a question about negotiability, begin by looking at the list of six requirements. He gives her his diamond ring as collateral for the loan. Indictment The government's formal charge that the defen- Health Maintenance Organization (HMO) Generally, patients dant has committed a crime and must stand trial. Warfield wrote checks to the corporation, which it cashed. • Executor or executrix. First, the boundaries of intentional torts are imprecise, the outcome of a particular case depending to a considerable extent upon the fact finder who analyzes it. WCN 02-200-203 04341_ch30_hr_576-592.indd 590 8/28/17 7:46 AM Chapter 30 (a) (b) (c) (d) (e) Estate Planning 591 I, II, or III II or III Just I Just II Just III 4. Hernandez appealed to the Arizona Supreme Court. WCN 02-200-203 04341_ch11_hr_198-219.indd 213 10/6/17 11:53 AM 214 Unit 3 Contracts and the UCC EXAM REVIEW 1. We teach the reader—over and over—how to approach a question: to start with the overarching principle, examine the fine point raised in the question, apply the analysis that courts use, and deduce the right answer. We do not picture corporate executives sitting at polished desks. Attorney's fees? Notice that this does not mean the statement was necessarily a "lie." If a homeowner says that the famous architect Stanford White designed her house, but Bozo Loco actually did the work, it is a false statement. Laurie's departure interfered with that goal. She filed suit against MONOC, alleging intrusion. He said he did not like some of Michael's ideas for changing the magazine. However, the state is not trying to seize the land—it merely wants to prevent large development. How should you rule on the motion? Agencies have the power to create laws called regulations. Suddenly, Red locks out all union workers. Buried in the fine print was a clause requiring any future dispute between the parties to go to arbitration, and the arbitrators would be chosen by Giant. WCN 02-200-203 04341_ch29_hr_560-575.indd 573 8/28/17 7:38 AM 574 Unit 7 Property CASE QUESTIONS 1. When the Whitehouses decided to breed horses, they went horse shopping at the Lange's ranch. What he did not have was a spouse, children, parents, will, or anyone obvious to manage his music legacy. shall be penalized in any manner, or denied any right or privilege, for such actions." Being fired is a substantial penalty. If she fails to do either, she has breached her contract and may be liable for any damages that result. A partial strike occurs when employees strike intermittently, stopping and starting repeatedly. An employee is acting within the scope of employment if the act: • Is one that employees are generally responsible for, • Takes place during hours that the employee is generally employed, • Is part of the principal's business, • Is similar to the one the principal authorized, • Is one for which the principal supplied the tools, and • Is not seriously criminal. Strict Performance and Substantial Performance Strict Performance. Courts dislike strict performance because it enables one party to benefit without paying and sends the other one home empty-handed. The strap broke, and Powers replaced it with a nylon rope. "This house has no termites," says a homeowner to a prospective buyer. WCN 02-200-203 04341_ch01_hr_001-014.indd 13 10/6/17 11:41 AM 14 Unit 1 The Legal Environment be the outcome if the jury believes that Lance was responsible for identity thefts? The judges are emphasizing that courts do not reach decisions arbitrarily. But pursuant to section H(5), death by suicide is not covered. Zeke found the vehicle abandoned at a truck stop. For the second round of the experiment, participants were promised money if they accurately predicted how many problems they would get right, but the tests did not include an answer key. Iqbal would need to add more information to nudge his claim across the line from possible to plausible. WCN 02-200-203 04341_ch29_hr_560-575.indd 564 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment 565 The following case has contributed significantly to modern legal ideas on found property. Your authors are always grateful when plaintiffs volunteer to illustrate half a dozen legal issues in one lawsuit. In some cases, these toys have burned so fiercely that they have caught their garages on fire, endangering all of the home's occupants. Moments later, Kim's business partner convinces her that Frederick's offer was a bargain, and she faxes an acceptance of his $135 million offer. So a court will order the seller to convey the rare object and the buyer to pay for it. LANDLORD–TENANT LAW Landlord–tenant law is really a combination of three areas of law: property, contract, and negligence. Andersen opened an office in Enron's headquarters staffed with more than 150 Andersen employees. However, this practice has become both lucrative and popular, as consumers seek cheaper alternatives to hotels. This time the court confronts a fight in a hotel bar that caused a young man permanent brain damage. Annie has sold 30,000 cases. Result: "The script for the Picture includes scenes showing Artist (a) with frontal nudity from the waist up and with rear below-the-waist nudity (but no frontal below-the-waist nudity); and (b) in simulated sex scenes. And employees feel more loyalty to companies that treat their workers and the community right. Should courts follow past rulings, or should they decide cases anew each time, without regard to past decisions? (c) Lacy will lose because she did not rely on these statements. The combination of their original discussion, Lisa's subsequent letter, Ed's delivery, and her acceptance all adds up to show that they reached an agreement. Sometimes they even shred their mail. Andy throws away Dwayne's policy and pockets his premiums. MATCHING QUESTIONS Match the following terms with their descriptions: ___A. Suppose Wholesaler writes to Manufacturer, offering to buy "10,000 wheelbarrows at $50 per unit. 3Carey v. When he bought a 4K television at Shopping World for $1,000, the salesperson offered him a two-year service plan for $80. Technical Plastics of Oregon, LLC 2006 U.S. Dist. Sometimes she invites her boyfriend to join her for dinner. 21-4c Piercing the Corporate Veil Pierce the corporate veil A court holds shareholders personally liable for the debts of the corporation. 28-5b Landlord's Duties Duty to Deliver Possession The landlord's first important duty is to deliver possession of the premises at the beginning of the tenancy; that is, to make the rented space available to the tenant. • Reaches the user without substantial change. In arbitration, as already discussed as applied to trials, discovery allows the two sides in a lawsuit to obtain documentary and other evidence from the opponent before the dispute is decided. TV-9, a freight train traveling at 60 miles per hour, struck the car broadside, killing both girls instantly. Chapter Conclusion Agency is an area of the law that affects us all because each of us has been and will continue to be both an agent and a principal many times in our lives. • Existing chemicals. Hoffman challenged the order in court. But James is not working for the government—he is employed by a bank. What is wrong with bribery, anyway? But determining whether someone is a third party beneficiary is not always as clear. Sales 271 Wendy's hamburgers need not be perfect, but they must be fit for their intended purpose. Strong Narrative. The law is full of great stories, and we use them. (a) Other prospective creditors of the debtor (b) The trustee in a bankruptcy case (c) A buyer in the ordinary course of business (d) A subsequent personal injury judgment creditor 2. (A scrivener is a clerk who copies documents.) In the case of a scrivener's error, a court will reform a contract if there is clear and convincing evidence that the alleged mistake does not actually reflect the true intent of the parties. So far, however, few companies have sought reimbursement for executive wrongdoing. There has never before been any violent crime—robbery, beating, or other incident—at any BRT Carnival. Tata Consultancy of Bombay, India, is an international computer consulting firm. Then consider whether the court will correct the mistake. When Creative discovered this lie, it sued Ward and the investors to obtain a refund of all interest it had paid under the loan, as is permitted by California law. Almost half the states have adopted the Uniform Fiduciary Access to igital Assets Act. Punitive damages are not designed to compensate the plaintiff for harm because compensatory damages will have done that. Up to 3,000 new chemicals are introduced each year. Both Slickcraft and Sleekcraft made sporty, fiberglass boats of a similar size and price. She confides in her husband, Danny, and suggests he postpone his plans to buy a new boat. In the early 1970s, he developed a method of practicing yoga, which he called Bikram. He alleged that on three separate occasions, Chase had agreed that if the program succeeded, Chase would "take care of" Baer and would "remunerate Baer in a manner commensurate to the true value of his services." This happened twice on the phone, Baer claimed, and once during Chase's visit to New Jersey. Evidently many people believe that if everybody else is doing it, then it must be okay. We all tend to think of ourselves as better than the other fellow. T F Most companies use a very broad purpose clause in their charter. Boston Scientific (BSC), an American multinational, hired Carnero to work in its Argentine subsidiary. What must he do to achieve this goal? To comply with the Model Benefit Corporation Act, an organization must: • State in its charter that it is a benefit corporation, • Obtain approval of its charter from two-thirds of its shareholders, • Measure its social benefit using a standard set by an objective third party, and • Prepare an annual benefit report assessing its performance in creating a public benefit. 3-2c International Chamber of Commerce The International Chamber of Commerce (ICC) is the world's largest global business organization. 31-2a Offer and Acceptance The purchaser of a policy makes an offer by delivering an application and a premium to the insurer. Consumer goods are those used primarily for personal, family, or household purposes, so this was not a consumer purchase. But the plaintiff cannot recover more than the total she is owed. Convicted defendants have a right to appeal. Many of these checks and balances will be examined in more detail later in the text. Expectation interest. WCN 02-200-203 04341_ch04_hr_058-078.indd 78 8/24/17 1:35 PM CHAPTER 5 DISPUTE RESOLUTION Tony Caruso had not returned for dinner, and his wife, Karen, was nervous. She said had been in a car accident and showed the security guard her handicapped parking permit. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 11 9/28/17 7:29 AM I12 Index Patents (continued) Patent Trial and Appeal Board, 524 application and issuance, 524 prior sales, 525 priority between two inventors, 525 infringement, 525 international treaties, 525 for living organisms (issues), 523 and human genetic material, 523 Patent and Trademark Office (PTO), 521 requirements for utility patent nonobvious, 522–523 novelty, 522 patentable subject matter, 523 utility, 523 types, 521 design, 521 plant, 521–522 utility, 522, 522t Payee, 279 PayPal Credit, 462 "Peppercorn rule," 201 Perfection (UCC definition), 296 Personal jurisdiction, 80–81 Personal property, 561 found (abandoned/lost/mislaid) property, 564–565 gifts, 561 acceptance, 563 causa mortis, 562 delivery (physical or constructive), 582 engagement ring, 563 intention to transfer ownership, 561 inter vivos, 562 revocable, 561 vs contract, 564t Petition (in union organizing process), 348 Phishing, 110 Physical and mental examination (in discovery process), 87–88 PIC Realty, 185–186 Picasso, Pablo, estate of, 576 Pickwick & Perkins, Ltd., 549 Piercing the company veil corporation, 404 LLC, 386 Pillsbury Co., 448 Plain view (warrantless circumstance), 105 Plaintiff, 8 Plaintiff 's case (trial), 92 Plea bargaining, 107 Pleadings, 84 answer, 86 class action, 86 complaint, 84–85 motion to dismiss, 86 Poddar, Prosenjit, 69 Ponzi scheme, 25 Pope Benedict XVI, 21 Pope Francis, 21 Porter, Michael, 32 Precedent, 5, 93 Predatory pricing, Sherman Act violation, 451–452 Preferred stock, 401 Prego, 15 Preponderance of the evidence, 91 Price-fixing, Sherman Act violation, 449–450 PricewaterhouseCoopers, 511 Prima facie, 357 Prince, 520, 528 Princeton Theological Seminary, 26 Principal (in agency relationship), 317 Privacy (in digital world), 157 big data, 158 cybersecurity issues, 171 data breaches, 157 internet of things, 158–159 liability of internet service providers, 169 surveillance and discrimination, 157–158 and workplace freedom, 344 Privacy (laws governing), 159 Privacy Act 1974, 72 privacy torts (common law), 161 intrusion, 162 public disclosure of private facts, 161 reasonable expectation of, 159–160 state statutes, 166 statutes, 163 foreign espionage, 165–166 wiretapping and electronic surveillance, 163–165 See also Fourth Amendment Private international law, 40 Privity, 148 Probable cause, 104 Probate law, 577–578 Procedural Due Process Clause, 65 Product liability, 147 contemporary trends, 149 negligence claims, 147 failure to warn, 147 negligent design, 147 negligent manufacture, 147 strict liability for defective products, 147–149 Professional corporations (PCs), 390 Professionals (special duty), 141 Promisee, 221 Promisor, 221 Promissory estoppel, 184 Promoter (of a corporation), 399 Property historical value of land, 521 See also Intellectual property; Personal property; Real property Prosecution (of a crime), 102 Protected rights, 63 Fifth Amendment, 65 procedural due process, 65 Takings Clause, 65 First Amendment, 63–64 Proximate cause, 139, 141, 141 n. Promise Made by an Executor of an Estate An executor is the person who is in charge of an estate after someone dies. WCN 02-200-203 04341_ch05_hr_079-100.indd 97 9/28/17 9:36 AM 98 Unit 1 The Legal Environment MULTIPLE-CHOICE QUESTIONS 1. Merely proving that the owner handed you property does not guarantee that you have received a gift; if the owner only intended that you use the item, there is no gift, and she can demand it back. WCN 02-200-203 04341_ch27_hr_519-537.indd 535 8/28/17 7:30 AM 536 Unit 7 Property 5. So far, you are fine with the free version. Coastal has 30 days to answer Janet's interrogatories. Suppose, as shown in the exhibit, that a corporation and an LLC each receives $10,000 in additional income. 728 U.S. District Court, New Mexico 1984 CASE SUMMARY Facts: See the chapter opener. information relevant to the case. Those are the easy cases. 31-2c Bad Faith by the Insurer Insurance policies often contain a covenant of good faith and fair dealing. The finder must make a good faith effort to locate the owner. Does either fit here? Holder For order paper, a holder is anyone in possession of the instrument if it is payable to or indorsed to her. Was Lenz an infringer? The company pleaded guilty to criminal charges in connection with a 2010 oil rig explosion in the Gulf of Mexico, which killed 11 workers and caused the largest marine oil spill ever. "IR" stands for "instant release," meaning the drug has to be taken twice a day. But would the United States obey the WTO's ruling? Codicil → (2) An amendment to a will E. Sarah asked a court to dissolve Copyright 2019 Cengage Learning. That connection creates an incentive to do the wrong thing. One of the supervised release conditions required him to stand outside a post office for eight hours wearing a signboard stating, "I stole mail. Covenant is a legal term that means a promise in a contract. During the term of the Second Contract, revolution erupted in Libya. To prove defamation, a plaintiff must prove a de- famatory statement that was false and communicated to others. Shawn was caught stealing letters from mailboxes. H Hacking Gaining unauthorized access to a computer system. 04341_fm_hr_i-xxii.indd 2 WCN 02-200-203 10/6/17 11:39 AM C ontent s : Ov erv ie w Preface xv U nit 5 UNIT 1 The Lifecycle of a Business 377 The Legal Environment 1 20 Starting a Business: LLCs and Other Options 378 21 Corporations 398 22 Bankruptcy 420 1 2 3 4 2 15 39 UNIT 6 Introduction to Law Ethics and Corporate Social Responsibility International Law Constitutional, Statutory, Administrative, and Common Law 5 Dispute Resolution 6 Crime 58 79 101 Government Regulation 23 24 25 26 Securities and Antitrust Consumer Protection Environmental Law Accountants' Liability 439 440 460 482 501 U nit 2 Torts121 7 8 9 Intentional Torts and Business Torts 122 Negligence, Strict Liability, and Product Liability137 Privacy and Internet Law 156 UNIT 3 Contracts and the UCC 10 Forming a Contract 11 Requirements for a Contract 12 Performance of a Contract 13 Practical Contracts 14 Sales 15 Negotiable Instruments 16 Secured Transactions 177 178 198 220 242 261 278 295 Property519 27 Intellectual Property 28 Real Property and Landlord–Tenant Law 29 Personal Property and Bailment 30 Estate Planning 31 Insurance Appendix A The Constitution of the United States Appendix B Uniform Commercial Code Appendix C Answers to Selected End-of-Chapter Questions Agency and Employment Law 315 520 538 560 576 593 A1 B1 C1 GlossaryG1 Table of Cases U nit 4 17 Agency 18 Employment and Labor Law 19 Employment Discrimination UNIT 7 T1 Index I1 316 336 356 iii Copyright 2019 Cengage Learning. Per se An automatic breach of antitrust laws Rule of reason An action that breaches antitrust laws only if it has an anticompetitive impact 23-2a The Sherman Act Price-Fixing Section 1 of the Sherman Act prohibits agreements that unreasonably restrain trade. These three facts led Iqbal to conclude that Ashcroft illegally discriminated against the detainees because they were Arab Muslims. On that day, she had eaten little else and had experienced no pain until the event, where she ate many appetizers, including shrimp on wood skewers. Danny is about to find out, in a very unpleasant way, about important laws that regulate business. What traps did I face? 18-1 EMPLOYMENT AT WILL For most of history, the concept of career planning was unknown. There is no security interest created by New World. In response, the Monroes offer evidence that the value of the house has dropped from about $450,000 to about $400,000. CPA QUESTION On July 1, 2015, Quick, Onyx, and Nash were deeded a piece of land as tenants in common. When he died suddenly, their children inherited the property. Around the same time, anonymous, negative reviews of Awtry's company appeared on Glassdoor.com, a website that allows employees to evaluate their workplace. Damages. In addition to financial penalties, individuals who violate the FCPA can face up to five years in prison. We all make worse decisions when in a hurry. LEXIS 907 (W.D. Pa. 1992). Similarly, it is difficult for debtors to make sound financial decisions when hounded night and day by creditors shouting, "Pay me! Pay me!" The Code is designed to give debtors enough breathing space to sort out their affairs sensibly. In the following case, each country had different contract rules and divergent interpretations of the CISG. Securities Exchange Act of 1934 → (2) Regulates companies once they have gone public Chapter 24 C. 13Alexandra Wolfe, "Peter Singer on the Ethics of Philanthropy," The Wall Street Journal, April 3, 2015. Not only did Leo mow the lawn every weekend, but the producer even paid on three weekends when they had not spoken. When she refused, he threatened her and her lawyer that he would report her to immigration officials (although she was in the country legally with a green card). When they were alone, he put his hand on her leg and slid it toward her pelvis. Compared with other states and the federal government, is your state generous or stingy with exemptions? Along with the proxy card, the SEC requires companies to give shareholders a proxy statement and an annual report to aid them in voting their stock. A month later, she told him he had been fired for lying. The gift is valid if the donor dies as expected, but it is revoked if he recovers. UNIFORM COMMERCIAL CODE AND COMMON LAW If a contract is for the sale of goods, the UCC is the relevant body of law. When competitors agree on the prices at which they will buy or sell products, their price-fixing is a per se violation of §1 of the Sherman Act. Patent ___ B. WCN 02-200-203 04341_ch20_hr_377-397.indd 378 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 379 reasonably practicable to carry on the business." Unfortunately, Horning Construction LLC was very successful, grossing over $25 million annually. How about Frankie? Without evidence that Elonis meant his posts to be a threat, his conviction cannot stand. Margie has dinner at Bill's house. She agreed not to hold the team or any members liable in case of an accident. Although many people, including many politicians, readily acknowledge the importance of the environment to both present and future generations, when the time comes to allocate funds, change lifestyles, and make tough choices, the consensus too often breaks down, with the result that resources are spent on litigation instead of the environment. Two former salesmen from Grubbs testify that they have witnessed customers cry, yell, and curse as a result of the aggressive tactics. With RPM, consumers have a choice between an expensive full-service option or a discounted price. NUNCUPATIVE WILL The formal term for an oral will. The Supreme Court has indicated that punitive awards should not exceed compensatory damages by more than a factor of nine. The white editor had been kept on because she had an employment contract; Guzman did not. Just because someone's judgment is different from yours does not mean that they are behaving unethically. Foreign Sovereign Immunities Act (FSIA) A U.S. statute that provides that American courts generally cannot hear suits against foreign governments. Was the misstatement likely to significantly influence the decision of the misled party? A non-compete agreement is a contract in which one party agrees not to compete with another in a stated type of business. Children may be more reluctant to testify against perpetrators if they know that a prosecution could lead to execution. No. He has "taken" a service—the train ride—but not personal property. (In the Pub Zone case, the business owner knew of the gang's violent history and could have foreseen the assault.) Now apply that rule to the facts of this case. In an implied contract, the words and conduct of the parties indicate that they intended an agreement. Was the employee in the following case acting within the scope of his employment while driving to work? Employees contacted the International Brotherhood of Electrical Workers, which began an organizing drive, and 6 of the 11 employees in the bargaining unit signed authorization cards. These damages are only available if they are a foreseeable consequence of the breach. A party unhappy with that decision may appeal to federal court. Decision: No, he could bring his case in the United States. If a tenant fails to clean up a spill on the kitchen floor, and a guest slips and falls, the tenant is liable. Trevor's work must be ripped up and replaced. But unfortunately, 13UCC §2-315. CPA QUESTION Decal Corp. Is there a contract? A court tries to give the injured party the money she would have made from the contract. Therefore, Ford had no duty to design an internal release or opening mechanism to prevent suicide. They did not owe a duty to prevent all harm, no matter how unlikely. Should it do so here? Clearly, then, holder in due course status dramatically enhances the value of an instrument because it increases the probability of being paid. (b) I and II 5. The Toxic Substances Control Act ______________. Which of the following statements about Sarbanes-Oxley is FALSE? Konitz signed the agreement, which said: "Whereas Tindall sold his contracting business to Konitz and thereafter assisted Konitz in bidding and bonding, without which Konitz would have been unable to operate, NOW THEREFORE Konitz agrees to pay Tindall $138,629." Konitz later refused to pay. MORE FROM QUESTIONSANSWERED.NET Table of contents : ContentsPrefaceUNIT 1: The Legal Environment Chapter 1 Introduction to Law 1-1 Exploring the Law 1-1a Sources of Contemporary Law 1-1b Classifications of Law 1-2 Working with the Book's Features 1-2a Analyzing a Case 1-2b Analysis 1-2c Exam Strategy 1-2d You Be the Judge Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 2: Ethics and Corporate Social Responsibility 2-1 Why Study Ethics? Reasoning: The Naffzigers argue that nothing was said in the contract about a price for goodwill, a covenant not to compete, the value of individual assets, release from earlier liens, or the consequences should their loan be denied. 5See Katherine M. As permitted under the AIA, the PTO has set up a Track One system that permits inventors to buy their way to the head of the line by paying an additional fee of $4,800 (for large companies) and $2,400 (for small). Their goal is to notify all interested parties that the debt is extinguished. 4th 866 (Cal. PHYSICIAN-ASSISTED DEATH Physician-assisted death occurs when a doctor prescribes a lethal dose of medication at the request of a terminal patient who is suffering intolerably. 578 (Mass. Failure by the shareholders to observe corporate formalities, 2. But most fines are modest by the present standards of corporate wealth. Nina puffed an e-cigarette as she texted with a drone manufacturer in Cleveland. If a court uses this doctrine, then the defendant must come forward with evidence establishing that it did not cause the harm. He sued Betts for battery. Some companies opt for trade secret protection because their creations cannot be patented. These are the questions that the court asked: • Are the two products clearly separate? Courtroom work is done by different lawyers, called barristers. If they agree that the relationship will last two years, they have a term agreement. The Writing Requirement and Electronic Signatures. Modern life has moved online: We can now buy everything from toothpaste to cars with the click of a mouse. (a) II and III (b) III and IV (c) I and IV (d) I, III, and IV (e) I and II 5. Enos, 60 Mass. When she sued The Dirty for defamation, she won $38,000 in compensatory damages and $300,000 in punitive damages. Then get out. The person can change his mind and decide not to give you the present, and there is nothing you can do about it. But had this wrongdoing actually caused harm to the client? T F Under strict liability, an injured consumer could potentially recover damages from the product's manufacturer and the retailer who sold the goods. These provisions may vary from state to state, so it is essential to check local law. Notice that these countries cannot ensure physical safety and personal liberties. And the third rule follows logically: Between perfected security interests, the first to file or perfect wins. 1 A trial court determines facts, while an appeals court ensures that the lower court correctly applied the law to those facts. • Say-on-pay. A Conrail train, SEEL-7, had suffered mechanical problems and was stopped 200 feet from the crossing, where it had stalled for roughly an hour. (e) This is mislaid property, and Margie is entitled to it. Under what circumstances? If the consumer waits more than 60 days after receipt of the bank statement, the bank is not responsible for any losses. Food companies have played an important role in reducing hunger by producing vast quantities of food cheaply. An employer has the right to monitor workers' electronic communications if (1) the employee consents; (2) the monitoring occurs in the ordinary course of business; or (3) in the case of email, if the employer provides the computer system. • Revocation. WCN 02-200-203 04341_ch10_hr_177-197.indd 179 10/6/17 11:47 AM 180 Unit 3 Contracts and the UCC • Capacity and legality. A union has the right to call a strike if the parties are unable to reach a CBA. Nothing is unchangeable but the inherent and unalienable rights of man. WCN 02-200-203 04341_ch21_hr_398-419.indd 403 10/6/17 12:27 PM 404 Unit 5 The Lifecycle of a Business Reasoning: Delaware law provides that a custodian may be appointed when the relationship among the directors is so hostile that "the business of the corporation is suffering or is threatened with irreparable injury." "Irreparable injury" includes factors like harm to a corporation's reputation, customer relationships, and employee morale. In making a decision that affects you, it is important to remember that you are unlikely to be objective. Currently, it is not automatically included as part of your credit report. The managers of a restaurant convinced one of their hostesses to give them her social media password so that they could access negative comments that a waiter had posted on his own page. Added Terms: §2-207 Additional terms Proposed contract terms that raise issues not included in the offer Under the common law's mirror image rule, when one party makes an offer, the offeree must accept those exact terms. A business should keep customers safe from its own employees. Non-competes limit an individual's right to make a living and choose their work. On two occasions, she saw René naked: once while he was exiting the shower into a common area on the boat and, on another day, as a towel blew up while he changed into his bathing suit on the beach. And even that may not be enough to protect them fully. It had no stovepipe connecting it to the chimney. In that case, he has paid an interest rate of 3,520 percent. WCN 02-200-203 04341_ch20_hr_377-397.indd 393 10/9/17 1:51 PM 394 Unit 5 The Lifecycle of a Business TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Unfortunately, he is often the type of person who first comes to mind when people think about bankrupts. For example, the FCC promulgated a rule requiring all cable television systems with more than 3,500 subscribers to develop the capacity to carry at least 20 channels and to make some of those channels available to local community stations. This rule means that the officers and directors must act in the best interest of the corporation and its shareholders. It may not make preauthorized transfers without written instructions from the consumer. Craig Bergson, sitting in the back of the courtroom, thinks how different the trial would have been had he been called as a witness. Stakeholder model ___C. Conversely, unethical behavior causes financial harm: Companies that are caught engaging in socially irresponsible or illegal activities typically suffer a significant decline in stock price. Bargaining unit A group of employees with a clear and identifiable community of interests. FIDUCIARY DUTY The officers and directors of a corporation owe a fiduciary duty to both the corporation and its shareholders. They are careful when sharing and buying online. Promulgate 1. Under which chapter should she file? Answer: It is legal to fire someone who can't perform the job requirements or because his salary is too high. The idea that contracts must be a two-way street 3. The grantor can control her assets after her death. Partnership An unincorporated association of two or more co-owners who operate a business for profit. Arch Specialty Ins. Living wills or advance directives In the event that a person is unable to make medical decisions, this document indicates her preferences and may also appoint someone else to make these decisions for her. In addition, states are able to set their own standards for air pollution, so long as they are stricter than federal rules. 28-6 CHANGE IN THE PARTIES Sometimes the parties to a lease change. Ambiguity is different—it means that the provision is accidentally unclear. Within minutes, Chambers discovered the two Chapa children and immediately returned the kids and the car to a frantic Maria. Kabrina is furious. (d) cross-examination. Or be accused of having poor hygiene? Ultimately, the parties agreed to 10 cents, and that is what the court should enforce. Andersen's name was soiled by its role in a number of financial disasters, such as Global Crossing and WorldCom. MEETING OF THE MINDS The parties can form a contract only if they have a meeting of the minds. 19-2f Immigration Under Title VII, it is illegal for employers to discriminate against noncitizens because "national origin" is a protected category. She forgets about the skydiver and takes Bozo home. Because Actavis had the patent on Namenda, it had the exclusive right to sell the drug for 20 years. You can register your home and cell phone numbers with the FTC online at www.donotcall.gov or by telephone at (888) 382-1222. What do you think of their behavior? Merchant Someone who routinely deals in the particular goods involved 14-1b Contract Formation The common law expected the parties to form a contract in a fairly predictable and traditional way: The offeror made a clear offer that included all important terms, and the offeree agreed to all terms. The Autonomy purchase was a mistake, but no one intentionally engaged in wrongdoing. In one case, an employer refused to agree to a raise that the union requested, arguing that the increase would bankrupt the company. The couple maintained and improved the cottage and installed utilities. A creditor may extend a large sum of money to a merchant based on collateral, such as inventory, only to discover that by the time the merchant defaults, the collateral has been sold. Nine years later the paparazzo was found in contempt of court for again taking photographs too close to Ms. Onassis. Reasoning: Under the Commerce Clause, Congress may regulate interstate commerce and activities that substantially affect it. Dick signs and sends to Shirley a letter saying, "This is to acknowledge your agreement to buy all 650 books in my rare book collection for $188,000." Shirley signs nothing. A grantor can create a trust during her lifetime or after her death through her will. T F A misdemeanor is a less serious crime, punishable by less than a year in jail. Sometimes the parties discharge a contract by agreement. An offer might specify that it be accepted in writing, or in person, or before midnight on June 23. Because each form contains language favorable to the party sending it, the two documents rarely agree. An appellate court will reverse the decision, declaring Coastal the victor. Today, intellectual property is a major source of wealth. Philip Morris or the Exxon Valdez case? The two were not only party buddies—Suzy was on the board of directors of a company J. Societies depend upon laws for safe communities, functioning economies, and personal liberties. But they can still affect all of us. Judicial Power Article III of the Constitution creates the Supreme Court and permits Congress to establish lower courts within the federal court system. Water from the steady leak had flooded through the walls, soaking wires, and eventually causing the faucet to become electrified. The only product Polydeck made was urethane screens, which comprised half of 1 percent of Guyan's business. He borrows $55,000 from the Pesto Bank, which takes a security interest in the car. Argument for the Plaintiff: Under the RCRA, lead shot is hazardous waste. 2Throughout the chapter, the authors use "state" to have the same meaning as "country" and "nation." Copyright 2019 Cengage Learning. Delamirie 93 ER 664 Middlesex, 1722 CASE SUMMARY Facts: Before Parliament banned the practice in 1840, many English chimney sweeps forced young children to climb the narrow flues and do the cleaning. It was not as if they could simply pack up and leave; conditions were no better elsewhere. 21-3 Authorized stock Stock listed in a company's charter—the maximum number of shares it can issue Treasury stock Stock that a company has sold but later bought back Preferred stock The owners of preferred stock have preference on dividends and also, typically, in liquidation. But each of us must ask ourselves: What kind of relationships do we want to have? Section 9. When Trang sold a script to her principal, Steven Spielberg, without telling him that she was the author, she violated her duty of loyalty. Also, SOX rules on these issues apply only in the United States. Act A party commits an act when she does something she was not legally required to do in the first place. The contract required CCA to abide by Alaska's standards and disciplinary procedures. The court can focus its attention on the issue that Coastal disputes: whether Tony Caruso died accidentally. EXAMStrategy Question: The Big Red Traveling (BRT) Carnival is in town. Implied warranties Guarantees created by the Uniform Commercial Code and imposed on the seller of goods Copyright 2019 Cengage Learning. Argument for the Zankels: At the time of the accident, Dreyer was driving a government vehicle. Which philosopher would support Phibro's claim? If you venture onto a frozen lake, any falls are your own tough luck. Traciers & Associates, Inc. If her barn is worth $50,000, but Jessica insures it (and pays premiums) for $100,000, she will recover only $50,000 when it burns down. The accounting profession responds that, if everyone who has ever been harmed, even remotely, by a faulty audit can recover damages, there will soon be no auditors left. CROWDFUNDING Privately-held companies can sell up to $1 million in securities through one online platform in any 12-month period, provided that they comply with certain requirements. F There are five elements in a negligence case, and a plaintiff wins who proves at least three of them. Also, the house was owned by her children, and as their guardian, she had an insurable interest in the house. An unenforceable agreement occurs when the parties intend to form a valid bargain but a court declares that some rule of law prevents enforcing it. The administrator fired her. IMMIGRATION LAW It is illegal knowingly to employ unauthorized workers. Today, courts recognize a custom as binding international law if: • It is widespread and widely accepted, • It is longstanding, and • Nations follow it out of a sense of obligation to each other. If this promise counts as value, then the concept of consideration is meaningless because anyone can promise not to sue any time. Alexander Grant & Co., 19 Ohio App. Supervisor Anyone with the authority to make independent decisions on hiring, firing, disciplining, or promoting other workers Section 8 prohibits unions from engaging in these ULPs: • Interfering with employees who are exercising their labor rights and • Charging excessive dues. Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them. Suppose Anna wants to give her niece Jen a blimp, which is parked in a hangar at the airport. failure of condition. Fully Disclosed Principal An agent is not liable for any contracts she makes on behalf of a fully disclosed principal. Law is also essential. Trial courts First level of courts to hear disputes. The court held that the second contract was a novation, which ended Wilkerson's obligations under the first contract. EXAMStrategy Question: Hortense and Gus are each starting a business. WCN 02-200-203 04341_ch10_hr_177-197.indd 183 10/6/17 11:47 AM 184 Unit 3 Contracts and the UCC The two remedies can be quite similar. The Grain Company would provide him with hogs and grain and, in return, he would sign a promissory note in an amount equal to the value of these items. On this issue, corporations have an advantage over LLCs. Their charter and bylaws tend to be quite standard and the law of corporations is more established and predictable. 6th Dist. Tom Cat Bakery, 189 National Franchisee Association v. Both sons predecease their mother. M. In practice, credit card companies typically ignore the requirement that the merchant be in the same state or within 100 miles of the consumer's home. Afraid of alien abduction? Decision: Yes, the PMSI holder obtained priority. He and Cheryl are both prosecuted. Restoring the other party to its original position is called restitution. The great majority of binding agreements are express contracts. Racketeer Influenced and Corrupt Organizations Act (RICO) A powerful federal statute, originally aimed at organized crime, now used against many ordinary businesses. It seems that he does not need life insurance now. The Customs Service may seize goods at the border. The cat entered Romi's garage. Thus, Ice-T's song "Cop Killer" generated significant controversy when it was released. Argument for Louisiana: Child rape is one of the most horrifying of crimes. Clinton 990 F. A simple memo is enough, or a letter or informal note, mentioning that the two sides reached an agreement. It can accept by oral notice, by written notice, or by delivery of the policy. WCN 02-200-203 04341_ch11_hr_198-219.indd 219 10/6/17 11:53 AM PERFORMANCE OF A CONTRACT CHAPTER 12 First, Ronald Schmalfeldt got his teeth knocked out . . . And there are some disadvantages: Unlike corporations, publicly traded LLCs do not enjoy a well-established set of statutory and case law that is relatively consistent across the many states. A security interest taken by the person who sells the collateral or advances money so the debtor can buy it 4. WCN 02-200-203 04341_ch05_hr_079-100.indd 87 9/28/17 9:36 AM 88 Unit 1 The Legal Environment Janet Booker begins her discovery with interrogatories. Strategy: Was a bone handle novel, nonobvious, and useful? CISG The goal of CISG is to make sales law more uniform and predictable— and to make international contracting easier. ALTERNATIVE DISPUTE RESOLUTION Alternative dispute resolution (ADR) is any formal or informal process to settle disputes without a trial. NEPA → (5) Requires all federal agencies to prepare an environmental impact statement E. • An employer cannot request a consumer report on any current or potential employee without the employee's permission. Remember your Life Principles. Harvard Professor Michael Porter has written that CSR often benefits a company. Was the forum selection clause enforceable against Chateau? Public Disclosure of Private Facts The tort of public disclosure of private facts prohibits the unjustifiable revelation of truthful, but secret, information. A company may not fire a worker who favors a union; nor may it suddenly grant a significant pay raise in the midst of a union campaign. The court will then appoint a custodian to oversee the process. In what had to be the friendliest divorce settlement of all time, Eddie quickly agreed to transfer all of the couple's remaining assets to her. This rule sounds harsh. To the State governments are reserved all legislation and administration, in affairs which concern their own citizens only, and to the federal government is given whatever concerns foreigners, or the citizens of other States. Fresh start After the termination of a bankruptcy case, creditors cannot make a claim against the debtor for money owed before the initial bankruptcy petition was filed. If they did not, then a court would have to determine whether the transaction was entirely fair. In New Orleans, Mardi Gras "Indians" are carnival revelers who dress up for Mardi Gras in costumes influenced by Native American ceremonial attire. WCN 02-200-203 04341_ch05_hr_079-100.indd 89 9/28/17 9:36 AM 90 Unit 1 The Legal Environment In other words, the court acknowledged that there were factual disputes but concluded that even if Jones proved each of her allegations, she would still lose the case because her allegations fell short of a legitimate case of sexual harassment. • International sales contracts do not need to be in writing. Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited. But LLCs are often startups or other small businesses. Because there are limits on how much students may borrow in federal funds, students do sometimes seek loans from private lenders. PROXY ACCESS Proxy access bylaws require companies to include in their proxy material the names of board nominees selected by large shareholders and to allow all shareholders to vote for these nominees. Will the CISG apply in this case? A limited liability partnership would have worked, too. If Sharon accepts, the parties have a contract that either one can enforce. "It is his fault for not locking the garage," Ferris responded. Warrant Warrant Written permission from a neutral officer to conduct a search As a general rule, the police must obtain a warrant before conducting a search. On the other hand, intellectual property laws limit the public's access to important creations. Because institutional investors have such vast amounts to invest, if they are unhappy with management, it is difficult for them to do the "Wall Street walk"—that is, sell their shares—because a sale of their large stock holdings would depress the market price. Has your concept of law and legal rules changed? Should the laws become too onerous, businesses will fail, entrepreneurs will be discouraged, and the Tims of the world will continue to spend more than they should. Is this law an example of humane legislation or cultural imperialism dressed as a nontariff barrier? Is that right? The secretary of state may also dissolve a corporation that violates state law by, for example, failing to pay the required annual fees. Summons The court's written notice that a lawsuit has been filed. Alexia has no right to raise the rent during Julie's tenancy. A demand instrument is one that must be paid whenever the holder requests payment. WCN 02-200-203 04341_ch01_hr_001-014.indd 9 10/6/17 11:41 AM 10 Unit 1 The Legal Environment The following case is another negligence lawsuit, with issues that overlap those of the Pub Zone case. Not to replace the $10 couch he bought off craigslist, but he should consider buying a policy that would protect him from liability if someone is injured in his apartment. Recipes, customer lists, business plans, and marketing strategies are some examples. TRUST A trust is an entity that separates legal and beneficial ownership. In the opening scenario, Danny is guilty of misappropriation when he trades on information from his wife. Was the Gun Club in violation of the RCRA? you must return it, but the company must reimburse you for postage. Corporate social responsibility An organization's obligation to contribute positively to the world around it. What social policies are most important? DC Circuit initially held for R. The Pub Zone is being sued and is called the defendant. An accommodation is unreasonable if it would create undue hardship for the employer. Mathew Rogers, an Omega employee, was killed by a train while using the private road. User-generated content Any content created and made publicly available by end users 9-3b Online Speech A recent survey found that 73 percent of adult internet users have witnessed online harassment and 40 percent have personally experienced it. Injunctions can require people to do things, like perform on a contract or remove a nuisance. 26. Result: If Lawrence gives anything of value (such as rent-free use of his house) to secure a government contract, he has violated the FCPA. • Does the information create an important competitive advantage? The USDA considered any bone fragment less than three-quarters of an inch long to be "insignificant." Goodman sued, claiming a breach of the implied warranty of merchantability. This standard is met (1) when conduct was so unreasonable that the defendant must have known it would cause harm or (2) when a defendant ignores obvious signs of fraud. I responded, "No thanks." He said "fine" and walked away. Most of its patients use Medicare, and Stacey supervises all billing to their largest client, the federal government. The Herzog family was forced to flee or face extermination. If done right, it acts as a substitute for currency. • National water quality standards. The victims were dentists who wanted to lease multimedia systems (called "Exhibeos") for use in their waiting rooms. Successful corporations compete aggressively, and the law permits and expects them to. For our purposes in studying contracts, the most important part of the Code is Article 2, which governs the sale of goods. First of America perfected by filing on March 2. (a) can trademark it because it is a short phrase associated with her entertainment services (b) can trademark it only if it is in a tangible form (c) cannot trademark it because it is generic (d) none of these because short phrases cannot be trademarked CASE QUESTIONS 1. T F Sole proprietorships must file a tax return. For most of American history, the person who invented and first put the invention into practice had priority over the first filer. You Be the Judge: Was the dog sniff legal? Debtor in possession Under Chapter 11, the bankrupt, in essence, serves as trustee. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law. Decanting Decanting means pouring the assets out of one trust into another. She does not want her children, who are 12 and 10 years old, to have that much money when they turn 21. Extraordinary care ___B. The agreement prohibited King from working at a competing business within a two-mile radius of any Head Start facility for 12 months after leaving the company. When copyrighted material is used for purposes such as criticism, parody, comment, news reporting, scholarship, research, or education, it is more likely to be a fair use. Moreover, managers began to check employees' Facebook pages for reference to drug use. Ashcroft v. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors. Any co-tenant is entitled to demand partition of the property. Mitigate To keep damages as low as possible Chapter Conclusion A moment's caution! Often that is the only thing needed to avoid years of litigation. 25-2c Automobile Pollution Motor vehicles create more than 50 percent of the hazardous pollutants in the air. It is theoretically impossible for Francoise to deliver wine from her vineyard, and she owes Tyrone nothing. Francoise owns a vineyard that produces Beaujolais Nouveau wine. In the real movie contract, Producer promises to pay Artist "on the condition that Artist fully performs all of Artist's services and obligations and agreements hereunder and is not in material breach or otherwise in material default hereof." Reciprocal promises Promises that are each enforceable independently Conditional Promises that a party agrees to perform only if the other side also does what it promised Copyright 2019 Cengage Learning. Hardie did not draw a salary from TPO. ETHICS In desperate financial trouble and fearful of losing his house, Abbott asked his friend Taylor for help. A PRINCIPAL'S LIABILITY FOR CONTRACTS A principal is liable for the contracts of the agent if the agent has express, implied, or apparent authority. EQUAL PAY ACT Under the Equal Pay Act, a worker may not be paid for equal work at a lesser rate than employees of the opposite sex. While design patents protect the way inventions look, utility patents protect how they work. Covenant A promise in a contract. The second rule: If neither secured party has perfected, the first interest to attach gets priority. What could possibly go wrong with (publicly) firing a white male lawyer and replacing him with a black woman? WCN 02-200-203 04341_ch06_hr_101-120.indd 113 8/24/17 1:38 PM 114 Unit 1 The Legal Environment violations. But this power is lost when the offer is terminated, which can happen in several ways. (d) Both are guilty of embezzlement and violating RICO. (And also lying to the court about the amount of these fees.) Berg then filed this suit alleging that Nationwide had acted in bad faith. (b) II and III 5. Two of these common law torts are public disclosure of private facts and intrusion. Ins. Wherever there is an obvious hazard, a special rule applies. Justice Louis Brandeis strongly disagreed. (a) No because he has not been disloyal to Barry—he praised the company. Someone can have an interest in property, for example, by owning it, or renting it to a tenant, or lending money so someone else may buy it. And this research benefits us all—approximately 50 percent of all modern medicines are derived from wild plants or animals. And a debtor who has received a prior discharge under Chapter 13 cannot, in most cases, receive one under Chapter 7 for at least six years. Representation 1. Tuppela called on his lifelong friend, Embola: "If you will give me $50 so I can go to Alaska, I will pay you $10,000 when I win my property back." Embola accepted the offer, advancing the $50. Reebok at first refused to take action, but then singing group UltraViolet began circulating an online petition against the song and staged a protest at the main Reebok store in New York. Ellis already had a perfectly good job, so he was understandably reluctant to move to a bank that the OCC was investigating. I can't afford to pay that! We had a deal that the price would never go higher than 10 bucks. When these discrepancies became public, the price of ABAT shares plunged. The movie contract states: "This Agreement may not be amended or modified except by an instrument in writing signed by the party to be charged with such amendment or modification." Copyright 2019 Cengage Learning. (b) name of each incorporator. Generally, both sides would prefer to control the pen (i.e., to do the actual writing) because the drafter has the opportunity to choose a structure and wording that best represents his interests. Strategy: When one party has performed imperfectly, we have an issue of substantial performance. (d) The state could prosecute Hank, but only with Antonio's permission. Reasoning: The covenant of good faith and fair dealing prohibits parties from acting arbitrarily, irrationally, or unreasonably. 10-1 Contracts Contract law is based on the notion that you are the best judge of your own welfare. What would you do if you were a manager in the following circumstances: • In clothing factories, workers often remove the protective guards from their sewing machines because the guards slow the flow of work. Maher was guilty as a tipper and Michael as a tippee. If you were in Yanni's position, would you rebuild the plant in Arkansas or relocate overseas? WCN 02-200-203 04341_ch27_hr_519-537.indd 526 8/28/17 7:30 AM Chapter 27 Intellectual Property 527 27-2a Copyright Term More than 300 years ago, on April 10, 1710, Queen Anne of England approved the first copyright statute. Foreign Intelligence Surveillance Act (FISA) Federal statute Express warranty A guarantee, created by the words or actions governing the government's collection of foreign intelligence in the United States. The good news was that agents for Aetna Casualty promptly visited the Andreasons and helped them through the crisis. Ferris consoled him by generously "dropping" the parking attendant a five-dollar bill. I Did It for Someone Else Ariely found that people are more willing to cheat if someone else benefits. It would be liable only if it promised to take down the review and then did not. Bernard Madoff alleged he was a money manager who earned consistent high returns year in and year out, even when the market was down. To prevent this fraud, baseball teams began asking for DNA tests on prospects and their families to make sure they were not lying about their identity. When West discovered that the horse had a leg injury, he got a driver to return the horse to Strauss, but Strauss refused to accept delivery. WCN 02-200-203 04341_ch11_hr_198-219.indd 217 10/6/17 11:53 AM 218 Unit 3 Contracts and the UCC 2. What does this provision really mean? This perfects the manufacturer's rights, meaning that its security interest in the CT scanner is now valid against all the world. WCN 02-200-203 04341_ch24_hr_460-481.indd 462 10/6/17 12:28 PM Chapter 24 Consumer Protection 463 24-2e Merchandise Bought by Mail, by Telephone, or Online The FTC has established the following rules for these types of sales: • Sellers must ship an item within the time stated or, if no time is given, within 30 days after receipt of the order. (b) In about half the states, employees have the right to bring guns into their workplace parking lot. Someone who organizes a corporation 4. Franchises are not, strictly speaking, a separate form of organization. Rick Ross rapped about drugging and raping a woman. Often both parties have legitimate, opposing arguments. Maybelle sues Garret, who defends based on the transfer to Brady. Mel did not own the property at the time of the accident. (b) protects the partners from liability for the debts of the partnership. Exhibit 21.1 illustrates the election process in corporations. For example, with any $35 Estee Lauder purchase at Nordstrom's, you can choose a free gift of creams and makeup valued at $135, plus a designer cosmetic bag. Now ask yourself: How do courts decide whether a business has a duty to prevent this kind of harm? If the president signs the bill, it becomes law. Spielberg is casting the title role in his new movie, Nancy Drew: Girl Detective, a role that Lawrence covets. Under FTC rules, a franchisor must deliver to a potential purchaser a Franchise Disclosure Document (FDD) at least 14 calendar days before any contract is signed or money is paid. Some argue that cost is irrelevant—that a clean environment has incalculable value for its own sake. This trap is the most dangerous. Do the Nicholses have a claim against Prudential? Later, Foster thought better of it and wrote the university, accepting the school's starting date of July 1. (b) It will be dismissed because three unsecured creditors must join in the filing of the petition. So, if a person misstates a material fact and induces reliance, but he had good reason to believe that his statement was true, then he has not committed fraud. As long as at least one class votes in favor of the plan, the court can still confirm it over the opposition of other classes in what is called a cramdown (as in, "the plan is crammed down the creditors' throats").The court imposes a cramdown if, in its view, the plan is feasible, fair, and in the best interests of the creditors. Officials must notify you of their intentions and give you an opportunity to oppose the project and to challenge the amount the town offers to pay. He became interested in a new program, set in New Jersey, about a "mob boss in therapy," a concept he eventually developed into The Sopranos. However, while compliance with legal standards is evidence for juries to consider, it does not ensure merchantability. In this case, even if Artist does not show up for shooting, Producer must still pay him. What did it claim, and what should be the result? The power of attorney permits the client not only to choose an attorney-in-fact, but also to give advance instructions, such as "loan money to my son, Billy, if ever he needs it." If a client becomes incompetent and has no power of attorney, a court will appoint a conservator (to manage assets) and/or a guardian (to manage the person's daily life). 2008). Life Principles The rules by which you live your life. The police arrested James and Will for murder. Discuss. Buildings. Result: A car dealership cannot obtain a consumer report on someone who simply asks general questions about prices and financing or who wants to test-drive a car; nor can the dealer order a report to use in negotiations. Curry and Moore blamed AvMed. The investment bank cannot actually make sales during this period, but it can solicit offers. Only one overlimit fee per statement is permitted. A luxury hotel suite for himself and a room for his friends 11. 19-2c Family Responsibility Discrimination In studies, participants repeatedly rank mothers as less qualified than other employees and fathers as most desirable, even when their credentials are exactly the same. Exempt property ___D. But in the Phibro draft, Heritage's first increase would not occur until the price of copper sulfate went to 48 cents a pound, with a second rise at 58 cents. SOCIAL SECURITY The Social Security system pays benefits to work- ers who are retired, disabled, or temporarily unemployed and to the spouses and children of disabled or deceased workers. (c) is valid, based on the Commerce Clause. Result: After this transaction, 50 Cent may have second thoughts, but they will be too late. Sadri relied on an important legal principle to defeat the suit: A contract that is illegal is void and unenforceable. So why should you buy insurance? For publicly traded companies, independent directors must comprise: • A majority of the board and • The entire audit, compensation, corporate governance, and nominating committees. guilty to a reduced charge, and the prosecution recommends to the judge a relatively lenient sentence. Judicial power gives the right to interpret laws and determine their validity. The importance of abiding by the legal technicalities cannot be overstated. Rathke appealed to Alaska's Supreme Court. Issue: Did Iqbal's pleadings contain enough information to go forward? Rynd 929 F. Jeff relied on Jackson's recommendation and invested in Edge. While a Maryland state trooper, he requested eight weeks of leave to care for his pregnant wife, who was suffering severe complications. Money laundering → (3) Using the proceeds of criminal acts to promote crime E. CHAPTER 29 1. What claim is he making? A sole proprietorship is a flow-through tax entity, which means that the business itself does not pay taxes and does not even file a separate tax return. WCN 02-200-203 04341_ch23_hr_439-459.indd 457 8/28/17 7:11 AM 458 Unit 6 Government Regulation 5. The government turned many pieces in the Herzog collection over to Hungarian museums; others were sent to Germany. Salman v. Indorsement The signature of the payee. For instance, wealthy people may set up trusts as a means of passing on money tax-free. Power of attorney A document that allows one person to act for another. Even if she did a bad job of fixing the toilet, she could not possibly have anticipated that her poor workmanship could cause electrical injuries—and violent ones, at that—to anybody.3 Res Ipsa Loquitur Normally, a plaintiff must prove factual cause and foreseeable type of harm to establish negligence. EPA, 485 Chaney v. A CFPB survey found that threequarters of collectors violate the law and half of the people contacted by collectors did not actually owe anything. Lou intended to transfer ownership immediately and delivered the property to Phil, who now owns the tickets. Load-bearing beams in the "great room" cracked and appeared to be steadily weakening. If your roommate gives the police permission to search your house, that search is legal. Camp Newfound sued Maine. The tenant is not liable for normal wear and tear. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President. Sole discretion clauses are not entered into lightly. A TILA disclosure statement should not be a scavenger hunt. It appears that Gateway was running a scam. Here are some of those goals and the matching feature. But because Congress passed the statute in 1986—before the widespread use of the internet—it did not specifically state whether or not the statute applied overseas. T F A common carrier is strictly liable for harm to the bailor's goods. 613 F.3d 395 United States Court of Appeals for the Third Circuit, 2010 CASE SUMMARY Facts: Forestal Guarani, in Argentina, entered into an oral agreement to sell woodworking products to Daros International in New Jersey. When the divorcing couple lives in a community property state, they're said to equally own the money and the assets earned by either party from the beginning of the marriage up until the date they officially separated. Thus, if

Taylor can rent his house for only $2,000 a month instead of the $2,500 the Fords offered, Claudia would be liable for $6,000—$500 a month for one year. In this case, Parker is an undisclosed principal because Tracey does not know that Augusta is acting for someone else. What obligation do food producers and restaurants have to their customers? It is negligence to text while driving, and few would dispute the moral value of that law. One party files a suit against the other. Exit When faced with the unacceptable, one option is to walk out the door quietly. What can he do? The rise of homesharing websites like Airbnb and VRBO highlights the important difference between a covenant and a condition. Simms adopted LinkedIn's strictest privacy setting, so the names of Bureau members and their communications were not available to the public at large. Think of it as a row of dominoes. It might involve buying something, selling something, doing a job, or anything else. Question: Alan Dershowitz, a law professor famous for his prominent clients, joined with other lawyers to open a kosher delicatessen, Maven's Court. Smith 307 S.W. 3D 762 Supreme Court of Texas, 2010 Facts: It was late night at the Del Lago hotel bar. Decision: Because HBI may have acted unreasonably, the motion is denied. At least once a day, he would call one of the clerks into his office and have her stand in front of him, sometimes for as long as 30 minutes, while he stared at her, read papers, or talked on the phone. In the movie contract, Artist warrants that he is a member of the Screen Actors Guild. But modern law has created exceptions to this rule that prohibit firing an employee at will for a bad reason. WCN 02-200-203 04341_ch05_hr_079-100.indd 90 9/28/17 9:36 AM Chapter 5 Dispute Resolution 91 5-3a Right to Jury Trial Not all cases are tried to a jury. Sixth Amendment Demands fair treatment for defendants in criminal prosecutions. During an economic strike, an employer may hire permanent replacement workers. The auditor has four choices: (a) Unqualified opinion (b) Qualified opinion (c) Adverse opinion (d) Disclaimer of opinion Copyright 2019 Cengage Learning. Feeling rather . . . We will look at two different types of ADR: mediation and arbitration. In the eighteenth and nineteenth centuries, the Industrial Revolution profoundly altered the employment relationship. Outline the ideal terms of your employees' non-competes. Because companies can use data-mining tools to find out a lot of information about . Disclaimer A statement that a particular warranty does not Equal Protection Clause Requires that the government must apply. • You've Got Options: Convenient digital solutions and textbooks the way you want them — to buy or rent. Lou and Abby have a contract. If the company resumes business again, it becomes responsible for all its pre-filing debts. When Turley reported death threats, they laughed. Enos, 143 n. Baer arranged meetings for Chase with local detectives and prosecutors, who provided the producer with information, material, and personal stories about their experiences with organized crime. Two weeks later, Kenney died. WCN 02-200-203 04341_ch22_hr_420-438.indd 424 8/26/17 11:29 AM Chapter 22 Bankruptcy 425 Strategy: Was this a voidable preference or a fraudulent transfer? Then the VW engineers realized that the emissions equipment on the company's cars could not meet tough U.S. standards. These outsider nominees compete directly against directors nominated by the board. WCN 02-200-203 04341_ch17_hr_315-335.indd 326 10/6/17 12:14 PM C h a p t e r 17 Agency 327 EXAMStrategy Question: While on a business trip, Trevor went sightseeing on his day off. (c) deliver the paper. T F Immanuel Kant was a noted utilitarian thinker. (c) if the agency agreement limits the principal's liability for the agent's tort. But contracts may override this general rule and provide that the losing party in a dispute must pay the attorneys' fees for both sides. Testamentary trust A trust that goes into effect when a grantor dies. Today, an "electronic signature" could mean a name typed (or automatically included) at the bottom of an email message, a retinal or vocal scan, or a name signed by electronic pen on a writing tablet, among others. Beneficiary Someone who receives the financial proceeds of Choice of law provisions Determine which state's laws will a trust. Shannon Faulkner won her case and was admitted to The Citadel. Britton then examined Price, touching her stomach and showing her where the incision would be made. Then one day at Pure Power, Fell openly defied Brenner's instructions, screaming at her that he dared her to fire him. That he was making the whole thing up. A serious crime, for which a defendant can be sentenced to one year or more in prison A less serious crime, often punishable by less than a year in a county jail Entrapment When the government induces the defendant to break the law, the prosecution must prove beyond a reasonable doubt that the defendant was predisposed to commit the crime. Unfair classifications among people or corporations will not be permitted. Ford Motor Company hired a singer to imitate singer Bette Midler's version of a popular song. According to these rules, Krystal's check is for $15,000 because, in a conflict between words and numbers, words win. Any subsequent public sale is called a secondary offering. Leo's employees anxiously await the busy season because it means overtime pay, which is 25 percent over the base rate. Here is the good news: The insurance payout will cover the full cost of rebuilding. Chapter Conclusion You will sign many contracts in your life. Should he be liable? This is apparent authority. Condemnation A court order awarding title of real property to the government in exchange for just compensation. We will then turn to bailments, which occur when the owner of personal property permits another to hold it. WCN 02-200-203 04341_ch09_hr_156-176.indd 164 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 165 Under the Stored Communications Act: • Any intended recipient of an electronic communication has the right to disclose it. Discuss the effect of the sales contract and Warm's safety record. WCN 02-200-203 04341_ch25_hr_482-500.indd 484 8/28/17 7:20 AM Chapter 25 For example, one cost the EPA should certainly consider is the harm that regulation might do to human health or the environment. What should intestacy laws provide? The primary goal of the common law has been to get found property back to its proper owner. For example, Bruno is permitted to assign to Doug his rights to payment from Lydia because it makes no difference to Lydia whether she writes a check to one person or another. 10 Brumberg v. (d) Yes, Finn has violated his duty of loyalty to Barry. 4-4c Adjudication To adjudicate a case is to hold a hearing about an issue and then decide it. Issue: Did HBI violate the implied covenant of good faith and fair dealing? The charter may also be called the "articles of incorporation" or the "articles of organization." Similarly, some states use the term "shareholders," and others use "stockholders"; they are both the same. The goal is to make sure that Jessica does not profit from the policy. Unqualified opinion. Argument for the Board: The company is required by law to hold say-on-pay votes. He argues in court that his lost profit on those acres is $60,000. It depends on the number of siblings you have in relation to the number of children in each of the other branches of the family. Instead of applying for a loan on behalf of Treadway, Gateway told her that it had found a bank that would finance her transaction, but only if she purchased a new car and provided a co-signer. Two weeks later, Guzelian signed a will, drafted by one of Fitzgerald's acquaintances, that left Guzelian's $400,000 estate to Fitzgerald and McDermott. witness. Unilateral Mistake Unilateral mistake Occurs when only one party negotiates based on a factual error Mutual mistake Occurs when both parties negotiate based on the same fundamental factual error A unilateral mistake occurs when one party enters a contract under a mistaken assumption; the other is not mistaken. If a person promises to give you a gift, there is usually no consideration. It is up to you to file a civil lawsuit. Only about 17 percent of companies use this measure in any way to determine CEO compensation and thus there is little correlation between pay and this crucial measure of performance. Plant Patents Anyone who creates a new type of plant can patent it, provided that the inventor is able to reproduce it asexually—through grafting, for instance, rather than by planting its seeds. Likewise, if Emily Employee injures another motorist while driving a company van, the business is liable for any harm, but its shareholders are not personally liable. In fact, the website was not updated in real time, one-day delivery only applied to customers who lived within 20 miles of a Staples store, and it never happened on weekends. Nobel Laureate Paul Samuelson famously said, "Let those who will write the nation's laws, if I can write its textbooks." As authors, we never forget the privilege—and responsibility—of educating a generation of business law students. Either house may originate a proposed statute, which is called a bill. No matter what language contracting parties speak, Incoterm "FOB" means that the buyer pays for transportation of the purchased goods. 19-5d Mental Disabilities Under EEOC rules, physical and mental disabilities are to be treated the same. The Chesneys transformed the unit into a respectable apartment. Meanwhile, the Federal Trade Commission (FTC) has special rules for consumer credit contracts. An employer also violates this statute if the work environment is so hostile toward a pregnant woman that it affects her ability to do her job. Lawyer: You told me, absolutely, positively, you had never promised Harry any stock. There, he told a woman that he worked for a money management firm. See Uniform Commercial Code Ultrahazardous activity, 147 UN Commission on International Trade Law (UNCITRAL), 41 UN Convention for the International Sale of Goods (CISG), 41, 47–48 UN Educational, Scientific, and Cultural Organization (UNESCO), 40 Unauthorized workers, 113 Unenforceable agreement, 181 Unethical behavior (responses to), 27 exit, 27 loyalty, 27 voice, 27 Copyright 2019 Cengage Learning. The two girls sue based on the U.S. Constitution. Is Deloitte liable for breach of contract? ." In general, we expect our government to let people speak and hear whatever they choose. To survive the audit, the VP asked me to lie and also to put fake labels on some of the machines to show the customer. Jody is obligated under a contract to deliver 100,000 plastic bottles to a spring water company. T F If we are listening to witnesses testify, we must be in a trial court. WCN 02-200-203 04341_ch02_hr_015-038.indd 28 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 29 Although James does not smoke, he is troubled by this new policy. LIABILITY FOR PREPAID DEBIT CARDS If the consumer reports the theft of a prepaid debit card within two days of discovering it, the bank will reimburse him for all losses above $50. Although the UCC establishes simple and precise rules for creating negotiable instruments, people do not always follow these rules to the letter. If an agent breaches the duty of loyalty, he must turn over to the principal any profits he has earned as a result of his wrongdoing. WCN 02-200-203 04341_ch10_hr_177-197.indd 177 10/6/17 11:47 AM CHAPTER Forming a Contract 10 Chris always planned to propose to his girlfriend, Alissa, at Chez Luc, their favorite ritzy restaurant. Lenz sued Universal, claiming that her video was protected by fair use and that the music company's takedown abused the DMCA process. Hawes promised to pay its bills within 30 days of purchase. The workers begin to take bathroom breaks at sundown, stopping work on the production line. The law presumes that a concurrent estate is a tenancy in common; a court will interpret an estate as a joint tenancy only if the parties creating it clearly intended that result. (c) move for recusal. Trevor may have acted in good faith, but he failed to deliver what Jade bargained for. While the customers are eating dinner, the yacht bangs into another boat. Doe sued ModelMayhem, alleging that site knew of her assailants' criminal histories and failed to warn her. Once in her office, she goes straight to her computer and works on billing issues. For many years, copyright holders sent sweeping takedown requests and websites blindly took down any and all material that was alleged to be illegal. AMF appealed. But then another tenant offers her more money, and she refuses to let you move in. The downstairs wood stove was connected to the chimney flue and was used as part of the main heating system for the house. In short, culture defines what is right and wrong. (b) Auditors must report to the CEO of the company they are auditing. Note that, in many states, certain documents still require a traditional (non-electronic) signature. The damages awarded are called quantum meruit, meaning that the plaintiff gets "as much as he deserved." The court is awarding money that it believes the plaintiff morally ought to have, even though there was no valid contract entitling her to it. Equal Pay Act ____B. Her repudiation of the donor's offer means there is no gift, and she has no rights in the property. The rest are stuck with loans that carry exorbitant interest rates and fees, with the result that most borrowers never dig out from under their debt. WCN 02-200-203 04341_ch07_hr_121-136.indd 133 8/24/17 11:58 AM 134 Unit 2 Torts 2. The Wildcats, a new team in the league, try to lure Rodney away from the Lakers by offering him more money, and Rodney agrees to leave Los Angeles. He could well have had diminished capacity when he signed his final estate plan. Go effective The SEC authorizes a company to begin the public sale of its stock. Which is the better guideline? In 1976, seven years after NEPA was passed, a dam on the Teton River in Idaho burst, killing 17 people and causing $1 billion in property damage. Dick sues. WCN 02-200-203 04341_ch22_hr_420-438.indd 422 8/26/17 11:29 AM Chapter 22 Bankruptcy 423 Involuntary Petition Creditors may force a debtor into bankruptcy by filing an involuntary petition. Winona's business goes belly up, and both Pauline and other creditors angle to repossess the tank. I blame the DC paramedics. Kedkad sued Microsoft in the United States alleging that it had violated his contract by firing him and also that it had refused to accommodate his PTSD disability as required by U.S. law. T F A buyer in ordinary course of business takes goods free of an unperfected security interest but does not take them free of a perfected security interest. These laws are called usury statutes. Thirteen states challenged the individual mandate, arguing that Congress had violated the Commerce Clause of the Constitution. ETHICS Externalities pose an enormous problem for the environment. ADA → (5) Statute that prohibits discrimination against the disabled C. Field decided to sell a piece of trust real estate to his wife, without obtaining an appraisal, attempting to market the property, or consulting a real estate agent. A ring that falls off a finger into the street is lost property. The executive Power shall be vested in a President of the United States of America. (e) $30,000. In a contract for services, acceptance must mirror the offer, but not so in an agreement for the sale of goods. So Zeke will still owe both debts, but the child support must be paid first. Thus, airlines could not refuse to hire male flight attendants even if they believed that travelers prefer female attendants. Fifteen months later, on November 20: HP announced that, because of the report it had just received from PricewaterhouseCoopers, it was writing down the Autonomy investment by $8.8 billion. Beacon Hudson argues that the Rays cannot demonstrate continuous possession because they only occupied the property one month per year. That was obviously unethical. • The government must notify defendants if the evidence used against them was gathered by FISA surveillance. 29-2d Rights and Duties of the Bailor The bailor's rights and duties are the reverse of the bailee's. The business included a truck, servicing trailer, refrigerators, roasters, chairs, and tables. However, when the buyer rejects non-conforming goods, the seller has the right to cure, by delivering conforming goods before the contract deadline.5 If Wholesaler delivers walnut wood by March 15, Frame Shop must pay in full. 2-4 Applying the Principles Having thought about ethics principles and traps, it is time to practice applying them to situations that are similar to those you are likely to face in your life. Holder → (4) Anyone in possession of an instrument if it is indorsed to her Chapter 16 C. The trial court granted summary judgment for all defendants, and the court of appeals affirmed. Did Baer really expect to get paid, or was he simply hoping that his work would land him a job? This makes sense, in that a major purpose of a business is to earn a profit, and a fine, theoretically, hurts. Civil law deals with duties and disputes between parties, not outlawed behavior. Is it fair for exemptions to vary by state? A personal representative chosen by the decedent to carry out the terms of the will. Is this person a holder who has given value for the instrument, in good faith, without notice of outstanding claims or other defects? By failing to send Treadway's application to any lender, Gateway effectively denied credit to Treadway. But there is a key distinction between negligence and strict liability: In a negligence case, the injured buyer must demonstrate that the seller's conduct was unreasonable. Felony 6-1b State of Mind Misdemeanor Voluntary Act A defendant is not guilty of a crime if she was forced to commit it. One party cannot have the exclusive right to choose the arbitrators. Reverse discrimination Making an employment decision that harms a white person or a man because of his gender, color, or race. Shari'a law Islamic law Saudi Basic Industries Corporation v. Article III creates the Supreme Court and permits lower federal courts; the article also outlines the powers of the federal judiciary. (a) I, II, and III (b) Neither I, II, nor III (c) Just I (d) Just II (e) Just III 3. For its first 35 years, Andersen was primarily in the business of auditing public companies. The sheer possibility that a defendant has acted unlawfully is not enough. Her husband ultimately prevailed, and the tube was removed, but only after 15 years of litigation and public uproar. It also puts potential infringers on notice: The penalties for intentional copyright infringement are heavier than for unintentional violations, and the presence of the © is evidence that the infringer's actions were intentional. This term is called a waiver of premium. provides limited liability to the owner. Starbucks Corp., 679 F.3d 70 (2d Cir. Successful criminals earn enormous sums, which they must filter back into the flow of commerce in a way that allows their crimes to go undetected. Linda Marvin, a board member at Allegiant Travel was the company's former CFO and had worked for the current Allegiant CEO at two other companies. They must pay her damages of $245,000. The instrument must contain an unconditional promise or order to pay. So if the collateral is a diamond brooch or 1,000 shares of stock, a bank may perfect its security interest by holding the items until the loan is paid off. Later he married, had children, and got divorced. But did the dentists' claim have teeth? But the court ruled that the NLRA protected their speech because it was concerted activity dealing with working conditions. Once the agency relationship ends, however, so does the rule against competition. Result: There has never been a violent attack of any kind at a BRT Carnival. A method of acquiring ownership of land without ever paying for it 5. State appeals court B. The Telephone Consumer Protection Act (TCPA) prohibits telemarketers from making autodialed and/or prerecorded calls or texts to cell phones and prerecorded calls to residential land lines unless the consumer unambiguously consents in writing. These acts demonstrated continuous control of the property. The investors lost their money. Applying this idea, he concluded that one should always tell the truth because, if everyone lied, the world would become an awful place. Reasoning: Copyright does not prevent others from using the ideas or information revealed by the author's work. Texas v. Judiciary committees review nominees to the federal courts. WCN 02-200-203 04341_ch06_hr_101-120.indd 118 8/24/17 1:38 PM Chapter 6 Crime 119 right. WCN 02-200-203 04341_ch17_hr_315-335.indd 322 10/6/17 12:14 PM C h a p t e r 17 Agency 323 Unidentified Principal In the case of an unidentified principal, the third party can recover from either the agent or the principal. T F Congress established the federal government by passing a series of statutes. The tenants suffered a continuous problem with mice and cockroaches, along with a persistent odor of cat urine. He sued. What would be the result if he considered Mill, Kant, or the Front Page test? 11-5 Contracts in Writing Lynn and Howard were in love. Ct. 2292 (2016). Fish, shellfish, dolphins, whales, and birds die or reproduce more slowly. On the first of every month, your monthly rent is automatically deducted from your bank account. Taxes levied on a particular activity, such as the purchase of wine or cigarettes • Nontariff Barriers. Brican sales declined, it ran out of cash, and then it stopped paying for Viso ads on the Exhibeos. Result: Geoff's misrepresentation was not material—the difference between these two breeds of dog would not have affected liability on the renter's policy. Strategy: Whenever there is intentional wrongdoing, think fraud. The plaintiff must present evidence of a prima facie case. She was a fine student who met every admission requirement that The Citadel set except one: She was not a man. A year later, Williams defaulted on her payments to Conseco. On the other hand, if she fails to test him, could Sublime Corp. WCN 02-200-203 04341_ch18_hr_336-355.indd 345 10/6/17 12:23 PM 346 Unit 4 Agency and Employment Law that, ultimately, such laws improve employee safety. She is clearly entitled to compensation for her suffering. PUNISHMENT The Eighth Amendment prohibits cruel and unusual punishment. The bankruptcy court ruled that the UCC-3 was ineffective because JPMorgan did not authorize it. In the following landmark case, the Supreme Court established the requirement that police remind suspects of their right to protection against self-incrimination—with the very same warning that we have all heard so many times on television shows. the infringer had access to the original. Strategy: An agent has four duties. Perhaps someday the proliferating exceptions will topple it, but the process of the common law is slow and that day is nowhere in sight. In many states, a landlord must use reasonable care to maintain safe premises and is liable for foreseeable harm. WCN 02-200-203 04341_appC_hr_C01-C22.indd 17 9/28/17 7:28 AM C18 APPENDIX C Answers to Selected End-of-Chapter Questions CHAPTER 19 1. Affirmative action programs have three different sources: Reverse discrimination Making an employment decision that harms a white person or a man because of his gender, color, or race Affirmative action Affirmative action programs These programs remedy the effects of past discrimination. Son had no obligation to pay Kim. Airborne pollution cause a variety of harms: • Human health. On his lunch break, Dave logs on to his Facebook account from his company computer to upload some pictures from his weekend's activities. Ct. 2014), the Supreme Court upheld the EPA's regulatory program for GHGs. Copyright 2019 Cengage Learning. Minutes of these meetings must be kept indefinitely in the company minute book. REGULATION D The most common and important type of private offering is under Regulation D. Some state authorities are now requiring insurance companies to run a list of their policy owners through a database of people who have died. He has no spouse or children. You respond, "Nah. Although tax issues are beyond the scope of this chapter, it is worth noting that trusts can reduce estate taxes. A jury awarded her $94,000 plus attorney's fees. Advertisements for Listerine mouthwash claimed that it was as effective as floss- ing in preventing tooth plaque and gum disease. LEXIS 28487 (9th Cir. We know that a perfected security interest takes priority over others. PCs offer the limited liability of a regular corporation. If the court granted her request, she would represent the entire group of plaintiffs, including those who are unaware of the lawsuit or even unaware they were harmed. If women or minorities did get jobs, it was legal to treat them differently from white men. We have done little to assess and regulate the thousands of chemicals that pervade our lives. When customers placed more orders than the company could fill, executives feared that, if investors found out, the stock price would fall. Ramona was indicted on charges of real estate fraud. Vouching → (2) When accountants check backward to ensure there are data to support a transaction Chapter 28 C. On land and in water, animals are injured and killed. You're in line at the movie theater when you overhear a stranger say: "The FDA has just approved Hernstrom's new painkiller. A firm may be obligated to furnish millions of emails to the opposing party. The NYT advertisement was protected by the First Amendment, even though it contained falsehoods. They sued. If Randy never returns to reclaim the car, who owns it? 7-2 Issue: Did Turley make a valid claim for intentional infliction of emotional distress? • The musicians do not believe they are employees—they signed a contract stating that they are independent contractors. Unfortunately for Schmalfeldt, the court held that since the insurance contract was intended to benefit the bar and made no mention of its patrons, he was not a third party beneficiary and, therefore, could not recover his damages. The most common forms of these organizations are benefit corporations and low-profit limited liability companies (L3Cs). WCN 02-200-203 04341_ch12_hr_220-241.indd 224 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 225 What Duties Are Delegable The rules concerning what duties may be delegated mirror those about the assignment of rights. Is it fair that Farmer Ted received 60 times the value of the repair bill for his lost crops? Martha is thrown to the deck, breaking her wrist. Since either party can end the agreement at any time, it provides no security for either landlord or tenant. The security interest continued in the buses even after Antelope purchased them, and Francine can whisk them away. Suppose the manufacturer that made the peanut butter sold it to a distributor, which sold it to a wholesaler, which sold it to a grocery store, which sold it to your roommate. While off-duty (but still in uniform), a coed trio of flight attendants went wild at a hotel bar in London. This section examines treaties that are critical to international business. Under a full warranty, the seller must promise to fix a defective product for a reasonable time without charge. Bill finds the watch in the morning and decides to keep it. A work is copyrighted automatically once it is in tangible form. Kendall did so, but put his initials, KH, after her name to indicate that he was the one who had signed the note. A landlord's substantial interference with a tenant's use and enjoyment of the premises 2. The following case illustrates what can happen when you bet on the wrong promise. An arbitrator later awarded Bi-Economy additional money, which we paid. An arbitrator awarded Wilson $340,000 in back pay.1 19-2 THE CIVIL RIGHTS ACT OF 1964 Under Title VII of the Civil Rights Act of 1964, it is illegal for employers to discriminate on the basis of race, color, religion, sex, or national origin. lifetime. The Constitution gave to the U.S. Congress the power to pass laws on various subjects. Tying arrangement An agreement to sell a product on the condition that a buyer also purchase another, usually less desirable, product. LEXIS 2388 (Pa. Super. But what if the employer refuses to hire the candidate because her Facebook page reveals she is religious, married, or planning to have children? Two problems had become apparent in the United States. The National Labor Relations Board (NLRB), which enforces this statute, has long held that even non-unionized workers cannot be fired for complaining about their jobs, so long as these complaints are shared with other employees and are not inappropriately hostile or violent. deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation." We will discuss the civil law aspects of these clauses, but due process also applies to criminal law. 774 F.3d 140 United States Court of Appeals for the Second Circuit, 2014 CASE SUMMARY Facts: Elijah Turley was a steelworker and the only African-American in his department. Three hours later, the skydiver expires. They took possession the next day and operated Festival Foods for the remainder of the season. On appeal, the default judgment was overturned, and Pepsi was able to escape paying the massive sum, but other defendants are sometimes not so lucky. It imposes a huge cost on everyone. EXPRESS WARRANTY A party may create an express warranty with words or actions. ETHICS The National Football League (NFL) owns the copyright to the broad- casts of its games. SELF-DEALING Self-dealing means that a manager makes a decision enefiting either himself or another company with which he has a relationship. Note, however, that to be protected, the speech must involve more than one employee. There may have been some age discrimination, but there is no evidence that age was the deciding factor. Managed care plans Health insurance plans that limit treatManager Both directors and officers. The subletting tenant who is bound by a covenant is home free; the one whose lease contains a condition may find himself out on the street. The agency that regulates environmental policy in the United States 5. The day after Thanksgiving, known as Black Friday, is the biggest shopping day of the year. What recourse do tobacco companies have if they want to challenge the FDA's rule? 3Victims receive an email from someone alleging to be a Nigerian government official who has stolen money from the government. That is a question that businesses—and judges—face every day. IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE If the seller knows that the buyer plans to use the goods for a par- ticular purpose, the seller generally is held to warrant that the goods are, in fact, fit for that purpose. Whether you rent or buy, we'll save you time, money, and frustration. Suppose Lydia opens the first bottle of champagne— silently. Facebook stock has a par value of $0.0001 per share. Tucker, "Liberty Is Exploitation: The Force of Tradition in Early Manufacturing," OAH Magazine of History, Vol. For example, a security agreement may properly describe the collateral as "all equipment in the store at 123 Periwinkle Street." A security agreement at a minimum might: • state that Happy Homes, Inc., and Martha agree that Martha is buying an Arctic Co. refrigerator, and identify the exact unit by its serial number; 1UCC §9-203. Instructor's Manual. The Instructor's Manual, available on the Instructor's Support Site at www.cengagebrain.com, includes special features to enhance class discussion and student progress: • Answers to the You Be the Judge cases from the main part of the chapter and to the Exam Review questions found at the end of each chapter. Reasoning: To prevail on his promissory estoppel claim, Harmon had to prove that (1) the Commission made a promise to him; (2) which it reasonably expected him 4. When a business has knowledge of something that poses an unreasonable risk of harm to its patrons, it has a duty to take reasonable action to reduce or eliminate that risk. Adjudicate To hold a formal hearing about an issue and then submitting them to a neutral third party. Government Regulation. The federal government has tried to change the landscape of corporate governance and executive compensation in the following ways: • Lead director. They also suffered consequential damages. In addition, people in personal relationships with a fiduciary duty are guilty if they trade on material secret information obtained through that relationship. Will the court reform this contract and transfer one piece of land back to her? Also, there was no indication of bad faith or consumer confusion. The youth might easily use the object (the car) to injure other people. The injury could be to a person or her property. Comerford arrived at a Dallas airport to pick up the plane, where he paid $80,000 for it. WCN 02-200-203 04341_ch03_hr_039-057.indd 49 8/24/17 1:47 PM 50 Unit 1 The Legal Environment discord—not to mention danger for U.S. citizens if other countries responded by subjecting them to foreign laws. There may indeed be good reasons to lie, but what are they? While driving his SUV, George struck and killed a pedestrian. Lisa taught Special Education in an elementary school in Florida. U.S. Trustee Oversees the administration of bankruptcy law in a region. Consumer Financial Protection Bureau (CFPB). If the possessor of an instrument is just a holder, not a holder in due course, then his right to payment is no better than the rights of the person from whom he obtained the instrument. Result: This is a clear, short clause, between parties with equal bargaining power, and does not exclude an intentional tort or gross negligence. But the fairest and best equipped to hear issues of international law. WCN 02-200-203 04341_ch26_hr_501-518.indd 501 10/6/17 12:32 PM 502 Unit 6 Government Regulation shredded documents, leading to the firm's conviction on a criminal charge of obstructing justice. Nina's text about the drones involved the sale of goods and was governed by Article 2 of the UCC. Everyone agrees that a bathroom stall is private. In the letter, Leonard stated that this appointment would have to be approved by the promotion committee. • The parts that are covered and those that are not. Horning transferred the business to Horning Jeffrey Horning was Construction LLC, and then gave one-third ownerstuck in purgatory, with ship each to two trusted employees, Klimowski and Holdsworth. That is true even if the financing statement used the incorrect name. He injures Tracey's horse, fails to pay the full contract price, and promptly disappears. (c) Most people are accurate when comparing themselves to others. The house is ready on time, but Caitlin has some complaints. At the beginning, one of the tenants was a drycleaner. An idea for a new law—on taxes, health care, texting while driving, or anything else—is first proposed in the Congress. Thomas cringes at the problems the grandchildren would cause if some of them inherited an interest in the land and became part-owners along with Thomas's own children. The First Amendment guarantees rights of free speech, free press, and religion; the Fourth Amendment protects against illegal searches; the Fifth Amendment ensures due process; the Sixth Amendment demands fair treatment for defendants in criminal prosecutions; and the Fourteenth Amendment guarantees equal protection of the law. Her husband has the right to provide her with enough medication to kill her. 30-3d A Trust's Term There are three possible outcomes for a trust: decanting, termination, or perpetual life. Bear in mind that a defendant's action might be both a crime and a tort. CPA QUESTION A corporate stockholder is entitled to which of the following rights? Even if Taylor was in the right legally, was she in the right ethically? Chaz has no valid defenses against the bank. If Charlotte signs it, the check becomes bearer paper. Does Jamie need rental insurance? How to compromise? "No, not here," he uttered. The moment Gloria and the producer strike their bargain, they have an executory Copyright 2019 Cengage Learning. He does not look as if he can afford a Tesla, so the sales staff orders a credit report on him before assisting him. The government may also impose a fine on Roger, but it keeps the fine and does not share it with the victim. 13-1a The Lawyer Businesspeople sometimes refer to their lawyers as the business prevention department. Are there any circumstances under which this loan of his house would be legal? Naturally, there is no implied contract thereafter. Janet and Beth talk. And roughly half of these messages were fraudulent—either in content (promoting a scam) or in packaging (the headers or return address are false). As Quay was finishing his audit, the board began talking with Gary Ellis about becoming president of the bank. Winning Navy contracts is crucial to the company's success—it means jobs for the community and profits for the shareholders. HOLDER IN DUE COURSE A holder in due course is a holder who has given value for the instrument, in good faith, without notice of outstanding claims or other defects. Why is this so? (b) request a mandatory verdict. Which of the following elements is required for a RICO conviction? A motion is a formal request to the court. The contract went through eight drafts and numerous changes, but the two sides never again met or discussed the $0.10 figure. ETHICS The Dannemans bought a Kodak copier worth over $40,000. The person who issues the insurance policy ___ B. If, for some reason, the original party loses his right to be paid, so does the transferee. Later, when Powers was attempting to close the rear door, the nylon rope broke and he fell, sustaining severe injuries to his neck and back. Answer: Abandonment is a vital issue because if Stamford abandoned the murals, Hoelzer probably owns them. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. As there is no public market for the stock of a close corporation, a minority shareholder who is being mistreated by the majority cannot simply sell his shares and depart. She paid $14,000 for a note worth $14,986.61. The winner? Andrew Greene sued Paramount Pictures for defamation arising out of the film "The Wolf of Wall Street." Although the film did not use his name, Greene alleged that the fictitious toupee-wearing character Nicky "Rugrat" Koskoff was based on him. If Patricia had died still owning the house and left it in her will to "Sam and Tracy," then Sam and Tracy would have a tenancy in common. Artist shall have the absolute right not to perform in any nude scene or simulated sex scene. WCN 02-200-203 04341_ch14_hr_261-277.indd 269 9/28/17 7:16 AM 270 Unit 3 Contracts and the UCC Implied Warranty of Merchantability Implied warranty of merchantability Goods must be of at least average, passable quality in the trade. As the ship sailed on, Gatter grew more and more uncomfortable with the sexualized environment. A mere 40 days after the filing, GM emerged from bankruptcy. Lynn wants to sue for fraud, but the contract does not say anything about which country's law will be used to resolve disputes. Chloe buys a motorcycle on eBay from Junior. WCN 02-200-203 04341_ch13_hr_242-260.indd 260 10/6/17 12:09 PM CHAPTER 14 SALES He Sued, She Sued. As a result, police require a valid warrant to listen in or monitor a person's telephone calls. A house is not a good, but the stuff in the house—the car in the garage, the televisions, the furniture, and the paintings hanging on the wall—is. An employer is liable for physical torts negligently committed by an employee acting within the scope of employment. However, the Wiretap Act does not protect every conversation. Also, almost half the states and hundreds of cities have statutes that prohibit discrimination based on sexual orientation. He told Claudia to email him back if there was any problem. The court determined that there was no contract because too many details had not been worked out—the size of the store, its design, and the cost of constructing it. The General Motors example illustrates the good news about American bankruptcy. (c) Both A and B are true. Even if you hate law, if you put forth the effort to learn this, you should have no trouble at all learning and understanding the concepts." • "I enjoyed this book so much that I will not be selling it back to the bookstore (or anyone) because I know that I will use the book for years." From undergraduates: • "This is the best textbook I have had in college, on any subject." • "The textbook is awesome. Audits were fast becoming loss leaders to attract consulting business. Regulates the issuance of securities TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Shifty sells that note to Honest Abe for $22,000. It makes no difference where the property is located or the deal signed. Retailer purchases comparable shoes elsewhere for $70 and files suit. Chapter Conclusion Accountants serve many masters: Clients, third parties, and the government all rely on their work. material breach. Intellectual property, however, has little economic value unless others use it. Upon his release to the United States, Nelson sued the Saudi government for personal injury. Only the states may legislate child custody issues. Notice that the donor's intention must be to give title to the donee. Here, the first handbook declared that layoffs would be based on seniority. Martino may give the ring to Lowman's estate or reimburse it for the full value, which is $15,000. Communications Decency Act of 1996 (CDA) Provides ISPs Contributory negligence A plaintiff who is even slightly negligent recovers nothing. Argument for Plaintiff: Trade secret law prevents depart- ing employees from taking valuable information. The Mackenzies sued Flagstar for breach of contract, claiming they were intended third party beneficiaries of the lender's contract with the government. Paris Convention → (3) Extends patent protection overseas E. 5UCC §2-508. McMahon wrote one of the first psychology textbooks to feature a light and easily readable style. Marianna posted a Facebook message complaining about Lydia and asking other employees how they felt. You Be the Judge: Were the Lees BIOCs? The jurors award her $29 million. Legislative Rules These are the most important agency rules, and they are much like statutes. RICO is powerful (and for defendants, frightening) in part because a civil plaintiff can recover treble damages, that is, a judgment for three times the harm actually suffered, as well as attorney's fees. Whayne sold the drill for $58,000, leaving a deficiency of just over $100,000. T F The same states must be named in the Choice of Law and Choice of Forum provisions. In these cases, the landlord has not actually prevented the tenant from possessing the premises, but has instead interfered so greatly with her use and enjoyment that the law regards the landlord's actions as equivalent to an eviction. If Smith had read the papers before she signed them, she might have realized that she had committed herself to be the sole purchaser and owner of the car. Since Chevron did not have sufficient assets in Ecuador for the victims to collect, the plaintiffs sought to enforce the judgment in the United States A federal court in New York refused to recognize the award because it found evidence that the corrupt Ecuadorian judges were paid off by the plaintiffs. Clearly, the plaintiffs would never have agreed to a contract that permitted unreasonable and harmful behavior. If so, which one? Benzaquin explained that the license plate had been stolen and the sticker had fallen onto the dashboard, but Fleming refused to let him drive away. They sued for their lost profit—and lost. If we were not permitted to use, say, the facts described in a textbook, education would be stifled. Although Kerkoulas saw their colors, she allowed them to stay for one drink. Because Felix owes his mother money, he indorses the check and delivers it to her. If one side gets all the benefit and the other side gets nothing, then an agreement lacks consideration and is not an enforceable contract. Negotiated An instrument has been transferred to the holder by someone other than the issuer. • Employment practices liability insurance protects employers against claims of sexual harassment, discrimination, and wrongful termination on the part of an employee. Exhibit 4.1 illustrates the balance among Congress, the president, and the Court. 3Eyal Press, "Family-Leave Values," The New York Times, July 29, 2007. Argument for Conseco: Under the UCC, a BIOC takes free of a security interest created by the buyer's seller. There are two basic elements of consideration: Consideration The inducement, price, or promise that causes a person to enter into a contract and forms the basis for the parties' exchange 1. 17-2e Principal's Liability for Nonphysical Torts Nonphysical tort A wrong that harms only reputation, feelings, or wallet So far, we have seen the rules on physical torts. (d) A surname CHAPTER 28 1. Prior to 2016, 64,000 chemicals were being used without any testing. But the product's terms of service provided that future updates might disable some functions. In warranty of habitability cases, a court normally considers the severity of the problems and their duration. A significant percentage of all mortgage foreclosures are caused by an owner's disability. (c) Yes because Figgins was a fully disclosed principal. Discharge The bankrupt no longer has an obligation to pay a debt. EXAMStrategy Question: Zapper, Inc., hired the accounting firm PriceTouche to determine if constructing an apartment building was financially feasible. Today, Facebook is valued at $400 billion. What if the product being sold is food, and the food contains something that is harmful—yet quite normal? In his view, hard work certainly matters, but so does luck. There are also policy reasons to prohibit this punishment. Unless the employee had a contract that said otherwise, he was hired for a year at a time. In a deferred annuity contract, the owner makes a lump-sum payment now but receives no income until some later date, say, in 10 or 20 years when he retires. Right to a Jury The facts of a case are decided by a judge or jury. Instead, it spent two years ignoring Berg's reasonable requests, leaving her to drive a dangerous car. 2003). At this writing, only a few states prohibit the use of such information for these types of policies. What would be the advantages and disadvantages of Chapters 7 and 11? 9-3d Consumer Protection The Federal Trade Commission Act authorizes the Federal Trade Commission (FTC) to protect consumers and prevent unfair competition. It is a crime under the federal Computer Fraud and Abuse Act of 1986 (CFAA). The two sides have the right to settle up until the moment when the last appeal is decided. When in a group, people are less likely to take responsibility because they assume (hope?) that someone else will. If, on the other hand, HBI ended the contract merely because it disagreed with the tweets, that would be an arbitrary or bad faith decision. Because the businesses were corporations, Son was not personally liable for the debts of either one. Creditors cannot use an involuntary petition to force a debtor into Chapter 13. WCN 02-200-203 04341_ch24_hr_460-481.indd 474 10/6/17 12:28 PM Chapter 24 Consumer Protection 475 4. But some state innkeeper statutes impose an absolute limit on a hotel's liability. Irene signed a blank promissory note that Best representatives later filled in for $14,986.61. buckets of water on them to keep them awake. Issue: Did the Pub Zone have a duty to protect Kuehn from the Pagans' attack? A unilateral agreement only requiring one party to give up its right to sue is unenforceable. Money awarded to punish a wrongdoer 2. 9. Result: In the civil lawsuit, Asbury must merely convince the jury by a preponderance of the evidence. We argue that they should be even lower. Is an EIS required? WCN 02-200-203 04341_ch03_hr_039-057.indd 43 8/24/17 1:46 PM 44 Unit 1 The Legal Environment the model behavior of the Prophet Muhammed. Decision: Yes, the EPA must consider costs. Is that a good idea? Some athletes earn even more than CEOs. What is the difference between athletes and executives (besides a hook shot)? For example, if a driver speeds through city streets, it is easy to see that someone may be hurt. If the police do not inform the accused of these rights, then nothing he says or writes can be admitted in court. However, if Coastal has proven suicide, Beth receives nothing. But the Kellys are spending $800. • Premium. AvMed, Inc. The law is clear—indirectly alluding to the children or grandchildren is not sufficient. This choice can create an obligation to such broad categories as "society" or "the environment." After 20 first-graders and 6 educators were shot to death at the Sandy Hook Elementary School in Newtown, Connecticut, General Electric Co. (GE) stopped lending funds to shops that sell guns. If a landlord rents a summer apartment for the months of June, July, and August of next year, that is a tenancy for years. Reasoning: Laws of nature, natural phenomena, and abstract ideas are not patentable because they are the basic tools of science and technology. Before 1964, you might never have seen a female or African-American doctor, engineer, police officer, or corporate executive. Both the soft drink and sugar industries generously fund scientific research. The most commonly disputed issues in these cases concern elements 1 and 3: Was there a contract between the plaintiff and another party? A pre-trial procedure involving written questions to be signed under oath 2. 1Kiobel v. About one-third of the states and hundreds of cities prohibit gender identity and expression discrimination. His tactics? WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 15 9/28/17 7:29 AM I16 Index Workplace freedom and safety (continued) lie detector tests, 344 lifestyle laws, 342 OSHA, 345 privacy on social media, 344 right to free speech, National Labor Relations Act (NLRA), 343 social media policies, 344 World Bank, 41 World Health Organization (WHO), 40 World Intellectual Property Organization (WIPO), 41 World Trade Organization (WTO), 45 World Wide Web, 166 user-generated content, 167 WorldCom, 501 Writing (contract checklist element), 179, 198, 210–211 contracts requiring agreements for an interest in land, 210 agreements for an interest in land exceptions, 210–211 agreements that cannot be performed within one year, 211, 211t promise by estate executor, 212 promise in consideration of marriage, 212 promise to pay another's debt, 212 requirements, 212 reasonable certainty, 213 signature, 212–213 sale of goods more than $500 (UCC requirement), 213 Wrongful discharge (of an employee), 338 Y Yoplait, 32 You Be the Judge (book feature), 9–10 case example, 10 Young, Peggy, 365 YouTube, 520, 528 and Front Page test, 20 Z Zoning statutes, 543 Zuckerberg, Mark, 159, 398, 400 Copyright 2019 Cengage Learning. 6 Herbert v. During that time, Watts stole $768,000 despite earning a substantial salary. In doing this, the agency attempts, prospectively, to establish fair and uniform behavior for all businesses in the affected area. FILINGS UNDER THE 1934 ACT The 1934 Act requires public companies to make regular filings with the SEC, including annual reports, quarterly reports, and Form 8-Ks. The company CEO and CFO must certify that the information in the quarterly and annual reports is true. This rule is meant to: Ambiguity When a provision in a contract is unclear by accident 1. Which system is best? In some plans, the patient has a primary care physician who must approve all visits to specialists. No. Did the company make any promises to him during the hiring process? Did Barpassers have an antitrust claim against BAR/BRI? As its patent was near expiration, the company developed a better version. It used to be that disposable contact lenses cost $169 a year. Is Everitt entitled to either stove? Do you agree with Zoe's argument that it is the government's responsibility to create and protect American jobs and that it is a CEO's job to increase shareholder wealth? Buffett did not ask any questions about the timing or amount of Sokol's purchases. What must a landlord do to protect a tenant? 1994). Cremers exercised some editorial discretion in choosing which emails to send to subscribers, generally omitting any that were unrelated to stolen art. Check cards Another term for debit cards. In the Gatter case, the court held that her employer was liable because she suffered a "tangible employment action," that is, she was fired. By 1989, the murals were valued at $1.25 million by Sotheby's, an art auction house. For example, two 2011 movies—No Strings Attached and Friends with Benefits—are about friends who engage in a casual physical relationship and end up falling in love. Equipment sales were not part of Winstar's core business, and there was little documentation that these sales had taken place. Little did Sherman know that Kalchinian was a police informer. In addition to subject-matter jurisdiction, courts must also have personal jurisdiction over the defendant. Three people are involved: drawer, drawee, and payee. Furthermore, furnishing alcohol to a minor violates several state statutes. 25-3a Coverage The CWA governs all navigable waters in the United States. Section 8 of the NLRA prohibits employers from engaging in the following unfair labor practices (ULPs): • Interfering with union organizing efforts, • Discriminating against a union member, and • Refusing to bargain collectively with a union. Was the prison inmate an intended beneficiary or was his argument just smoke in mirrors? Here, although Chambers made some mistakes, he did not breach the peace. Cross-examine A lawyer asks questions of an opposing witness. HP said in a filing that, at the time of the Autonomy acquisition in October, its fair value approximated the carrying value. What benefits has the country gained from environmental regulation? His finance charge is only $1, but his APR is astronomical—20 percent per week—which is over 1,000 percent for a year. TORT A tort is a violation of a duty imposed by the civil law. Camp Newfound was a Christian Science organization, and 95 percent of its summer campers came from other states. Morris did not infringe McMahon's copyright. Therefore, close corporation laws typically protect minority shareholders by holding that majority shareholders owe them a fiduciary duty. (a) Outdoor cannot collect in the United States on a judgment that was issued by an Australian court. 14-2a Express Warranties Express warranty A guarantee, created by the words or actions of the seller, that goods will meet certain standards An express warranty is one that the seller creates with his words or actions.10 Whenever a seller clearly indicates to a buyer that the goods being sold will meet certain standards, she has created an express warranty. Guarantees equal protection of the law Copyright 2019 Cengage Learning. WCN 02-200-203 04341_appA_hr_A1-A14.indd 4 9/28/17 7:27 AM APPENDIX A The Constitution of the United States A5 or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress. The FWS trapped the remaining red wolves, placed them in a captive breeding program, and then reintroduced them into wildlife refuges in North Carolina and Tennessee. In the first part of the twentieth century, Congress passed legislation to enable workers to unionize and, thereby, improve working conditions. EXAMStrategy Question: John and Clara Lockovich bought a 22-foot Chaparrel Villain II boat from Greene County Yacht Club for $32,500. He called this situation "the veil of ignorance." • Under the Front Page test, you ask yourself what you would do if your actions were going to be reported publicly on- or offline. Jones opposed the motion for summary judgment. Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. Blake arrives at the warehouse Copyright 2019 Cengage Learning. Commingling assets. Wrongdoers either sell goods they do not own, provide defective goods, or offer fakes. Argument for the Company and Its Executives: Yes, there were rumors and allegations about Autonomy, but not until November 20, when the Pricewaterhouse investigation finished, did the defendants know for sure that the deal had been a fraud. Ct. 2699 United States Supreme Court, 2015 CASE SUMMARY Facts: In the Clean Air Act (CAA), Congress directed the EPA to study the impact of power plant emissions on public health and then to regulate them if "appropriate and necessary." As part of its study, the EPA did a cost-benefit analysis, which found that the estimated economic costs of regulation were much higher than the benefits. However, the CISG allows signatories to opt out of some of its rules, and Argentina did indeed opt out of the no-writing requirement. 11-2 Legality In the opening scenario, we saw that gambling agreements are illegal unless specifically authorized by a state statute. EXAMStrategy Question: Jerry Falwell was a nationally known Baptist minister whose website was falwell.com. But Union may not pressure Truck Co. by setting up a picket line at a supermarket where Truck Co. delivers food, in an effort to persuade shoppers and other workers to boycott the store. Reasoning: This case hinges on Burger King's motives. As the English jurist William Blackstone said, "Better that ten guilty persons escape than that one innocent suffer." Thus, criminal law is a balancing act—between making society safe and protecting us all from false accusations and unfair punishment. Concurrent estates Two or more people owning property at the same time. However, the jury could reasonably have found that the emotional distress suffered by each tenant deserved comparable compensation, even if the harm was not identical to each. He noticed that the door strap used to close the rear door was frayed, and he asked Ryder to fix it. It goes into effect when the grantor dies. Reasoning: Most people leave their money to their children and grandchildren. Punitive damages Punishment of the defendant for conduct that is extreme and outrageous. But instead, the UCC favors negotiability and has rules to resolve uncertainty and supply missing terms. The court held that the low garage ceiling was a minor problem and would not defeat substantial performance. In settlement of Anthony's malpractice claim, Leonard signed a promissory note for $10,400 on behalf of his law firm, an LLC. Do you think the father in the following case simply forgot? These developments presented a problem. The Fudge Factor The fudge factor is an important type of rationalization. The Porsche arrives badly damaged because the Car Moves truck was hit by a bus. This means, for instance, that New York State divorce laws differ from the laws of any other state, In spite of this, there are general terms that apply across all states. Answer: Both are liable—Johnny because he left the rake and Frankie because he and Johnny had a general partnership. Double jeopardy A criminal defendant may be prosecuted only once for a particular criminal offense. McGee could have performed his obligations perfectly and still caused Hawkins pain. It indicates that a policy is temporarily in effect, but it does not constitute final acceptance. Would you sue the restaurant? Executory and Executed Contracts Executory contract A binding agreement in which one or more of the parties has not fulfilled its obligations A contract is executory when it has been made, but one or more parties have not yet fulfilled their obligations. In the following case, the court discussed the type of evidence necessary to support health claims in advertisements. T F Only workers, not their spouses or children, are entitled to benefits under the Social Security system. S corps do face some major restrictions: • There can be only one class of stock. John Wayne (yes, his name was John Wayne) was the executive officer of the Commission. If they do, what disclosure should they make? You make the call. Any reasonable latte-drinker knows that the foam added to the top of the coffee is part of the drink and counts toward the total fluid ounce measurement. A valid defense in a defamation suit is: (a) (b) (c) (d) (e) falsity. A judge would also verify that the parties were adults of sound mind and that the subject matter of the contract was legal. Second, we would apply the difference principle. Employees have the right to present whichever documents they want from the list of acceptable items. Unger's liabilities exceed Unger's assets. Unlawful management interference with a union 4. The following case provides further support for the adage: "Loose lips sink ships." 5Marks v. Sam sued Douglas for discriminating against people with tattoos. At a minimum, a consumer Copyright 2019 Cengage Learning. The second issue is fair price. This is an area that can get pretty dicey as people can become very passionate when it comes to their children.State Courts Have Jurisdiction Over DivorcesIf you want your divorce to go through quickly — and you don't have major assets to divide up or custody issues to contend with — get your paperwork through as quickly as you can. Which of the following items cannot be trademarked? Dallas Dodgers Baseball, 485 S.W. 3d 641 (Ct. App. State which court(s) have jurisdiction as to each of these lawsuits: (a) Pat wants to sue his next-door neighbor Dorothy, claiming that Dorothy promised to sell him her house. However, the commission has not implemented these rules. Is intent to harm an element of Caudle's case? Arbitration Some contracts prohibit the parties from suing in court and require that disputes be settled by an arbitrator. Answer: This representation was material because it would have changed the amount of the premiums Jackson had to pay. You joined for free, but you have to upgrade to a paid version if you want to see full-size photos or send personalized messages. An offeror can set any requirements she wishes. Thus, law firms would typically expect a partner to turn over any fees he earned as a director of a company, but he could keep royalties from his novel on scuba diving. Decision: No, the U.S. court applied the law properly. "You should have made at least some sort of mark on the paper." II. While on the job, she must act as a reasonable person in her profession. Another goal of the statute is to prevent credit discrimination. Because Trustie still holds the promissory note, it is not a holder in due course. If Chaz's promissory note says, "I will pay $15,000 as long as the car is still in working order," it is not negotiable because it is making a conditional promise. For a while, all was quiet, as the two sipped drinks at the bar. What is the illegal act here? Taking Copyright 2019 Cengage Learning. Approval over (but approval shall not be unreasonably withheld): a. (b) Valerie will win only if she can prove Car Moves was partly negligent. The State of California put on her on trial for bank robbery. Is the Forest Service governed by any environmental statutes? This is exactly what whistleblowers do: They are employees who disclose illegal behavior on the part of their employer. That meant he was a "virtual cupid," that is, not a real person. At least 16 former Tata employees left their work without completing their contractual obligations and went to work for Syntel. Supervisor Anyone with the authority to make independent Sole proprietorship An unincorporated business owned by decisions on hiring, firing, disciplining, or promoting other workers. There is only one Grand Canyon. Astro's production supervisor, David Boldt, directed that the surplus be dumped into the city sewer. WCN 02-200-203 04341_ch04_hr_058-078.indd 58 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 59 In the structure of our legislatures, we think experience has proved the benefit of subjecting questions to two separate bodies of deliberants. 1 Jones v. Usually, the finder of lost property has rights superior to all the world except the true owner. And it is not just doctors who are affected. Of course, some evictions are legal, as when a tenant fails to pay the rent. If the Supreme Court, for example, decided a case in one way in 1965, it is under no obligation to follow precedent if the same issue arises in 2020. Plant life growing on land is real property whether the plants are naturally occurring, such as trees, or cultivated crops. Neighbors were successful in using the law of nuisance to sue a landlord in Berkeley, California, who allowed an apartment building to operate as a drug house. 17-2b Agent's Liability for Contracts The agent's liability on a contract depends upon how much the third party knows about the principal. The loan of the house would be legal if the official was simply in charge of turning on utilities in the area where the resort would be built. (Please do not try this at home.) Of course, he then spent the money. They arranged for the construction workers to remove the murals to prevent harm. • Whether the warranty is full or limited. Second, all citizens are entitled to any records the government has about them. His systematic harassment campaign included: • Intercepting Elting's mail, monitoring her phone calls, and breaking into her email accounts. Marko argues that under merchant exception, his fax was sufficient to satisfy the Statute of Frauds. Since Marbury v. Some employers, though, place harsh restrictions on their employees simply to prevent them from leaving. Returning the goods at the end of the season was not a rejection of the Jannusches' offer to sell; it was a breach of contract. (e) is void, based on the Takings Clause. Taylor threatened to block the loan if her demands were not met. WCN 02-200-203 04341_ch04_hr_058-078.indd 64 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 65 Procedural Due Process The government deprives citizens or corporations of their property in a variety of ways. If the court strikes down this law, it will effectively stifle a national debate and destroy any true consensus. What was the board's obligation? WCN 02-200-203 04341_ch10_hr_177-197.indd 189 10/6/17 11:47 AM 190 Unit 3 Contracts and the UCC Destruction of the Subject Matter A used car dealer offers to sell you a rare 1938 Bugatti for $7.5 million if you bring cash the next day. What is your Life Principle about telling lies? He inquires into Tony's mood, learns that he was depressed, and probes in every direction he can to find evidence of suicidal motivation. Teaching Materials For more information about any of these ancillaries, contact your Cengage Consultant, or visit the Beatty Samuelson Abril Business Law website at www.cengagebrain.com. Wiretapping and Electronic Surveillance The Electronic Communications Privacy Act of 1986 (ECPA) is a federal statute that prohibits unauthorized interception of, access to, or disclosure of wire and electronic communications. The SEC closely regulates an issuer's sales effort to ensure that it does not hype the stock by making public statements about the company before the stock is sold. Result: Cummings's mother argued that the policy was valid because her son had not died from taking drugs. Because all he has is a claim to Lydia's money. He added that if she got in trouble for leaving work, Jones should "have Dave call me immediately and I'll take care of it." He also said, "You are smart. Those basic policies yield various outcomes, depending on the nature of the property. WCN 02-200-203 04341_ch25_hr_482-500.indd 497 8/28/17 7:20 AM 498 Unit 6 Government Regulation 4. Sometimes a buyer breaches before the seller has delivered the goods, for example, by failing to make a payment due under the contract. A year later, an arbitrator awarded the Market $407,000. When installed in a homeowner's kitchen 2. Moments later, the sales associate informed me that the laptop was not in stock after all. With rules such as these, management of a general partnership can be difficult. 20-5g Terminating a Partnership: Dissociation A partnership begins with an association of two or more people. (b) To avoid liability, Oil Co. had to offer the leases to Pogo's other shareholders. Baxendale had no way of knowing that this was the Hadleys' only shaft, or that his delay in transport would cost them substantial profit. encourage those who prepare contracts to do so carefully. Categorical imperative An act is only ethical if it would be acceptable for everyone to do the same thing. (a) Carter will win because Ellen was careless. WCN 02-200-203 04341_ch29_hr_560-575.indd 571 8/28/17 7:38 AM 572 Unit 7 Property MATCHING QUESTIONS Match the following terms with their definitions: ___A. In another instance, Elonis wrote he would make "a name for himself" by initiating "the most heinous school shooting ever imagined." This post prompted two FBI agents to visit Elonis's home. Ag Pro, Inc., 523 n. Instead of lawyers, the Firm used an automated system and support staff to decide which cases to file and then to draft the pleadings. WCN 02-200-203 04341_appC_hr_C01-C22.indd 13 9/28/17 7:28 AM C14 APPENDIX C Answers to Selected End-of-Chapter Questions 5. The deal is crucial to your life or the life of your business. Despite its detailed dress code for employees, Starbucks stores permitted work- ers to wear multiple pins and buttons, some of which, but not all, were related to its employee-reward and product-promotion programs. Nothing. More than one person suffering from overwhelming financial pressure has insured a building to the hilt and then burned it down for the insurance money. When the Tanana Valley Medical-Surgical Group, Inc., hired James Eales as a physician's assistant, it promised him that so long as he did his job, he could stay there until retirement age. This rule does not protect supervisors. Anyone who becomes a company insider must report this status to the SEC. wrecked, stolen, scratched, it could get breathed on wrong," he fretted. Per Stirpes Per Capita Gwendolyn Gwendolyn RIP Lance RIP Arthur RIP Lance RIP Arthur Child Child Child Child Child Child Child Child Child 1/2 1/8 1/8 1/8 1/8 1/5 1/5 1/5 1/5 1/5 30-2d Digital Assets Many people own digital assets with substantial value, both sentimental and financial, such as photos, music, movies, books, websites, blogs, social media accounts, email, software, client lists, bitcoins, and gaming accounts. ICJ → (2) The World Court Chapter 4 A. In some cases, the secured party will have a choice of which method to use; in other cases, only one method works. WCN 02-200-203 04341_ch22_hr_420-438.indd 427 8/26/17 11:29 AM 428 Unit 5 The Lifecycle of a Business Strategy: There are two issues: The order in which the debts are paid and whether they will be discharged. (c) The President may veto the bill, but Congress may attempt to override the veto. nationals enter the United States, but presidents are reluctant to sit on the dock of the bay, watching the ships come in. This statement listed the debtor's name as "Armando Juarez." When the farmer defaulted, both Corona and Frozsun claimed an interest in the same strawberries. • Personal injury protection pays the medical expenses and lost wages of the owner, his passengers, and anyone living in his house or authorized to drive the car. Is there any problem with the drafting of this provision? If you ever go to law school, you will almost certainly encounter the following case during your first week of classes. A working knowledge of the law can help build a successful career—and a solid democracy. T F Under federal law, accounting firms may not provide any consulting services to companies that they audit. When one of the "dominoes" in the row is entirely unforeseeable, courts will call that event a superseding cause, letting the defendant off the hook. 28-1 NATURE OF REAL PROPERTY Property falls into three categories: real, personal, and intellectual. 2-4c The Organization's Responsibility to Society What is a company's responsibility to its stakeholders—to those who are harmed by its decisions? The Supreme Court can void laws passed by Congress. A properly drafted will can also reduce the estate tax bill. A misdemeanor is a less serious crime, often punishable by a year or less in a county jail. Jacobson accepted the offer, sold his house, and quit his old job. HOSTILE WORK ENVIRONMENT Employers violate Title VII if they permit a work environment that is so hostile toward people in a protected category that it affects their ability to work. The two things that are essential are the signature of the defendant and the quantity of goods being sold. Most states, though not all, imply this warranty of habitability, meaning that the landlord must meet this standard whether the lease includes it or not. If the debtor's circumstances change, the debtor, the trustee, or unsecured creditors can ask the court to modify the plan. buy flight insurance when you take long

airplane flights so that your family will be protected if your plane crashes. The only way U.S. law would have applied is if the two parties had agreed to such a provision. without paying for it, if she meets four specific standards. Calculate their losses. WCN 02-200-203 04341_ch28_hr_538-559.indd 543 10/6/17 12:30 PM Unit 7 544 Property Condemnation A court order awarding title of real property to the government in exchange for just compensation A “fair price” generally means the reasonable market value of the land. At night, she worked at the Beebe Rubber Co. During the day, she cared for her husband and three children. 303, 1992 Bankr. Carson v. WCN 02-200-203 04341_ch12_hr_220-241.indd 225 10/6/17 12:06 PM 226 Unit 3 Contracts and the UCC not supposed to be wired for cable television, but it is. Note, however, that, for the purposes of this statute, “supervisors” are not employees and do not have the right to join a union. If Masako emails Eric an offer to sell 1,000 acres in Montana for $800,000, Eric may accept by email or mail. And, indeed, a decision may be acceptable even if it is not in keeping with one’s own ethics standards. If an employee causes an injury, Drexel might be personally liable. Reliance interest. Richmond, 676 S.W.2d 478 (Ky. Ct. App. The Andreasons sued—but not for breach of contract because the insurance agreement had expired. In the interest of national security, FOIA exempts certain classified information. The theme of this chapter—and of environmental law in general—can best be summarized as: How should the law balance the costs and benefits of environmental decisions? What if Rob pays back the loan without incident? If you own stock in Starbucks Corp., your share of stock plus $4.95 entitles you to a Grande Pumpkin Spice Latte, the same as everyone else. A PMSI in consumer goods perfects automatically, without filing.10 Marion’s new stereo is clearly consumer goods because she will use it only in her home. Issue: Was Clinton entitled to summary judgment, or was Jones entitled to a trial? The “principal” is liable only if the “agent” had actual, implied or ap- parent authority. Freehold estate The right to possess land for an undefined length of time Landlord The owner of a freehold estate who allows another person temporarily to live on his property Tenant A person given temporary possession of the landlord’s property Leasehold A right to possess real property temporarily Reversionary interest The landlord’s right to occupy the property at the end of the lease 28-5 Reasoning: The Takings Clause allows for some transfers of real property from one private party to another, so long as the land will be used by the public. Both the trial court and the appellate court disagreed with - Rodriguez. The Girl Scouts would not want this information on the front page. Retailer will win $150,000, representing the increased cost of $15 per pair. The secured party has given value to obtain the security agreement; and 3. CHAPTER 28 1. Lockhart complained to the EEOC that he could not understand these discussions. Almost every state has adopted the Uniform Electronic Transactions Act (UETA), which makes electronic contracts and signatures as enforceable as those on paper.2 In other words, the normal rules of contract formation apply, and neither party can avoid a deal merely because it originated electronically. This court awards the following damages: • Interest on the amount of the claim from the date it was made in an amount equal to the prime rate of interest plus 3 percent. First, however, the debtor must receive reasonable notice of the time and place of the sale so that she may bid on the collateral. • It is illegal to circumvent encryption or scrambling technologies that protect copyrighted works. The insurance company had to pay the claim, but not any penalty for violating the covenant of good faith and fair dealing. In the most straightforward example, you ask a neighbor to walk your dog, and she agrees. • If a consumer tells an agency that some of the information in his file is incorrect, the agency must investigate. Meanwhile, they may not give you enough information to know if the debt is valid. Debra Agis worked as a waitress in a Ground Round restaurant. The president nominates the heads of most of them. When Copyright 2019 Cengage Learning. It has no single source of law or enforcement mechanism. (d) All federal crimes are felonies. Contract, full performance, discharge, end of case. Those who fish or drink the waters pay the real cost without receiving any of the benefit. F A corporation can be formed in any state or under the federal corporate code. But requiring people to buy something is fundamentally different from regulating people who voluntarily decide to participate in commerce. T F An agent may receive profits from an agency relationship even if the principal does not know about the profits, so long as the principal is not harmed. The mere fact that he may have volunteered some statements on his own does not deprive him of the right to refrain from answering any further questions until he has consulted with an attorney. At Miranda’s trial, the judge admitted this written confession into evidence. A ruling in favor of TeleTech would inhibit other people from using medication that citizens voted to make available. After the sale, the Whitehouses discovered that this mare was infertile and sued for breach of warranty. The Code then supplies its own terms, called gap-fillers, which cover prices, delivery dates and places, warranties, and other subjects. Bruno is the assignor, the one making an assignment, and Doug is the assignee, the one receiving an assignment. EXAMStrategy Question: Ladies Plus refuses to hire Eric for a job as a sales associate because his credit score is too low to meet the store’s hiring standards. Which of the following statements are true of Superfund? PROXIMATE CAUSE For the defendant to be liable, the type of harm must have been reasonably foreseeable. DISPUTES WITH A CREDIT CARD COMPANY Under the Fair Credit Billing Act (FCBA), a credit card company must promptly investigate and respond to any consumer complaints about a credit card bill. LEXIS 5923; 2015 WL 235409 United States District Court for the Southern District of Florida, 2015 CASE SUMMARY Facts: Brican LLC was running a scam. For the railroad to be liable, Palsgraf had to show not just that a wrong took place, but that the wrong was to her. Grand jury A group of ordinary citizens that decides whether there is probable cause the defendant committed the crime with which she is charged Indictment The government’s formal charge that the defendant has committed a crime and must stand trial Arraignment At an arraignment, a clerk reads the formal charges of the indictment. POM and the Resnicks appealed. Over a dozen states now ban employers from requesting job candidates’ or employees’ social media passwords.19 9-3 EGULATION IN THE R DIGITAL WORLD The “internet,” a term derived from “interconnected network,” began in the 1960s as a project to link military contractors and universities. Before striking to terminate or modify a CBA, a union must give management 60 days’ notice. Rescind To cancel a contract. And Disney also profited from license fees it received for the use of a Mickey Check logo on healthy food in grocery aisles and restaurants. The court held that the writer of a letter of recommendation has “a duty not to misrepresent the facts in describing the qualifications and character of a former employee, if making these misrepresentations would present a substantial, foreseeable risk of physical injury to the third persons.” As a result of cases such as this, it makes sense to disclose past violent behavior. At the time, its liabilities were $90 billion more than its assets. Thus, Morris could write a book with funny stories, just not the same stories told in the same way as in McMahon’s book. Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax. The government prosecutes the defendant. (c) failed to exercise due care. After the Supreme Court of Arizona affirmed the conviction, the U. (c) Spiro has violated the CAN-SPAM Act because he is asking for money. In her brief, Janet cites many cases that she claims are precedent: earlier decisions by the state supreme court on similar or identical issues. Another common Life Principle is “I will always put my family first.” But what does that mean? But a quiet exit leaves the bad guys in position to continue their behavior. One week later, the dealership burned down. But the mistake remained on Marc’s credit report. Negligence law requires a manufacturer to design a product free of unreasonable risks. She claimed that she had a reasonable expectation of privacy in her Facebook posting because her comment was disclosed to a limited number of people whom she had individually invited to view a restricted access webpage. At trial, expert testimony indicated the market value of the house as promised would have been $885,000. However, Appsley has yet to earn a profit and Zoe might also be able to negotiate an equity interest in the company. A common carrier makes its services available on a regular basis to the general public. Babbitt 214 F.3d 483 United States Court of Appeals for the Fourth Circuit, 2000 CASE SUMMARY Facts: The red wolf used to roam throughout the south- eastern United States but development and hunting whittled its numbers over the years, making it into an endangered species. REGULATION Real property law generally permits a government to regulate property and, in some cases, to take it for public use. If there is a fine, the money goes to the state, not to the victim. After pleading guilty, he was sentenced to two months in prison and three years’ supervised release. (2) Can she use the racing strip for its intended purpose? By:_____________ Name: Title: In the end, both parties signed the contract and made the movie. WCN 02-200-203 04341_ch21_hr_398-419.indd 404 10/6/17 12:27 PM Chapter 21 Corporations 405 Even if a manager violates the business judgment rule, he is still protected from liability (and his decision is upheld) under any of the following circumstances: • The disinterested members of the board of directors form a special committee that approves the decision. Some of the questions will be answered by that extraordinary document, the Constitution, while others require statutory, common law, or administrative responses. This evidence alone is not proof of discrimination because the Post may have had a perfectly good, nondiscriminatory explanation. At the same time, the country continues to produce more than 6 billion tons of agricultural, commercial, industrial, and domestic waste each year. 24-3 Usury statutes Laws that limit the maximum interest rate a lender may charge CONSUMER CREDIT Most states limit the maximum interest rate a lender may charge consumers. WCN 02-200-203 04341_ch14_hr_261-277.indd 265 9/28/17 7:16 AM 266 Unit 3 Contracts and the UCC footballs—$45 per unit— arrival our store no later than July 20 this year.” Marko signs and faxes the note to Wholesaler. Eventually, higher productivity leads to higher wages. Debtors sometimes file a bankruptcy petition because cash flow is so tight they cannot pay their debts, even though they are not technically insolvent. Compensatory damages Are those that flow directly from the contract. With nervous hands, he writes out a big check for three month’s rent (first month, last month, and security deposit). (d) if the tort is also regarded as a criminal act. DEAR AND VENERABLE SIR, I am much indebted for your kind letter . Martino, 563 Boeken v. 4 E Ehling v. Punitive damages ___F. Uber drivers have filed lawsuits in multiple states contending that they are more like employees, and should therefore receive employee benefits. You Be the Judge: Are Costello and Giordano personally liable to Ridgaway’s estate? • Generally, two witnesses must also sign the will. A will is filed in probate court and becomes a matter of public record. Copyright © 1990 by The New York Times Co. Copyright 2019 Cengage Learning. Judge Rowland instructs the jury as to its duty. Strategy: What are the rules on extraterritoriality? An employer may not unilaterally make changes in these areas without first bargaining with the union. Dec. Liability insurance is different. 6-3e Foreign Corrupt Practices Act The Foreign Corrupt Practices Act (FCPA) prohibits American companies from paying bribes overseas. These factors were designed to make people believe that valid research supported the health claims. The authorities believed that the device’s microphone could offer valuable clues as to what happened in the Bates residence on the night of the murder. If a president vetoes a bill, it does not become a statute unless Congress overrides the veto. Strategy: Cremers is liable only if he is a content provider. But what if competitors set a reasonable price? The debtor has committed a crime and may be prosecuted. The ship’s captain had been drunk, and when the Exxon Valdez ran aground, it caused massive, permanent environmental damage. Reasonable expectation of privacy The test to analyze whether privacy should be protected. Is this the correct outcome? or maybe not so close. (a) Supercorp alone (b) Jenna alone (c) Both Jenna and Supercorp (d) Jenna, Supercorp, and the president of Supercorp (e) Jenna, Supercorp, and the shareholders of Supercorp 5. WCN 02-200-203 04341_ch16_hr_295-314.indd 306 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 307 In re Roser 613 F3d 1240 United States Court of Appeals for the Tenth Circuit, 2010 CASE SUMMARY Facts: Robert Roser obtained a loan from Sovereign Bank, which he promptly used to buy a car. Loans by CashCall and similar companies are called payday loans because they are made to desperate people who need money to make it to the next paycheck. Agencies adjudicate countless cases. Interference with a contract → (4) Deliberately stealing a client who has a contract with another C. Which of the following statements is correct? Jonathan was dismissed after revealing on his Facebook page that he was using marijuana. But the tractor will not start. A buyer expecting to resell goods may obtain the loss of profit caused by the seller’s failure to deliver. WCN 02-200-203 04341_ch22_hr_420-438.indd 433 8/26/17 11:29 AM 434 Unit 5 The Lifecycle of a Business EXAMStrategy 2. LEXIS 39 (N.C. Ct. App. In theory, you should read every contract you sign very carefully. Properties’s only Copyright 2019 Cengage Learning. It consisted of a sequence of 26 Hatha yoga asanas, arranged in an order designed to work the muscles optimally and practiced in a room heated to 105 degrees. Invitee A person who has a right to be on property because it is a public place or a business open to the public. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. 11-3 CAPACITY For Kevin Green, it was love at first sight. Internationally, burning fossil fuels in the United States causes worldwide global warming. Is it ethical to force a landlord to pay $1,800 for a $300 debt? Constructive eviction → (1) A landlord’s substantial interference with a tenant’s use and enjoyment of the premises Chapter 26 A. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the Witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defence. WETLANDS The CWA prohibits any discharge of dredge and fill material into wetlands without a permit. Although Andersen knew his firm would be fired and he might not be able to meet payroll, he nonetheless stood on principle. What type of society would we establish now if we did not know our life prospects after tomorrow’s lottery? Many people and companies prefer to settle cases out of court. For example, the PTO has granted a patent for a comb in the shape of a bacon strip. Quincy has filed a petition against Unger under the liquidation provisions of Chapter 7 of the federal Bankruptcy Code. This newness inevitably causes legal uncertainty. 649 F. There is a moral here. Hungary 714 F.3d 591 United States District Court for the District of Columbia, 2013 CASE SUMMARY Facts: Baron Herzog was a Hungarian who had amassed one of Europe’s largest private art collections. Benjamin used the Auditor’s Report to sell stock in American Equities. 2-3n Ethics Case: Truth (?) in Borrowing Rob is in the business of buying dental practices. Title The title should be as descriptive as possible—a generic title such as AGREEMENT does not distinguish one contract from another. The person seeking privacy must prove that she had a reasonable expectation of privacy in the information. River Oaks writes her a check for $500,000. This agency was responsible for putting forth the UN Convention for the International Sale of Goods (CISG) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), both significant business-related treaties discussed later in this chapter. This agreement protects the secured party’s rights in the collateral. For this reason, they may be reluctant to ask an attorney to draft a contract for fear of the time and expense that lawyers can inject into the process. Before that happens, he may be tempted to give some of his property to friends or family to shelter it from the tornado. The insurer still has the right to reject the offer once it has examined the application carefully. Eventually Maher realized that Michael was trading on this secret information. But whom would he be protecting? (a) Yes; Yes (b) Yes; No (c) No; Yes (d) No; No Copyright 2019 Cengage Learning. The trustee can void any transfer to a creditor that took place in the 90-day period before the filing of a petition. Refers to a party who contributes to a loss in a way that a reasonable person could anticipate 2Courts often refer to these two elements, grouped together, as proximate cause or legal cause. The lot is probably liable for loss or damage in that case. ELEMENTS OF NEGLIGENCE The five elements of negligence are duty of due care, breach, factual causation, proximate causation, and damages. 6William Glaberson, “Love Canal: Suit Focuses on Records from 1940s,” The New York Times, October 22, 1990. In the following case, the defendant won summary judgment, meaning that the case never went to trial. In real trials, the lawyers know in advance the answers to practically all questions asked because discovery has allowed them to see the opponent’s documents and question its witnesses. • Address and registered agent. Congress created the NLRB to over- see all aspects of federal law regulating labor–management relations. How people feel about affirmative action tends to be a function of how they define the term. Counteroffer An offer made in response to a previous offer. She escaped from his grasp, exclaimed, “What are you doing?” and said she was “not that kind of girl.” Upset and confused, she sat on a sofa near the door. Supporting Societal Values. Courts are sometimes willing to protect employees who do the right thing, even if they violate the boss’s orders. LEXIS 823 (Conn. The Code allows creditors to pull a case out from under state law and into federal bankruptcy court by filing an involuntary petition. If the decedent does not name an executor in a will, the court will appoint an administrator. The Court held that the bacteria—and other living organisms—could be patented if they are different from anything found in nature and a product of human ingenuity. (d) I, II, and III 3. The mental impairment can be insanity that has been formally declared by a court, or mental illness that has never been ruled on but is now evident. In a mixed contract, Article 2 governs only if the primary purpose was the sale of goods. TRIPS → (5) A treaty that governs intellectual property E. Hercules filed a motion to dismiss. 7Charles Duhigg, “How Companies Learn Your Secrets,” The New Times Magazine, February 16, 2012. Among the most vexing are suits involving future harm. Commercial exploitation 1. Synchrony (formerly known as GE Capital) offered a special deal providing that if credit card holders paid part of what they owed, it would write off the rest and the customer would never have to pay it. For a contract to be enforceable, seven key characteristics must be present. ARTICLE III Section 1. He then buys MediSearch stock that promptly quadruples in value. T F An employee may be fired for a good reason, a bad reason, or no reason at all. The Patent Cooperation Treaty (PCT) is a step toward providing more coordinated patent review across many countries. (c) the Founders. Such a plan makes great economic sense, unless you happen to work in the clothing business in the United States. The jurors have serious doubts about what happened, but they find the government’s evidence slightly more convincing than Patterson’s. Susan S. Principal In an agency relationship, the person for whom an agent is acting. Congress can remove obstructions to interstate commerce (i.e., segregation practices). Diane, heading back to camp with the water, meets Freddy, a motorist whose car has overheated. • Even if the victimized employee has not suffered a tangible employment action, the company is liable unless it can prove that (1) it used reasonable care to prevent and correct harassing behavior and (2) the employee unreasonably failed to take advantage of the company’s complaint procedures. The company handled upkeep on the truck. WCN 02-200-203 04341_ch03_hr_039-057.indd 57 8/24/17 1:47 PM CHAPTER 4 CONSTITUTIONAL, STATUTORY, ADMINISTRATIVE, AND COMMON LAW TO MAJOR JOHN CARTWRIGHT. If a landlord interferes with the tenant’s quiet enjoyment, he has breached the lease, entitling the tenant to damages. Included in equitable distribution are other considerations like child support determinations and alimony, which makes things even harder to divide.All States Have a Public Interest to Support ChildrenWhen it comes to protecting the rights of children, states try to place any children from the marriage in the custody of the parent who’ll be able to provide the most stable environment. Employees listened carefully because the CEO had a reputation for punishing those who did not make their goals. The humiliated victim sued the bullies for public disclosure of private facts—not his sexual orientation but his contact information. Decision: NCMIC was not a holder in due course. He paid her $25 per day for her help and once gave her a bank certificate of deposit worth $25,000. But when experts compared Brumberg’s shard with the wood in Cipriani’s toothpicks and skewers, they found that the two were not the same material, eliminating direct evidence of causation. But the plaintiff may not recover more than 100 percent of her damages. Although The firm collapsed in its partners did not become rich, they made a disgrace, the first major good living. He also filed for summary judgment, claiming that Jones had not alleged facts that justified a trial. Chambers’s repossession, while very upsetting to Maria, was not a breach of the peace. Promoter 2. A sixty (60) calendar day period shall be allowed for the construction of the locker room, lunchroom, and restaurant area beginning the week of April 22. WCN 02-200-203 04341_appB_hr_B1-B2.indd 1 9/28/17 7:27 AM Copyright 2019 Cengage Learning. Or perhaps the anger caused by terrible trauma should be part of a court case. In that way, the remaining shareholders have some control over who their new co-owners will be. (d) Spiro has violated the CAN-SPAM Act unless the recipients have granted permission to him to send these emails. Student Reaction. Students have responded enthusiastically to our approach. He had no one to talk to and had been hugely relieved to speak with Craig. To be valid, a trademark must be distinctive—that is, the mark must clearly distinguish one product from another. Chapter Conclusion In this chapter, you have learned about some of the important securities and antitrust laws that affect business. Rich asks Judge Rowland to rephrase the “legal presumption” part, but the judge declines. WCN 02-200-203 04341_ch26_hr_501-518.indd 511 10/6/17 12:32 PM 512 Unit 6 Government Regulation Working Papers When working for a client, accountants use the client’s own documents and also prepare working papers of their own—notes, memoranda, and research. Additional terms are those that raise issues not covered in the offer. excess, are linked to heart disease, diabetes, and cancer. But this innovation created a new legal issue: Did the police need a warrant before installing wiretaps? One person alleged Schneider was a felon. So John enters into a contract with Billy Goat Landscapers for it to mow Clarence’s lawn every week. Quiet Enjoyment Quiet enjoyment The right to inhabit the property in peace All tenants are entitled to quiet enjoyment of the premises, meaning the right to use the property without the interference of the landlord. If shot, no nude or sex scenes may appear in the Picture without Artist’s prior written consent.” Copyright 2019 Cengage Learning. Under this exception, a memo that could be enforced against the sender himself may bind the merchant who receives it. Starbucks filed a motion to dismiss, arguing that the plaintiffs should just relax and get another cup of coffee. 4 civil vs criminal case, 102 Civil Rights Act of 1964/Title VII, 49, 357 defenses to charges of discrimination, 364 bona fide occupational qualification (BFOQ), 364–365 merit, 364 seniority, 364 family responsibility discrimination, 362 gender identity and expression, 362–363 immigration, 363 prohibited activities, 357 disparate impact, 358–359 disparate treatment, 357–358 hostile work environment, 359–361 retaliation, 361 protected categories, 357 religion (reasonable accommodation for), 362 reverse discrimination, 363–364 Clarins, 32 Class actions (in pleadings), 86 Claussen, Leona and Evelyn, 234 Clawbacks, 412 Clayton Act, 452 Clean Air Act of 1963 (CAA) amendment (1977), 70 major provisions, 484 Clean Power Plan, 486–487 Clean Water Act of 1972 (CWA), 488–489 Clinton, Bill, 90 Closing argument (trial), 92–93 Coca-Cola, 31, 532 Colby, 230 Collateral (UCC definition), 296 Collective bargaining/agreement (CBA), 348 Commerce Clause, 60 Commercial exploitation, 131 Commercial paper, 279, 281e fundamental rule (checklist), 280 holder in due course, 280, 285–286 negotiable, 280–281 negotiated, 280, 284 no valid defenses, 280, 287–288 See also Negotiable instruments; Non-negotiable instruments Common law, 5, 42, 68 bystander cases, 69–70 and contract law, 182 employment security protections, 338–339 and insurance contracts, 595 privacy torts, 161 intrusion, 162 public disclosure of private facts, 161 and trademarks, 529 See also Stare decisis Communications Decency Act of 1996 (CDA), 169 Comparative negligence, 145–146, 146e Compensatory damages, 230 for intentional torts, 127–128 Competition, as an ethics trap, 22–23 Complaint (in pleadings), 84–85 I3 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/Superfund, 490 Concerted action (by union), 348 strikes, 348–349 illegal situations, 349 Conflicts of interest, as an ethics trap, 23 Conformity, as an ethics trap, 23–24 Congress, 67 Consent (contract checklist element), 179, 206 in agency relationship, 317 circumstances to rescind. T F Civil lawsuits are brought to court by the injured party, but criminal cases must be prosecuted by the government. WCN 02-200-203 04341_ch15_hr_278-294.indd 280 9/28/17 9:39 AM C h a p t e r 15 Negotiable Instruments 281 E x h i b i t 15 . WCN 02-200-203 04341_fm_hr_i-xxii.indd 4 10/6/17 11:39 AM C ontent s Preface xv UNIT 1 The Legal Environment 1 Chapter 1 Introduction to Law2 1-1 Exploring the Law 1-1a Sources of Contemporary Law 1-1b Classifications of Law 1-2 Working with the Book’s Features 1-2a Analyzing a Case 1-2b Analysis 1-2c Exam Strategy 1-2d You Be the Judge Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 3 3 6 7 7 8 9 9 10 11 12 12 12 13 14 Chapter 2 Ethics and Corporate Social Responsibility15 2-1 Why Study Ethics? 2-1a Ethics in Business 2-1b Why Be Ethical? 2-2 Theories of Ethics 2-2a Utilitarian Ethics 2-2b Deontological Ethics 2-2c Rawlsian Justice 2-2d Front Page Test 2-2e Moral Universalism and Relativism 2-3 Ethics Traps 2-3a Money 2-3b Competition 2-3c Rationalization 2-3d We Can’t Be Objective about Ourselves 2-3e Moral Licensing 2-3f Conflicts of Interest 2-3g Conformity 2-3h Following Orders 16 17 17 18 19 19 20 20 20 21 21 22 22 23 23 23 23 24 2-3i Euphemisms and Reframing 24 2-3j Lost in a Crowd 24 2-3k Short-Term Perspective 25 2-3l Blind Spots 25 2-3m Lying: A Special Case 25 2-3n Ethics Case: Truth (?) in Borrowing 25 2-3o Avoiding Ethics Traps 26 2-3p Reacting to Unethical Behavior 27 2-4 Applying the Principles 27 2-4a Personal Ethics in the Workplace 27 2-4b Ethics Case: Weird Wierdsma 27 2-4c The Organization’s Responsibility to Society 28 2-4d Ethics Case: Up in Smoke 28 2-4e The Organization’s Responsibility to Its Employees29 2-4f Ethics Case: The Storm after the Storm 29 2-4g The Organization’s Responsibility to Its Customers 30 2-4h Ethics Case: Mickey Weighs In 30 2-4i The Organization’s Responsibility to Overseas Workers 31 2-4j Ethics Case: A Worm in the Apple 31 2-4k Corporate Social Responsibility (CSR) 32 2-4l Ethics Case: The Beauty of a Well-Fed Child 32 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 32 32 34 34 35 35 37 Chapter 3 International Law39 3-1 International Law: Public versus Private 3-2 Actors in International Law 3-2a The United Nations 3-2b The International Court of Justice 3-2c International Chamber of Commerce 3-2d Sovereign Nations 3-3 The World’s Legal Systems 3-3a Common Law 3-3b Civil Law 3-3c Islamic Law 40 40 40 41 41 41 42 42 42 43 v Copyright 2019 Cengage Learning. Why would a business elect to be an LLP rather than an LLC? Baer appealed. T F The shareholder model requires that business leaders consider the needs of employees when making decisions. By law, Michelle is required to pay the cost of cleaning up the The cost of the cleanup chemicals, even though they were disposed of legally years ago. A lawyer made a $1.5 billion mistake—and no one was sympathetic. He intended to transfer ownership to her immediately and made delivery by permitting her to pick up the violin. It is difficult to imagine how a consumer could guard against bone particles, short of removing the hamburger from its bun, breaking it apart, and inspecting its small components. Federal Trade Commission (FTC) and 2. Billionaire Warren Buffett said that children should inherit enough money so that they can do anything, but not so much that they can do nothing. The state and federal courts are in different buildings, have different judges, and hear different kinds of cases. Because a will must go through the often-lengthy probate process, the heirs may not receive assets for some time. As dozens fought, the bar manager fumbled to call hotel security, but realized he did not even have the phone number. Yes, pay for performance is part of the company’s philosophy, but the compensation plan is consistent with other goals, such as retaining officers. Suppose you serve alcohol to a guest who becomes intoxicated and then causes an automobile accident, seriously injuring a pedestrian. This case presents a close call. (d) The parties do not have an ongoing relationship. She believed that gangs without their colors were less prone to violence, and experience proved her right. On the other hand, assume that a patient dies on the operating table in an emergency room. The rules on wills are very exact. • Testator or testatrix. Norv has offered no evidence that the parties agreed on price, date of performance, or any other key terms. Their length and complexity can be daunting. Judges have the right to dismiss cases before trial if the plaintiff is unlikely to win. She has violated §16 and must turn over the profit to her company. Lawyers have a different perspective—their primary goal is to protect their clients by avoiding litigation—now and in the future—or if litigation does occur, making sure their client wins. He just had to pay a 99¢ shipping fee. Many employees have “at will” agreements. Exhibit 22.1 The Order in Which Claims Are Paid Secured Claims Debtor’s Estate Priority Claims Unsecured Claims Debtor Copyright 2019 Cengage Learning. WCN 02-200-203 04341_appB_hr_B1-B2.indd 2 9/28/17 7:27 AM APPENDIX C A1 Answers to Selected End-of-Chapter Questions Matching Questions Presented are the answers for the ODD-numbered matching questions in the end-of-chapter material. At the time of this case, the company provided translation, website localization, and litigation support services at 92 offices in 86 cities worldwide, operating in 170 different languages.2 In 1997, when Elting broke off the couple’s plan to marry, Shawe promised to “create constant pain” for her (which certainly confirmed the wisdom of her decision). Then by mistake, the contract said 10 cents. The company had not offered Guzman the open position because the pay was substantially less. Philip Morris appealed. Here, a court finds the manufacturer liable for defective design if the product is less safe than a reasonable consumer would expect. A corporation must seek a shareholder vote before undergoing any of the following fundamental changes: charter amendments, merger, the sale of major assets, or dissolution. When she sued, the Supreme Court held that she had the right to be treated the same as people who had a similar inability to work. Was the non-compete in the following case styled fairly, or was the employee clipped? it has never been described in a publication. For example, someone who has suffered a personal injury may not assign her claim to a third person. Law is intriguing. Under this principle, states are prohibited from interfering in each other’s legislative, administrative, or judicial activities. Disparate Impact Disparate impact applies if the employer has a rule that, on its face, is not discriminatory, but in practice excludes too many people in a protected group. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twentyone years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear the whole number of male citizens twenty-one years of age in such State. WCN 02-200-203 04341_ch10_hr_177-197.indd 193 10/6/17 11:47 AM 194 Unit 3 Contracts and the UCC that if the franchise were approved, car orders could be processed quickly. Decision: Neither his written nor his oral confession was admissible. The Senate shall have the sole power to try all Impeachments. In February, Chuck orally agrees to sell his hunting cabin, with 15 acres, to Kyle for $35,000, with the deal to be completed in July, when Kyle will have the money. Principles and rules of law come from many different sources. WCN 02-200-203 04341_ch03_hr_039-057.indd 39 8/24/17 1:46 PM 40 Unit 1 The Legal Environment 3-1 Public international law Rules and norms governing relationships among states and international organizations Private international law International rules and standards applying to cross-border commerce I NTERNATIONAL LAW: PUBLIC VERSUS PRIVATE International law covers a wide array of topics relevant to, well, everything and everyone in the world. Tracey relies solely on what she is able to learn from the agent, Augusta. Different terms generally cancel each other out. Sandy states that she heard a crash, hurried to the window, and saw Kevin’s car weaving away from the damaged trees. A list of Life Principles should include your rules on: • Lying • Stealing • Cheating • Applying the same or different standards at home and at work • Your responsibility as a bystander when you see other people doing wrong or being harmed Specific is better than general. Do companies have an obligation to the employees of their suppliers? If your neighbor loans you a power lawn mower, the bailment is probably for your sole benefit. Also, $10,000 notes are not usually discounted to $2,000; $9,500 would be more normal. CASE QUESTIONS EXAMStrategy 1. Answer: A sole proprietorship would not have worked because there was more than one owner. WCN 02-200-203 04341_ch15_hr_278-294.indd 279 9/28/17 9:39 AM Unit 3 280 Contracts and the UCC In this note, Romeo is the maker and Juliet is the payee. These same protections also extend to other citizens, such as government workers and public school students. Warm’s disclaimer is effective. Which of these is an example of judicial review? Taylor had been an officer of the Bank, so she put Abbott in touch with some of her former colleagues there. Is this practice unfair? Material ___B. WCN 02-200-203 04341_ch17_hr_315-335.indd 321 10/6/17 12:14 PM 322 Unit 4 Agency and Employment Law Express Authority Express authority Either by words or conduct, the principal grants an agent permission to act. The ad described a series of abuses by the police of Montgomery, Alabama, against civil rights protesters. To win a predatory pricing case, the plaintiff must prove three elements: 1. Whether an event is a superseding cause is a jury question, unless it is so bizarre as to be entirely unforeseeable by the defendant. Would you advise them to try to settle their dispute through arbitration, mediation, or with a traditional lawsuit? This is an inter vivos gift, which is absolute. The process of carrying out the terms of a will. Stored Communications Act (SCA) Under the SCA, an employer has the right to monitor workers’ electronic communications if (1) the employee consents; (2) the monitoring occurs in the ordinary course of business; or (3) in the case of email, if the employer provides the computer system. He also sued Tropical for 18 months’ rent. Chapter Conclusion Whenever an individual or organization incurs more debts than it can pay in a timely fashion, everyone loses. Philip Schwachman owned a commercial building and leased space to Davis Radio Corp. So that rent money is just gone, unless Chaz can recover from the thief (not likely). (This retirement rule does not apply in some jobs, such as police officer, airline pilot, and top-level corporate executive.) The standard of proof is tougher in an age discrimination case than in Title VII litigation. Unfortunately, the test confirmed that James had indeed been drunk at the time of the accident. Not surprisingly, these mutual clients fired CDS, which then went out of business. Decision: No. Ford was neither negligent nor strictly liable. The mentally impaired party generally has the right to full performance if she wishes. Builder was late with construction, forcing the Beards to spend $32,000 in rent. Reversed and remanded. However, that same evidence, offered in a criminal prosecution, was not enough to persuade the jury beyond a reasonable doubt that Arnie had set the fire. One tenant slept with blankets over her head, to keep heat in and bugs out. If the jury decides he killed himself, Beth gets nothing. I know exactly how this world works. (a) (b) (c) (d) True threats All threats Offensive language Insults 4. We examine the rules later in the chapter and determine the likelihood of success for the hot dog duo. Although they were told not to look, the participants (not surprisingly) did better than average. This is the only warranty. Davis case, 69 Cartwright, John, 58 CashCall, 465 Categorical imperative, 19 Causation, 141 factual cause, 139, 141 proximate cause, 139, 141, 142e res ipsa loquitur, 143–144 superseding cause, 141 terminology, 141 n. However, Murdock settled the case by agreeing to pay $74 million. Strategy: Review the process that judges use to examine and apply the laws in each of these legal systems. And her company could not afford the $2 million loss. During this time, the market price of Oregon stock fell, with the result that the company sold the new stock for $35 million less than it would have received on the original sale date. Proxies Shareholders have the right to appoint someone else to vote for them at a meeting of the corporation. In an example of optimism bias, the participants predicted they would do as well without the answer key as they had with it, even though this optimism cost them money. There was no defect in the pendant. Students follow the action from the discovery of the body, through each step of the lawsuit, to the final appeal. Issue: Was Burger King acting in good faith when it forced franchisees to sell items below cost? Would it be ethical to kill Ebenezer? Amendment XXV [1967]. Most people need more insurance when they have young children and less as they approach retirement age. The RV company assigned its security interest to Conseco Finance, which perfected. Garret’s delegation to Brady was typical in that it included an assignment at the same time. T F A landlord may charge a tenant for normal wear and tear on an apartment, but the charges must be reasonable. Cell growth and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, reproductive, and immune system functions are also considered major life activities. He appealed, arguing that he was not guilty of insider trading because the tipper (Maher) had not received a benefit. Amendment XVII [1913]. WCN 02-200-203 04341_ch18_hr_336-355.indd 355 10/6/17 12:23 PM EMPLOYMENT DISCRIMINATION CHAPTER 19 Imagine that you are on the hiring committee of a top San Francisco law firm. Chapter 11 Reorganization This chapter is designed for businesses and wealthy individuals. Hudson refused to pay her the amounts still owing under the contract. It is fraud to sell real estate knowing that there is a large toxic waste deposit underground of which the buyer is ignorant. Alternatively, is it ethical for Virginia to refuse to comply with the law and to prolong the dispute with litigation? Did the hospital do anything? WCN 02-200-203 04341_ch06_hr_101-120.indd 106 8/24/17 1:38 PM Chapter 6 Crime 107 Double Jeopardy The prohibition against double jeopardy means that a defendant may be prosecuted only once for a particular criminal offense. 19-7a Interviews It used to be that interviewers would ask all sorts of inappropriate questions about topics such as marital status and plans to have children. Dolly was not wearing a safety h elmet at the time. This process can be used for two purposes: changing the terms of the original trust or distributing all of the trust assets to the beneficiaries. Because the airline almost certainly has much greater bargaining power, it can afford to offer a “take it or leave it” contract. 24. Result: The court held that Exxon violated both the Fair Credit Reporting Act (FCRA) and the Equal Credit Opportunity Act (ECOA). Supp. As the following case illustrates: Vagueness is your enemy. Is he obligated to sell? I have never seen the complexity of contract law made this readable.” • “Until I read your book I never really understood UCC 2-207.” • “With your book, we have great class discussions.” From a state supreme court justice: • “This book is a valuable blend of rich scholarship and easy readability. It argued that the ring was a gift conditioned upon a marriage, which never happened. WCN 02-200-203 04341_ch07_hr_121-136.indd 132 8/24/17 11:58 AM Chapter 7 Intentional Torts and Business Torts 133 MATCHING QUESTIONS Match the following terms with their definitions: ___A. By definition, a fraudulent process cannot be fair. As a student, he is always hungry and broke. EXAMStrategy Question: In Courtroom 1, Asbury has sued Park claiming that Park drove his motorcycle negligently and broke Asbury’s leg. The conduct of [Soley] was so extreme and outrageous as to exceed all possible bounds of decency. The court held that the agent’s obligation to keep information confidential continued even after the agency relationship ended. However, under the Shelter Rule, Duncan must still pay her. Shareholders of S corps have both the limited liability of a corporation and the tax status of a flow-through entity. Jake wants to manufacture an exciting new video game in cooperation with Sublime, but you are careful not to create a binding deal (contract law). Congress responded by passing the Securities Act of 1933, which required a corporation to divulge more information about itself before it could seek money for a new stock issue. CPA QUESTION A decedent’s will provided that the estate was to be divided among the decedent’s issue per capita and not per stirpes. Should the landlord be responsible? T F The Code permits individual debtors (but not organizations) to keep some property for themselves. This remedy focuses on the time and money the injured party spent performing his part of the agreement. If Congress disagrees with a judicial interpretation of a statute, the legislators may pass a new statute to modify or “undo” the court decision. However, if and when the company does hire more workers, it may not discriminate against the strikers. EXAMStrategy Question: Paula, a U.S. citizen, purchased a lamp for her home from Interieures, a lighting website based in Paris. The common law, however, comes from state courts and only applies locally. Some states permit a landlord to deny permission for any reason at all, but a growing number of courts insist that a landlord act reasonably and grant permission to sublease unless he has a valid objection to the new tenant. Six months late? Who wins? Who owns these working papers? Bankrupt Someone who cannot pay his debts and files for protection under the Bankruptcy Code. Is this such a case? Read on. Many legal and ethical questions remain unanswered, as the technology moves faster than regulation. • Grantor or settlor. Bureau v. Starting a Business: LLCs and Other Options 387 Hardie, as the sole member and manager of TPO, clearly controlled the company. All investors must receive a copy of the prospectus before purchas- ing the stock. 3 Bankruptcy Court, 83 Bankruptcy estate, 424 Bankruptcy laws leniency of American laws, 420 and highest bankruptcy rate, 421 U.S. Bankruptcy Code (the Code) goals, 421, 421t See also Chapter 7/liquidation; Chapter 11/reorganization; Chapter 13/consumer reorganizations Bard, C.R., 341 Bates, John, 158–159 Battery, 125 “Battle of forms” and UCC, 190–191 Beatles, 319 Beebe Rubber Co., 337–338 Belliard, Ruben, 316 Bench trial, 103 Benchmarking, and executive compensation, 412 Beneficiary types. (a) 10 days (b) 30 days (c) 3 months (d) 6 months Copyright 2019 Cengage Learning. He argued with everyone, especially his boss, Ross. Inside directors Members of the board of directors who are Holding A court’s decision. • He signed the instrument under duress, while mentally incapacitated, or as part of an illegal transaction. If, however, Celeste wants to use the shareholder list as a potential source for her new business selling exercise equipment, the company could legitimately turn her down. Plant managers usually kept the scrap money for themselves without telling headquarters. Mintz, 362 n. Someone offers to sell you a concert ticket for $50, and you reply, “I’ll give you $40.” The seller refuses to sell at the lower price, and you say, “Okay, okay, I’ll pay you $50.” Clearly, no contract has been formed because you made a counteroffer. She was sentenced to a long prison term. Then my car died. 17-2f Agent’s Liability for Torts The focus of the prior section was on the principal’s liability for the agent’s torts. A life insurance policy on the partner in his accounting practice III. Earlier zoning ordinances had allowed topless dancing in the section of the city where the pub was located, but the current ordinance prohibited such dancing in that section. Plaintiffs who cannot meet this burden must pay the other side’s legal fees. At the time, scientists uniformly believed that cigarette smoking caused lung cancer, but Philip Morris and other tobacco companies waged a long-term campaign to convince the public otherwise. For investors? Despite their care, they both became victims of identity theft. In a misguided attempt to help his client, James’s lawyer took him to the local hospital for a blood test. (The statute does permit purchasers of copyrighted software to make one backup copy.) If you buy a Disney DVD that prevents you from fast-forwarding through commercials, you are violating the DMCA if you figure out how to do it anyway. In a contract for the sale of goods, the contract will include warranties about the condition of the goods being sold. A party with a perfected security interest takes priority over a party with an unperfected interest. They then signed a Musician Agreement, which stated that they were independent contractors. The court disagreed. (a) (b) (c) (d) (e) Anyone who has ever owned a site is liable for cleanup costs. Duty to Provide Information. An agent has a duty to provide the principal with all information in her possession that she has reason to believe the principal wants to know. Most leases include covenants concerning the tenant’s security deposit, use of the premises, and maintenance of the property. Scienter Acting with the intent to deceive or with deliberate recklessness as to the possibility of misleading investors 7. Meanwhile, TP advised Schmidt that since Haynes was not on her lease, he would have to leave. The judges note that Kerkoulas knew the Pagans could be violent and had taken reasonable precautions by prohibiting gang colors. And all because of the mirror image rule. At a Phoenix police station, a rape victim identified him as her assailant. After he engaged in illicit sexual relationships with some of his students, his Bishop reassigned him to work at a church. Could copyright cool him down? A successful plaintiff must be rehired, given back pay, and attorney’s fees. Adopt Agree to be bound by the terms of a contract. If an LLC does not have an operating agreement, then the default provisions of the state’s LLC statute govern the organization. A revocable gift is governed by a special rule, and it is actually not a gift at all. Chapter Conclusion Negligence issues necessarily remain in flux, based on changing social values and concerns. She requests committee hearings on the subject, hoping to discover the extent of the problem, its causes, and possible remedies. Other unique items for which a court will order specific performance, include such things as rare works of art, secret formulas, patents, and shares in a closely held corporation. From this one piece of paper, without any examination of books and records, Howard prepared an Auditor’s Report for the company. Would you be reading this book now? Some powerful plaintiffs abuse the legal system by suing anyone who criticizes them. WCN 02-200-203 04341_ch13_hr_242-260.indd 254 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 255 (California courts will not enforce any non-competes, unless made in connection with the sale of a business.) In one case, a consultant signed an employment contract that prohibited him from engaging in his occupation “anyplace in the world.” The court struck down this non-compete provision but ruled that the rest of the contract (which contained trade secret clauses) was valid. Two free weeks after the shooting ends, in case the director wants to reshoot some scenes. Trespasser A person on someone else’s property without consent • Lowest liability: trespassing adults. To chain that customer to a display counter for three hours and humiliate him in front of other customers is unreasonable and false imprisonment. WCN 02-200-203 04341_ch23_hr_439-459.indd 455 8/28/17 7:11 AM 456 Unit 6 Government Regulation 19. 3d 1360 (N.D. Ga. 2015). Commonly called UCC-1, the financing form is available online. They have been loyal to us—we owe them something in return. Has the Medical Center violated the antitrust laws? Disability insurance Replaces the insured’s income if he becomes unable to work because of illness or injury have an incentive to overspend on health care because the insurance company picks up the tab. Defamatory statements can be written or spoken. The Code’s gap-filler about warranties does permit recovery of compensatory and consequential damages. Before beginning this section, please return your seat to its upright position. What if the custodian hit one of the schoolchildren for calling him a name? Unilateral contract A contract where one party makes a prom- ise that the other party can accept only by doing something. When is performance substantial? He produces a security camera tape proving that Kevin was at the bar, drinking beer, 34 minutes before the damage was done. One day, Jeen and two teen-age boys purchased gloves, twine, tape, Pine Sol, and garbage bags. Critics of utilitarianism argue that it is very difficult to measure utility accurately, at least in the way that one would measure distance or the passage of time. For example, mergers are illegal only if they harm competition in their market. Under a typical plan of reorganization, the debtor gives some current assets to creditors and also promises to pay them a portion of future earnings. The Agreement on Trade Related Aspects of Intellectual Property (TRIPS) covers intellectual property (IP). But if the debtor violates the plan, all of the debts are revived, and the creditors have a right to recover them under Chapter 7. As we will see, the law of adverse possession permits people to obtain title to land by openly using it, if they meet certain stringent criteria. More than half of the states recognize a qualified privilege for employers who give references about former employees. Cases are the heart of the law and an important part of this book. EXAMStrategy Question: U.S. citizens Alberto Vilar and Gary Tanaka managed $9 billion in investments through their companies, some of which were located in Panama. Because of the mistakes, she could not co-sign a car loan for her disabled brother.4 3The next four most complained about were banks: Bank of America, Wells Fargo, JPMorgan Chase, and Citibank. Michelle had to decide whether she would do the same. T F A holographic will does not need to be witnessed. WCN 02-200-203 04341_ch09_hr_156-176.indd 172 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 173 9. Is Darby doing anything wrong? 5-4 APPEALS Two days later, Rich files an appeal to the court of appeal. Are there any problems with this plan? Co. of New York, 232 Bikram’s Yoga College of India, L.P. v. The government must provide the defendant with a lawyer if he cannot afford one, adequate time to prepare, an unbiased jury, an opportunity to present his case and cross-examine all witnesses, and many other procedural rights. It would also be a PMSI if a bank had loaned Marion the money to buy the system and the document gave the bank a security interest. In one telling experiment, young children elected to get fewer prizes for themselves, as long as they still got more than other participants: They chose to get one prize for themselves and zero for the other child, rather than two for themselves and two for the other participant. TP promised to “keep an eye” on Haynes for Lindsay. (d) Yes because Sue had apparent authority. Reasoning: To show scienter, the plaintiff must pres- ent facts that constitute strong circumstantial evidence of conscious recklessness, that is, conduct that is highly unreasonable, representing an extreme departure from the standards of ordinary care and an actual intent to aid in the fraud being perpetrated by the audited company. For example, fashion designs are not copyrightable because clothes are functional items. If this is the case, PriceTouche would not be liable for negligence. Other agencies are less familiar. Answer: Katzenbach v. Securities Act of 1933 → (4) Regulates the issuance of securities C. Agent Is Not Liable on Contract Principal Is Liable on Contract Agent Is Liable on Contract Fully Disclosed Principal Unidentified Principal Undisclosed Principal Copyright 2019 Cengage Learning. Implied warranty of fitness for a particular purpose If the seller knows that the buyer plans to use the goods for a particular purpose, the seller generally is held to warrant that the goods are in fact fit for that purpose. Reciprocal promises Promises that are each enforceable Road show As part of the sales process, company executives and investment bankers make presentations to potential investors. When a $300,000 loan was ready for closing, Taylor informed Abbott that she expected a commission of $15,000. In a prior case, the NLRB held Copyright 2019 Cengage Learning. Lawsuits can cause prolonged periods of stress, significant legal bills, and general unpleasantness. Two stockbrokers sold fraudulent stock out of their offices at a legitimate brokerage house, using firm email accounts and making presentations to investors in the company’s conference rooms. Are you suspicious? When the election was held, only 2 of the 11 bargaining unit members voted for the union. But the website would not grant him a seating time unless he clicked the box that said: “No one in my party will use a cell phone at Chez Luc.” Chris agreed and was issued a booking at his waterfront table of choice. Richie replied to the original posts, commenting that Jones was a sex addict and unfit to be a teacher. In a draft, three people are involved: the drawer orders the drawee to pay money to the payee. What percentage of your income should you donate to charities? Shauna argued that the clause should not be enforced against her if she could prove the other pilot was negligent. However, employers cannot have it both ways. In this one area of bankruptcy law, the Code defers to state law. Maria sued Ford, the repossession company, and the bank, claiming they had committed a breach of the peace. (See the “Result” at the end of this Multiple-Choice Questions section.) 3. The Founders wanted to create a system that, without broad agreement, would tend towards inaction. The cost of establishing a corporation includes legal and filing fees, not to mention the cost of the annual filings and taxes that states require. For much of history, the copyright term was limited to 28 years. An injunction is an example of court order. defendant is presumed guilty until proven innocent. Samuelson Phone: (617) 353-2033 Email: Patricia Sánchez Abril Phone: (305) 284-6999 Email: Acknowledgments The list of people who have contributed helpful comments and suggestions for this book is long. Should a casino offer ATM services in the gambling pit? Adverse possession Allows someone to take title to land without paying for it, if she meets four specific standards 28-3a Entry and Exclusive Possession The user must take physical possession of the land and must be the only one to do so. It turns out that the original stop was invalid because drivers in North Carolina are allowed to drive with only one brake light. Emergencies. If the police believe that evidence is about to be destroyed, they can search without a warrant. A successful plaintiff generally receives compensatory damages, meaning an amount of money that the court believes will restore him to the position he was in before the defendant’s conduct caused an injury. Contract A promise that the law will enforce We have seen that a contract is a promise that the law will enforce. Please witness my oral will.” The cat hospital, however, is only entitled to her personal property. When is a threat a true threat and when is it just social media banter? Pesto Bank loaned money to Basil and has a security interest in all of his property. Treasury stock Stock that a company has sold but later bought back. WCN 02-200-203 04341_ch22_hr_420-438.indd 438 8/26/17 11:29 AM Government Regulation Unit 6 Copyright 2019 Cengage Learning. In addition, some statutes, such as the Clean Water Act, the Resource Conservation and Recovery Act, and the Endangered Species Act, provide for criminal penalties, including imprisonment. The seller was New World. WCN 02-200-203 04341_ch25_hr_482-500.indd 494 8/28/17 7:20 AM Chapter 25 Environmental Law 495 Despite this progress, as a nation we still face many intractable problems. Because the new clinic also refused to treat her, Clarice had to seek medical treatment in another town 40 miles away. Promise about what a party will do in the future 6. Most franchisors and franchisees are corporations or LLCs, although some franchisees are sole proprietorships. Informational calls, political messages, charitable outreach, and healthcare messages are exempted from this ban. It is important to respond to courts on time. Is Heritage behaving ethically? WCN 02-200-203 04341_ch28_hr_538-559.indd 557 10/6/17 12:30 PM 558 Unit 7 Property 4. Moral licensing After doing something ethical, many people then have a tendency to act unethically. Debt is generally her only source of working capital because she has no stock or memberships to sell. Although we refer to it in this chapter, fewer than half of the states have adopted it. Brican promised all the dentists that another company, Viso Lasik, would buy enough advertising on the Exhibeos to cover the monthly lease payments. Many firms comply. (e) Consumer applies to Credit Agency for a loan with which to buy a yacht. She contracted with a company in China, which promised to print her custom children’s books. Disgruntled gamers sued, claiming that Sony made an express warranty that the PS3 would work as promised for ten years, but took away a fundamental product feature after only four years. Lenz then challenged YouTube’s decision, battling 29-second video of her it in the courts for seven years. B. A contract provided, “On January 5, Purchaser shall provide Seller with a certified check in the amount of $100,000. Suppose Harold tells his daughter Faith, “The mule is yours from now on, but if you start acting silly again, I’m taking her back.” Harold has retained some control over the animal, which means he has not intended to transfer ownership. The shareholders are allowed to agree in advance that any one of them can dissolve the corporation if some particular event occurs or, if they choose, for any reason at all. You sue, seeking to rescind, or cancel, the agreement. The Supreme Court found that FSIA applied to immunize Saudi Arabia from the suit. The sites defended themselves by saying that their policies prohibit terrorist recruitment and that, when alerted to it, they quickly remove offending videos. Co. 553 Fed. This is apparent from the subject matter of the sale. After producing one play, Stahl decided to write Philly’s Beat, focusing on the history of rock and roll in Philadelphia. Advanced embedding details, examples, and help! Divorce laws vary state by state in the United States. Later, the bankruptcy trustee argued that he had priority over Sovereign because the bankruptcy filing happened before Sovereign perfected its security interest. Question: Mark Milbank repeatedly borrowed money from his wife and her father to fund his furniture business. Argument for Harleysville: We contracted to insure the Market for three losses: its building, inventory, and lost income. But they soon learned that filing such a lawsuit is easier than winning it. On Thanksgiving night, hundreds of people waited for the store to open to take advantage of the laptop deal—only to learn that the store only had two units for sale at the discounted price. Certainly, to make a movie that critics like and the public wants to see. In the following case, even more money was at stake. In many cases, Amazon was actually losing money on the books themselves, but was profiting from sales of the Kindle (its ebook reader). Decision: This unsigned operating agreement is enforceable unless it violates the Statute of Frauds. Instead of bearing that risk yourself, you take out a fire insurance policy. This statute applies to any computer, cell phone, or other equipment attached to the internet. Most of the ad’s Copyright 2019 Cengage Learning. Half a billion dollars for the chance of increasing winter visibility at the Grand Canyon by 7 percent? First, it establishes the national government of the United States, with its three branches. Amendment XVI [1913]. No. Joe’s fax is not an offer. (4) We know that the government has the burden of proof in criminal prosecutions —but how high is that burden? that occurred on foreign soil between a sovereign govWho would enforce it? It is a mistake to assume that everything will work itself out. WCN 02-200-203 04341_ch17_hr_315-335.indd 319 10/6/17 12:14 PM 320 Unit 4 Agency and Employment Law Other Duties of an Agent Before Taylor left for a five-week trip to Antarctica, he hired Claudia to rent out his vacation house for a year. The shares listed in the company charter Copyright 2019 Cengage Learning. (b) Because he had a contract, he was not an employee at will. Creditor beneficiary When the contracting party intended the benefit in fulfillment of some duty or debt, the beneficiary is a creditor beneficiary. • Utility. Look at the defenses. The trial court agreed because Cerros had, after all, been promoted. In some cases, a tenancy terminates automatically, while in others, one party must take certain steps to end the agreement. But outright prohibitions are unconstitutional. The parties may make a contract in any manner sufficient to show that they reached an agreement. If a person has neither kind of state ID card, then her surname and first personal name will be required to perfect by filing. Strategy: Prepare a list of the advantages and disadvantages of each form of organization. Kuehn sued the Pub Zone, and that is the case we will read. I IFRS “International financial reporting standards” are an inter- national alternative to GAAP. 6Jonathan Shaw, “Why ‘Big Data’ Is a Big Deal,” Harvard Magazine, March–April 2014. Consideration The inducement, price, or promise that causes a person to enter into a contract and forms the basis for the parties’ exchange. He filed suit against GT, seeking compensation for his lost wages. The answer is yes. No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports Copyright 2019 Cengage Learning. As long as the managers are careful, courts are not concerned about the result of the decision—whether it ultimately harms the company—they focus instead on the process. removed the author’s name from an article he found on the internet and sent it via email to his lacrosse team, telling them he wrote it. An employee has a valid claim of sexual harassment if sexual talk and activity are so pervasive that they interfere with her (or his) ability to work. It did not matter to Son whether or not Kim filed suit because Kim could not possibly win. A judge would then carefully examine whether the parties exchanged something of value that proved that they both meant to be bound by this agreement. Under the UCC, the omission is not fatal. The Supreme Court ruled that while there was a limited executive privilege, it did not include the right to withhold evidence in a criminal investigation. Georgia law states: “Any landlord who fails to return any part of a security deposit which is required to be returned to a tenant pursuant to this article shall be liable to the tenant in the amount of three times the sum improperly withheld plus reasonable attorney’s fees.” When Preece moved out, Turman did not return her security deposit, and she sued for triple damages plus attorney’s fees, totaling $1,800. Given clear information, the responsibility is on the buyer to evaluate the quality of the investment. In her view, these letters were a malicious attempt to damage her reputation and possibly cause her to lose her license. The contract had an integration provision but no modification clause. Class actions can give the plaintiffs much greater leverage, since the defendant’s potential liability is vastly increased. T F One advantage of arbitration is that it provides the parties with greater opportunities for discovery than litigation does. Myriad Genetics, Inc. Taco Time International, Inc., 297 Or. 10, 681 P.2d 114 (1984). A material breach is one that substantially harms the innocent party. (c) Both I and II 5. We are available to help in any way we can. Treadway filed suit against Gateway, alleging that it had violated the ECOA by not notifying her that it had taken an adverse action against her. But other states allow an exemption of as little as $5,000. But, at its most recent annual meeting, a large shareholder asked Cook to limit Apple’s environmental activities to those that also enhanced company profits. Exam Strategy GOAL: To help students learn more effectively and to prepare for exams. John’s father, Clarence, has an overgrown lawn. Although a jury has wide discretion in awarding punitive damages, the U.S. Supreme Court has ruled that a verdict must be reasonable. 5-2 LITIGATION 5-2a Pleadings Pleadings The documents that begin a lawsuit, consisting of a complaint, the answer, and sometimes a reply Complaint The pleading that starts a lawsuit, this is a short statement of the facts alleged by the plaintiff and his or her legal claims The documents that begin a lawsuit are called the pleadings. Reasoning: The question is whether the postwar agreement created a valid bailment contract. 27-3b Valid Trademarks Words (Amazon), symbols (Microsoft’s flying window logo), phrases and slogans (Nike’s “Just do it”), shapes (teardrop of a Hershey’s kiss), sounds (Macintosh’s startup chime), colors (jeweler Tiffany’s blue), and even scents (bubble-gum scented flip flops) can be trademarked. Keystone did not pay GT to review the bank’s financial position with potential employees and, indeed, the accountants did not know about Ellis’s involvement until after it had decided to issue the clean opinion. WCN 02-200-203 04341_ch22_hr_420-438.indd 421 8/26/17 11:29 AM 422 Unit 5 The Lifecycle of a Business 22-2 CHAPTER 7 LIQUIDATION All bankruptcy cases proceed in a roughly similar pattern, regardless of chapter. The plaintiff is not required to prove discrimination; she need only create a presumption that discrimination occurred. Was Francis’s estate plan valid? • Prospectus. If the issuer has transferred the instrument to the holder, then it has not been negotiated, and the issuer can refuse to pay the holder if there was some flaw in the underlying contract. See Consumer credit/usury statutes Utilitarian ethics, 19 I15 V Valid contract, 181 Value, 199 act, 199 forbearance, 199 promise to act or forbear, 200 Value (requirement for holder in due course), 285 Veil of ignorance, 20 Verdict (trial), 93 Verizon, 166 Vertical price-fixing, Sherman Act violation, 450 Visa, 449 Vogel, John, 122, 124 Voice, response to unethical behavior, 27 Void agreement, 181 Voidable contract, 181 Voluntary act (criminal procedure), 103 W W. WCN 02-200-203 04341_ch20_hr_377-397.indd 379 10/9/17 1:51 PM 380 Unit 5 The Lifecycle of a Business 20-2a Corporations in General As is the case for all forms of organization, corporations have their advantages and disadvantages. 6 In re Dole Food Co., 406 In re Estate of Josiah James Treloar, Jr., 581 In re Grisham, 429 In re HP Secs. These principles are the rules by which you live your life. Suppose a producer says to Gloria, “I’ll pay you $2 million to star in my new romantic comedy, A Promise for a Promise, which we are shooting three months from now in Santa Fe.” Gloria says, “It’s a deal.” That is a bilateral contract. In the following case, the debtor sought to reaffirm the loan on his truck. She has violated her fiduciary duty to put your interests first. The parties never signed a more detailed written contract, and ultimately Jones hired another company. The architect said he did not know whether to try to fix the house or just blow it up. oz. A telemarketer has struck again! What can you do to protect your peace and quiet? To lighten his crushing workload, he decided to bring in two partners to handle more day-to-day responsibility. She sold some of it to her sister-in-law, Evelyn Claussen, and, along with the land, granted Evelyn an option to buy additional property at $800 per acre. The statute applies to both law enforcement and private individuals and has both criminal and civil penalties. He entered his debit card data to pay the shipping cost. State agencies take countless actions each year to stop illegal gaming operations. The court should revise this contract to be consistent with the parties’ agreement, which

was 1 cent. Because this tax violated national treatment provisions, the WTO required that Japan revise its laws. The power of a federal court to hear certain cases between citizens of different states 5. WCN 02-200-203 04341_ch05_hr_079-100.indd 79 9/28/17 9:36 AM 80 Unit 1 The Legal Environment Litigation The process of resolving disputes in court Alternative dispute resolution Resolving disputes out of court, through formal or informal processes This case is a fictionalized version of several real cases based on double indemnity insurance policies. insurance, should he admit And what about the travel insurance available at the to being a social smoker? Litigation refers to lawsuits, the process of filing claims in court, trying the case, and living with the court's ruling. The following case picks up the story of Lynn and Howard and their war over a winning lottery ticket. This rarely leads to disputes, but if a donee should refuse a gift and then change her mind, she is out of luck. If Star Chevrolet had delivered a check for $4,600, Kevin would have been obligated to return the car. EXAMStrategy Question: Ton Cremers was the director of security at Amsterdam's famous Rijks- museum and the operator of the Museum Security Network (the Network) website. While on a cruise, DePrince inquired about the price of a 20-carat diamond in the ship's gift shop. Is judicial review good for the nation? The defendants moved to dismiss based on an exculpatory clause that Shauna had signed. Term agreement → (3) When two parties agree in advance on the duration of their agreement C. Owners of preferred stock are in line before common shareholders to receive dividends, if any, and liquidation payments after a company goes into bankruptcy. There was no implied-in-fact contract because there was no evidence that the parties ever actually intended to contract. Generally, when the parties are mistaken as to the existence or the identity of the contract's subject matter, the contract is voidable. That, ruled a court, violated her right to be free from commercial exploitation. That is, if they were made or significantly modified by humans. RESULTS 1. Result: In this situation, most entrepreneurs would choose an LLC because it would be easier than forming an S corp and registering with the IRS. Regulates debt collectors 4. Although the car was in the shop for four months, Nationwide only provided a replacement car for the first month. The law of negligence law increasingly determines the liability of landlord and tenant when there is an injury to a person or property. Under these rules, anyone who fails to disclose material information or makes incomplete or inaccurate disclosure is liable, provided that the statement or omission was made with scienter. Common law principles, whether related to contracts, torts, or anything else, sometimes vary from one state to another. Involuntary bailment A bailment that occurs without an agree- ment between the bailor and bailee. • The agents work full time for the principal. Amendment XXIV [1964]. The better approach is for the covenants to be conditional—a party agrees to perform them only if the other side also does what it promised. Chapa v. According to the U.S. Department of Agriculture, a thrifty family can live on $550 a month, assuming that all food is purchased at the grocery store and prepared at home. Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed. However, some courts have ruled that companies seeking to protect email strings must create a log describing every individual email and allow the court to determine which are privileged. (b) $5,000. Typos Extell Development Corporation built the Rushmore, a luxury condominium complex in Manhattan. As the court asked: What was she planning to do with the Pine Sol and plastic bags, given that she did not have a home? Each side will prefer the law with which it is most familiar. Artist James Daugherty painted six murals on the walls of the public high school in Stamford, Connecticut. The smiling toddler bounced to the rhythm of the music as Prince belted, "C'mon baby, let's get nuts." Lenz uploaded the 29-second video of her dancing child to YouTube for friends and family to enjoy.1 Although the song was barely audible in the background, its copyright owner objected to Lenz's unauthorized postLenz uploaded the ing. An appeals court reverses a lower court's ruling. The fraternity's officers knew that the majority of its members were under the legal drinking age, but they permitted everyone to consume alcohol. Double jeopardy A criminal defendant may be prosecuted only once for a particular criminal offense. However, the landlord must follow specified steps, including a termination notice and a court hearing. Or, if a plaintiff is only 51 percent convincing, should he get only 51 percent of his damages? He knows who you are and where you live. Bubba, still short of cash, sells 30 of his buses to Antelope Transit. Courts do not always follow precedent but they generally do: stare decisis. (c) expectation interest. If an examiner denies a patent application for any reason, the inventor can appeal that decision to the Patent Trial and Appeal Board in the PTO and from there to the Court of Appeals for the Federal Circuit in Washington, D.C. 4Leahy-Smith America Invents Act §33. Parties in arbitration give up many rights that litigants retain, including discovery. Before, during, and after trial, both parties will file many motions. (e) Stephanie does not get the car. A trustee is chosen only if the debtor is incompetent or uncooperative. (One state's courts can apply another state's laws. On what theory could the Mendezes sue Rancho Valencia? Technology and social media have created new challenges in determining what is a reasonable expectation of privacy. Section 4. Marshall agrees to deliver 500 sweaters to Leo's store, and Leo promises to pay $20,000 cash on delivery. All member countries have pledged to meet every five years to report the results of their emissions programs and to issue more aggressive plans. WCN 02-200-203 04341_ch11_hr_198-219.indd 209 10/6/17 11:53 AM 210 Unit 3 Contracts and the UCC When people are in love, they say all kinds of things. (a) Both of these are true. Article 9 of the Uniform Commercial Code (UCC) governs secured transactions in personal property. The area became infected, requiring corrective surgery. This legislative rule has a heavy financial impact on many cable systems. FOREIGN CORRUPT PRACTICES ACT The Foreign Corrupt Practices Act (FCPA) prohibits the bribery of foreign officials. More than a third of these employers reported having found content that caused them not to hire the applicants. For this reason, lawyers are trained to be pessimists—they try to foresee and 1For further reading on practical contracts, see Scott Burnham, Drafting and Analyzing Contracts, Lexis/ Nexis, 2003; Charles M. ITT Corporation, 182 Doe v. McMann, of course, became insolvent, and both Barwell and the bank attempted to repossess the preformer. Is the Signal board protected by the business judgment rule? Watts said that she had been motivated by envy and jealousy. The new law: (a) is valid, based on the Supremacy Clause. Refusing to Pay a Valid Claim Consumers complain that insurance companies too often act in bad faith by: refusing to pay legitimate claims; making unreasonably low settlement offers; or setting claims quotas that limit how much their adjusters can pay out each year, regardless of the merits of each individual claim. 6UCC §9-506(c). Both stoves? It could grant each shareholder veto power over all important corporate decisions. WILL A legal document that disposes of the testator's property after death. EXAMStrategy Question: Two medical supply companies in the San Francisco area provide oxygen to homes of patients. It even informed Haynes that Lindsay was moving and began the process of adding him to Schmidt's lease. Having a monopoly is legal unless it is gained or maintained through improper conduct. PRE-TRIAL MOTIONS Complaint Answer Interrogatories Depositions Production of documents and things Physical and mental examinations Class action Summary judgment 4. Federal question case A claim based on the U.S. Constitution, a federal statute, or a federal treaty. WCN 02-200-203 04341_ch15_hr_278-294.indd 281 9/28/17 9:39 AM 282 Unit 3 Contracts and the UCC for payment date he put, "The day the headmaster is fired." This check is not negotiable because it is payable neither on demand nor at a definite time. The party opposing the appeal (because it won at trial) is the appellee. Some of those terms and conditions (which we all agree to without reading) specify what happens after death (although many do not). However, common parlance and many courts use heir to refer to anyone who inherits property, and we follow that usage in this chapter. Costello and Giordano were working there that night. The following principles generally govern: • Abandoned property—the finder may keep it. Written defamation is called libel. Duty of Care. An agent has a duty to act with reasonable care. (c) retailer who had never done business before with Manufacturer. When no shoes dance through the door, Shoemaker explains that its workers in Europe are on strike and no delivery date can be guaranteed. For example, the company may face potential liability from environmental law violations, but the liability cannot yet be estimated accurately. A contract carrier does not incur strict liability. The professor appealed, relying on the doctrine of res ipsa loquitur. When the Office of the Comptroller of the Currency (OCC) first began to smell trouble, it required Keystone to hire a nationally recognized, independent accounting firm to audit its books. But a fungus wipes out her entire vineyard. It is a method designed to alleviate physical injuries and illness. However, Slickcraft boats were made and marketed for family recreation, while Sleekcraft boats were aimed at high speed racing enthusiasts. Counteroffer A party makes a counteroffer when it responds to an offer with a new and different proposal. I'm reading from the letter now: "Each year that you meet your revenue goals, you'll get a 1 percent equity interest." Is it possible you sent that letter? 266 Kan. LLCs can also have different classes of members. He has done this, so he will win. 2. Result: Basinger was not eligible to file under Chapter 13 because she had debts of $11 million. Finally, there are legal issues where the morality is not so clear. I will repay you to the best of my ability." In return, Kim agreed not to sue him for the money owed. Comment letter A letter from the SEC to an issuer listing changes that must be made to the registration statement. For years, Lackawanna employees tormented Turley with racist epithets and degrading treatment. If a lender rejects an application, it must either tell the applicant why or notify him that he has the right to a written explanation of the reasons for this adverse action. In the United States, the Foreign Sovereign Immunities Act (FSIA) provides that American courts generally cannot hear suits against foreign governments. Winn-Dixie fired him for fear that, if customers found out, they would go elsewhere to buy their groceries. Foreign corporation A corporation operating in a state in which it did not incorporate. A bankrupt who owns a house has the option of either paying the mortgage or losing his home. If an irate parent throws a chair at a referee during his daughter's basketball game, breaking the man's jaw, he has committed battery. Michelle's mother sued Conrail for negligence. (a) (b) (c) (d) Article I Article II Article III The Amendments CASE QUESTIONS 1. Suppose Artist received an offer to make another movie at the same time. T F A promissory note may be valid even if it does not have a specific due date. Chaney, who had not authorized use of the picture, was surprised and humiliated. (See the "Result" at the end of this Exam Review section.) 8. They were both present at Silk Stockings on the night in question, meeting and greeting customers and supervising employees. Tippees are also guilty of misappropriation. The 88 yr old was shot. Does this policy contravene the principles of WTO/GATT? There was a material misstatement but no reliance, and the buyer may not rescind. Members know each other and there is nothing confidential about their identities or interaction (which, after all, is the point of social networking!). PUBLIC INTERNATIONAL LAW The law governing relations among governments and international organizations. In the movie contract, Producer's lawyer was in charge of the first draft. • Drive a smaller, lighter, more fuel-efficient car • Take public transportation or ride your bike to work • Vote for political candidates who are willing to impose higher taxes on polluters and pollutants • Insulate your home • Unplug appliances when not in use • Recycle your wastes • Pay higher taxes to clean up Superfund sites 2. 10. (e) the nature of the job requires those skills. Furthermore, the principal may have deeper pockets than the agent or the injured third party and thus be better able to afford the cost of the agent's misbehavior. CCB Ohio sued for breach of warranty. For example, if the contract required the seller to ship heavy machinery from Detroit to San Diego, and the buyer's breach enables the seller to market its goods profitably in Detroit, the seller must deduct from its claimed losses the transportation costs that it saved. The police found Crowder in the basement with drugs nearby. Stevens periodically stopped by and saw the work in progress. After mediation efforts failed, the court appointed a custodian to sell the company. As Exhibit 17.1 illustrates, the principal is always liable but the agent is only liable when the principal's identity is unknown. After breaking her wrist, a corrections officer could not work alone on the night shift. 28-7c Crime Landlords may be liable in negligence to tenants or their guests for criminal attacks that occur on the premises. Because other medications were not effective, she obtained a prescription for medical marijuana. When Orville and Betty divorced, they split the farm. 6UCC §2-712. He had taken her home at 1 a.m. and was the last person to see her alive. His name to be listed first in the movie credits, on a separate card (i.e., alone on the screen) 7. Sometimes it may even include inaccurate and defamatory statements. No matter where a company actually does business, it may incorporate in any state. This is the process an issuer follows for either an IPO or a secondary offering: • Registration statement. This requirement of intent is called scienter. With a rule this old and well established, no court was willing to scuttle it. If so, which types? The court ruled that the company had not bargained in good faith. Sadly, he only found problems there. WCN 02-200-203 04341_ch29_hr_560-575.indd 560 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment This chapter is about a lot of stuff, things, and possessions, in other words, personal property. Partnerships and corporations cannot be shareholders. Eric Schmidt, former CEO of Google, has written: The communication technologies we use today are invasive by design, collecting our photos, comments, and friends into giant databases that are searchable and, in the absence of outside regulation, fair game for employers, university admissions personnel, and town gossips. • Civil code systems do not use juries. Exxon rejected her application without giving any specific reason and without providing the name of the credit bureau it had used. Forbearance A forbearance is, in essence, the opposite of an act. Your rejection terminated the offer and ended your power to accept. WCN 02-200-203 04341_gls_hr_G1-G14.indd 1 9/28/17 7:30 AM G2 G lo s s a r y B Breach of the peace Any action that disturbs public BACT Best available control technology. Courts often rely on the substantial performance doctrine, especially in cases involving services as opposed to those concerning the sale of goods or land. Kim denied making the promise, and the jury was persuaded: Kim won. When Maybelle sues, she will win. "Well, I'm not going to just give you my last fifty cents. In the following case, a drug company took steps to extend its monopoly. Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment. Athenian took a security interest in all of Socrates' trees and perfected by filing. This refers to what the injured party reasonably thought she would get from the contract. The main characteristics of the civil code tradition are: • The use of an inquisitorial process of dispute resolution, in which the judge acts as interrogator and investigator. Lou and Abby can each enforce the other's promise. SOURCES OF LAW The primary sources of contemporary law are: • United States Constitution; • Statutes, which are drafted by legislatures; • Common law, which is the body of cases decided by judges as they follow earlier cases, known as precedent; • Court orders, in which a judge which place binding obligations on specific people or companies; and • Administrative law, which are the rules and decisions made by federal and state administrative agencies. It occurs in contracts when the parties think only about what they want a provision to mean, without considering the literal meaning or the other side's perspective. Under the UCC, an acceptance that adds additional or different terms often will create a contract. It has been estimated that 90 percent of email is spam. (b) keeping a dog in the apartment. However, ignoring the role of a written agreement can lead to serious trouble. Some states, however, specifically require insurance contracts to be in writing. Should you pay $1.99 to download an episode of Big Bang Theory from iTunes or take it for free from an illegal site? AMBIGUITY When the terms in a negotiable instrument contradict each other, three rules apply: • Words beat numbers. The accountants must inform the audit committee of any (1) significant flaws they find in the company's internal controls, (2) alternative options that the firm considered in preparing the financial statements, and (3) accounting disagreements with management. Furthermore, if they buy and sell or sell and buy company stock within a six-month period, they must turn over to the corporation any profits from the trades. Many leases contain prohibitions against subletting, or shortterm leasing. Not surprisingly, boards with independent directors who really are, well, independent achieve better financial results. After he files for bankruptcy, who will get paid what? A mediator does not render a decision in the dispute but uses a variety of skills to move the parties toward agreement. In the following case, the debtors were not as successful. From that date forward, he will receive payments for the rest of his life. to the nearest Staples store, and arrived 5 minutes after it opened. b It is a violation of the duty of loyalty under the business judgment rule. If he was not personally liable for his own torts, he might think, "If I drive fast enough, I can make it through that light even though it just turned red. (e) opening statement. (c) a lawsuit for negligence, in a contributory negligence state. ADEA → (4) Statute that prohibits age discrimination A. Argument for Costello and Giordano: The defendants did not own Silk Stockings; they were simply members of an LLC that owned the nightclub. (In re Kelly), 427 O Kennedy v. In short, ethical behavior builds trust, which is important in all of our relationships. TripAdvisor refused to investigate or remove the review. Thus, a tenancy at sufferance is not a true tenancy because the tenant is staying without the landlord's agreement. A contract for the sale of 10,000 sneakers is governed by the UCC; a contract for the sale of a condominium in Marina del Rey is governed by the California common law. Stationary source Any building or facility that emits a certain Securities Act of 1933 Also referred to as the 1933 Act, this level of pollution. This study revealed that the secret to long-term happiness is having good relationships with a spouse, family, and friends. Whether calling an ex-girlfriend and professing endless love while crying or writing out an agreement in your own blood, it is all the same. Arizona Board of Regents, 139 Huff v. Sebelius 132 S. Was it a holder in due course? A wrongdoer could easily shield illegal content from the police just by reporting a different country code—a result that the SCA could not have intended. The Acer computer at $449 was the bait—an alluring offer that sounds almost too good to be true. Emily Mackie and Mason Awtry had a bad break-up. Question: Frank B. The rules on the inheritance of digital assets are based on: • Service provider policies. The pass rate for whites was much higher than for blacks, and whites were also more likely than blacks to have a high school diploma. Museum schedules a major fund-raising dinner, devoted to a famous Botticelli painting, for September 15. Klimowski and Holdsworth refused. To win a negligence case, a plaintiff must prove five elements. During a lawsuit, the parties file many motions. Call Lea at 555-5309." Which of these proposes a unilateral contract? Answer: As the trustee, the bank's obligation was to take care of Doris. "Adjudicated insane" means that a judge has made a formal finding that a person is mentally incompetent and has assigned the person a guardian. He stored the cars in his garage. 4-1d Fifth Amendment: Due Process and the Takings Clause Ralph is a first-semester senior at State University, where he majors in finance. John and Thelma sued Erin Homes and Michael, individually. However, the courts evaluate each set of facts on a case-by-case basis. June 5: During a press interview, Whitman stated about Autonomy's difficulties: In my view, this is the classic case of scaling a business from startup to grownup. The conductor determines the musicians' volume and pitch, and the technique they use (such as the way they bow or use vibrato). As more accounting irregularities came to light involving other companies and other auditors, and as scores of major companies restated (i.e., lowered reports of) their earnings, investors doubted they could rely on public financial statements. It was like nothing on the market, but David did not apply for a patent. Copyright term The term for a copyright in the United States is the life of the author plus 70 years. After his inspection, Chuck said it was lucky he had called, because her system needed urgent repairs. WCN 02-200-203 04341_ch06_hr_101-120.indd 119 8/24/17 1:38 PM 120 Unit 1 The Legal Environment for stealing three golf clubs worth $399 each. The court held that since his acceptance varied the starting date, it was a counteroffer. Burger King franchisees filed suit alleging that (1) Burger King did not have the right to set maximum prices and (2) that even if Burger King had such a right, it had violated its obligation under the franchise agreement to act in good faith. Baxendale promised to make the delivery in one day, but he was late transporting the shaft, and, as a result, the Hadleys' mill was shut for five extra days. Of the initial $10,000, almost 48 percent ($4,799) has gone to the Internal Revenue Service (IRS). On the final day of the trip, Gatter apologized to Bilgic and René for her affair with Marcel. Compensation will not help Jade—she needs a new strip. To strengthen this treaty, GATT signatories created the World Trade Organization (WTO) in 1995. E Economic strike One intended to gain wages or benefits. The Andreasons' conduct was reasonable, based on what the Aetna agent said. Martino had clearly broken up with Lowman and had even threatened to revoke his health insurance while he was dying. ETHICS Clarice, a young woman with a mental disability, brought a malprac- tice suit against a doctor at the Medical Center. • Late payment fees are limited to $25 for the first event, $35 thereafter. The following Landmark Case established the factors that determine trademark infringement. It includes the law of war (yes, we have to fight fair), the acquisition of territory, and the settlement of disputes among nations. WCN 02-200-203 04341_appC_hr_C01-C22.indd 22 9/28/17 7:28 AM G LO S S A RY A Answer The defendant's response to the complaint. (a) When Taggart comes to a job interview, he has a white cane. That same day, he noticed a long scratch along the side of the green car. But when combined with other testimony, it may provide enough evidence to find liability. WCN 02-200-203 04341_ch27_hr_519-537.indd 528 8/28/17 7:30 AM Chapter 27 Intellectual Property 529 Federal trademarks are governed by the Lanham Act. Is there a problem with that? ITT Corporation 984 P.2d 1138 Arizona Supreme Court, 1999 CASE SUMMARY Facts: Roger DeMasse and five others were employees at-will at ITT Corporation, where they started working at various times between 1960 and 1979. REVOCATION OF A WILL A testator can revoke or alter a will at any time prior to death. Issue: Did the parties create a valid bailment agreement? Extraordinary care → (2) Required level of care in a bailment made for the sole benefit of the bailee C. Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. Without updated laws and oversight, it could well be obliterated. Sally agrees to sell Arthur 300 tulip-shaped wine glasses for his new restaurant. At the end of the month, Sam announces that the boat is at the bottom of Lake Michigan. In his will, he left his son an autographed copy of his book, A Guide to Federal Prisons. A perfectly adequate memorandum might say, "Garfield agrees to sell Hayes his condominium at 234 Baron Boulevard, apartment 18, for $350,000 cash, payable on June 18, 2019, and Hayes promises to pay the sum on that day." They should make two copies of their agreement and sign both. Francoise is discharged. What do you think is the right standard? A commercial photographer sued a search engine, claiming that its search results showing his photos violated his copyright in the images.5 The court held that the search results were a fair use because the thumbnails did not harm the market or value of the original photographs. EXAMStrategy Question: Hector needs money to keep his business afloat. You Be the Judge: Was the punitive damage award too high, too low, or just right? It is composed of all of its member nations, which propose and vote on resolutions. A creditor insists on a security interest to protect itself in the event the debtor cannot pay all of its debts. Second, many states prohibit a seller from disclaiming implied warranties in the sale of consumer goods. The EPA regulates the water quality of the river in your town. A ladder, to be merchantable, must be able to rest securely against a building and support someone who is climbing it. Berg's lawyers took this case on contingency, which means that they have received no payment for 16 years and have had to fund all the costs themselves. The court declared that Autorama had misrepresented the manufacturer's warranty by omitting the small fact that the manufacturer itself no longer existed. Commingling of personal and corporate assets, 3. WCN 02-200-203 04341_ch03_hr_039-057.indd 55 8/24/17 1:47 PM 56 Unit 1 The Legal Environment CASE QUESTIONS 1. T F In the case of corporations, copyright protection lasts 120 years from the product's creation. Additional terms → (2) Generally become part of a contract between merchants C. Should Thomas leave his land to his children as tenants in common or joint tenants? A jury could also conclude that Gatter, and any reasonable employee, would be harmed Employment Discrimination 361 by this behavior because it altered the conditions of employment. Federal Sentencing Guidelines The detailed rules that judges must follow when sentencing defendants convicted of federal crimes. After a day and a half of deliberating, the jury notifies the judge that it has reached a verdict. BAILEE'S RIGHTS The bailee is always entitled to possess the property, is frequently allowed to use it, and may be entitled to compensation. Conseco's argument defies common sense and the goals of Article 9. The party that loses at the trial court generally is entitled to be heard at the intermediate court of appeals. The vast majority of gifts are inter vivos, involving a healthy donor and donee. Alternative dispute resolution (ADR) provides several semiformal methods of resolving conflicts without litigation. What might your objections be to ratifying a treaty on sales law? This will allow for the petition to divorce to be rescinded if the couple reconciles. To the shares? Is it for $1,500 or $15,000? You make many decisions without thinking. They are each left with $1,734. But in this case, he had not yet started work for the Marine Corps, and therefore the government is not liable. Externality When people do not bear the full cost of their decisions. Francine pounces on Bubba's buses. WCN 02-200-203 04341_ch21_hr_398-419.indd 418 10/6/17 12:27 PM Chapter 21 Corporations 419 4. The burden is on the secured party to file accurately, not on the searcher to seek out erroneous filings.6 The collateral must be described reasonably so that another party contemplating a loan to the debtor will understand which property is already secured. Prohibit symbolic speech? One of the aims of contract law is to determine which agreements are worth enforcing. An architect who designs a skyscraper's safety features must bring to the task far greater knowledge than the average person possesses. Soon the consultants in the firm were accounting firm ever to be generating much higher profits—and earning much convicted of a crime. illegality. This rule applies whether the hostility is based on race, color, religion, sex, national origin, pregnancy, age, or disability. cengage.com/mindtap Copyright 2019 Cengage Learning. A delegation transfers the delegator's duties to the delegatee. Rupert knows that the note is not supposed to be due until after the work is finished. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. • A seller may be strictly liable for a defective product that reaches the user without substantial change. WCN 02-200-203 04341_ch20_hr_377-397.indd 384 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 385 Ferret v. Likewise, if either Browning or Poirier had ended the deal during its first year, it would also have been completed. Generally, when faced with two parties who are both less than saintly, courts attempt to make rulings that will be in the best interests of society, in the long term. Should restaurants serve items such as these? If Chaz's note says, "I promise to pay $15,000 worth of diamonds," it is not negotiable because it does not state a definite amount of money. A substantial proportion of student-loan debtors who do ask for discharge receive at least partial relief from their debts. WCN 02-200-203 04341_ch24_hr_460-481.indd 477 10/6/17 12:28 PM 478 Unit 6 Government Regulation MATCHING QUESTIONS Match the following terms with their definitions: ___ A. CORPORATE OPPORTUNITY Managers are in violation of the corporate opportunity doctrine if they compete against the corporation without its consent. For example, an appeal from the Northern District of Illinois would go to the Court of Appeals for the Seventh Circuit. Therefore, it is not a holder in due course. Glenayre Elec., 160 n. The Supreme Court upheld a decision under the ESA to halt work on a dam that would have blocked the river, flooding 16,500 acres of farmland and destroying the snail darter's habitat. The court was reluctant to censor political commentary. To allow such cases to continue would be a waste of resources. If the creditors want to elect a trustee, they do so now. If the lot is a "park and lock" facility, where the car's owner retains the key and the lot owner exercises no control at all, there is probably no bailment and no liability for damage. T F If one joint tenant dies, his interest in the property passes to surviving joint tenants, not to his heirs. His wife had thought of a clever name for an automobile. It depends. 16-2d Debtor Rights in the Collateral The debtor can only grant a security interest in goods if he has some legal right to those goods himself. Is the company liable for Chuck's wrongdoing? • Beneficiary. What are the Indians' best arguments to change the law? To win, the plaintiff must now prove that the employer intentionally discriminated, although this motive can be inferred from differences in treatment. If the differing forms indicate that the parties never reached an agreement, there is no contract. Bonnie has an employment contract that contains a non-compete clause. AN AGENT'S LIABILITY FOR A CONTRACT If an agent makes a con- tract on behalf of a fully disclosed principal, the agent is not liable on the contract, but the principal is. (d) Lacy will lose because it was not foreseeable that she would rely on these statements. TILA simply establishes disclosure rules. How much? Two groups of people usually lack legal capacity: minors and those with a mental impairment. It is designed to give all of us, citizens, businesses, and organizations alike, access to the information that federal agencies are using. • Internet service providers (ISPs) are generally prohibited from disclosing electronic messages to anyone other than the addressee, unless this disclosure is necessary for the performance of their service or for the protection of their own rights or property. A bailment without any agreement is called a constructive, or involuntary, bailment. There is no law prohibiting employment discrimination on this basis. He sued PIC Realty for the value of his work preparing the soil. The next morning he shows up at the store, but Louise refuses to hire him. Ashcroft moved to dismiss the suit. (b) This is lost property, and Bill is entitled to it. (c) permissible, based on the legislators' statutory research. Are any of the provisions unreasonable? The British Broadcasting Corp. We have written this summary ourselves to make the judges' reasoning accessible to all readers while retaining the court's focus and the decision's impact. Each time employees at BizCorp enter their work computers, the following alert appears: "You are attempting to access the BizCorp network. 856 F.Supp.2d 717 United States District Court, Middle District, North Carolina, 2012 CASE SUMMARY Facts: Football player Rashard Mendenhall and Hanesbrands (HBI) entered into an endorsement agreement for the promotion of athletic wear. Evaluate—New business case activities develop students' skills to apply critical thinking and legal reasoning through relevant real-world business scenarios. This action, filing bankruptcy, closes the door on TOMORROW. Hortense needs millions of dollars in venture capital and expects to go public soon. A lawsuit is permitted against a foreign country that voluntarily agrees to give up immunity. Tanya and Jerry entered into a contract with a real estate developer that provided he would build the house of their dreams on a lot that he owned. His explanation for these results was implausible—no one else was able to replicate them using his purported methods. EXAMStrategy Question: The government accused Carlo Francia and another person of stealing a purse belonging to Frances Bainlardi. Jointly and severally liable All members of a group are liable. (b) Lacy will win because Ted was negligent. 9-3c Liability of Internet Service Providers The internet is an enormously powerful tool for disseminating information. Modify To let a court decision stand, but with changes. Appointment. As we see later in this chapter, administrative agencies play a powerful role in business regulation. Reverse and remand To nullify a lower court's decision and R return a case to trial. Are the terms of the offer reasonably definite? (c) Seller is liable because the disclaimer was invalid. During Liberatore's time at this church, everyone from the cleaning staff to other priests told the Bishop that Liberatore was engaging in inappropriate sexual behavior with a young boy. 5 disputes with credit card companies, 268 with merchants, 468 home mortgage loans, 465–466 Copyright 2019 Cengage Learning. I'll sell you my ticket to this weekend's football game for $75." You tell me that you'll think it over and call me back. Did she act in good faith? WCN 02-200-203 04341_fm_hr_i-xxii.indd 9 10/6/17 11:39 AM x C ontent s Multiple-Choice Questions Case Questions Discussion Questions 353 354 355 Chapter 19 Employment Discrimination356 19-1 Equal Pay Act of 1963 357 19-2 The Civil Rights Act of 1964 357 19-2a Prohibited Activities 357 19-2b Religion 362 19-2c Family Responsibility Discrimination362 19-2d Sexual Orientation 362 19-2e Gender Identity and Expression 362 19-2f Immigration 363 19-2g Reverse Discrimination 363 19-2h Defenses to Charges of Discrimination364 19-3 Pregnancy Discrimination Act 365 19-4 Age Discrimination 365 19-5 The Americans with Disabilities Act 366 19-5a The Hiring Process 367 19-5b Relationship with a Disabled Person 367 19-5c Obesity 367 19-5d Mental Disabilities 367 19-6 Genetic Information Nondiscrimination Act 367 19-7 Hiring Practices 368 19-7a Interviews 368 19-7b Social Media 368 19-8 Enforcement 369 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 370 370 372 372 373 374 375 U nit 5 The Lifecycle of a Business 377 Chapter 20 Starting a Business: LLCs and Other Options378 20-1 Sole Proprietorships 20-2 Corporations 20-2a Corporations in General 20-2b Special Types of Corporations 379 379 380 382 20-3 Limited Liability Companies 383 20-3a Limited Liability 383 20-3b Formation 384 20-3c Flexibility 385 20-3d Transferability of Interests 385 20-3e Duration 385 20-3f Going Public 386 20-3g Piercing the Company Veil 386 20-3h Legal Uncertainty 387 20-3i Choices: LLC versus Corporation 387 20-4 Social Enterprises 388 20-5 General Partnerships 388 20-5a Tax Status 388 20-5b Liability 388 20-5c Formation 388 20-5d Raising Capital 389 20-5e Management 389 20-5f Transfer of Ownership 389 20-5g Terminating a Partnership: Dissociation389 20-6 Limited Liability Partnerships 390 20-7 Professional Corporations 390 20-8 Franchises 391 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 392 392 393 394 394 395 397 Chapter 21 Corporations398 21-1 Promoter's Liability 21-2 Incorporation Process 21-2a Where to Incorporate? 21-2b The Charter 21-3 After Incorporation 21-4 Death of the Corporation 21-4a Voluntary Termination by the Shareholders 21-4b Termination by the State 21-4c Piercing the Corporate Veil 21-5 Management Duties 21-5a The Business Judgment Rule 21-5b Applications of the Business Judgment Rule 21-6 Shareholder Rights 21-6a The Relationship between Shareholders and Managers 399 399 399 400 401 402 402 403 404 404 404 406 408 408 Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ch06_hr_101-120.indd 120 8/24/17 1:38 PM Torts Unit 2 Copyright 2019 Cengage Learning. Orville and Betty are unfairly benefiting from Wendell's labor. The defendants filed a motion for summary judgment seeking dismissal of the complaint. Soley made no repairs, and the women stopped paying the rent. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the Several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. If you develop real estate in Palos Hills, Illinois, you will tremble every time the Appearance Commission of the City of Palos Hills speaks, since you cannot construct a new building without its approval. If a board of directors truly wanted executive compensation to mirror performance, net returns on invested capital would be a better measure of real economic value (i.e., the company's return on its capital investments, such as plants and equipment, less the opportunity cost of those investments). Amendment XIII [1865]. TILA 1. Although some states have ruled that some Uber drivers are employees under some state programs, the jury is still out. Self-Incrimination: The Fifth Amendment The Fifth Amendment bars the government from forcing any person to provide evidence against himself. When Coopers made its error, no one could foresee that two years later, Oregon's securities offering would be delayed by six weeks and it would suffer a loss as a result. Each co-owner is called a general partner. Curry and Moore argued that if it had not been for AvMed's carelessness, they would not have been victims of identity theft. The Hoffmans sold their bakery and grocery store and purchased a lot on which Red Owl was to build the store. Since then, the EPA has had to rely on reimbursements from polluters and congressional appropriations. Treble damages A judgment for three times the harm actually suffered. Answer: Based on Saudi Arabia v. Slightly different rules apply to some of these forms of property, but the details are less important than the general principles on which we shall focus. 22-2a Filing a Petition Bankrupt Someone who cannot pay his debts and files for protection under the Bankruptcy Code Debtor Another term for bankrupt Any individual, partnership, corporation, or other business organization that lives, conducts business, or owns property in the United States can file under the Code. Monsanto, a multinational biotechnology company, patented a genetically modified canola seed designed to resist certain herbicides. If you have ever been employed, there is more than a one-in-three chance that you had a non-compete. To divide the creditors' share of the assets fairly among them. The respective duties of agents and principals can be summarized as follows: Duties of Agents to Principals Duty of Principals to Agents Duty of loyalty Duty to pay as provided by the agreement Duty to obey instructions Duty to indemnify for reasonable expenses Duty of care Duty to cooperate with the agent Duty to provide information Copyright 2019 Cengage Learning. Strategy: Note that there are different standards for tippers and tippees. T F If more whites than Native Americans pass an employment test, the test necessarily violates Title VII. To create a new rule is to promulgate it. You Be the Judge: Was this check for a definite amount? If a tenant's dinner guest falls because the building's common stairway has loose steps, the landlord is probably liable. The formula is available at 11 USC §707(b)(2)(A). WCN 02-200-203 04341_ch22_hr_420-438.indd 437 8/26/17 11:29 AM Copyright 2019 Cengage Learning. Control Principals are liable for an agent's acts because they exercise control over that person. WCN 02-200-203 04341_ch11_hr_198-219.indd 202 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 203 The legality of a non-compete depends on the facts of each case: the type of work, industry, and restrictions imposed. The answer depends on whether the prior legal fees had real value. Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. An executor's promise to use her own funds to pay a debt of the deceased must be in writing to be enforceable. about them online. After the execution of the agreement, Heritage discovered a different mistake. Taxes imposed on goods when they enter a country • Excise Taxes. (a) No because Sue was not authorized to admit him. Now, because the term is based on the life of the creator, the average copyright lasts about 150 years. Can these statements be proven true or false? The manufacturer then electronically files a financing statement in an appropriate state agency. As provided in the policy, Dmitri's insurance company defends him against Tanya's claim. During this time, customers deposited millions of pounds of lead shot on land around the club and in the Long Island Sound. A warranty might be explicit and written: "The manufacturer warrants that the light bulbs in this package will illuminate for 2,000 hours." Or a warranty could be oral: "Don't worry. Heritage refused to amend the agreement, and Phibro filed suit. In this chapter, we follow Beth's dispute with Coastal from initial interview through appeal, using it to examine three fundamental areas of law: the structure of our court systems, litigation, and alternative dispute resolution (ADR). Ellis v. WCN 02-200-203 04341_appC_hr_C01-C22.indd 8 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C9 CHAPTER 6 1. Sheehan, 126 n. After taking the job, she wants to sublease her apartment to her friend Sarah. Therefore, it is illegal under §2 of the Sherman Act. Other issues are just as thorny, such as when a bystander is liable to assist someone in peril, or whether a government agency may subpoena corporate documents. So Warfield can sue both Wolfe and the corporation. Here we focus on the FTC's regulation of the internet, including deceptive advertising, spam, and children's privacy. This order is an official acknowledgment that the debtor is under the jurisdiction of the court, and it is, in a sense, the start of the bankruptcy process. Every businessperson has many opportunities to be dishonest. with the SEC to initiate a public offering of securities. Article III established judicial, or interpretive, power by creating the Supreme Court and permitting additional federal courts. Drexel operated his construction business as a sole proprietorship. Fernando worked for Affinity, which made furniture deliveries for Sears. Material Important to the insurer's decision to issue a policy or set a premium amount. Strategy: To win a trademark claim, the reverend must show that there was some confusion between the two sites. Even people who never have and never will visit it during the winter sleep better at night knowing that the canyon is protected. A buyer making routine purchases should not be forced to perform a financing check before buying. His grandchildren would inherit only if his will said "to his issue" or if the will named the grandchildren explicitly. WCN 02-200-203 04341_ch22_hr_420-438.indd 436 8/26/17 11:29 AM Chapter 22 Bankruptcy 437 4. For this reason, a growing number of states have restrictions on the enforceability of employment-related non-competes. Fraud ___C. Answer: The constitutional issue is judicial review. 27-4 TRADE SECRETS Trade secrets—such as the formula for Coca-Cola—can be a company's most valuable asset. Has Morris infringed McMahon's copyright? The jury awarded damages for each of the claims, including $15,000 to each tenant for emotional distress and a total of $1 million in punitive damages. According to the accountant, the papers had been stolen. Among the factual findings from the trial court was this statement: The plaintiffs were shaken up, infuriated, violated, intimidated, and in fear for their physical safety. The Supreme Court of Alabama affirmed. Under the Dodd-Frank Act, anyone who provides information to the government about violations of securities or commodities laws is entitled to a portion of whatever award the government receives, provided that the award tops $1 million. The types of large businesses that used to be general partnerships (such as law and accounting firms) now typically operate as limited liability partnerships. LIABILITY TO THIRD PARTIES FOR FRAUD An accountant who commits fraud is liable to any foreseeable user of the work product who justifiably relies on it. Generally, the agreement must be either written on paper and signed by the debtor, or electronically recorded and authenticated by the debtor. Reasoning: The lower court's jury instructions were improper. She may not rescind the contract. The Supreme Court held that, since the statute did not expressly mention extraterritorial application, U.S. courts could not apply it to wrongs committed in another country. PUBLIC DISCLOSURE OF PRIVATE FACTS It is a violation of tort law to disclose secret information if disclosure would be highly offensive to a reasonable person and the information is not of legitimate public concern. Although there is no guarantee that ethical behavior pays in the short or long run, there is evidence that the ethical company is more likely to win financially. • Quarterly reports on Form 10-Q, which are less detailed than 10-Ks and contain unaudited financials. He cannot take CDM's secret client list to a new employer. In a "shovels first, lawyers later" approach, Congress established a revolving trust fund for the EPA to use in cleaning up sites even before obtaining reimbursement from those responsible for the damage or if the polluters cannot be found. United States of America, 327–328 Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ch12_hr_220-241.indd 226 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 227 considers the strip unsafe. Promoter → (3) Someone who organizes a corporation E. But each country has its own specific requirements. The defendants did have a duty of due care to Hernandez and to the public in general. Discharged ___D. (a) Both are guilty only of larceny. The Committees reviewed a draft framework, a list of exam subtopics, and sample questions. Were they entitled to keep the interest that Creative had paid on the illegal loan? However, EPA regulations to implement the statute were successfully challenged in court, creating uncertainty in the agency's enforcement powers. Is the Term Loan unsecured? Weeks later, her doctors removed a 1½-inch piece of wood from her digestive tract. Reversed. A material breach is important enough to defeat an essential purpose of the contract. It also concluded that Conrail was 60 percent responsible for the tragedy and Michelle was 40 percent. Assuming a 39.6 percent individual rate, each member pays an income tax of $1,320. 886 So.2d 769 Supreme Court of Alabama, 2004 CASE SUMMARY Facts: Kathy King was a single mother supporting a col- lege-age daughter. (c) Both are guilty of embezzlement; Cheryl is also guilty of violating RICO. If the Gun Club happens to produce wastes, that is only incidental to the normal use of a product. The EPA sets limits on the amount of pollution these facilities produce and requires that they obtain permits for construction, operation, or renovation. Once its assets have been distributed, an organization must cease operation. • The name and address of the person the consumer should contact to obtain warranty service. 21, no. WCN 02-200-203 04341_ch06_hr_101-120.indd 107 8/24/17 1:38 PM 108 Unit 1 The Legal Environment 10. Balancing the interests of managers and shareholders is a complex problem the law struggles to resolve. The most important are the complaint and the answer. At her death, everything went to her three children and Lauri. (However, if he left the instrument blank, he is liable for any amounts later filled in.) • He signed the instrument under duress, while mentally incapacitated, or as part of an illegal transaction. A good is any movable physical object except for money and securities (like stock certificates). The entire project shall be completed by August 15. 141 Ill. Answer: The bankruptcy court ruled that this payment was a voidable preference. After being tortured for two months, she participated in a bank robbery with the group. Oral defamation is slander. In tracing, the accountant begins with an item of original data and traces it forward to ensure that it has been properly recorded throughout the bookkeeping process. International Law 45 World Trade Organization (WTO) An international organization whose mandate is to lower trade barriers Most favored nation WTO/GATT requires that favors offered to one country must be given to all member nations. It did not offer him the best possible premium, but this was because of his current finances, not his credit history. All three men were charged with insider trading. Under the Uniform Trade Secrets Act (UTSA), a trade secret is a formula, device, Trade secret A formula, device, process, method, or compilation of information that, when used in business, gives the owner an advantage over competitors Copyright 2019 Cengage Learning. You pay an insurance company $1,200 in return for a promise that, if your house burns down in the next 12 months, the company will pay you $500,000. 19-5c Obesity According to the EEOC, just being overweight is not a disability unless it has some underlying physiological cause, such as a thyroid disorder. But what happens if the previous tenant has refused to leave when the new tenancy begins? As we begin our discussion of environmental law, please note that violations are a serious matter. The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State. A new one will cost $12,000. His superiors were engineers too, so they were qualified to evaluate Boisjoly's concerns. When he died, his estate took over as plaintiff. SECURITIES ACT OF 1933 If investors lose money, auditors are liable for any misstatement or omission of an important fact in the financial statements that they provide for a registration statement. Litigation over the EIS eliminates the next weakest group. Please rule. It does not require websites to have a privacy policy, but if they do have one, they must comply with it, and it cannot be deceptive. ETHICS The greatest of all Chinese lawgivers, Confucius, did not esteem writ- ten laws. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills. Sellers use forms they have prepared, with all conditions stated to their advantage, and buyers employ their own forms, with terms they prefer. Suspecting that Mackie was the author, Awtry sued Glassdoor to compel disclosure of the poster's identity. That is an error of law; if Tony committed suicide, Beth is entitled to nothing. When the Fords pressed Claudia for an answer, she said she could not get in touch with Taylor. The Library of Congress offered him a job as a specialist in terrorism. The hotel never had physical control of the Ferrari. It presented proof that these prices had harmed competition. NEGOTIABLE The transferee of negotiable commercial paper has more rights than the person who made the original contract. I. The prosecution must prove its case beyond a reasonable doubt, a much higher burden than that in a civil case. THE FTC ACT Section 5 of the FTC Act prohibits unfair and deceptive practices. UPS paid $70,000 to settle the Jehovah's Witness suit. Most favored nation WTO/GATT requires that favors offered to one country must be given to all member nations. It is essential to understand the basics of this law because we live and work in a world economy based on credit. Guyan Machinery, a West Virginia manufacturing corporation, hired Albert Voorhees as a salesman and required him to sign a contract stating that if he left Guyan, he would not work for a competing corporation anywhere within 250 miles of West Virginia for a two-year period. The following statement is true: (a) The majority of people are honest most of the time. The information sought in this case is stored in Dublin. Bargained for When something is sought by the promisor and given by the promisee in exchange for their promises The parties must bargain for the consideration. The Statute of Frauds generally requires that a long-term lease be in writing. The motion was denied. For some kinds of collateral, for example stock certificates, it is safer for the secured party actually to take the item than to rely upon a security agreement. The horrified mother provided Sheehan's whereabouts, which enabled the company to seize his car. EXAMStrategy Question: When Mark applied for life insurance with Farmstead, he indicated on the application that he had not received any traffic tickets in the preceding five years. The Arizona court looks and finds several earlier cases, all holding that such contracts may not be enforced against a minor. The following case applies res ipsa loquitur to a prickly problem. It is obvious that Maher would personally benefit in that situation. Covenant A promise or undertaking contained in a lease whose breach does not result in eviction. Just last month, Berkshire mailed $32,000 worth of checks to investors, who are expecting a 20 percent annual rate of return. (e) lose. Moreover, even if Dreyer was not authorized to drive the Marine Corps car, the government is still liable because his activity was of the same general nature as that authorized and it was incidental to the conduct authorized. It moved her to a first-floor apartment even though she expressed concern for her safety. An agreement based on one promise in exchange for another 3. Reasoning: Head Start does business in 30 locations throughout Jefferson and Shelby counties. Most states allow rescission of a contract, but not damages, in such a case. Because students do not know the result, class discussions are more complex and lively. The injury was caused by the wood, not by her failure to notice it in her food. 2-4e The Organization's Responsibility to Its Employees Organizations cannot be successful without good workers. She claimed that Clinton approached her, "lowered his trousers and underwear, exposed his penis, and told her to kiss it." Jones was horrified, jumped up, and said she had to leave. The movie contract states: In the event that there is any conflict between any provision of this Agreement and any statute, law, or regulation, the latter shall prevail; provided, however, that in such event, the provision of this Agreement so affected shall be curtailed and limited only to the minimum extent necessary to permit compliance with the minimum requirement, and no other provision of this Agreement shall be affected thereby and all other provisions of this Agreement shall continue in full force and effect. But a debtor may also give a security interest if he is leasing the goods or even if he is a bailee, meaning that he is lawfully holding them for someone else. Only the prosecutor presents evidence, not the defense attorney, because it is better for the defendant to save her evidence for the trial jury. The contract is enforceable. Congress meant the statute to apply only to companies in the business of manufacturing articles that produce hazardous waste. Should the law permit these loans? His organization refuses to sanction races at the track until repairs are made. Trustees might want to decant a trust so that they can move the assets to a state with more favorable laws. How do we know if an agreement is "worthy"? Staples, Inc., violated these FTC rules when it told customers that they were viewing "real-time" inventory online and that products would be delivered in one day, even on weekends. Securities Act of 1933 1. The interest rate was not apparent from the face of the check. On Monday, Wilson tells Julie, "You are a wonderful person, and I have a present for you. Partners are not liable for ordinary negligence. A.2d 1 Delaware Supreme Court, 2005 CASE SUMMARY Facts: In the 1970s, SABIC, a corporation owned by the Saudi Arabian government, went into business with Mobil and Exxon. Since Coastal admits that the parties entered into the contract that Beth claims they did, there is no need for her to prove that in court. The novel does not use any of the names of the original, but clearly references the same characters, places, and plot lines. PROMISSORY ESTOPPEL A claim of promissory estoppel requires that the defendant made a promise knowing that the plaintiff would likely rely, and the plaintiff did so. Must contribute toward payment of prepetition debts. Although, in theory, the government's official policy is no net loss of wetlands, in reality about 60,000 acres of wetlands are lost each year. T F The FTC telemarketing rules apply to calls but not texts. His position was to begin July 1, and he had until June 2 to accept the job. Bearer paper must simply be delivered to the transferee; no indorsement is required. A tornado recently destroyed one of the company's plants which was near Farmfield, Arkansas, a town with a population of roughly 5,000 people. A case begins with the filing of a bankruptcy petition in federal district court. Rodney Platt was the vice chairman of the board of Mylan. The companies are owned by the doctors who prescribe the oxygen. They claim that as new jobs invigorate the Mexican economy, consumers there will be able to afford certain categories of American goods for the first time, providing an enormous new market. Will consumers insulate their homes or buy more energy-efficient appliances? He borrowed money from his pension fund and paid the owner. How did Murdoch and Termarco fare? These noise levels complied with the applicable county noise ordinances. Based on Georgia O'Keefe Foundation v. White women were allowed to wear their hair in braids. Issue: Did Belliard and Fell violate their duty of loyalty to Brenner? WCN 02-200-203 04341_ch21_hr_398-419.indd 402 10/6/17 12:27 PM Chapter 21 Corporations 403 21-4b Termination by the State The secretary of state may dissolve a corporation that fails to comply with state requirements such as paying the required annual fees. The Indians' creations are not copyrightable because the law views costumes as functional items, not artistic works. At the same time, the pay for private sector, nonsupervisory workers (82 percent of the workforce) hardly went up at all—just one-tenth. Instructors can personalize the Learning Path by customizing Cengage resources and adding their own content via apps that integrate with MindTap. Concerned as it was with customer service, Gateway had an agent deliver papers directly to Smith's house to be signed immediately. Do you have the same rule when lying to protect yourself, as opposed to benefitting others? (See the "Result" at the end of this Exam Review section.) 5. United States 135 S. Companies send hundreds, thousands, or even millions of emails every day. In fact, they share a cubicle wall. As a result, when a pet is wrongfully killed, its owner can only recover the cost of replacing the animal. September 10: HP's Form 10-Q reported that: "At the time of the Autonomy acquisition in October 2011, the fair value of Autonomy approximated the carrying value." 6. Bagell's failure to equate record profits with misconduct was not reckless. Definitions 4. Minutes pass. How much do you weigh? Strategy: Exxon violated two laws. If Adrienne is careless in preparing the statements and BeachBall collapses, she will be liable to First Bank. PERFECTION Attachment protects against the debtor. Does that change discharge Bradshaw? Or you can decide not to bother with an estate plan and leave all in chaos behind you. This fiduciary duty includes: • A duty of loyalty. A person has an insurable interest if she would be harmed by the danger that she has insured against. T F Under federal law, accounting firms may not provide any consulting services to companies that they audit. she applied for a better job at her plant, the foreman offered to promote her if she would go out on a date with him. But some bailees have no authority to use the goods. Under the CPSA: • Manufacturers must report all potentially hazardous product defects within 24 hours of discovery; • The Commission can impose civil and criminal penalties on those who violate its standards; and Copyright 2019 Cengage Learning. Prima facie Something that appears to be true upon a first look. All 500 bottles have gone flat. The board of Technicolor, Inc., agreed to sell the film-processing company, knowing little about the terms of the deal and without seeking other bidders. Worse was to come. EFTA ___ B. This chapter is different: Its purpose is to demonstrate how that theory operates in practice and help you determine if the legal agreement reflects your business deal. Indeed, employers can fire workers for many legal behaviors, such as smoking, or being disagreeable. (c) 100 or fewer stockholders. WCN 02-200-203 04341_fm_hr_i-xxii.indd 8 10/6/17 11:39 AM C ontent s 15-2b Defenses against a Holder in Due Course 15-2c Consumer Exception Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 287 288 289 289 291 291 291 292 293 Chapter 16 Secured Transactions295 16-1 Article 9: Terms and Scope 16-1a Scope of Article 9 16-2 Attachment of a Security Interest 16-2a Agreement 16-2b Possession 16-2c Value 16-2d Debtor Rights in the Collateral 16-2e Attachment to Future Property 16-3 Perfection 16-3a Perfection by Filing 16-3b Perfection by Possession 16-3c Perfection of Consumer Goods 16-4 Protection of Buyers 16-4a Buyers in Ordinary Course of Business 16-5 Priorities among Creditors 16-6 Default and Termination 16-6a Default 16-6b Termination 296 298 298 298 299 299 299 300 300 300 302 302 304 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 310 310 311 312 312 313 314 304 306 307 307 309 U nit 4 Agency and Employment Law 315 Chapter 17 Agency316 17-1 The Agency Relationship 17-1a Creating an Agency Relationship 17-1b Duties of Agents to Principals 317 317 318 ix 17-1c Duties of Principals to Agents 17-1d Terminating an Agency Relationship 17-2 Liability to Third Parties 17-2a Principal's Liability for Contracts 17-2b Agent's Liability for Contracts 17-2c Principal's Liability for Negligent Physical Torts 17-2d Principal's Liability for Intentional Physical Torts 17-2e Principal's Liability for Nonphysical Torts 17-2f Agent's Liability for Torts 320 321 321 321 322 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 329 329 332 332 332 334 334 324 328 328 329 Chapter 18 Employment and Labor Law336 18-1 Employment at Will 18-2 Employment Security 18-2a Common Law Protections 18-2b Family and Medical Leave Act 18-2c Whistleblowing 18-3 Workplace Freedom and Safety 18-3a Off-Duty Activities 18-3b The Right to Free Speech 18-3c Lie Detector Tests 18-3d OSHA 18-3e Employee Data 18-3f Guns 18-4 Financial Protection 18-4a Fair Labor Standards Act 18-4b Workers' Compensation 18-4c Health Insurance 18-4d Social Security 18-5 Labor Unions 18-5a Organizing a Union 18-5b Collective Bargaining 18-5c Concerted Action 337 337 337 341 341 342 342 343 344 345 345 345 346 346 346 347 347 348 348 Chapter Conclusion Exam Review Matching Questions True/False Questions 350 350 352 352 Copyright 2019 Cengage Learning. Some critics believe that the criminal law has gone too far. Limited liability is one of the great advantages of an LLC. Falsity. Public drunkenness, driving without a license, and shoplifting are considered misdemeanors in many states. The fifth handbook made two important changes. Increasing calories. Under that interpretation of the statute, car dealers would be free to discriminate—they could throw 24-4 Consumer Protection 473 the credit report of every minority applicant in the "circular file" and none would be the wiser. 1 Members of an LLC pay lower taxes than shareholders. Delaware and Connecticut require employers to notify their workers before monitoring emails or internet usage. Had Catherine negotiated the check to Robert? Plurality voting To be elected, a candidate only needs to receive more votes than his opponent, not a majority of the votes cast. A different family business, Banta Properties, managed these three complexes in return for 4 percent of the gross income. What to do? They kissed and caressed each other, showed off their underwear, and poured alcohol down their trousers. WCN 02-200-203 04341_ch31_hr_593-610.indd 597 9/28/17 6:45 AM 598 Unit 7 Property When an insurance company violates the covenant of good faith and fair dealing, it becomes liable for both compensatory and punitive damages. If the auditors do their job properly, they have nothing to fear. T F The WTO settles disputes involving individuals, businesses, or countries. A summons is the court's written notice that a lawsuit has been filed against the defendant. It was irrelevant that the material did not flow downstream. 5 In re Brican Am. LLC Equip. But a parent who cheerfully slaps the winning coach on the back has not committed battery because a reasonable coach would not be offended. Other amendments ensure that the government treats all people equally and that it pays for any property it takes from a citizen. Has the boss violated the law? In that case, Happy Bank would have the first claim to Meredith's inventory since Happy's interest attached first. In other words, proxy access cannot be used to gain control of a company. (d) This is mislaid property, and Bill is entitled to it. Assuming he drowned, was his death an accident or a suicide? A principal is fully disclosed if the third party knows of his existence and his identity. However, if she buys a policy on Nathan's barn, she will not mind—she could be delighted—when fire sweeps through the building. So much food, so cheaply that, in America, one in three adults and one in five children are obese. In other words, members can transfer their right to receive a check from the LLC, but not their right to participate in decision-making. In other cases, an appellate court may remand the case; that is, send it back down to the lower court for a new trial or some other action. The fired workers were more experienced—and older. Both companies desperately wanted to win the contract. CPA QUESTION Which of the following forms of tenancy will be created if a tenant stays in possession of the leased premises without the landlord's consent, after the tenant's one-year written lease expires? How is a court to decide whether the design was defective? Stare decisis ___F. Dan cashed the check at Check Cashing, which deposited the check into its account at Bank. The modern trend is to require a landlord to mitigate damages caused by a tenant who abandons the premises before the lease expires. Federal district court E. In our modern world, sometimes borders are irrelevant. Money can, of course, provide some protection against the inevitable bumps in the road of life. You must accept my offer by standing on a chair in the lunchroom tomorrow and reciting a poem about a cow." Oliver can only accept the offer in the exact manner specified if he wants to form a contract. The job of the auditor, they 5Wagenheim v. The terms make sense if you remember that, when you take money out of your account, you draw it out. The court will enforce their deal, and Lisa must pay the agreed-upon price. WCN 02-200-203 04341_ch04_hr_058-078.indd 61 8/24/17 1:35 PM 62 Unit 1 The Legal Environment E x h i b i t 4 . The car was repossessed, but the financing company continued to demand payment. (c) The disinterested shareholders approved the transaction. The WTO held that no scientific evidence supported the EU's fears, and, therefore, the regulation unduly burdened trade. The evidence is that doctors are influenced by gifts, and, indeed, small gifts are surprisingly influential because the recipients do not make a conscious effort to overcome any bias these tokens may create. Regulates the cleanup of hazardous wastes improperly dumped in the past 2. The investors argued that they were entitled to keep the interest because, as holders in due course, they had taken the note free of the claim against Ward. WCN 02-200-203 04341_ch30_hr_576-592.indd 583 8/28/17 7:46 AM 584 Unit 7 Property fulfill the same functions. Appellate Courts Appellate courts Higher courts, which generally accept the facts provided by trial courts and review the record for legal errors Appellate courts are entirely different from trial courts. Although membership is not widely known, neither the existence of the group nor its composition is a secret. INTERNATIONAL COURT OF JUSTICE (ICJ) The World Court settles international legal disputes among states. FACTUAL CAUSE If an event physically led to the ultimate harm, it is the factual cause. Both shaken and stirred. Even without such an agreement, a shareholder can ask a court to dissolve a close corporation if the other owners behave "oppressively" or "unfairly." EXAMStrategy Question: While working as a plant superintendent at Rodd, Joseph bought stock in the company, which was a close corporation. When Maria realized that her car and her children had

disappeared, she hysterically dialed 911. Is that also a violation? Which of the following is not a good reason? Decision: Yes, Actavis engaged in improper conduct that violated the Sherman Act. But when the United States started criminally prosecuting internet gambling, Antigua's profits plummeted. The outcome in cases like these depends upon the intentions of the two contracting parties. WCN 02-200-203 04341_ch07_hr_121-136.indd 124 8/24/17 11:58 AM Chapter 7 statements were true, but a few were not. Absolutely not. Gender discrimination currently receives “intermediate” Fourteenth Amendment scrutiny. We have all benefited from this doctrine. The stock market crash of 1929 and the Great Depression that followed were caused in part because so many investors blindly put their money into stocks they knew nothing about. If he had argued this point, he might have been released from the contract. Both parties are merchants, and Laura's memo is sufficient to bind her. Does China have the right to impose these restrictions? This forced switch was improper conduct that violated the Sherman Act. • An efficient court system. incurred substantial operating losses for the past three years. It involves three people: the grantor (also called the settlor or donor), who creates and funds it; the trustee, who manages the assets; and the beneficiary, who receives the financial proceeds. It would be much easier, they thought, if some parts of contract law were the same in every state. He woke up the next morning to find that his gold watch, wallet, credit cards, passport, business papers, and camera were gone. Coopers & Lybrand, LLP, 505 Kiobel v. It read: “You will really like having a friend so close that can satisfy you in so many great ways” and had a link to a pornographic website. Supreme Court agreed to hear his case. Someone who makes a gift or creates a trust. A decision may be acceptable even if it is not in keeping with one's own ethics standards. Answer: Ahmad was convicted of transporting hazardous waste in violation of the Resource Conservation and Recovery Act. One of Microsoft's bad acts was to include Internet Explorer in its Windows operating system while making it technically difficult for users to choose a non-Microsoft browser. But the law is not that simple. Daros International, Inc. During negotiations, Daniel and Annie agreed that the interest rate would go down to 5 percent once she had sold 25,000 cases. Workers who favor a union have been using the lunchroom to hand out petitions and urge other drivers to sign authorization cards. Respondeat superior   A principal is liable for certain torts Quid pro quo   A Latin phrase that means “one thing in return victim for the harm suffered. Chapter Conclusion The development of the UCC was an enormous and ambitious undertaking. .” and so forth. The Vermont long-arm statute will not be effective because Raul has not had minimum contacts with the state. Kay signed a promissory note for $220,000 that was payable to Investments, Inc. Coastal's answer is a brief reply to each of the allegations in the complaint. Since Rathke is an intended third party beneficiary, he has the right to sue CCA for breach. Voidable preference → (4) Payment to a creditor immediately before filing Chapter 23 A. Close corporation   A corporation with a small number of Binder   A short document acknowledging receipt of an appli- cation and premium for an insurance policy It indicates that a policy is temporarily in effect. Result: Judith would be better off with a sole proprietorship—her revenues will not support the expenses of a corporation. FTC 777 F.3d 478 United States Court of Appeals for the District of Columbia Circuit, 2015 CASE SUMMARY Facts: Stewart and Lynda Resnick, who owned thousands of acres of pomegranate orchards, formed POM Wonderful, LLC, to make and sell pomegranate juice. He has violated securities laws on insider trading because he has misappropriated information from his wife. In a criminal case, if the jury has any significant doubt at all that Roger stole the computers, it must acquit him. Margie grabs a can full of worms and strolls to the middle of the lake to try her luck, but she slips on the ice and suffers a concussion. WCN 02-200-203 04341_ch24_hr_460-481.indd 466 10/6/17 12:28 PM Chapter 24 Consumer Protection 467 • Are only permitted for future purchases and only if the credit card company provides 45 days' notice to the consumer and permits cancellation of the card. The company was clearly and deliberately appropriating Carson's identity in connection with its name and product. Schmidt's boyfriend, Courtney Haynes, often stayed in Schmidt's apartment. OSHA → (1) A federal statute that ensures safe working conditions Chapter 19 Chapter 15 A. Lewis River lost most of its customers, cut back its production from 275 acres to 45 acres, and destroyed all remaining sod grown from Scott's seeds. If the tenant fails to pay rent on time, the landlord has several remedies. Chapter 11 does not require a trustee. If you were negotiating for Jones and wanted to clarify negotiations without committing your company, how could you do it? But sometimes beneficiaries do not know that their relative had a policy. The person to whom you make out the check is being paid, so she is called the payee. He believed that his and his employees' self-respect was as important as profits. (e) He could be fired for any reason except a bad reason. When the announcement is made on Monday, Hernstrom stock will take off.” Have you violated the law if you buy stock in the company before the announcement on Monday? The decision is valid if the shareholders who do not benefit from it are willing to approve it. The nature of Alzheimer's disease makes patients especially vulnerable to changes in routine, which means that doctors and caregivers are reluctant to change a patient's medication repeatedly. Over 30 states have enacted anti-SLAPP laws to curb this practice. The bias created by a conflict of interest causes unconscious self-serving behavior. Nonetheless, he was liable. Kevin Green was only 16 years old when he bought the car, and a minor, said the court, has the right to cancel any agreement he made, for any reason. In May, the Monroes contract in writing to sell their house to the Temples for $450,000. Colby sued Burnham for his lost expectation interest. and then he got his wind knocked out by his dental bills. (c) The client relied on the false statement. WCN 02-200-203 04341_ch15_hr_278-294.indd 285 9/28/17 9:39 AM 286 Unit 3 Contracts and the UCC money owed. 2 Prudential Insurance Company of America, 598 Pub Zone case, 2, 7–8 analysis example, 8–9 exam strategy example, 9 Public international law, 40 Puffery, 207 Punishment (Eighth Amendment), 108 Punishments (for a corporation) compliance programs, 114 fines, 113–114 Punitive damages in contract cases, 231 for intentional torts, 129 guideposts, 129 Purchase money security interest (PMSI), 302–304, 303e Pure Power Boot Camp, 316 Pure Power case, 316–317, 318 Q Quantum meruit, 185 Quasi-contract, 184, 185–186 Quid pro quo, 360 R Racketeering acts, 112 Rash, Eric, 582 Rationalization, 22 as an ethics trap, 22–23 and executive compensation, 412 fudge factor, 22 the slippery slope, 22–23 for someone else, 22 Rawls, John, 20 Rawlsian justice, 20 Reaffirmation of a debt, 428–429 Real property change in the parties, 549 assignment and sublease, 550 sale of property, 550 components buildings, 539 fixtures, 539 land, 539 plant life, 539 concurrent estates, 539 Copyright 2019 Cengage Learning. The union then asked to examine the company's books, but the company refused. If parties exchange an offer and acceptance, and if there are no problems in any of the five areas presented in this chapter, then a valid contract exists. The injured party, for example the owner of the stolen car, is not in charge of the case, although she may appear as a witness. If riptides have existed for years and the town fails to post a warning, it is liable if Perry drowns. Invitee → (2) Someone who has a legal right to enter upon land Chapter 9 Matching: None Chapter 10 A. In Article I, the Constitution gives this power to the Congress, which is comprised of two chambers—a Senate and a House of Representatives. They promptly notify the Temples they are no longer willing to sell and return the $90,000, with interest. Company accountants deliberately altered the financial statements to pretend that the bricks were indeed computer parts. The food chain is threatened. Takings Clause Prohibits a state from taking private property for public use without just compensation 1In criminal cases, procedural due process also protects against the taking of life. Are you currently using drugs illegally? Starbucks Corp., 347 n. ENDANGERED SPECIES   The Endangered Species Act (ESA) requires the Fish and Wildlife Service (FWS) to list endangered species and then prohibits activities that harm them. Imagine that Total shareholder return The percentage increase in stock price appreciation and dividends Net returns on invested capital The company's return on its capital investments, such as plants and equipment, less the opportunity cost of those investments you have the right to decide how much your next-door neighbor can spend on dinner tonight. When the Camaro blew a gasket and the lad informed Star Chevrolet that he wanted his money back, he was disaffirming the contract, which he could do for any reason at all. She filed suit under Title VII, alleging that the restaurant discriminated against black employees. WCN 02-200-203 04341_ch25_hr_482-500.indd 496 8/28/17 7:20 AM Chapter 25 Environmental Law 497 TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Let's apply these principles to the opening scenario. 1-1b Classifications of Law We have seen where laws come from. At what age? A landlord who fails to do so may owe the tenant damages of two or even three times the deposit. Decision: Yes. LARCENY Larceny is the trespassory taking of personal property with the intent to steal. Even worse, the firm had been caught violating the same rule only a few years before. Fiddy tries again. Our friend in waste management. As a result, the law of real property has been of paramount importance for nearly 1,000 years, developing very gradually to reflect changing conditions. Secretly Dealing with the Principal.   If a principal hires an agent to arrange a transaction, the agent may not become a party to the transaction without the principal's permission. 24-5 CONSUMER PRODUCT SAFETY In 1969, the federal government estimated that consumer products caused 30,000 deaths, 110,000 disabling injuries, and 20 million trips to the doctor. New London did not violate the Takings Clause. 21-6b Right to Information Under the Model Act, shareholders acting in good faith and with a proper purpose have the right to inspect and copy the corporation's minute book, accounting records, and shareholder lists. WCN 02-200-203 04341_ch01_hr_001-014.indd 14 10/6/17 11:41 AM CHAPTER 2 ETHICS AND CORPORATE SOCIAL RESPONSIBILITY Eating is one of life's most fundamental needs and greatest pleasures. b. This is judicial activism. If the actual acreage is 199, he has almost certainly not made a material misstatement. Which of the following employers has violated Title VII? 9Brooks Barnes, “Promoting Nutrition, Disney to Restrict Junk-Food Ads,” The New York Times, June 5, 2012. Strategy: To create a bailment, the bailee must assume physical control with intent to possess. Suppose a newspaper accuses a local retail store of programming its cash registers to overcharge customers, when the store has never done so. Incidental damages cover such costs as advertising for replacements, sending buyers to obtain new goods, and shipping the replacement goods. It is important to remember that the term “privacy” encompasses many topics. T F Under the 1934 Act, accountants are liable for negligent behavior. • Musicians are in effect paid by the hour because they receive additional pay for each 15 minutes that a rehearsal or concert exceeds two and a half hours. 1991). By contrast, a contract for a new Jeep Grand Cherokee is not enforceable by specific performance. PCs are a separate taxable entity not a flow-through organization. By loaning your motorcycle, you engage in a bailment without either party paying compensation. Workplace Bullying.   About 25 percent of employees have been bullied at work. Whom can we blame for identity theft? Although the furniture U.S. Trustee Oversees the administration of bankruptcy law in a region Proof of claim A form stating the name of an unsecured creditor and the amount of the claim against the debtor Automatic stay Prohibits creditors from collecting debts that the bankrupt incurred before the petition was filed 3In Chapter 16 on secured transactions, we discuss the difference between secured and unsecured claims at some length. (e) Did the painter consider herself your employee? If the agent has violated her duty of loyalty, the principal may rescind the transaction. The court held that an employee handbook creates a contract. The debtor has rights in the collateral.1 16-2a Agreement Without an agreement, there can be no security interest. Each branch would act as a check on the power of the other two, avoiding the despotic rule that had come from London. Stock that the company has sold but later bought back is treasury stock. These defenses are difficult to prove, and in most cases, a common carrier is liable for harm to the property. The distinction is important because each type of company has a different level of liability. An accommodation is not reasonable if it would create undue hardship for the employer. OBTAINING CREDIT REPORTS   Under the Fair and Accurate Credit Transactions Act (FACTA), consumers have the right to obtain one free credit report every year from each of the three major reporting agencies. There are several police officers on the carnival grounds, but no officer is in the parking lot at the time of the robbery. EXAM REVIEW Separate Taxable Entity Transferable Interests (Easily Bought and Sold) Personal Liability for Owners Ease of Formation Sole No Proprietorship Yes Very easy No, can only sell entire business No Corporation Yes No Difficult Yes Yes Close Corporation Yes, for C corp; No, for S corp No Difficult Transfer restrictions Yes Perpetual Existence Other Features Protection of minority shareholders. Do you agree with the Supreme Court's decision? If Flow-through tax entity An organization that does not pay income tax on its profits but instead passes them through to its owners who pay personal income tax on all business profits ExSciTe cannot pay its suppliers or a student is injured by an exploding cabbage, Linda is personally liable. Kyle sues. When she gives it to Bart, it is not negotiated because she is the issuer. Sullivan) sued the NYT under Alabama's law on libel per se. Phishing.   In this crime, a fraudster sends a message directing the recipient to enter personal information on a website that is an illegal imitation of a legitimate site. The day before this deadly walk, Rearden had taken out a $35,000 life insurance policy on Wild, naming Coates and Rearden as beneficiaries. The district court dismissed Forestal's claim because the parties' agreement was not in writing. Arson The malicious use of fire or explosives to damage or destroy real estate or personal property 6-2e Hacking During the 2008 presidential campaign, college student David Kernell guessed vice presidential candidate Sarah Palin's email password, accessed her personal email account, and published the content of some of her emails. 13The Florida Star v. The company then granted several new benefits for all workers, including higher wages, paid vacations, and other measures. Increasingly, though, the law holds landlords liable under the normal rules of negligence law. In response, Schmidt insisted on adding him to the lease, and TP agreed. Chapter 13 Consumer reorganization Chapter 13 offers reorganization for the typical individual. children? Clinton responded by saying, “Well, I don't want to make you do anything you don't want to do,” and pulled his pants up. (e) Museum will lose. Competition with the Principal.   Agents are not allowed to compete with their principal in any matter within the scope of the agency business. A federal court has the power to hear: (a) (b) (c) (d) (e) any case. Do the two have a binding contract? In that case, the creditors can elect the trustee, but if they do not choose to do so, the U.S. Trustee appoints one. A public agency should not have to work with parties that it never agreed to hire. 2-1b Why Be Ethical? United States 135 S.Ct. 2001 United States Supreme Court, 2015 CASE SUMMARY Facts: On Facebook, Anthony Elonis often posted violent rap lyrics targeted at his ex-wife and others. Stare decisis means “let the decision stand.” It is the essence of the common law. & Cnty. Stock The charter must also provide information about the company's stock: Par Value.   Par value does not relate to market value; it is usually some nominal figure such as 1¢ or $1 per share, or it is possible to choose no par value for stock. A worker on a moving assembly line has no right to walk away from his task to talk with other employees about organizing a union. It spends considerable time and effort recruiting the best personnel from India's leading technical schools. If the parties want to be governed by other law, their contract must state clearly that they exclude the CISG and elect another country's law. Shawe v. Too many times, people make the wrong, and sometimes the illegal, decision for financial reasons. Bien, 881 S.W.2d 843 (Tex. Trinko, LLP, 540 U.S. 398 (S. Check The most common form of a draft; it is an order telling a bank to pay money. For example, the lower court could prohibit King from working within two miles of the Head Start facility where she previously worked, or some variation on that idea. ADVERSE POSSESSION   Adverse possession permits the user of land to gain title if he can prove entry and exclusive possession, open and notorious possession, a claim adverse to the owner, and continuous possession for the required statutory period. But it certainly matters to Producer which actor shows up to do the filming. You are Jenny's lawyer. CHAPTER 16 1. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. Bruno notifies Lydia of the assignment. Anyone in possession of an instrument if it is indorsed to her ___ E. AMBIGUITY   Any ambiguity in a contract is interpreted against the party that drafted the agreement. • Society as a whole benefits from ethical behavior. The purpose was to prevent lying (fraud) in civil lawsuits. The Committee, the board, and 50.9 percent of the other shareholders voted in favor of the sale. If, for example, a terrorist attack halted air travel, Artist might not be able to appear on set as scheduled. Atlas operated warehouses that stored food for grocery stores. Nonetheless, the SEC sought to clawback some of his earnings during this period. Required level of care in a bailment made for the sole benefit of the bailor TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Jackson argued that the misrepresentation was not material because the insurance company would have issued the policy no matter how he answered that question. If City hires Builder to construct a subway system, state law may prohibit Builder from delegating his duties to Subcontractor. Preponderance of the evidence   The standard of proof Public disclosure of private facts   A tort providing redress to victims of unauthorized and embarrassing disclosures. Soon after she returns home, she decides the painting is ugly, calls Raul, and demands a refund. What are the limits to free speech on social media? Decision: Yes, he had a right to the jewels. Our goal is to write a business law text like no other—a book that is authoritative, realistic, and yet a pleasure to read. But he also revealed a secret few people knew— he was in the early stages of Parkinson's, a neurological disorder that affects the patient's ability to move. Misappropriation Under §10(b) of the 1934 Act, it is illegal for anyone: • With material, nonpublic information • To breach a fiduciary duty to the source of the information • By revealing or trading on the information. Will Kelly prevail? The PCAOB regulates public accounting firms. But the Supreme Court reversed the conviction. Producer has the right to assign the contract, but he must stay secondarily liable on it. 13. Turman offered evidence that its failure to return the deposit was inadvertent and that it had procedures reasonably designed to avoid such errors. WCN 02-200-203 04341_ch23_hr_439-459.indd 443 8/28/17 7:11 AM Unit 6 444 Government Regulation The 1934 Act requires public companies to file the following documents: • Annual reports on Form 10-K, containing audited financial statements, a detailed analysis of the company's performance, and information about officers and directors. Daniel and Annie signed a contract providing that Daniel would lend $50,000 to Annie's craft beer business at an interest rate of 8 percent. Result: Goods means anything movable, and a Porsche surely qualifies. Stock that the company has sold but later bought back ___ C. LEXIS 143030; 2013 WL 5486829 United States District Court for the Northern District of Georgia, 2013 CASE SUMMARY Facts: At a countywide internet safety seminar, Curtis Decision: No, Chaney did not have a reasonable expecta- Issue: Did Chaney have a reasonable expectation of privacy in her bikini Facebook picture? WCN 02-200-203 04341_em_cases_hr_T1-T4.indd 1 10/6/17 12:34 PM T2 TA B L E O F CAS E S H L Harris v. Jones verbally accepted Quake's bid to work on the project and promised that Quake would receive a written contract soon. 5-3 Adversary system A system based on the assumption that if two sides present their best case before a neutral party, the truth will be established TRIAL Our system of justice assumes that the best way to bring out the truth is for the two contesting sides to present the strongest case possible to a neutral fact finder. Executive power is the authority to enforce laws. The Supreme Court granted certiorari. Did Salman engage in illegal insider trading? In contrast, a corporation is a taxable entity, which means it must pay income taxes on its profits and also file a tax return. 24-3e Electronic Fund Transfers Preauthorized transfer Electronic fund transfer authorized in advance to recur at regular intervals The Electronic Fund Transfer Act (EFTA) protects consumers who make electronic payments using a telephone, computer, or wire transfers. Joseph Felice ran a website that listed “Top Ten Dumb Asses.” Vogel and Grannis earned the honor of being number 1 and 2 on that list. Who owns the violin? Super. About a dozen states have enacted data disposal laws, which mandate that businesses destroy customer data and maintain reasonable security procedures to guard against theft. Before a plaintiff can bring suit under one of these statutes (except the Equal Pay Act), she must first file a charge with the EEOC. And most people agree that certain activities such as murder, assault, and fraud are wrong. Those suing in quasi-contract must show that the defendant received a benefit for which it should reasonably expect to pay. Offeree → (3) A party that receives an offer E. During a union organizing campaign, an employer may vigorously present anti-union views to its employees, but it may not use threats or rewards to defeat the union effort. A plaintiff forbears if he agrees not to do something he had a legal right to do. ATTACHMENT   Attachment means that (1) the two parties made a security agreement and either the debtor has authenticated a security agreement describing the collateral or the secured party has obtained possession, (2) the secured party gave value in order to get the security agreement, and (3) the debtor has rights in the collateral. If it is unreasonable, what might a court do? If you develop these Life Principles now, you will be prepared when facing ethics dilemmas in the future. However, when the words or conduct of the parties establish an implied contract, the employee is no longer at-will. Daniell v. The Code's answer: It does not matter. Dannemann Assoc, Inc., 1995 Del. A finance company violated TILA when it loaned money to Dorothy Allen. It denies his claim. When The Sopranos became a hit television show, Baer sued Chase. He is convinced he did nothing wrong and wants to tell his side of the story, but Dean Holmes refuses to speak with him. Access was difficult, so Omega contracted with Union Pacific Railroad (UP) for the right to use a private road that crossed UP property and tracks. (d) win a case of negligence. Diane walks down a hill to fetch fresh water. They must have known Harmon would rely on Wayne's word. Comparative negligence   A plaintiff may generally recover even if she is partially responsible. Since the land was a protected coastal buffer zone, the law prohibited its development. Any manner that shows agreement. The point of an integration clause is to prevent either side from later claiming that the two parties had agreed to additional provisions. Business liability policies may also protect against other sorts of claims: • Professional malpractice protects accountants, architects, doctors, engineers, or lawyers against claims of wrongdoing. 24-2b Unfair Practices The FTC Act also prohibits unfair acts or practices. Head Start filed suit, claiming that King was violating the noncompetition agreement that she had signed. There is no evidence that the parties agreed on how much Chase would pay Baer, or when or for what period. However, employers now often require new hires to agree in advance to arbitrate, not litigate, any future employment claims. Damages 7-2a Compensatory Damages Mitchel Bien, a deaf mute, enters the George Grubbs Nissan dealership, where folks sell cars aggressively. T F Benefit corporations are nonprofits. TITLE VII Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating on the basis of race, color, religion, sex, or national origin. Regrettably, the pub failed to enforce the rule. Uniform Commercial Code Business methods changed quickly during the first half of the twentieth century. Apart from the NFL's legal rights, do you think it had the moral right to stop the bars from broadcasting the games? The delicatessen could simply serve whoever pushes to the front of the line, or it could establish a number system to ensure that the most deserving customers are served first. He sued both his parents under a theory of quasi-contract. Is enforcing the promise the only way to avoid injustice? EXAMStrategy Question: When Rachel is walking her dog, Bozo, she watches a skydiver float to earth. Is Regulation Crowdfunding a good idea? But most states still use the classifications outlined above. (b) Even people who do not believe in God are more likely to behave honestly after reading the Ten Commandments. Exposure to toxins or trauma may lead to serious medical problems down the road—or it may not. What protections does the law provide? Takings Clause ___E. Questions 1. Under the Fair Credit Reporting Act (FCRA): • A consumer report can be used only for a legitimate business need. Oregon filed suit against Coopers, seeking as damages the difference between what Oregon actually received for its stock and what it would have received if the offering had occurred on May 2—an amount equal to approximately $35 million. Reasoning: To determine if Rathke was an intended beneficiary, we must look to the state of Alaska's intention in entering the prison contract: Did the state intend to give its prisoners the benefit of CCA's performance? Offeree   The party in contract negotiations who receives the first offer. 27-1 PATENTS A patent is a grant by the government permitting the inventor exclusive use of an invention for a certain time period. 3d 7 (App. ATM cards withdraw cash from a bank account. No one did anything to protect that boy or other children until after Father Liberatore pleaded guilty to multiple counts of sexual abuse. Agents have a fiduciary duty to their principals. Despite the fashion industry's efforts to change the law, only the nonfunctional elements of clothing, such as prints and patterns, are protectable. Neither Contract nor Gift: Lou: You're a great guy. The contract stated: “Whatever company, partnership, or corporation that Wilkerson may form for the purpose of manufacturing shall succeed Wilkerson and exercise the rights and assume all of Wilkerson's obligations as fixed by this contract.” Two months later, Wilkerson formed Auto-Soler Co. Ajouelo entered into a new contract with Auto-Soler providing that the company was liable for Wilkerson's obligations under the old contract. Martha signs up for a dinner cruise on a large commercial yacht. for $88,000, payable in one month. (b) Only II (c) Only I (d) None of these are true. The contract has both express and implied terms. Liability insurance   Reimburses the insured for any liability she incurs by accidentally harming someone else. 2 Rodriguez v. Fastball could be liable for refusing to pay this legitimate claim. 153 P.3d 303 Alaska Supreme Court, 2007 CASE SUMMARY Facts: The state of Alaska entered into a contract with Corrections Corporation of America (CCA), a private company, to house Alaska's inmates in CCA prisons located in Arizona. The enterprise should probably be both a close corporation and an S corp. If the insurer has underpaid for lost income, let the court award a fair sum. Winstar demanded that the partner in charge of its audit be replaced and also threatened to fire GT. He wrote: Discovery and invention have made it possible for the Government, by means far more effective than stretching upon the rack, to obtain disclosure of what is whispered in the closet. Attorneys' Fees As a general rule, if parties to a contract end up in litigation, they must pay their own legal fees. Gorilla Man, on the other hand, is a separate product from Casablanca. Congress considered a bill that would permit a bankruptcy judge to adjust the terms of mortgages to aid debtors in holding onto their houses. A jury awarded Lewis River $1,026,800, largely for lost profits. For that matter, why should a jury even try? A consumer pays for a refrigerator by giving the store a promissory note. After receiving his B.A. from Sarah Lawrence and his J.D. from Boston University, he practiced with the Greater Boston Legal Services representing indigent clients. Many states use the Model Act as a guide, although Delaware does not. Now ask what provision of the Constitution is involved and what legal standard it establishes. Issues: Was GT liable to Winstar investors? An insurance company does not violate its covenant of good faith and fair dealing if it: (a) charges elderly customers higher premiums than it charges younger customers. If the Environmental Protection Agency (EPA), a part of the federal government, orders Logging Company not to cut in a particular forest, and Logging Company claims that the agency has wrongly deprived it of its property, that suit is based on a federal statute (a law passed by Congress) and is thus a federal question. Pay for service plans   The insurer pays for whatever treat- ments a doctor orders. Gobroke's security interest is a PMSI, so the interest has perfected automatically. Suppose a pedestrian is walking along a sidewalk when an air conditioning unit falls on his head from a thirdstory window. T F The possessor of a piece of commercial paper always has an unconditional right to be paid. In the end, the contract will be more beneficial to everyone if the parties' relationship is harmonious. How do we know if these are acceptable uses? Tobias is selling a surrealist painting. Certainly, there is no clear and convincing evidence that both parties were mistaken about what the document actually said. In re Fred Hawes Org., Inc., 957 F.2d 239, 1992 U.S. App. Is this reasonable? Strategy: Normally, in cases of property, an injured plaintiff may use specific per- formance to obtain the land or house. Shareholder model ___B. The rule is intricate, but it may be summarized this way: • For the sale of goods, the most important factor is whether the parties believe they have a binding agreement. However, Little Factory still wins its lawsuit. Both were prosecuted for insider trading. The credit union had published the following notice in its newsletter: If you are thinking about filing bankruptcy, THINK about the long-term implications. Whose argument will win? In addition to the compensatory damages described, the jury awarded $5 million in punitive damages. Now, if the owner knows that Loco designed the house, she has committed the first element of fraud. A private high school is not part of the government, and Jenna has no constitutional case. Gibbs v. A handful of states have passed laws allowing driverless technology on the road. T F A creditor is not permitted to force a debtor into bankruptcy. Without such a record, his reliance claim becomes a tough battle. Delaware Harness Racing Commission, 184–185 Hawkins v. Gift A voluntary transfer of property from one person to another, without consideration Donor A person who gives property away Donee A person who receives a gift of property Intention to Transfer Ownership The donor must intend to transfer ownership to the property right away, immediately giving up all control of the item. Stunned, Chaz goes to a friend's place where he can crash for a few days. 2-1a Ethics in Business Nobel Prize-winning economist Milton Friedman famously argued that a corporate manager's primary responsibility is to the owners of the organization, that is, to shareholders. • Due dates must be set for the same time each month and occur at the end of a business day. Fitzgerald visited the apartment with his top aide, Patricia McDermott. What kind of mistake did the cruise line make? She had been unemployed for a decade and was living on Social Security disability income payments. Patent Patents give inventors the right to prevent others from making, using, or selling their inventions for a limited time. Alternatively, in Canada, France, Germany, Great Britain, and Japan, employers must show just cause before terminating workers. The UCC establishes that the seller may create an express warranty in three ways: (1) with an affirmation of fact or a promise, (2) with a description of the goods, 7UCC §2-705. DISABILITY   Under the Americans with Disabilities Act, an employer may not refuse to hire or promote a disabled person as long as she can, with reasonable accommodation, perform the essential functions of the job. Thousands of private offerings take place each year, in contrast to only about 150 IPOs. Copyright 2019 Cengage Learning. JOINT AND SEVERAL LIABILITY   Under the 1934 Act, accountants are liable jointly and severally only if they knowingly violate the law. Circumstances That Prevent Debts from Being Discharged The Code also prohibits the discharge of debts under the following circumstances: • Business organizations. The discharged party has no obligation to perform and may sue for damages. Because Horning Construction LLC did not have an operating agreement that provided for a buyout, it had to depend upon the LLC statute, which only permitted dissolution “whenever it is not Copyright 2019 Cengage Learning. Is the Postal Service in violation of the law? 10-2a Promissory Estoppel A fierce fire swept through Dana and Derek Andreason's house in Utah, seriously damaging it. Rich Stewart quickly makes a new offer: $350,000. In another Ariely experiment, participants took math tests in two rounds. But no person constitutionally ineligible to the office of President shall be eligible to that of the Vice-President of the United States. T F The government may not prohibit a political rally, but it may restrict when and where the demonstrators meet. They are no longer attractive or useful for recreational purposes. Consumer Sells 1 Stereo The Store PMSI 2 $ $ Sells The Store Pays money Stereo Consumer Loans money Bank PMSI Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ch22_hr_420-438.indd 435 8/26/17 11:29 AM 436 Unit 5 The Lifecycle of a Business 4. As if to emphasize this point, a Delaware court recently decided that a court can, if necessary to avoid an unfair result, overrule both the state LLC statute and any operating agreement.6 Members of an LLC may find themselves in the unhappy position of litigating issues of law which, although well established for corporations, are not yet clear for LLCs. 20-3i Choices: LLC versus Corporation When starting a business, which form makes the most sense—LLC or corporation? Also, on October 14, Buckeye deposited the check with its bank, believing that the check would reach Sheth's bank on October 15. Early on, they promised to share any lottery winnings equally. (e) Every five years, the lead audit partner must rotate off an audit account. Typically, the buyer places an order by using a pre-printed form, and the seller acknowledges with its own pre-printed acceptance form. BAILOR'S RESPONSIBILITY   The bailor must keep the property in suitable repair, free of any hidden defects. The company fired him. • Finally, wiretap laws only protect speakers with a reasonable expectation of privacy in the conversation. It stands to reason: If no one else receives the defamatory message, there is no harm done. Darby has also been known to return online purchases through the Holden mailroom on the company dime. Fraud permits the injured party to cancel. DAMAGES   The plaintiff must persuade the court that he has suffered a harm that is genuine, not speculative. Then the recession hit, and people cut back on nonessentials like flowers. Rich works hard to establish a friendly rapport with the jury. What if she lies? The words were ambiguous, but they did not contradict the numbers. Prohibiting a low-wage sandwich-maker with no company secrets from working at any of them is an unfair burden. WCN 02-200-203 04341_ch02_hr_015-038.indd 36 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 37 DISCUSSION QUESTIONS 1. Material → (1) A type of breach that substantially harms the innocent party C. Shelby wrote this check to Dana. (a) (b) (c) (d) (e) Dentistry Hang gliding Parking lot Public transportation Accounting 2. Common law 3. 22-4c Discharge Once confirmed, a plan is binding on all creditors whether they like it or not. Many of the laws that apply to the digital world were written in the time before the internet was part of our daily lives. Later, Dolly discovered there had been nothing wrong with her system and Chuck had never worked for Hot Air. The one who delivers the goods is the bailor, and the one in possession is the bailee. Agents can neither disclose nor use for their own benefit any confidential information they acquire during their agency. In this way, a standard form contract can be used in different deals without worrying about whether the names of the parties are correct throughout the document. Who will be responsible for bringing the criminal case? Separation of Powers One method of limiting power was to create a national government divided into three branches, each independent and equal. Before the Department of Agriculture issued regulations on genetically modified beets, what steps did it need to take under the environmental statutes? If the bailment is for the sole benefit of the bailee, the bailee is required to use extraordinary care with the property. NLRB 822 F3d 563 United States Court of Appeals for the District of Columbia Circuit, 2016 Facts: The orchestra in Lancaster, Pennsylvania hired musicians to play about four classical music concerts each year. True impossibility means that something has happened making it utterly impossible to do what the promisor said he would do. FDCPA ___ C. If Gene says, “I accept your offer,” then he has indeed accepted, but there is no need to be so formal. Petition.   If a union obtains authorization cards from at least 30 percent of workers, it can then petition the NLRB for an election. Can I sue for fraud?” No. The promises we made were mere puffery. Second, selling below cost is not necessarily irrational. Hammer, a contractor, is building a house and hires Spot as his painter, including in his contract a clause prohibiting delegation. Must be in writing to be enforceable. What is the rule concerning a bystander's obligation to act? The Lakers sue. It takes two weeks for the right parts to be delivered and installed. This provision is important because, if it was not true, Producer would either have to obtain a waiver or pay a substantial penalty. 2d 333 United States District Court for the District of Delaware, 2013 Facts: Hercules Offshore, Inc., provided drilling services to the oil and natural gas industry. • Agency at will. II. DOOR-TO-DOOR RULES   A salesperson is required to notify the buyer that she has the right to cancel the transaction prior to midnight of the third business day thereafter. Make the most of your time by learning your way. Scott & Sons, 120 Wash. If they reduced this expenditure to $625, they would have more money available to pay their student loans. Beneficiary ___ E. TPG executives called the feud the “biggest business issue” facing the company. When a joint tenant dies, his interest in the property passes to the surviving joint tenants. WCN 02-200-203 04341_gls_hr_G1-G14.indd 12 9/28/17 7:30 AM G13 G lo s s a ry W Written consent   A signed document that takes the place of a shareholders' or directors' meeting. CONSTRUCTIVE EVICTION   A landlord may be liable for constructive eviction if he substantially interferes with the tenant's use and enjoyment of the premises. Imagine you are eating at a fast-food restaurant when your tooth suddenly and painfully cracks as a result of a piece of bone in your hamburger. Also, you can google “bapcpa means test” and then click on the Department of Justice website. Their use has been open and notorious, allowing anyone who claimed ownership to take steps to eject them from the property. That is, she must be able to understand what a will is, more or less what she owns, who her relatives are, and how she is disposing of her property. Eric has a right to a jury trial because the sentence could be six months or longer. If he were to die, all his heirs would benefit tremendously from the money that they inherited from him, including a disabled grandchild who then could afford medical care that would improve his life dramatically. Four of them posted negative comments about Lydia. But Bonnie breaks her word—she quits her job and immediately takes a job with a competitor. These profit margins might have triggered a duty to perform a more careful audit but they did not create an obligation to review the Chinese filings. Two weeks later, the promotion committee voted against Jacobson, and the offer was rescinded. On the other hand, we have had laws that we now clearly regard as immoral. RIGHT TO A LAWYER   The Sixth Amendment guarantees criminal defendants the right to a lawyer. As you can see, some of the goals conflict—both Artist and Producer want control over the final product. ETHICS Sophia negotiated a contract with Pete under which she would buy his company for $10 million plus the amount of the company's outstanding debt (approximately $1 million). A testator must comply with the legal requirements for executing a will: • It must be in writing. Decanting   Pouring the assets out of one trust into another. Amendment XV [1870]. Ken is guilty of misappropriation. Part of the problem is that many of us have an optimism bias: We are overly confident in predicting our own success. Senate investigators found that executives at JPMorgan Chase lied to investors and the public. His boss granted only two weeks. TeleTech Customer Care Mgmt. Most government agencies are created by Congress. Should the court allow him to do so? WCN 02-200-203 04341_ch15_hr_278-294.indd 278 9/28/17 9:39 AM C h a p t e r 15 Negotiable Instruments 279 Let's take the rent check first. Essential Clauses in International Contracts International business brings great reward, but also carries significant risks. If a species becomes extinct, we are left to speculate forever on what we might have learned or how we might have benefited. • Remedies. Under §2-207, an acceptance that adds or alters terms will often create a contract. If the trial court made an error of law, the appeal court may require a new trial. An adverse decision means that Edo was worse off because of a bad credit report. 4Tara Siegel Bernard, “An $18 Million Lesson in Handling Credit Report Errors,” The New York Times, August 2, 2013. He need not even speak. Industry observers have asked: Are auditors in fact doing all the work they are supposed to? • No contractual relation. FRAUD   Fraud means deception for the purpose of obtaining money or property. The president orders Congress to pass a bill on an expedited schedule. If, however, it was ordinary negligence, then we must continue the analysis. Testamentary Trust A testamentary trust is created by a will. In the body of the text, again in the end-of-chapter review, and also in the Instructor's Manual, we present a typical exam question. Increasing quantity. The company employed more than the usual number of quality inspectors, and its safety record was the best in the entire industry. 2In some circumstances, debtors with income higher than this amount may still be eligible to file under Chapter 7, but the formula is highly complex and more than most readers want to know. The insurer should now pay for the full harm it has wrought. What the Founders created was federalism: a double-layered system of government, with the national government and state governments each exercising important but limited powers. In the United States, most states have adopted the Uniform Foreign Money Judgments Recognition Act. Sharp, Payne, and Graves form a partnership, all the partners will be personally liable when Dr. Payne accidentally leaves her scalpel inside a patient. Said Disney chairman, Robert Iger, “Companies in a position to help with solutions to childhood obesity should do just that.”9 This decision caused Disney to lose revenue, but also enhanced its reputation, at least with parents, who increasingly seek healthy food options for their children. The death of a promisor in a personal services contract discharges an agreement. 2UCC §9-204 and §9-203. Her interrogatories ask for every fact Coastal relied on in denying the claim. He sued Ryder. GT warned that these transactions were wrong, but ultimately issued an unqualified audit opinion. The plaintiff must hope for more “creative” relief. The insurance company issues a binder to him the same day. After reviewing Color-Dyne's audited financial statements, the plaintiffs pro- vided materials to the company on credit. Section 6.   This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission. Environmental groups filed suit, asking that the Navy prepare an EIS. She buys 1,000 tons from Maureen at $25 per ton and then is forced to pay Walter $5,000 to haul the sand to her resort. 31-3b Life Insurance Life insurance is really death insurance—it provides for payments to a beneficiary upon the death of the insured. WCN 02-200-203 04341_ch19_hr_356-376.indd 367 8/26/17 10:26 AM 368 Unit 4 Agency and Employment Law Note, however, that insurance companies may seek the results of genetic testing before issuing disability, life, or long-term care policies. T F The number of acres of wetlands in the United States has remained roughly constant over the past decade. (b) The court must appoint a trustee to manage Decal's affairs. CPA QUESTION A voluntary petition filed under the liquidation provisions of Chapter 7 of the federal Bankruptcy Code: (a) is not available to a corporation unless it has previously filed a petition under the reorganization provisions of Chapter 11 of the Code. CHAPTER 8 1. Catholic schools may, if they choose, refuse to hire non-Catholic teachers; clothing companies may refuse to hire men to model women's attire. The type of harm is too bizarre. Certain kinds of trickery and force can prevent the formation of a contract. The boats are extremely close in use and function. Under his will, his daughter inherits all, and a court would undoubtedly enforce that will, despite all the evidence about the man's real wishes. Implied contract ___B. Did the CISG govern the dealings between Chateau and Sabate USA? WCN 02-200-203 04341_ch10_hr_177-197.indd 196 10/6/17 11:47 AM C h a p t e r 10 Forming a Contract 197 5. The fact that the employer's policy prohibits talking on a cell phone while driving does not protect the company from liability if an employee violates that policy. Further, GECC made a sweetheart sale back to the manufacturer, leaving the Danneman's with a substantial deficiency. He may state that he now fears shopping, suffers nightmares, and seldom socializes. Marvin works at Sally's. Baer argues that the courts should make an exception to the principle of definiteness when the agreement concerns an “idea submission.” The problem with his contention is that there is not the slightest support for it in the law. Critics attacked this rule as unreasonable. Were they? It also established personal grooming requirements. How should I do it? The law of defamation, discussed in Chapter 7, applies online. Under FOIA, individuals and businesses can request government records about agencies and themselves. Dacor sued Sierra and won its full costs. What is the rationale behind a statute that requires triple damages? (d) The greenhouse is a fixture and is part of the real property. In determining if information is a trade secret, courts consider: • How difficult (and expensive) was the information to obtain? What more can we do? If an agency relationship is not working out, the courts will not force the agent and principal to stay together. States with large populations (Texas, California, Florida) send dozens of representatives to the House, while sparsely populated states (Wyoming, North Dakota, Delaware) send only one. Johnson stand because it is precedent, or should the justices take a “fresh look” at the issue of flag burning? Adam delivers the deed to Maggie and expects his money a week later, but Maggie fails to pay. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office. Has the government denied Kabrina all beneficial use? The trial court ruled that there had been no meeting of the minds and hence no contract. People are born with wildly different talents into very different circumstances, all of which dramatically affect their outcomes. So what can we do? Someone who is injured by a defective product may have claims in both negligence and strict liability. Zach must give the buyer a written notice of her rights. Then again, we may be driving safer cars. When sold by an appliance store b. They are not statements of fact because most of them could not be proven true or false. Other people's shoes may not be a good fit. Only debtor can propose a plan. In the absence of a specific legal exception, the rule in the United States is that an employee at will can be fired for any reason. It is easier to teach students when they come to class curious and excited. Mark Twain died in 1910, so anyone may now publish Tom Sawyer without permission and without paying a copyright fee. Hackett clearly had a conflict of interest, which she did not disclose to Logan before he helped Francis execute the documents. When Sam wrote checks, Piggy sold them to Wolfe. • Offer. However, if the tenant was withholding rent because of unlivable conditions, the court may refuse to evict. Nelson (U.S. S. Pain and suffering are not relevant. The Department of Education is called the payee because it expects to be paid. Under the UCC, a contract may be enforced even though some contract terms are missing or left to be agreed Copyright 2019 Cengage Learning. (d) Museum will win provided that it was not Sue Ellen's fault she was late. The consideration that the owner pays under the policy. Motion to Dismiss Motion A formal request to the court that it take some step or issue some order Motion to dismiss A request that the court terminate a case because the law does not offer a legal remedy for the plaintiff's problem A party can ask the court for a judgment based simply on the pleadings themselves, by filing a motion to dismiss. Larceny The trespassory taking of personal property with the intent to steal it 6-2b Embezzlement This crime also involves illegally obtaining property, but with one big difference: The culprit begins with legal possession. And only in a criminal case can a defendant be found guilty. Garret, like many debtors, would have preferred to wash his hands of his debt, but the law is not so obliging. Reasoning: To win, Gatter must show that (1) she suffered severe or pervasive intentional discrimination (2) that harmed her and (3) would have harmed any reasonable person. Even someone who was a stranger to this transaction could safely figure out the amount of the check. We begin our examination of landlord–tenant law with an analysis of the different types of tenancy. A secretary who stamps an executive's signature on a letter fulfills this requirement. The two men invited Pure Power's clients to a cocktail party to announce Warrior Fitness's launch. LEXIS 10197 (E.D. Pa. 1990). Despite his son's guilt, Thomas Wierdsma pressured his daughter-in-law to drop the charges and delete photos of her injuries from her Facebook page. Within three days of hiring a worker, the employer must complete an I-9 form, documenting each worker's eligibility. The lawyers for the two sides, called solicitors, do not go into court. A business owner generally has no duty to protect a customer from acts of a third party unless experience suggests that there is danger. Most states require that individuals use the same name on a financing statement that is on their 3UCC §9-502(a). Two months later, Diminishing borrows $100 million from Second Bank, which takes a security interest in the same collateral and also files. Has Staats's employer violated public policy? When Murphy presented the shares to Kenney's broker to transfer ownership to her, the broker refused because Kenney had never endorsed the shares as the law requires—that is, signed them over to Murphy. When security eventually arrived, the free-for-all had ended . . . The delighted coworker agrees. Individuals, businesses, and governments alike are vulnerable to cyberattacks. Assignment   Process under which the original tenant transfers all of his rights and duties to a new tenant. In addition, an LLC should have an operating agreement that sets out the rights and obligations of the members. LEXIS 28350 (9th Cir. He must also prove that the statement caused injury. Was Sony's representation an enforceable express warranty? WCN 02-200-203 04341_ch08_hr_137-155.indd 137 9/28/17 7:17 AM 138 Unit 2 Torts These are all practical questions and moral ones as well. It does require the seller to disclose: • The terms of any written warranty in simple, understandable language. government. (a) Designation of the parties as buyer and seller (b) Delivery terms (c) Quantity of the goods (d) Warranties to be made Strategy: The question illustrates two basic points of UCC law: First, the Code allows a great deal of flexibility in the formation of contracts. LEXIS 123065; 2010 WL 4811912 United States District Court for the Southern District of Florida, 2010 CASE SUMMARY Facts: The Burger King Corporation would not allow franchisees to have it their way. Unaware that the Term Loan was unrelated to the Synthetic Loan, the lawyers mistakenly prepared the documentation to terminate the security interests for them both and sent it to the parties for approval. Social enterprises   These organizations pledge to behave in a socially responsible manner. • Most Favored Nation. For an accountant to be liable to a client for conducting an audit improperly, the accountant must have: (a) acted with intent. • Climate change. Appx. Although Hawes was supposed to pay its bills within 30 days, it had, in fact, made no payments for four months and then promptly made a large one just before it filed for bankruptcy. That ratio looked wrong. Generally, tenants may be fined, but not evicted, for violating lease covenants. The producer is now bound to pay Gloria $2 million, and Gloria is obligated to show up on time and act in the movie. Griffin did not believe the transaction was honest in fact. Her only job transfer involved a minor change in working conditions, with no reduction in pay or benefits. Ethics Many companies post their parking policies on the internet, often including a disclaimer stating that use of their facility creates no bailment or liability. Evan's mother is a partner in the McBain Consulting firm. LEXIS 1216 (Ga. App. Is Johnny liable? Argument for the United States: The government had a clear policy stating that recruiters were not authorized to drive a government car without first requesting permission. Bi-Economy immediately filed a claim with Harleysville, but the insurer responded slowly. 19-5b Relationship with a Disabled Person An employer may not discriminate against someone because of his relationship with a disabled person. Under Delaware law, a purchase offer from a controlling shareholder had to be approved by a committee of the independent members of the company's board (the Committee) and also by the other shareholders. In one recent year, only 0.2 percent of directors failed to get majority support. PMSI   A purchase money security interest is one taken by the person who sells the collateral or advances money so the debtor can buy the collateral. Citicorp rewarded Heidi Wilson's good work with a promotion to manager but neglected to include a raise or even a bonus. The dealer in the following case was sleazy, but did it violate the ECOA? TRUTH IN LENDING ACT (TILA)   In all loans regulated by TILA, the lender must disclose information clearly. The court held that the CISG applied and it did not require a writing. T F The same states must be named in the Choice of Law and Choice of Forum provisions. Informed Decision The duty of care requires managers to make an informed decision—that is, with the care that an ordinarily prudent person would take in a similar situation. Explain the different burdens of proof in the two cases. After being sued by environmental groups, the FWS agreed to make a decision on all the backlogged species by 2018. This was an experienced, objective lawyer who had no prior relationship with either Hackett or Francis. But Copyright 2019 Cengage Learning. Every year, thousands of buildings are burned as owners try to extricate themselves from financial difficulties. Courts assumed that gender nonconformity was a personal choice, rather than a characteristic. Under the mailbox rule, acceptances are effective upon dispatch. If either Browning or Poirier had won the lottery that first year after their vow to share, the agreement would have been fully performed. Offeree ___D. United States v. The other party, however, has no such right. See Estate planning William the Conqueror, 42 Wills children's share/per stirpes or per capita, 582 digital assets, 582–583 Wilson, Heidi, 357 Wire fraud, 109 Wiretap Act, 163 Workers' compensation statutes, 346 Workplace freedom and safety, 342 employee data, 345 guns, 345–346 Copyright 2019 Cengage Learning. He: I. What can you do to prevent mistakes? Invitee 4. A book deliberately placed on a bus seat by an owner who forgets to take it with her is mislaid property. They also repelled trespassers, posted the land, and padlocked the cottage. Shortly after buying a recliner chair on credit from Holiday Furniture, the Jacksons filed for bankruptcy. How did the company acquire or maintain its control? After BSC fired Carnero, he sued in the United States, claiming that the company terminated him for blowing the whistle on its accounting fraud. After he opens the doors of his new business, most of his former clients come with him. Statute   A law passed by Congress or by a state legislature. UNILATERAL AND BILATERAL CONTRACTS   In bilateral contracts, the parties exchange promises. The trial court, on the other hand, must decide facts: Was this defendant able to see what was happening? After it receives a filing, the EEOC conducts an investigation and also attempts to mediate the dispute. Should auditing firms be prohibited from performing any consulting services for companies that they audit? Also, NAFTA provides American consumers with more, and cheaper, products. California, for example, requires “reasonable care” as to all people on the owner's property, regardless of how or why they got there. APPEALS Jury selection Opening statements Plaintiff's case Defendant's case Closing argument Judge's instructions Deliberation Verdict Affirm Modify Reverse Remand 5-5 LTERNATIVE DISPUTE A RESOLUTION As we have seen in the previous section, trials can be trying. The trial judge ruled in favor of Pub Zone, but in the appellate decision we are reading, Kuehn won. of the City Sch. But when people were allowed to grade their own tests without anyone checking the results, all of a sudden they began averaging six correct answers. T F Auditors are liable under the 1933 Act only if they intentionally misrepresent financial statements. The Supreme Court held that it was unconstitutional to prohibit the publication of truthful and legitimately obtained information about an issue of legitimate public interest such as crime.13 • The disclosure is highly offensive to a reasonable person. You Be the Judge: Is the list of members in a LinkedIn group a trade secret? Of course not; it would be absurd to give her a magnificent house for free when it has only tiny defects. The agency agreement also terminates if either the principal or the agent becomes unable to perform his required duties. Termination. Hazardous Wastes Walmart paid $82 million to settle claims that it had illegally disposed of hazardous wastes. All co-tenants have an absolute right to partition. • If you report the loss before anyone uses your card, you are not liable for any unauthorized withdrawals. The minister sued fallwell.com, alleging a violation of trademark law. Waste disposal continues to be a major problem in the United States. It may order compliance and impose penalties in the form of trade sanctions. You may well be in this situation at some point in your own life. But the principle of judicial review was affirmed. Allstate Insurance Co., 1993 U.S. app. A business with a high-quality product can use a trademark to develop a loyal base of customers who are able to distinguish its product from another. If Murdoch and Termarco could show that they used the island openly for a continuous period, it would be eventually be theirs. By accident, the workers rolled them up and placed them near the trash dumpsters for disposal. As the following case illustrates, under current law, the franchisor has much of the power in a franchise relationship. LIFE PRINCIPLES   Life Principles are the rules by which you live your life. An insurance company can violate the covenant of good faith and fair dealing by: • Fraudulently inducing someone to buy a policy, • Refusing to pay a valid claim, or • Refusing to accept a reasonable settlement offer that has been made to an insured. It is issued when the auditor does not have enough information to form an opinion. Romi underwent four surgeries, was fitted with a plastic finger joint, and spent more than $39,000 on medical bills. Similarly, all citizens enjoy the fundamental right to travel between states. This decision turned out to be a major mistake and the airline ultimately went bankrupt. It might be that the apartment building was not profitable because of the delays caused when it burned down during construction. Liebeck spilled hot McDonald's coffee in her lap, suffering third degree burns. WCN 02-200-203 04341_ch27_hr_519-537.indd 527 8/28/17 7:30 AM 528 Unit 7 Property engines bring up indexed thumbnail-sized images from various sites. Secured creditors do not file proofs of claim. Does it matter that it was his day off and he was violating company policy? The state of New York filed suit seeking an injunction against Actavis, for violating §§1 and 2 of the Sherman Act. During his stint with the Postal Service, he had some personality conflicts with other employees. T F Administrative agencies play an advisory role in the life of many industries but do not have the legal authority to enforce their opinions. • Is the seller shutting out a significant part of the market for the tied product? When asked why, she said, “I figured it must be the right thing to do if the lawyer said so. Head Start Family Hair Salons, Inc. Starbucks needs to stand by its word. EXAMStrategy Question: Thomas, aged 80, has spent a lifetime accumulating unspoiled land in Oregon. Thanks! :-)” Copyright 2019 Cengage Learning. The manufacturer must provide adequate warnings of any dangers that are not apparent. Debtors may go willingly into the bankruptcy process by filing a voluntary petition, or they may be dragged into court by creditors who file an involuntary petition. A security agreement automatically applies to proceeds—whatever a debtor obtains who sells the collateral or otherwise disposes of it. Rachel is a bystander, someone who perceives another in danger. 5-3e Defendant's Case Rich now puts in his case, exactly as Janet did, except that he happens to have fewer witnesses. A fire insurance policy on the fitness club he belongs to, so that if it burns down, he will receive a large enough payment to enable him to join a different club In which of these policies does he have an insurable interest? 22-4 CHAPTER 13 CONSUMER REORGANIZATIONS The purpose of Chapter 13 is to rehabilitate an individual debtor. Julie is entitled to the apartment, for $1,500 per month, until the lease expires. Since the parties made a material error as to the subject of their contract, there was no valid assent and either one can rescind. (b) Two-thirds of the Senate 5. EXAMStrategy Question: Cookie Co. offered to sell Distrib Markets 20,000 pounds of cookies at $1 per pound, subject to certain specified terms for delivery. 3Do not be confused by the fact that Emma works as an agent for movie stars. But Nike decided to remain a member of the group. Was the fish tank a consumer good? Also, the insider had not benefited in any way. When should a business be held legally responsible for customer safety? The city had no obligation to grant a variance for the Delucas and denied the request. Alternatively, a court found that Microsoft did have a monopoly in the market for PC operating systems because it could substantially raise its prices without losing business. What obligation, if any, does the retailer have to its consumers? Judicial review → (1) The power of federal courts to examine the constitutionality of statutes and acts of government A. The WTO administers both treaties. A fraud claim is an important weapon because it permits the client to ask for punitive damages, which can be substantially higher than a compensatory claim. T F Contract dates and deadlines are strictly enforceable unless the parties agree otherwise. These policies contained a provision stating that if the insured became disabled, the premiums did not have to be paid, and the policy would still stay in effect. The year is 1964. 12-3d Impossibility “Your honor, my client wanted to honor the contract. If done properly, an LLC is more expensive to set up than a corporation because it needs to have a thoughtfully crafted operating agreement. The school has accused the young man of a serious infraction. WCN 02-200-203 04341_ch13_hr_242-260.indd 256 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 257 3. Indeed, the data indicate that CEOs benefit greatly from good corporate results, but suffer no pay penalty for poor outcomes. ing stock. But her American dream turned into a nightmare when she married Charles Wierdsma. The NLRB ruled that these tweets were not protected activity because the reporter had been acting alone, not in concert with other workers. Kurt committed fraud. A court will not enforce the exculpatory clause. Force majeure event   A disruptive, unexpected occurrence for which neither party is to blame that prevents one or both parties from complying with a contract. In the following case, one family entity owned properties, while a different family company managed them. Historically, the law has viewed animals as personal property. 4th 1154 (2008). WCN 02-200-203 04341_ch31_hr_593-610.indd 607 9/28/17 6:45 AM 608 Unit 7 Property that he had made a material misrepresentation. However, a seller may charge different prices if these prices reflect different costs or if the seller is simply meeting competition. His offers were all rejected, and he never sold the invention. Also, he is such a nasty piece of work that everyone hates him. Unenforceable agreement   A contract where the parties intend to form a valid bargain but a court declares that some rule of law prevents enforcing it. However, the script called for a scene in which Artist was swimming nude and the director wanted the option of showing him below the waist from the back. If it is all part of the same conversation, should you be able to accept the $50 offer and get the ticket? A sale has the added advantage of protecting TPG employees. If an issue is not on the list, Congress has no power to legislate. A court may also dissolve a corporation or order that it be sold, if it is insolvent or if its directors and shareholders cannot resolve conflict over how the corporation should be managed. The key difference between the common law rule and the UCC rule is that the Code does not require all the terms of the agreement to be in writing. Suppose that Rowena survives the airplane crash for a few hours. Noelle was the principal of a charter school and an employee at will. must register with the secretary of state. Unilateral mistake   Occurs when only one party negotiates based on a factual error. • A treaty enters into force when it becomes legally binding on its signatories. “I need to borrow fifty cents!” “I know who you are!” the kid replies. Answer: Yes, the city could use its zoning powers to deny the license. In Porter's view, a company should only undertake a CSR project if it is profitable for the company in its own right, regardless of any secondary benefits the company may receive from, say, an improved reputation. Various consumer groups have proposed rules to block banks and credit card companies from this practice. Both Parker and Augusta are jointly and severally liable. UCC filings are the backbone of the law of secured transactions—and much depends on their integrity. • Pollution limits. A criminal defendant has a right to a trial by jury for any charge that could result in a sentence of six months or longer. IMPLIED WARRANTY OF MERCHANTABILITY   The UCC implies that goods will be fit for the purpose for which they are sold. Should its visibility be preserved at any cost? Some companies are even in the business of providing copies to celebrity hounds. Ethical companies tend to have a better reputation, more creative employees, and higher returns than those that engage in wrongdoing.4 Once we decide that we want to behave ethically, how do we know what ethical behavior is? SPECIFIC PERFORMANCE   Specific performance, ordered only in cases of a unique asset, requires both parties to perform the contract. Unlike debit cards, they are not linked to your bank account. What if the banks were ignoring the home? She must tell BEAT about the gift; the company may then take the vehicle itself or allow her to keep it. WCN 02-200-203 04341_ch24_hr_460-481.indd 481 10/6/17 12:28 PM ENVIRON-MENTAL LAW CHAPTER 25 Michelle has owned a building on Main Street for more than 20 years. Sears argued that, because it had a PMSI in the lawnmower, its interest had perfected automatically. Is there an essential fact not in dispute? The World Wide Web, a subnetwork of the internet, is a decentralized collection of documents containing text, pictures, and sound. The practical contracts chapter focuses not on the theory of contract law but on the real-life issues involved in making an agreement: Do I need a lawyer? Judges generally follow precedent. When Basil purchases a commercial stove, cooking equipment, and freezer, Pesto's security interest attaches to each item as Basil acquires it. Even after four months, the car was not safe to drive: The frame was crooked and neither the headlights nor the airbags worked. Expectations of privacy are established by general social norms and must be objectively reasonable—a plaintiff's subjective belief that something is private is irrelevant. Illegality. Huff and Savage retreated to an outdoor balcony to make sure their conversation was not overheard. If a city government prohibited an antiabortion group from demonstrating, its action would violate the First Amendment. At the convention, Brittany, who was president of the association, told Luke that Research Corp. More than half of the states, however, recognize a qualified

privilege for employers who give references about former employees. Even courts sometimes confuse the terms drawer (the person who signs a check) and maker (someone who signs a promissory note). When the inevitable occurred and many homeowners were unable to pay back their loans, banks began huge numbers of foreclosures, which caused prices to fall further. Conditional promise ___ F. That was indeed the rule adopted by the courts: Unless workers had an explicit employment contract, they were employees at will. The deal must have consideration or it will not amount to a contract. (Of course, Athenian can still attempt to repossess other trees from Socrates.) The BIOC exception is designed to encourage ordinary commerce. Value. A portion of the premiums pays for insurance, and the remainder goes into savings. Ollie's BBQ is a family-owned restaurant located on a state highway in Georgia, 11 blocks from an interstate highway. Electronic commerce creates new methods of signing—and new controversies, discussed later in this chapter. The civil law judge would consult the applicable code that deals with landlord and tenant disputes. The Fourth Amendment to the Constitution prohibits the government from making illegal searches and seizures. Joe made a bad deal, but that does not mean it lacked consideration. In his research, Ariely found that participants were less likely to cheat if they were reminded of their school honor code or the Ten Commandments. Devisee means someone who inherits under a will. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 7 9/28/17 7:29 AM I8 Index Foster, Philip, 190 Found property, 564–565 Fourteenth Amendment, 63, 66 Fourth Amendment, 63 gathering evidence, 104–106 privacy (reasonable expectation of), 159–161 wiretapping, 156 FoxConn, 31 Frampton, Dorothy, 338 Franchises, 391 Franchise Disclosure Document (FDD), 391 Franklin, Ben, 164 Fraud, 109, 126 in a contract, 179, 206 innocent misrepresentation, 208 intentional or reckless misrepresentation of fact, 207 justifiable reliance, 207 materiality, 207 plaintiff 's remedies, 208–209 by accountants and third party liability, 508 common law (by accountants), 506 internet, 110 tort example, 123 wire and mail, 109 Free speech, 63–64 Freedom of Information Act 1966 (FOIA), 71–72 exemptions, 72 Freehold estate, 544 Friedman, Milton, 17 "Friendly fraud"/"family fraud," 462 Front Page test, 20 Frost, Robert, 541 Fudge factor, 22 Fundamental rights, 5 G Gadams, Robert, 340 Gallina, Dawn, 362 Gap, 31 GATT (General Agreement on Tariffs and Trade), 44–45 practices used to limit free trade, 45 and World Trade Organization (WTO), 45 founding principles, 45 Gaus, Michael, 390 Gawker, 161 "Geep," 524 General Agreement on Tariffs and Trade. What would Kant say? EXAMStrategy Question: You are the vice president of administration at a hospital. WCN 02-200-203 04341_appA_hr_A1-A14.indd 6 9/28/17 7:27 AM APPENDIX A The Constitution of the United States A7 In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. Tony had been partners with Beth Smiles in A little past midnight, Tony's an environmental consulting business, Enviro-Vision. • If the trust is revocable, when revoked by the grantor. (b) Outdoor cannot collect in the United States because Silver Star is not an American company. To cover the cost of the kickbacks, the company inflated its bills to Medicare. Nothing that happens later can "undo" the contract. Once the jury has decided the facts, it will apply the law to those facts. (b) Craig refuses to hire Ben, who is blind, to work as a playground supervisor because it is essential to the job that the supervisor be able to see what the children are doing. ULP 1. This awful episode caused Connie serious the trunk. If the promisee is making a gift, the third party is a Third party beneficiary Someone who is not a party to a contract but stands to benefit from it Promisor The person who makes the promise Promisee The person to whom a promise is made Creditor beneficiary When the contracting party intended the benefit in fulfillment of some duty or debt, the beneficiary is a creditor beneficiary. Thus, with a flow-through organization, a dollar is taxed only once before it ends up in the owner's bank account, but twice before it is deposited by a shareholder. At trial, which of these issues is likely to be the most important? The two-page form asked: "Does applicant or any tenant have any animals or exotic pets?" The CPM employee checked an adjacent box Copyright 2019 Cengage Learning. Reasoning: When an object in food harms a consumer, the injured person may recover even if the substance occurred naturally, provided that a reasonable consumer would not expect to encounter it. As you begin to hire a sales force, you consider binding new employees to non-compete agreements. ALCOHOL AND DRUG USE Under federal law, private employers are permitted to test job applicants and workers for alcohol and illegal drugs. Self-driving cars are no longer science fiction. He took from his mouth a triangular piece of cow bone, about one-sixteenth to one-quarter inch thick and one-half inch long, along with several pieces of his teeth. 3d 231, 615 N.E.2d 770, 1993 Ill. Representations and warranties Statements of fact about the past or present. To top it off, the Founders guaranteed many rights to the people alone, ordering national and state governments to keep clear. The downstairs stove was permanently attached to the house and used as part of the heating system. Unless otherwise agreed, authority to conduct a transaction includes authority to perform acts that are reasonably necessary to accomplish it. 3-3a Common Law As discussed in Chapter 1, we inherited our legal system from England. One year is a reasonable time to allow you to get your new business started. 6-3c Money Laundering Money laundering Using the proceeds of criminal acts either to promote crime or conceal the source of the money. Money laundering consists of taking the proceeds of certain criminal acts and either (1) using the money to promote crime or (2) attempting to conceal the source of the money. One difference: Time Warner was struggling with a $15 billion debt and a depressed stock price. The amount the consumer will have paid by the end of the loan. TRIPS 3. Offensive noise, odors, or smoke often give rise to nuisance claims. The loser would have to cook and serve dinner for six months. Negotiated An instrument has been transferred to the holder by someone other than the issuer Indorsement The signature of the payee EXAMStrategy Question: Antonia makes a check out to cash and delivers it to Bart. 25-4b Superfund Superfund Another name for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) The official name of Superfund is the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). 1995). Hoelzer filed suit, seeking a declaration that the murals had been abandoned. GATT and the WTO are founded on the following principles: • Free Trade. The clause was one paragraph long and stated that Shauna knew team flying was inherently dangerous and could result in injury or death. It is not only as a corporate manager that you will confront the law. Doctors state that the incident has traumatized Bien, dramatically reducing his confidence and self-esteem and preventing his return to work even three years later. WCN 02-200-203 04341_ch19_hr_356-376.indd 366 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 367 • Reasonable accommodation. A multilateral treaty involves three or more countries. This is the sixth and final contract that must be written, although the Code's requirements are easier to meet than those of the common law. He then charged her $500 for the repairs. ETHICS Is an asset protection trust ethical? had entered little into our former education. Who would have been harmed or helped if TNT managers had informed Drury of the Arden report? Direct examination A lawyer asks questions of his or her own witness. Trespasser A person on someone else's property without U U.S. Constitution The supreme law of the United States. The board had never asked about the company's monitoring process. To encourage users to "dish dirt," the site promised total anonymity: It did not require a login or username; its slogan was "Always anonymous . The clinic's bankruptcy is of great importance. Which of the following statements are true? To review Jamie's situation: Televisions are reliable and unlikely to need repairs in the first two years. What about the rules regarding repeated bankruptcy filings? But even that is uncertain, since the jury could have found him unpersuasive. Arthur's four children will share their father's portion, so each will receive one-eighth (¼ × ½). Its perpetrators are hard to find, but its injuries are very real. The Decision section describes the court's answer to the issue posed. Great news, right? State Agency Contra Pesto Bank 1 2 Loans $55,000 4 ct Security Agreement Olive 3 Basil Checks to see if there are other security interests in Basil's equipment Considers loaning money to Buys Stove Contents of the Financing Statement A financing statement is sufficient if it provides the name of the debtor, the name of the secured party, and an indication of the collateral.3 The name of the debtor is critical because that is what an interested person will use to search among the millions of other financing statements on file. Section 16 2. 21Bedford v. Note The maker of the instrument promises to pay a specific amount of money. Today, there are only a few spectators. What responsibility, if any, does the United States have to obey international law? T F A severability provision asks the court simply to delete the offending clause and enforce the rest of the contract. He seeks your advice. 21-2b The Charter 21-3 After Incorporation 21-4 Death of the Corporation 21-4a Voluntary Termination by the Shareholders 21-4b Termination by the State 21-4c Piercing the Corporate Veil 21-5 Management Duties 21-5a The Business Judgment Rule 21-5b Applications of the Business Judgment Rule 21-6 Shareholder Rights 21-6a The Relationship between Shareholders and Managers 21-6b Right to Information 21-6c Right to Vote Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 22: Bankruptcy 22-1 Overview of the Bankruptcy Code 22-2 Chapter 7 Liquidation 22-2a Filing a Petition 22-2b Trustee 22-2c Creditors 22-2d Automatic Stay 22-2e Bankruptcy Estate 22-2f Payment of Claims 22-2g Discharge 22-3 Chapter 11 Reorganization 22-3a Debtor in Possession 22-3b Creditors' Committee 22-3c Plan of Reorganization 22-3d Confirmation of the Plan 22-3e Discharge 22-3f Small-Business Bankruptcy 22-4 Chapter 13 Consumer Reorganizations 22-4a Beginning a Chapter 13 Case 22-4b Plan of Payment 22-4c Discharge Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion QuestionsUNIT 6: Government Regulation Chapter 23: Securities and Antitrust 23-1 Securities Laws 23-1a What Is a Security? Coast was struggling to pay its debts, so Vern suggested that the company sell some of its oyster beds to Keypoint Co. After the sale, officers at Coast discovered that Vern owned 50 percent of Keypoint. Drury v. Social enterprises pledge to behave in a socially responsible manner, even as they pursue profits. During the past 50 years, Taiwan and South Korea welcomed sweatshops. In bailment cases, the burden of proof is reversed. Mediation → (2) A form of ADR in which the parties themselves craft the settlement E. Treadway agreed to purchase a new car and came up with Pearlie Smith, her godmother, to serve as a co-signer. User-generated content Any content created and made publicly available by end users. Venables had been a sportscaster for the BBC but had switched to a competing network. See Exhibit 5.2. Burden of proof The obligation to convince the jury that a party's version of the case is correct Preponderance of the evidence The standard of proof required for a civil case Beyond a reasonable doubt The government's burden in a criminal prosecution E x h i b i t 5 . As of this writing, the maximum tax rate on dividends is 20% and on regular individual income is 39.6%. To recover for defamation, a public official must prove that the defamatory statement was made with "actual malice." That is, with knowledge that it was false or with reckless disregard for the truth. Generally, a common carrier is strictly liable for harm to the bailor's goods. The dog sniff took minutes. • The General Assembly is the UN's lawmaking body. Even if the bailor proves a loss of $300,000, the carrier owes merely $10,000. The purpose of procedural due process is to ensure that before the government takes liberty or property, the affected person has a fair chance to oppose the action.1 The Due Process Clause protects Ralph because State University is part of the government. If Ace hires Kayla as its star and pays her a fee of $4 million, Ace is entitled to the difference between what it expected to pay ($3 million) and what the breach forced it to pay ($4 million), or $1 million in direct damages. Answer: The Fair Credit Reporting Act required TNT to ask Drury's permission before requesting a consumer report. Usually, the value will be apparent. Per stirpes Each branch of the family receives an equal share. Why did Hawes pay Basic in March? Plaintiff 's Remedies for Fraud In the case of fraud, the injured party generally has a choice of rescinding the contract or suing for damages or, in some cases, doing both. To whom would most people want their assets to automatically go? The trial court ruled that the Lees were BIOCs, with full rights to the vehicle. WCN 02-200-203 04341_ch01_hr_001-014.indd 12 10/6/17 11:41 AM Chapter 1 Introduction to Law 13 3. Private international law International rules and standards applying to cross-border commerce. WCN 02-200-203 04341_ch03_hr_039-057.indd 42 8/24/17 1:46 PM Chapter 3 International Law 43 The main principle of civil law is that the law is found primarily in the statute books, or codes. Employees have been fired or disciplined for such extracurricular activities as taking part in dangerous sports (such as skydiving), dating coworkers, smoking, or even having high cholesterol. (Goods, as you may recall, are movable things.) • Fixtures. At a minimum, the lawyer must have first reviewed the recipient's file. When he filed for bankruptcy, the vehicle was worth $16,000, but he owed $17,500 on it. Royal Dutch Petroleum Co., 39 n. 4-2 Statutes Laws passed by Congress or state legislatures STATUTORY LAW Most new law is statutory law. WASTE DISPOSAL The Resource Conservation and Recovery Act (RCRA) establishes rules for treating both hazardous and nonhazardous forms of solid waste. E x h i b it 2 1. Trenton Potteries Co., 273 U.S. 392 (S. Armeen ran a stop sign and hit the Smiths' car, killing their child. The two requirements for establishing a "reasonable expectation of privacy" are: 1. Trial courts determine the facts of a particular dispute and apply to those facts the law given by earlier appellate court decisions. CREDIT CARD DISPUTES WITH A MERCHANT In the event of a dispute between a customer and a merchant, the credit card company cannot bill the customer if: • She makes a good faith effort to resolve the dispute, • The dispute is for more than $50, and • The merchant is in the same state where she lives or is within 100 miles of her house. Unknown identity thieves opened bank accounts in Curry's name and changed her home address with the U.S. Postal Service. 9-2a Constitutional Law: The Fourth Amendment The Fourth Amendment to the Constitution prohibits unreasonable searches and seizures by the government. Interest A legal right in something. Compare the corporation to an LLC. The court declared that it was legally irrelevant whether the railroad's conduct was inhumane. It also illustrates the dangers of fishing off the company pier. But often a company provides its workers with personnel manuals that guarantee certain rights. WCN 02-200-203 04341_ch28_hr_538-559.indd 549 10/6/17 12:30 PM 550 Unit 7 Property 28-6a Sale of the Property Generally, the sale of leased property does not affect the lease but merely substitutes one landlord, the purchaser, for another, the seller. By including the word "order," the maker is indicating that the instrument is not limited to only one person. Jones received every merit increase and cost-of-living allowance for which she was eligible. Most courts permit constructive delivery only when physical delivery is impossible or extremely inconvenient. There is almost no limit as to what that obligation could be. "You did not have enough witnesses." Which of Anne's statements is true? When an employee is fired for a bad reason 3. Finally, Lynn returned—with a shiny new car, an eviction notice for Howard, and no intention of sharing a million-dollar lottery prize. There is no federal court diversity jurisdiction because the money sought is less than $75,000. Larceny? RCRA → (2) Establishes rules for treating newly created wastes A. The FTC's regulatory activities are discussed in greater detail in Chapter 23 on antitrust and Chapter 24 on consumer protection. Fastball investigates and discovers that Geoff does not have a poodle after all. He argued that you should not do something unless you would be willing to have everyone else do it too. About one-half of the states have passed limits. EXAMStrategy Rule Against Perpetuities A trust must end within 21 years of the death of some named person who was alive when the trust was created. On a call with analysts, Whitman said, "In my view, Autonomy is a terrific product." 3. (a) It will be dismissed because the secured creditor failed to join in the filing of the petition. WCN 02-200-203 04341_ch10_hr_177-197.indd 180 10/6/17 11:47 AM C h a p t e r 10 bilateral express contract. (c) shareholders of the company are likely to pay a higher price for the company's stock if employees have at least a high school diploma. (c) The shareholders have the right to call a meeting, but not to reinstate the president. Would this patent be granted under current U.S. law? The jury ordered BAR/BRI to pay Barpassers more than $3 million, plus attorney's fees. Authorized stock represents the maximum shares the company can issue—unless it amends its charter. No one is permitted to trademark an item's ordinary name— "shoe" or "book," for example. WCN 02-200-203 04341_appC_hr_C01-C22.indd 1 9/28/17 7:28 AM C2 APPENDIX C Answers to Selected End-of-Chapter Questions E. 22-2d Automatic Stay A fox chased by hounds has no time to make rational long-term decisions. Also, her debts are likely to be small, so she will not need the limited liability of a corporation. But corporations have perpetual existence: They can continue without their founders. Strategy: The CWA prohibits the discharge of pollution without a permit. T F In establishing national standards under the Clean Air Act, the EPA need not consider the cost of compliance. • The amount of the instrument was altered after he signed it. Most chapters in this book will have a feature called "You Be the Judge," in which we present the facts of a case but not the court's holding. Design patents last 14 years from the date of issuance. However, a PMSI in consumer goods perfects automatically, without filing. Union organizers ask workers to sign authorization cards, which state that the particular worker requests the union to act as her sole bargaining representative. (a) Chuck wins because the contract was never put in writing. (e) If the state prosecutes Hank, he will be found liable or not liable, depending on the evidence. However, as with most environmental decisions, large externalities were at play: Costs and 1The National Oceanic and Atmospheric Administration has developed a web tool showing the impact of rising sea levels. Reynolds, reasoning that the FDA could not provide evidence that general warnings on packaging reduced smoking rates, therefore, there was no "substantial government interest" in compelling tobacco companies' speech. WCN 02-200-203 04341_ch11_hr_198-219.indd 211 10/6/17 11:53 AM 212 Unit 3 Contracts and the UCC Promise to Pay the Debt of Another When one person agrees to pay the debt of another as a favor to that debtor, it is called a collateral promise, and it must be in writing to be enforceable. The new landlord may not raise the rent during the period of the existing lease or make any other changes in the tenant's rights. STRUCTURE OF A CONTRACT The structure of a contract looks like this: 1. A common law principle requiring the acceptance to be on exactly the terms of the offer TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Who should win? Under state law, an LLC without an operating agreement could only be dissolved if (1) the management of the entity is unwilling to reasonably promote the stated purpose of the entity or (2) continuing the entity is financially unfeasible. Brian Hopkins submitted an application to Golden Rule Insurance Co. for medical and life insurance. Two major statutes regulate wastes: the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation, and Liability Act. Tippers. Sometimes insiders do not trade themselves, but instead pass on information to others (such as friends and family) with the expectation that they will somehow personally benefit. Because of health concerns, consumption of sweetened soft drinks in the United States and other developed countries is declining. It may get lucky with the jury. The drone manufacturer sold the Down-to-Earth Drones to another retailer at a higher price. When he inherited millions on his twenty-first birthday, he placed them all in an asset protection trust. Why would Will confess? (a) (b) (c) (d) (e) A color A symbol A phrase A surname A shape 6. Shawe and Elting also engaged in "mutual hostaging." For example, Elting would not allow Shawe to hire employees or pay a lawyer's bill unless he agreed to the profit distribution she wanted. What determines Saudi law is the judge's study and analysis, or ijtihad. WCN 02-200-203 04341_ch06_hr_101-120.indd 114 8/24/17 1:38 PM Chapter 6 Crime 115 4. (See the "Result" at the end of this Case Questions section.) 2. T F You should primarily buy insurance to protect against harm that you cannot afford. Clapper, 166 n. Arbitration agreements are contracts in which the parties agree to arbitrate their claims instead of filing a lawsuit. Tara sues Frank. Dirty World Entertainment Recordings LLC, 169–170 Nadel v. It is especially advantageous when the disputing parties are from different countries because it is generally faster, more private, less expensive, and less political than litigating in foreign courts. Some deliberations take two hours; some take two weeks. Whether there is such a duty depends on the foreseeability of the injury and other factors. The company also sought consequential damages for the permanent destruction of its business. But a more difficult bankruptcy process will probably not discourage Tim. Spiro Spammer sends millions of emails a day asking people to donate to his college tuition fund. 6-1c Gathering Evidence: The Fourth Amendment If the police suspect that a crime has been committed, they will need to obtain evidence. Deliberately stealing a client who has a contract with another 5. Then they followed an innocent patron toward the men's room, and things happened fast. What should happen when the government wants access to information on a foreign server? Public policy rule ___C. A contract agreement outlining the detailed terms and conditions is being prepared and will be available for your signature shortly. This laptop typically retails for $599. T F To be enforceable, all contracts must be in writing. Many people enjoy rap music, at least in part, because of its edgy, troublemak- ing vibe. The Court found that those rules created an undue burden for Texas women by causing many clinics to close and making abortions unreasonably difficult to obtain.2 Checks and Balances. The authors of the Constitution were not content to divide government power three ways. Caitlin refuses to pay anything for the house. Answer: There have not been any cases yet, but commentators speculate that the testing would violate the Genetic Information Nondiscrimination Act. Artist might be unhappy if another production company makes the movie, but he is still bound by the terms of the contract. 26-5 THER ACCOUNTANT-CLIENT O ISSUES 26-5a The Accountant-Client Relationship SEC rules require accountants to maintain independence from the companies they audit. offered Roe a position as a customer service representative. So while the CISG applies generally to this contract, it does not govern the issue of whether the agreement had to be in writing. After a thorough investigation, we have concluded that Anthony Caruso's death was an act of suicide. Jack's Ferrari was a "park and lock" case, with no bailment. The agency informs Kabrina that, to protect the lake from further harm, it will allow no shoreline development except single-family houses of 2,000 square feet or less. Hiring an agent is not like buying a book. 3-2b The International Court of Justice The International Court of Justice (ICJ), also known as the World Court, settles international legal disputes and gives advisory opinions to the UN and its agencies. Payday loans Small loans with high interest rates made to people who need money to make it to the next paycheck. Wiretap Act The section of the ECPA that prohibits the inter- ception of face-to-face oral communications and telephone calls. Two weeks later, Belliard quit without notice, intentionally leaving Brenner with only one drill instructor. Some states, such as Arizona and Missouri, prohibit libraries from disclosing their patrons' reading habits. But when Pete sent a draft of the contract, it stated that the purchase price would be $10 million less the company's debt. Result: Donna has ignored the legal procedures for evicting a tenant. Is the manufacturer liable? Because the judge's process was sound and thorough, the damages are affirmed. Before a plaintiff can bring suit under any of these statutes (except the Equal Pay Act), she must first file a charge with the EEOC. Retaliation Title VII also prohibits employers from retaliating against workers who oppose discrimination, bring a claim under the statute, or take part in an investigation or hearing. For example, ambassadors are generally exempt from the law of the nation in which they serve. He takes the full can to a nearby balcony and drops it three floors onto Carl, a coworker who recently started dating Mark's ex-girlfriend. When landlords wrongfully withhold security deposits, they can often be sued for three times the amount of the security deposit. "WP" stood for waiver of premium benefit. Meadows did secure a loan, which the Instituto accepted. (a) All of these (b) Only I (c) Only II (d) Only III (e) None of these 4. Here, both Eliza and Joe are promisor and promisee; each receives a benefit and incurs a detriment, so consideration exists. Just as certainly, the Kommits are trying to have it both ways, gambling in the hopes of a quick gain, then attempting to avoid liability by invoking this legal principle. (b) 6 percent 3. Brune replied with a lengthy, ranting email to the group, proposing that the administration should be told: We have been grievously wronged and we would like an apology. Her lawyer must convince the court that the defendant breached some legal duty and ought to pay money damages to the plaintiff. "Pay to the order of Trustie Car Lot" means that the money will be paid to Trustie or to anyone Trustie designates. EXAMStrategy 4. In 1960, the landlord terminated the land lease and sold the entire area to a developer. Answer: Principals are liable for the torts of their independent contractors only if they have been negligent in hiring the contractors. The statute required Gateway to tell Treadway that it had failed to submit her application and why. E x h ibit 17. In a comparative negligence state, a plaintiff may generally recover even if she is partially responsible. Alexandra and Nicholas might agree that their relationship will end when Alexandra has purchased ten guitars. It is not enough to show mere negligence or bad judgment on the part of the insurer. 2-3d We Can't Be Objective about Ourselves Are your leadership skills above average? Anyone who penalizes you because of your score is required to give it to you for free, as well as information about how your score compares with others. The university must then offer Ralph a hearing, before a neutral person or group, who will listen to Ralph (as well as Dr. Watson) and examine any evidence the student offers. She rarely visited him and threatened to take him off her health insurance. Must Sheth pay Buckeye? A fixture is any good that has become attached to other real property. What if Daniel finishes the house a month late? State treasurers or comptrollers are responsible for holding the abandoned or lost property, which often includes money, watches, jewelry, and rare coins from abandoned safe deposit boxes. Reed was prosecuted for violating a statute prohibiting harassment of public officials. The Electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. Barwell delivered the machine on February 20. She did not want an award of damages; she wanted the land itself. 12-1a Types of Beneficiaries A person is an intended beneficiary and may enforce a contract if the parties intended her to benefit and if either (a) enforcing the promise will satisfy a duty of the promisee to the beneficiary or (b) the promisee intended to make a gift to the beneficiary. This is a valid negotiation because Felix has both indorsed the check (which is order paper) and delivered it. Paula Jones worked for a state agency, the Arkansas Industrial Development Commission (AIDC). In the Tony Caruso case described throughout this chapter, the defendant offers to settle the case at several stages. you must throw it away. Once a bankruptcy estate has been distributed to creditors, they cannot make a claim against the debtor for money owed before the filing, whether or not they actually received any payment. See the guy. This private online community sought to bring together technology executives interested in CDM's services. In one case, a jury ordered Equifax to pay $18 million to a woman in Portland, Oregon, who, despite two years of heroic effort, had been unsuccessful in convincing an agency to fix errors. The problem was that it allowed internet betting on horseracing within its borders. • Moral relativism is the belief that it is right to be tolerant of different views and customs. 2-4g The Organization's Responsibility to Its Customers Customers are another group of essential stakeholders. These are the key terms in Part (1): • Defective condition unreasonably dangerous to the user. 11 International Shoe Co. v. 9-1a How We Lose Our Privacy in the Digital World Sometimes we voluntarily give up our privacy without considering the consequences; in other cases, it is taken from us without our knowledge. Here, a neutral person, called a mediator, attempts to guide the two disputing parties toward a voluntary settlement. If he does not do so, his executor or administrator can access them and then either distribute them or dispose of them. Embola sued. He claimed that as a pool-playing bar patron he had a right to medical benefits under the policy. The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted. Wells Fargo employees engaged in massive fraud, setting up millions of accounts that customers had not requested, just to generate fees and meet sales goals. Unbelievably, more than one parent has killed a child to collect the proceeds of a life insurance policy. Francia kept some items, such as cash, while discarding others. The store has a "no refund" policy that is clearly stated on a sign on the wall. She testified that she would have taken the open job, even at a lower salary. Strategy: Representations and warranties are about events in the past or present. Decision: GT was not liable. When a party has no more obligations under a contract 3. T F Ownership in a partnership is not transferable. • Failure to warn. Maturelli mocks Bien and his physical disabilities. False imprisonment The intentional restraint of another person without reasonable cause or consent. (d) Kyle wins because Chuck allowed him to dig the foundation. In re Britton, 950 F.2d 602, 1991 U.S. App. If Michelle's death occurred in a contributory negligence state, and the jury considered her even minimally responsible, her estate would receive no money. Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article. Authenticity. Confucius also put primary emphasis on having wise leaders. DEFENSES The issuer of a negotiable instrument is not required to pay if: • His signature was forged. WCN 02-200-203 04341_ch19_hr_356-376.indd 365 8/26/17 10:26 AM 366 Unit 4 Agency and Employment Law Reid v. Result: The parties have probably created a binding contract unless Elaine indicated in her offer that she would accept her terms only, with no changes. • Mann shot a wolf that was threatening his live- stock. The basic job of the president is to enforce the nation's laws. Indeed, Cearley obtained rightful access to her Facebook postings. (e) Chloe waited too long to complain. Despite evidence that these clauses are harmful to plaintiffs, courts will generally enforce them if they meet two conditions. Her credit rating is fine, but it turns out that she filed for bankruptcy 20 years ago. Instead, she engaged in actual eviction, which is quick and, in the short term, effective. And then his mother suggested he get a term life insurance policy while he is young and the rates are low. WCN 02-200-203 04341_ch08_hr_137-155.indd 143 9/28/17 7:17 AM 144 Unit 2 Torts Because res ipsa loquitur dramatically shifts the burden of proof from plaintiff to defendant, it applies only when (1) the defendant had exclusive control of the thing that caused the harm, (2) the harm normally would not have occurred without negligence, and (3) the plaintiff had no role in causing the harm. A government may need land to construct a highway, an airport, a university, or public housing. The order authorizes a sheriff to remove the tenant's goods and place them in storage, at the tenant's expense. If the parties did not formally agree but their conduct, words, or past dealings indicate they intended a binding agreement, there may be an implied contract. 226, 412 S.E.2d 104, 1992 N.C. App. Strategy: In an ordinary negligence case, the plaintiff must prove all elements by a preponderance of the evidence. Notice that only the party lacking capacity may cancel the agreement. (There is no need for 100 percent replacement because expenses while unemployed are lower.) Many employers provide disability protection. The railroad employees owed Palsgraf a duty to be reasonably cautious and vigilant. Fixture ___ D. Aetna made a promise to the Andreasons; namely, its assurance that all the damage was covered by insurance. In any event, there is little downside to such an election. She hires Trevor to resur- face it for $180,000, paying $90,000 down. The person who receives the proceeds from the insurance policy. Hiring relatives of foreign officials for no-show jobs is a violation of the FCPA. The new residents argued that they were not hurting anyone and acting within the bounds of the law. However, before he would get me one, he proceeded to try to sell me his "protection plan." I declined this. Philip Morris, Inc. Learning to persuade, cajole, or provide better options are all important leadership skills. Even if some terms are omitted, the writing may still suffice. Exculpatory clauses are common. WCN 02-200-203 04341_ch31_hr_593-610.indd 606 9/28/17 6:45 AM Chapter 31 Insurance 607 CASE QUESTIONS 1. Exemptions. An agency officially has ten days to respond to the request. How did Tony Caruso die? I am giving you this baseball, which was the 500th home run hit by one of the greatest players of all time." He hands her the ball, which is worth nearly half a million dollars. Conditions 7. Apple is not alone in facing supplier scandals. 5Kelly v. To make that distinction, you must understand the term goods. The SEC does not review these companies to ensure that they are complying with the law. (People take part in "howling events"—evenings spent studying wolves and listening to their howls.) • The red wolf is a subject of scientific research, which is an important industry in its own right. Although Duke Power was not, on its face, discriminating against blacks, the upshot of these employment rules was that more whites got the good jobs. T F If the insured makes any false statement in the application process, the insurance policy is voidable. • Registration notifies the public that a mark is in use, which is helpful because anyone who applies for registration first searches the Public Register to ensure that no one else has rights to the mark. The statute required that, in several types of cases, a contract would be enforced only if it was in writing. After she filed an employment lawsuit against her employer, the company hired an expert to access her emails that had been automatically stored on the laptop. Choice of Law and Forum ii. (a) All accounting firms that audit public companies must register with the PCAOB. Decision: Even if the harmful bone occurred naturally, the hamburger could be unfit for its ordinary purpose. S. Which of the following duties does an agent not owe to his principal? Davis, 69 n. Do shareholders have the right to make these two requests? The defendant should: (a) request arbitration. SHAREHOLDER RIGHTS Shareholders have neither the right nor the obligation to manage the day-to-day business of the enterprise. In Courtroom 2, the state is prosecuting Patterson for drug possession. 4. Result: These statements were true, so Ross would not be liable. Few students live on the block. Martino 2016 R.I. Super. How could a board of directors improve its decision-making process? LEXIS 62 Delaware Supreme Court, 2017 CASE SUMMARY Facts: Operating from their shared business school dorm room, Elizabeth Elting and Philip Shawe founded TransPerfect Global, Inc. A jury found the site made an unauthorized public disclosure and ordered it to pay $115 million, forcing it into bankruptcy. Before the game is over, 11 players from the lesser team have been carried off the field with significant injuries. Believing himself the rightful owner, Arthur contracts to sell a parcel of land to James. His promise created a one-way street: the coworker stood to receive all of the benefit of the agreement, while Marvin got nothing. That is why she prohibited bikers from wearing their colors—a reasonable rule. Reasoning: A manufacturer only has a duty to address foreseeable risks. 2d 492 United States District Court for the Southern District of New York, 2012 Facts: A New York State task force on teacher qualifi- cations decided that all teachers needed a basic understanding of liberal arts and sciences. WCN 02-200-203 04341_appC_hr_C01-C22.indd 12 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C13 Chapter 2 1. There are worse things than being fired—such as being fired and sent to prison. Under the UCC's Statute of Frauds, sale-of-goods contracts for $500 or more must be in writing to be valid. An interest is a legal right in something. In 1974, a terrorist group kidnapped heiress Patricia Hearst from her college apartment. Marijuana should be treated like any other medication—it cannot be used if it hurts job performance. But there is no evidence that it did so. These musicians could choose to play in however many concerts they wished. (c) Oil Co. could avoid liability by proving that Pogo could not afford to pay for the additional leases. If these allegations are true, what laws has the company violated? This can happen when the landlord sells the property or when a tenant wants to turn the leased property over to another tenant. The theory is simple: If police and prosecutors know in advance that illegally obtained evidence cannot be used in court, they will not be tempted to make improper searches or engage in other illegal behavior. Television network CBS called it a "wardrobe malfunction," but the "malfunction" coincidentally occurred just as Timberlake was singing the lyrics, "Gonna have you naked by the end of this song." The FCC fined CBS $550,000, but the network challenged the fine in court. He explained, "It just isn't done, it's basically like belching at the dinner table." • Benchmarking. Lewis River Golf, Inc., grew and sold sod. Ferret did not provide the court with information on this issue. If not, why not? CHAPTER 23 1. In these filings under the 1934 Act, an auditor is liable for making (1) a misstatement or omission of an important fact (2) knowingly or recklessly with the intent to deceive, manipulate, or defraud (3) that the plaintiff relies on in purchasing or selling a security. T F Where one party has clearly breached, the injured party must mitigate damages. The fair use doctrine permits limited use of copyrighted material without permission of the author. You Be the Judge Kim v. Our tendency is to feel any harm twice as strongly as we do a benefit. 28-3 ADVERSE POSSESSION Recall the entrepreneurs who hoped to acquire Hot Dog Island by simply setting up shop on it. I think not. The architect and school officials agreed that the Daugherty murals should be preserved. Sheth's bank refused to pay the check. The parties erred about the essence of their deal. Bailee The one who possesses the goods. National Medical Transportation Network v. T F The possessor of a piece of commercial paper always has an unconditional right to be paid. Answer: This case involves a nonphysical tort. When the terms in a negotiable instrument contradict each other, three rules apply: 1. Thus, if they think it is wrong to lie, then they will tell the truth no matter what the consequence. If members make careless choices in drafting an operating agreement, courts will not interfere to protect them from the consequences. The house was about 600 feet from the site where the hotel held outdoor wedding receptions and parties. Don't bet on it. Besides the obvious stocks or bonds, the definition of security can even include items such as orange trees. WCN 02-200-203 04341_ch13_hr_242-260.indd 257 10/6/17 12:09 PM 258 Unit 3 Contracts and the UCC TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Stacey is the never report it to the police. The rise of internet fraud has led to many new statutes outlawing such things as computer trespass and espionage, fraud in the use of cell phones, identity theft, and so on. The transferee of negotiable commercial paper has more rights than the person who made the original contract. Some mistakes lead to voidable contracts; others create enforceable deals. Decision: Yes, the commissioners' promise was enforceable under promissory estoppel. WCN 02-200-203 04341_ch02_hr_015-038.indd 24 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 25 Thus, in a business, if everyone is lying to customers, smoothing earnings, or sexually harassing the staff, it is tempting to go with the flow rather than protest the wrongdoing. 8-2c Contemporary Trends If the steering wheel on a brand-new car falls off and the driver is injured as a result, that is a clear case of defective manufacturing, and the company will be strictly liable. Then Congress passed the Internal Revenue Service Restructuring and Reform Act, which provides limited protection for confidential communications between accountants and clients. It asks the court to decide, assuming the facts in the complaint are true, if the law offers a legal remedy for the plaintiff's problem. WCN 02-200-203 04341_ch25_hr_482-500.indd 491 8/28/17 7:20 AM 492 Unit 6 Government Regulation 25-6 NATURAL RESOURCES Thus far, this chapter has focused on the regulation of pollution. WCN 02-200-203 04341_ch13_hr_242-260.indd 258 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 259 4. An exculpatory clause is generally unenforceable when the affected activity is in the public interest, such as medical care, public transportation, or some essential service. In the case of the students, the court abated (reduced) the rent 50 percent. any case between citizens of different states. also employees of the corporation. How did the crime occur? Each year retailers lose $30 billion a year from employee theft and $55 million because of workplace violence. • Employers must keep records of all workplace injuries and accidents. This role can carry some risk. So money can contribute to happiness, but research indicates that this impact disappears when yearly household income exceeds $75,000. A holder cannot be sure of the precise amount of the check. CRIMINAL AND CIVIL LAW Criminal law concerns behavior so threatening to society that it is outlawed altogether. Typically, the executor is a family member, lawyer, or close friend. A tort in which an injury or loss is caused accidentally 5. WCN 02-200-203 04341_ch29_hr_560-575.indd 574 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment 575 5. Too often, bankrupts do not understand this principle and instead want to go forward in a manner that will impair their fresh start and perpetuate bad habits from the past. GECC failed to comply with the requirements of Article 9 and was not entitled to any money. Should it permit them to do nothing at all? Jackson told Jeff that Edge partnerships were "good moneymakers," and "they were expecting something like a two-year payoff." In fact, Jackson knew Copyright 2019 Cengage Learning. Pickwick defended on the grounds that Burlington had failed to mitigate damages, that is, to keep its losses to a minimum by promptly seeking another tenant. WCN 02-200-203 04341_appC_hr_C01-C22.indd 19 9/28/17 7:28 AM C20 APPENDIX C Answers to Selected End-of-Chapter Questions CHAPTER 28 1. Bruno has no claim to any payment. Should they assume the role of corporate police and risk a decline in revenue from businesses that want to be secret? Its principles and forms administered republic. That means it is an additional term, and it becomes part of the deal unless Cookie insisted on its own terms, the additional term materially alters the offer, or Cookie pro mptly rejects it. "You might just as well kick me off my own property!" A regulation that denies all beneficial use of property is a taking and requires compensation. 29-2c Duties of the Bailee The bailee is strictly liable to redeliver the goods on time to the bailor or to whomever the bailor designates. Argument for Hyman: Ampersand was in the business of producing plays, and it wanted Philly's Beat. When things have gone amiss, a judge must interpret the contract and issues of public policy to determine who in fairness should suffer the loss. Motion for summary judgment denied. psychological and physical injuries. The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them. And the duties incurred in giving it, finding it, and loaning it. The same person can hold more than one office. Vouching Auditors choose a transaction listed in a company's books and check backward for original data to support it. By and large, people were born into their jobs. Why Delaware? TELEMARKETING The Telephone Consumer Protection Act (TCPA) prohibits telemarketers from making autodialed and/or prerecorded calls or texts to cell phones and prerecorded calls to residential land lines unless the consumer unambiguously consents in writing. • Collectors may not: • Call or write a debtor who has notified the collector in writing that he wishes no further contact; 5It is called a FICO score because it was developed by the Fair Isaac Corporation. If City wants to assign to Investor its rights to the land, it must do so in writing. Her goal is to learn Coastal's basic position and factual evidence and then follow up with more detailed questioning during depositions. Exempt Property The Code permits individual debtors (but not organizations) to keep some property for themselves. T F A company that wishes to include a celebrity's picture in its magazine ads must first obtain the celebrity's permission. • Life insurance. These toys are designed for children as young as two years old. Therefore, it can deny coverage even though his lie was not about something that was a factor in his death. Lawyers for both parties are present. This is the point from the Palsgraf case. A long-term lease is one year or more; anything shorter is usually enforceable without a writing. He typed a thorough contract, describing Chicago—end of summer. This statute does not require manufacturers or sellers to provide a warranty on their products. Michael sends in the September rent, but on September 15, the landlord tells him the rent is going up to $900 per month. She is entitled to apply the security deposit to the unpaid rent. The judge limits Rich to ten depositions. Reasoning: Actavis's patent granted it a monopoly of the Namenda IR market. It dragged out the litigation for 16 years, in the process spending more than $3 million in legal fees. These cards had a $300 limit, a $75 sign-up fee, a $6 per month participation fee, and a $5 monthly fee for paper billing. In those cases, the illegal discrimination may be damaging, yet virtually impossible to prove. A jury ordered Ernst & Young to pay damages of $18.9 million.6 However, auditors can avoid liability by showing that they made a reasonable investigation of the financial statements in a registration statement. Under the terms of the loan, he must repay $6 the following week. She was concerned that if Steve took the matter further and Lawrence was fired or even disciplined, her whole area would suffer. Does your opinion vary if the squatters were the home's former owners? Jane Doe, an aspiring model, created a profile on ModelMayhem.com, a network- ing website for models. If the agent was not liable, he would have little incentive to be careful. There is no perfect test, but courts look at these issues: • How much benefit has the promisee received? EXAMStrategy Question: 50 Cent has been rapping all day, and he is very thirsty. As he put it, his goal was to produce the greatest good for the greatest number of people. • A merchant with respect to goods of that kind means that the seller is someone who routinely deals in these goods or holds himself out as having special knowledge about these goods. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. The same rule, with the same standards, applies to corporations. 28-3b Open and Notorious Possession The user's presence must be visible and generally known in the area, so that the owner is on notice that his title is contested. Usually no trustee Appointed by U.S. Trustee Participation in Formulation of Plan No plan is filed. After 15-year-old Eric Rash committed suicide, his family hoped to find some explanation in his Facebook account, but the company would not grant them access. A peppercorn." Even the tiniest benefit to a plaintiff counts, so long as it has a measurable value. 1-1a Sources of Contemporary Law It would be nice if we could look up "the law" in one book, memorize it, and then apply it. The party filing the appeal is the appellant. SECURITY A security is any transaction in which the buyer (1) invests money in a common enterprise and (2) expects to earn a profit predominantly from the efforts of others. DUTY If the defendant could foresee that misconduct would injure a particular person, he probably has a duty to her. Comment on the case, and whether the result was reasonable. To complicate James's decision, the CEO tends to resent employees who disagree with him. She indorsed the check and placed it on the kitchen table. Anyone who trades on material, secret information obtained through the workplace is guilty. 29-2 Issue: Did the chimney sweep boy have a legal right to retain possession of the found jewels? The United States and most of its principal trading partners (except for the United Kingdom) have adopted this important treaty, which governs over two-thirds of the world's trade. Even though Shanghai may not have intended its rules to disrupt international trade, it did because the license auctions had a direct effect on the price of imported cars. Her research has won the Outstanding Proceedings competition at the annual conference of the Academy of Legal Studies in Business and has twice earned the Hoeber Memorial Award for Excellence in Research. But what about access to a private social media profile? Suppose Patricia owns a house, which she agrees to sell to Quincy and Rebecca. This provision never made it into the contract. Result: Tim's wife is entitled to some percentage of his assets (which varies by state). An exculpatory clause is generally unenforceable unless the clause is clearly written and readily visible. Should a sailboat seller sell speedy sailboats solely to seasoned sailors? The dog signaled the presence of drugs. The debtor remains liable for the deficiency, and the creditor will sue for it. Unable to meet its current obligations, Decal filed a petition of reorganization under Chapter 11 of the federal Bankruptcy Code. appeals of any cases from lower courts. Eddie claims that he should never have been allowed to attempt an advanced maneuver. You name the job, there is an app for that. In the following case, the creditor got in just under the wire. A tenancy at will has no fixed duration and may be terminated by either party at any time. In other words, the principal is as responsible as if he had performed those acts himself. Restitution is a common remedy in contracts involving fraud, misrepresentation, mistake, and duress. Therefore, to be eligible, the debtor must have a regular source of income. But when the builder attached them to the house, the items became fixtures. This includes everything bought during the marriage with community money. Each party has made a promise to do something. WCN 02-200-203 04341_em_cases_hr_T1-T4.indd 4 10/6/17 12:34 PM Index A Aaron, Hugh, 17 Abandonment (by employee), 327 Acceptance (contract checklist element), 179, 186, 190 communication of, 191 method and manner, 191 time of acceptance ("mailbox rule"), 192 mirror image rule, 190 offeree role, 190 UCC and "battle of forms," 190–191 Accountant-client issues privilege, 511 Internal Revenue Service Restructuring and Reform Act, 511 working papers, 511 relationship, 511 Accounting liability Arthur Andersen downfall, 501–502 audits, 503–504 GAAP (generally accepted auditing principles), 504 GAAS (generally accepted auditing standards), 504 IFRS (international financial reporting standards), 504 tracing, 504 vouching, 504 to clients breach of trust, 506 common law fraud, 506 contract (engagement letter), 505 negligence, 505 consolidation in accounting profession, 503 criminal liability, 510 opinions, 504 Sarbanes-Oxley Act of 2002 (SOX), 502–503 to third parties, 506–507 fraud, 508 joint and several liability, 510 negligence, 507 Securities Act of 1933, 508 Securities Exchange Act of 1934, 508 whistleblowing, 510 Accredited investors, 443 Acer, 460, 462 AcneApp, 461 Act (item of value), 199 Additional terms to a contract (UCC modification to common law), 266–267 Adidas, 529 Adjudicate, 71 Adjudicating cases, 61 Administrative law, 5–6, 70 adjudication, 71 informational control and the public, 71 Freedom of Information Act, 71–72 Privacy Act, 72 investigation, 71 rule making, 70 interpretive rules, 70–71 legislative rules, 70 Administrative law judge (ALJ), 71 ADR (Alternative dispute resolution), 94–95 Adversary system, 90 Aetna Casualty, 184 Affirm, 8 Affirm (option of court of appeals), 93 Affirmative action programs, 363 source, 363–364 Age Discrimination in Employment Act (ADEA), 365 Agency law, 317 agency relationship requirements, 317 consent, 317 control, 317–318 fiduciary relationship, 318 agency relationship termination options, 321 achieving a purpose, 321 agency at will, 321 inability to perform required duties, 321 mutual agreement, 321 term agreement, 321 wrongful termination, 321 duty of loyalty (agents to principals), 318 appropriate behavior, 319 competition with the principal, 319 confidential information, 319 conflict of interest between two principals, 319 outside benefits, 319 secretly dealing with principal, 319 duty of principals to agents, 320 other duties (agents to principals), 320 duty of care, 320 duty to provide information, 320 obey instructions, 320 principal's remedies for agent's breach of duty, 320 damages, 320 profits, 320 rescission, 320 See also Liability to third parties (agency law) Agent (in agency relationship), 317 Aggravated Identity Theft statute, 110 Agreement on Trade Related Aspects of Intellectual Property (TRIPS), 46 Alexander Grant & Co., 506 Allegiant Travel, 410 Alternative dispute resolution (ADR), 80, 94 arbitration, 94–95 mediations, 94 Amazon, 449, 529 Echo (and privacy), 159 Ambiguities (UCC rules for interpretation), 282–283 American Bar Association, Model Business Corporation Act (Model Act), 399 American Trans Air, Inc., 340 Americans with Disabilities Act (ADA), 49, 366–367 Analyzing a case (book feature), 7 analysis example, 8–9 Anderson, Christopher, 503 Andreason, Dana and Derek, 184 Answer (in pleadings), 86 Antigua, 47 Antitrust laws, 449 Clayton Act, 452 mergers (with Hart-Scott-Rodino amendment), 452 tying arrangements, 452 enforcement, 449 Robinson-Patman Act (RPA), 453 Sherman Act of 1890 monopolization, 450 predatory pricing, 451–452 price fixing, 449–450 resale price maintenance (RPM)/vertical price-fixing, 450 violation types per se violations, 449 rule of reason violations, 449 Apparent authority (in agency law), 322 Appeal, 108 I1 Copyright 2019 Cengage Learning. For example, a Connecticut court held a company liable when it fired a quality control director who reported to his boss that some products had failed quality tests. • Prepare—Interactive worksheets are designed to prepare students for classroom discussion by ensuring that they have read and understood the reading. A court ordered Zeke to pay Tobacco $50,000. Incidental beneficiary A party who benefits from the contract although the contract was not designed for their benefit. The school chose Thoroughly Modern Millie as the middle school's annual play and made Brune the production manager. Utility patents are valid for 20 years from the date of filing the application. This fight necessitates a trip into court. For anything else, the common law governs. Yes, more women have acceptable credit ratings. It is about belt-tightening and shedding past bad habits. Over time, the group grew to 679 members and became a valuable source of clients for CDM. Vagueness Vagueness The parties to a contract deliberately include a provision that is unclear Vagueness means that the parties to a contract deliberately include a provision that is unclear. Bubba's Bus Co. needs money to meet its payroll, so it borrows $150,000 from Francine's Finance Co., which takes a security interest in Bubba's 180 buses and perfects its interest. Can you think of any terms that either party left out? A second policy has been to reward the finder if no owner can be located. But merchants have another motive, too: Consumer information is very valuable. What could his ex-wife and her father do to help their chances of being repaid? Covenants i. Nor may health insurers use such information to decide coverage or premiums. Creditor Approval of Plan Creditors do not vote because there is no plan. (b) Bob may assign his claim, but only if Cathy and Hardknuckle agree. 26-3d Securities Exchange Act of 1934 Under the Securities Exchange Act of 1934 (1934 Act), public companies must file an annual report containing audited financial statements and quarterly reports with unaudited financials. If the court decides the low ceiling is a $10,000 damage, the pool color worth $5,000, and the cable television issue worth $500, then Daniel receives $884,500. They are divided into "circuits," most of which are geographical areas. First Bank gets the railcars because it perfected first. A valet drives Kim's car away, but the supervisor asks Jack to park the Ferrari himself, in the hotel's lot across the street. The trial court granted Google's motion for summary judgment on the grounds that Reid did not have sufficient evidence of discrimination. Answer: Even if the plan was bad, it met the standard of having a "rational business purpose." Only if there had been self-dealing on the part of the board, or if they had made an uninformed decision, would shareholders have a chance of being successful in their suit. Bob, a mechanic, claims that Cathy owes him $1,500 on a repair job. • Their work is part of the regular business of the employer. Vladimir is Personal services Any service that must be performed by the promisor Copyright 2019 Cengage Learning. Dissatisfied, Hawkins appealed. For many years, Johnny Carson was the star of a well-known television show, The Tonight Show. However, if she chooses, she may sue Freddy for $500, the amount he promised her for the water. WCN 02-200-203 04341_ch06_hr_101-120.indd 112 8/24/17 1:38 PM Chapter 6 Crime 113 6-3d Hiring Illegal Workers It is illegal knowingly to employ unauthorized workers. Intentional infliction of emotional distress Extreme and outrageous conduct that causes serious emotional harm. Currency is vital because the exchange rate may alter between the signing and payment. 362 F.3d 971 United States Court of Appeals for the Seventh Circuit, 2004 Facts: Gateway Chevrolet Oldsmobile, a car dealer- ship, sent an unsolicited letter to Tonja Treadway notifying her that she was "pre-approved" for the financing to purchase a car. (Because this is a business law text, we can only answer the first two questions.) If the police discover a plot to commit a crime, they can arrest the defendants before any harm has been done. As one court put it, "the fact that society may find speech offensive is not a sufficient reason for suppressing it.20 Thus, one court ruled that a tweet calling someone "f***ing crazy" was constitutionally protected because it was a statement of opinion. The company was insured by Harleysville Insurance. This section deals with worker freedom: the right to personal lifestyle choices and to the public expression of opinions about the workplace. Stony Creek ier k/P Dec Disputed Area Lot A (Medford) Lot B (Cruz) Open and Notorious. WCN 02-200-203 04341_ch19_hr_356-376.indd 374 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 375 6. A binder is a short document acknowledging receipt of the application and premium. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 14 9/28/17 7:29 AM Index Uniform Anatomical Gift Act (UAGA), 584 Uniform Commercial Code (UCC), 182–183 Uniform Commercial Code (UCC)/ Article 2/sale of goods, 182–183, 262 added terms exception to mirror image rule, 266–267 battle of forms rules (Section 207), 190–191, 266 buyer's remedies, 267 conforming goods, 267 cover, 267 incidental and consequential damage, 268 right to cure, 267 contract basic elements agreement time not critical, 264 open terms allowable, 264 show agreement, 263–264 contract formation (Section 204), 263–264 development of, 262 merchants, 263 and negotiable instruments, 279 rules for interpretation of ambiguities, 282–283 seller's remedies, 268 and Statute of Frauds (Section 201), 265 enforceable to quantity stated, 265 merchant exception, 265 writing required for sale of goods above $500, 213, 265 See also Warranties Uniform Commercial Code (UCC)/ Article 9/secured transactions, 296, 297e attachment step, 298 agreement, 298–299 debtor rights in collateral, 299 to future property, 300 possession, 299 value, 299 collateral types, 298 creditors (priorities among), 306 default, 307 disposition of collateral, 308–309 taking possession of collateral, 307–308 definitions, 296–297 perfection steps of consumer goods, 302–304, 303e by filing, 300–302, 301e by possession, 302 scope, 298 termination, 309 Uniform Commercial Code (UCC)/ Article 9/security interests protection of buyers, 304 buyers in ordinary course of business (BIOC), 304–305 Uniform Electronic Transaction Act (UETA), 213 Uniform Fiduciary Access to Digital Assets Act, 583 Uniform Foreign Money Judgments Recognition Act, 51 Uniform Limited Liability Company Act (ULLCA), 385 Uniform Probate Code (UPC), 577 Uniform Trade Secrets Act (UTSA), 532–534 Unilateral contract, 180 Union Pacific Railway Co. v. Jason: Hey, thanks. Fourteenth Amendment Guarantees equal protection of F the law. The CFAA prohibits: Hacking Gaining unauthorized access to a computer system • Accessing a computer without authorization and obtaining information from it, • Intentional, reckless, and negligent damage to a computer, and • Trafficking in computer passwords. If a member of a PC commits malpractice, the corporation's assets are at risk, but not the personal assets of the innocent members. Unfortunately, Competition was a fraudulent company that pretended to sell airplanes. They were relying on the doctrine of adverse possession. Leasehold A right to possess real property temporarily. Out of sight was out of mind. There are three types of authority: express, implied, and apparent. Suppose the highest court of Arizona must decide whether a contract for a new car, signed by a 16-year-old, can be enforced against him. He is not promising to sell the condo for $150,000 or for any amount. (a) I, II, and III (b) II and III (c) I and II (d) I and III (e) Neither I, II, nor III 4. (b) The general trial court of Texas only. Should a court force PepsiCo to sell its plane? Because Chaney's profile allowed access to "friends" and "friends of friends," Cearley had obtained legitimate access to it. Answer: He is not maintaining appropriate independence as required by the SEC. The Court felt there was not enough evidence that Sherman was predisposed to commit the crime. Should the court approve Brown's reaffirmation? With that singular goal in mind, Cengage has created an extremely useful tool for both instructors and students. K Key person life insurance Companies buy insurance on their officers to help the companies recover if they were to die. City of Reno, 159 n. BIOC ___ C. But your roommate is not strictly liable because he is not in the food business. Smith was a grown man who drank voluntarily and joined the fight knowing that he was at risk for injury. Would you be upset with a decision to rebuild the manufacturing plant in the United States? Article 2 applies to the sale of goods. (b) refused to accept a job as an accountant while receiving extended benefits. 8-1g Defenses Assumption of the Risk Good Guys, a restaurant, holds an ice fishing contest on a frozen lake to raise money for accident victims. WCN 02-200-203 04341_ch06_hr_101-120.indd 116 8/24/17 1:38 PM Chapter 6 Crime 117 MATCHING QUESTIONS Match the following terms with their definitions: ___ A. The rest had more unhealthy fat than an Oreo. At trial, the evidence indicates that a defect in the unit caused the fire, but also that this was unprecedented at Warm. INDEPENDENT CONTRACTOR The principal is liable for both the intentional and negligent torts of an independent contractor if the principal has been negligent in hiring or supervising her. With these significant issues in dispute and unresolved, it would be inappropriate to grant Chemque's motion for summary judgment. An absolute duty on the intended bailee to return or dispose of the property according to the bailor's directions Copyright 2019 Cengage Learning. What is the difference between a long-term versus short-term perspective? Who is more likely to file a tort lawsuit in this case, Marta or the state? Web hosts also have the right to exercise traditional editorial functions, such as deciding whether to publish, display, or alter content. The court will look to see if there is precedent; that is, whether the high court of Arizona has already decided a similar case. Exhibit 21.2 illustrates the business judgment rule. Businesses that do become general partnerships tend to drift into it unknowingly, because a partnership is easy to form. EXAMStrategy Question: Julie, an MBA student, rents an apartment from Marshall for $1,500 a month. Two related provisions of the Fifth Amendment, called the Due Process Clause and the Takings Clause, prohibit the government from arbitrarily depriving us of our most valuable assets. And no matter what her form of organization, she would be personally liable for any negligent acts she commits, so a corporation would not provide any additional protection. Alternative dispute resolution is any other formal or informal process used to settle disputes without resorting to a trial. Typically, the landlord must serve a termination notice on the tenant and wait for a court hearing. Negligent Hiring. Although, as we have seen, principals are generally not liable for the physical torts of an independent contractor, there is one exception to this rule: A principal is liable for both the negligent and intentional physical torts of an independent contractor if the principal has been negligent in hiring or supervising her. APPARENT AUTHORITY A principal can be liable for the acts of an agent who is not, in fact, acting with authority if the principal's conduct causes a third party reasonably to believe that the agent is authorized. 19-2e Gender Identity and Expression David Schroer was in the Army for 25 years, including a stint tracking terrorists. Thus, for example, "paying an official a small amount to have the power turned on at a factory might be a facilitating payment; paying an inspector to ignore the fact that the company does not have a valid permit to operate the factory would not be."5 • All publicly traded companies—whether they engage in international trade or not— must keep accurate and detailed records to prevent hiding or disguising bribes. EXAMStrategy Question: Caudle worked at Betts Lincoln-Mercury, a car dealer. If Schiavo had had a living will, her family would have had more privacy, fewer legal bills, and, perhaps, greater peace. WCN 02-200-203 04341_ch08_hr_137-155.indd 144 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 145 the single recovery principle, discussed in Chapter 7, prevents a plaintiff from returning to court years later and demanding compensation for newly arisen ailments. WCN 02-200-203 04341_ch27_hr_519-537.indd 529 8/28/17 7:30 AM 530 Unit 7 Property • Similar to an existing mark. In response, state and local officials targeted a section of the city called Fort Trumbull for revitalization. One supplier sued for unpaid bills. WCN 02-200-203 04341_ch12_hr_220-241.indd 222 10/6/17 12:06 PM C h a p t e r 12 12-2 Performance of a Contract 223 ASSIGNMENT AND DELEGATION After a contract is made, one or both parties may wish to substitute someone else for themselves. (Minority shareholders are those with less than a controlling interest.) The courts have long recognized that minority shareholders are entitled to extra protection because it is easy (perhaps even natural) for controlling shareholders to take advantage of them. Interpretive power is often underrated, but it is often as important at the ability to create laws in the first place. Ledbetter's report on the incident said: "My notes show that Delaney told me that White asked him to sleep with her and that when he would not, that she started causing dissension within the crew. Generally, either the seller or the buyer may be granted specific performance. Assignment of rights A transfer of benefits under a contract to another person. This is the formal term for an oral will. Constitutional, Statutory, Administrative, and Common Law 61 Forcing individuals into commerce is beyond the federal government's

authority under the Commerce Clause. We are grateful to all of the reviewers and instructors from around the country who have helped us refine this book through all of its editions. WCN 02-200-203 04341_appA_hr_A1-A14.indd 2 9/28/17 7:27 AM APPENDIX A The Constitution of the United States A3 returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place. Once an LLC is established, it is simpler to operate—it does not, for example, have to make annual filings or hold annual meetings. The following list provides guidelines to help interviewers comply with the laws in this chapter. When the partnership sued Peat for breach of contract, the accounting firm asked the court to dismiss the claim on the grounds that the client could only sue for the tort of negligence not for breach of contract. In a contract for services, a party that substantially performs its obligations will receive the full contract price, minus the value of any defects. But was the jury's decision right? • Shareholders must be citizens or residents of the United States, not nonresident aliens. The Rays have obtained title by adverse possession. The real purpose of the advertisement was simply to lure interested customers into a trap to buy a more expensive item. The instrument is dishonored. In many states, a landlord must either return the security deposit soon after the tenant has moved out or notify the tenant of the damage and the cost of the repairs. Generally, courts have held that employers do not have a legal obligation to disclose information about former employees. During the building process, pipes on the property discharged storm water with sediment into the stream. This promise does not have to be in writing because it can be performed within one year. In September, her (uninsured) winter house in Florida is destroyed by a hurricane. If the doctor wanted the content of these emails to be protected under the attorney–client privilege, he should not have sent them over the hospital email system. Representations and Warranties i. They never agreed on how "profits" were to be calculated. Result: Child support is a priority claim, so that will be paid first. The two parties must have bargained for whatever was exchanged and struck a deal: "If you do this, I'll do that." If you just decide to deliver a cake to your neighbor's house without her knowing, that may be something of value, but since you two did not bargain for it, there is no contract, and she does not owe you the price of the cake. Your boss asks you to book sales in this quarter that actually will not happen until next. Negligence is not enough to create liability. They argued that the postwar arrangement formed a bailment, whereby Hungary promised to safeguard their property and return it to them on demand. Summary judgment A ruling that no trial is necessary because essential facts are not in dispute Jones v. Either Argentine or New Jersey law will determine the answer to that question. But all is not lost. A Delaware court found that Guth had violated the corporate opportunity doctrine and ordered him to transfer all his shares in PepsiCo to Loft. Both individuals and businesses can use Chapter 11. WCN 02-200-203 04341_ch05_hr_079-100.indd 85 9/28/17 9:36 AM 86 Unit 1 The Legal Environment Answer Answer The defendant's response to the complaint Default judgment A decision that the plaintiff in a case wins without going to trial Coastal has 20 days in which to file an answer. But if she died before Francis, her children would receive all of his personal property (including the family heirlooms), plus $25,000 each, and the rest would go to several charities. However, if flossing is done right, it is more effective against plaque and gum disease than Listerine. Is the list of names in a LinkedIn group a trade secret? The uncle agrees, but he insists that his nephew grant him a security interest in Hector's splendid gold clarinet, worth over $2 million. Sexual harassment Involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature Copyright 2019 Cengage Learning. BAD FAITH BY INSURER Many courts have held that insurance policies contain a covenant of good faith and fair dealing and have found insurance companies liable for compensatory and punitive damages if they commit fraud, refuse to pay legitimate claims in a timely manner, or wrongfully refuse to settle a claim. WCN 02-200-203 04341_ch07_hr_121-136.indd 125 8/24/17 11:58 AM 126 Unit 2 Torts "Think fast!" at her husband and hurls a toaster at him. She claims they struck a bargain in January. In the following case, two men undertook a self-dealing transaction. T F A finder of lost property generally may keep the property unless the true owner comes forward. The Navy wanted to conduct training exercises off the coast of California for sonar submarines. Its goal was to facilitate the free flow of commerce across this large nation. WCN 02-200-203 04341_gls_hr_G1-G14.indd 13 9/28/17 7:30 AM Copyright 2019 Cengage Learning. Statute that prohibits discrimination on the basis of race, color, religion, sex, or national origin 3. BREACH A defendant breaches by failing to meet his duty of care. WCN 02-200-203 04341_ch24_hr_460-481.indd 472 10/6/17 12:28 PM Chapter 24 been denied credit. A secured claim is one in which the creditor has the right to foreclose on a specific piece of the debtor's property (known as "collateral") if the debtor fails to pay the debt when due. But our book explains the complexity of corporate power. 16. GATT. GATT is the General Agreement on Tariffs and Trade. The reason for shortening the period is to reward those who make use of land. To prove a violation of copyright law, the plaintiff does not need to prove that the infringer actually copied the work, but she does need to prove: I. The Act also prohibits employers from firing workers who file suit under the statute. This is called a constructive bailment because, with no agreement between the parties, the law is construing a bailment. 20-5f Transfer of Ownership A partner cannot sell his share of the organization without the permission of the other partners. 2-4l Ethics Case: The Beauty of a Well-Fed Child Cosmetic companies often use gift-with-purchase offers to promote their products. If the vet's family sues Dom, should it win? The trial court found that Powers's attachment of the replacement rope was a superseding cause, relieving Ryder of any liability, and granted summary judgment for Ryder. Amendment XI [1798] The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State. The purpose is to replace at least some of the insured's income to protect his family or his employer. Answer: A California court ruled that George did have a reasonable expectation of privacy and the data was not admis- sible in court because the computer had simply been recording his movements on a public road. At this early stage of litigation, the facts suggest that HBI may have acted unreasonably. A law passed by Congress or a state legislature ___E. Detective Thomas Koczur drove Chase and Baer to various New Jersey locations and introduced Chase to Tony Spirito. Are the boys guilty of anything more than breaking into Sunny's apartment? Strategy: Even in extreme cases, courts rarely take an interest in how much consideration is given or whether everyone got a "good deal." Even though the Rolex may be worth thousands of times more than the quarters, the quarters still count under the peppercorn rule. WCN 02-200-203 04341_appC_hr_C01-C22.indd 21 9/28/17 7:28 AM Copyright 2019 Cengage Learning. In contrast, the Chapter 7 debtor typically relinquishes all assets (except exempt property) to creditors but then has no obligation to turn over future income (except for non-dischargeable debts). In payment, he gives her a $15,000 promissory note with the due date left blank. (c) Federal Communications Commission 3. Covenant A promise in a contract 2These are not the parties' real names but are offered to illustrate the concepts. But again, the contract is voidable, not void. Buckeye filed suit against Sheth. 2–3 minutes later … he walks back and, just like the last store, the inventory suddenly has vanished. Patent Patents give inventors the right to prevent others from making, using, or selling their inventions for a limited time. For example, when users conduct an internet search for a picture, search Copyright 2019 Cengage Learning. Automobiles and household items such as televisions, mattresses, refrigerators, security cameras, and doorbells are network connected in the name of convenience and efficiency. The SEC has the right to clawback some CEO and CFO compensation if misconduct on the part of any employee causes the company to restate its financials. Do you consider the facility's policy fair, or is it an unjust effort to escape responsibility? But it was not enough, evidently, to change BP's practices. Burger King Corporation 2010 U.S. Dist. Twenty-three states and the National Mining Association challenged the EPA's decision to ignore costs when issuing these regulations. Something is bargained for if it is sought by the promisor and given by the promisee in exchange for their respective promises. Tenancy at sufferance → (5) A tenant remains on the premises after expiration of true tenancy Chapter 29 A. Kodak? Thereafter, Ward sold this loan to 54 individual investors, but kept possession of the notes. Ernst & Young served as the auditor for FP Investments, Inc., a company that sold tax shelter partnerships. Even if the accountants had caused only, say, 5 percent of the damages, they could be liable for the full amount. Qualified opinion. But courts have held that people cannot have a reasonable expectation of privacy in information that is generally visible or available. The executive also has veto power. Some courts have held that it is reasonable to share a secret with a limited number Privacy and Internet Law 163 of people if the recipients are unlikely to divulge it. His breach is the same for both parties, but the consequences are very different. A corporation will not escape liability by showing that the scheme failed. can only be treated by doctors who are employees of the organization. The evidence is that Candy is about 25 percent responsible, for failing to stop quickly enough, and Zeke about 75 percent responsible, for making a dangerous turn. Huff sued Spaw under the federal Wiretap Act, alleging that she violated his privacy when she intentionally intercepted and disclosed his confidential communications. The agent assumed that Hotel Augustine would be fine because it had been renovated at a time after lead paint was banned. The security guard responded, "Hah man, she is all 'f*****-up.'" Lindsay cried all night and suffered damage to her self-esteem. SAY-ON-PAY At least once every three years, companies must take a non- RESULTS binding shareholder vote on the compensation of the five highest-paid executives. after the initial public offering. It is a bailee of every shipment entrusted to it. After the contract was signed, Daniel orally agreed to reduce the interest rate to 6 percent once volume exceeded 15,000 cases. 22-2e Bankruptcy Estate Bankruptcy estate The new legal entity created when a bankruptcy petition is filed. Under British law, a police officer must now say the following to a suspect placed under arrest: "You do not have to say anything. facts provided by trial courts and review the record for legal errors. MUTUAL MISTAKE. When both parties to a contract make the same fun- damental factual error as to the existence or the identity of the contract's subject matter, either party may rescind. Heritage responded that the increase would not occur until the price went above $0.48. No tedious list of next steps in litigation, this chapter teaches the subject by tracking a double-indemnity lawsuit. Emily sues Joe. • If the offeree adds new terms to the offer, acceptance by the offeror generally creates a binding agreement. He was not injured physically, but he sued for his emotional distress—and won. Harris v. First, Struble had conducted a stop and frisk after the traffic stop was over. Davis simply hauled him to a nearby wagon and left him in the sun for an additional four hours, causing serious permanent injury. Decision: Yes, Evelyn's children are entitled to a share of the estate. • Patentable subject matter. The Pub Zone case is a good example of how judges reason their way through the convoluted issues involved. WCN 02-200-203 04341_ch19_hr_356-376.indd 373 8/26/17 10:26 AM 374 Unit 4 Agency and Employment Law 5. 4-3b Bystander Cases This country inherited from England a simple rule about a bystander's obligations: You have no duty to assist someone in peril unless you created the danger. Or are some decisions priceless? Most courts would rule, though, that Dom is not liable. The hospital filed a motion to dismiss, arguing that Ehling did not have a reasonable expectation of privacy in her Facebook posting because the comment was disclosed to dozens of people, including coworkers. You are known as Sandy, your last name is pronounced "Yohannson," and you do not have a chimney. If a company retaliates against tipsters, they are entitled to reinstatement, double back pay, and attorney's fees. "Equal work" means tasks that require equal skill, effort, and responsibility under similar working conditions. Question: Huma and Zuma want to start Spring High, a business that would take high school students on safe, educational trips during spring break. Who is responsible for cleaning up the chemical? Result: Jade has received no benefit whatsoever. WCN 02-200-203 04341_ch15_hr_278-294.indd 292 9/28/17 9:39 AM C h a p t e r 15 SHELBY CASE 3020 CREST DRIVE ALVIN, TX July 27, 2017 August 3, Dana Locke Three Hundred Eighty-Two PAY TO THE ORDER OF $ Negotiable Instruments 293 4201 20 16 352.00 DOLLARS LAST NATIONAL BANK OF ALVIN ALVIN, TX 77511 5-14/111 MEMO Shelby Case 010110456 286 72566 4201 3. The impact of this climate change is potentially catastrophic: a devastating decline in fishing stocks, the death of major forests, and a loss of farmland worldwide. The two firms had a number of clients in common. The plaintiffs offered the following evidence: Starbucks provided baristas with pitchers that had "fill to" lines that were too low for the finished product to actually be 16 oz. Landmark Harmon v. Is this practice legal? 1975). 26-3c Securities Act of 1933 Due diligence A reasonable investigation of a registration statement The Securities Act of 1933 (1933 Act) requires a company to register securities before offering them for sale to the public. State trial courts may hear lawsuits on virtually any issue. For this reason, privately held companies that begin as LLCs often change to corporations when they go public. The member engaged in improper conduct, and 3. EXAMStrategy Question: Paul and Shelly Higgins had two wood stoves in their home. Is that the blanket license we want to give the CIA? What is the right thing to do? Because the book was so late, Contemporary paid Colby a total of only $17,000. Delegation of duties A transfer of obligations in a contract. That "solution" would solve the immediate issue of low sales while potentially creating an enormous longterm problem that could lead to bankruptcy and prison time. Phibro believed that because the price was above $0.38 per pound, it was entitled to an increased payment. It is bad enough to be hassled over a debt that one does, in fact, owe, but many times consumers are threatened and harangued for debts that are not legitimate. 9. Further, if Viso ever stopped its advertising, the dentists could cancel their contracts. 4 Z Zankel v. (a) Lacy will win because it was foreseeable that she would rely on these statements. After Dawn Gallina, an associate at a big law firm, revealed to her boss that she had a young child, he began to treat her differently from her male colleagues and spoke to her "about the commitment differential between men and women." A court ruled that her belief of illegal discrimination was reasonable.3 19-2d Sexual Orientation As a manager at Scott Medical Health Center, Robert McClendon frequently called one of his gay reports derogatory and offensive names, including "fag" and "queer." McClendon also asked intrusive and insulting questions about his employee's sex activity. Suppose that Dmitri has a $100,000 automobile insurance policy. Of this amount, $10 million went to Julie Darity, a former Bard employee who was fired after she blew the whistle on the company's wrongdoing. The Phibro draft was much more favorable to Heritage than the Heritage proposal had been. The Lockoviches soon washed up in bankruptcy court. Is he guilty of a crime? The trip was not a "normal" part of a football game, and the "assumption of the risk" doctrine would not prevent the player from recovering damages if injured. ments that they know to be false or that are primarily motivated by ill will. Answer: Ledbetter committed a wrongful discharge when he fired Delaney for refusing to commit the tort of defamation. If she lives to be 95, the company loses money. What is its geographical radius? But the lower court decided that confusion was unlikely because the boats had different markets. He pays $2,500 for the puppy, the high cost due to the certificate Purity gives him indicating that the puppy's parents were both AKC champions (elite dogs). Besides the fact that Francia's accomplice was holding burglary tools, what is the weakness in Francia's defense? ADMINISTRATIVE AGENCIES Congress creates federal administrative agencies to supervise many industries. If so, what penalties might he face? How easy it is to rationalize, "Just this once." Many publicly traded companies feel pressure to meet earnings expectations. Coastal's case would have been far stronger, perhaps overwhelming. The husband's alleged promises relating to support should have been in writing. When Carmelita Vazquez repeatedly came to work with her hair in cornrows, Starwood fired her for violating its policy. The trial court disagreed. A defendant can lose his freedom or even his life. In some states it is, but not in North Carolina, where this woman lived. In the early 1970s, President Richard Nixon became embroiled in the Watergate dispute. A person's direct descendants, such as children and grandchildren. Therefore, the charter may require that a shareholder first offer shares to the other owners before selling them to an outsider. CHAPTER 11 1. However, debtors can take advantage of state exemptions only if they have lived in that state for two years prior to the bankruptcy. It is illegal, among other things, to access a computer without authorization and to obtain information from it. Point sources Discharges from a single producer. On the other hand, a party that fails to perform substantially receives nothing on the contract itself and will only recover the value of the work, if any. Bagell 781 F3d 638 United States Court of Appeals for the Second Circuit, 2015 CASE SUMMARY Facts: ABAT was a Delaware corporation that manufactured lithium batteries in China. In considering a new bankruptcy statute, Congress struggled mightily over whether or not to permit state exemptions at all. The level of care required depends upon who receives the benefit of the bailment: If the bailee is the sole beneficiary, she must use extraordinary care; if the parties mutually benefit, the bailee must use ordinary care; and if the bailor is the sole beneficiary of the bailment, the bailee must use only slight care. Mattel decided that it ought to figure out what the problem was before reporting anything to the CPSC. After the takeover attempt was publicly announced, O'Hagan sold his stock in Pillsbury at a profit of more than $4.3 million.1 The Supreme Court found Hagan guilty of misappropriation. Clyde did not obtain another policy, and, in a burst of astonishing bad luck, at 2:30 a.m. on March 1, he struck another vehicle, killing two men. Reasonable person standard. Property records showed that the state owned staking their claim to an the lake and lake floor, but nobody owned the island. 2Whole Woman's Health v. This arrangement is favorable for the plaintiff because the government pays the legal bill. You be the judge. We hope this book will persuade Should a pub owner you of all three ideas. 18-3 ORKPLACE FREEDOM W AND SAFETY The line between home and workplace often blurs. Is the new term an additional term or a different term? 2014). But there are some exceptions. What does that mean in English? Guzman claimed that a male editor had shown her a photo of a naked man while telling stories about another editor's "voracious sexual appetite." The following case lays out the elements of a hostile work environment claim. By and large, you are free to make whatever agreements you want, subject to whatever rules you choose, and the law will support you. Owen does not want to leave any money to his son, Kevin. WCN 02-200-203 04341_ch19_hr_356-376.indd 371 8/26/17 10:26 AM 372 Unit 4 Agency and Employment Law someone with a physical or mental impairment that substantially limits a major life activity or the operation of a major bodily function or someone who is regarded as having such an impairment. WCN 02-200-203 04341_ch18_hr_336-355.indd 339 10/6/17 12:23 PM 340 Unit 4 Agency and Employment Law Tort Law Qualified privilege Employers are liable only for false statements that they know to be false or that are primarily motivated by ill will. Some people reacted positively, but others were outraged. Burden of proof The obligation to convince the jury that a party's version of the case is correct. The EPA estimates that the CAA has saved trillions of dollars by preventing lost work and school days, illness, and premature deaths. Prima facie Something that appears to be true upon a first look 3. The owner who installed it intended that it remain, and it was a fixture; Everitt got it. Appellate courts never hear witnesses, and they will not hear Steve. F A contract may not be rescinded based on puffery. The most common violation of this provision (and one of the most serious) involves horizontal price-fixing. It is not clear whether Hardie's improper conduct prevented BLD from collecting its entire $120,000 debt. Digital lies are particularly harmful because they can spread swiftly and remain a permanent, searchable public record. This death can be voluntary (the shareholders elect to terminate the corporation) or forced (by a decision of the secretary of state or by court order). Strategy: Always be conscious of whether a contract is for services or the sale of goods. Snowden reported that, as an NSA agent, he could, sitting at his desk, "wiretap anyone, from you or your accountant, to a federal judge or even the president, if I had a personal email." According to Snowden, the U.S. government was reading emails, mapping cell phone locations, reviewing browser histories, and monitoring just about everything that anyone does online. Is there an agreement? Corrections Corporation of America, Inc., 222 Raul v. It would be unjust, said the court, to permit him to keep the benefit without paying anything, and so the Chesneys won their case of quasi-contract, receiving quantum meruit damages for the value of their work. Yes, the security interest attached. A guest intending to store valuables with an innkeeper must follow the statute to the letter. V Vagueness The parties to a contract deliberately include a provision that is unclear. "I'm desperate for a manager in my store," says Louise. She also discovered that Citicorp had rewarded other employees with bonuses that were higher than Wilson's salary. In 2015, in response to the Paris Accord, the United States committed to cutting its GHG emissions and issued CAA regulations to implement this goal. T F Without a meeting of the minds there cannot be a contract. But even when an oral lease is permitted, it is wiser for the parties to put their agreement in writing because a written lease avoids many misunderstandings. Which is worse—Wierdsma's threatening his daughter-in-law or stating that it is acceptable to lie to a federal agency? Although an S corporation has the same tax status as an LLC, it also has all the annoying rules about classes of stock and number of shareholders. No essential terms remained to be agreed upon. OSHA may ask for anything that is (1) relevant to the investigation, (2) not unduly burdensome, and (3) not privileged. Darby has been working for 14 months at Holden Associates, a large management consulting firm. If a couple has been married for many years and has substantial assets, it can be very difficult to sort out what is and is not community property. Beyond a reasonable doubt The government's burden in a Civil law Regulates the rights and duties between parties. (d) Quick 1/2, Onyx 1/4, Nash's heirs 1/4 3. In other words, Producer can transfer to someone else the right to receive the benefits of the contract (i.e., to make the movie with Artist), but he cannot transfer his obligations (to pay Artist). People routinely obtain records about agency policies, environmental hazards, consumer product safety, taxes and spending, purchasing decisions, and agency forays into foreign affairs. WCN 02-200-203 04341_ch10_hr_177-197.indd 197 10/6/17 11:47 AM REQUIREMENTS FOR A CONTRACT CHAPTER 11 Soheil Sadri, a California resident, did some serious gambling at Caesar's Tahoe casino in Nevada. WCN 02-200-203 04341_ch17_hr_315-335.indd 330 10/6/17 12:14 PM C h a p t e r 17 Agency 331 EXAMStrategy Question: Dr. James Leonard wrote Dr. Edward Jacobson to offer him a position at a hospital. Grp., 2009 WL 3128420, 2009 U.S. Dist. Copyright ___ C. 1To watch Stephanie's video, search the internet for "Lenz v. The two never discussed the meaning of "success" as applied to The Sopranos. 6-3 CRIMES COMMITTED BY BUSINESS A corporation can be found guilty of a crime based on the conduct of any of its agents, who include anyone undertaking work on behalf of the corporation. (d) permissible, but probably unwise. A court will award specific performance, ordering the parties to perform the contract, only in cases involving the sale of land or some other asset that is unique. Who has written the best contract? This is Denise from Master Chimney Sweeps." It is 7:30 p.m.; you have just straggled in from work and are looking forward to a tranquil dinner of takeout cuisine. We do not want to live in a world where employees are free to be as careless as they wish, knowing that they are not liable because they are members of an LLC. He appealed. But HBI's press release told another story: It announced that it split with Mendenhall because it disagreed with his views. A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime. Congress passed the law primarily to prevent gangsters from taking money they earned illegally and investing it in legitimate businesses. If they are reasonably safe and the buyer's mishandling of the goods causes the harm, there is no strict liability. Tristesse gives Felix a check payable to him. ETHICS During the Great Recession, home foreclosures hit an all-time high. The most common deceptive claims involve—you guessed it—weight loss. The comments indicated that Reid had an extraordinarily broad range of knowledge, an aptitude and orientation towards operational and IT issues, an excellent attitude, and that he projected confidence when dealing with fast-changing situations, was very intelligent and creative, and was a terrific problem solver. In one notorious case, the IRS suspected that the owner of a chain of pizza parlors was under-reporting his income. She sues. 18American Civil Liberties Union v. Then, the shareholders are taxed at the special dividend rate of 20 percent, which means they each pay a tax of $433. In the United States, an arbitral award will generally be enforced if: Arbitration A binding process of resolving legal disputes by submitting them to a neutral third party New York Convention Widely accepted treaty on the court enforcement of arbitral awards • It is enforceable under the local law of the country where the award was granted; • The arbitral tribunal had proper jurisdiction; • The defendant was given notice of the arbitration and an opportunity to be heard; and • Enforcement of the award is not fraudulent or contrary to public policy. At his wit's end, Horning proposed that the LLC buy out his share of the business. It secures our rights and balances government power. Leo sues. 1Some of these filings are by businesses, although that percentage is small. They argue that imposing criminal liability on a corporation is unfair to its innocent employees and shareholders, unless high-ranking officers were directly involved in the illegal conduct. Two years later, Oregon began a public offering of additional shares of stock. (c) This is lost property, and Margie is entitled to it. There are four elements to a defamation case. WCN 02-200-203 04341_ch21_hr_398-419.indd 411 10/6/17 12:27 PM 412 Unit 5 The Lifecycle of a Business year for what is very part-time work (averaging five hours a week). T F If one joint tenant dies, his interest in the property passes to surviving joint tenants, not to his heirs. Nonetheless, courts have held that, in states that permit guns in parking lots, employers may not rely on OSHA to ban these firearms. WCN 02-200-203 04341_fm_hr_i-xxii.indd 11 10/6/17 11:39 AM xii C ontent s Chapter 25 Environmental Law482 25-1 Introduction 25-2 Air Pollution 25-2a Clean Air Act 25-2b Climate Change 25-2c Automobile Pollution 25-3 Water Pollution: The Clean Water Act 25-3a Coverage 25-3b Major Provisions 25-4 Waste Disposal 25-4a Resource Conservation and Recovery Act 25-4b Superfund 25-5 Chemicals 25-6 Natural Resources 25-6a National Environmental Policy Act 25-6b Endangered Species Act 483 483 484 485 487 487 488 488 489 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 494 495 496 497 497 498 499 490 490 491 492 492 493 Chapter 26 Accountants' Liability501 26-1 Introduction 502 26-1a Sarbanes-Oxley 502 26-1b Consolidation in the Accounting Profession503 26-1c Audits 503 26-2 Liability to Clients 505 26-2a Contract 505 26-2b Negligence 505 26-2c Common Law Fraud 506 26-2d Breach of Trust 506 26-3 Liability to Third Parties 506 26-3a Negligence 507 26-3b Fraud 508 26-3c Securities Act of 1933 508 26-3d Securities Exchange Act of 1934 508 26-4 Criminal Liability 510 26-5 Other Accountant-Client Issues 511 26-5a The Accountant-Client Relationship 511 26-5b Accountant-Client Privilege 511 Chapter Conclusion Exam Review 512 512 Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 515 515 515 517 518 UNIT 7 Property519 Chapter 27 Intellectual Property520 27-1 Patents 27-1a Types of Patents 27-1b Requirements for a Utility Patent 27-1c Patent Application and Issuance 27-1d Patent Infringement 27-1e International Patent Treaties 27-2 Copyrights 27-2a Copyright Term 27-2b Copyright Infringement and Fair Use 27-2c The Digital Millennium Copyright Act 27-3 Trademarks 27-3a Ownership and Registration 27-3b Valid Trademarks 27-3c Trademark Infringement 27-4 Trade Secrets 521 521 522 524 525 525 525 527 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 533 533 533 533 534 535 536 527 528 528 529 529 530 531 Chapter 28 Real Property and Landlord–Tenant Law538 28-1 Nature of Real Property 28-2 Concurrent Estates 28-2a Tenancy in Common 28-2b Joint Tenancy 28-3 Adverse Possession 28-3a Entry and Exclusive Possession 28-3b Open and Notorious Possession 28-3c A Claim Adverse or Hostile to the Owner 539 539 540 540 541 541 541 541 Copyright 2019 Cengage Learning. The next stage is to develop a plan of reorganization that provides for the payment of debts and the continuation of the business. In the end, the company paid more than $30,500—a worse result for both parties. All offerings must comply with state as well as federal laws. In the process, TP divulged that Lindsay was moving to another unit. Police found strong evidence that Edward Coolidge had committed this terrible crime. WCN 02-200-203 04341_ch12_hr_220-241.indd 238 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 239 (c) Museum will win provided that it was Sue Ellen's fault she was late. ELECTRONIC FUND TRANSFERS A consumer can stop payment on a transfer by oral or written notice up to three business days before the scheduled date. Its workers threw toxic products such as bleach and fertilizer into the local sewer system rather than disposing of them legally. (c) Was the painter paid by the hour or by the job? Some societies permit men to have more than one wife, while others find that practice abhorrent. Later, Jesse discovered that Rachel was an agent for Sylvester Co. Who is liable on this contract? WCN 02-200-203 04341_fm_hr_i-xxii.indd 1 10/6/17 11:39 AM Introduction to Business Law, 6th Edition © 2019, 2016 Cengage Learning, Inc.® Jeffrey F. Users can move from document to document using links that form a "web" of information. The school argued that Brune was not fired for his email but rather for lying about it. Election of Directors At the annual meeting, shareholders have the right to elect directors. WCN 02-200-203 04341_ch15_hr_278-294.indd 294 9/28/17 9:39 AM CHAPTER 16 SECURED TRANSACTIONS James is a secret agent. Result: Euphemia was a minority shareholder. When the promisor agrees personally to render a service that cannot be transferred to someone else, her death discharges the contract. But the rule creates its own problems. (b) In about half the statutes, employees have the right to bring guns into their workplace parking lot. 7. Result: The style of a textbook is an idea and not copyrightable. Marshall's of MA, Inc., 535 S.E.2d 265 (Ga. Ct. App. What are the limits on that power? WCN 02-200-203 04341_ch22_hr_420-438.indd 434 8/26/17 11:29 AM Chapter 22 Bankruptcy 435 4. If you know for a fact that isn't happening, get that paperwork moving. 18-4 FINANCIAL PROTECTION Congress and the states have enacted laws that provide employees with a measure of financial security. It is bank fraud to use deceit to obtain money, assets, securities, or other property under the control of any financial institution. Maddie was furious and ordered him not to make the sale. T F It is illegal to have a monopoly. Courts often—but not always—ignore exculpatory clauses, finding that one party was forcing the other party to give up legal rights that no one should be forced to surrender. WCN 02-200-203 04341_fm_hr_i-xxii.indd 22 10/6/17 11:39 AM The Legal Environment UNIT 1 Copyright 2019 Cengage Learning. The Arizona Daily Star fired a reporter for tweeting a series of comments, including: You stay homicidal, Tucson. (a) Operating a factory dangerously 3. Distance, language, politics, culture, and different legal systems all pose potential hurdles to successful transactions. Valid contract A contract that satisfies all of the law's requirements Unenforceable agreement A contract where the parties intend to form a valid bargain but a court declares that some rule of law prevents enforcing it Voidable contract An agreement that, because of some defect, may be terminated by one party, such as a minor, but not by both parties Void agreement An agreement that neither party may legally enforce Express and Implied Contracts In an express contract, the two parties explicitly state all important terms of their agreement. What traps did he face? Strategy: The FCRA regulates the issuance of consumer reports. But there are times when healthy competition becomes illegal interference. Wenco Foods, Inc., 270–271 Gould v. Corporations must use one of the following words in their name: "Corpora- tion," "Incorporated," "Company," "Limited," "Association," or "Institute." A new corporate name must be different from that of any corporation, limited liability company, or limited partnership that already exists in that state. Just like a cookbook does not give its author the exclusive right to cook with its recipes, Choudhury's copyright does not give him a monopoly over the practice of yoga. Unger has been unable to pay debts as they become due. Simms 2015 U.S. Dist. WCN 02-200-203 04341_ch07_hr_121-136.indd 130 8/24/17 11:58 AM Chapter 7 Intentional Torts and Business Torts 131 once a company has signed a contract to buy the land, it is improper to induce the seller to break the deal. Here, JPMorgan and its lawyers knew that GM's lawyers were preparing the draft UCC-3 termination statements, which would be filed upon their approval. He would charge at employees, stopping uncomfortably close to their faces while screaming and yelling. Fifth Amendment Ensures due process. Mac was her driver. Diversity jurisdiction ___C. Concurrent estates Two or more people owning property at the same time Copyright 2019 Cengage Learning. These laws are called statutes, and they can cover absolutely any topic at all, so long as they do not violate the Constitution. The president nominates cabinet officers, administrative heads, and Supreme Court justices, but the Senate must confirm the nominees. WCN 02-200-203 04341_ch23_hr_439-459.indd 454 8/28/17 7:11 AM Chapter 23 Securities and Antitrust 455 10. The law applies to anyone who produces hazardous waste, no matter how. These statutes typically claim jurisdiction over some- Long-arm statute one who does not live in a state but commits a tort, signs a contract, causes foreseeable harm, or conducts "regular business activities" there. Thus, employers are generally not allowed to fire workers for testifying truthfully in court. (d) Kurt cannot recover anything because he had not paid Quinn for her help. A stadium is a multimilliondollar investment, and it is most unlikely that the baseball team and the seller of the land were even aware of the owner's existence, let alone that they intended to benefit her. Embezzlement The fraudulent conversion of property already in the defendant's possession 6-2c Fraud Robert Dorsey owned Bob's Chrysler in Highland, Illinois. The tenants sued, claiming breach of contract, conversion [wrongful taking of property], intentional infliction of emotional distress, wrongful eviction, and wrongful retention of a security deposit. And a counteroffer, as we know, is a rejection. Indeed, that may be its purpose. (d) Insults 5. After withholding her expenses, she sends the balance to David. Ryder leased a truck to Florida Food Service. Unfair or Deceptive Advertising Section 5 of the FTC Act prohibits unfair and deceptive acts or practices. Although the trustee technically owns the property, she must use it for the good of the beneficiary. Security Any transaction in which the buyer invests money in a common enterprise and expects to earn a profit predominantly from the efforts of others. Rawls argued that we should think about what rules for society we would propose if we faced a veil of ignorance. IMPLIED WARRANTY OF HABITABILITY The implied warranty of habitability requires that a landlord meet all standards set by the local building code and/or that the premises be fit for human habitation. Reversionary interest The landlord's right to occupy the property at the end of the lease. • Other property, including documents of title, accounts, general intangibles (copy- rights, patents, goodwill, and so forth), and chattel paper (for example, a sales document indicating that a retailer has a security interest in goods sold to a consumer). He signed a sales agreement stating that the plane was sold "as is" and that there were "no representations or warranties, express or implied, including the condition of the aircraft, its merchantability, or its fitness for any particular purpose." Comerford attempted to fly the plane home but immediately experienced problems with its brakes, steering, ability to climb, and performance while cruising. Bien sues for the intentional infliction of emotional distress. One patent gave Myriad the exclusive right to isolate an individual's naturally occurring BRCA1 and BRCA2 genes. How do we know what benefits we might gain from saving endangered species, or improving visibility at the Grand Canyon? Liability. When you lose a prepaid debit card: • If you report the theft within two days of discovering it, the bank will reimburse you for all losses above $50. For example, Rolando Crowder was staying at his friend Bobo's apartment. Preventing SCA warrants from reaching foreign servers would seriously impede U.S. law enforcement efforts. There are three principal rules. Decision: The First Amendment protects flag burning. As August 31 approaches, Michael decides he would like to stay another year. Fraud Deception for the purpose of obtaining money or property. Ct. 1971). NCMIC could not prove that it acted in good faith. United States Constitution 5. • The creditors must allege either that a custodian for the debtor's property has been appointed in the prior 120 days or that the debtor has generally not been paying debts that are due. It also had 325,000 employees and even more stakeholders: retired employees, car owners, suppliers, investors, and communities in which it operated and in which its employees lived and paid taxes. When it decided to finance this project using industrial revenue bonds under a complex provision of the Internal Revenue Code, it hired Peat Marwick to do the required financial work. Mediators must earn the trust of both parties, listen closely, defuse anger and fear, explore common ground, cajole the parties into different perspectives, and build the will to settle. Because Gatter initially rejected Marcel's advances, a jury could reasonably decide that a sexual proposition from a part-owner of IKA constituted intentional sex discrimination. Set in Alabama during the racially charged 1960s, this landmark Supreme Court decision changed the rules of the defamation game for all public personalities. Are you required to help? The corporation is liable only if it adopts the contract. Investors have little recourse for off-plan expenditures. 2 Defendant's negligence injures plaintiff, who suffers $1 million in damages Responsibility Recovery Plaintiff is 40% responsible Comparative negligence state Contributory negligence state Defendant is 60% responsible Plaintiff recovers $600,000 Plaintiff recovers zero Michelle died in Ohio, which is a comparative negligence state. EXPRESS AUTHORITY The principal grants express authority by words or conduct that, reasonably interpreted, cause the agent to believe that the principal desires her to act on the principal's account. What rights do they at $400 billion. You come across a résumé from a candidate who grew up on an isolated ranch in Arizona. She decided to consult her lawyer, Chris Pruitt. During this time, they can decide how many countries they actually want to file in. Issue: Should the EPA consider costs when issuing power plant regulations? Chase never paid Baer anything. The parties signed the employment agreement in the United States. Dusty shows these financials to a number of landlords, including Carter. DAMAGES Compensatory damages are the normal remedy in a tort case. The court takes the number of days or months that Bien has missed (and will miss) work and multiplies that times his salary. When the court found for the trustee, Sovereign Bank appealed. WCN 02-200-203 04341_ch27_hr_519-537.indd 519 8/28/17 7:30 AM INTELLECTUAL PROPERTY CHAPTER 27 Stephanie Lenz and her young children were jamming after dinner in her rural Pennsylvania home. He promised that the loans would enable him to spend more time with his family. Also, Amazon violated its promise to take down the content. Barring an employee from working in tiny Rhode Island is very different from Texas. 30-3 TRUSTS Trusts are an increasingly popular method for managing assets, both during life and after death. However, if the owner could, in fact, foresee injury, she is obligated to take reasonable safety precautions. • Save money. To address this common situation, most major trading nations have rules for recognizing and enforcing foreign judgments within their borders. Economists use the term externality to describe the situation in which people do not bear the full cost of their decisions. The first rule is easy: A party with a perfected security interest takes priority over a party with an unperfected interest. 29-1b Found Property As you stagger to your 8 a.m. class, there is a gleam of light, not in your mind (which is vacant), but right there on the sidewalk. Bankruptcy estate The new legal entity created when a bankruptcy petition is filed. Later, Voorhees left Guyan and began working at Polydeck Corp., another West Virginia manufacturer. • Anyone who penalizes a consumer because of a credit report must reveal the name and address of the reporting agency that supplied the negative information. The following information explains the similarities.No-Fault Divorces Blame Neither PartyIf you and your soon-to-be ex can agree to file a no-fault divorce, you may be able to move the divorce along a lot quicker. Chakrabarty made famous the phrase that patentable subject matter included "anything under the sun that is made by man." But, seriously, anything? People who feel that Adidas shoes fit their feet best can rely on the Adidas trademark to know they are buying the shoes they want. Although Marcel and Gatter never met again, they did continue to text. In 2011, the American Business Law Journal honored her with its Distinguished Junior Faculty Award, in recognition of exceptional early career achievement. In the same example, but under per capita, each grandchild would get 1/5 of the estate. In a unilateral contract, only one party makes a promise, and the other must take some action; his return promise is insufficient to form a contract. But we ask that the court reinstate the jury's original $3 billion award. And that is exactly what occurred in the following groundbreaking Supreme Court case. One valiant soul with the courage to say, "This is wrong," can be a powerful force for the good. Service plan on an appliance II. T F A bystander who sees someone in peril must come to that person's assistance, but only if he can do so without endangering himself or others. WCN 02-200-203 04341_ch07_hr_121-136.indd 127 8/24/17 11:58 AM 128 Unit 2 Torts Compensatory damages Are intended to restore the plaintiff to the position he was in before the defendant's conduct caused injury Single recovery principle Requires a court to settle a legal case once and for all, by awarding a lump sum for past and future expenses The jury awards Bien damages. However, this statute does not apply to business advice or criminal cases. Unlike patents, the ideas underlying copyrighted material need not be novel. Rhino, Backdraft, and several other Pagans, all wearing colors, pushed their way past the tavern's bouncer and Copyright 2019 Cengage Learning. She figures out a way to steal $99.99 per day in cash without getting caught. WCN 02-200-203 04341_ch28_hr_538-559.indd 538 10/6/17 12:30 PM Chapter 28 Real Property and Landlord–Tenant Law 539 Can two friends acquire an island simply by pretending they own it? But some evictions are illegal. Google, Inc. When the Kellys filed for bankruptcy, they asked the court to discharge these student loans. Securities Exchange Act of 1934 Also referred to as the 1934 Act, this statute regulates companies with publicly traded securities. On Monday night, Louise is talking on her cell phone with Bill. A working knowledge of these issues and pitfalls can help everyone—business executive and ordinary citizen alike. Force majeure event A disruptive, unexpected occurrence for which neither party is to blame that prevents one or both parties from complying with a contract Notices After a contract is signed, there may be times when the parties want to send each other official notices—of a breach, an objection, or an approval, for example. 356 S.E.2d 198 (Ga. 1987). Answer: The FTC found that this system was unfair and deceptive under Section 5 of the FTC Act. Yet research shows that we tell between one and two lies a day. The only way the thieves could have accessed the sensitive data was through AvMed's breach. Ice is slippery, and we all know it. WORKERS' COMPENSATION Workers' compensation statutes ensure that employees receive payment for injuries incurred at work. Gateway is not a creditor; it is a car dealership. After the company went bankrupt, she sought to recover from Pete. Kim filed suit to enforce their contract. Noah took more Drones—you deliver time. Is he right? of N.Y. 907 F. What will likely happen in court after Sam's attorney files the complaint? WCN 02-200-203 04341_ch26_hr_501-518.indd 510 10/6/17 12:32 PM Chapter 26 Accountants' Liability 511 EXAMStrategy Question: When Benjamin hired Howard to prepare financial statements for American Equities, he gave Howard a handwritten sheet of paper entitled "Pro Forma Balance Sheet." It contained a list of real estate holdings and the balance sheets of two corporations that Benjamin claimed were owned by American Equities. Kelo v. In the following case, an employee was fired for exercising her legal right to use medical marijuana. Personal property means all tangible property other than real property. In thinking about ethics decisions, it is worth remembering that many of us have been winners in life's lottery—and that the unlucky also deserve opportunities. Liability. If you lose a credit card, you are liable only for the first $50 in charges the thief makes before you notify the credit card company. CHAPTER 25 1. Oral contracts can certainly be successful, but there are times when an agreement should def initely be in writing: 1. • Anyone who penalizes a consumer because of a credit report must reveal the name and address of the reporting agency that supplied the information. In conclusion, the court held that Nescher infringed the Slickcraft mark and issued an injunction prohibiting its use of Sleekcraft for boats. The repossession in the following case was a disaster, but was it a breach of the peace? We will first focus on federal laws addressing surveillance and spying, then turn to a variety of state laws that broaden privacy rights for their citizens. Federalism The national government was indeed to have considerable power, but it would still be limited power. It is both a federal and a state crime. Closing 3. Result: The court ruled that it was not a scrivener's error because it was not a typo or clerical error. A company that can point to a detailed, functioning compliance program may benefit from a dramatic reduction in the fine or other punishment. It intended to sell these shares to the public on May 2. The major focus of this treaty is to reduce trade barriers. A lack of hot water for two days is not fatal, but lack of any water for two weeks creates a constructive eviction. T F Even after an insurance company issues a binder, it can still revoke the policy. Most intestacy laws do not. 24Doe v. Imi- tation cheese slices, by contrast, contain little or no natural cheese and consist primarily of water and vegetable oil. The website had said nothing about the club—including how to cancel his membership. The executive branch establishes rules concerning how foreign Copyright 2019 Cengage Learning. 8-1a Duty of Due Care Each of us has a duty to behave as a reasonable person would under the circumstances. Amendment II [1791]. (3) Does Eric have a right to a jury trial? Does Duncan have to pay Prudence? Cancer, epilepsy, respiratory problems, and skin diseases were common in the neighborhood. WCN 02-200-203 04341_ch28_hr_538-559.indd 555 10/6/17 12:30 PM 556 Unit 7 Property 2. Privacy Act. This 1974 statute prohibits federal agencies from giving information about an individual to other agencies or organizations without written consent. There are nine justices on the Court. When consumers clicked the "opt-out" button, indicating that they did not want to be tracked, they were not—for ten days. Another patent granted Myriad the exclusive right to synthetically create variants of BRCA1 and BRCA2 in the laboratory (cDNA). Sit-down strike Members stop working but remain at their job posts, blocking replacement workers Replacement Workers When employees go on strike, management has the right to use replacement workers to keep the business operating. When Maher started dating (and ultimately married) Bassam Salman's sister, Michael and Salman became friends. While he is asleep, she takes his smart phone out from under his pillow and goes through all his texts. Ibrahim Khan, P.S.C., 34 Bankr. Data Breaches Most people store important data about themselves electronically: their photos, emails, music, contacts, documents, and, of course, their passwords. Colombian law does not allow employees to work more than 56 hours per week, with various daily breaks. Bargaining a contract with a non-compete or exculpatory clause that is too one-sided may lead a court to ignore it. 30-2c Children's Share Parents are not required to leave assets to their children. Nonphysical torts (whether intentional or unintentional) are treated like a contract claim: The principal is liable only if the employee acted with express, implied, or apparent authority. A union may also call a strike Copyright 2019 Cengage Learning. The court affirmed Lewis River's verdict. Or, if she is convinced the directors are mismanaging the company, she might demand a list of shareholders so that she can ask them to join her in a lawsuit. However, because of pressure from shareholder activists, 90 percent of large companies now require majority voting, that is, directors must resign if more than half the shares that vote in an uncontested election withhold their vote from them. After years of living with disfiguring scars, he went to visit Dr. McGee, who was well known for his early attempts at skin-grafting surgery. 21-4 DEATH OF THE CORPORATION Sometimes, a corporation fails—either the business is unsuccessful or the shareholders cannot work together. This was not surprising, given that Gateway had purchased Treadway's name from a list of people who had recently filed for bankruptcy. What must a plaintiff prove to win a negligence case? Is discrimination based on sexual orientation legal? The goal is to separate the cases where the defendant was innocent before the government tempted him from those where the defendant was only too eager to break the law. The market value of the pencils is easy to determine, but a court would have no way of knowing whether Buyer meant to purchase 1,000 pencils or 100,000; the quantity must be stated. Desai worked for Tata, but then he quit and formed a competing company, which he called Syntel. In this case, Maher would have breached his duty had he traded on the information himself and then given the proceeds as a gift to his brother. expenditures. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 2 9/28/17 7:29 AM Index fraudulent transfers, 424 voidable preferences, 424 creditors, 423 discharge, 426 circumstances preventing discharge, 428 debts that are never discharged, 426 filing a petition, 422 involuntary petition, 423 order for relief, 423 voluntary petition, 422, 422t payment of claims, 425, 425e priority claims, 425 secured claims, 425 unsecured claims, 426 reaffirmation, 428–429 trustee, 423 Chapter 11/reorganization (U.S. Bankruptcy Code), 429–430, 431e creditor's committee, 430 debtor in possession, 430 discharge, 430 plan confirmation (cramdown), 430 plan of reorganization, 430 small-business bankruptcy, 431 Chapter 13/consumer reorganizations (U.S. Bankruptcy Code) case initiation, 432 discharge, 432 plan of payment, 432 purpose, 431 Cheating, and benefit to others, 22 Check (form of draft), 279 Checks and balances, 4 Checksfield, James, 511 Chevron, 51 Child labor protections, 346 Circuit City Stores, 365 CISG (UN Convention for the International Sale of Goods), 41, 47–48 (The) Citadel, 66 Citibank, 469 n. As we will learn in Chapter 11, this fraudulent agreement is voidable at Gloria's option. At the end of the ad, a voice quickly says, "Offer applies with enrollment in Triple Advantage." Are these ads deceptive under FTC rules? Accompanying the post was a diagram of his exwife's house with instructions on how to make the best getaway. A holder is someone in possession of a negotiable instrument that is payable either to that person or to bearer. The customers were buying expensive clothes and demanded a male-free dressing area. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen. As both lawyers know, the parties are entitled to discover anything that could reasonably lead to valid evidence. Therefore, the penalty is heavier. Reasoning: A letter from a lawyer can be a scary thing. The CFPB accused CashCall of unfair, deceptive, and abusive practices and asked the court to order CashCall to return all the funds it obtained from borrowers. Was Alexander liable for not telling McConkey about the possible merger? And a match means the chase is on. • They are not harsh or oppressive to the employee. Breach of duty A defendant breaches his duty of due care by failing to behave the way a reasonable person would under similar circumstances. (d) Stephanie gets the car unless Martin left a wife or children. Privacy. (c) The note stated that Donna owed C. WCN 02-200-203 04341_ch29_hr_560-575.indd 565 8/28/17 7:38 AM 566 Unit 7 Property 29-2a Control To create a bailment, the bailee must assume physical control of an item with intent to possess. These countries struggle to provide health care to their populations even without the additional burden that soft drinks create. It can affect the debtor's credit rating for years, making the simplest car loan a challenge. (e) All of these. Argument for Plaintiffs: Your honors, my clients are prudent people who guard their personal information. When Floyd learns what she is doing, he tries it, but is caught in his first attempt. When Sony released its PlayStation 3 (PS3), it represented that the gaming sys- tem: (1) connected to the PlayStation Network, (2) had the ability to run other operating systems, and (3) was expected to last for over ten years. Doe, 6159 Cal. Generally, these provisions have been enforced. Her supervisor seemed upset by her refusal. The salesman promised the Hylers that a manufacturer's warranty covered the entire vehicle for a year. You've got a full schedule — we've got your back(pack). Murdock offered to buy out the other shareholders for $12.00 per share. Craig Bergson drives home, emotionally confused. Joe is indicating that he would be happy to receive an offer from Martha. T F A contract for the sale of $300 worth of decorative stone must be in writing to be enforceable. After learning more about implied warranties and disclaimers, would you ever buy an item sold "as is"? Does Pauline have a perfected interest in the tank? Now, the town wants to raise her real property taxes, claiming that her property has been improved. The Dirty cannot be liable simply because it published the posts. Kalchinian rewarded this act of friendship by getting Sherman hooked again and then turning him in to the police. Because of the terms on the sign, Leo must actually find and return the dog to stake a claim to the $100. In the case of disputed wills, why not let the courts decide what the decedent really wanted? WCN 02-200-203 04341_ch21_hr_398-419.indd 405 10/6/17 12:27 PM 406 Unit 5 The Lifecycle of a Business 21-5b Applications of the Business Judgment Rule Liability of Controlling Shareholders Anyone who owns enough stock to control a corporation has a fiduciary duty to minority shareholders and is subject to the business judgment rule. He sued the government in U.S. federal court. The landlord's duty to maintain the property focuses on whether the property meets a particular legal standard. Should you survey people to ask them how much it is worth? RIGHT TO A JURY Generally, both plaintiff and defendant may demand a jury in any lawsuit for money damages. 31-1 INTRODUCTION Insurance has its own terminology: • Person. The person being questioned is the deponent. If the former lovers had read this chapter, they would never have slid into such a mess. The company issues a promissory note in payment. For the life of him, he cannot remember where he parked. Conscious Uncertainty. No rescission is permitted when one of the parties knows he is taking on a risk, that is, he realizes there is uncertainty about the quality of the thing being exchanged. T F A court is unlikely to enforce an exculpatory clause included in a contract for surgery. Dying without a will 5. A BIOC takes the goods free of a security interest created by his seller, even though the security interest is perfected.11 Suppose that, a month before Plato made his purchase, Socrates borrowed $200,000 from the Athenian Bank. To capture the targets. Term agreement ___ B. Plurality versus Majority Voting. The election process begins when the nominating committee of the board of directors produces a slate of directors, with one name per opening. The company gets milk from the cow, and you get to share in the profits from the sale of ice cream. The registration statement must include detailed information about the issuer and its business, a description of the stock, the proposed use of the proceeds from the offering, and three years of audited financial statements. TYING ARRANGEMENTS A tying arrangement is an agreement to sell a prod- uct on the condition that the buyer also purchase a different (or tied) product.Tying arrangements are illegal under the Clayton Act if they have an anticompetitive impact. Thus, the patent office in each member country must accept and recognize all patent and trademark applications filed with it by anyone who lives in any member country. If the offeree adds or alters any terms, the acceptance is ineffective, and the offeree's response becomes a counteroffer. Mintz, 123 Fed. Our investors get a return of 4 percent; the industry average is closer to 8 percent. The defendant may waive these rights, provided the waiver is made voluntarily, knowingly, and intelligently. But neither member ever signed the agreement. The law has developed sensibly. After a search of Coolidge's car uncovered incriminating evidence, he was found guilty of murder and sentenced to life in prison. Norv allowed eagerness and optimism to replace common sense. Lindsey and Louann Naffziger orally agreed to buy Festival Foods for $150,000, the deal including all the assets and the opportunity to work at events secured by the Jannuschs. Some express contracts are oral, as that one was, and some are written. However, do not become too excited at unenforceable. The Code implies a warranty that the wood sold will withstand those special conditions. Barrows, 481 F.3d 1246 (10th Cir. Starbucks Corp., 269 W Wagenheim v. The shock knocked over some heavy scales at the far end of the platform, and one of them struck Palsgraf. Erin Homes, Inc., 177 W. 20-3c Flexibility Unlike S corporations, LLCs can have members that are corporations, partnerships, or nonresident aliens. DEFAULT When the debtor defaults, the secured party may take possession of the RESULTS collateral and then sell, lease, or otherwise dispose of the collateral in any commercially reasonable way, or it may ignore the collateral and sue the debtor for the full debt. The boss at the meat-packing plant fired the Muslim employees who walked off the job. In the case of a scrivener's error, a court will reform a contract if there is clear and convincing evidence that the mistake does not reflect the true intent of the parties. Find it. T F The CISG requires parties to negotiate internationally in good faith. The IRS, the EPA, the FCC, the SEC ___B. Who will be responsible for bringing the civil case? The Vanlandinghams breached the implied warranty. All of the bankrupt's assets pass to the estate, except exempt property and new property that the debtor acquires after the petition is filed. The independent members of the board are required to meet regularly on their own, without management. 28-5a Types of Tenancy There are four types of tenancy: a tenancy for years, a periodic tenancy, a tenancy at will, and a tenancy at sufferance. Sax, Cal.Rptr.3d. As candidates for public office, the politicians had to prove their critic's malice—and they could not do so. World Trade Organization (WTO) An international organiza- refusing to violate the law, exercising a legal right, or supporting basic societal values. Factories resist the cost of buying new guards because the workers just take them off again. Ellis was out of work. This site has a disclaimer indicating that it was not affiliated with Reverend Falwell. Although the company removed the bathroom graffiti, it did not investigate Cerros's complaints until he filed suit. But after Poirier collected the prize, she refused to give Browning half. Incorporator The person who signs the charter and files it with the secretary of state • Incorporator. Strategy: First ask yourself what kind of creditor they are: secured or unsecured? Stacey's scheme was quick and profitable—and a distressingly common crime. Spam Unsolicited commercial email. The reason is simple: These consumers are much more likely to take cash advances, which carry very high interest rates. Quincy is one of the unsecured creditors and is owed $6,000. The PCAOB has reported that it had found flaws in over onethird of the audits performed by Big Four accounting firms, a percentage that is increasing over time.3 • Reports to the audit committee. LEXIS 174816 United States District Court for the Eastern District of Pennsylvania, 2016 CASE SUMMARY Facts: Courtney Gatter was a sales representative for IKA. 24-3g Debt Collection Have you ever fallen behind on your car payments? ENVIRONMENTAL IMPACT The National Environmental Policy Act (NEPA) requires all federal agencies to prepare an environmental impact statement (EIS) for every major federal action significantly affecting the quality of the environment. For example, if a four-legged stool with a square seat already exists, the patent application for four-legged stool with a circular seat would be denied because it is, duh, obvious. Disinterested directors are those who do not themselves benefit from the transaction. The NFL wanted the bars to stop showing the games. Implied authority 1. Then he sued the dealer, seeking a refund of his purchase price. (I mostly just use my textbooks as a pillow.) I actually did enjoy reading this and learning the material. Let the decision stand ___D. The tenants located Soley at the restaurant he owned and asked for their possessions back, but he refused to return the belongings unless they paid him $3,000. We revere the law for its ancient traditions, its dazzling intricacy, and its relentless, though imperfect, attempt to give order and decency to our world. When the police suspected that James Bates had murdered his 3Pew Research Center, Report: Online Shopping and E-Commerce, December 19, 2016. It must discuss: • Environmental consequences of the proposed action, • Available alternatives, • Direct and indirect effects, • Energy requirements, • Impact on urban quality and historic and cultural resources, and • The means to mitigate adverse environmental impacts. It is not enough simply to say, "We are against pollution." The question is: Who will pay? WCN 02-200-203 04341_ch23_hr_439-459.indd 446 8/28/17 7:11 AM Chapter 23 Securities and Antitrust 447 Tippees. Those who receive inside information, or tips, may also be liable, even if they do not have a fiduciary relationship to the company or the tipper. 16-6a Default The parties define "default" in their security agreement. SELF-INCRIMINATION The Fifth Amendment bars the government from forcing any person to provide evidence against himself. They may want to reaffirm a secured debt to avoid losing the collateral. The Del Lago staff did not create the danger. Many companies have a so-called lead director who runs these meetings. WCN 02-200-203 04341_ch18_hr_336-355.indd 351 10/6/17 12:23 PM 352 Unit 4 Agency and Employment Law 14. What should they be? But if a person makes a contract with someone else and intends that you receive a gift under the agreement, you are a donee beneficiary, and you do have rights to enforce the deal. 12-4b Reliance Interest To win expectation damages, the injured party must prove the breach of contract caused damages that can be quantified with reasonable certainty. Its design makes it nearly impossible for an adult to enter it and close the lid. False imprisonment → (2) Intentionally restraining another person without reasonable cause E. As we saw in Chapter 1, there are many systems of government operating in the United States: a national government and 50 state governments. Harvey's Allstate agent, however, told her that she was not covered. A contract once lucrative to the manufacturer is suddenly a major liability. Bi-Economy sued, claiming that Harleysville's slow, inadequate payments destroyed the company. Under what circumstances, if any, should torture be permitted? xv Copyright 2019 Cengage Learning. Now take the other side and imagine what you would want if you were the producer. Fin. Examine the squatters' ethics. The Front Page test is not completely foolproof—there are times you might have legitimate reasons to do something private. 1 The case is Olmstead v. Whitaker counterclaimed for libel and slander, requesting $1 million in punitive damages. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. Northwest did not tell KA how to fly planes or handle terrorists; therefore, it should not be liable when KA made fatal errors. In S&P 500 firms, one-third of all board seats have been held for at least ten years. Because Marvin received no value, there is no contract. Cipriani USA, Inc., 144 Ferret v. Lea posts a flyer around town that reads, "Reward: $500 for information about the person who keyed my truck last Saturday night in the Wag-a-Bag parking lot. If there is a contradiction between the words and numbers, words take precedence over numbers. Traps faced: rationalization, fudge factor (it wasn't much money), I did it for someone else, conformity, following orders. WCN 02-200-203 04341_ch20_hr_377-397.indd 394 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 395 4. Bilateral contract → (2) An agreement based on one promise in exchange for another Chapter 11 A. In such cases, many courts will apply res ipsa loquitur and declare that the facts imply that the defendant's negligence caused the accident. • The accountant's violation of duty caused foreseeable harm to the client. When a dealer sells you a new car and keeps a security interest, the vehicle is the collateral. When Sam used these checks, Piggy did not take money out of his account; instead, the bank treated the checks as loans and charged him interest. (d) is void, based on the Commerce Clause. 2012). Is the life insurance policy valid? If you charge her and her company with RICO violations, you know that she is likely to plea bargain because otherwise, her assets and those of the company may be frozen by the court. To reflect these varying contributions, a corporation can issue different classes of stock, such as preferred or common stock. (Example: an intoxicated customer who can no longer walk straight) strongly agree agree neutral disagree strongly disagree d. When she sued Duke University, the court held that it would be "contrary to public policy and sound morality" to allow an employer to fire someone for refusing to commit perjury. GATS and TRIPS. The General Agreement on Trade in Services, or GATS, extends the WTO/GATT principles to transnational services. The automobile dealer who sells you a car on credit is the secured party. Co., 598–599 Bi-Economy Market, Inc. In fact, Madoff was running a Ponzi scheme—a fraud in which he would not invest at all, but rather use the money from new investors to give the old ones quick returns. Businesses that have taken advantage of these new laws include Etsy, Method Products, Patagonia, and Warby Parker. Compliance program A plan to prevent and detect improper conduct at all levels of a company. The seller must deduct expenses saved by the breach. Furthermore, it had an enforceable oral agreement with Sabate USA, which was governed by the CISG because both Canada and the United States were signatories. Their presence has been more than occasional or casual. As members, they

pocket $2,013, which is $279 more than they could keep as shareholders. But Pennsylvania law requires financing statements to be filed in the county of the debtor's residence, and the Lockoviches lived in Allegheny County. The doctor supposed that the wood moved through her digestive system for 30 minutes before becoming caught and causing the pain. Furthermore, the statute specifically states that, "No person . WCN 02-200-203 04341_ch14_hr_261-277.indd 268 9/28/17 7:16 AM C h a p t e r 14 Sales 269 or (3) with a sample or model. island using ... hot dogs. WCN 02-200-203 04341_ch15_hr_278-294.indd 284 9/28/17 9:39 AM C h a p t e r 15 15-2 Negotiable Instruments HOLDER IN DUE COURSE 285 Checklist Negotiable Negotiated Holder in Due Course No Valid Defenses The fundamental rule of commercial paper tells us that a holder in due course has an automatic right to receive payment for a negotiable instrument (unless the issuer can claim a valid defense). Additional terms Proposed contract terms that raise issues not included in the offer. F One advantage of arbitration is that it provides the parties with greater opportunities for discovery than litigation does. A good test is whether the average member of the community would respond to the defendant's conduct by exclaiming, "Outrageous!" Over a period of years, the managers witnessed, allowed, and even encouraged Turley's abuse. If the thief steals just your credit card number, but not the card itself, you are not liable for any unauthorized charges. Ethical Behavior Makes People Happier What makes people happy? The seller is liable only if she normally sells this kind of product. Most adjudications begin with a hearing before an administrative law judge (ALJ). T F In most cases, a winning plaintiff receives compensatory and punitive damages. The local newspaper reported that, during a meeting with members of a local voters' league, the hospital board was urged to replace Dulin with someone black. • Consulting services. A contract in which one person, in return for a fee, agrees to guarantee another against loss caused by a specific type of danger. The party who has priority in the collateral gets it. WCN 02-200-203 04341_ch04_hr_058-078.indd 72 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 73 Chapter Conclusion The legal battle over power never stops. No Tax or Duty shall be laid on Articles exported from any State. Study with digital flashcards, listen to audio textbooks, and take quizzes. In 1984, the PTO granted a chimera patent for a "geep," a combination of a goat and a sheep created in a lab. Any applicant for a permit must demonstrate that its emissions will not cause an overall decline in air quality, regardless of health impact. The evidence suggests that the NYT was at most negligent in failing to catch the inaccuracies. Goods include pencils, commercial aircraft, books, and Christmas trees. It would be unfair for Harmon to lose income because he relied on a promise from the commissioners. While in college, David invented a new and useful machine to make macaroni and cheese (he called it the "Mac n' Cheeser"). Did Vern violate the business judgment rule? A second train had passed the crossing at 70 miles per hour without incident. On the other hand, if Hank stops at the Burger Box drive-in window en route to making a delivery, Jane is liable when he crashes into Anna on the way out of the parking lot because, this time, he is simply making a detour. That the Artist will show up on a certain date and work in good faith for: a. Ct. 2006). In response, soda companies have dramatically increased their marketing budgets in lower income countries, such as Brazil and China. If Valerie sues Car Moves for the cost of repairs, what will happen? If the EEOC decides not to bring the case, or does not make a decision within six months, it issues a right to sue letter, and the plaintiff may proceed on her own in court within 90 days. Five months later, Bailey sent bills for the horse's care to West, who returned them with a note saying he did not own the horse. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment. You decide. Unfortunately, she became an alcoholic, and during one period when she was in a treatment center, she entrusted the violin to her mother for safekeeping. EXECUTORY AND EXECUTED CONTRACTS In an executory contract, one or both of the parties have not done everything that they promised to do. Argument for the Gun Club: The Gun Club does not dispose of hazardous wastes, within the meaning of the RCRA. Browning sued Poirier for breach of oral contract. The advantage of a whole life policy is that it forces people to save. When the guy who owned the local flower shop wanted to retire, it seemed a great opportunity to buy the business. In most non-community property states, a spouse can override the will and claim some percentage of the decedent's estate (which varies by state). We then discuss regulation in the digital world, including online speech, consumer protection, and cybersecurity. 329 Oregon Supreme Court, 2004 Facts: Oregon Steel Mills, Inc., was a publicly traded company whose financial statements were audited by Coopers & Lybrand, LLP. Serv. WCN 02-200-203 04341_ch13_hr_242-260.indd 247 10/6/17 12:09 PM 248 Unit 3 Contracts and the UCC At the end of a meeting between two top officers of Heritage and Phibro, the Phibro officer hand wrote a document stating the terms of their deal and agreeing to the Heritage pricing proposal. But does it amount to fraud? Ivanow, 246 Ill. She counted as an independent director as she voted to approve self-dealing transactions by the CEO. The required steps in a disparate treatment case are: 1. Men, on average, have worse credit ratings than women. LEXIS 87574, 2016 WL 3361842 United States District Court, N.D. California, 2016 Facts: A latte (which means "milk" in Italian) is a coffee drink made with milk and often topped with milk foam. Not surprisingly, the more authority the CEO has, the higher his compensation: CEOs earn more when they serve as chairman of the board, as opposed to when the board has an independent chair. What a great place to work! Although the salary is not high, the company has fabulous perks. Tying Arrangements Tying arrangement An agreement to sell a product on the condition that a buyer also purchase another, usually less desirable, product Tying product In a tying arrangement, the product offered for sale on the condition that another product be purchased as well Tied product In a tying arrangement, the product that a buyer must purchase as the condition for being allowed to buy another product A tying arrangement is an agreement to sell a product on the condition that the buyer also purchase a different (or tied) product. Strategy: Sole proprietorships may be best for businesses without substantial capital needs and without significant liability issues. What metrics should it use? GENDER IDENTITY AND EXPRESSION Traditionally, courts ruled that employees were not protected from discrimination based on gender identity. EXAMStrategy Question: Doris Rowley rented space from the city of Mobile, Alabama, to run the Back Porch Restaurant. It is as if people keep a running total in their heads about how ethical they are, and, if they do one ethical act in the morning, they are then entitled to act unethically in the afternoon. Application of U.S. Law Abroad Extraterritoriality is the power of one nation to impose its laws in other countries.7 Many U.S. statutes regulate conduct outside the country. Its purpose is to facilitate international business. T F Courts award the expectation interest more often than any other remedy. Wrongful discharge An employer may not fire a worker for Warrant Written permission from a neutral officer to conduct Warranty A contractual assurance that goods will meet certain standards. One nationwide system of federal courts serves the entire country. 19. If the computer crashes and burns the first week, Jake has the right to refuse to pay the note. It is entitled to special treatment under some state laws. No other employee accessed it, but it was connected to the office network. ARTICLE I Section 1. Thus, for example, suppose that your professor tells the university that she will not post final grades unless she is paid an extra $5,000. (2, 3) The potential 20-year sentence determines whether Eric's crime is a misdemeanor or felony and whether or not he is entitled to a jury trial. So, yes, they do have significant market power. The registration statement has two purposes: to notify the SEC that a sale of securities is pending and to disclose information of interest to prospective purchasers. International Law 47 The circumstances of this case are sufficiently serious to allow suspension of TRIPS obligations. Cappier case, 68–69 United Nations, 40 Charter, 40 General Assembly, 40 Secretariat, 40 Security Council, 40 specialized agencies, 40–41 United Nations Intergovernmental Panel on Climate Change, 486 United States Courts of Appeals, 83 United States Product Safety Commission, 71 United States Supreme Court, 83 Universal Music, 528 University of Oklahoma, 447 University of Pittsburgh Medical Center, 345 Uno Chicago Grill, 16 UPS, discrimination cases, 362, 365 UPS Ground Freight, 361 U.S. Attorney General, appointment of U.S. Trustee, 423 U.S. Constitution, 4 Article I, 59, 60 Article II, 59–60, 61 Article III, 60, 61 Bill of Rights, 102 branches of government, 4 checks and balances, 4, 62e as compromises about power, 59 fundamental rights, 5 influence on laws of other countries, 49 See also Constitutional law U.S. District Courts, 83 U.S. Trustee, 423, 430 Usury statutes. You Be the Judge: Was the letter of intent a valid contract? • John Rawls asked us to consider what type of society we would establish if we did not know whether we would be one of life's winners or losers. And they shall make a list of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The friends sometimes play loud music in their cars, and they sometimes talk loudly when going to and from their cars. Now before you slam the book shut in despair, let us sort out the players. If Dreyer had been driving from one recruiting effort to another, that would be a different story. Should Congress really have to tell credit card companies that they cannot raise rates on charges already incurred? Others argue that making companies criminally liable deters wrongdoing and emphasizes the importance of complying with the law. Thirty percent of the workers referred to him as "that f****** n*****." Coworkers broadcast monkey sounds over the plant's intercom system and vandalized his car and his workstation. In the following case, auditors issued a clean opinion to a fraudulent company, but were not liable because there was no scienter. Two parties make a contract, and their rights and obligations are subject to the rules that we have already studied: offer and acceptance, consideration, legality, and so forth. But our ethics discussion does not end there. The following case contains highly offensive language and situations. After his release, Iqbal filed a discrimination lawsuit against John Ashcroft, the former Attorney General who was in charge of the antiterrorism investigation. It avoids the double taxation of a regular corporation (sometimes called a "C corporation"). However, many states have their own laws requiring the consent of all parties to the conversation for recording to be legal. Should courts have "wiggle room" to enforce deals that fail to meet formal contract requirements, or should the rule be, "If it's not an actual contract, too bad"? The losing party has a right to appeal to an appellate board within the agency. Both the SEC and any purchasers of the stock can sue for damages and the Department of Justice (DOJ) can prosecute. PROPERTY INSURANCE Property insurance covers physical damage to real estate, personal property (boats, furnishings), or inventory from causes such as fire, smoke, lightning, wind, riot, vandalism, or theft. See Exhibit 16.2. Article 9 prescribes one form to be used nationwide for financing statements. When is lying acceptable? When she told Steve, he was uncertain what to do, so he asked his boss. On the one hand, strong intellectual property laws establish incentives for creation and innovation. Simpson's wife sued her husband under the Federal Wiretap Act. Despite this large group of feudDespite having a large ing heirs, he died in France without a will. After the 9/11 terrorist attacks, the U.S. government imprisoned suspected terror- ists in Guantanamo Bay, Cuba. EXAMStrategy Question: A tenant rented space from a landlord for a seafood restaurant. 4For sources, see "Ethics: A Basic Framework," Harvard Business School case 9-307-059. (b) II only CHAPTER 15 1. Creditors may not sue a bankrupt to obtain payment, nor may they take other steps, outside of court, to pressure the debtor for payment. The United States shares this legacy with most former British colonies, including Australia, Canada, and India. If Jacobson chose to believe otherwise, that was his problem. The UCC spells the word indorsed. Yes, that is the whole point of these "package deals." • Does the seller have significant power in the market for the tying product? It addresses the real-time interception of conversations in a section known as the Wiretap Act and access to communications that have been stored, such as email and voicemail, in the Stored Communications Act. Eric has an enforceable contract. When Kraft began losing market share to imitation slices that were advertised as both less expensive and equally nutritious as Singles, Kraft responded with a series of advertisements informing consumers that Kraft Singles cost more than imitation slices because they are made from 5 ounces of milk. There are four principal contract interests that a court may seek to protect: Interest A legal right in something 1. A statute of limitations begins to run at the time of injury and will limit the time within which the injured party may file suit. He drove negligently and caused a collision with an auto driven by Ruben Hernandez. In other words, the employer is liable if the employee is simply on a detour from company business, but the employer is not liable if the employee is on a frolic of his own. Sushila suspects that her boyfriend Plum is being unfaithful. Now, the FISA provides that: • To spy on people located in the United States who are communicating abroad, the Foreign Intelligence Surveillance Act (FISA) Federal statute governing the government's collection of foreign intelligence in the United States government does not need a warrant but it must obtain permission from a secret Foreign Intelligence Surveillance Court (FISC). WCN 02-200-203 04341_ch05_hr_079-100.indd 96 9/28/17 9:36 AM Chapter 5 Dispute Resolution 97 13. • If a company cannot ship the product when promised, it must send the customer a notice with the new shipping date and an opportunity to cancel. Voidable contract An agreement that, because of some defect, may be terminated by one party, such as a minor, but not by both parties. It is increasingly popular with corporations and individuals alike because it is generally cheaper and faster than litigation. taught the rest of his lacrosse team how to unscramble cable signals. Bien repeatedly asks for his keys, but Maturelli only laughs, pressuring him to buy the new car. Is Khan's debt dischargeable under Chapter 11? • Conflicts of interest. The drafters of the UCC recognized that businesspeople frequently do not think or work that way and that the law should reflect business reality. A family member is a spouse, child, or parent—but not a sibling, grandchild, or in-law. Despite opportunities to escape, she stayed with the criminals until her capture by the police a year later. Judges dislike vague calculations. You Be the Judge Banta Props. Life prospects The circumstances into which we are born. Zuckerberg started Facebook When Zuckerberg started his company, what did he need to know about the law? Issue: Did the U.S. court err in its application of shari'a law? Whitman even made up a whole Securities and Antitrust 445 story about how Autonomy was just going through growing pains. After the SEC has approved a final registration statement (which includes, of course, the final prospectus), the issuer and underwriter agree on a price for the stock and the date to go effective, that is, to begin the sale. The company may not bargain directly with any employee in the group, nor with any other organization representing the designated employees. During the 1920s, it was often impossible for an investor to find out what a corporation was planning to do with its money, who was running the corporation, and many other vital facts. In a case similar to this one, the court ruled that the transfer was fraudulent because Eddie intended to shield his assets from all creditors. We cheerfully venture into contentious areas, relying on very recent decisions. Do the Kommits have any ethical right to use the ATM, attempt to win money by gambling, and then seek to avoid liability? At Boston University, he won the Metcalf Cup and Prize, the university's highest teaching award. In the chapter opener, the Ogoni people sued an oil company for crimes against humanity that occurred in Nigeria. When the State of Washington sought contributions to the state's unemployment fund, International Shoe refused to pay. Unfortunately, the work on the house was shoddy. It is an ordinary promise, not a contract that creates any legal obligation. Ct. App. The clause would probably be void. It may also violate the ECPA. A United States District Court judge ordered the president to produce tapes of conversations held in his office. You Be the Judge Treadway v. When Target sent coupons for baby items to one teenager who bought cocoa-butter, it caused family strife by revealing her pregnancy before she told her parents.8 In short, internet users are inadvertently providing intensely personal data to unknown people for unknown uses. • Did the promisor act in good faith? The Iowa Supreme Court ordered Leona's estate to convey the land to Evelyn for $800 per acre. A carving knife can produce a lethal wound, but everyone knows that, and a sharp knife is not unreasonably dangerous. We will work out a fair wage once we see how busy things get." Your friend replies, "That's fine with me." This offer is indefinite. Issue: Does the First Amendment protect defamatory criticism of public off icials? Since women were not eligible to fly jet fighters, they could not qualify for space duty. Answer: The appeals court pierced the corporate veil and held the shareholder liable because the corporation had grossly inadequate capitalization, had disregarded corporate formalities, and the shareholder was also actively participating in the operation of the business. International Shoe appealed to the U.S. Supreme Court. But then Eddie's busi- ness failed, and he owed millions. In theory, everyone is in favor of saving endangered species. 71, 644 A.2d 124.0, 1994 Pa. Super. Fiscante paid with his personal credit card. IMPOSSIBILITY True impossibility means that some event has made it impossible to perform an agreement. WCN 02-200-203 04341_ch18_hr_336-355.indd 354 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 355 policy because it infringed upon his freedom of association. In the application of a constitution, our contemplation cannot be only of what has been but of what may be. 2d 281 Supreme Court of Illinois, 1990 Facts: Jones Brothers Construction was the general contrac- tor on a job to expand American Airlines' facilities at O'Hare International Airport. However, if experience indicated that the third party presented serious danger, the owner was obligated to act reasonably. In this example, Bruno would be the obligor, and his duties would substantially change. Which party prevails—Corona or Frozsun? The donee accepts the property. It would not be "appropriate" or even rational to impose billions of dollars in economic costs in return for a few dollars in health or environmental benefits. They felt that the leadership had ignored their concerns, put additional burdens on them without recognizing the extra effort required, and mishandled communication throughout the school community. The first step in the process of terminating a partnership ___B. Offeror The party in contract negotiations who makes the first offer. Was Basinger eligible for Chapter 13? Tippees are liable when: • They trade on the information, • They know it is confidential, • They know that it came from an insider who was violating his fiduciary duty, and • The insider benefited (or expected to benefit) directly or indirectly. What Life Principles are at issue here? Francis owned a large stock portfolio, part of a family farm, and valuable family heirlooms. Impose some other sanction? To avoid confusion, the PTO will not grant a trademark that is similar to one already in existence on a similar product. To some, his actions seemed like an amusing prank. Quake did not want to give that assurance until it was certain of its own work. T F All states permit an executor access to the decedent's digital assets. Thus, Kant would argue against killing Ebenezer, no matter how beneficial the result. In addition, merchants must have enough stock on hand to meet reasonable demand for any advertised product. If so, which one(s)? But Berners-Lee also acknowledged that although the Web does not "inherently make people do good things, or bad things," bad things can happen online. (b) win possession of the apartment because Michael did not renew it in writing. WCN 02-200-203 04341_ch09_hr_156-176.indd 171 8/24/17 12:19 PM 172 Unit 2 Torts 3. Once you understand the standard outline of a contract, it will be much easier to find your way through the thicket of provisions. J. WCN 02-200-203 04341_ch26_hr_501-518.indd 516 10/6/17 12:32 PM Chapter 26 Accountants' Liability 517 CASE QUESTIONS 1. Trade between the three nations has increased enormously. 2-1 Ethics How people should behave Ethics decision Any choice about how a person should behave that is based on a sense of right and wrong Life principles The rules by which you live your life Why Study Ethics? This is the heart of strict liability, which makes it a potent claim for consumers. Result: An LLC is not the best choice for either of these businesses. It is no defense that the seller used reasonable care. Inadequate capitalization. These two ideas may be obvious, but they also conflict: The more flexibility we permit, the less predictability we enjoy. EXAMStrategy Question: Shauna flew a World War II fighter aircraft as a member of an exhibition flight team. An employer may refuse to hire a man for a woman's role in a movie. The evidence suggests that TP did not take reasonable steps to protect its tenant. This cumbersome name is often shortened to the warranty of fitness. When a landowner sells his property, plant life is automatically included in the sale, unless the parties agree otherwise. (a) (b) (c) (d) Ed says to Carmen, "I offer to sell you my pen for $1." Ed says to Carmen, "I'll sell you my pen for $1." Ed writes, "I'll sell you my pen for $1," and gives the note to Carmen. Unless excluded or modified, a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. That means that the employer also has the right unilaterally to change the layoff policy. T F There are five elements in a negligence case, and a plaintiff wins who proves at least three of them. By contrast, suppose Fast Eddie leaves Blooming-dale's in New York, descends to the subway system, and jumps over a turnstile without paying. But RICO has expanded far beyond the original intentions of Congress and is now used more often against ordinary businesses than against organized criminals. T F Privately held companies that begin as corporations often change to LLCs before going public. He faced large on-going medical expenses. A used car dealer is a "merchant" when it comes to selling autos because he routinely deals in them. His story was not true—he had never been in combat or Afghanistan. Researchers have 6Nina Mazar, and Chen-Bo Zhong, "Do Green Products Make Us Better People?" Psychological Science, April 2010, vol. An arson investigator discovered that an electric iron, connected to a timer, had been placed on a pile of financial papers doused with accelerant. A typical IPO can cost $10 million; an exceptional one as much as $40 million. Boeken saw the Surgeon General's warnings about the risk of smoking, but he trusted the company's statements that cigarettes were safe. Public disclosure of private facts A tort providing redress to victims of unauthorized and embarrassing disclosures • The disclosed facts had been private. SCRIVENER'S ERROR A scrivener's error is a typo. As another example, suppose a major league baseball team contracts to purchase from Seller 20 acres of an abandoned industrial site to be used for a new stadium. It's amazing how people can HATE a man they never even heard speak. a. Strategy: Review the various sales regulations—more than one is involved in this case. have a market share greater than 90 percent. For one hour and 31 minutes, Spaw listened, recorded, and transcribed. CHAPTER 26 1. (c) neither. T 3. Reverse To declare the lower court's ruling wrong and void. No one can cause a hurricane, thus Properties had no adverse incentives. Eric is planning to flee with the cash. She could move into the new house and sue for the difference between what she got and what was promised, which is $12,000, the cost of replacing the heating system. (Investigation.) During an investigation, what power has an agency to force a company to produce data? Ct. 1609 United States Supreme Court, 2015 Facts: Driving along a highway just after midnight, Dennys Rodriguez briefly swerved onto the highway shoulder, which is a violation of the law. Morris Shields, a supervisor at GTE, was continuously in a rage. Who is more likely to prosecute Keith for drunk driving? Section 8. • Sales effort. 17. In other words, the company is lying about its finances (or to put it more politely, is "materially misstating certain items on its financial statements"). WCN 02-200-203 04341_appA_hr_A1-A14.indd 13 9/28/17 7:27 AM A14 APPENDIX A The Constitution of the United States and duties of his office. In his last month on the job at WABC, he notified two key on-air personalities that if they were to leave the station, he would not hold them to their noncompete agreements. This type of patent lasts for 20 years from the date of application. Possessing a monopoly is not necessarily illegal; using improper conduct to acquire or maintain one is. Whatever their parents had been—landowner, soldier, farmer, servant, merchant, or beggar—they became, too. The top rung crumbles, and Dave falls onto his girlfriend's iguana. For about 20 years, he was introduced nightly on the show with the phrase, "Here's Johnny!" A large segment of the television-watching public associated the phrase with Carson. The contract between Gloria and the producer is a valid contract, and if the producer fails to pay Gloria, she will win a lawsuit to collect the unpaid fee. Two people are involved: maker and payee. Amendment XII [1804]. A limited liability partnership: RESULTS (a) (b) (c) (d) (e) protects partners from liability for their own misdeeds. Phillip Morris created ads that targeted children, challenged clear scientific data that its products caused cancer, and added substances to its cigarettes to make them more addictive. Stow the tray firmly in the seat back in front of you. The defendant knew that his statement was false or he made the statement recklessly and without knowledge of whether it was false, 2. Society accepts the person's expectation of privacy as reasonable. 24-2c Abusive Acts The CFPB has the authority to take action against anyone committing "abusive acts." It defines abusive acts as taking "unreasonable advantage of ... a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service." PayPal paid $25 million to settle a charge by the CFPB that it had behaved abusively when it signed up consumers for its online product, PayPal Credit. WCN 02-200-203 04341_ch24_hr_460-481.indd 465 10/6/17 12:28 PM 466 Unit 6 Government Regulation sell a house for more than they had paid for it.2 Lenders fueled this mania by giving out mortgages without first verifying the borrower's income or assets; indeed, in some cases, encouraging loans that any reasonable observer would know the borrower could not repay. In the end, the best deals are those in which all the parties' incentives are aligned. An offeree accepts by saying or doing something that a reasonable person would understand to mean that he definitely wants to take the offer. In addition to criminal penalties, RICO also creates civil law liabilities. (a) I, II, and III (b) Neither I, II, nor III (c) Just I (d) Just II (e) Just III 5. Janet instructs Beth not to answer. Discovery The pre-trial opportunity for both parties to gather Ethics How people should behave. Should summary judgment be granted? WCN 02-200-203 04341_ch26_hr_501-518.indd 513 10/6/17 12:32 PM 514 Unit 6 Government Regulation that the partnerships were bad investments. The America Invents Act states that "no patent may issue on a claim directed to or encompassing a human organism."4 But the law does not define "human organism." Clearly it prohibits human cloning, because that process creates a human being, but how about other engineered animals containing human DNA? Priority 1. WCN 02-200-203 04341_ch11_hr_198-219.indd 203 10/6/17 11:53 AM 204 Unit 3 Contracts and the UCC Exculpatory clause A contract provision that attempts to release one party from liability in the event the other party is injured The day your school opens, Sara Beth, an instructor, deliberately pushes Toby over a cliff because Toby criticizes her clothes. What limits would there be on OSHA's work? A court will never presume abandonment. Enforceable Only to Quantity Stated. Because the writing only has to indicate that the parties agreed, it need not state every term of their deal. She now has a legal duty to make the space available. The Illinois common law of bystander liability is all the cases on that subject decided by Illinois appellate courts. By contrast, when a driver leaves her keys with a parking attendant, the lot clearly is exercising control of the auto, and the parties have created a bailment. She has been representing Zac Efron in his latest movie negotiations.3 Efron often drives her to meetings in his new Aston Martin. A statement like "dictators and Nazis" is not taken literally by anyone.3 4. Result: The court held that it was irrelevant that Betts had shown no malice toward Caudle nor intended to hurt him. She contends that he did not buy the note in good faith. Liability. When you lose a debit or ATM card: Check cards Another term for debit cards Although they look and feel like credit cards, legally they are a different plastic altogether. If your software corporation wants to hire an Argentine expert on databases, you will get to know the complex workings of Immigration and Customs Enforcement: No one lawfully enters this country without its nod of approval. T F The idea that current cases must be decided based on earlier cases is called legal positivism. Lauren, a resident of Kansas, appointed her husband to be her healthcare proxy. Agencies promulgate rules and investigate and adjudicate cases. However, non-economic damages—pain and suffering and other losses that are difficult to measure—are capped at some level, such as $500,000. Once the predator has the market to itself, it raises prices to make up lost profits—and more besides. No law can conflict with it. They did not expect to pay rent while waiting. EXAMStrategy Promoter Someone who organizes a corporation Adopt Agree to be bound by the terms of a contract Novation A new contract Question: Dr. Warfield hired Wolfe, a young carpenter, to build his house. It also said, "This notice of award authorizes the work." The letter included significant detail about the scope of the contract, including the specific facilities Quake would be working on. The judge will have to decide whether Rich's questions are reasonable. In general, the offeror may revoke the offer any time before it has been accepted. (Some of the following rules seem little more than common sense, but that was an attribute sorely missing during the bubble.) Under TILA, lenders: • Must make a good faith, reasonable effort to determine whether a borrower can afford to repay the loan, considering data such as income, assets, debt, and credit history; • May not coerce or bribe an appraiser into misstating a home's value; and • Cannot charge prepayment penalties on adjustable rate mortgages. The family argues that the dog is not allergic to mud, that even if he is, a pet's inconvenience pales compared to human life, and that Rachel could have phoned for emergency help without climbing an inch. The insurance company sells the same policy to 1,000 similar homeowners, expecting that on average, one of these houses will burn down. Was there a violation? Such a sentence required the defendant to actually serve a minimum of 25 years, and in some cases much more. The joke turned out not to be so funny when Kernell was sentenced to one year in prison. Bien becomes frantic, writing a dozen notes, begging to leave, and threatening to call the police. For eight years, medical device maker C.R. Bard paid kickbacks to doctors and hospitals to get them to buy its radioactive seeds for treating prostate cancer. Felice's site declared Grannis "Bankrupt, Drunk & Chewin' Tobaccy." It stated that he had "bankrupted many businesses throughout California." Grannis's name was hyperlinked to a website with the address www.olddrunk.com that accused him of criminal, fraudulent, and immoral conduct. In one of the most important dissents in Supreme Court history, he foresaw the challenges of modern privacy—and argued that any interpretation of the Constitution had to adapt to changing technologies. Figgins is the dean of a college. What are Leo's legal and moral obligations? During the Industrial Revolution in England, per-capita output doubled in 58 years; in China, it took only 10 years. 10-3a Making an Offer Bargaining begins with an offer. Some states permit debtors an unlimited exemption on their homes. However, instead of hiring the lawyer who had been representing her, it chose another lawyer who had no expertise in this type of case and was a close friend of Whitaker's attorney. The most common interference with quiet enjoyment is an eviction, meaning some act that forces the tenant to abandon the premises. And people do not like Tim very much. In addition, the charter of a close corporation may require a unanimous vote of all shareholders to choose officers, set salaries, or pay dividends. Section 2. Congress shall have power to enforce this article by appropriate legislation. 1. 3Even when all the space on the back of the check is filled, the holder can attach a separate paper for indorsements, which is called an allonge. In some cases, something more than money is needed, such as an order to transfer property to the injured party (specific performance) or an order forcing one party to stop doing something (an injunction). (c) Kyle wins because a contract for vacation property does not need to be written. For Facebook, it was Mark Zuckerberg. Kuehn v. Would U.S. lawmakers ever consider a law like this? • The annual percentage rate (APR). Insurance 597 The Banta family, with its complicated ownership structure, needed to be more careful when purchasing insurance to ensure that only those entities with an insurable interest actually bought the policies. 30-1b Purpose Estate planning has two primary goals: to ensure that property is distributed as the owner desires and to minimize estate taxes. A Florida newspaper mistakenly revealed a rape victim's name, which it had obtained from a public police report. Many people say, for example, that they will maintain a healthy work/life balance, but such a vow is not as effective as promising to set aside certain Copyright 2019 Cengage Learning. Value-based care Payment to medical providers is based consent. WCN 02-200-203 04341_ch30_hr_576-592.indd 582 8/28/17 7:46 AM Chapter 30 Estate Planning 583 to permit users to choose a "legacy contact" to manage their account after death. Restitution When a guilty defendant must reimburse the Restitution Restoring an injured party to its original position. The EPA must set national standards for water quality generally. Any contractual right may be assigned unless the assignment: • Would substantially change the obligor's rights or duties under the contract, or • Is forbidden by law or public policy, or • Is validly precluded by the contract itself. Assault: causing an imminent fear of battery. Its mandate is to stimulate international commerce and resolve trade disputes. The corporation pays tax at a top rate of 35 percent.2 Thus, the corporation pays $3,500 of the $10,000 in tax. Hostile Environment Based on National Origin. Title VII also prohibits a hostile environment based on national origin. WCN 02-200-203 04341_ch20_hr_377-397.indd 386 10/9/17 1:51 PM Chapter 20 Reasoning: An LLC's veil can be pierced if the following three tests are met: 1. • Legality. Although real property today is not the dominant source of wealth that it was in medieval England, it is still the greatest asset that most people will ever possess—and therefore, it is worth understanding the law that applies to it. Decision: Yes, the company had minimum contacts with the state. 1992). If the purpose of a contract becomes illegal, that change discharges the contract. You need look no further than the Raul case later in this chapter for some fine examples of rationalization. WCN 02-200-203 04341_ch26_hr_501-518.indd 505 10/6/17 12:32 PM 506 Unit 6 Government Regulation 26-2c Common Law Fraud Accountants are liable to their clients for fraud if (1) they make a false statement of a material fact, (2) they either know it is not true or recklessly disregard the truth, (3) the client justifiably relies on the statement, and (4) the reliance results in damages. The maker is clearly stating her own opinion, and the buyer who relies on it does so at his peril. The information was easy to understand and enjoyable." From business law professors: • "The clarity of presentation is superlative. The parties agree on a price, but other business prevents them from finishing the deal. Criminal and Civil Law Criminal law Concerns behavior so threatening that society prohibits it Civil law Regulates the rights and duties between parties It is a crime to embezzle money from an employer, to steal a car, and to sell cocaine. One study found that MBA students are willing to accept lower pay to work at a company with a good reputation for ethics and CSR. COMMERCIAL EXPLOITATION Protects the exclusive right to use one's RESULTS own name, likeness, or voice. When a non-compete agreement is ancillary to the sale of a business, it is enforceable if reasonable in time, geographic area, and scope of activity. Money Services Center 352 B.R. 888 United States Bankruptcy Court for the Northern District of Alabama, 2006 Facts: Christina Blasco borrowed $500 from the Money Ser- vices Center (MSC). UCC Statute of Frauds The UCC requires a writing for any sales of goods priced $500 or more. In addition, this provision means that the police may not use mental or physical coercion to force a confession or any other information out of someone. EXAMStrategy 2. LIABILITY INSURANCE Liability insurance reimburses the insured for any liability that she incurs by accidentally harming someone else. 8Kashmir Hill, "How Target Figured Out a Teen Girl Was Pregnant before Her Father Did," Forbes, February 16, 2012. It both establishes guidelines and then monitors the comments to ensure that they comply with the guidelines. Argument for MSC: Blasco is right about the two rules. When will Alpha's financing statement expire? A contract is executed when all parties have fulfilled their obligations. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;— to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States; and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. Chaney argued that, by limiting access to "friends and friends of friends" she had intended to keep her page private. 4Massachusetts v. He returned with the store's general manager who was EXTREMELY rude, implying that I was "cheap" for not adding the plan. Parents and minor children also have an insurable interest in each other. A heated argument ensued. Decision: No, the railroad was not liable. In other words, to win a case under the ADEA, the plaintiff must show that age was not just one factor, it was the deciding factor. Implied warranties are those created by the Code itself, not by any act or statement of the seller. (b) is void, based on the Supremacy Clause. Owens-Corning admitted that it had granted lower prices to a number of Reserve's competitors to meet, but not beat, the prices of other insulation manufacturers. The plaintiff in any kind of lawsuit must prove all the elements to prevail. Alternatively, Copyright 2019 Cengage Learning. His famous dissent foresaw technological innovations that could uncover an individual's most intimate spaces and private thoughts. In this case, Nationwide strong armed its own policyholder rather than negotiating in good faith. The court reverses the trial court's decision, meaning it declares the lower court's ruling wrong and void. Accountants serve two masters—company management and outsiders who invest in or loan to the company. WCN 02-200-203 04341_ch30_hr_576-592.indd 591 8/28/17 7:46 AM 592 Unit 7 Property 3. Doug, however, is willing to assume some risk for a potential $2,000 gain. While you think that over, the personnel officer from another company calls, asking for a recommendation for Gates. According to the company's website, "d.light is a global leader in delivering affordable solar-powered solutions designed for the two billion people in the developing world without access to reliable energy." It is a for-profit enterprise. Not until Taylor returned home did he learn that the Fords had rented another house. In which case is a court most likely to enforce an exculpatory clause? official presence in the state. To reassure him, the Keystone board suggested he talk with Quay and look at the bank's financials. Shareholders filed suit alleging that Whitman and HP had committed fraud under §10(b). Irene refused to pay the note, alleging that Robin was not a holder in due course. The person who receives the proceeds from the insurance policy ___ C. The whole point of an LLC is to protect members against personal liability. Did they act either intentionally or with deliberate recklessness? Auditing firms cannot base their employees' compensation on sales of consulting services to clients. The NLRB cannot create common law or statutory law. National Evaluation Systems (NES), a professional test development company, was hired to create a test to measure this knowledge. After the terrorist attacks of 9/11, the United States tightened its visa requirements. The Federal Trade Commission (FCC) oversees the commercials that shout at you from your television set. any lawsuit based on a federal statute. Television stations forced to take the unwanted films did not buy "B" movies from other distributors. Delegator A person who gives his obligation under a contract to someone else. Licensee A person on property for her own purposes, but with the owner's permission. The directors simply knew that the sales price was higher than the appraised value of the company. After the divorce, his ex-wife and her father demanded repayment of the loans. The You Be the Judge features are cases that provide the facts of the case and conflicting appellate arguments. There was just no way we could we say no? This date may be specified in the treaty or it may be the date on which the treaty receives a certain number of ratifications. Carter did not act in good faith because his primary loyalty was to Murdock. (c) Yes, Austria is violating the WTO's most favored nation rules. When Ferris and his friends parked the Ferrari with the valet, they benefited from the convenience, and the parking service profited from the fee they paid. Result: Michael is covered by the ADA. Kedkad v. Without it, debtors would have little incentive to take part. About four times a week, Gene Shinault, assistant warden for operations, persistently complimented Singleton and stared at her breasts when he spoke to her. 3d 226 (2015). How could he avoid these traps? Mark, a newspaper editor, walks into the newsroom and announces to a group of five reporters: "I'll pay a $2,000 bonus to the first reporter who finds definitive evidence that Senator Blue smoked marijuana at the celebrity party last Friday." Anna, the first reporter to produce the evidence, claims her bonus based on: (a) unilateral contract. The producer's goal is to make money— which means creating a quality movie while spending as little as possible and maintaining control over the process and final product. Argument for Properties: Yes, Properties meets the Florida definition of insurable interest because it had "a substantial economic interest" in keeping the property free from damage. Authorization. An act is within the scope of employment, even if expressly forbidden, if it is of the same general nature as that authorized or if it is incidental to the conduct authorized. Registered agent Someone hired by a business to serve as its Rule Against Perpetuities A trust must end within 21 years of the death of some named person who was alive when the trust was created.. CLASSIC INSIDER TRADING Any corporate insider (1) with material, nonpublic information, (2) who breaches a fiduciary duty to his company (3) by trading on the information is guilty of insider trading, in violation of §10(b). third-party reliance. Indeed, the employer may be liable even if he forbade or tried to prevent the employee from misbehaving. That was the role of currency. An act so extreme that an average person would say, "Outrageous!" TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Sequenom developed a noninvasive prenatal diagnostic test to assess the risk of Down syndrome and other chromosomal abnormalities in fetuses. The intention to deceive the other party 4. Harlesville Ins. The head of the national drag racing association testifies that his group Copyright 2019 Cengage Learning. LIABILITY UNDER THE 1933 ACT The seller of a security is liable for making any material misstatement or omission, either oral or written, in connection with the offer or sale of a security. The owners of Lot A were the only ones to take physical possession of the Disputed Area. Or when in Rome, should our companies and subsidiaries be allowed to do as the Romans do? Easterwood Quantum meruit "As much as he deserved." The damages awarded in a quasicontract case Copyright 2019 Cengage Learning. Shareholders do have: • The right to inspect and copy the corporation's records (for a proper purpose); • The right to approve fundamental corporate changes: charter amendments, merger, the sale of major assets, or dissolution; • The right to attend shareholder meetings; and • The right to elect directors. GIFTS A gift is a voluntary transfer of property from one person to another without consideration. 18-3e Employee Data Employers necessarily obtain personal data from their workers: date of birth, Social Security number, and banking information. WCN 02-200-203 04341_ch23_hr_439-459.indd 441 8/28/17 7:11 AM 442 Unit 6 Government Regulation Liability Material Important enough to affect an investor's decision Under the 1933 Act, the seller of a security is liable for making any material misstatement or omission, either oral or written, in connection with the offer or sale of a security. Electronic Communications Privacy Act of 1986 (ECPA) A federal statute prohibiting unauthorized interception of, access to, or disclosure of wire and electronic communications Wiretap Act The section of the ECPA that prohibits the interception of face-to-face oral communications and telephone calls Stored Communications Act The section of the ECPA that prohibits the unlawful access to stored communications, such as email • Businesses may monitor conversations with their customers in the ordinary course of business provided they give notice. However, his speeding was of the same general nature as the authorized act, so Jane is liable to Bernadette. (The goal was to protect buyers who might not have any place to live if the building was not finished on time.) In the end, the first closing occurred in February 2009. The corporation pays out the remaining $6,500 as a dividend of $2,167 to each of its three shareholders. Lucas has bought the following insurance this week: I. Obviously, the citizens of Louisiana favor this law. Substantial Change. An assignment is prohibited if it would substantially change the obligor's situation. If the board receives such a report from its auditors, it must notify the SEC within one business day and send a copy of this notification to the auditors. The application and interpretation of these rules require acute professional skill. If that happens, the seller may refuse to deliver the goods.7 If a buyer unjustly refuses to accept or pay for goods, the injured seller may resell them. Private Offerings Private offering A sale of securities in which the issuer provides less disclosure in return for selling less stock to fewer investors than in a public offering Registering securities with the SEC for a public offering is very time consuming and expensive, but the 1933 Act also permits issuers to sell stock in a private offering, which is much faster and cheaper. Danny is the coach of a college wrestling Danny is about to find out, team. Sometimes this provision is used to convict someone who is suspected of committing a complex crime that may itself be difficult to prove. If you were involved in a trial with $50,000 at stake, would you want a jury trial? Money is also a way of keeping score. WCN 02-200-203 04341_ch16_hr_295-314.indd 305 8/26/17 9:02 AM 306 Unit 3 Contracts and the UCC 16-5 Priority The law sets out three rules to establish which creditors have better claims. Was the lie still wrong? Did I do the right thing? • Achieving a purpose. Bikinis. If the acceptance contains terms that add to or contradict the offer, even in minor ways, courts generally consider it a counteroffer. Argument for Phibro: In their meeting, the two negotiators agreed to a $15 per ton increase in the price of TBCC for each 1-cent increase in copper sulfate price. If an offer demands acceptance in a particular method or manner, the offeree must follow those requirements. Statute → (3) A law passed by Congress or a state legislature E. 2-3e Moral Licensing After doing something ethical, many people then have a tendency to act unethically. This means that the secured party has taken three steps to create an enforceable security interest: 1. Delegation of duties is a transfer of the obligations under a contract. Since they are copyrighted, no one else can show them without the distributor's permission. Someone like Howey-in-the-Hills, Inc., a related company that just happened to be in the service business. Explain the criminal law/civil law distinction and what it means to Bill and Diane. A tenant is liable to the landlord for any significant damage he causes to the property. No state has executed a defendant for rape since 1964. Their relationship was at its peak when Lowman proposed to Martino with a $15,000 engagement ring on Valentine's Day. select as low a deductible as possible so that no matter what happens, you will not have to pay large sums out of pocket. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. But today, many parties agree in advance to arbitrate any disputes that may arise in the future. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 5 9/28/17 7:29 AM I6 Index Employee (continued) vs independent contractor, 326e considerations, 324 at will, 337 See also Labor unions Employee Polygraph Protection Act of 1988, 344 Employment I-9 Form documenting worker's eligibility, 114, 363 prior to laws protecting workers, 336–337 and social media surveillance, 157–158 Employment discrimination Age Discrimination in Employment Act (ADEA), 365 Americans with Disabilities Act (ADA), 366–367 hiring process, 367 mental disability, 367 obesity, 367 relationship with a disabled person, 367 Civil Rights Act of 1964, 357 See also Civil Rights Act of 1964/Title VII enforcement, EEOC, 369 Equal Pay Act of 1963, 357 Genetic Information Nondiscrimination Act (GINA), 367 hiring practices and pitfalls, 368 interviews, 368, 368e social media, 368–369 Pregnancy Discrimination Act, 365 prior to 1964, 356 Employment Eligibility Verification (I-9 Form), 114, 363 Employment security, 337 common law protections (wrongful discharge), 337–338 exercising a legal right, 338 refusing to violate law, 338 supporting societal values, 338 contract law, 339 employee handbooks, 339 promises made during hiring process, 339 Family and Medical Leave Act (FMLA), 341 tort law, 340 defamation, 340 workplace bullying, 340 whistleblowing, 341 Dodd-Frank Act, 341 False Claims Act, 341 Sarbanes-Oxley Act of 2002, 341 See also Financial protection for employees; Workplace freedom and safety Endangered Species Act (ESA), 493 controversies, 493 Engagement letter (contract), 505 Enron, 501–502 "Enter into force" of treaty, 44 Entrapment (criminal procedure), 103 Environment cost–benefit considerations, 483 pollution and externality, 483 sources of pollution, 483 Environment/air pollution automobile pollution, 487 Clean Air Act of 1963 (CAA), 484 national standards (EPA), 484 prevention of significant deterioration program (PSD), 484 state implementation plans (SIPs), 484 stationary sources (EPA regulation of), 484 climate change, 485–486 Clean Power Plan (domestic regulation), 486–487 Paris Accord, 486 damages caused by, 483 sources, 483 Environment/chemicals, 491 Toxic Substances Control Act (TSCA), 491 Environment/natural resources, 492 Endangered Species Act (ESA), 493 National Environmental Policy Act of 1969 (NEPA), 492 environmental impact statement (EIS) requirement, 492 Environment/waste disposal, 489 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)/ Superfund, 490 Resource Conservation and Recovery Act (RCRA), 490 hazardous wastes, 490 ordinary garbage, 490 Environment/water pollution Clean Water Act of 1972 (CWA), 488 coverage, 488 major provisions, 488–489 damages caused by, 487 sources accidents, 488 heat, 488 nonpoint sources, 488 point sources, 488 Environmental Protection Agency (EPA), 6, 61, 70 clean air provisions bubbling concept, 71 Clean Air Act of 1963, 484 Clean Air Act rule interpretation, 70–71 Equal Pay Act of 1963, 357 Equal Protection Clause, 66 Equifax, 469 Estate, 577 Estate planning, 577 amending a will, 583 anatomical gifts, 584 definitions, 577 end of life health issues living wills, 584 physician-assisted death, 585 intestacy, 583 power of attorney, 583 probate, 583–584 probate law, 577–578 property not transferred by will, 584 purpose, 577 wills, 378 children's (issue) share, 580–583 children's share/pretermitted child, 581 holographic, 580 legal requirements for execution, 579 nuncupative, 589 rules of inheritance for digital assets, 582–583 spouse's share, 580 validity requirements for testator/ testatrix, 578 Estate planning/trusts, 585 administration, 586–587 advantages caring for children, 585 control, 585 privacy, 586 probate, 586 protection against creditors, 586 tax savings, 586 disadvantages, expense, 586 term, 587 decanting, 587 perpetual (dynasty) trusts, 587 termination, 587 types, 586 living (inter vivos) trust, 586 testamentary trust, 586 Estee Lauder, 32 Ethics, 16 in business, 17 decision, 16 deontological ethics, 19–20 and food, 15–16 reasons for ethical behavior, 17 benefits to society, 17–18 Copyright 2019 Cengage Learning. Damaged water systems are unable to support biodiversity in plants and animals. Is it fair for her to be liable on a contract if she does not even know the identity of the principal? WCN 02-200-203 04341_ch28_hr_538-559.indd 541 10/6/17 12:30 PM 542 Unit 7 Property Medford v. If the words had said "five thousand eighty-seven," that would have been a contradiction. If the promissory note is a negotiable instrument, Chaz must pay the full amount to its subsequent holders, no matter what complaints he might have against Trustie. When the bailment is for the mutual benefit of bailor and bailee, the bailee must use ordinary care with the property. • A court determines it was entirely fair to the corporation. Amendment XIV [1868]. How can managers make tough decisions without being second-guessed by shareholders? If the full body approves the bill, it goes to the other house. Take, for example, oil companies. During October, the apartment had no heat. Its purpose is to reimburse the insured for any liability he incurs by (accidentally) harming someone else. Duke professor Dan Ariely found in his groundbreaking research that almost everyone is willing to cheat, at least on a small scale. It has been estimated that the cost of cleaning up existing waste products will exceed $1 trillion. CHAPTER 27 1. And then there was Enron. Society needs a means of analyzing negligence cases consistently and fairly. Preparing for an IPO is neither fast nor cheap. T F While organizing, workers may not discuss union issues on company property but may do so off the premises. Because few businesses are actually based in Delaware, it is a neutral place in which to do battle. The government and the whistleblower share any recovery. The owner generally has no duty to protect a customer from the criminal act of a third party unless the owner could foresee it is about to happen. Thus, if they suspect someone is using illegal drugs in an apartment, they can enter without a warrant because, in the time it would take to contact a magistrate, the drugs might be gone. The Privacy Act prohibits federal agencies from sharing information about an individual without written consent. (a) The president must sign the bill whether he likes it or not. Even when there is no contract, a plaintiff may use promissory estoppel to enforce the defendant's promise if he can show that: • The defendant made a promise knowing that the plaintiff would likely rely on it, • The plaintiff did rely on the promise, and • The only way to avoid injustice is to enforce the promise. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility. SUBSTANTIAL PERFORMANCE Strict performance, which requires one party to fulfill its duties perfectly, is unusual. With his head in his hands, Chaz tries to remember what he learned about negotiable instruments in his business law class. What should you do? Each year, the sale of Girl Scout cookies is the major fund-raiser for local troops. 3The Big Four are: Deloitte LLP, EY LLP, KPMG LLP, and PwC LLP. What steps can you take to ensure that you do not fall prey to this same ethics trap? Since a private citizen cannot jail someone, this is purely a governmental activity. Enrollments in Barpassers' courses dropped, and the company was forced to postpone plans for expansion. • If a party wants a contract on its terms only, with no changes, it must clearly indicate that. Was the city's refusal unreasonable? If they lost the case, they would get nothing. The imitation was so good that most listeners were fooled into believing that Midler was endorsing the product. The judge determined that the promise did not create a contract because there had been no consideration. Instead of selling a used car to Treadway, Gateway sold a new car to Smith. This is: (a) an interrogatory. Track One applications are supposed to be decided within one year. A corporation that produces toxic waste can foresee dire consequences from its business that a stationery store cannot. Signature A Statute of Frauds typically states that the writing must be "signed by the party to be charged therewith," in other words, the defendant. Negligence, Strict Liability, and Product Liability 143 Argument for AvMed: Your honors, with all due respect, welcome to the twenty-first century. After all evidence is taken, the ALJ makes a decision. Many of its doctrines are tailored to promote honesty and transparency in business relationships. Charles G. An electronic fund transfer authorized in advance to recur at regular intervals is called a preauthorized transfer. Soley 2000 Me. 150 Supreme Judicial Court of Maine, 2000 CASE SUMMARY Facts: Near Labor Day, Andrea Harris, Kimberly Nightingale, Karen Simard, and Michelle Dussault moved into a large apartment in the Old Port section of Portland, Maine. (d) United States District Court has federal question jurisdiction, based on the federal statutes at issue. Ct., 1909). United States 137 S. If you visit either house of Congress, you will probably find half a dozen legislators on the floor, with one person talking and no one listening. The image showed Chaney in a bikini posing with a lifesize cutout of rapper Snoop Dogg. Candy is most likely to win: (a) a lawsuit for battery. The policy is voidable whether the misstatement was oral or in writing, and in many states, whether it was intentional or unintentional. The contract or memorandum: • Must be signed by the defendant and • Must state with reasonable certainty the name of each party, the subject matter of the agreement, and all the essential terms and promises. PRESIDENTIAL POWERS The president's key powers include making agency appointments, proposing legislation, conducting foreign policy, and acting as commander-in-chief of the armed forces. As long as there is some certain basis for giving damages to the injured party, the court will do just that. 3 Citicorp, 357 Civil law, 6, 42–43, 42 n. A jury agreed with him, but the defendants appealed, arguing that the behavior was not outrageous enough to be IIED. For every Yoplait lid mailed in, the company makes a donation to a breast cancer charity. Although Taylor had told Claudia that he had no cell phone service in Antarctica, she texted him the Fords's counteroffer. Strategy: Both parties are mistaken about the kind of dog Joe is selling, so this is an instance of mutual mistake. Instantaneously, his on-board computer matches these numbers to a database of "wanted" vehicles. Statutes The second important source of law is statutory law. Contract lawsuits not involving goods are still resolved using the older common law rules. No, the same rule applies to both. 2013-Ohio-4124 Ohio Court of Appeals, 2013 CASE SUMMARY Facts: Lindsay5 and her young daughter lived above Rhonda Schmidt, in an apartment complex operated by Towne Properties (TP). He stole money from the company by writing a series of checks made out to "Cash" which he deposited in his own personal account at Bank. Cities upgrade their public transportation systems? But it did not take such precautions. This statement was true, but only if the flossing was done incorrectly. Additional or Different Terms. An offeree may include a new term in his acceptance and still create a binding deal. (d) The transaction was entirely fair to the corporation. 23-1e Blue Sky Laws Blue sky laws State statutes regulating securities Currently, all states and the District of Columbia also regulate the sale of securities. Strategy: This is a non-compete clause based on the sale of a business. Examples of routine governmental action include processing visas or supplying utilities such as phone, power, or water. 6Exxon and Mobil entered into separate contracts with SABIC, but by the time of this lawsuit had merged to form one company named ExxonMobil. It referred to the execution of a formal contract by the parties, thus indicating that they did not intend to be bound by the letter. HP was the one who was duped. The moral of the story? With a 3.6 grade point average and outstanding recommendations, he has an excellent chance of admission to an elite law school—until his life suddenly turns upside down. He began finding bananas and banana peels on his truck in the terminal. Originally, most states required about 20 years to gain adverse possession, but the trend has been to shorten this period. They had to enter through the restaurant's rear entrance and could not use the customer bathrooms. WCN 02-200-203 04341_ch05_hr_079-100.indd 82 9/28/17 9:36 AM Chapter 5 to award Enviro-Vision $1 million because it feels sorry for Beth Smiles. Becky has committed the tort of assault. WCN 02-200-203 04341_ch29_hr_560-575.indd 562 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment 563 Acceptance The donee must accept the gift. The duty of care: (a) is not a requirement of the business judgment rule. They are citizens of different states and the amount in dispute far exceeds $75,000. But sometimes looking out for employees may not lead to higher profits. She claims that while she was in Texas on holiday, she was injured by their negligent maintenance of a stairway. However, a dealer has the right to a report to arrange financing requested by the consumer or to verify a buyer's creditworthiness when he pays for a vehicle with a personal check. Predictably, mistakes happened, lawsuits were filed, settlements were made. At a minimum, a lease must state the names of the parties, the premises being leased, the duration of the agreement, and the rent. While searching the car, Struble found methamphetamine, an illegal drug. Law exams are different from most others because you must determine the issue from the facts provided. Assume that state law allows a domestic cat to roam freely. And some other courts have reached a similar result. Answer: This is based on Ashman v. To view a demo video and learn more about MindTap, please visit www.cengage.com/mindtap. In other words, the two sides must meet with open minds and make a reasonable effort to reach a contract. Which of the following activities would not be considered sexual harassment? Talk about the job instead! The most common gaffe on the part of interviewers? Termination happens automatically once the winding up is finished. The auditor then verifies each step along the paper trail until the engines leave the warehouse. Restitution interest. The Equal Employment Opportunity Commission prohibits testing for prescription drugs unless a worker seems impaired. WCN 02-200-203 04341_ch18_hr_336-355.indd 336 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 337 How did society arrive at a place where workers (children, no less) were treated this way? Both Florida and Texas permit debtors to keep homes of unlimited value and a certain amount of land. Law professors often call this the "peppercorn rule," a reference to a Civil War–era case in which a judge mused, "What is a valuable consideration? Should everyone have an obligation to behave reasonably? They achieved all of this in one remarkable document: the United States Constitution. T F John Stuart Mill's ideas are consistent with business use of risk management and cost–benefit analyses. The court rules that the Pub Zone did have a duty to Kuehn. If the consumer waits more than two days, the bank will only replace stolen funds above $500. What is even more annoying than telemarketing calls from a live person? Later that day, the jury sent a note to the judge. Ashley sues and wins: (a) nothing. What obligation do media companies have to their audiences? It is also possible that red wolves help farms by preying on animals like raccoons, deer, and rabbits that destroy crops. LEXIS 40. Like so much in ethics, none of these approaches will always be right or wrong. Take it or leave it. (d) The president may ask the citizens to vote directly on the proposed law. MindTap™ is a fully online, highly personalized learning experience combining readings, multimedia, activities, and assessments into a singular Learning Path. But if the actual acreage is 150, he has. RENT The tenant is obligated to pay the rent, and the landlord may evict for non-payment. After the September deadline passed, Route 18 notified Brunswick that it was too late to exercise the option because it did not pay the $150,000 on time. Forty thousand hungry fans in the neighborhood for 81 home games every season could turn her once-marginal operation into a gold mine of cheese and pepperoni. Additionally, ours is a nation born in revolution and created, in large part, to protect the rights of its people from the government. Universal Music Corp., 801 F.3d 1126 (9th Cir., 2015). One night, he told a bartender, Ryanne, about an upcoming deal. GT argues that it should not be liable because its accountants had spent so much time and reviewed so many documents. A judge might also issue an injunction to stop a salesperson from using his former company's client list or prevent a counterfeiter from selling fake goods. For the most recent 16 years, she had worked at Head Start, which provided haircuts, coloring, and styling for men and women. WCN 02-200-203 04341_ch04_hr_058-078.indd 77 8/24/17 1:35 PM 78 Unit 1 The Legal Environment 3. Most people are opposed to quotas, but at the same time, they support outreach and recruitment efforts aimed at women and disadvantaged minorities. Tropical Isle vacated the premises 18 months early, turned in the key to Andreo, and acknowledged liability for the unpaid rent. Over the years, most courts have adopted one of two tests for design and warning cases. That is a recipe not only for headaches in running a company, but for a nation to become wasteful, inefficient, and noncompetitive. Most gifts fall in this category, and they are irrevocable. Generally, there is no need to hire a lawyer or register with the state, so costs are low. Is this legal? Although authors still routinely place the copyright symbol (©) on their works, such a precaution is not necessary in the United States. How will people from one country settle their private disputes with parties on foreign soil? In a pretrial deposition, Louann Naffziger acknowledged orally agreeing to buy the business for $150,000. Gossip site Gawker posted excerpts of a sex tape featuring the wrestler known as Hulk Hogan. The vast majority of married people, for instance, leave all their assets to their surviving spouse. A personal representative appointed by the court to oversee the probate process 6. The company fired Dutschmann, claiming that she had falsified delivery records. the power of a court to hear a particular case. There are few hard-and-fast rules for what constitutes a reasonable expectation of privacy. Or is that price too high? O'Connor v. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President, or acting as President during the remainder of such term. A personal representative chosen by the decedent to carry out the terms of a will Copyright 2019 Cengage Learning. Shell corporations are listed as the buyer of almost half of the homes in America that sell for over $5 million. It may be a basic error about an essential characteristic of the thing being sold. After reading up on the legal issues online, Huma thinks Spring High should be a close corporation, while Zuma proposes that it be an S corporation. To avoid liability, a manager must first offer an opportunity to disinterested directors and shareholders, and, only if they turn it down, does the manager have the right to take advantage of the opportunity himself. Transfer of obligations under a contract 5. His conviction was overturned. Joe Student, irate that he received a B– on an exam rather than a B, stands up in class and throws his laptop at the professor. He argued entrapment. 26-4 CRIMINAL LIABILITY Some violations by accountants are criminal acts for which the punishment may be a fine and imprisonment: • The Justice Department has the right to prosecute willful violations under either the 1933 Act or the 1934 Act. Refusing to Violate the Law. Courts have protected

employees who refused to participate in an illegal price-fixing scheme, falsify pollution control records required by state law, pollute navigable waters in violation of federal law, or assist a supervisor in stealing from customers. cannot have members that are corporations. On many legal topics, contract law included, the national government has had little to say and has allowed the states to act individually. Haushalter, 1994 U.S. App. Brican sold each Exhibeo to NCMIC for $24,000. Thus, if Pike's Pique gave all ski students an eight-page contract, and the exculpatory clause was at the bottom of page 7 in small print, the average customer would never notice it. WCN 02-200-203 04341_ch08_hr_137-155.indd 153 9/28/17 7:17 AM 154 Unit 2 Torts CASE QUESTIONS 1. But Properties is claiming $6.1 million in damages, completely out of proportion to what it actually lost. Unfortunately, the audit had the opposite effect. The director, costars, hairdresser, makeup person, costume designer, stand-ins, and the look of his role (although he lists one director and costar whom he has preapproved) b. In the second example, the consumer buys the stereo with money loaned from a bank; the consumer signs a PMSI giving the bank a security interest in the stereo. Later, should circumstances change, it is easy to terminate S corp status and become a C corporation. Answer: This is a civil lawsuit. Do you like the fact that these doctrines exist? There is no jury. The results in China have been nothing short of remarkable. In the Rushmore case, an arbitrator refused to reform the contract, ruling that there was no clear and convincing evidence that the parties intended something other than the contract term as written. Embezzlement → (2) Fraudulently keeping property already in defendant's possession Chapter 7 A. Briefly swerving on a highway after midnight is no evidence of wrongdoing. When the hospital fired him, he filed suit seeking his $14 million. Second, the contract must provide a neutral forum to resolve disputes and adopt reasonable rules to govern proceedings. To make a public offering, the company must file a registration statement with the SEC. When he refused to make payments under the contract, she sued him and obtained a judgment for $1,205,400. Let's change that. Issue: Did Ehling have a reasonable expectation of privacy in her Facebook posting? Billy Goat is the promisor and John, the promisee. Chapter 1 E. On one side of this debate are those who believe that torture should be used if necessary to obtain information that might help prevent other acts of terrorism. The goal of Chapters 11 and 13 is to rehabilitate the debtor. On the way, the plane crashed and Luke was killed. Long before Michelle made her decision, the train's engineer had seen the heavy Saturday night traffic crossing the tracks and realized the danger. 3 Hernandez v. WCN 02-200-203 04341_ch26_hr_501-518.indd 514 10/6/17 12:32 PM Chapter 26 Accountants' Liability 515 MATCHING QUESTIONS Match the following terms with their definitions: ___ A. After confirming with the cruise line's corporate office, the salesperson told DePrince that the price was $235,000. But since Article 2 only covers sale-of-goods contracts, agreements to sell services are not subject to the rule. RESULTS Strategy: McMahon cannot copyright an idea—only the expression of an idea. The Temples want the house. In 2007, a federal court moved to protect the delta smelt by ordering officials to shut down from time to time pumps that supplied as much as one-third of Southern California's water. If Celeste receives an offer to sell her shares in a bakery called Devil Desserts, Inc., she may want to look carefully at the company's accounting records to determine the value of her stock. SEXUAL ORIENTATION The specific language of Title VII does not include sexual orientation as a protected category but some courts now interpret the statute to include it as one. WCN 02-200-203 04341_ch14_hr_261-277.indd 271 9/28/17 7:16 AM 272 Unit 3 Contracts and the UCC transformers completely block digital signals. The insurance company investigated and determined that the accident was at least 60 percent her fault, so it refused to pay her claim. PER STIRPES VS. What was the bank's responsibility? The reference to "life" refers to capital punishment. This result was true even if their school did not have an honor code, the participants were atheists, or they did not actually remember all of the Ten Commandments. Answer: In a sense, legal realists share some ideas with the great Chinese lawgiver. The plaintiff must persuade the court that he has suffered harm that is genuine, not speculative. (c) Kurt cannot recover anything because Quinn had no obligation to reveal her relationship with the car's seller. When he delivered? T F Some states are comparative negligence states, but the majority are contributory negligence states. No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due. A tenant may not disturb other tenants, and a landlord has the right to evict anyone who unreasonably disturbs neighbors. T F A company must include in its proxy materials the names of all shareholder nominees for the board of directors. Located in Bath, Maine, Bath Iron Works builds high tech warships for the Navy. Kennedy claimed that capital punishment was out of proportion to rape and violated the Eighth Amendment. Your case will be based on the common law of contracts. Therefore, Felix's mother is a holder. Scienter Acting with the intent to deceive or with deliberate recklessness as to the possibility of misleading investors. WCN 02-200-203 04341_ch18_hr_336-355.indd 344 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 345 EXAMStrategy Question: To ensure that its employees did not use illegal drugs in or outside the work- place, Marvel Grocery Store required all employees to take a polygraph exam. Scrivener's error A typo. And these were the days Unfortunately, not until after before cell phones. An employee at will could be fired for a good reason, a bad reason, or no reason at all. Written Consent A book that contains a record of a corporation's official actions The undersigned shareholders of Classic American Novels, Inc., a corporation organized and existing under the General Corporation Law of the State of Wherever, hereby agree that the following action shall be taken with full force and effect as if voted at a validly called and held meeting of the shareholders of the corporation: Agreed: That the following people are elected to serve as directors for one year, or until their successors have been duly elected and qualified: Herman Melville Louisa May Alcott Mark Twain Dated: ______________ Signed: ___________________________________ Willa Cather Dated:______________ Signed: ___________________________________ Nathaniel Hawthorne Dated: ______________ Signed: ___________________________________ Harriet Beecher Stowe Bylaws A document that specifies the organizational rules of an organization, such as the date of the annual meeting and the required number of directors Quorum How many people or shares must be present for a meeting to count The corporation also needs bylaws, which list the organizational rules. Of all forms of dispute resolution, mediation probably offers the strongest "win–win" potential. Suppose that you have recently purchased a $500,000 house. Whether kicking out a newly engaged couple is good business practice for a restaurant . . . However, taxpayers have resisted the large increases in taxes or fees necessary to fund required treatments. She is earning $95,000 a year, which sounds good but does not go very far in New York City. The Court found no justification for discriminating against women. It is absolutely crucial to comply with all the technicalities of the statute. Nor does she want him to spend all her money on his second wife. When GM decided to pay off the Synthetic Lease, it instructed its lawyers to prepare the necessary termination statements for that loan. Only one prevailed. (e) The accountant was reckless. First, it is hiding behind the FOIA exemption that protects the disclosure of information about its functioning. In a huff, you sell all your company stock. Choudhury sued Evolution for copyright infringement, claiming he deserved the exclusive right to teach Bikram Yoga. His acceptance was effective on Tuesday morning, when he mailed it. Clearly, the credit card company is encouraging people to gamble by placing its ATM in the gambling pit. However, money in a vault is not very useful unless it can be readily spent. By contrast, in a criminal case, the prosecution must demonstrate beyond a reasonable doubt that the defendant is guilty. (c) tells potential customers that their returns on a whole life policy are certain to be higher than an equivalent amount invested in the stock market. Nina owns a used car lot. Owners of these mom and pop stores complained that the large chains could sell goods cheaper because suppliers charged them lower prices. Rathke's level of marijuana was within the limit allowed by Alaska law, but exceeded Arizona's limit. In her civil case, she can recover money damages for her injuries whether or not Keith is found guilty in the criminal case. Customary international law International rules that have become binding through a pattern of consistent, long-standing behavior. Factual cause The defendant's breach led to the ultimate harm. (d) the company intends to branch out into the high-tech field, in which case a high school diploma would be needed by its employees. Our country's Founders created a national government but insisted that the individual states maintain control in many areas. Does that fact change any of your answers? Compensation consultants do a lot of the benchmarking. Actavis PLC, 451 K Kedkad v. He learns that Tony appeared to have won their biggest contract ever from Rapid City, Oregon, but that he then lost it when he had a fight with Rapid City's mayor. George cannot establish an expectation interest in his scarf business. Why or why not? 20-2 CORPORATIONS Corporations are the dominant form of organization for a simple reason—they have been around for a long time, and, as a result, they are numerous, and the law that regulates them is well developed. It also reassured Lindsay, telling her it was "taking care of it," promising to "keep an eye on" Haynes, and guaranteeing it was taking precautions. The car soon blew a gasket, and Kevin demanded his money back. A disabled person is Copyright 2019 Cengage Learning. Because of the stop payment order, Bank refused to pay Check Cashing, which then sued Roofing Company for the amount of the check. The ECPA also applies to employers. Nina was forced to buy comparable machines elsewhere for $29 each. WCN 02-200-203 04341_ch14_hr_261-277.indd 263 9/28/17 7:16 AM 264 Unit 3 Contracts and the UCC agreement with words, writings, or even their conduct. Should FastFood be liable? In a strict liability case, Warm's safety efforts will not save it. Linda moved into the house with the children and began paying the mortgage, which was in Eddie's name alone. For example, if the Supreme Court misinterprets a statute about musical copyrights, Congress may pass a new law correcting the Court's error. Some faculty had been in the habit of routinely preparing lengthy course packets of copyrighted material without permission of the authors. What provisions would you need to achieve that goal? WCN 02-200-203 04341_ch20_hr_377-397.indd 385 10/9/17 1:51 PM 386 Unit 5 The Lifecycle of a Business 20-3f Going Public Once an LLC goes public, it loses its favorable tax status and is taxed as a corporation, not as a partnership. Farther south of this section line stood a dilapidated fence running east to west. The official promises that, if the victim will permit her account to be used for this purpose, she will be allowed to keep a percentage of the stolen money. A contract is formed when the promises are made because a promise to give something of value counts. Courts do not analyze the economic terms of an exchange to determine whether consideration was adequate. Secondary boycott A picket line established not at the employer's premises but at a different workplace. Old-timers would tell new recruits the legend of the firm's founder: How in 1914, the young Arthur Andersen had refused a client's request to certify a dubious earnings report. When Sam demands a refund, Emily scoffs that she never made any promises. MATCHING QUESTIONS Match the following terms with their definitions: ___A. This is my punishment." He appealed this requirement on the grounds that it constituted cruel and unusual punishment. Possible means that the illegal activity could have happened; plausible means that there is a credible basis for believing that it did. Quon, 160 n. Business leaders became frustrated that, to do business across the country, their companies had to deal with many different sets of common law rules. So a minor who enters into a contract generally may choose between enforcing the agreement or negating it. After the employee's job with Jackson ended, she could have bid against him for the Beatles' songs. It also accused the police of bombing the home of Dr. Martin Luther King, Jr., and unjustly arresting him seven times. The goldsmith then offered that amount to Armorie. A party that makes an offer ___A. 15-2b Defenses against a Holder in Due Course Negotiable instruments are meant to be a close substitute for currency, and, as a general rule, holders expect to be paid. A statute designed to prevent the use of criminal proceeds in legitimate businesses ___C. Regional trade agreements (RTAs) Treaties that reduce trade restrictions and promote common policies among member nations Ethics Child labor is a wrenching issue that raises compelling moral questions, but the solution is not always obvious. What language most effectively disclaims warranties? He may have been afraid that if he did not, the lender would repossess it, leaving him stranded. This rule sometimes presents plaintiffs with a problem. Those who favor judicial review insist that there must be one cohesive interpretation of the Constitution and the judicial branch is the logical one to provide it. He also was in a car accident that caused the death of a young investment banker. If she makes the statement with a reasonable belief that she is telling the truth, she has made an innocent misrepresentation (discussed in the next section) and not fraud. I know because I've done it thousands of times." 4. WCN 02-200-203 04341_ch16_hr_295-314.indd 312 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 313 4. Despite his illegal status, the NLRB found that Hoffman's retaliatory firing violated the NLRA and ordered the company to pay Castro $66,951 in back pay. Chapter Conclusion International law is increasingly relevant to our globalized business world. When analyzing any contract problem as a student or businessperson, you must note whether the agreement concerns the sale of goods. In some cases, injury is obvious. The terms were in writing (although they did not have to be). What should the government do with unclaimed property? WCN 02-200-203 04341_ch09_hr_156-176.indd 166 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 167 9-3a Regulation of User-Generated Content Sir Tim Berners-Lee, creator of the World Wide Web, described his vision of the Web as "a collaborative medium, a place where we all meet and read and write." Berners-Lee was referring to user-generated content—everything from social media posts, blogs, comments, customer reviews, wikis, images, and videos—created by end users and shared publicly through the Web. If it is irrevocable, she could still prevent the sale by going to court because Field has violated the duties he owes to the beneficiaries. The agency had spoken, merely by interpreting a statute. "I did it!" shrieked Nina, "I made an incredible deal for the kiddie drones—twenty bucks each!" "No, I did it!" trumpeted Noah, "I sold the 50 acres in Texas for $300,000 more than they're worth." Nina sent a quick text: "Confirming our deal—100,000 Down-to-Earth Drones—you Confirming our deal— deliver Chicago—end of summer." She did not 100,000 Down-to-Earth mention a price, or an exact delivery date, or when payment would be made. You do not have an ongoing relationship with the other party. WCN 02-200-203 04341_ch27_hr_519-537.indd 530 8/28/17 7:30 AM Chapter 27 Slickcraft subtly connotes something about AMF's boats, it is suggestive, which is protectable but weak. A landowner may also sell the plant life separately if he wishes. Today, it is a giant network that connects smaller groups of linked computer networks. Voluntary Petition Any debtor (whether a business or individual) has the right to file for bankruptcy. It was reasonable for Leo to assume that he had a weekly deal to mow and be paid. Over time, lawmakers in all 50 states were persuaded to adopt many parts of the Uniform Commercial Code (UCC). Lee, 305 Gallina v. 28-4c Eminent Domain Eminent domain is the power of the government to take private property for public use. • Privacy. While walking over to it, he realizes that he has left his wallet at home. Optimism bias A belief that the outcome of an event will be more positive than the evidence warrants. This is the dark side of payday loans—interest rates are often exorbitant.) Before MSC could cash the check, Blasco filed for bankruptcy protection. Once businesspeople have agreed to the terms of the deal, it is time to prepare a draft of the contract. T F A seller of property must generally disclose latent defects that he knows about. When Masako sends her offer to sell land to Eric and he mails his acceptance, the contract is binding the moment he puts the letter into the mail. The bad news? Reasoning: To establish title by adverse possession, the claimant must show possession that is (1) exclusive, (2) open and notorious, (3) hostile, and (4) continuous for 20 years. (There may not even be enough to pay the first creditor all that he is due, in which case that creditor will sue for the deficiency.) Who gets priority? So Jones sent a letter of intent that stated, among other things: We have elected to award the contract for the subject project to your firm as we discussed on April 15. There is no binding agreement. Non-competes are often valid, but they are sometimes illegal and void. Although these employees had the right to make preparations to compete with their employer, even while still working for her, they did not have the right to do so at her expense, or use her resources, time, facilities, or confidential information. Moreover, they are an important aid in flood control because they can absorb a high level of water and then release it slowly after the emergency is past. Tara is building an artificial beach at her lakefront resort. What is the difference, you ask? Otherwise, the defendants are proportionately liable, meaning that they are liable only for the share of the damages that they themselves caused. Who is liable for Mac's misdeeds? (b) Yes because any difference in price is a per se violation of the RPA. Thus, this accountant-client privilege would not have protected Checksfield's client because he was charged with a criminal offense. The landlord has the option of seeking to evict the tenant or of forcing the tenant to pay rent for a new rental period. Executive Product Director Business & Economics: Mike Schenk For product information and technology assistance, contact us at Product Director: Bryan Gambrel Cengage Customer & Sales Support, 1-800-354-9706 Senior Product Manager: Vicky True-Baker For permission to use material from this text or product, submit all Senior Content Developer: Kristen Meere requests online at www.cengage.com/permissions Further permissions questions can be emailed to Product Assistant: Christian Wood Marketing Manager: Katie Jergens Senior Content Project Manager: Kim Kusnerak Library of Congress Control Number: 2017948394 Production Service/Composition: SPi Global Senior Art Director: Bethany Bourgeois Cover/Internal Design: Mike Stratton/Stratton Design Intellectual Property Analyst: Jennifer Bowes Project Manager: Reba Frederics Student Edition: ISBN: 978-1-337-40434-1 Loose-leaf Edition: ISBN: 978-1-337-40443-3 Cengage 20 Channel Center Street Boston, MA 02210 USA Cengage is a leading provider of customized learning solutions with employees residing in nearly 40 different countries and sales in more than 125 countries around the world. Although the Dannemans thought they had purchased the copier on credit, the papers described the deal as a lease. Brockwell left his boat to be repaired at Lake Gaston Sales. EXAMStrategy Question: The U.S. Forest Service planned to build a road in the Nez Perce National Forest in Idaho to provide access to loggers. Many of the ambitious goals set by the CWA have not been met. Will Jade win on appeal? They argued that irresponsible consumers run up debt and then blithely walk away. Dreyer believed that, had he called, his boss would have said it was okay because he had given approval in similar situations in the past. • Contracting parties must be flexible and fair. By the very standard the pub had created, its conduct was unreasonable. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court. Ordinary Garbage The disposal of nonhazardous solid waste has generally been left to the states, but they must follow guidelines set by the RCRA. TNT provided Drury's Social Security number and date of birth, but not his middle name. 3 West, John, 390 Whistleblowing, 341 by auditors, 510 Wierdsma, Charles and Thomas, 27 Will. After Knussman's daughter was born, his boss again denied leave, saying that "God made women to have babies." Knussman ultimately recovered $40,000.3 18-2c Whistleblowing No one likes to be accused of wrongdoing even if (or, perhaps, especially if) the accusations are true. This contract made no mention of where lawsuits would be tried. WCN 02-200-203 04341_ch15_hr_278-294.indd 283 9/28/17 9:39 AM Unit 3 284 Contracts and the UCC Negotiated Checklist Negotiable Negotiated Holder in Due Course No Valid Defenses Remember the fundamental rule of commercial paper: The possessor of a piece of commercial paper has an unconditional right to be paid, as long as (1) the paper is negotiable, (2) it has been negotiated to the possessor, (3) the possessor is a holder in due course, and (4) the issuer cannot claim a valid defense. 24-1 INTRODUCTION Congress has empowered two federal agencies to enforce consumer laws: 1. Duty to Mitigate Pickwick & Perkins, Ltd., was a store in the Burlington Square Mall in Burlington, Vermont. The partnership is not required to do anything official. WCN 02-200-203 04341_ch03_hr_039-057.indd 46 8/24/17 1:47 PM Chapter 3 suffer: Its people would be forced to scramble for replacement services at uncertain cost. Due process merely requires reasonable fairness. • Timberland and Hewlett-Packard have recognized that selling large numbers of new products creates great variation in demand and therefore pressure factory workers to work overtime. WCN 02-200-203 04341_ch02_hr_015-038.indd 19 10/6/17 11:44 AM 20 Unit 1 The Legal Environment Kant also believed that human beings possess a unique dignity, and it is wrong to treat them as commodities, even if such a decision maximizes overall happiness. The Citadel argued that its long and distinguished history demanded that it remain all male. TMDLs Total maximum daily loads of permitted pollution. The plaintiff's use of the trunk in an attempt to kill herself was unforeseeable. A well regulated Militia, being necessary to the security for a free State, the right of the people to keep and bear Arms, shall not be infringed. Amendment VIII [1791]. airport in case his flight crashes? Regrettably, during his first race, on a Saturday night, Garret discovers that he has a speed phobia. 1 Commercial Paper Non-Negotiable Negotiable Transferee's Rights Are Conditional Transferee's Rights Are Unconditional Contract Law Applies UCC Article 3 Applies If Chaz's promissory note is non-negotiable, Reggie gets exactly the same rights that Trustie had. Once, when Shields discovered a spot on the carpet, he made a clerk get on her hands and knees to clean it while he stood over her yelling. In the summer, he contracts with Cecily, the owner of a shopping mall, to rent a high-visibility stall for $100 per day. Actor shall take part in the principal photography of Movie for ten weeks, commencing on March 1. Greenhouse gases or GHGs Gases that trap heat in the Earth's atmosphere, thereby causing global warming Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ch02_hr_015-038.indd 29 10/6/17 11:44 AM 30 Unit 1 The Legal Environment Zoe responds, "That is the government's problem, not ours. 14. Result: OSHA can issue a subpoena duces tecum demanding that those on board the ship, and their supervisors, appear for questioning and bring with them all relevant documents. You might not care which copy of the book you buy, but you do care which agent you hire. As a result, once forced to switch to XR, many patients would never go back to IR even after the generic version became available. (d) Seller is liable because implied warranties may not be disclaimed. The problem is that some of this music could cause real trouble. The GSA arranged to transport the murals to an art restorer named Hiram Hoelzer for storage and eventual restoration when funds could be arranged. It is, however, ethically lazy simply to default to moral relativism as an excuse for condoning any behavior. The heat sometimes failed. Wholesaler reads the fax but then gets an order from Lana for the same model football at $51 per unit. Do a role-play with another student in your class in which one of you takes the role of Zoe and the other is Phil. No statutes protect a worker for illegal off-duty conduct. (a) Sarah; Sarah; Sarah (b) Chip; Chip; Chip (c) Sarah; Chip; Chip (d) Sarah; Sarah; Chip 3. THE FIRST AMENDMENT The First Amendment to the Constitution protects speech on the internet so long as the speech does not violate some other law. Many states exempt items such as the debtor's home, household goods, cars, work tools, disability and pension benefits, alimony, and health aids. Rich's decision to depose other witnesses and omit Craig may influence the verdict more than any rule of law. The trial court should fashion a more reasonable geographic restriction, one that will permit King to ply her trade while ensuring that Head Start does not unfairly lose customers. Aukerman and Arketex both believed that this fence was the actual southern boundary of his new land, though, in fact, it lay on Arketex's property. Should the UCC change to give the holder of a perfected interest absolute rights against absolutely everyone else? Children in desperately poor families work because, for them, the choice is not work or school, it is work, starvation, or prostitution. 26-3 LIABILITY TO THIRD PARTIES No issue in the accounting field is more controversial than liability to third parties (those who are not clients, but nonetheless rely on audits, such as creditors and investors). Here lies the innovation: We guide the student in analyzing the issue. Giving a car to an intoxicated youth is an example of such behavior. Some employees wore Confederate shirts and hats. And it cannot be discharged. The FTC applies this statute to online privacy policies. 30-2 Will A legal document that disposes of the testator's property after death WILLS A will is a legal document that disposes of the testator's property after death. (b) a unilateral mistake. Statute of Limitations Statute of limitations Limits the time within which an injured party may file suit A party injured by a breach of contract should act promptly. The court is not declaring that all businesses must guarantee the safety of their patrons against acts by third parties. But Congress may not pass statutes regulating child custody in a divorce: That issue is not on the list. Delegation A transfer of contract duties to a third party. Why did the Exxon Board make these choices? Court held for the husband. Any reasonable consumer would understand that statement as a promise to deliver 16 ounces of liquid coffee, not 12 ounces of coffee with a 4-ounce foamy filler on top. Co. 2014 Pa. Dist. Answer: Although the NLRB ruled that this prohibition was an ULP, the 2nd Circuit overruled the Board, on the grounds that management had a legitimate interest in protecting the company's image. Result: The employer's promises made during the hiring process are enforceable. About half of businesses use credit checks as part of the hiring process, although some states now prohibit this practice. Discrimination under Title VII applies to every aspect of the employment process, from job ads to postemployment references, and includes hiring, firing, promoting, placement, wages, benefits, and working conditions of anyone who is in one or more of the so-called protected categories under the statute. The court held that Alexander Grant had violated its duty of trust to CDS.5 Clients may put as much trust in their accountant as they do in their lawyer, clergy, or psychiatrist. Example: "As long as you work here at Burger Brain, you may have Fridays off." Enforceable whether it is oral or written, because the employee might quit working a month later. What is the moral of this story? Inter Vivos Gifts and Gifts Causa Mortis Inter vivos gift A gift made during the donor's life, with no fear of impending death Gift causa mortis A gift made in contemplation of approaching death A gift can be either inter vivos or causa mortis. When Oregon sold the stock in one of its subsidiaries, Coopers advised Oregon that the transaction should be reported as a $1 million gain. Scrivener's error A typo You Be the Judge Heritage Technologies, LLC. The answer is simple: Money, however inexact and ineffective, is the only thing a court has to give. Simultaneously, Vickie, the store owner, sues Arnie for the damage to her property. • The UN Commission on International Trade Law (UNCITRAL) aims to harmo- nize international business law by proposing model legislation on such topics as international payments and e-commerce. The owners are liable for debts of organization ___D. T F The government has the right to take a homeowner's property for a public purpose. Responding to an online ad, he finds the perfect place to rent. Many adults may help their parents, but few pay their real estate taxes unless they expect something in return. Also, traders, acting with the knowledge of top management, changed risk limits to facilitate more trading and then violated even these higher limits. He does not need to register a deed or take other legal steps, but he must act as though he is the sole owner. Under the CDA, end users and anyone who simply provides a neutral forum for information (such as ISPs and website operators) are not liable for content that is provided by someone else. Unless the owners explicitly provide otherwise, managers should make the company as profitable as possible while also complying with the law. Although not as damning as an adverse opinion, a disclaimer is still not good news. Haynes' criminal activity was certainly foreseeable. Decision: Yes, Maher did receive a benefit, and Salman was guilty of insider trading. (The franchisee does not have the right to bring suit personally against someone who violates FTC franchise rules, but it may be able to sue under state law.) Many state regulators can also bring enforcement actions against those who violate state franchise laws. Raoul writes, "I accept. A perfected security interest is far from perfect. To the ear, they are almost the same. Wierdsma's woes were reported in major newspapers, and his statement about lying to a federal agency was on YouTube. (d) Bob owes Hardknuckle Bank money. What about the Front Page test? The computer was not password protected, nor was it regularly turned off. Did others have access to it? 2d 369 United States District Court for the District of New Jersey, 2012 CASE SUMMARY Facts: Deborah Ehling was a registered nurse and paramedic at the Monmouth-Ocean Hospital Service Corporation (MONOC). Much of the UN's work is done through its Specialized Agencies and related organizations, including influential agencies like the World Health Organization (WHO) and the UN Educational, Scientific, and Cultural Organization (UNESCO). CPA QUESTION Unger owes a total of $50,000 to eight unsecured creditors and one fully secured creditor. He tells them that they are to evaluate the case based only on the evidence they heard at trial, relying on their own experience and common sense. The parties need to agree on all of the essential terms; if they do not, there is no enforceable contract. See Personal property Gig economy, 325 Glassdoor.com, 168 Global Crossing, 501 Global warming, 485 Good faith parties to a contract, 227 as standard of behavior in a contract, 251 tests for holder in due course, 285 "Goods" (in Uniform Commercial Code), 183, 262 Google, 410, 462 Inactive Account Management system, 582 Grand jury, 107 Grand Resort Hotel, 167 Grannis, Paul, 122, 124 Grantor/settlor, 577 Green Bay Packers, 441 Greenhouse gases, 485 regulation of, 486 Greenwood Leflore Hospital, 363 GTE, 340 Guzman, Sandra, 357–358 H Hadley v. Colby fired Burnham and finished the book without him. But SABIC violated this provision for two decades. 2-3k Short-Term Perspective Many times, people make unethical decisions because they are thinking short term. Should the EPA consider costs in all of its decisions? TP did not let Lindsay out of her lease. A medical equipment company manufactures a CT scanner and sells it to a clinic for $2 million, taking $500,000 cash and the clinic's promise to pay the rest over five years. In measuring performance, many companies use total shareholder return (i.e., the percentage increase in stock price appreciation and dividends). Note also that, since FOIA applies to federal government agencies, you may not use it to obtain information from state or local governments or private businesses. Remember Connie from the chapter opener? WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 10 9/28/17 7:29 AM Index Misdemeanor, 103 Misrepresentation, vs fraud, 208 Mistake (in a contract), 208 circumstances not to rescind conscious uncertainty, 209 mistake of value, 209 prediction error, 209 mutual mistake, 208–209 rescindable by either party, 209 unilateral mistake, 208 rescindable if other party knew the mistake, 209 MIT, 31 Model Benefit Corporation Act, 388 Model Business Corporation Act (Model Act), 399 corporate structure requirements, 401–402, 401e Modify (option of court of appeals), 93 Money as an ethics trap, 21–22 laundering, 112 Monge, Olga, 337–338 Monopolization, Sherman Act violation, 450 Monsanto, 522 Moral licensing, as an ethics trap, 23 Moral relativism, 21 cultural and individual, 21 Moral universalism and relativism, 20–21 Morality, and law, 6 Mortgages qualified (QM), 466 TILA modifications for, 465–466 Morton-Thiokol, Inc., 24 Motion to compel discovery/for a protective order, 88 to dismiss (in pleadings), 86 Murdoch, Gene, 538 My3cents.com, 460 N NASA, 24 NASDAQ, stockholder meeting requirement, 409 National Conference of Commissioners on Uniform State Laws, 577 National Environmental Policy Act of 1969 (NEPA), 492 National Labor Relations Act (NLRA), 343 Section 7, employee guarantees to organize unions, 347 Section 8, prohibits unfair labor practices (ULPs) by employers, 347 Section 9, union as exclusive representative of the employees, 347 Negligence case elements breach, 138, 141 damages, 139, 145–146 duty of care, 138, 139 factual cause, 139, 141 proximate cause, 139, 141, 142e defenses assumption of risk, 145 contributory and comparative negligence, 145–146, 146e tort example, 123 as unintentional tort, 138 See also Causation; Landowners (special duty); Product liability; Professionals (special duty) Negotiable instruments ambiguities (interpretation of), 282–283 consumer exception, 288 defenses against holder in due course (commercial paper checklist item), 287–288 holder in due course (commercial paper checklist item), 280, 285 good faith tests, 285 notice of outstanding claims/defects, 285–286 in possession of instrument, 285 value, 285 negotiable (commercial paper checklist item), 280–281, 281e negotiated (commercial paper checklist item), 280, 284 types, 280t draft, 279 note, 279 Negotiated, 284 New York Convention (Convention on the Recognition and Enforcement of Foreign Arbitral Awards), 41, 51 New York Jets, 145 The New York Post, 357–358 New York Stock Exchange (NYSE), stockholder meeting requirement, 409 The New York Times rule, 124–125 NFL, 145 Nigerian government, and environmental practices protests, 39, 41 Nigerian letter scam, 110 Nike, 31, 450, 529 No expectation of privacy (warrantless circumstance), 105 Non-compete agreements standards for enforcement in employment contracts, 202–203 standards for enforcement in sale of business, 202 I11 Non-contracts (enforcing), 183–184 promissory estoppel, 184 quasi-contract, 185–186 Non-negotiable instruments, 279, 280–281, 281e Nonphysical tort, 328 Nordstrom's, 32 North American Free Trade Agreement (NAFTA), 46 Note, 279 Nuisance law, 543 O Obama administration, Clean Power Plan, 486–487 Obligee, 225 Obligor, 223 Occupational Safety and Health Act (OSHA), 345 Occupational Safety and Health Administration (OSHA), 71, 345 O'Connor, Sandra Day, 356 Offer (contract checklist element), 179, 186 definiteness (importance of), 187 termination of, 188 counteroffer, 189 destruction of the subject matter, 190 expiration, 189 rejection, 189 revocation, 188 vs invitation to bargain, 187 Offeror/offeree, 186–187 Ogoni region, environmental practices protests, 39, 41, 49 O'Hagan, James, 448 Ohio State University, 190 Onassis, Jacqueline Kennedy, 162 Online auctions (fraud), 110 Optimism bias, 25 Oracle, 527 Orbison, Roy, 527 Order for relief (after bankruptcy petition), 423 P Palos Hills, Illinois, 70 Paparazzo, 162 Paris Accord, 486 Paris Convention for the Protection of Industrial Property, 525 Patagonia, 388 Patent Cooperation Treaty (PCT), 525 Patents, 521 appeals Court of Appeals for the Federal Circuit (Washington, D.C.), 524 Copyright 2019 Cengage Learning. For instance, a developing country with unskilled labor should produce clothing and then trade it to the United States for commercial aircraft and semiconductors (two major categories of U.S. exports). The lease normally specifies the amount of rent and when it must be paid. This rule applies even to off-duty conduct. The EPA faces a gargantuan task in determining the best available technology that each industry can use to reduce pollution. Late one night, Dreyer's personal car would not start, so he drove his government car home. A tenancy for years terminates automatically when the agreed period ends. She agrees to ship 1,000 cases of her wine to Tyrone, a New York importer, as soon as this year's vintage is ready. it contains an order to pay. T F A defendant can be liable for negligence even if he never intended to cause harm. The sweetheart sale does not look good in the light of day, and many would find the court's holding legally and ethically right. Nonetheless, he will be permitted to leave. Result: In a voidable preference, the debtor makes an unfair transfer to a creditor. The RCRA: • Bans new open dumps, • Requires that garbage be sent to sanitary landfills, • Sets minimum standards for landfills, • Requires landfills to monitor nearby groundwater, • Requires states to develop a permit program for landfills, and • Provides some financial assistance to aid states in waste management. (d) negligence. It is worth noting that the UCC is not a total replacement for older principles in contract law. The next section covers boilerplate—standard terms that change little from contract to contract. Hostile work environment. Texas appealed to the United States Supreme Court. She might argue that no harm would result because she is now clean, and her past drug addiction will not have an adverse impact on her new employer. Thousands of companies have done so. This is probably the most common variety of tenancy, and the parties may create one in either of two ways. The engineers believed that other car companies had the same problem. They obtain those results, in part, by manipulating their comparative points of reference, or benchmarks. Laws had become different from one state to another. • Record refers to information written on paper or stored in an electronic or other medium. If the testator does not comply precisely, then the will is invalid. The Framers believed democracy would work only if the members of the electorate were free to talk, argue, listen, and exchange viewpoints in any way they wanted. Tuppela won back his mine, but when he asked his guardian to pay Embola the promised $10,000, the guardian refused. Connie was trapped she had already closed in her trunk for nine days awaiting rescue. Easterwood gave a benefit to PIC because the land was ready for planting. Without an experienced lawyer, it is highly unlikely that an individual would be aware of ambiguities. He also had one episode of "erratic emotional behavior and verbal outburst." In the meantime, a postal employee in Ridgewood, New Jersey, killed four colleagues. He is not supporting his mother. Landmark Case Miranda v. By relying on the legal theory of a quasi-contract: Even when there is no contract, a court may use a quasi-contract to compensate a plaintiff who can show that: • The plaintiff gave some benefit to the defendant, • The plaintiff reasonably expected to be paid for the benefit and the defendant knew this, and • The defendant would be unjustly enriched if he did not pay. During this period of delay, the price of the stock fell. If Leo has only $19,000 cash and a promissory note for $1,000, he has failed to perform, and Marshall need not give him the sweaters. Today, RTAs cover more than half of international trade. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 8 9/28/17 7:29 AM Index Independent contractor vs employee, considerations, 324 Indictment, 107 Indorsement, 284 Industrial Revolution, and employment relationships, 337 Insider trading classic elements for guilt, 446 insiders with fiduciary duty, 446 tippees, 447, 448 tippers, 446 misappropriation, 448 reasons for illegality, 445 short-swing trading disgorge requirement for insiders, 445 liability provision, 446 report requirement for insiders, 445 Instagram, and surveillance, 157 Insurance contract bad faith by insurer, 597–598 fraud, 598 refusal of valid claim, 598 refusing to accept settlement offer, 599 common law contract requirements, 595 limiting claims by insured, 595 insurable interest, 595–596 offer and acceptance, 595 binder, 595 Insurance terminology, 594–595 Insurance types, 600 automobile, 603 disability, 602 health managed care plans (HMOs), 602 traditional (pay for service), 601–602 value-based care, 602 liability business, 602 personal, 602 life, 600 annuities, 601 term, 600 universal, 601 whole life, 601 property (casualty), 600 Intellectual property as source of wealth, 521 See also Copyrights; Patents; Trade secrets; Trademarks Intentional torts damages compensatory, 127–128 punitive, 129 and tort reform, 130 types battery and assault, 125–126 business torts, 130–131 defamation, 124–125 false imprisonment, 125 fraud, 126 intentional infliction of emotional distress, 126 Interest in land, 210 agreements in writing, 210 full performance by seller exception, 210 part performance by buyer exception, 210–211 Interference with a contract, tort example, 123 Internal Revenue Service (IRS), 6, 65, 70, 71 Internal Revenue Service Restructuring and Reform Act, 511 International Chamber of Commerce, 41 Incoterms rules, 41 International contracts, essential clauses, 51 International Court of Justice (ICJ), 41 U.S. participation in, 41 International law actors in, 40 International Chamber of Commerce, 41 International Court of Justice, 41 sovereign nations, 41–42 United Nations, 40–41 foreign and domestic laws interaction, 49 application of U.S. law abroad, 49–50 international contracts (essential clauses), 51–52 U.S. recognition/enforcement of foreign judgments, 51 importance in globalized world, 39 public vs private, 40 sources, 44 custom and general principles of law, 48–49 treaties, 44–48 See also Legal systems of the world International Monetary Fund (IMF), 41 Internet, 166 bypassing state usury statutes, 465 cybersecurity issues, 171 fraud, 110 Internet of things, 158–159 Internet service providers (ISPs), 165 and anonymous speech, 168 liability of, 169 Interpretive rules, 70–71 Interrogatories (in discovery process), 87 Interstate commerce, 60 Intestate, 577 I9 Intoxication, and voidable contracts, 206 Investors activist, 408 institutional, and "Wall Street walk," 408 Invitation to bargain, 187 Invitee, and landowner liability, 140 Issue (in estate planning), 577 J Jackson, Michael, 319 Jeanne-Claude, 492 Jefferson, Thomas, 58–59 Jointly and severally liable, 323 accountants, 510 Jones, Paula, 90 Jones, Reginald, 361 JPMorgan Chase, 449, 469 n. When he bought cars, the First National Bank of Highland paid Chrysler, and Dorsey—supposedly—repaid the bank as he sold the autos. An automatic stay is a safe burrow for the bankrupt. FALSE IMPRISONMENT False imprisonment is the intentional restraint of another person without reasonable cause and without consent. It is a common clause in both employment and consumer agreements. Khan filed a Chapter 11 petition. CHAPTER 12 1. The uncle prepares a handwritten document summarizing the agreement and asks his nephew to sign it. Domestic Regulation The Supreme Court ruled that if GHGs endanger health or welfare, the EPA must regulate them.4 The Obama administration issued a Clean Power Plan to reduce GHG emissions. Strategy: It is illegal to use improper conduct to acquire or maintain a monopoly. NES began by establishing two committees of teachers and professors (including some minority group members) to ensure that the test was both relevant to the job of a New York public school teacher and free from bias. Nonpoint sources Pollutants that have no single producer but result from events such as storm-water runoff or rain. Here, a court must weigh the benefits for society against the dangers that the product poses. The Rays filed suit, claiming title to the cottage by adverse possession. How old are your Can you work weekends? Corrections Corporation of America, Inc. After he was fired from his job, his ex-boss claimed that Kane had been "fired from every job he ever had for sexual misconduct." In fact, Kane had never been fired before. This is a definite offer: "I offer you a job as a salesclerk in the store from November 1 through December 29, 40 hours per week at $10 per hour." But suppose, by contrast, you say: "I offer you a job as a salesclerk in the store during the holiday season. Paper currency weighs less than gold or silver, but it is even easier to steal. She did testify, and after three months of harassment, she was fired. The notice provision also typically specifies when the notice is effective: when sent, when it would normally be expected to arrive, or when it actually does arrive. The court will apply that precedent and refuse to enforce the contract in this case. Do you think Donny and Sammy are creating a nuisance? His friend Stephanie wanted to use the red car in a music video, so Lonny Joe rented it to her for two days, for $300 per day. Michael and Maher pleaded guilty and testified against Salman at his trial. Karen and her friends were not the only ones distraught. "#Ad" or "#sponsored" is sufficient but "#sp" or "#spon" or a "thank you" to the brand is not. Do the rules have a disparate impact? Will the machinery be ready on time? However, Congress also has the power to tax. The legal issue is whether the handbook implies a contract guaranteeing the specified rights, as the following case demonstrates. (d) a lawsuit for strict liability. Yet, as the following case illustrates, hiring tests remain a frequent subject of litigation. Paul, 446 Third party beneficiaries, 221 types creditor beneficiary, 221–222 donee beneficiary, 222 incidental beneficiary, 222 intended beneficiary, 221 Tiffany's, 529 Timberland, 31 Todd, Carol, example of dire circumstances debt discharge, 426 Tom Sawyer copyright expiration example, 527 Tort, 123 reform issues, 130 Tort law vs criminal law, 123 workplace protections, 340 See also Intentional torts; Negligence; Strict liability Tortious interference with a contract, 130–131 Toussaint, Charles, 339 Toxic Substances Control Act (TSCA), 491 Trade secrets, 531–532 Uniform Trade Secrets Act (UTSA), 532–534 Trademark Trial and Appeal Board, 530 Trademarks, 528–529 ineligible categories, 529–530 infringement, 530 laws common law, 529 Lanham Act, 529 valid (criteria for), 529 TransUnion, 469 Treasury stock, 401 Treaties, 44 GATT (and World Trade Organization), 44–45 regional trade agreements (RTAs), 45–46 Treaty, U.S. ratification requirements, 44 Trespasser, and landowner liability, 140 Trial, 90, 108 burden of proof, 91, 91e closing argument, 92–93 defendant's case, 92 opening statements, 91 plaintiff 's case, 92 right to jury trial, 91 verdict, 93 See also Appeals; Litigation Trial courts, 80 TripAdvisor, 167 TRIPS (Agreement on Trade Related Aspects of Intellectual Property), 46 Trump administration revision of auto fuel economy rules, 487 revocation of Clean Power Plan, 487 withdrawal from Paris Accord, 486 Truth in borrowing ethics trap case example, 25–26 Truth in Lending Act (TILA), 465 mortgage modifications after housing crash, 466 Twain, Mark, 527 Twitter and E-discovery, 88–89 and surveillance, 157 2 Live Crew, 527 Tying arrangements (Clayton Act violation), 452 U Uber, 325 UCC. Reasoning: GT prepared its audit for the benefit of Keystone and the OCC. 18-3d OSHA Congress passed the Occupational Safety and Health Act (OSHA) to ensure safe working conditions. Full warranty The seller must promise to fix a defective product for a reasonable time without charge. WCN 02-200-203 04341_ch28_hr_538-559.indd 551 10/6/17 12:30 PM 552 Unit 7 Property Late one night, Haynes sent Lindsay a Facebook message. Two months later, Hurricane Wilma badly damaged all three. The CEO has fired you. General partner One of the owners of a general partnership. TP refused, but offered to move her to an available first-floor unit, where they assured her she would be safe. Lawyers also prefer to negotiate touchy subjects at the beginning of a relationship, when everyone is on friendly terms and eager to make a deal, rather than waiting until trouble strikes. Affirmative action is not required by Title VII, nor is it prohibited. When Brook went to work at an advertising agency, his employment contract stated that he was "at will and could be terminated at any time." After 28 months with the company, he was fired without explanation. The amendments to the Constitution protect the people of this nation from the power of state and federal governments. WCN 02-200-203 04341_ch24_hr_460-481.indd 467 10/6/17 12:28 PM 468 Unit 6 Government Regulation • If you wait until after two days, your bank will only replace stolen funds above $500. The court rejected his rent claim for that period, permitting him to recover unpaid money only for the period that he made a genuine effort to lease the space. Because Kevin was 16 when he signed, the deal was voidable. WCN 02-200-203 04341_ch21_hr_398-419.indd 413 10/6/17 12:27 PM 414 Unit 5 The Lifecycle of a Business EXAMStrategy Question: Ajouelo signed an employment contract with Wilkerson. Most states have special innkeeper statutes that regulate liability. Landmark Case AMF Inc. 4. Result: The store is in violation of Title VII unless it can show that (1) credit ratings directly relate to a sales associate's job performance and (2) no other, less discriminatory, requirement would accurately evaluate applicants for this work. Section 8 of the NLRA makes it a ULP for an employer to interfere with union organizing, discriminate against a union member, or refuse to bargain collectively. After her death, he goes to her office to take over her job and her partnership. Gateway Chevrolet Oldsmobile, Inc. EXAMStrategy Question: The Monroes, a retired couple who live in Illinois, want to move to Arizona to escape the northern winter. The Aggravated Identity Theft statute imposes a mandatory additional sentence of two years on anyone who engages in identity theft during the commission of certain crimes. A federal judge denied the university's request for summary judgment; so the university settled the case for $125,000. A court order requiring a person being deposed to answer questions. The American alligator is a case in point. Holder in due course Someone who has given value for an Initial public offering (IPO) A company's first public sale of Injunction A court order to do something or to refrain from doing something. Mack sues Jasmine, claiming that she caused an automobile accident. Is it fair that LLCs do not pay income taxes? A promoter is personally liable on any contract he signs before the corporation is formed. The government may use affirmative action programs when awarding contracts only if (1) it can show that the programs are needed to overcome specific past discrimination, (2) they have time limits, and (3) nondiscriminatory alternatives are not available. Once a name is generic, the owner loses the trademark because the name can no longer be used to distinguish one product from another—all products are called the same thing. Sleekcraft Boats 599 F.2d 341 United States Court of Appeals for the Ninth Circuit, 1979 CASE SUMMARY Facts: AMF sold recreational boats named "Slickcraft." Unaware of this product, Nescher named its boats "Sleekcraft." When AMF notified Nescher of the alleged trademark infringement, Nescher added "Boats by Nescher" to its logo to distinguish its product. In a case called Palsgraf v. Slavery, genocide, piracy, and torture are often cited as examples of fundamental principles of customary international law that are accepted by all civilized nations. (a) Antonio could sue Hank, who might be found guilty. Suppose, for example, Raould breaches two contracts—he is late picking both Sharon and Paul up for a taxi ride. Most duties are delegable. Employee Handbooks. The employee handbook at Blue Cross & Blue Shield stated that employees could be fired only for just cause and then only after warnings, notice, a hearing, and other procedures. However, members can transfer their economic interests in an LLC—that is, their right to share in the profits of the enterprise. WCN 02-200-203 04341_ch24_hr_460-481.indd 470 10/6/17 12:28 PM Chapter 24 Consumer Protection 471 • Call or write a debtor who is represented by an attorney; • Call a debtor before 8:00 a.m. or after 9:00 p.m.; • Threaten a debtor or use obscene or abusive language; • Call or visit the debtor at work if the consumer's employer prohibits such contact; • Imply that they are attorneys or government representatives when they are not, or use a false name; • Make any false, deceptive, or misleading statement; • Contact acquaintances of the debtor for any reason other than to locate the debtor (and then only once); • Tell acquaintances that the consumer is in debt; or • Collect charges in addition to the debt unless permitted by state law or any con- tract the debtor has signed. Anything else is just a variation on rationalization. Corporate insiders who have a fiduciary duty include board members, major shareholders, employees, and so-called temporary insiders, such as lawyers and investment bankers who are doing deals for the company. Nick sued, alleging that the two leases were invalid. Sweethearts swipe sweaters, pensioners pocket produce. But Juliet is liable only for injuries caused by hidden dangers—she has no duty to warn guests of obvious dangers. Kennedy was convicted of aggravated rape because the victim was under 12 years of age. Picketing the employer's workplace in support of a strike is generally lawful. Which law has Sushila violated? to rely on; (3) he did rely on it, to his detriment; and (4) to avoid injustice, the Commission's promise must be enforced. Every day, corporations buy and sell millions of dollars of goods using pre-printed forms. Agency at will → (1) When two parties make no agreement in advance about the duration of their agreement E. Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress. There are at least two types of moral relativism: cultural and individual. Not every innovation is patentable. Strategy: Here, Vern has violated the business judgment rule not once, but twice. For instance, the Supreme Court ruled that privacy provisions of the Constitution protect a woman's right to abortion, although neither the word "privacy" nor "abortion" appears in the text of the Constitution.1 And at times, courts void laws altogether. The plaintiff died a terrible death from cancer. Majority voting Directors must resign if more than half the shares that vote in an uncontested election withhold their vote from them. The contract is essentially a blanket restriction, entirely barring King from this business. Rachel did not create the skydiver's predicament. Issuer A company that sells its own stock. When Antonia makes out a check to cash, it is bearer paper. (b) was in privity of contract with the plaintiff. California requires any website that collects personal information from its residents to post a privacy policy conspicuously and then abide by its terms. Has Howard committed a criminal offense? WCN 02-200-203 04341_ch18_hr_336-355.indd 348 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 349 to protest a ULP, or to preserve work that the employer is considering sending elsewhere. "You know," Ann replies with a smile, "I think I'm going to keep it." Is Ann legally required to return the necklace? 2 Gulino v. Lynn is an author living in Nevada. Nonetheless, the EPA determined that regulation was both appropriate and necessary. When Spaw answered, she quickly realized that the call was unintentional, but continued to listen in anyway. Suppose a major accounting firm telephones you and offers a job, starting at $80,000. Strategy: Distrib's reply included a new term. Substantial Interest in Personal Performance. Suppose Hammer had omitted the "nondelegation" clause from his contract with Spot. Tortious interference with a contract Occurs when a defendant deliberately harms a contractual relationship between two other parties. Interpretive Rules These rules do not change the law. The plaintiff presents evidence that the defendant has discriminated against her because of a protected trait. Delegation of duties ___ C. Issue: Did Nadel's lawyer accept the settlement offer in time? Our movie contract takes the modern approach. Javaid Iqbal, a Pakistani Muslim, was one of them. Issues: Should the court pierce TPO's company veil? The debt was unsecured, and she was under no obligation to pay it. At least he knows that Producer is ultimately liable for his paycheck. If Wholesaler delivers, on March 8, high-quality cherry wood, it has shipped non-conforming goods. 10. Result: The Beards' direct damages represent the difference between the market value of the house and the contract price. WCN 02-200-203 04341_ch21_hr_398-419.indd 400 10/6/17 12:27 PM Chapter 21 Corporations 401 In one case, a Nevada corporation received thousands of suspicious wire transfers totaling millions of dollars, but the authorities could not identify who was involved because there was no way to determine the actual ownership of the company. T F A court is unlikely to enforce an exculpatory clause included in a contract for surgery. To constitute a violation of the contract, the breach must be material. Successful business leaders are ever vigilant to protect their company from those who wish to harm it, whether from inside or out. The board ignored the shareholder vote and continued with the plan anyway. State statutes prescribe the steps a landlord must take to evict a tenant for non-payment. The officer finally phoned Sheehan's mother, falsely identified herself as a hospital employee, and said she needed to find Sheehan because his children had been in a serious auto accident. Are these emails private? Statute → (5) A law passed by a legislative body C. As a general rule, it is just as illegal as discriminating against a minority or a woman. Jinsoo Kim invested a total of about $170,000 in the companies. Waide fell behind on his bills, and Bingham told Waide that he would extend no more credit to him. After the fact, if the FTC discovers the franchisor has violated the rules, it may sue on the franchisee's behalf. ASSIGNMENT AND DELEGATION An assignment transfers the assign- or's contract rights to the assignee. Meanwhile, Facebook has trademarked "face," "book," "like," "wall," and "poke." The goal is not to prevent consumers from using these terms, but rather to warn off other companies. Do you agree with Fisk's actions? Although fluent in American Sign Language, he could not read lips. WCN 02-200-203 04341_ch04_hr_058-078.indd 75 8/24/17 1:35 PM 76 Unit 1 The Legal Environment MULTIPLE-CHOICE QUESTIONS 1. Why did the founder, Mark Zuckerberg, make that decision? • Property law. How could he make any legal claim? • Employers must comply with specific health and safety standards. Money can never erase pain or undo a permanent injury. Li-Tsing begins to see his good qualities and accepts. But you do not have any hard evidence at this point. Chitika entered into a consent order under which opt-out provision would last five years. Because the agent kept all copies of Harvey's insurance policies in his office, she took him at his word. Confirm or Reject Congress Pass Veto Override President Nominates Supreme Court Nominates Nominates Judicial Review Cabinet Statutes Confirm or Reject Administrative Agency Heads Confirm or Reject Executive Actions Judicial Review 6. Payment made within the year before a petition is filed with the goal of hindering creditors TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Angela Merkel, Chancellor of Germany and a U.S. ally, was furious to learn that the NSA had been listening in on her cell phone. Because of these errors, Tess did not realize her true financial position for some years, which caused her to make some poor investment choices. Courts can apply some of these old laws in new ways, but, as legislators and courts learn from experience, new laws and novel problem-solving approaches are required. Over the four-year term of her loan, she would have repaid almost $14,000. Should limits be placed on the total debt that cannot be discharged? Because of the error, Marc had to pay an additional $26,000 when he refinanced his mortgage. (d) An accounting firm cannot audit a company if one of the client's top officers has worked for that firm within the prior year and was involved in the company's audit. 12Dacor Corp. T F Under the fair use doctrine, you have the right to make a photocopy of a chapter of this textbook for a classmate. Gun advocates argue that workers have the right to protect themselves during their commutes and Copyright 2019 Cengage Learning. • A consumer reporting agency cannot report information that is more than seven Consumer reporting agencies Businesses that collect and sell personal information on consumers to third parties years old (ten years for bankruptcies). (c) are not; is 5. 18-4a Fair Labor Standards Act The Fair Labor Standards Act (FLSA) regulates wages and limits child labor nationally. WCN 02-200-203 04341_ch23_hr_439-459.indd 440 8/28/17 7:11 AM Chapter 23 23-1 Securities and Antitrust 441 SECURITIES LAWS The Securities Act of 1933 (the 1933 Act) and the Securities Exchange Act of 1934 (the 1934 Act) are the two most important securities laws. If we act like a charity to support Farmfield, we could all lose our jobs. The certificate of organization is short, containing basic information such as name and address. You Be the Judge: Did Gateway violate the ECOA? But what if his obligations are performed poorly, or not at all? In other cases, one of the contracting parties may actually transfer his rights or responsibilities to a third party, raising issues of assignment or delegation. 29-1 561 Personal property All tangible property other than real property CQUIRING PERSONAL A PROPERTY 29-1a Gifts A gift is a voluntary transfer of property from one person to another without any consideration. Would your answer depend upon whether you were the plaintiff or defendant? Ford, 149 Daniell v. EXAMStrategy Question: Pamela Stone was in a car accident. Your scope of work includes the complete installation of expanded lunchroom, restaurant, and locker facilities for American Airlines employees, as well as an expansion of American Airlines' existing Automotive Maintenance Shop. A covenant is simply a promise by either the landlord or the tenant to do something or refrain from doing something. 15. OPINIONS After an audit is complete, the accountant issues an opinion that indicates how accurately the financial statements reflect the company's true financial condition. Glassdoor, Inc., 2016 WL 1275566 (N.D. CA, 2016). But to accept this offer is to forfeit over $1.5 million. This check had a wrinkle: The numerical amount of the check was $587.50, but the amount in words was written as "five eighty-seven and 50/100 dollars." Did the words mean "five hundred eighty-seven" or "five thousand eighty-seven" or perhaps "five million eightyseven"? At this stage, it is particularly important for lawyer and client to work well together. He again reported this event and again found banana peels on his truck. T F Law is different from morality, but the two are closely linked. Duke Power would have to show that the tests predicted job performance. In Util. When someone dies intestate, the law steps in and determines how to distribute the decedent's property. Next comes a summary of the court's opinion. Sarah, age 17, uses $850 of her hard-earned, summer-job money to pay cash for a diamond pendant for the senior prom. If this view were true, no one in modern society could ever expect privacy. Powers v. He maintains total control over the assets and avoids a trustee's fee. Gus will be opening a yarn store. When Basil asks his friend Olive for a loan, she will check the records to see if anyone has a security interest in the catering equipment. (See the ""Result"" at the end of this Exam Review section.) 9. Shortly before Oregon planned to file the stock offering with the SEC, Coopers told the company that the sale of its subsidiary had been misreported and that it would have to revise its financial statements. Instead of fixing the equipment, an engineer figured out how to install software that would cheat on the emissions tests. The Navy argued that it should not have to do so because the submarine exercises were important for national security. If the bailor is in the business of renting property, the bailment is probably subject to implied warranties. Everyone who purchases insurance ends up paying higher premiums because of this wrongdoing. Protects red wolves 4. Other statutes require guests to leave valuables in the inn's safe deposit box. The document was drafted by Kodak, which knew or should have known what kind of a transaction it was. Issue: Did ITT have the right unilaterally to change the layoff policy? T F Horizontal price-fixing is legal as long as it does not have an anticompetitive impact. Hackett agreed, but told Francis he would need a Kansas lawyer to review the plan to ensure that it was valid in that state. This money was then transferred to the United States disguised as offshore loans. • Intent: When the alleged infringer knowingly adopts a mark similar to another's, courts presume that the purpose was to confuse consumers. Who gets it? • The principal supplies the tools and place of work. Lawyers generally recommend that their clients execute a durable power of attorney, particularly if they are elderly or in poor health. On the show, Benzaquin angrily recounted the incident, then described Fleming and troopers generally: "arrogants wearing trooper's uniforms like tights"; "we're not paying them to be dictators and Nazis"; "this man is an absolute barbarian, a lunkhead, a meathead." Fleming sued Benzaquin for defamation. This right allows Europeans to request that websites take down their personal information, as long as it is not in the public interest. However, the defendant bears the burden of proving by a preponderance of the evidence that she did act under duress. The one who delivers the goods is the bailor and the one in possession is the bailee. If Shirley and Terry have a fight the next day, Shirley has no power to erase her gift. A hospital study reveals that both male and female patients prefer to have a male neurosurgeon, while men prefer male urologists and women prefer female gynecologists. WCN 02-200-203 04341_ch20_hr_377-397.indd 380 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 381 E x h i b i t 2 0 . Jurisdiction refers to: (a) (b) (c) (d) (e) the jury's decision. Thus, employers are required to verify their workers' eligibility for employment in the United States. For some states, the standard is that you have an insurable interest in someone if that person is worth more to you alive than dead. It is difficult to maintain good relationships while behaving unethically. Stamford still owned them. TORTIOUS INTERFERENCE WITH A CONTRACT Tortious interfer- ence with a contract involves the defendant unfairly harming an existing contract. After the EPA sets standards, states must produce SIPs to meet them. If Target can lure an expectant mother into one of its stores, it may have a customer for life. Other guards opened fire. The definition of electronic communication includes email, voice mail, and social media. John sues for assault, battery, and false imprisonment. While Jeen waited outside Sunny's apartment, the boys forced their way in, tied up Sunny and her roommate, and put them in the bathtub. Is Dick free to sell? WCN 02-200-203 04341_ch15_hr_278-294.indd 289 9/28/17 9:39 AM 290 Unit 3 Contracts and the UCC EXAMStrategy Question: After Irene fell behind on her mortgage payments, she answered an advertisement from Best Financial Consultants offering attractive refinancing opportunities. You Be the Judge CDM Media USA, Inc. Anyone who interferes with the bailee's rightful possession is liable to her. Winstar Communs., Inc. STATE OF INCORPORATION Companies generally incorporate in the state in which they will be doing business. It is difficult to prove a negative proposition like that, especially in the grocery business, where barriers to entry are low. EXAMStrategy Question: You are a judge. When the law firm did not pay, Anthony filed suit against Leonard personally for payment of the note. Called the Statute of Anne, it provided copyright protection for 14 years, which could be extended by another 14 years if the copyright owner was still alive when the first term expired. For this reason, courts have long held that, if a letter is signed by a lawyer, she must be meaningfully involved in drafting it. Consolidated Rail Corporation, 146 n. MATCHING QUESTIONS Match the following terms with their definitions: ___ A. EXAMStrategy Question: A group of college bullies made a flyer with a fellow student's picture, email address, and phone number—all information found on the university's website. Joint and Several Liability Joint and several All members of a group are liable. He wanted to protect the company if Suzy died because she had frequently introduced him to potential investors. This is almost certainly unreasonable. Intentionally restraining another person without reasonable cause 3. To die without a will. Look at Chapter 5 on dispute resolution. But on the twelfth weekend, when Leo rings the doorbell to collect, the producer suddenly says, "I never asked you to mow it. (d) an employee who takes a leave is entitled to return to the exact job she left. Which are real property? body washed ashore, his They were good friends, and Beth was emotionally devastated. 11UCC §2-314(1). Courts typically divide the expectation damages into three parts: (1) direct (or compensatory damages), which represent harm that flowed directly from the contract's breach; (2) consequential (or "special") damages, which represent harm caused by the injured party's unique situation; and (3) incidental damages, which are minor costs such as storing or returning defective goods, advertising for alternative goods, and so forth. When charged with violating the law, the publishers all settled their cases, but Apple went to trial ... and lost. The landlord in the following case demonstrates problems of security deposit, quiet enjoyment, constructive eviction, and, well, see how many you can count. If not, where is the line—what amount of late-night noise does amount to a nuisance? After graduation, she could not find a job in her field, so she went to work as a clerk at an annual salary of $12,500. To answer the

question, you must know what kind of gifts these were. We emphasize that these remedies are uncommon exceptions to the general rules. 26-1 INTRODUCTION 26-1a Sarbanes-Oxley After the stock market tumbled, Congress acted to restore investor confidence by passing the Sarbanes-Oxley Act of 2002 (SOX). Subjective test. WCN 02-200-203 04341_ch10_hr_177-197.indd 181 10/6/17 11:47 AM 182 Unit 3 Contracts and the UCC DeMasse v. A California court denied the motion, reasoning that protecting anonymous speech was more important than saving Awtry's company from minimal reputational harm.22 SLAPP A SLAPP, or strategic lawsuit against public participation, is a defamation lawsuit whose main objective is to silence speech through intimidation, rather than win a defamation case on the merits. The realists argue that what is writ- ten matters far less than who enforces the laws. An accountant who commits fraud is liable to any foreseeable user of the work product who justifiably relies on it. WCN 02-200-203 04341_ch20_hr_377-397.indd 377 10/9/17 1:51 PM STARTING A BUSINESS: LLCs AND OTHER OPTIONS CHAPTER 20 Poor Jeffrey Horning. In some states, a party injured by fraud may both rescind and sue for damages. Preauthorized transfer Electronic fund transfer authorized in advance to recur at regular intervals. Hortense's business is an internet start-up. Payment to a creditor immediately before filing 5. All public companies solicit proxies because that is the only practical way to obtain a quorum. She protested that the man she replaced had earned 75 percent more, but Citicorp argued that salaries were based not just on position but also on seniority and experience. 4. Presumably, they would have felt worse about themselves if they stole a lot of money rather than a little. Mann pled guilty to taking an endangered species without a permit. It is a two-step process to prove that a person or an organization has violated RICO: 1. Cases GOAL: Bring case law alive. Under the CAA, the EPA has the authority to regulate both the total amount of existing air pollution and its ongoing production. Lowe v. This decline indicated that the company did not control the market. You arrive, suitcase stuffed with cash—just in time to see a stampeding herd of escaped circus elephants crush the Bugatti. Insider trading is illegal because: • It undermines the integrity of stock markets. The debtor files a petition, creditors submit proofs of claim, the court imposes an automatic stay, the debtor files a plan, and the court confirms the plan. shareholders whose stock is not publicly traded and whose shareholders play an active role in management. Poirier, 211 Ford Motor Credit Co. v. The nature of the copyrighted work. He would yell and scream profanity at the top of his voice while pounding his fists. You Be the Judge Boeken v. ETHICS After TNT Motor Express hired Joseph Bruce Drury as a truck driver, it ordered a background check from Robert Arden & Associates. They are: • Duty of due care. WCN 02-200-203 04341_ch15_hr_278-294.indd 286 9/28/17 9:39 AM C h a p t e r 15 The sales process worked this way: Brican would sell an Exhibeo to NCMIC Finance Corporation, which would then lease the equipment to a dentist. Are you a man or a woman? (c) intentional infliction of emotional distress. Dom's negligence was the factual cause: It led to the collision, which startled the pig, which flattened the vet. This amendment shall not be construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution. Does that mean flag burning is permissible? The secured party may (1) dispose of the collateral or (2) retain the collateral as full satisfaction of the debt. 5-2b The Discovery Process Discovery is the critical, pre-trial opportunity for both parties to learn the strengths and weaknesses of the opponent's case. Darby is in the habit of staying until 8:00 p.m. every night, whether or not her workload requires it. Of course, this lawyerly protection comes at a cost—legal fees, time spent bargaining, the hours required to read complex provisions, and the potential for goodwill to erode during negotiations. Amanda worked at a private school that was struggling to pay its bills. When a party to the contract is a corporation, the signature lines should read like this: Winterfield Productions Inc. If I earn more than you, that must mean I am better than you. If a project is likely to have an important impact, environmentalists almost always litigate the adequacy of the EIS. In re Motors Liquidation Co. 2015 U.S. App 859 United States Court of Appeals for the Second Circuit, 2015 CASE SUMMARY Facts: General Motors (GM) was the debtor on two unrelated loans: a $300 million loan (known as the "Synthetic Lease") and a $1.5 billion term loan (the "Term Loan"). This duty overlaps with the quiet enjoyment obligation, but it is not identical. Francis had said that his children were successful businesspeople and did not need the money. But the two men soon went to war against her: They decided to start their own copycat gym, which was to be called Warrior The two men soon Fitness Boot Camp. If the user occupies the land with the owner's permission, there is no adverse claim, and the user acquires no rights in the property. Should a court impose liability? The agreements that must be in writing are those: • For any interest in land, • That cannot be performed within one year, • In which a party promises to pay the debt of another, • Made by an executor to pay a debt of the estate, • Made in consideration of marriage, and • For the sale of goods of $500 or more. Unfortunately, he only had $20,000 in assets. • Negligent manufacture. Courts routinely enforce at-will contracts. In the first example just discussed, Dom could easily foresee that bad brakes would cause an automobile accident. Others applaud the strict standard because it reduces pointless trials. (c) protects a decision that has a rational business purpose, even if the activity was illegal. Perry is also an invitee when he goes to Dana's coffee shop. She spent the money. The patio did not drain properly. You are delighted with this important position in an excellent company—and especially glad that you bring legal knowledge to the job. State of Washington, 82 N J National Federation of Independent Business v. Grisham sought to reaffirm the truck loan. Think of a business concept that would be appropriate for each of the following: a sole proprietorship, a corporation, and a limited liability company. • Wetlands. Affirmative action programs These programs remedy the effects of past discrimination. Shootings and police chases became part of their everyday life. We use both terms interchangeably. • Nonpoint sources. While the team was performing in a delta formation, another plane collided with Shauna's aircraft, causing her to crash-land, leaving her permanently disabled. These clients passed this recommendation on to Arlene, who did invest. HIC is located in a city with high rates of unemployment and poverty as well as a large minority population. A motion to dismiss is a request that the court terminate a case without permitting it to go further. Kerkoulas posted a sign prohibiting any motorcycle gangs from entering the bar while wearing "colors"; that is, insignia of their gangs. The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided. Ryder failed to do so in spite of numerous requests. Real estate tycoon Leona Helmsley set up a trust providing that her grandchildren would only receive payments if they visited their father's grave. • National Treatment. WCN 02-200-203 04341_ch09_hr_156-176.indd 165 8/24/17 12:19 PM 166 Unit 2 Torts In the aftermath of the Snowden leaks, many lawsuits challenged the U.S. government's surveillance practices. Those who commit rule of reason violations are typically not sent to prison because the government cannot prove intent. Strategy: One girl goes to private and one to public school. Cipriani USA, Inc. Therefore, it does not matter whether or not the guards were careless. The United States and four Central American countries filed a complaint with the WTO alleging that the European Union (EU) had placed unfair restrictions on the importation of bananas. Dolly sues the construction company. Also, if I hadn't lied, the principal would have fired me, and I might not have been able to get another job in teaching." 2-3i Euphemisms and Reframing The term "friendly fire" has a cheerful ring to it, much better than "killing your own troops," which is what it really means. Armorie was one such boy. Sit-down strike Members stop working but remain at their job posts, blocking replacement workers. EXAMStrategy Question: The Hoffmans owned and operated a successful small bakery and grocery store. Some time passed before Medtrans found another auditor, and, in that interim, a potential investor withdrew its $10 million offer. Here are the rules on particular off-duty conduct: • Smoking. Golden Rule rescinded Hopkins's policies because his application contained material misrepresentations. Hearing the police in the hallway, he ran down to the basement. WCN 02-200-203 04341_ch18_hr_336-355.indd 337 10/6/17 12:23 PM 338 Unit 4 Agency and Employment Law Wrongful discharge An employer may not fire a worker for refusing to violate the law, exercising a legal right, or supporting basic societal values. WCN 02-200-203 04341_gls_hr_G1-G14.indd 3 9/28/17 7:30 AM G4 G lo s s a ry Default judgment A decision that the plaintiff in a case wins without going to trial. RESULTS 4. Result: (c). In addition, a court ruled that Disney could fire an Asian man from the Norwegian exhibit at its Epcot international theme park, not because he was Asian, but because he was not culturally authentic. The possessor of a piece of order paper does not have an unconditional right to be paid if: (a) the paper is negotiable. After receiving Lynn's payment, the company disappeared without performing. Accredited investors Are institutions (such as banks and insurance companies) or individuals (with a net worth of more than $1 million or an annual income of more than $200,000). Answer: The purpose of the contract was for Hudson to build up the business and make a profit. A cultural relativist would say that polygamy is an ethical choice in societies where such practice is long-standing and culturally significant. AMF sued Sleekcraft for trademark infringement, arguing that its similar name was likely to confuse consumers. Result: We are in a trial court because Mark is testifying. It depends on whether the state uses a legal theory called contributory negligence. • Select a personal representative to oversee the estate. Local zoning ordinances require that lots be "at least 1 acre in size." Al owns a 1-acre lot in The Estates which has never been developed. EQUAL PROTECTION CLAUSE The Equal Protection Clause generally requires the government to treat people equally. Vick neither said nor did anything to indicate that he accepted. If Producer agrees to pay Artist more, then Producer must sign the amendment. Perpetual or dynasty trusts A trust that lasts forever. For which of the following activities can a foreign sovereign be sued? For better or worse, the fate of institutional investors hangs on the success of these large companies. WCN 02-200-203 04341_ch31_hr_593-610.indd 598 9/28/17 6:45 AM Chapter 31 settled with Berg for $25,000 but opted instead to pay over $30,500 ($12,500 for bad repairs, $18,000 to the bank, plus disposal fees) and risk Berg driving a dangerous car for two years. Annuities are the reverse of life insurance—they make payments until death, whereas life insurance pays after death. Brockwell's electronic equipment was stolen and other personal items were damaged, and he sued. the inevitable occurred. City of Reno, 932 F. FLSA ___D. Such increases are permitted for future purchases only if the company gives the consumer 45 days' notice and permits cancellation of the card. The remedy of specific performance forces the two parties to perform their contract. 8-2b Product Liability So far in this chapter, we have discussed how two tort theories—negligence and strict liability—apply when someone's action or inaction harms another. (a) The disinterested members of the board approved the transaction. Among the techniques that countries use (and the WTO tries to limit) are: • Customs Duties. WCN 02-200-203 04341_ch27_hr_519-537.indd 537 8/28/17 7:30 AM REAL PROPERTY AND LANDLORD– TENANT LAW CHAPTER 28 Some men have staked claims to land for its oil, others for its gold. Should his conviction be upheld? THE CONSUMER FINANCIAL PROTECTION BUREAU (CFPB) The CFPB is charged with regulating consumer financial products and services, including mortgages and credit cards. The house was to be completed by a certain date, and Builder knew that the Beards were selling their own home in reliance on the completion date. T F If more whites than Native Americans pass an employment test, the test necessarily violates Title VII. (e) Both are guilty only of embezzlement. What happens if the contract has an unclear provision or an important typo? Opinions After an audit is complete, the accountant issues an opinion on the financial statements that indicates how accurately those statements reflect the company's true financial condition. ETHICS The law dictates how a person must behave. Interaction with the Authors. This is our standard: Every professor who adopts this book must have a superior experience. protect people who are unlikely to be represented by a lawyer. When he gives it to Charlotte, it is properly negotiated because he is not the issuer and he has both indorsed the check and transferred it to her. Your age of eighty-four and mine of eighty-one years, insure us a speedy meeting. She was sentenced to three years in prison and agreed to pay her former boss almost $1 million. After six months, Leo complains about defects, including bugs, inadequate heat, and window leaks. He tells Maud that the picture is by the famous French artist Magritte, although in fact Tobias has no idea whether that is true or not. Conseco appealed. The instrument must be payable to order or to bearer. WCN 02-200-203 04341_appA_hr_A1-A14.indd 10 9/28/17 7:27 AM APPENDIX A The Constitution of the United States A11 aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void. We will start with cases. By defining the names, the actual names do not have to be repeated throughout the agreement. Answer: No, said the North Carolina Supreme Court. Equipped with a digital camera, he drives up and down highways and city streets capturing images of every passing license plate. Grover defends based on the Statute of Frauds, saying that even if the two did reach an oral agreement, it is unenforceable. The shock later caused Caudle to suffer headaches, to pass out, to experience numbness, and eventually to require nerve surgery. What is the law of typos? It needs the cash now so that it can buy more cars to sell to other customers. Public Policy. Delegation may violate public policy, for example, in a public works contract. As Mark Twain, who began smoking at 12, famously said, "Giving up smoking is the easiest thing in the world. A principal almost never gives an agent absolutely complete instructions. The major provisions of the Toxic Substances Control Act (TSCA): • New chemicals. The IRS expects us to report in every April 15. Can she stop him? However, nine owners of 15 properties refused to sell, and they filed suit. (a) I, II, and III 5. Which party, if any, has the moral high ground here? This is where things can get complicated. IV. A defendant can be strictly liable for keeping a wild animal. As a result of the RPA, managers who would otherwise like to develop different pricing strategies for specific customers or regions may hesitate to do so for fear of violating this statute. Scott appealed, claiming that a plaintiff may not recover for lost profits. This purpose is proper—though the company may not like it—and the company is required to give her the list. He was also one of the owners of an office park that Mylan leased, making him Mylan's landlord. You have been buying stock recently because you think the company's product—a more efficient hybrid engine—is very promising. Perry is an invitee when he goes to the town beach. Traditionally, liability under the 1934 Act was joint and several. There is no equivalent provision for breaches by Producer. Which of the following wrote Utilitarianism and believed that ethical actions should "generate the greatest good for the greatest number"? Any co-tenant may convey her interest in the property to another person. Color-Dyne went bankrupt. One goal of this chapter is for you to develop your own Life Principles. Julie's good fortune continues on Tuesday, when another friend, Cassandra, tells Julie, "I only have a few weeks to live. The estate plan that Hackett drafted left everything to Kathleen. The Internet of Things Increasingly, the internet is not limited to our computers. What responsibilities, if any, should social media sites have for the spread of terrorism? Suppose Ace Productions hires Reina to star in its new movie, Inside Straight. Betts intended the physical contact with Caudle, and even though he could not foresee everything that would happen, he is liable for all consequences of his intended physical action. RESTITUTION INTEREST The restitution interest returns to the injured party a benefit that she has conferred on the other party which would be unjust to leave with that person. You authenticate a security agreement when you sign the papers at an auto dealership. "What do you think of the music?" the mom said, as she encouraged her son to dance. DISPARATE TREATMENT To prove a disparate treatment case under Title VII, the plaintiff must show that she was treated differently because of her sex, race, color, religion, or national origin. We do not know if she actually believed the transaction was honest, but the court held that the transaction did not appear to be commercially reasonable because Robin's profit was so high. WCN 02-200-203 04341_ch16_hr_295-314.indd 311 8/26/17 9:02 AM 312 Unit 3 Contracts and the UCC TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. REASONABLE EXPECTATION OF PRIVACY There is a reasonable expectation of privacy if (1) the person had a subjective expectation of privacy and (2) society accepts that expectation as reasonable. Chase, 187–188 Banta Props. They also wanted to give each part of the government the power over the other two branches. WCN 02-200-203 04341_ch04_hr_058-078.indd 68 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 69 As harsh as this judgment might seem, it was an accurate statement of the law at that time in both England and the United States: Bystanders need do nothing. 7Nancy Lofholm, "GEO Investigated in Son's Domestic Violence Case," Denver Post, April 8, 2013. in which the harm results from extreme and outrageous conduct that causes serious emotional harm. Issues: Is naturally occurring DNA patentable? WCN 02-200-203 04341_gls_hr_G1-G14.indd 4 9/28/17 7:30 AM G5 G lo s s a ry Express authority Either by words or conduct, the principal grants an agent permission to act. • Internet service providers are not liable for posting copyrighted material as long as they are unaware that the material is illegal and they remove it promptly after receiving a "takedown" notice that it violates copyright law. A utilitarian would ask: What harm will be caused if she tells the truth? Under promissory estoppel, the Andreasons received virtually the same amount they would have obtained had the insurance contract been valid. Even late in the game, when the score is 70–0, the undefeated team continues to deliver devastating hits that are far beyond what would be required to tackle and block. But Congress may by a vote of two-thirds of each House, remove such disability. Next thing he knew, $29.99 a month was being deducted from his bank account to pay for his membership in a poster club. An LLC and its members must keep their assets separate. Cresto 302 Kan. Microsoft has sued Apple, disputing its right to trademark this term. 14-1a Development of the UCC In the middle of the twentieth century, contract law required a reinvention. For Fiona to be able to rescind the contract, she must show that Fernando's hunch was much more than a lucky guess, that he had known certainly that the painting was by Courbet. By logging in, you agree to BizCorp's Computer Usage Policy and certify that your use of this computer is strictly for business purposes. Both companies sold their boats nationally, advertised in magazines, and exhibited their product lines at the same boat shows. Yes Manager not liable; Decision stands No Manager liable; Decision rescinded Copyright 2019 Cengage Learning. The postmaster general encouraged all supervisors to identify workers who had dangerous propensities. REACTING TO UNETHICAL BEHAVIOR When faced with unethical behavior in your organization, you have three choices: • Loyalty • Exit (either quiet or noisy) • Voice 9. While Jeffrey St. Clair worked as a maintenance man at the St. Joseph Nursing Home, he was disciplined 24 times for actions ranging from extreme violence to drug and alcohol use. Food with high levels of fat, sugar, and salt not only taste better, they are also more addictive. National Federation of Independent Business v. Everything in the emails is accurate (including his 1.9 GPA). After years of fighting for her life against the ravenous disease of cancer, she died just last month. A bailee may be liable for loss or damage to the property, and so it is not fair to hold him liable unless he has taken physical control of the goods, intending to possess them. The rig that exploded had many safety violations. This can be a significant part of a contract because legal and court systems are dramatically different in terms of speed, cost, transparency, and trustworthiness. The NYT appealed to the U.S. Supreme Court, arguing that the ad was protected by the First Amendment's freedom of speech. Forestal Guarani S.A. v. Masako's offer was effective when it reached Eric. Constructive Delivery. Physical delivery is the most common and the surest way to make a gift, but it is not always required. • A treaty is ratified when a nation indicates its intent to be bound by it. LANDLORD–TENANT RELATIONSHIP When an owner of a freehold estate allows another person temporary, exclusive possession of the property, the parties have created a landlord–tenant relationship. Which case does not represent a purchase money security interest? She also sought punitive damages. Shirley wins because she signed nothing. No, many are not. She asks for the names of all witnesses, the identity of all documents, the description of all things or objects that they considered. The Employee Polygraph Protection Act permits employers to require a polygraph test as part of ongoing investigations into crimes that have occurred. The losing party often appeals to a court of appeals, and it is usually an appeals court decision that we are reading. Colombian drug cartels set up a sophisticated system in which they shipped money to countries such as Dubai that do not keep records on cash transactions. She need not say, "Romeo, oh Romeo, don't place thy hand in the toaster, Romeo." • Highest liability: invitee. That way, when one of his children dies, that child's interest in the land will go to Thomas's surviving children, not to his grandchildren. Schmalfeldt was left with his teeth—and his dental bills—in his hands. Goods that have become attached to real property 3. What claim might Delaney make against his former employer? First-class airplane tickets to any locations outside of Los Angeles 9. Therefore, the law has created a number of rules to protect insurance companies from fraud and bad faith on the part of insureds. At the end of 30 days, Doug arrives at Lydia's doorstep, asks for his money, and gets it since Lydia is obligated to him. it is payable on demand. Lies in these four categories amount to slander per se when they are spoken and libel per se when they are published. The Code only requires a writing sufficient to indicate that the parties made a contract. Judd: He was threatening to leave unless I gave him some equity, so I said what he wanted to hear. (c) No, because the contract does not involve goods. Rodriguez said no. Kerkoulas knew that the Pagans engaged in random violence. When he sued, the principal told Amanda to lie on the witness stand and say that the lights had been on. Straight bankruptcy Also known as liquidation, this form of bankruptcy mandates that the bankrupt's assets be sold to pay creditors, but the bankrupt has no obligation to share future earnings. These service plans are remarkably profitable—for the seller. The car company does not really know how many lives will be saved or how much its profits will decline if the airpollution device is installed. (b) Leasing an automobile worth $35,000 3. Best, Louise." Sonya emails back, "Louise, I accept the offer to buy your house at that price. She will do this with the testimony of the witnesses she calls, one after the other. The statute of limitations had expired for a tort case, but not for a contract case. 1. Result: The paintings were not securities because there was no "common enterprise." The investors did not pool funds or share profits with other investors. or Entirely fair to corporation? FCRA → (2) Regulates credit reports Chapter 20 A. 3States adopting fault considerations include California, Texas, and Washington. Qualified opinion ___ D. Four years later, Francis called Patricia Hackett, an Indiana lawyer, to ask for her help in revising his estate plan. Strategy: Begin by asking if this was a scrivener's error. If so, how should the company evaluate unprofitable activities? Here are some standard, and important, boilerplate provisions. The company chose the name "Here's Johnny Portable Toilets," and coupled the company name with the marketing phrase, "The World's Foremost Commodian." Carson sued. Now the court must decide what the terms of the contract are because there is some discrepancy. An individual, corporation, partnership, or any other legal entity. If Anna hands Eddie a Rembrandt drawing, saying, "I want you to have this forever," she has satisfied the delivery requirement. Power of attorney A document that allows one person to act for another Attorney-in-fact The person who has the authority under a power of attorney to act for the principal Durable power A power of attorney that remains valid even if the principal becomes incapacitated 30-2h Probate The testatrix cannot implement the terms of the will from beyond the grave, so she appoints an executor for this task. Dissociation When a partner leaves a partnership. In the case from the opening scenario, the judge found that "dumb ass" was not a defamatory statement. Once we have the students' attention, our goal is to provide the information they will need as business people and as informed citizens. Felonies and Misdemeanors Beyond a reasonable doubt The very high burden of proof in a criminal trial, demanding much more certainty than required in a civil trial Bench trial There is no jury; the judge reaches a verdict A felony is a serious crime, for which a defendant can be sentenced to one year or more in prison. They claim that the Temples have suffered no loss. Every chapter begins with a story that is based in fact, to illustrate important issues. The specific language of Title VII does not include sexual orientation as a protected category, but at least some courts now interpret the statute to include it as one. Either state trial court or federal district court Strategy: The question asks about trial and appellate courts, and also about state versus federal courts. Because tort law is so broad, it takes a while to understand its boundaries. The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; To borrow Money on the credit of the United States; To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States; To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures; To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; To establish Post Offices and post Roads; To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries; To constitute Tribunals inferior to the supreme Court; To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations; Copyright 2019 Cengage Learning. But first she has to negotiate a contract with the CEO, Phil. It files another continuation statement on September 1, 2026. Minnesota and Nevada require ISPs to obtain their customers' consent before sharing any of their information, including surfing habits and sites visited. Holder For order paper, anyone in possession of the instrument securities. (c) Bob may assign his claim without Cathy's agreement. explicitly stated. (e) Millie has an attached, perfected security interest in the ring. What began as a gang incident ends up as a matter of commercial liability. Artist's buttocks and/or genitalia shall not be shown, depicted, or otherwise visible without Artist's prior written consent. WCN 02-200-203 04341_ch19_hr_356-376.indd 376 8/26/17 10:26 AM The Lifecycle of a Business UNIT 5 Copyright 2019 Cengage Learning. Could Hammer still refuse the delegation on the grounds that he has a substantial interest in having Spot do the work? 15-1a Commercial Paper As Chaz learned, the law of commercial paper is important to anyone who writes checks or borrows money. The freezing pipes posed a danger of bursting. Can one generation bind another, and all others, in succession forever? They are also t ypical issues in the law of negligence, strict liability, and product liability. WCN 02-200-203 04341_ch17_hr_315-335.indd 333 10/6/17 12:14 PM 334 Unit 4 Agency and Employment Law CASE QUESTIONS 1. T F Auditors generally are not liable if they follow GAAP and GAAS. WCN 02-200-203 04341_ch25_hr_482-500.indd 487 8/28/17 7:20 AM 488 Unit 6 Government Regulation Sources of water pollution include: • Point sources. In England, land • was historically the greatest source of wealth and social status, far more important than industrial or commercial enterprises. If you store your furniture in a warehouse, the storage company is your bailee, but it has no right to curl up in your bed. The order in which creditors will be permitted to seize the property of a bankrupt debtor 5. Once a slate of nominees is selected, it is placed in the proxy statement and sent to shareholders, whose only choice is to vote in favor of a nominee or to withhold their vote (i.e., not vote at all). Bagell, 509–510 American Civil Liberties Union v. The codes are likely to be stricter for residential property and may demand such things as minimum room size, sufficient hot water, secure locks, proper working kitchens and bathrooms, absence of insects and rodents, and other basics of decent housing. Did the employee handbook create an implied contract guaranteeing Dutschmann a hearing? These are the basic types of coverage: • Collision covers the cost of repairing or replacing a car that is damaged in an accident. The Supreme Court had not previously considered this type of public use, but it now determined that economic development is a legitimate public purpose. Should it be amended to include looks? Above that level, income seems to have no impact on day-to-day happiness. Also, he knows that nicotine is highly addictive and that many people who want to stop smoking struggle to do so. (a) Museum will win. In other words, a contract should say "Producer shall pay Artist $1.8 million," not "Artist shall be paid $1.8 million." Representations and Warranties Representations and warranties Statements of fact about the past or present Covenants are the promises the parties make about what they will do in the future. WCN 02-200-203 04341_ch06_hr_101-120.indd 105 8/24/17 1:38 PM 106 Unit 1 The Legal Environment No Expectation of Privacy. The police have a right to search any area in which the defendant does not have a reasonable expectation of privacy. But note that this gift is revocable. Maybe the jury was reacting emotionally. The UN Charter sets out the organization's governance: • The Secretariat administers the day-to-day operations of the UN. Issue means all direct descendants, such as children, grandchildren, great-grandchildren, and so on. Is it fair to Hawes's other creditors if Basic is allowed to keep the $21,000 payment? But it told the public the rupture was due to HBI's disagreement with his views. He had $1.5 million in insurance. Not being a fool, Armorie refused the offer and demanded that the ring be returned. Such a requirement is called a bona fide occupational qualification (BFOQ). Not so with invitees. Most now extend credit only to a gambler who agrees that disputes about repayment will be settled in Nevada courts. Bailment The rightful possession of goods by one who is not the owner, usually by mutual agreement between the bailor and bailee Bailor The one who delivers the goods Bailee The one who possesses the goods Involuntary bailment A bailment that occurs without an agreement between the bailor and bailee Copyright 2019 Cengage Learning. ARBITRATION AGREEMENTS Parties to a contract agree to arbitrate their RESULTS claims instead of filing a lawsuit. Dist. He and Konitz entered into negotiations for Konitz to buy the business. Wise entrepreneurs know, however, that careful attention to legal issues is an essential component of success. Josiah referred to Leon as "my son-in-law." Under New Hampshire law, all issue (including children and grandchildren) can qualify as pretermitted heirs. If, on the other hand, the non-compete agreement had prevented Kory from working anywhere within 200 miles of Hearth Attack, and she started working 50 miles away, a court would refuse to enforce the contract. Eventually, he gives up and calls a cab. The UCC frequently holds a merchant to a higher standard of conduct than a non-merchant. Licensee A person on property for her own purposes, but with the owner's permission Invitee A person who has a right to be on property because it is a public place or a business open to the public • Higher liability: licensee. Vern should have told them. Decision: Yes, they were in violation. Are there any exceptions? It made sense for him to take care of his wife. WCN 02-200-203 04341_ch10_hr_177-197.indd 191 10/6/17 11:47 AM 192 Unit 3 Contracts and the UCC Time of Acceptance: The Mailbox Rule An acceptance is generally effective upon dispatch, meaning the moment it is out of the offeree's control. In developing this feature, we asked ourselves: What do students want? The criminal law issues of this subject are discussed in Chapter 6. In other words, a court will not enforce a non-compete agreement that lasts an unreasonably long time, covers an unfairly large area, or prohibits the seller of the business from doing a type of work that she never had done before. The very prevalence of crime sharpens the debate. T F A nonrenewable lease of a store, for six months, establishes a tenancy for years. Hiring a Lawyer If you do hire a lawyer, be aware of certain warning signs. Even Executive MBA students rarely understand the reality of corporate elections. Powers appealed. (b) win, based on promissory estoppel. There is no difference between giving a car to an intoxicated youth and giving alcohol to a young person with a car. Erin always had its own checking account, and all proceeds from the sales of mobile homes were deposited there. If he cannot meet that burden, Georgina recovers the full value of the boat. NEPA ___D. The guiding principle of federal securities laws is that investors can make a reasonable decision on whether to buy or sell securities if they have full and accurate information about a company and the security it is selling. Then Plato purchased his 500 hemlocks. The appeals court affirmed Elonis's conviction, which was appealed to Supreme Court. Did the retailer breach its contract with the hundreds of consumers who sought the deal? American law adopted these same time limits, which stayed in effect until the twentieth century. (a) The greenhouse is not part of the real property because it was prefabricated. The premium would have been dramatically higher. T F You are more likely to die before 65 than to become disabled before 65. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide. What medications are you currently taking? (a) Quinn must pay Kurt the amount of money she received from the Ford's prior owner. So in 1791, the first ten amendments, known as the Bill of Rights, were added to the Constitution, guaranteeing many liberties directly to individual citizens. A federal court declares a statute unconstitutional. The EPA is required to establish national air quality standards that protect public health and provide an adequate margin of safety without regard to cost. (a) You must call the bank at least three days before the first of the month. Additional terms usually become part of the contract. The Supreme Court has defined public figures as those who have "voluntarily exposed themselves to increased risk of injury by assuming an influential role in ordering society." When deciding whether someone is a public figure, courts look at whether this person has received press coverage, sought the public spotlight, and has the opportunity to publicly rebut the accusations. 649 (1903). Men earned twice as much as women and children, but that just meant factories would not hire them. ETHICS Donna and Carl Nichols each bought term life insurance from Prudential Insurance Company of America. CHAPTER 15 1. 22 Dacor Corp. Rather than fixing the reported problem, they retaliate against the informer. (e) II and III 3. Dacor recalled 16,000 units and refit them at a cost of $136,000. An automobile trunk is used to stow goods. In the hallway outside the court, Rich offers Janet $200,000 to settle. The purpose of a trial is to determine the facts of the case; that is, to decide who did what to whom, why, when, and with what consequences. Answer: Kant would say that the right thing was to turn in the money. Lisa T. CONTROLLING SHAREHOLDER Anyone who owns enough stock to control a corporation has a fiduciary duty to minority shareholders and is subject to the business judgment rule. These contracts are less common. Chakrabarty involved genetically engineered bacteria that were used to treat oil spills. Superior Court, 20 Cal. One party may be trying to get a commitment from the other party without obligating itself. They expected a house worth $100,000 more than their contract price, and they are entitled to that sum. ETHICS Mercedes has just begun work at Photobook.com. Enough to retire on—or enough to buy a salami sandwich for lunch? Tracy may be fined or imprisoned. Conflict of Interest between Two Principals. Unless otherwise agreed, an agent may not act for two principals whose interests conflict. Choudhury published and copyrighted a book that included detailed descriptions of Bikram Yoga. Note the sad result for Michael Gaus and John West, who formed a Texas LLP. • Partners cannot compete with the partnership. Ways may someday be developed by which the Government, without removing papers from secret drawers, can reproduce them in court, and by which it will be enabled to expose to a jury the most intimate occurrences of the home. A defendant's failure to perform a legal duty ___D. But what if the contract falls apart? Complaint The pleading that starts a lawsuit, this is a short Copyright term The term for a copyright in the United States is the life of the author plus 70 years. Although they were eligible, Flagstar bank foreclosed on their Massachusetts home. Although that business disposed of its cleaning fluids legally, recent testing found these toxic chemicals in the groundwater of a nearby park. 2-1a Ethics in Business 2-1b Why Be Ethical? These rumors tarnished reputations, hurt feelings, and tore apart college communities. T F The bankruptcy court issues an order for relief to give the debtor a chance to file a petition. Disputes such as these are on the rise and are not easy to handle fairly. Judges usually enforce these agreements to protect trade secrets and confidential information. A Hercules shareholder brought suit, alleging that the board had breached its fiduciary duty by approving the compensation plan in the face of a negative shareholder vote. Marc canceled his Comcast cable service. EXAMStrategy Question: Tim's will leaves all his money to his cat, Princess Ida. Either party always has the power to terminate. • They are paid by the job—for each concert. This book works, as some unsolicited comments indicate: From verified purchasers on Amazon: • "If you have this textbook for your business law class, then you are in luck! This is one of the best and most helpful textbooks that I have ever had the pleasure of using. Dacor Corp. Laundering is an essential part of the corrosive traffic in drugs. The environmental agency has decreased the value of the land, but it owes her nothing. The continuation statement is valid for an additional five years, and a secured party may file such a statement periodically, forever. Ten weeks shooting the movie c. Pension plans, other retirement benefits, and life insurance pass to whomever is named as beneficiary in the plans or policies themselves. Few people expected that their lives would be better than their parents'. Strategy: What law prohibits a company from committing two or more illegal acts? Issue A person's direct descendants, such as children and grandchildren. He pays his workers less than $1 per hour, a rate consistent with Colombian minimum wage laws. Thus, many sections of the Code offer two rules: one for "merchants" and one for everybody else. Result? To violate the right of commercial exploitation, the defendant need not use a plaintiff's actual name. CPA QUESTION An unemployed CPA generally would receive unemployment compensation benefits if the CPA: (a) was fired as a result of the employer's business reversals. Marta may urgently request a prosecution, but the district attorney will make the final decision. SOCIAL ENTERPRISES Well more than half the states now offer charters to some type of socially conscious organization, collectively referred to as social enterprises. So although an increase in income above $75,000 does not affect day-to-day happiness, higher pay can make people feel more satisfied with their lives. That means that the plaintiff must convince the jury that its version of the case is correct; the defendant is not obligated to disprove the allegations. Goodwill refers to future business lost, and for that a court can rely on financial forecasts made by experts, based on the buyer's history of sales. Argument for Bi-Economy: Bi-Economy is a small, family business. Knowing what you do now about litigation, would you have accepted any of the offers? (d) Pete, incarcerated in a federal prison in Kansas, wants to sue the U.S. government. The U.S. Congress passed a statute prohibiting the importation of goods created by forced or indentured child labor. Is it shutting out a significant part of the market for the tied product (oxygen)? These plans gave the family farm and heirlooms to his children, while dividing the stock portfolio among his Copyright 2019 Cengage Learning. (c) fails to give tax advice that saves the client money. • Uninsured motorist covers the owner and anyone else in the car who is injured by an uninsured motorist. This policy explicitly promised to defend Harvey against the exact claim Whitaker had made against her. A federal judge issued an SCA warrant ordering Microsoft to disclose the contents of a particular user's email account. At least 12 hours off duty from the end of each day of filming to the start of the next day 8. The written consents and any records of actual meetings are kept in a minute book, which is a record of the corporation's official actions. 18-4d Social Security The federal Social Security system began in 1935, during the depths of the Great Depression, to provide a basic safety net for the elderly, ill, and unemployed. A Gift: Lou hands Phil two opera tickets saying, "I want you to have these two tickets to Rigoletto." Phil says, "Hey, thanks." This is a valid inter vivos gift. The Electronic Frontier Foundation provided a lawyer for Lenz, for free. Most states do not permit employers to fire workers for reporting illegal activity. Powers, an employee, drove it to make deliveries. Cir. "Goods" means anything movable, except for money, securities, and certain legal rights. Once the data transfer is complete, Microsoft deletes all information associated with the account from its U.S.-based servers. The Hoffmans won their claim of promissory estoppel. Should the landlord be in charge of getting rid of the old tenant, or should you have the obligation to evict him? To respond, you have to upgrade. However, it is unclear how influential the decision will be. Long Island Railroad, 138 Copyright 2019 Cengage Learning. Subpoena An order to appear at a particular time and place. WCN 02-200-203 04341_appC_hr_C01-C22.indd 14 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C15 CHAPTER 9 1. Ultimately, Coolidge pleaded guilty to second degree murder and served many years in prison. Nationwide's goal was to send this ultimate message to Berg, her attorney, and other lawyers: (1) do not mess with us if you know what is good for you, (2) you cannot run with the big dogs, (3) there is no level playing field to be had in your case, (4) you cannot afford it, (5) we can get away with anything we want to, and (6) you cannot stop us. But no matter the rationalization, price-fixing is illegal. States with smaller populations have one district, while those with larger populations have several. WCN 02-200-203 04341_ch26_hr_501-518.indd 504 10/6/17 12:32 PM Chapter 26 26-2 Accountants' Liability 505 LIABILITY TO CLIENTS 26-2a Contract A written contract between accountants and their clients is called an engagement letter. Different laws apply to your consumer credit information (discussed in Chapter 25, on consumer protection), your medical data, and even the movies you stream. It also happens to be one of the store's busiest days. The apprentice gave him the ring, but without the jewels. WCN 02-200-203 04341_appA_hr_A1-A14.indd 7 9/28/17 7:27 AM A8 APPENDIX A The Constitution of the United States ARTICL

attorney, [Signed] Janet Booker Pruitt, Booker & Bother 983 Joy Avenue Portland, OR October 18, 2018 Copyright 2019 Cengage Learning. 1-2c Exam Strategy This feature gives you practice analyzing cases the way lawyers do—and the way you must on tests. The current trend is clearly for expanded landlord liability, but how far that will continue is impossible to divine. The Foreign Intelligence Surveillance Act (FISA) sets out the rules that limit the use of electronic surveillance to collect foreign intelligence (otherwise known as spying) within the United States. Sabate USA, 328 F.3d 528 (9th Cir. T F In the case of corporations, copyright protection lasts 120 years from the product's creation. Gasket sued Rampart for breach of contract, and Rampart moved for summary judgment. The parties may agree that the security interest attaches to afteracquired property. He owns 16,000 acres, which he plans to leave to his five children. Thieves eagerly seek access to this treasure trove. The carnival wins. Lynn and Howard's case involves the Statute of Frauds, the law that tells us which contracts must be written. Filing. Will the Mackenzies succeed on this theory? The trial court dismissed the case, reasoning that TP had no duty to protect Lindsay from a random criminal act. Lonny Joe sued an electrician for damage to the green car, claiming that the scratch occurred while the electrician was fixing a heater in the garage. DUE CARE The bailee is obligated to exercise due care. Museum sues. No one wants to be in a poker game with marked cards. ETHICS David Sokol worked at Berkshire Hathaway for legendary investor Warren Buffett, who is renowned not only for his investment skills but also for his ethics. Who would be harmed by this lie? Were these actions wrongful? Assignment of Rights and Delegation of Duties iv. Why should someone in one state fare better than his neighbor across the state line? A custom is a widely accepted way of doing something. It was required to file financial statements with both the U.S. Securities and Exchange Commission (SEC) and China's Administration of Industry and Commerce (AIC). Unless some authority is implied, David would have had to say, "Open the car door, get in, put the key in the ignition, drive to the store, buy stickers, mark an auction number on each sticker . But the debtor never explained why he especially needed this vehicle. Beyond a reasonable doubt The very high burden of proof in a criminal trial, demanding much more certainty than required in a civil trial. The report also said that Ryan's sleepiness could be caused by bad habits, like irregular sleep times, a poor diet, and heavy caffeine consumption. Ethics GOAL: Make ethics real. Hank punches Antonio several times, knocking him down and breaking his nose and collarbone. It is for profit, but uses its profits to provide light to people in the developing world. ECOA ___ E. McGee cut a patch of healthy skin from Hawkins's chest and grafted it over the scar tissue on Hawkins's palm. MySpace, 169 n. NES should have presented evidence that the knowledge required by the test improves teacher performance and student results. If, as is often the case with start-ups, the business loses money, investors can deduct these losses against their other income. You're not going bald. Because businesses routinely compete for customers, employees, and market share, it is not always easy to identify tortious interference. For CEOs, it might matter more than skill: When CEOs get favorable mention in the news media, their salaries go up, but, unfortunately, not the performance of their companies. AGENT'S LIABILITY FOR TORTS Agents are always liable for their own RESULTS torts. If the contract is based on a fundamental factual error by both parties, the contract is voidable by either one. If so, why? 16-2 Attachment A three-step process that creates an enforceable security interest TTACHMENT OF A SECURITY A INTEREST Attachment is a vital step in a secured transaction. Silk 2004 Conn. When nurse Marie Sides was called to testify in the patient's case against the hospital, a number of Duke doctors told her that she would be "in trouble" if she testified. Monmouth-Ocean Hosp. QMs: • Limit all of a borrower's debt (not just her mortgage) to 43 percent of her income, • Limit up-front points and fees to 3 percent, and • Prohibit harmful features such as: • Interest only periods—when the borrower is not paying down the principal of the loan and • Balloon payments (very large payments at the end). When the insurance company agreed to business interruption coverage, it was declaring that it would act fast and fairly to sustain a small firm in crisis. The injured party justifiably relied on the statement. For bearer paper, a holder is anyone in possession. Representation in the House of Representatives is proportionate with a state's population, but each state elects two senators. Ned continued to work on the renovation that was then underway. They seldom punished the offenders and even blocked the police from investigating Turley's complaints. Amendment XXI [1933]. Appellee The party opposing an appeal. Plato took them free and clear. Ethics Is torture always wrong? Samuelson Boston University Patricia Sánchez Abril University of Miami Australia • Brazil • Mexico • Singapore • United Kingdom • United States Copyright 2019 Cengage Learning. In the process, baseball teams discovered that 300 foreign-born professional players had lied about their age. The case arose in the isolated area of maritime law which governs ships at sea. It is worth noting that the offeree must say or do something to accept. WCN 02-200-203 04341_ch16_hr_295-314.indd 296 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 297 Here is an example using the terms just discussed. Embezzlement is the fraudulent conversion of property already in the defendant's possession. Under the Fair Debt Collection Practices Act (FDCPA): • A collector must, within five days of contacting a debtor, send the debtor a written notice containing the amount of the debt, the name of the creditor to whom the debt is owed, and a statement that if the debtor disputes the debt (in writing), the collector will cease all collection efforts until it has sent evidence of the debt. Already, many companies in the medical industry are instituting such policies. Because Blaine Blogger reviews movies on his blog, cinemas allow him in for free. There need be no intention to hurt the plaintiff. LEXIS 23608 (9th Cir. Trusts generate billions of dollars in fees each year. An instrument can be negotiable even if it will not be paid until sometime in the future, provided that the payment date can be determined when the document is made. Because such contracts are legal in that state, the casino is able to obtain a judgment against a defaulting debtor. Should people have priority in protecting personal names? He can accept the offer by saying, "It's a deal" or "I'll take it," or any number of things. Her strict liability case definitely fails: A housecat is not a wild animal. Ewing was convicted and sentenced to 25 years to life. The median salary for the director of an S&P 500 company is $255,000 a Copyright 2019 Cengage Learning. While on a camping trip with other nurses, Wagenseller refused to join in a parody of the song "Moon River," which concluded with members of the group "mooning" the audience. During World War II, the government's War Production Board had commissioned American Viscose to make rayon for airplanes and truck tires. The parties did not reach a binding settlement agreement. It is not necessary that the debtor's liabilities exceed assets. The owners would probably not have been troubled by the restraints of an S corporation—only one class of stock, for example—but the technicalities involved in forming and maintaining an S corporation can be vexing. (a) Ted's agreement with Andrea, only (b) Ted's agreements with Andrea and Cami, only (c) All three of the agreements (d) None of the agreements CASE QUESTIONS 1. Accredited investors are institutions (such as banks and insurance companies) or individuals (with a net worth of more than $1 million, not counting their homes, or an annual income of more than $200,000). Requires business leaders to consider employees, customers, communities, and other groups when making decisions TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Generally cancel each other out TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. (b) Spiro has violated the CAN-SPAM Act if he has not offered recipients an opportunity to unsubscribe. Did Sokol violate insider trading laws? We will begin with the first option—when the seller voluntarily provides a warranty. Draft The drawer of this instrument orders someone else to pay money. Furthermore, a focus on outcome can justify some really terrible behavior. The allegation was false. • If the red wolf thrives, it could be hunted for its pelt. He had bribed doormen to gain access to hotels and restaurants she visited, had jumped out of bushes to photograph her young children, and had driven power boats dangerously close to her. Issue: How should Hawkins's damages be calculated? And, as outsiders to that society, who are we to judge? to use in obtaining a bank loan from the First National Bank of Tucson. Sometimes the ads described research results as "hopeful," "promising," and "preliminary." Although these words somewhat limited the health claims, they were not enough, by themselves, to make the ads accurate. Antigua challenged U.S. gambling laws in the WTO, arguing that they discriminated against foreign betting services. The contract required CCA to step into the state's role, keeping prisons and safeguarding prisoners' rights according to Alaska standards. have? No other statements, written or oral, apply. WCN 02-200-203 04341_ch19_hr_356-376.indd 372 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 373 2. WCN 02-200-203 04341_ch22_hr_420-438.indd 426 8/26/17 11:29 AM Chapter 22 Bankruptcy 427 Kelly v. Even if the trust is irrevocable, the grantor and all the beneficiaries can agree to revoke it. The judge instructed the jury to award damages and to assume that the missing stones had been of the highest quality. The common law is judge-made law. T F Any individual, business, or federal agency that significantly affects the quality of the environment must file an EIS. A treaty that governs intellectual property ___B. pre-trial questions posed by one attorney to the opposing party. The Patent and Trademark Office (PTO) issues patents after a long application process known as a prosecution, but courts can invalidate patents that the PTO has granted improperly. Some partners have issue with this because they believe they contributed more to the marital assets than their soon-to-be exes did.Equitable Distribution Is Fair But Not Always EqualEquitable distribution of assets means that all assets accumulated during the marriage are supposed to be distributed fairly. Alice Randall wrote a novel entitled The Wind Done Gone, which retells the Civil War novel Gone with the Wind from the perspective of Scarlett O'Hara's (imagined) black half-sister and slave. You Be the Judge Central Arizona Water Conservation District v. 9-2c Privacy Statutes Instead of having a single comprehensive data privacy law, the United States has adopted a collection of federal and state privacy laws that apply to particular types of personal data. WCN 02-200-203 04341_ch08_hr_137-155.indd 151 9/28/17 7:17 AM Unit 2 Torts RESULTS 152 8. Result: In a contributory negligence state, a plaintiff who is even 1 percent responsible for the harm loses. But if you do not mention now something which you later use in your defense, the court may decide that your failure to mention it now strengthens the case against you. T F Only workers, not their spouses or children, are entitled to benefits under the Social Security system. The law dictates how a person must behave. A contract states (1) that Buzz Co. legally exists and (2) will provide 2,000 pounds of wild salmon each week. What about risky workers? You have been studying the theory of contract law. The questions include the following: • You Be the Judge Writing Problem. Kendall raised hogs. "Where's the pop?" she wonders. Not surprisingly, entrepreneurs are sometimes reluctant to spend their valuable time on legal issues that, after all, do not contribute directly to the bottom line. What options did the executives and traders have for dealing with this wrongdoing? Bona fide occupational qualification (BFOQ) An employer is permitted to establish discriminatory job requirements if they are essential to the position in question. (c) win a case of intentional interference with a contract. Clarice then went to another local clinic, which was later acquired by the Medical Center. At 10:30 p.m., she emerges from the building with a quick step and a light heart, walks to her car—and finds it missing. She might do a job, deliver an item, or pay money, for example. Sometimes it is difficult to determine whether something is a fixture. Adams was a partner at Deloitte—a partner with a gambling issue. Argument for the Orchestra: The musicians are independent contractors because: • They are highly skilled and receive little supervision. On September 15, Meredith uses the same collateral to borrow $50,000 from the Suspicion Bank, which files a financing statement the same day. Did the defendant improperly induce a party to breach it? Catherine Wagenseller was a nurse at Scottsdale Memorial Hospital and an employee at will. 3-3c Islamic Law More than one-fifth of the world's population lives under legal systems influenced by the religion of Islam. The rule stated in Part (1) applies although: a. She requests the names of all corporate officers who played any role in the decision and of any expert witnesses Coastal plans to call. So Ferris persuaded the stiff Cameron to take his father's prized 1961 Ferrari 250 GT California for a field trip into downtown Chicago. Their application was partially denied because a wedding planner in Massachusetts was already using "Blue Ivy" as the name of her business. Or it could simply reverse, turning the loser (Coastal) into the winner, with no new trial. LEXIS 548; 2004 WL 574526 Superior Court of Connecticut, 2004 Facts: Norman Costello and Robert Giordano were members of Silk, LLC, which owned a bar and adult entertainment nightclub in Groton, Connecticut, called Silk Stockings. To determine if an invention is obvious, the PTO and courts look at the difference between it and existing technologies to see if that difference would be unexpected to someone skilled in the field (at the time of 2In re Schoenwald, 964 F.2d 1122 (Fed. Rebecca Reyher wrote (and copyrighted) a children's book entitled My Mother Is the Most Beautiful Woman in the World. A jury could still conclude that a bone this size in hamburger meat was reasonably unforeseeable and that an injured consumer was entitled to compensation. strongly agree agree neutral disagree strongly disagree c. EXAMStrategy Question: Jade owns a straight track used for drag racing. Personal services Any service that must be performed by the promisor. Will John win? Sadly for Fiona, Marguerite will reap the benefit of her bargain because a mistaken value alone is not enough to take back a deal. The test analyzes DNA from the fetus that is found in the mother's blood. Smith sued Del Lago for negligence. When Creative made payments under the loan to Ward, it paid the investors their share. • Additional cases and examples. (d) None of these are true. After 20 years, any outstanding balance is canceled. Pierce the corporate veil A court holds shareholders personally liable for the debts of the corporation. Statute that prohibits age discrimination 5. The Gig Economy. In four years, Uber went from zero drivers to 400,000. 558 (4th Cir. Navy officials held a meeting at Bath's offices with its executives and those of a competitor to review an upcoming bid. (d) You must have the landlord sign a form which you then mail or deliver to the bank at least three days before the first of the month. There is no gift, and no transfer of ownership. The following Supreme Court case tells us how much information a plaintiff has to present to survive a motion to dismiss. Why does the manufacturer care? (d) All of these CHAPTER 11 1. Under the FMLA: (a) both men and women are entitled to take a leave of absence from their jobs for childbirth, adoption, or a serious health condition of their own or in their immediate family. Do you agree? (a) Seller is not liable because it never made any express warranties. 19-4 AGE DISCRIMINATION Under the Age Discrimination in Employment Act (ADEA), employers may not fire, refuse to hire, fail to promote, or otherwise reduce a person's employment opportunities because he is 40 or older. FILING Filing is the most common way to perfect. Answer: (a) The state trial court of general jurisdiction may hear the case. ANNUITIES Annuities are the reverse of life insurance policies; they make payments until death. What behavior are you willing to tolerate in the interest of profitability? In the trade-in, the purchaser would get credit for the amount of the original painting and then pay the difference if the new painting was worth more. If a bank loans $400 million to an airline, that money is the value, and the bank may therefore obtain a security interest in the planes that the airline is buying. Then Rich has a chance to cross-examine Beth, which means to ask questions of an opposing witness. Who should win, and why? WCN 02-200-203 04341_fm_hr_i-xxii.indd 3 10/6/17 11:39 AM Copyright 2019 Cengage Learning. In reality, however, they have little to fear. The restaurant gave up a coveted reservation time in exchange for Chris's promise to stay away from his phone. 30-3c Trust Administration The primary obligation of trustees is to carry out the terms of the trust. The parties never defined what they meant by the "true value" of Baer's services or how they would determine it. PRESUMPTION OF NEGLIGENCE Once the bailor has proven the existence of a bailment and loss, a presumption of negligence arises, and the burden shifts to the bailee to prove adequate care. T F A bailee always has the right to possess the property. Because of this disorder, he sometimes had panic attacks that required him to leave meetings. But close corporations are created by state law and, therefore, these entities are not entitled to special treatment under the federal tax code unless they also register with the IRS. Brune and his colleagues were frustrated with the school administration. Jones sent at least 27 emails to Richie asking him to remove the posts, but he refused. Lance, a hacker, stole 15,000 credit card numbers and sold them on the black mar- ket, making millions. If the defendant fails to answer in time, the plaintiff will ask for a default judgment, meaning a decision that the plaintiff wins without a trial. Defendant Defendant Plaintiff Prosecution Civil Lawsuit Criminal Prosecution Copyright 2019 Cengage Learning. Neither party intended to benefit Gasket, and Gasket thus had no right to enforce the contract. Michael Jackson bought the copyright to many of the Beatles' songs. Rodd Electrotype Co., 367 Mass. Should bankrupts be thrown out on the street? Does the exclusionary rule prevent the cocaine from being admissible in court? In a secured transaction, the lender gives money in return for the right to repossess items of collateral if the debtor does not repay the loan. In short, the relationship between money and happiness is complicated. EEOC The EEOC is the federal agency responsible for enforcing Title VII, RESULTS the Equal Pay Act, the Pregnancy Discrimination Act, the ADEA, the ADA, and GINA. (It is included in the registration statement that is sent to the SEC.) The prospectus includes all of the important disclosures about the company and the security that is to be sold, while the registration statement includes additional information that is of interest to the SEC but not to the typical investor, such as the names and addresses of the lawyers for the issuer and underwriter. In preparation for the vote, each creditor and shareholder is assigned to a class. In a similar case, the court also refused to discharge the claim over the theft of the truck, ruling that it was an intentional and malicious injury. You have most likely heard of the Liebeck v. Six months later, Burmah Oil offered to buy the subsidiary at $480 million, giving Signal only three days to respond. Jody's supplier has just gone bankrupt; any other suppliers will charge her more than she expected to pay. LEXIS 37458; 2015 WL 1399050 N.D. Ill., 2015 Facts: Robert Simms worked for CDM Media USA, a marketing company focused on the technology industry. ran HIV/AIDS treatment clinics. be liable for any harm the worker does (tort law and agency law)? She sued Matchmaker, arguing that the company was liable for invasion of privacy, defamation, and negligence. It bought seed from the defendant, O. M. WCN 02-200-203 04341_ch04_hr_058-078.indd 71 8/24/17 1:35 PM 72 Unit 1 The Legal Environment FOIA does not apply to Congress, the federal courts, or the executive staff at the White House. Is David entitled to a utility patent? These currencies have two disadvantages—they are easy to steal and difficult to carry. immunity from liability when information was provided by an end user. The blimp will not fit through the doorway of Jen's dorm. Its drivers could work full time, or just a few hours a week, during the day or only at night. Father and son discussed how they could wrongfully get her deported. TRIAL 5. In the United States, the largest accounting firms earn 39 percent of their total revenues from consulting work (usually to nonaudit clients). Samuelson, and Patricia Sánchez Abril Unless otherwise noted, all content is © Cengage ALL RIGHTS RESERVED. 643 (5th Cir. She takes the money daily for eight months and invests it in a catering business she is starting with Floyd, another teller. Vilar and Tanaka claimed that U.S. securities laws did not apply to sales that occurred outside the country. Many other states use a risk-utility test. Before it responds, Coastal mails to Janet a notice of deposition, stating its intention to depose Beth Smiles. FTC rules also prohibit telemarketers from blocking their names and telephone numbers on Caller ID systems. (c) It is wrong for some people to have greater opportunities than others. He has two years remaining on his four-year contract. (a) 8 percent (b) 6 percent (c) 5 percent (d) The contract is void because the terms are unclear. 12-1 THIRD PARTY BENEFICIARIES The two parties who make a contract always intend to gain some benefit for themselves. Bank lends money to Retailer, using Retailer's existing inventory as collateral. Apply what we know to the facts here. Instead of the client raising tough issues, the lawyers do. A state investigator notified Dorsey that he planned to review all dealership records. Are they entitled to it? (a) This is abandoned property, and Bill is entitled to it. The lease remains valid, and the tenant enjoys all rights and obligations until the end of the term. Yes, it did find an important and useful gene, but separating that gene from its surrounding genetic material is not an act of invention. WCN 02-200-203 04341_ch11_hr_198-219.indd 208 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 209 But what types of errors are important enough to warrant rescission? However, that argument fails to consider the Rays' other acts of control over the premises. A contract that is A gambling contract is illegal unless it is specifically authorized by state statute. Some companies cooperate with an agency, furnishing information and even voluntarily accepting agency recommendations. However, the original tenant remains liable to the landlord unless the landlord explicitly releases him, which the landlord is unlikely to do. • Amount of loss. Many European nations are fearful of the effects of genetically modified foods, so they choose to restrict their importation. When he filed the police report, he deliberately referred to her as his "ex-fiancée" (17 years after their break up) knowing that, in domestic violence cases, the police had to arrest the assaulting party. Whether or not they had signed an agreement not to compete, they could not, while still employed by her, solicit her clients, copy her business records for their own use, or actively divert her business for their own personal benefit. We will look at a sampling of cases that illustrates trends, even though the law varies from state to state. Flow-through tax entity An organization that does not pay income tax on its profits but instead passes them through to its owners who pay personal income tax on all business profits. These allegations were completely untrue. (b) someone called 911 to report a house fire, but there are no signs of fire when they arrive. His report from his doctor said that it was possible Ryan did have sleep apnea, but there was no definitive diagnosis because Ryan refused to take the necessary tests. Much of the remainder of the chapter will examine them in detail. They may bargain over other subjects, but neither side may insist on doing so. A1 Copyright 2019 Cengage Learning. Grace (her voice rising): I don't know what the contract says—that's just the legal stuff. The company fired her, while keeping on a white editor. Strategy: Is there evidence that men and women are being treated differently? Eventually, they hope to seek venture capital money and expand the business nationally. an accountant. The donor delivers the property to the donee. The film portrayed Rugrat as a "criminal, drug user, degenerate, depraved, and devoid of any morality or ethics." What would Greene need to prove to be successful in his claim? T F A gift is unenforceable unless both parties give consideration. 16Title III of the Omnibus Crime Control and Safe Streets Act of 1968, amended by the Electronic Communications Privacy Act, 18 U.S.C. §§2510–2522. If the foundation cracks in Caitlin's house and the walls collapse, Daniel will not receive his $900,000. The review also commented that "Adapting to Google culture is the primary task. Because the company lacks any such evidence, the judge denies Coastal's motion. WCN 02-200-203 04341_ch24_hr_460-481.indd 475 10/6/17 12:28 PM 476 Unit 6 Government Regulation 17. Nonphysical tort A wrong that harms only reputation, feelings, or wallet. 26-3a Negligence Accountants who fail to exercise due care are liable to (1) anyone they knew would rely on the information and (2) anyone else in the same class. The corporation files Articles of Dissolution with the secretary of state. Consumer reporting agencies are businesses that collect and sell personal information on consumers to third parties. In response, Congress passed the CARD Act, which has these provisions: • Due dates: • Due dates must be disclosed. When the EPA prepared its own set of TMDLs, Virginia sued to avoid compliance. Prosecution by the U.S. government led to the collapse of some of the banks involved. • Employee Monitoring. • Similarity of the marks: Courts look to the sight, sound, and meaning of the marks. If a mother buys a life insurance policy on her son that is payable to his children in the event of his death, then the mother is the owner, the son is the insured, and the grandchildren are the beneficiaries. Zuckerberg chose "Facebook" because that was what Harvard students called their freshman directory. Suppose an automobile made of lightweight metal uses less fuel but exposes its occupants to more serious injuries in an accident. The grantor's property must first go through probate on its way to the trust. pays taxes on its income. Autorama was forced to return to the Hylers the full purchase price, plus the value of the automobile they had traded. Winter visitors to the Grand Canyon would undoubtedly prefer that NGS provide them with a free lunch rather than a 7 percent improvement in visibility. Discharges from a single producer, such as a pipe from waste treat- Point sources ment plants, factories, and refineries. Ledbetter told Delaney to fire Ms. White, who was black. In other cases, people think about the outcome of their actions. She probably cannot prove either the first element or the second element, and certainly not both. See GATT General Agreement on Trade in Services (GATS), 46 General Electric Co. (GE), 17 General Motors (GM), bankruptcy, 420, 429 General partnerships, 388 formation, 388 liability, 388 management, 389 raising capital, 389 tax status, 388 terminating (dissociation), 389–390 transfer of ownership, 389 Genetic Information Nondiscrimination Act (GINA) for employment, 367 for insurance, 368 Geneva Conventions, 48 (The) GEO Group, Inc., 28 George Grubbs Nissan, 127–128 Gifts. Shanghai's rules violated WTO principles. Both parties must get something of measurable value from the contract. A student faced with academic sanctions receives less due process but still has rights. What are the consequences of these restrictions? (e) The president may discharge the Congress and order new elections. Will the estates of the two dead men be able to recover under this policy? Under what circumstances would shareholders be successful in bringing suit against the directors? 9-2 THE LAW OF PRIVACY There is no single source of privacy law. Has Aukerman proved them? One morning, she received a check for $17,400 in settlement of her claims arising from the accident. The Pharmaceutical Association holds an annual convention. The CEO of Volkswagen set an ambitious goal: to triple sales in the United States and become the largest car manufacturer in the world. When a neutral person graded the tests, participants averaged four correct answers. has expired, as has the CBA at Blue Corp. Was this a valid public use? Some common rationalizations include: • If I don't do it, someone else will. Basil is starting a catering business but owns only a beat-up car. Kristen had always loved flowers. For example, an employer cannot refuse to hire an applicant because he has a child with Down's syndrome or a spouse with AIDS. She wants to prove two things. They are its most important and influential actors. Later in the chapter, we will return to the Pub Zone (with armed victim of gang violence? The summons must be delivered to the defendant when she is physically within the state in which the lawsuit is filed; or Summons The court's written notice that a lawsuit has been filed Copyright 2019 Cengage Learning. RELIANCE INTEREST The reliance interest puts the injured party in the position he would have been in had the parties never entered into a contract. WCN 02-200-203 04341_fm_hr_i-xxii.indd 15 10/6/17 11:39 AM xvi P re face Each and every item in the Learning Path is assignable and gradable. Thus, doctors could receive a bonus for reducing avoidable hospital readmissions. What does each side want? WCN 02-200-203 04341_ch17_hr_315-335.indd 331 10/6/17 12:14 PM 332 Unit 4 Agency and Employment Law MATCHING QUESTIONS Match the following terms with their definitions: ___ A. The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. When Ogoni residents began protesting the oil giant's environmental practices, the multinational and the Nigerian government joined forces to halt this resistance. What if an email string contains individual emails that are clearly privileged (meaning a party need not divulge them), but others that are not privileged? 27-2 COPYRIGHTS A copyright gives its creator the exclusive right to reproduce, distribute, and perform his original work for a limited time. What about "app store"? ■■ Agency 325 During rehearsals, musicians are not permitted to talk about anything other than the rehearsal. Order for relief An official acknowledgment that a debtor is under the jurisdiction of the bankruptcy court 22-2b Trustee The trustee is responsible for gathering the bankrupt's assets and dividing them among creditors. It is easy to understand why the principal and agent are liable on these contracts, but what about the third party? Her first witness is Beth. Good Faith. The covenants in the movie contract use three different standards of behavior: reasonably, in good faith, or sole discretion. The Code changes that. WCN 02-200-203 04341_ch25_hr_482-500.indd 489 8/28/17 7:20 AM 490 Unit 6 Government Regulation 25-4a Resource Conservation and Recovery Act The Resource Conservation and Recovery Act (RCRA) focuses on preventing future Love Canals by regulating the production, transportation, and disposal of solid wastes, both hazardous material and ordinary garbage. Issue: When one WTO member refuses to comply with a WTO ruling, can the injured member retaliate by suspending its duties under another treaty? What did it do? One jury ordered software multinational SAP to pay Oracle $1.3 billion for copyright infringement of Oracle's software. The trustee also serves as a central clearinghouse for the debtor's payments to creditors. Breach 1. An Alabama court awarded Sullivan $500,000. You should win the suit, and you will get your injunction and some money damages. 10. Result: If Marko's cat had bitten or attacked people in the past, this harm was foreseeable and Marko is liable. Into what ethics traps did these JPMorgan employees fall? It was a promise in consideration of marriage. If parents do not appoint a guardian before they die, a court will. (b) Museum will win if, when the parties made the deal, Sue Ellen knew the importance of the date. Promises about future behavior are governed by contract law, and a contract is unenforceable without consideration. ITT issued an employee handbook, which it revised four times over two decades. GATT → (4) A treaty that governs trade C. (c) It will be granted because Unger's liabilities exceed Unger's assets. (d) No, because the language is vague and should be interpreted against Liesl. The Supreme Court of Washington ruled that International Shoe did have sufficient contacts with the state to justify a lawsuit there. According to Connie, Ford was negligent because it had a duty to warn her that there was no latch; and the missing latch was a design defect for which Ford should pay.1 But whose fault was it? PRICE-FIXING When competitors agree on the prices at which they will buy or sell products, their price-fixing is a per se violation of §1 of the Sherman Act. Frederick J. DISCUSSION QUESTIONS 1. Issue: Was GT liable to Ellis for its negligence in preparing Keystone's financial statements? The Hylers had a succession of major problems with their RV, including windows that wouldn't shut, a door that fell off, a loose windshield, and defective walls. He can recover that amount from Quinn, but only if Quinn knew about the needed repairs before Kurt bought the car. Larceny The trespassory taking of personal property with the intent to steal it. Is it reasonable to let a few dangerous criminals go free to discourage improper police behavior? The stock market was closed for four days and, when it reopened, stocks took their biggest plunge since the Nazis invaded France at the beginning of World War II. All prosecutions of federal crimes begin in a United States District Court. For example, bylaws set the date of the annual shareholders' meeting, define what a quorum is (e.g., how many people or shares must be present for a meeting to count), indicate the required number of directors, give titles to officers, and establish the fiscal (i.e., tax) year of the corporation. Based on the agreement, Marion hires a moving company to pack up all her goods and move them to a storage warehouse. Ownership of Lots A and B also included co-ownership of a pier located beyond the Disputed Area. Some of his customers told Mr. Ledbetter, the district manager, that they would not be eating there so often because there were too many black employees. MATCHING QUESTIONS Match the following terms with their definitions: ____A. Much of this marketing focuses on children. Try to think of all the different events that could happen and how they would affect you. In fact, he has no intention of moving out. The problem in the Horning case was that the LLC had no operating agreement. T F Abdul hires Sean to work in his store and agrees to pay him $9 per hour. In response to the subprime mortgage crisis, the federal government created the Home Affordable Modification Program (HAMP) to help struggling homeowners refinance their mortgage debt, thereby reducing the foreclosure rate. Could the school fire him? Under the influence of wine and whine, it occurs to them that they would both benefit by agreeing to limit what they will pay a new assistant coach. His suit is for ordinary negligence, and the exculpatory clause probably does bar him from recovery. If Melissa permits Blake to take the drums, she will owe Rudy $6,000, even if the forgery was a high-quality job. Note, though, that many firms ask employees to sign non-competes that are unenforceable. If a defendant eliminates only one item on the list, there is no liability. Is Irene liable to Robin? In two cases, the agreement included payment, which is common but not essential. WCN 02-200-203 04341_ch28_hr_538-559.indd 558 10/6/17 12:30 PM Chapter 28 Real Property and Landlord–Tenant Law 559 Neighbors complain about being awakened in the wee hours of the morning. Harleysville claimed that it was responsible only for damages specified in the contract: the building, inventory, and lost income. (d) a bilateral contract. • Ethics. If not, what is the result? The Code has, in essence, adopted a number system to prevent a free-for-all fight over the bankrupt's assets. Any baseball collector would have known that the card was worth at least $1,000; the published monthly price guide listed its market value at $1,200. WCN 02-200-203 04341_ch09_hr_156-176.indd 170 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 171 to virtually all promotional emails, whether or not the sender has a preexisting relationship with the recipient. When an owner of a freehold estate allows another person temporary, exclusive possession of the property, the parties have created a landlord–tenant relationship. Result: This check changes back and forth between order and bearer paper, depending on what the indorsement says. Hartwell has an unfortunate alcohol and drug problem, but he is no fool. The washer and dryer, which were included in the lease, frequently failed. Her doctor has the right to prescribe her a lethal dose of medication. Rescind To terminate a contract by mutual agreement 12-3a Performance Caitlin has an architect draw up plans for a monumental new house, and Daniel agrees to build it by September 1. Draft You order someone else to pay. Although company policy forbade talking on a cell phone while driving, Trevor answered his phone in his car. Reasoning: A holder in due course must, first of all, be a holder. A corporation must gain and retain loyal buyers if it is to stay in business for long. Frankie and Johnny were friends who worked together to raise money for their col- lege expenses. 2 Magnuson-Moss Warranty Act, 473 Mail fraud, 109 Mailbox rule, 192 Maker (of promissory note), 279 Management (of a corporation) duties, 404 business judgment rule, 404–405, 405e business judgment rule applications informed decisions, 407 liability of controlling shareholders, 406 self-dealing, 406 structure under Model Act, 401–402, 401e Marriage, writing required for promise made in consideration of, 212 Marvin, Linda, 410 Mason, Pamela, 106 MasterCard, 449 Material misstatement, 442 Mattell, Inc., 474 Maturelli, Luke, 127–128 McCarger, James, 230 McClendon, Robert, 362 McGrath, Victoria, 25 Mediation (form of ADR), 94 Mentally impaired persons, voidable contracts only, 206 Merchantable, 270 See also Warranties Merchants disputes with and credit cards, 468 UCC, 263 oral agreement exception to common law, 265 Mergers, Clayton Act and Hart-ScottRodino amendment, 452 Merkel, Angela, 165 Method Products, 388 Miami Dolphins, 145 Microsoft, 450, 529 Midler, Bette, 131 Mill, John Stuart, 19 Minors disaffirmance of a contract, 205 lack of legal capacity, 205 and restitution, 205 Mirror image rule, 190 UCC exception to, 266–267 Copyright 2019 Cengage Learning. Andreo placed a FOR RENT sign in the store window and spoke to a commercial real estate broker about the space. It might be a mechanical error, such as a builder offering to build a new home for $300 when he clearly meant to bid $300,000. The trespassory taking of personal property TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Eckert was quoted as saying that the law was unreasonable and the company would not follow it.6 Is Mattel's stance ethical? The two breeds look a lot alike. At the end of a skateboard exhibition, one of the performers tossed a skateboard into the rowdy crowd. At this meeting, the bankrupt must answer (under oath) any question the creditors pose about his financial situation. Houses, office buildings, apartment complexes, and factories all fall in this category. Sole proprietorships also have some serious disadvantages: • Liability. The close working relationship in such agreements makes it unfair to expect the obligor to work with a stranger. Possession by the intended bailee III. Prospectus A document that provides potential investors with information about a security. To view a demo video and learn more about MindTap, please visit www.cengage.com/ mindtap. This amendment applies to individuals, corporations, and other organ izations. He just couldn't. Fifty years later, Rob needed money, so he began writing checks out of Doris's checking account. 3 A purchase money security interest can arise in either of two ways. WCN 02-200-203 04341_ch21_hr_398-419.indd 409 10/6/17 12:27 PM 410 Unit 5 The Lifecycle of a Business Independent directors Members of the board of directors who are not employees of the company and do not have close ties to the CEO; also known as outside directors Inside directors Members of the board of directors who are also employees of the corporation expense and effort. Referring to your own Life Principles and being aware of potential traps will help you make the right decisions. 3-3 THE WORLD'S LEGAL SYSTEMS In Chapter 1, we began to explore the origins of our Anglo-American legal tradition. An injured party may only be able to demonstrate that she has conferred a benefit on the other party. All of Lot A's owners claimed the exclusive right to the Disputed Area. 10. Result: Elmer made a promise to pay the debt of another. After he injures Tanya in a car accident, she sues him for $5 million. The person who processed the invoices often did not know that no one had ordered the merchandise. Under FTC rules, anyone who endorses a product must disclose all compensation (either in cash or free products) they receive for product reviews. Should cultural works be owned? If so, can the law fix it? Both men started off as candidates for public office in California—and then learned about defamation the hard way. 9-1 PRIVACY IN A DIGITAL WORLD In Justice Brandeis's view, privacy is essential to freedom and democracy. He sued Wilkerson personally. The following case involves a morality clause, a common provision in high-profile personal services contracts. Most checks are pre-printed with the words "Pay to the order of," but sometimes people inadvertently cross out "order of." Even so, the check is still negotiable. The Girl Scouts do much good for many girls. An agreement based on the words and actions of the parties 5. As a result, the Medical Center refused to treat her on a nonemergency basis. Thus, if a gangster ordered a building torched in January and then burned a second building in October, that would be two racketeering acts. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person. Suppose a landlord decides that a group of students are "troublemakers." Without going through lawful eviction procedures in court, the landlord simply waits until the students are out of the apartment and changes the locks. There are two types of eviction: actual and constructive. Obligor The person obligated to do something under a contract. I arrived exactly 8 minutes later. Strategy: This is easy! Just say what the parties intended the deal to be. And, the letter contained a cancellation clause. The holder must meet both these tests: 1. Value-based care Payment to medical providers is based on patient outcomes, not quantity and complexity of services performed. CREDIT CARD FEES Credit card companies are not allowed to increase fees and interest rates on any charges already incurred (until a cardholder has missed two consecutive payments). A periodic tenancy could also be for one-year periods—in which case it automatically renews for an additional year if neither party terminates—or for any other period. Foreseeability. What do you say?" "It's a deal," says Bill. For 15 minutes, the pilot struggles to control the plane. Although they are outlawed in Pennsylvania, he placed them in bars and clubs. The problem is that the acceptance came too late. As to liberty, the government may take it by confining someone in a mental institution or by taking a child out of the home because of parental neglect. She had the absolute right to make any decision, as long as the decision was legal. Was the plaintiff really in trouble? Government officers may not impose their political beliefs on the citizens. State University has failed to provide Ralph with due process. You can understand why Nike might want to prohibit retailers from lowering the prices on its goods. WRITING REQUIREMENT For the sale of goods worth $500 or more, UCC §2-201 requires some writing that indicates an agreement. Betsy has a two-year contract as a producer at Jackson Movie Studios. We pay $20 an hour, and the other jobs in town are mostly minimum-wage. WCN 02-200-203 04341_ch01_hr_001-014.indd 4 10/6/17 11:41 AM Chapter 1 Introduction to Law 5 Fundamental Rights. The Constitution also grants many of our most basic liberties. The rate of extinction rises. Argument for Plaintiffs: Your honors, the Starbucks menu clearly represented that its Grande lattes contained 16 fluid ounces. When her iPhone connects to the sound system in her $100,000 sedan, she tries to relax by listening to music. Finally, Ross had had enough and abruptly fired Jack. Bob wants to assign his claim to Hardknuckle Bank. The chairman then decided that the company should not part with the plane. (As we will see later in this chapter, she may win additional sums for her lost profits.) 12-3b Good Faith The parties to a contract must carry

Sensitive” on a chair. After a bill has been proposed, it is sent to an appropriate committee. Consumers use trademarks to distinguish between competing products. If Drs. The maker of a promissory note or the drawer of a draft TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Businesses in Silicon Valley often struggle to recruit enough engineers and, as a result, salaries are highly competitive. Congress may pass statutes; the president may veto them; and Congress may override the veto. Suppose that Spielberg hired Trang to read new scripts for him. Also, anyone who penalizes a consumer because of her credit score must give it to her at no charge. They know the substance of what each witness intends to say but do not rehearse questions and answers, as in the United States. Which of the following policies are you likely to need in your lifetime? EXAMStrategy Question: Someone posted an anonymous review on TripAdvisor.com alleging that the owner of a restaurant had entertained a prostitute there. Modification Contracts should contain a provision governing modification. WCN 02-200-203 04341_ch11_hr_198-219.indd 205 10/6/17 11:53 AM Unit 3 206 Contracts and the UCC 11-3b Mentally Impaired Persons A person suffers from a mental impairment if, by reason of mental illness or defect, he is unable to understand the nature and consequences of the transaction. People are left to decide for themselves whether to jump into a dangerous situation. He called out to the goldsmith that the ring was worth three halfpence. Does Harvey have a claim against Allstate? To prevent this result, Congress passed the Communications Decency Act of 1996 (CDA), which created broad immunity for ISPs and websites. Revocable gifts Are not gifts at all because the donor can take them back Copyright 2019 Cengage Learning. • Dishonesty or bad-faith behavior. If Kentucky limited government jobs to those who had lived in the state for two years, it would be discriminating against a fundamental right, and the restriction would be struck down. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. What should he do? The Constitution generally does not protect us from the conduct of private parties, such as corporations or other citizens. EXAMStrategy Question: For Michael, it was the job of his dreams—editor of Literature magazine. When Cyrus, the owner of the magazine, offered him the position, Michael accepted immediately. An additional term goes beyond what the offeror stated. In this case, however, Actavis did not allow the market to determine whether the newer version of Namenda was worth the extra cost. • Liability covers harm that the owner causes to other people or their property—such as their bodies, cars, or fences. Will the buyers win? The Supreme Court has ruled that it is unconstitutional to withhold federal benefits from same-sex married couples. 3 S Sakraida v. Rynd, 413 Reid v. 7. A covenant is a promise for the future. In payment, Sheth gave Camp a check for $1,300 that was postdated October 15. T F Unless the contract provides otherwise, both sides in a contract dispute pay their own legal fees. Cearley, the public school district’s technology director, presented a PowerPoint slideshow about social media privacy to hundreds of students and parents. Kedkad signed a one-year employment agreement (First Contract) which provided that the contract was governed by Libyan law and any disputes had to be tried in Libya. 10-1c Sources of Contract Law Common Law Express and implied contracts, promissory estoppel, and quasi-contract were all crafted, over centuries, by courts deciding one contract lawsuit at a time. (a) The Statute of Frauds requires it. The defendant is liable only if the product is defective when it leaves his hands. Question: Assume that Elaine’s offer concerns goods. For example, the Supreme Court permitted the rap group 2 Live Crew to make fun of the Roy Orbison’s original hit song “Oh, Pretty Woman,” holding that even a commercial parody—that is, one intended for profit-making purposes—could be a fair use of copyrighted material. If the creditors or shareholders reject the debtor’s plan, they may file their own version. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment. Although Jane has often told Hank not to speed when driving the delivery van, Hank ignores her instructions and plows into Bernadette. (a) (b) (c) (d) (e) Duty of loyalty Duty to obey instructions Duty to reimburse Duty of care Duty to provide information 3. Strategy: Review the requirements of the FCRA. WCN 02-200-203 04341_ch18_hr_336-355.indd 338 10/6/17 12:23 PM C h a p t e r 18 Any person meeting the requirements appropriate to his or her status under this chapter shall not be penalized in any manner, or denied any right or privilege, for such actions. WCN 02-200-203 04341_ch24_hr_460-481.indd 469 10/6/17 12:28 PM 470 Unit 6 Government Regulation EXAMStrategy Question: Clyde goes into a Tesla dealership to investigate buying a car. Exhibit 22.2 illustrates the steps in a Chapter 11 bankruptcy. In a wilderness area generally used only in the summer, a user could gain ownership by seasonal use. During the coming year, you encounter many other legal issues, and you and your corporation benefit from your skills. You Be the Judge American Civil Liberties Union v. Inter vivos gift ___C. Who is to say what must be supplied? Executive Compensation Pay for Performance. In 1978, average (inflation-adjusted) compensation for CEOs in the top 350 firms was $1.5 million. Is this result reasonable? Things got pretty bad. (That case was in litigation for seven years, but was ultimately upheld by the appeals court.) And despite all these efforts, drought in California has led to a substantial decline in the numbers of delta smelts anyway. If the various co-tenants cannot agree on a fair division, a co-tenant may request a court to do it. Who will win that battle? B.J.F., 491 U.S. 524 (1989). In 1931, Rose Ray purchased a cottage in the Adirondacks. To understand something that powerful is itself power. If you drive while drunk or send text messages while behind the wheel, then you fail to live up to your duty of care. That is hardly a crime—but debt collectors might treat you as a criminal. Reasoning: The debtor’s expenses are $1,100 a month higher than his income. • Exam Strategy Problems. We want you to have absolute trust in this book. Immediately after his acquittal, Harmon asked for his job back. He responded that he would not accept less than $3,000 a month, which Claudia thought the Fords would be willing to pay. Adobe, Apple, Google, Intel, Intuit, Pixar, Lucasfilm, and eBay entered into various agreements with each other not to recruit the other’s employees. Not knowing that it had the wrong Drury, Arden reported this information to TNT, which promptly fired Drury. A proxy access bylaw typically provides that anyone who has owned 3 percent of the company’s stock for three years can nominate candidates to the board. Jim Ward & Associates, 288 Cresto v. Reasoning: In all employment relationships, whether contractual or at-will, an agent owes his employer the utmost good faith and loyalty. Implied warranty of fitness for a particular purpose If the seller knows that the buyer plans to use the goods for a particular purpose, the seller generally is held to warrant that the goods are in fact fit for that purpose. In fact, both are wrong: The stone turns out to be a diamond. Knowing the buyers would breed the horse, Lange suggested a particular mare. orders 1,500 cell phones from Makem Co., for use by Brilliant’s sales force. ARTICLE IV Section 1. Hoe & Co., Inc., refused to call a special meeting of the share- holders although 55 percent of them requested it. The EU banned the entry of these foods and subjected them to strict labeling requirements. They paid $6,000 cash and borrowed the rest of the purchase price from Gallatin National Bank, which took a security interest in the boat. To the PTO, useful does not mean socially beneficial; it simply means capable of some use. Evelyn sued and asked for specific performance. (b) unless the tort was committed within the scope of the agency relationship. The parties must select a language for the con- tract and a currency for payment. The ad would imply that she endorsed the product. S corporation → (2) Created by federal law C. Rule of reason violations, on the other hand, are illegal only if they have an anticompetitive impact on the market. Professor Beatty also wrote plays and television scripts that were performed in Boston, London, and Amsterdam. Xinos, 192 Cal. The dog boasts, “on the internet, nobody knows you’re a dog.” The anonymity afforded by the digital world means that, in many instances, victims of online defamation may not know who posted the harmful comments. So, if you were an only child, you would get half the estate. Distrib replied in writing as follows: “We accept your offer for 20,000 pounds of cookies at $1 per pound, weighing scale to have valid city certificate.” Under the UCC: (a) A contract was formed between the parties. Typically, the debtor owns the goods. Bargaining The employer and the union must bargain over wages, hours, RESULTS and other terms and conditions of employment. 1369 (2008). Car Moves hauls autos anywhere in the country. • Likelihood of expansion: Evidence that either party may expand his business to compete with the other will weigh in favor of finding a likelihood of confusion. Chapter Conclusion Most people do not like to think about death, especially their own. RICO 1. A partnership cannot be a stockholder, and all the shareholders must consent to S corporation status. If the auditors do not receive this copy, they must notify the SEC themselves. • Anonymity. A lease is a contract that creates a landlord–tenant relationship. If this court had agreed with the trial court’s decision, the judges would have affirmed the lower court’s ruling, meaning to uphold it. Irene would only have to pay Best $4,000. shareholders in preparation for the annual meeting. it is a new idea. 19-2h Defenses to Charges of Discrimination Under Title VII, the defendant has three possible defenses. WCN 02-200-203 04341_ch21_hr_398-419.indd 412 10/6/17 12:27 PM Chapter 21 Corporations 413 In the following case, shareholders voted against a pay plan. Only three weeks before his death, Tony had accidentally met his old roommate, and they had had several drinks. A nonphysical tort is one that harms only reputation, feelings, or wallet. The following case illustrates yet another way that LLCs can go bad. Despite the agreement, Sheila fills in the date immediately and sells the note to Rupert at American Finance Corp., who has bought many similar notes from Sheila. Per stirpes means that each branch of the family receives an equal share. 20-3g Piercing the Company Veil Piercing the company veil A court holds members of an LLC personally liable for the debts of the organization. Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. C Is it proper for the Supreme Court to decide this issue? The contract said that HBI could terminate it if Mendenhall did anything to “shock, insult or offend the majority of the consuming public.” After the death of terrorist Osama bin Laden, Mendenhall made the following comments via Twitter: What kind of person celebrates death? If we know the issues that courts scrutinize, the agreement we draft is likelier to be enforced. To rule otherwise would be to prevent innovation, not promote it. Instead, a jury comes in with a $2 million verdict. In some countries, bribery is common and widely accepted. UCC §2-207 UCC §2-207 governs an acceptance that does not “mirror” the offer. Make sure you know which it is. Suppose Joe wrote a check to Tony for $200. Was the Bank a holder in due course? Courts construe certain behavior as the equivalent of an eviction. This is a collateral promise. An automatic stay prohibits creditors from collecting debts that the bankrupt incurred before the petition was filed. Result: This sales plan was a trifecta: Midland violated §5 of the FTC Act by engaging in a deceptive practice, the Telemarketing Sales Rule by failing to make full and truthful disclosure, and the rules on unordered merchandise by billing for these products. After the meeting of creditors, unsecured creditors must submit a proof of claim. To reserve a space, customers need only send in a $2,000 deposit. Jackson lived in an apartment with Miri, to whom he was not married. • A consumer reporting agency cannot report obsolete information. What is the likely outcome if David sues the promoter of the skateboarding show for negligence? A company makes a contract offer when it puts in the handbook a statement about job security that a reasonable employee would consider a commitment. Research also suggests that board members with friendship ties are more likely to (1) make decisions that benefit the CEO over the company and (2) allow self-interested behavior on the part of the CEO. Debtors who have been successful in obtaining discharge tend to be in dire circumstances, with serious illnesses. Was the check negotiable despite this ambiguity? Moreover, the company was likely to continue on its downward path. Courts are still guided by Judge Cardozo’s decision. He borrows $250,000 from his sister, Maybelle, in order to buy a car and begin racing. Why else would we pay the premiums? Contracts Checklist Offer Acceptance Consideration Legality Capacity Consent Writing 11-1a What Is Value? A dissociation occurs when a partner leaves, whether voluntarily or by expulsion, death, or bankruptcy. for use as a retail store. What are the rules in this situation? Khan signed a contract to support her for life. One Batman costume included this statement: “For play only: Mask and chest plate are not protective; cape does not enable user to fly.” Strict Liability for Defective Products The other tort claim that an injured person can often bring against the manufacturer or seller of a product is strict liability. Someone who issues a promissory note ___ B. (d) substantial performance. But how does a jury calculate the money? If Lydia fails to pay Doug for the champagne she gets from Bruno, Doug may sue to enforce the agreement. Presumably some combination of talent, hard work, and support from family and friends was critical. WCN 02-200-203 04341_ch14_hr_261-277.indd 272 9/28/17 7:16 AM C h a p t e r 14 Sales 273 EXAMStrategy Question: To satisfy the UCC Statute of Frauds, which of the following must generally be in writing? But as soon as he does so, the joint tenancy is severed, that is, broken. WCN 02-200-203 04341_ch31_hr_593-610.indd 593 9/28/17 6:45 AM 594 Unit 7 Property How should Jamie evaluate his options? Fayette County Public School District, 160 Chapa v. Certainly, anyone who is preparing a will must consult the laws of the relevant state. Under what circumstances is it ethical to violate this law? If she dies tomorrow, the insurance company makes a huge profit. What ethics traps does Disney face? Once a partner leaves, the partnership can either buy out the departing partner(s) and continue in business or wind up the business and terminate the partnership. And the twicerepeated statement, “My client will take the settlement,” indicates a clear desire to accept the proposal. Josiah’s attorney was serving as executor (not Leon). CIVIL LAW The most widespread legal system in the world, whose main principle is that law is found primarily in statutes rather than in judicial decisions. • Common law. The instrument must be payable on demand or at a def inite time. He is not required to own stock. To take some examples, traditionally business law textbooks have simply taught students that shareholders elect the directors of public companies. JPMorgan and its lawyers then gave GM’s lawyers the authority to act on its behalf in filing the approved UCC-3. Valid contract A contract that satisfies all of the law’s requirements. • If it is a construction contract, can the owner use the thing for its intended purpose? As far as a cable company is concerned, it is more important than most statutes passed by Congress. RESULTS 2. Result: Abandoned property is something that the owner has knowingly discarded because she no longer wants it. • The work is part of the regular business of the principal. Note that this insurance typically does not protect the person who actually commits the wrongdoing—the sexual harasser, for instance—but it does protect the innocent insureds, such as the company itself. Elting 2017 Del. Since the beginning of the twentieth century, employment law has changed dramatically. Defamatory statement. The tenancy automatically renews itself every month unless either party gives adequate notice to the other that she wishes to terminate. A hospital supervisor summoned one of Ehling’s coworkers, who was her Facebook friend, into an office where she forced him to access his account so that she could view Ehling’s post. Since the court was not briefed on each jurisdiction’s laws, the case is remanded for more information. Ct. 1927). Others have argued that corporations should instead consider all company stakeholders, not just the shareholders. To claim a constructive eviction, the tenant must vacate the premises. On Wednesday, Wilson and Cassandra decide they have been foolhardy, and both demand that Julie return the items. Instead, of course, once the “official” has the victim’s bank information, he cleans out the account. Most of the time, it will be clear whether the UCC or the common law applies. PROCEDURAL DUE PROCESS Procedural due process is required whenever the government attempts to take liberty or property. COMMON CARRIERS Generally, a common carrier is strictly liable for harm to the bailor’s goods. 20-5e Management The management of a partnership can be a significant challenge. Fraudulently keeping property already in the defendant’s possession ___D. Once a customer asks to buy it, the company tries to sell an upgraded product at a much higher price. There are, however, some significant differences. WCN 02-200-203 04341_ch23_hr_439-459.indd 453 8/28/17 7:11 AM 454 Unit 6 Government Regulation EXAMStrategy Question: Jonah bought 12 paintings from Theo’s Art Gallery at a total cost of $1 million. Consider the doctrine of stare decisis. A treaty that governs trade TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Ralph is entitled to due process. Mercedes’s social life has never been better. But studies they finance are much more likely to find that there is no connection between sodas and weight gain. STRICT LIABILITY A defendant is strictly liable for harm caused by an ultrahazardous activity or a defective product. She plans to build a 20-bedroom inn of about 35,000 square feet—until the state environmental agency abruptly halts the work. SABIC appealed to the Delaware Supreme Court for a new trial, arguing that that the trial court’s application of Saudi law was flawed. These include reasons like “irreconcilable differences” and “incompatibility.” You may live in a state where the law requires that you both live separately for a few months before you’re approved for a “no-fault” divorce, so if you’re trying to move the process along, find out what your state rules are asap.Some States Have Community Property SchemesLiving in a community property state is great for some people — and not so great for others. Instead, they insisted that a station buy an entire package of movies. Does the facility operator have any control of the cars as they enter, or while parked, or as they leave? Statute that prohibits discrimination against the disabled TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Implied warranty of merchantability Goods must be of at least average, passable quality in the trade. Battery A harmful or offensive bodily contact. Ford Motor Co., 581 F. And remember how some of the guys worked right through Christmas to set up for that new model. Beginning in the 1970s, he tried many times to stop but always failed. A contract carrier incurs only normal bailment liability. Here, the court concluded that Stamford had never intended to abandon ownership, largely because the city did not know where the murals were. About a third of the states permit so-called Domestic Asset Protection Trusts (DAPTs). They are considering filing a nuisance lawsuit against Donny and Sammy. The students had complained repeatedly about a variety of problems. Rupert is not a holder in due course because he has reason to suspect there is a dispute between Sheila and Matt. WCN 02-200-203 04341_ch20_hr_377-397.indd 391 10/9/17 1:51 PM 392 Unit 5 The Lifecycle of a Business set whatever prices it wanted. (a) ½ to each surviving child (b) 1/3 to each surviving child and 1/9 to each grandchild (c) ¼ to each surviving child and 1/6 to each grandchild (d) 1/5 to each surviving child and grandchild 2. West, 249 A.2d 414 (1969). 30-2g Power of Attorney A power of attorney is a document that permits the attorney-in-fact to act for the principal. Appellate courts Higher courts, which generally accept the whose goal is to influence management decisions and strategic direction. When an exploding cola bottle, a flammable pajama, or a toxic cookie injures, who pays? destroy real estate or personal property. What does that clause state? A woman’s knee is damaged in an auto accident, causing severe pain for two years. Hillstone Rest. must pay taxes on its income. Implied Warranty of Fitness for a Particular Purpose The other warranty that the law imposes on sellers is the implied warranty of fitness for a particular purpose. But Maher effectively achieved the same result by disclosing the information to Michael, and allowing him to trade on it. Retailer is also entitled to those lost profits. Prohibits price-fixing ___E. 15 Strumlauf v. • If the company cannot ship by the second shipment date, it must send the customer another notice. Adverse possession ___ C. To demonstrate undue hardship, the debtor must show that, if he pays his loans, he cannot maintain a minimal standard of living and there is little hope for improvement in his financial situation during the term of the loan. Reasoning: Someone who finds property has a right to keep it unless the true owner claims it. Unfortunately, not until after she Fortunately, Connie decided had already closed the trunk. As the court mentions, many states have adopted the rule that an engagement ring is a conditional gift that must be returned to the giver if no marriage ensues.2 Other states agree that the ring is a conditional gift, but nonetheless allow the recipient to keep the ring if the giver is to blame for the split.3 However, when an engagement occurs on a holiday, like Christmas, Valentine’s Day, or a birthday, courts in every state are more likely to view the ring as an irrevocable gift. The judge wrote that “such expansive development of government repositories of formerly private records would be an unprecedented contraction of the privacy expectations of all Americans.” 18 The balance between privacy and national security will continue to spark heated debates. Simpson or The State of Illinois v. WCN 02-200-203 04341_ch23_hr_439-459.indd 449 8/28/17 7:11 AM 450 Unit 6 Government Regulation raised its prices. A party suffering a mental impairment generally creates only a voidable contract. Mutual benefit. Goods Any movable physical object except for money and securities. He has violated the duty of care by failing to act as a reasonable person would in managing the assets of another. Mobil Yanbu Petrochemical Company, Inc. 2-2a Utilitarian Ethics In 1863, Englishman John Stuart Mill wrote Utilitarianism. Ultrahazardous activity A defendant engaging in such acts is virtually always liable for resulting harm. Congress passed the Protection for Lawful Commerce in Arms Act which provides that gun manufacturers and retailers cannot be sued for injuries arising from the criminal misuse of a weapon. At trial, Rodriguez argued that the dog sniff was illegal for two reasons. After they moved out, the Vanlandinghams sued. These reports can be used only for a legitimate business need. Some contracts must be in writing to be enforceable, and the writing must be clear and unambiguous. A tenant remains on the premises after expiration of true tenancy TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. The answers to questions like these help courts determine what people generally would think. May sues the driver and the taxi company. Decision: Yes, the Pub Zone had a duty to protect Kuehn. Among other accommodations, the EEOC rules indicate that employers should be willing to put up barriers to isolate people who have difficulty concentrating, offer flexible hours to allow for therapy, or provide detailed day-to-day feedback to those who need greater structure in performing their jobs. Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. May Bob assign his claim to Hardknuckle? First Amendment Protects freedom of speech. Privy to clients’ most intimate financial secrets, accountants must decide which of these secrets to reveal and which to keep confidential. Has it been negotiated? Gift causa mortis ___E. Can he perform the essential functions of the job? A man who punches you in the face for no reason commits the tort of battery. 12. Result: Paula is out of luck. Different terms contradict those in the offer. Violation of the exclusive right to use one’s own name, likeness, or voice 6. In this section, we look at fraud and mistake. Appellate Courts United States Courts of Appeals. These are the intermediate courts of appeals. The proof of claim is a simple form stating the name of the creditor and the amount of the claim. And so, the firm that began as a model of ethics in the accounting profession collapsed in disgrace, the first major accounting firm ever to be convicted of a crime.2 The conviction was ultimately overturned by the Supreme Court, but by then it was too late. You Be the Judge: Did Huff have a reasonable expectation of privacy in his pocket-dialed conversations? Robert Smith, a handyman working for Ellen Batzel in North Carolina, sent an email to the Network alleging that Batzel was the granddaughter of Heinrich Himmler (one of Hitler’s henchmen) and that she had art that Himmler had stolen. de Csepel v. Make a will that omits Kevin entirely. At the time, the top executives at Google were CEO Eric Schmidt (47), Vice President of Engineering Operations Urs Hölzle (38), and founders Sergey Brin (28) and Larry Page (29). FELONY A felony is a serious crime for which a defendant can be sentenced to one year or more in prison. Sometimes, however, a word begins as a trademark and later becomes a generic name. Congressional Airlines was highly profitable operating flights between Washington, D.C. and New York City. TRIAL AND APPELLATE COURTS Trial courts determine facts and apply the law to the facts; appellate courts generally accept the facts found by the trial court and review the trial record for errors of law. Does this sound wrong? As a result, many workers suffer needle punctures. When a company hires a compensation consultant, the CEO’s raise is on average 7.5 percent higher than comparable companies, unless the CEO chose the consultant himself, in which case his raise is 13 percent greater. A gift counts as personal gain. YOU BE THE JUDGE WRITING PROBLEM Stahl and Hyman owned and worked for a corporation named “Ampersand” that produced plays. PRIVATE OFFERING A private offering under the 1933 Act is much faster and cheaper than a public sale of stock. We all want to think of ourselves as honest, but we would also like to benefit from dishonesty, whether it be by speeding, cheating on our taxes, or using an old photo on our online dating profile. Starwood presented evidence that its decision was based on legitimate reasons— Vazquez had violated its appearance policy. 19-3 REGNANCY DISCRIMINATION P ACT When Peggy Young became pregnant, she was working as a driver for UPS. Then think about what creditors can do to get special treatment. He tells his friend, Ken, who is a stock broker, about some of his columns before they run. The parties have no contract at any price. His fear of being struck is enough to win a case of assault, even if the toaster misses. In the documentary movie Expelled: No Intelligence Allowed, there was a 15-second clip of “Imagine,” a song by John Lennon. In the nineteenth century, many laborers worked a minimum of 12 to 16 hours a day, 6 days a week—and made about $4 a week. If a contract involves both goods and services, a court will examine the agreement’s primary purpose to determine which law applies. Under the Pregnancy Discrimination Act, an employer may not fire, refuse to hire, or fail to promote a woman because she is pregnant. Horning owned a thriving construction company, which operated as a corporation—Horning Construction Company, Inc. In an assignment, the tenant transfers all of his legal interest to the other party. (c) Both Blue and Red have committed ULPs. (d) Neither company has committed a ULP. Notice that, until the secured party disposes of the collateral, the debtor has the right to redeem it, that is, to pay the full value of the debt and retrieve her property. Here is what happened. In some states, punitive awards have similar caps. What are her options? In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected. They do not need a warrant to: • Require a DNA test on someone arrested for a serious crime, • Require a breathalyzer test, • Obtain records from the phone company (such as a phone’s location or a list of numbers called), • Find out whom you have emailed or what websites you have visited, • Search your internet messages, or • Check your public social media profiles or your Twitter posts. If Lenny dies within a few weeks, Jane gets to keep the money. Insiders must turn over to the corporation any profits they make from the purchase and sale or sale and purchase of company securities in a six-month period. The law evolves continually, and our willingness to toss out old cases and add important new ones ensures that this book—and its readers—remain on the frontier of legal developments. Norv now claims that those discussions resulted in an oral contract that requires BMW to grant him a franchise, but the company disagrees. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State. Horning Constr. Fast and sneaky. To be negotiable: 1. Pure Power Boot Camp, Inc. Pickwick, the tenant. An activity is commercial if a business could engage in it (e.g., Iceland purchases helicopters). Once a draft report is ready, the federal agency must hold a hearing to allow for outside comments. Fraud ___B. EXAMStrategy Question: When Edo applied for insurance with Geico, the company reviewed his credit history and financial circumstances. Motion A formal request to the court that it take some step or issue some order. Libel, which the politicians in the opening scenario alleged, is one example of a tort. While that symptom is controllable with medication, about 40 percent of Parkinson’s patients suffer severe dementia and eventually become unable to work. The test is generally “foreseeability.” If the defendant could have foreseen injury to a particular person, she has a duty to him. LLC, 379 n. • Repossession occurs when the secured party takes back collateral because the debtor has defaulted (failed to make payments when due). The court cannot reduce the amount owed; its choice is to discharge the entire debt or leave it whole. The capital needs of the partnership must be provided by contributions from partners or by borrowing. CPA QUESTION A tenant renting an apartment under a three-year written lease that does not contain any specific restrictions may be evicted for: (a) counterfeiting money in the apartment. When Ball-Mart’s owner realized the mix-up, he sued to rescind the contract. An employer may not refuse to hire or promote a disabled person so long as she can, with reasonable accommodation, perform the essential functions of the job. See Exhibit 8.2. The girl’s mother received $600,000 in compensatory damages.4 8-2 S TRICT LIABILITY AND PRODUCT LIABILITY 8-2a Strict Liability Strict liability A high level of liability assumed by people or corporations who engage in activities that are very dangerous Some activities are so naturally dangerous that the law places an especially high burden on anyone who engages in them. By and large, shareholders do not withhold their votes from directors. Puffery is not a statement of fact. Many states now demand ten years, and a few require only five years of use. However, a federal court found the Library of Congress in violation of Title VII for withdrawing Schroer’s offer. 19-7b Social Media Almost all employers now rely on social media as a part of their hiring process. He granted a judgment for the Pub Zone, meaning that the tavern owed nothing. A motion is a formal request to the court that it take some step or issue some order. It integrates seamlessly with Learning Management Systems. Commercial exploitation → (5) Violation of the exclusive right to use one’s own name, likeness, or voice Chapter 8 A. Promises that a party agrees to perform only if the other side has first done what it promised 2. WCN 02-200-203 04341_ch06_hr_101-120.indd 102 8/24/17 1:38 PM Chapter 6 Crime 103 Burden of Proof In a civil case, the plaintiff must prove her case only by a preponderance of the evidence.1 But because the penalties for conviction in a criminal case are so serious, the government has to prove its case beyond a reasonable doubt. Son 2009 Cal. In fact, there is no such building. Requires doing “the greatest good for the greatest number” 2. Whole life insurance III. Partnership → (3) The owners are liable for the debts of the organization E. Although UPS had made accommodations for other employees, including drivers who had lost their license because of motor vehicle accidents, it would not do so for her. Laya v. Through the secret recordings, he was able to prove that she was indeed having an affair. Lawrence was one of the best account managers in the region, and everyone was overworked as it was. These state statutes are called blue sky laws (because the promises that crooks made to naïve investors “had no more substance than so many cubic feet of blue sky”). But the prosecution must persuade a jury beyond a reasonable doubt in order to win a criminal conviction. Generally prohibits regulations based on gender, race, or fundamental rights TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. It hired only women to work in sales because fittings and alterations took place in the dressing room or immediately outside. Attorney-in-fact The person who has the authority under a power of attorney to act for the principal. (a) It is ethical to tell a lie if necessary to protect an innocent person from great harm. Michelle enters a pie-eating contest and asks you to hold her $29,000 diamond engagement ring while she competes. All Rights Reserved. • Consent. (d) making structural repairs to the apartment. The insurer’s bad faith offer of a low figure, and its payment of only seven months’ lost income, ruined a fine family business. Although, if the behavior is particularly extreme and outrageous, employers may face liability under the tort of intentional infliction of emotional distress (discussed in Chapter 7 on intentional torts). The real agenda, they argued, was simply to halt development. 24-3f Credit Reports Accuracy of Credit Reports A sullied credit report makes life immensely more difficult because most adults rely on credit—to acquire a house, credit cards, overdraft privileges at the bank, or to rent an apartment. PIERCING THE CORPORATE VEIL A court may, under certain circumstances, pierce the corporate veil and hold shareholders personally liable for the debts of the corporation. He believed in what he called the categorical imperative. If so, which rule should change? Pauline never files the security agreement. Undue influence cases often begin with the firing of a long-time, trusted legal adviser. A voidable contract may be canceled by the party who lacks capacity. Strategy: Before you answer, make sure you know the difference between trial and appellate courts. What Life Principles apply here? The six employees sued. AvMed filed a motion to dismiss, arguing that the plaintiffs could not prove that the breach caused their injuries a year later. (b) automatically stays collection actions against the debtor except by secured creditors. Affirmed. Creditors have no right to reach any assets that a donor has placed in a DAPT, but the donor can spend the assets, as long as he has the trustees’ permission. If she recovers from the principal, he can sue the agent. • Insurance. Is sex a protected category under Title VII? Pay your car loan on time. One advantage of using lawyers to conduct these negotiations is that they can serve as the bad guys. When Sara Beth pushes Toby over a cliff, that is the intentional tort of battery. The debtor in possession has two jobs: to operate the business and to develop a plan of reorganization. Technical Plastics of Oregon, LLC, 386–387 DeMasse v. She put on some sandals and hurried across the dunes to the ocean shore a half mile away. The federal district court has no federal question jurisdiction over the case. T F The federal government has three branches: executive, legislative, and administrative. If an agent commits a criminal act within the scope of his employment and with the intent to benefit the corporation, the company is liable.4 This means that the agent himself must first be guilty. Generally become part of a contract between merchants 3. Someone may lack capacity because of his young age or mental infirmity. A group of minority teachers filed suit against the Board of Education for the City of New York (Board) alleging that the test violated Title VII. State Statutes An exhaustive list of state privacy laws is beyond the scope of this book, but be aware that many states have passed their own privacy laws—some of which are more protective than their federal counterparts. CREDIT DISCRIMINATION The Equal Credit Opportunity Act (ECOA) prohibits any creditor from discriminating against a borrower on the basis of race, color, religion, national origin, sex, marital status, age, or because the borrower is receiving welfare. In other words, the parties generally do what they promise. Living wills (also called advance directives) allow people to: • Appoint a healthcare proxy to make decisions for them in the event that they become incompetent; • Refuse, in advance, medical treatment that would, in their view, unreasonably prolong their lives, such as artificial feeding, cardiac resuscitation, or mechanical respiration; and • Resolve disputes among family members. 26-1b Consolidation in the Accounting Profession The Big Four audit 98 percent of all companies with revenues over $1 billion in the United States. Bankruptcy laws cannot create assets where there are none, but they can ensure that the debtor’s assets, however limited, are fairly divided between the debtor and creditors. This evidence would have affected the case. Misrepresentation and mistakes indicate that at least one party did not truly consent. That is how a democracy is intended to function. Was Check Cashing a holder in due course? All of the laws in this section were created by statute, not by the courts. Employers are generally allowed to discipline employees who post or tweet content that reflects badly on the employer and does not involve a discussion of working conditions. Midland would then send further unordered merchandise on a regular basis. Applying that distinction to these facts tells us whether we are in a trial or appeals court. In the Exxon Valdez case, the Supreme Court limited punitive damages in maritime cases to no more than the compensatory damages awarded in the same case. An inter vivos gift means a gift made “during life,” that is, when the donor is not under any fear of impending death. Omri might say to Oliver, “I’ll sell you my bike for $200. Should either of these businesses organize as an LLC? It turned out that they were mostly sexts (sexual texts) sent to the married officer’s mistress. This was a gratuitous bailment, and you are not liable to Michelle unless she can prove gross negligence on your part. King must work to support herself and her daughter. WCN 02-200-203 04341_fm_hr_i-xxii.indd 6 10/6/17 11:39 AM C ontent s U nit 2 Torts121 Chapter 7 Intentional Torts and -Business Torts122 7-1 Intentional Torts 124 7-1a Defamation 124 7-1b False Imprisonment 125 7-1c Battery and Assault 125 7-1d Fraud 126 7-1e Intentional Infliction of Emotional Distress126 7-2 Damages 127 7-2a Compensatory Damages 127 7-2b Punitive Damages 129 7-2c Tort Reform and the Exxon Valdez130 7-2d Business Torts 130 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 131 131 133 133 133 134 135 vii Chapter 9 Privacy and Internet Law 156 Chapter Conclusion Exam Review Multiple-Choice Questions Case Questions Discussion Questions 171 171 174 175 176 9-1 Privacy in a Digital World 157 9-1a How We Lose Our Privacy in the Digital World 157 9-2 The Law of Privacy 159 9-2a Constitutional Law: The Fourth Amendment 159 9-2b Common Law: Privacy Torts 161 9-2c Privacy Statutes 163 9-3 Regulation in the Digital World 166 9-3a Regulation of User-Generated Content167 9-3b Online Speech 167 9-3c Liability of Internet Service Providers169 9-3d Consumer Protection 170 UNIT 3 Chapter 8 Negligence, Strict Liability, and Product Liability137 8-1 Negligence 8-1a Duty of Due Care 8-1b Special Duty: Landowners 8-1c Special Duty: Professionals 8-1d Breach of Duty 8-1e Causation 8-1f Damages 8-1g Defenses 8-2 Strict Liability and Product Liability 8-2a Strict Liability 8-2b Product Liability 8-2c Contemporary Trends 138 139 140 140 141 141 144 145 146 146 147 149 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 150 150 152 152 153 154 154 Contracts and the UCC Chapter 10 Forming a Contract 10-1 Contracts 10-1a Elements of a Contract 10-1b Types of Contracts 10-1c Sources of Contract Law 10-2 Enforcing Non-Contracts 10-2a Promissory Estoppel 10-2b Quasi-Contract 10-3 Agreement 10-3a Making an Offer 10-3b Termination of Offers 10-3c Acceptance 10-3d Communication of Acceptance Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 177 178 179 179 180 182 183 184 185 186 186 188 190 191 192 192 194 194 195 196 197 Copyright 2019 Cengage Learning. Whether you have a large class, small class, teach online or in a traditional classroom setting, promote group work, or individual assignments, the MindTap Business Cases offer a variety of activity types to complement and enhance how YOU teach. (e) The parties reside in different jurisdictions. What work experience have you had? In Texas, a catastrophic explosion at a refinery killed 15 people and injured 170 more. It only protects the particular artistic form in which the author expressed concepts. When Beth Smiles meets with her lawyer, Chris Pruitt brings a second attorney from his firm, Janet Booker, who is an experienced litigator; that is, a lawyer who handles court cases. A tenancy without fixed duration, which either party may terminate at any time 4. (d) Were you in the painting business? So what was the problem? (c) was fired for embezzling from a client. According to Delaware law, a filing is valid if it is authorized by the secured party. You Be the Judge Conseco Finance Servicing Corp. Terrified, Lindsay reported Haynes to TP and they suggested she file a police report so they would have the documentation necessary to “take care of it.” 5The court refers to Lindsay by her first name alone to protect her privacy. A court may pierce an LLC’s veil in four circumstances: 1. Usury statutes Laws that limit the maximum interest rate a lender may charge. The debtor now owns the assets in the bankrupt estate, free of all obligations except those listed in the plan. This act provides that U.S. courts will recognize foreign judgments if: • The award was based on a full and fair trial by an impartial tribunal with proper jurisdiction; Foreign recognition Means that a foreign judgment has legal validity in another country Foreign enforcement Means that the court system of a country will assist in enforcing or collecting on the verdict awarded by a foreign court • The defendant was given notice and an opportunity to appear; • The judgment was not fraudulent or against public policy; and • The foreign court was the proper forum to hear the case. The supreme law of the land TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Annuities Provide payment to a beneficiary during his Automatic stay Prohibits creditors from collecting debts that the bankrupt incurred before the petition was filed. What he could foresee was this general type of harm involving defective brakes. In fact, Exxon had denied her credit application because she did not have a major credit card or a savings account, she had been employed for only one year, and she had no dependents. Or is this a silver lining? When Forestal sued Daros in the United States for breach of cont

United States or by any State on account of sex. As a result, each state has its own government with exclusive power over many important areas of our lives. You may never have heard of the Bureau of Land Management, but if you go into the oil and gas industry, you will learn that this powerful agency has more control over your land than you do. Features Each feature in this book is designed to meet an essential pedagogical goal. Strategy: Ross would be liable for making untrue statements. If Jessica takes out a fire insurance policy on her own barn, she will presumably be reluctant to burn it down. What argument should the Kommits make? (b) All of these 3. MindTap guides students through their course with ease and engagement. May a company refuse to furnish the entire string? 10-1a Elements of a Contract A contract is a legally enforceable agreement. Consumer reporting agencies Businesses that collect and sell personal information on consumers to third parties. It turned out, though, that the price of TBCC tended to rise and fall with that of copper sulfate, so Heritage proposed that the amount it paid for TBCC would increase an additional $15 per ton for each $0.01 increase in the cost of copper sulfate over $0.38 per pound. Mich. On the other hand, the fact that Bruce scored higher on the National Latin Exam in the eighth grade is not a legitimate reason to hire him over Louisa for a coaching job. At that point, the parties have created a binding implied contract. To do so, you need to know the date of the call and the company's name or phone number. Deposition → (3) A pre-trial procedure involving oral questions answered under oath Chapter 6 A. Fixing the equipment would take time, raise costs, and reduce sales. If Congress creates a new statute with the president's support, it must pass the idea by a _____ majority vote in the House and the Senate. The district court struck down the patents on the grounds that they covered products of nature. Tom sued, claiming that Jenny had caused the damage when she negligently repaired a second-floor toilet. What about perpetual trusts that avoid estate taxes forever? Companies must obtain permission from a consumer before charging for overdrafts on: (a) debit cards. Deciding which species make the list is also controversial. 17-1c Duties of Principals to Agents The principal must (1) pay the agent as required by the agreement, (2) indemnify (i.e., reimburse) the agent for reasonable expenses, and (3) cooperate with the agent in performing agency tasks. Should it pay punitive damages? The district court dismissed the case, holding that the alleged promises were too vague to be enforced. WCN 02-200-203 04341_ch18_hr_336-355.indd 350 10/6/17 12:23 PM C h a p t e r 18 Employment and Labor Law 351 EXAMStrategy Question: Jack was a top salesperson but a real pain in the neck. When sitting for that Purpose, they shall be on Oath or Affirmation. To prove a strict liability case? If an employee worked through harvest time, the landowner could not fire him in the winter. And data leads to surprising insights: Credit card companies discovered that people who buy anti-scuff pads for their furniture are less likely to default on debts.6 Data mining also leads to behavioral marketing, a widespread practice that involves inferring needs and preferences from a consumer's online behavior and then targeting related advertisements to them. How is that possible? The first is consumer expectation. What does a police officer in the United States have to say, and what difference does it make at the time of an arrest? • People under 21 cannot obtain a credit card unless they have income or a co-signer. Later that day, Mark buys a can of Pepsi from that machine. Long-arm statute Statutes that may broaden a state court's Joint and several All members of a group are liable. Looking at the list of elements in the chapter, did your agreement amount to a contract? WCN 02-200-203 04341_ch25_hr_482-500.indd 488 8/28/17 7:20 AM Chapter 25 • Environmental Law 489 The CWA prohibits any discharge of dredge and fill material into wetlands without a permit. Merit A defendant is not liable if he shows that the person he favored was the most qualified. In the Enviro-Vision dispute, the trial court will decide all important facts that are in dispute. • They have a reasonable geographic limit. Aaron did not regret his choice. Nixon knew that complying with the order would produce damaging evidence, probably destroying his presidency. When did you graduate from college? Maker The issuer of a promissory note Payee Someone who is owed money under the terms of an instrument Draft The drawer of this instrument orders someone else to pay money. T F Modern China has experienced slower economic growth than did England during the Industrial Revolution. She parks in a well-lighted spot on the street and walks to her building, failing to notice two men, collars turned up, watching from a parked truck. But there is no evidence that Ward did so. Britton was not a doctor, he was the office manager. (c) number of authorized shares. 6. Result: The "valid city certificate" phrase raises a new issue; it does not contradict anything in Cookie's offer. Big mistake. Fraudulent transfer Occurs when a debtor gives assets to someone other than a creditor for the purpose of hindering, delaying, or defrauding creditors. Statute 1. McMann paid $3,000 down, the remainder to be paid over several years, and signed an agreement giving Barwell a security interest in the preformer. This includes making facilities accessible, permitting part-time schedules, and acquiring or modifying equipment. Lindsay sued TP, alleging that it was negligent. Such consumers might effectively be coerced into paying a debt that they do not owe. S ummary judgment is a ruling by the court that no trial is necessary because some essential facts are not in dispute. A seller can disclaim all implied warranties by stating that goods are sold "as is" (or by using other, more specific language). Almost all states permit such lawsuits, and most of them have adopted the following model: 1. Co. of New York 2008 N.Y. Slip Op. 01418 New York Court of Appeals, 2008 Facts: Bi-Economy Market was a family-owned meat market in Rochester, New York. How will I cut up my food?" You use System 1 thinking—an automatic, instinctual, sometimes emotional process. Then Francis fired White and went to Hackett, who was out of state and the romantic partner of one of Kathleen's children. You seek an injunction (a court order) to prevent her from working. The FCC adjudicates which applicant for a new television license is best qualified. The head administrator imposed a rule requiring cafeteria workers to stamp the hands of children who did not have sufficient funds in their lunch accounts. WCN 02-200-203 04341_ch08_hr_137-155.indd 138 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 139 • Factual cause. To do that, both the House and the Senate must approve the bill by a two-thirds majority. Today, the Copyright Act protects literature, music, drama, choreography, photography, sculpture, movies, recordings, architectural works, computer programs, and even tattoos. 9UCC §9-103. Conseco claims it is entitled to an RV that the Lees paid for because someone that the Lees have never dealt with, never even heard of, gave to this RV seller a security interest that the seller, years earlier, passed on to a finance company. Sheehan, 373 So.2d 956 (Fla. The three members despised each other but, under the LLC statute, the court could not intervene because the business was successful.1 The three members of the LLC were left to fight it out. Can they recover for harm that is so extensive? The dollar amounts are updated every three years. In payment, she gives him a prom- issory note for $7,000. Is manmade cDNA patentable? The names of the parties and the movie are defined terms, such as Clay Parker ("Artist"). The two-step test for a reasonable expectation is the same as the one for the Fourth Amendment. The attendants enjoyed a better joyride than theirs. 50 Cal. A jury convicted Sherman of drug dealing, but the Supreme Court overturned the conviction on the grounds that Sherman had been entrapped. MERCHANTS A merchant is someone who routinely deals in the particular goods involved, or who appears to have special knowledge or skill in those goods, or who uses agents with special knowledge or skill. But at least one study found that individuals rarely sue on their own because it is too expensive. Ethics When Heritage found a different mistake in the contract, Phibro agreed to correct it, even though the correction was unfavorable to Phibro. Bikram Yoga is a system of yoga poses in a particular order. We will examine the requirements of both offers and acceptances in Chapter 11. BAIT-AND-SWITCH A merchant may not advertise a product and then dis- parage it (or make it unavailable) to consumers in an effort to sell a different item. He immediately negotiates the note to Terry. The EIS requirement applies not only to actions undertaken by the federal government, but also to activities regulated or approved by the government. Her husband said she would not have wanted to live that way and asked to have her feeding tube removed; her parents disagreed and fought him through the courts. Corporations routinely conducted business across state borders and around the world. Janet brings out all the evidence she wants the jury to hear: that the business was basically sound, though temporarily troubled, that Tony was a hard worker, why the company took out life insurance policies, and so forth. 2Adapted from Barbara M. Debtor's promise to pay a debt after discharge 4. Most companies use a very broad purpose clause such as Facebook's: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware. Who has negotiated the best deal? Her parents sued the former employers. Legendary investor Warren Buffett has said that in over 55 years he has served on 19 boards and he has never seen a "no" vote on a compensation committee report. EXAMStrategy Question: The nudity provision in the movie contract is vague. The jury will be asked to assess the relative negligence of the two parties. Iqbal's complaint only suggests that the Ashcroft, in the aftermath of a devastating terrorist attack, detained suspected terrorists under the tightest security. Janet reports the offer to Beth, and they agree to reject it. Who behaved worse in this case? Would that provision be a representation and warranty or a covenant? Thus, patents are not available for laws of nature, scientific principles, mathematical algorithms, mental processes, intellectual concepts, or formulas such as a2 + b2 = c2. Vote. Advanced Battery Techs., Inc. expense will likely bankrupt her. They tell their managers that, when asked for a reference, they should only reveal the person's salary and dates of employment and not offer an opinion on job performance. Capacity is the legal ability of a party to enter a contract. This case raises several questions: Has Jeen committed a crime? Mars can perfect its security interest in the goods it sells without having to file a financing statement or take possession of the Blu-ray players if the sale is made to which of the following? Vouching ___ F. INSURABLE INTEREST A person has an insurable interest if she would be harmed by the danger that she has insured against. Eloise proves that she paid 10 percent of the purchase price, and that in February she began excavating on the lot to build a house, and that Grover knew of the work. Should the law require restaurant employees to know and employ the Heimlich maneuver to assist a choking victim? (e) demand mediation. He resigned his Deloitte partnership, but stayed on at the firm in the prestigious job of providing advice on complicated auditing issues. Part of the problem is that lawyers and clients have different views of the future. States have no right to set their own air quality standards. As a result of the drug, Chase suffered health problems, which seriously affected his business. But the patent was denied because it was obvious.3 The Limits of Patentable Subject Matter: Living Organisms Technology and business are constantly challenging patent law and the limits of what is patentable, especially when it comes to living things. WCN 02-200-203 04341_ch08_hr_137-155.indd 147 9/28/17 7:17 AM 148 Unit 2 Torts a product that was defective and that the defect caused harm. What should I do? As crazy as the scheme sounded, they figured it was worth trying. All shareholders must agree to S corp status and must be citizens or residents of the United States. Pub Zone, 7–8 Pietrylo v. Disabled person Someone with a physical or mental impair- Element A fact that a plaintiff must prove to win a lawsuit. The FTC required these developers to withdraw the app and pay a fine. Sales 265 Louann Naffziger could not recall making the oral agreement on any particular date, but parties may form a binding agreement even though the moment of its making is undetermined. Even in such a case, though, the parties may waive the jury right, meaning they agree to try the case to a judge. Sole proprietorships are best for businesses without substantial capital needs. Unqualified opinion 1. to enjoy. Identify the two types of awards. Kraft does use 5 ounces of milk in making each Kraft Single, but 30 percent of the calcium contained in the milk is lost during processing. BIOC A buyer in ordinary course of business takes the goods free of a security interest created by his seller even though the security interest is perfected. The Federal Trade Commission estimates that each year this crime affects 9 million people—more than the population of New York City. The shard caused internal injuries, which took two surgeries to repair. Different terms contradict the offer and are generally replaced by the Code's own gap-filler terms. What result in Sarah's lawsuit? What can Euphemia do? Some employees played catch with it. It carries pollutants from the air into the water. Extraterritoriality The power of one country's laws to reach activities outside of its borders. WCN 02-200-203 04341_ch16_hr_295-314.indd 299 8/26/17 9:02 AM 300 Unit 3 Contracts and the UCC 16-2e Attachment to Future Property After-acquired property Items that the debtor obtains after the parties have made their security agreement After-acquired property refers to items that the debtor obtains after the parties have made their security agreement. The role of intellectual property law is to balance the rights of those who create intellectual property and those who would enjoy—or need—it. Shareholders sued the auditors under the 1934 Act, but the court granted the accountants' request for summary judgment. A company may face large fines and the loss of profits earned as a result of illegal bribes. Statutes that may broaden a state court's jurisdiction In the following Landmark Case, the Supreme Court explains its views on this important constitutional issue. WCN 02-200-203 04341_ch08_hr_137-155.indd 150 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 151 8. But, as a general rule, U.S. statutes do not apply outside the country, unless the laws themselves explicitly say so. When North Pointe refused to pay, Schmalfeldt sued. Here, even if Powers was negligent in attaching a nylon rope, that negligence was not so bizarre as to be unforeseeable by Ryder. Chapter 11 classifies claims in the same way as Chapter 7: (1) secured claims, (2) priority claims, and (3) unsecured claims. The bank will insist that the father's promise be in writing because his oral promise alone is unenforceable. A district attorney, who is paid by the government, will bring the case to court, seeking to send the defendant to prison, fine him, or both. The goal of the Fourth Amendment is to protect individuals and businesses from the powerful state. You might remember that Chapter 20 on starting a business began with a case involving Horning LLC. But only proposals made in certain ways amount to a legally recognized offer. Example: An offer of employment for three years. • Intestate. The bank wins because its perfected security interest takes priority over Barwell's unperfected interest. WCN 02-200-203 04341_ch24_hr_460-481.indd 476 10/6/17 12:28 PM Chapter 24 Consumer Protection 477 22. An employee of CPM filled out the application form using information provided by Jason's housemate, Tricia. Imagine that you are starting your own company in your hyper-competitive indus- try: You are putting your life savings, your professional contacts, and your innovative ideas on the line. However, by breaking the law, Donna has ensured that Leo will win his lawsuit. When you buy your airline ticket, you pay for your ticket, and the price includes the airline's agreement, as bailee, to transport your suitcase. Assumption of the risk A person who voluntarily enters a situation of obvious danger cannot complain if she is injured. T F A company that wishes to include a celebrity's picture in its magazine ads must first obtain the celebrity's permission. WCN 02-200-203 04341_ch06_hr_101-120.indd 108 8/24/17 1:38 PM Chapter 6 6-2 Crime 109 RIMES THAT HARM BUSINESSES C (AND THEIR CUSTOMERS) Businesses must deal with five major crimes: larceny, embezzlement, fraud, arson, and hacking. A party that receives an offer 4. A year before generic IR became available, Actavis completely withdrew Namenda IR from the market, thereby forcing Alzheimer's patients to switch to XR. We discuss defective products in the section on product liability below. To cultural relativists, what is right or wrong depends on the norms and practices in each society. In short, Brican lured the dentists with the promise that the Exhibeos were effectively free. And when people are in love, they say all kinds of things. When that happens, there is a three-step process to determine which party gets priority. A town wishing to build a new football field does have the right to boot you out of your house. 31-3d Disability Insurance Disability insurance replaces the insured's income if he becomes unable to work because of illness or injury. Because negotiable instruments are more valuable than non-negotiable ones, it is important for buyers and sellers to be able to tell, easily and accurately, if an instrument is indeed negotiable. Seller's sales contract states: "The model 8J flagpole will withstand winds up to 150 mph, for a minimum of 35 years." The same contract includes this: "This contract makes no warranties, and any implied warranties are hereby disclaimed." School buys the flagpole, which blows down six months later in a 105-mph wind. Counteroffer An offer made in response to a previous offer Expiration When an offer specifies a time limit for acceptance, that period is binding. Strategy: To win a lawsuit claiming that an insurance company violated its covenant of good faith and fair dealing, the plaintiff must show that the company (1) did not have a reasonable basis for denying benefits and (2) knew of or recklessly disregarded this lack of reasonable basis. But it was just a matter of time before patents on human genes were challenged in court. • They do not work full time for the Orchestra but have other jobs as well. Nicotine is highly addictive and many smokers begin as teenagers, when they may not fully understand the consequences of their decisions. Alexander Grant & Co., 506 n. ETHICS Pete, an accountant, recommended that several of his clients invest in Competition Aircraft. Nationwide Mut. The court also points out what it is not deciding. Therefore, if you own a business, you must conduct inspections of your property on a regular basis to make sure that nothing is becoming dangerous. The total fine for both criminal violations was $62 million, which sounds like a large number. Eventually, Lewis River sold its business at a large loss. Businesses continue to operate, and creditors receive a portion of both current assets and future earnings. Result: A gift causa mortis is one made in fear of approaching death, and this rule applies to Cassandra. A defendant can be convicted of taking part in a conspiracy if: • A conspiracy existed, • The defendants knew about it, and • Some member of the conspiracy voluntarily took a step toward implementing it. DAMAGES TO PROPERTY A tenant is liable to the landlord for any significant damage that he causes to the property. The Identity Theft and Assumption Deterrence Act of 1998 prohibits the use of false identification to commit fraud or other crime, and it also permits the victim to seek restitution in court. CASE QUESTIONS 1. But, you say, executives are paid for performance—they only do well when their shareholders also profit. 21-5a The Business Judgment Rule Although managers owe a fiduciary duty to shareholders, the common law business judgment rule developed to protect officers and directors who make good faith decisions, even those that turn out badly. Few people would actually want grandchildren to take a share of their estate in preference to their spouse. However, to confirm a plan, the court must ensure that: • The plan is feasible and the bankrupt will be able to make the promised payments; • The plan does not extend beyond three years without good reason and in no event lasts longer than five years; • If the plan does not provide for the debtor to pay off creditors in full, then all of the debtor's disposable income for the next five years must go to creditors; and • The debtor is acting in good faith, making a reasonable effort to pay obligations. I've talked to Buddy over there, but he is refusing to back down. Even if the other pilot was negligent, Shauna will lose, meaning the court should dismiss her lawsuit. Utility An invention must be useful for its stated purpose to be patentable. The International Labor Organization estimates that, worldwide, more than 144 million children under the age of 14 work—many of them in hazardous and deplorable conditions. Requires business decisions that maximize the owners' return on investment 4. As you will see in Chapter 21, Facebook began life as a corporation, not an LLC. Franchise Disclosure Document (FDD) A disclosure docu- ment that a franchisor must deliver to a potential purchaser. The CIA contended that the disclosure of drone strike information would imperil national security. But she had no idea that she was the owner until she began receiving bills on the car loan. WCN 02-200-203 04341_ch07_hr_121-136.indd 121 8/24/17 11:58 AM Intentional Torts and Business Torts CHAPTER 7 They say politics can get ugly. The essential terms were agreed upon. But because the bargaining power is so unequal, the clause is probably unenforceable. The person who prepares and files the charter 5. LEXIS 33865 (10th Cir. If a handbook states that it is not a contract, then employers cannot enforce provisions favorable to them, such as required arbitration clauses. Any other demand instrument is overdue (1) the day after a request for payment is made or (2) a reasonable time after the instrument was issued. The definition of major life activity includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. To highlight the most important rules, we use bold print, and then follow with vivid examples written in clear, forceful English. Buckeye was unaware of the stop payment order. Judges frequently digress and often discuss matters that are irrelevant to the issue on which this text is focusing. The Mackenzies applied for a HAMP modification of their home. Without laws, would society quickly crumble? (e) no tort, because the laptop missed the professor. No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened. When Stahl wrote Philly's Beat, he was not competing against Ampersand. (a) The prosecution must prove the government's case by a preponderance of the evidence. Straight bankruptcy Also known as liquidation, this form of bankruptcy mandates that the bankrupt's assets be sold to pay creditors, but the bankrupt has no obligation to share future earnings. Disgorge. WCN 02-200-203 04341_ch29_hr_560-575.indd 570 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment 571 6. A city used eminent domain to take property on behalf of private developers. If the tenant has no excuse for the non-payment, the court grants an order evicting him. Optimism bias A belief that the outcome of an event will be more positive than the evidence warrants 2-3l Blind Spots As Bob Dylan memorably sang, "How many times can a man turn his head and pretend that he just doesn't see?" We all have a tendency to ignore blatant evidence that we would rather not know. Which of the deals is supported by consideration? Opponents of the ESA argue that too much time and money have been spent to save too few species of too little importance. In Exhibit 5.1, notice that some courts have power only to hear cases of small claims, domestic relations, and so forth. Trinko, 449 n. GAAP are the rules for preparing financial statements, and GAAS are the rules for conducting audits. WCN 02-200-203 04341_ch08_hr_137-155.indd 155 9/28/17 7:17 AM PRIVACY AND INTERNET LAW CHAPTER 9 Soon after the invention of the telephone, police realized that secretly recording phone calls could help catch criminals. • He was underage (typically younger than 18) at the time he signed the Checklist Negotiable Negotiated Holder in Due Course No Valid Defenses instrument. The instrument is altered, forged, or incomplete. Strategy: To be a holder in due course, Check Cashing must have taken the check for value, in good faith, and without any notice that it was overdue or had been dishonored. Sometimes child workers received room and board instead of any payment. Which approach do you consider more effective? The two contracting parties may intend to benefit someone else. (c) Phil lives in Tennessee. (a) The instrument was written on a dirty sock. Over time, patterns of states' behavior, action, and inaction crystallized into the compulsory rules of customary international law. Prohibits lenders from discriminating based on race, religion, and sex 5. Also, the economy was suffering through a recession. To decide whether Trevor is entitled to his money, we apply four factors: (1) How much benefit did Jade receive? If the termination violates the agency agreement and causes harm to the other party, the wrongful party must pay damages. He also tells them that Barry is a great company, but his fees will be lower. The Hadleys operated a flour mill, but a shaft broke, and their business ground to a halt. Not until 2007 did the company admit that climate change was a serious problem. EPA, 484–485 Microsoft Corp. Finally, he states that if they are unable to decide between accidental death and suicide, there is a legal presumption that it was accidental. Years after the press first broke this scandal, Congressional committees finally called CEO John Stumpf to testify about the fraud. See Exhibit 8.1. Another way of stating that Dom is not liable to the vet's family is by calling the falling pig a superseding cause. It has been used to introduce the concept of damages in contract lawsuits for generations. Reasoning: In this state, companies that sell consumer goods may not disclaim implied warranties. Are you authorized to work in the United States? Are the freedoms guaranteed by the U.S. Constitution reserved for U.S. citizens on U.S. soil, or do they apply more broadly? Healthcare proxy Someone who is authorized to make Independent directors Members of the board of directors who are not employees of the company and do not have close ties to the CEO; also known as outside directors. They ultimately discovered a dead cat beneath the floorboards. Whitaker, for sexual harassment, discrimination, and defamation. Instructors can personalize the Learning Path by customizing Cengage resources and adding their own content via apps that integrate into the MindTap framework seamlessly with Learning Management Systems. However, they really should have a good operating agreement. What that fox needs is a safe burrow. But the court's decision appears only in the Instructor's Manual. abridging the freedom of speech. Like negligence, strict liability is a burden created by the law rather than by the parties. And because her job requires her to be online all the time, she has plenty of opportunity to stay in touch with her friends by messaging, tweeting, and checking Facebook updates. The secured party does not have to choose between these two remedies; it may try one after the other, or both simultaneously. The accountant expressly promises to perform a particular project by a given date. To protect yourself from disasters—no matter how improbable—that you simply cannot afford. (a) Tenancy at will (b) Tenancy for years (c) Tenancy from period to period (d) Tenancy at sufferance 4. RETALIATION Title VII prohibits employers from retaliating against work- ers who oppose discrimination, bring a claim under the statute, or take part in an investigation or hearing. Prior to the trip, Wagenseller had received consistently favorable performance evaluations. Answer: Under the business judgment rule, either the disinterested members of the board of directors or the disinterested shareholders would have to approve the transaction. WCN 02-200-203 04341_ch10_hr_177-197.indd 184 10/6/17 11:47 AM C h a p t e r 10 Forming a Contract 185 commissioners told Wayne he could relay that message to Harmon. UCC §2-207 dramatically modifies the mirror image rule for the sale of goods. In the following case, Hewlett-Packard (HP) and its executives made inaccurate statements. This legal term means that someone has acted with the intent to deceive or with deliberate recklessness as to the possibility of misleading investors. Cars crash, houses burn, people die. Eventually, the inevitable happened. But what if a contract involves both goods and services? (a) (b) (c) (d) (e) The plaintiff must file with the EEOC. Janet could file this case in U.S. District Court based on diversity jurisdiction. Because the interest rate was so high. Developers protect wetlands? For example, a trucking company located in St. Louis that is willing to haul freight for anyone, to any destination in the country, is a common carrier. Two men used the site to lure her to a fake audition where they drugged and sexually assaulted her and recorded a video of the act for sale as internet porn. FEDERAL COURTS The federal courts adjudicate cases and also exercise judicial review, which is the right to declare a statute or governmental action unconstitutional and void. However, after ten months, Marshall sells the building to Alexia, who notifies Julie that the new rent will be $1,750, effective immediately. BLD Products, LTC v. Undisclosed Principal In the case of an undisclosed principal, the third party can recover from either the agent or the principal. Generally, in these cases, the bailor loans something for free to the bailee. However, if there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds it offensive. The 2016 amendment: • Requires the EPA to test at least 20 of these chemicals at a time and to spend no more than seven years testing any of them. Or are they? But the Careless employee in charge of preventing this kind of behavior was careless: He did not see some obvious problems. The Alaska Supreme Court held that the clinic's promise was enforceable. An owner abandons property only by deliberately relinquishing all right in it. Why are bills proposed in the first place? (e) refuses to accept a settlement offer on behalf of an insured that was reasonable, but not in the company's best interest. Anthony Sulls went drinking there one night—and drinking heavily. Damages can be substantial. Decision: The court did not approve the reaffirmation. An inconsistency on a UCC filing can be fatal to a creditor's claim. Is Randy a cause in fact of Carl's injury? The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. The act required the EPA to impose emission standards on "stationary sources" of pollution. The PTO generally will not grant a trademark in a surname unless it has acquired secondary meaning due to an association with a specific business or product. We could be a winner, ending up a hugely talented, healthy person in a loving family, or we could be poor and chronically ill from a broken, abusive family in a violent neighborhood with deplorable schools and social services. MATCHING QUESTIONS Match the following terms with their definitions: ___ A. 2-2c Rawlsian Justice Life prospects The circumstances into which we are born Veil of ignorance The rules for society that we would propose if we did not know how lucky we would be in life's lottery Difference principle Rawls' suggestion that society should reward behavior that provides the most benefit to the community as a whole How did you manage to get into college or graduate school? During the course of your relationship with the other party, you may need to refer to the contract regularly to remind yourself what you agreed to. Suppose that Dwayne buys a house insurance policy from Andy, who is an agent of the Balls of Fire Insurance Company. When an owner sells real property, the buyer normally obtains the fixtures unless the parties specify otherwise. Priority → (4) The order in which creditors will be permitted to seize the property of a bankrupt debtor Chapter 21 Chapter 17 A. Apply the rule to the facts of this case. 728 (D. Which element seems to be most helpful to Jenny's defense? CONTRACT FORMATION UCC §2-204 permits the parties to form a contract in any manner that shows agreement. • Court costs and attorney fees of $3 million. There you are, watching an infomercial for Anushka products, guaranteed to fight that scourge of modern life—cellulite! Rushing to your phone, you place an order. LEXIS 11583 (D.Ct. 1994). If it determines that discrimination has occurred, it will typically file suit on behalf of the plaintiff. Debtors who are not eligible for an IBR, may seek to discharge their debts through bankruptcy. Fraud Intending to induce the other party to contract, knowing the words are false or uncertain that they are true. Darby works about 60 hours a week—more if she is traveling. Arizona, 108 Muick v. Society does not want a government that engages in torture. Congress reasoned that if ISPs faced the threat of a lawsuit for every problematic posting, the companies would severely restrict content and the development of the internet. Decision: Either Argentine or New Jersey law could apply because Argentina had opted out of the CISG's writing rule. I found the exact person who I had spoken to and asked him if they were indeed in stock, and he indicated that they were. "[M]ere tasteless, rude or insulting social conduct will not give rise to such a claim." Thus, the court did not err in granting summary judgment to both Marshall's and Broom. The two incidents of René's nudity showed bad Copyright 2019 Cengage Learning. Dallas Dodgers Baseball, 167 n. Both are routinely used in real estate transactions, and either is reasonable. T F An agent may receive profits from an agency relationship even if the principal does not know about the profits, so long as the principal is not harmed. Strategy: A sole proprietorship would not have worked because there was more than one owner. Louisiana 554 U.S. 407 United States Supreme Court, 2008 Facts: Patrick Kennedy raped his eight-year-old step- daughter. Many times, exiles like the Ogoni victims struggle to find justice anywhere in the world. Chakrabarty case, 523 Difference principle, 20 Digital assets, 582 rules of inheritance service provider policies, 582–583 statutes, 583 Digital Millennium Copyright Act (DMCA), 528 Digital world. In fact, he had received several such citations for driving while intoxicated. A canal that collects rainwater and discharges it into the Everglades _____ a point source. Did the person know the employer might search the area? Seller shall transfer a deed for the Property to Purchaser." What is wrong with this provision? If an employee leaves a pool of water on the floor of a store and a customer slips and falls, the employer is liable. Technically, the term heir refers to someone who inherits from a decedent who died intestate. A company can avoid these requirements by obtaining advance permission from the recipients. After the Beatles fired their business manager, he passed on to a competitor confidential information about the royalties on a George Harrison song. (c) The president may veto the bill, but Congress may attempt to override the veto. An employee is generally not acting within the scope of his employment when he commutes to and from work, so his principal, Jane, is not liable. Utility patents are available to those who invent (or significantly improve) any of the following: Type of Invention Example Mechanical invention A hydraulic jack used to lift heavy aircraft Electrical invention A prewired, portable wall panel for use in large, open-plan offices Chemical invention The chemical 2-chloroethylphosphonic acid used as a plant growth regulator Process A method for applying a chemical compound to an established plant such as rice in order to inhibit the growth of weeds selectively; the application can be patented separately from the actual chemical Machine A device that enables a helicopter pilot to control all flight functions (pitch, roll, and heave) with one hand Composition of matter A sludge used as an explosive at construction sites; the patent specifies the water content, the density, and the types of solids contained in the mixture 27-1b Requirements for a Utility Patent To receive a patent, an invention must be: Novelty An invention must be new to be patentable. Was it reasonably foreseeable that such a crime might occur? But the negotiations for a new lease failed, and Easterwood moved off the land. The contract must be for a lawful purpose. Jacobson believed that the promotion committee acted only as a "rubber stamp" and its approval was certain. THE FUNDAMENTAL RULE OF COMMERCIAL PAPER The possessor of a piece of commercial paper has an unconditional right to be paid, as long as: • The paper is negotiable, • It has been negotiated to the possessor, • The possessor is a holder in due course, and • The issuer cannot claim a valid defense. The symphony disagreed and appealed the decision. While the jury was deliberating, the bakery's lawyer again offered Nadel the $100,000 settlement. INFORMATIONAL CONTROL The Freedom of Information Act and the Privacy Act are limitations on the power of federal agencies. The author breaks down the concepts so they are easy to understand. Traditionally, a successful candidate did not have to receive a majority of all votes cast; he simply needed more than any opponent. However, to recover for negligence, the plaintiff must show that the loss was reasonably foreseeable. Would you have excused Elonis's conduct under the First Amendment? Now that in his dorm room at Harvard. Authorized shares 1. Because this statute was aimed at the Standard Oil Trust, which then controlled the oil industry throughout the country, it was termed antitrust legislation. Since treaties have their own treaty, they also have their own vocabulary: • A bilateral treaty is between two countries—similar to a contract between states. Therefore, the court did not reform the contract, and the land was not transferred back to Martha. In payment for the property and the house, the couple signed a promissory note which was payable, "upon closing on sale of the house to be constructed on the below described lot or one year from the date of this Note, whichever event first occurs." Is this note negotiable? He expresses regret about the death. A payday loan can be a lifesaver for borrowers who pay back their loans within a week or two, but only 15 percent of payday borrowers do. One important takeaway is that the law of secured transactions can be unforgiving. His children have no automatic right to a share of his estate so long as he indicated in his will that they had been left out on purpose. AGE DISCRIMINATION Under the Age Discrimination in Employment Act, employers may not fire, refuse to hire, fail to promote, or otherwise reduce a person's employment opportunities because he is 40 or older. Holder 5. Lake Gaston Sales & Service, 105 N.C. App. However, individuals must meet two requirements before filing: 1. In one recent year, 40 of the 44 directors who failed to get a majority vote nonetheless stayed on their board. Tonight's work goes more quickly than she expected, thanks to new software she helped develop. The ICJ has not been an important force in resolving international business disputes for several reasons: International Court of Justice (ICJ) The judicial branch of the United Nations • Only countries can bring a case before the ICJ, which explains why the Ogoni victims in the chapter opener could not sue Nigeria in this court. WCN 02-200-203 04341_ch03_hr_039-057.indd 54 8/24/17 1:47 PM Chapter 3 International Law 55 MULTIPLE-CHOICE QUESTIONS 1. Winstar also engaged in round-trip transactions in which it overpaid other companies for goods and services and, in return, those companies bought unneeded equipment from Winstar. Here, the defendants' shocking actions met the tort's high standard of outrageous conduct. Creditors do not vote. Was it obligated to let Doris have as much money as she wanted? After they are married, Barney refuses to deliver the deed. T F An agreement for the sale of a house does not need to be in writing if the deal will be completed within one year. Max had died a few years earlier, leaving behind a widow and four children. No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States. To show the validity of the test, NES needed to create a list of the tasks teachers perform, and then determine what subtopics and questions could be used to evaluate their ability to do those jobs. Once you bring in other people, both your risks and your rewards can increase immensely. The states develop plans to meet air quality standards. The writing may consist of more than one document, written at different times, with each document making a piece of the puzzle. WCN 02-200-203 04341_ch30_hr_576-592.indd 584 8/28/17 7:46 AM Chapter 30 Estate Planning 585 Physician-Assisted Death Doctors are legally permitted to shorten a patient's life by withholding treatment. The Code requires less detail and formality in a writing. Strategy: Whenever a case involves a company's liability for the acts of an employee, begin by asking if respondeat superior applies. In addition, if the owner cancels the policy, the insurance company will pay her the policy's cash value. If neither secured party has perfected, the first interest to attach gets priority. Would you be willing to risk your job to protect your employees? Branches of Government. The Founders sought a division of government power. He argued that he went above and beyond his duties as a son: He paid half of the farm's real estate taxes and worked the land as if it was his own. First, there is no evidence that Burger King had any motive other than helping the franchisees. Lewis River Golf, Inc. Heir ___ F. Words prevail over numbers, which means that the check is for "five eighty-seven and 50/100 dollars." This amount is not definite. Easy to fill out, it requires checking a few boxes and typing in name, address, and Social Security number List of Creditors The names and addresses of all creditors Schedule of Assets and Liabilities A list of the debtor's assets and debts Claim of Exemptions A list of all assets that the debtor is entitled to keep Schedule of Income and Expenditures The debtor's job, income, and expenses Statement of Financial Affairs A summary of the debtor's financial history and current financial condition. The defendant had a legal responsibility to the plaintiff. While an assistant principal at a new school, he molested a 13-year-old. The next year, Kedkad signed another contract (Second Contract) stating that the contract was subject to the provisions of Libyan Law No. 1 and its amendments. Nellie Newspaper Reporter also gets free admission to movies. Stewart ultimately served five months in prison. In other words, an agent must act as a reasonable person would, under the circumstances. But the anger and fear that crime engenders sometimes tempt us to forget that not all accused people are guilty. COMMERCE CLAUSE Under the Commerce Clause, Congress may regulate interstate trade. WCN 02-200-203 04341_ch18_hr_336-355.indd 347 10/6/17 12:23 PM 348 Unit 4 Agency and Employment Law The Organizing Process Bargaining unit A group of employees with a clear and identifiable community of interests A union organizing effort generally involves the following pattern: Campaign. Union organizers (who can be either employees or outsiders) talk with workers and try to persuade them to form a union. WCN 02-200-203 04341_ch08_hr_137-155.indd 145 9/28/17 7:17 AM 146 Unit 2 Torts E x h ibit 8 . Nonetheless, many people patronize such businesses, which can earn a good profit. Anna may simply deliver to Jen the certificate of title and the keys to the blimp. Constitutional rights generally protect only against governmental acts. As a result, we evaluate other people's behavior more harshly. Karen and friends searched frantically throughout the evening. If the subject is unique and irreplaceable, money damages will not put the injured party in the same position she would have been in had the agreement been kept. The proxy statement provides information such as management compensation and a list of directors who miss too many meetings. Reasoning: Nationwide could have settled this case in the beginning for $25,000. Some cities have passed zoning ordinances that prohibit adult businesses from all residential neighborhoods, from some commercial districts, or from being within 500 feet of schools, houses of worship, day-care centers, or other sex shops (to avoid clustering). Lindsay appealed. (c) $700,000. It turns out that her peers at competing firms are typically paid 20 percent more and receive larger annual bonuses. Suppose that Fiona, the flea market vendor, sold the nineteenth-century masterpiece for $100 to Marguerite, a financial analyst, with no inkling of its real worth. The plaintiff must prove only that (1) the registration statement misstated or omitted an important fact and (2) he lost money. Words beat numbers. What is your Life Principle? And it tested specific questions. In practice, however, the client controls even the accountant's working papers. Prior to 2016, chemicals could be used without any testing, but an amendment to the TSCA now prohibits the use of new chemicals (or old chemicals in a new way) until the EPA has determined that they are safe. Fraud → (3) The intention to deceive the other party C. Statute of Frauds UCC §2-201 requires a writing for any sale of goods priced $500 or more. The court rejected this claim, reasoning that the site was immune because it had not provided the content.24 The following case involves dirty tactics. When an award of punitive damages is made, it is generally in a case of intentional tort. Some scammers sell fake portfolios listing real consumers' Social Security numbers with false debts. Duke Power, 358 n. He died the following year. Bien becomes frantic, writing a dozen notes, begging to leave, and threatening to call the police. Do American bankruptcy laws strike the right balance? Under what statute? WCN 02-200-203 04341_ch02_hr_015-038.indd 35 10/6/17 11:44 AM 36 Unit 1 The Legal Environment losses. Material Important enough to affect an investor

(younger) people. 26-2d Breach of Trust Accountants occupy a position of enormous trust because financial information is often sensitive and confidential. The plaintiff must show some injury, unless the case involves false statements about sexual behavior, crimes, contagious diseases, and professional abilities. If the applicant says, “Yes,” the interviewer cannot ask for evidence until the person is hired. (b) an implied contract. Beth hated to think about Tony’s death in financial terms, but she was relieved that the struggling business would receive $2 million on the life insurance policy. Had the board violated the business judgment rule? Mediation ___D. Steel Curtain is a contract carrier. 23-1b Securities Act of 1933 23-1c Securities Exchange Act of 1934 23-1d Insider Trading 23-1e Blue Sky Laws 23-2 Antitrust 23-2a The Sherman Act 23-2b The Clayton Act 23-2c The Robinson-Patman Act Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 24: Consumer Protection 24-1 Introduction 24-2 Sales 24-2a Deceptive Acts or Practices 24-2b Unfair Practices 24-2c Abusive Acts 24-2d Bait-and-Switch 24-2e Merchandise Bought by Mail, by Telephone, or Online 24-2f Telemarketing 24-2g Unordered Merchandise 24-2h Door-to-Door Sales 24-3 Consumer Credit 24-3a Payday Loans 24-3b Truth in Lending Act 24-3c Home Mortgage Loans 24-3d Plastic: Credit, Debit, and ATM Cards 24-3e Electronic Fund Transfers 24-3f Credit Reports 24-3g Debt Collection 24-3h Equal Credit Opportunity Act 24-4 Magnuson-Moss Warranty Act 24-5 Consumer Product Safety Chapter Conclusion Exam Review 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When accountants check a transaction forward to ensure it has been properly recorded 6. DISCHARGE Unless the obligee agrees otherwise, delegation does not discharge the delegator’s duty to perform. Fiscante had the machine delivered to his business, Trackers Raceway Park, the only place he ever used the machine. This form lists the acceptable documents that can be used for verification. The Temples sue, seeking the house. Sebelius, 60–61 Jannusch v. The Temples pay a deposit of $90,000. Capacity The legal ability to enter into a contract. Payable on delivery, 30 days from today’s date.” Manufacturer writes back, “We accept your offer of 10,000 wheelbarrows at $50 per unit, payable on delivery. (c) Terry indorsed the note. Buyer’s Remedies A seller is expected to deliver what the buyer ordered. Is GECC entitled to its money? In a game between the Jets and the Dolphins, Jets assistant coach, standing on the sideline, tripped a Dolphins player during a punt return. The injured party may be unable to demonstrate expectation damages but may still prove that he expended money in reliance on the agreement. Cruz 2016 WL 4439992 Court of Special Appeals of Maryland, 2016 CASE SUMMARY Facts: Lots A and B were adjacent properties in a residential community near the Chesapeake Bay. Because the BIOC exception undercuts the basic protection given to a secured party, the courts interpret it narrowly. RESULTS Strategy: You are asked to distinguish between criminal and civil law. How long should citizens have to claim it? Appellant The party filing an appeal of a trial verdict. The jury awarded him $300,000 in damages. (a) Yes because the RPA requires that manufacturers charge all competitors the same price. Sometimes, this is quite beneficial. In addition, businesses, employers, and others keep digital records, often including sensitive data such as Social Security numbers and medical or financial records. 4Laura Saunders, “How to Control Your Heirs from the Grave,” The Wall Street Journal, August 10, 2012. Let us return briefly to Inside Straight. The Facts section provides a background to the lawsuit, written by the authors of this text. The Anushka cosmetics arrive, but for some odd reason, the cellulite remains. Should they expand to the point that they no longer meet all the S corp requirements, it would be easy to become a C corporation. Who will win in each case? This is the whole point of perfecting: to ensure that your security interest gets priority over everyone else’s. See Alternative dispute resolution (ADR); Litigation I5 Dissociation (of partnership), 389–390 District attorney, 6, 123 Documents and materials production (in discovery process), 87 Dodd-Frank Act, 341 Dodd, Tyler, 25 Domestic Asset Protection Trusts (DAPTs), 586 Donate Life app, 584 Donor, 577 Dorsey, Robert, 109, 111 Double jeopardy, 107 Draft, 279 Drawer/drawee, 279 Duke, 22 Duke Hospital, 338 Duke Power, 358 Dulin, George, 363 Duty of care (element in negligence cases), 139 See also Landowners (special duty); Professionals (special duty) Duty of loyalty (agents to principals), 318 E E-discovery, 88–89 E-signatures, 212–213 Easterwood, Don, 185–186 Eckert, Robert, 474 Ecuadorian environmental contamination case, 51 EEOC, enforcement of employment discrimination, 369 Eighth Amendment, 108 Election, in union organizing process, 348 Electronic Communications Privacy Act of 1986 (ECPA), 163 Electronic Fund Transfer Act (EFTA), 488–489 preauthorized transaction rules, 488 Electronic Signatures in Global and National Commerce Act (E-SIGN), 213 Email, accessing, 164–165 Embezzlement, 109 Emergencies (warrantless circumstance), 105 Eminent domain, 543–544 Emotional distress (intentional infliction of), 126 Employee and gig economy, 325 and negligent hiring, 325 scope of employment, 326 abandonment, 327 authorization, 326 Copyright 2019 Cengage Learning. Murdock and Carter are liable for $148,190,590.18. STARE DECISIS Stare decisis means “let the decision stand,” and it indicates that once a court has decided a particular issue, it will generally apply the same rule in future cases. The most common problems that arise in filing cases are (1) whether the financing statement contained enough information to put other people on notice of the security interest and (2) whether the secured party filed the papers in the right place. HAZARDOUS WASTE Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), anyone who has ever owned or operated a site on which hazardous wastes are found, who has transported wastes to the site, or who has arranged for the disposal of wastes that were released at the site is liable for (1) the cost of cleaning up the site, (2) any damage done to natural resources, and (3) any required health assessments. The single recovery principle requires a court to settle the matter once and for all, by awarding a lump sum for past and future expenses. Answer: The court held that freedom of association is an important social right and should be protected. After explaining the warning to Rodriguez and returning the documents to him, Struble asked permission to walk his police dog around Rodriguez’s vehicle. WCN 02-200-203 04341_ch21_hr_398-419.indd 415 10/6/17 12:27 PM 416 Unit 5 The Lifecycle of a Business 17. Buy insurance and get on with our lives, knowing that we have prepared as best we can. • Heat. A codicil must meet all the requirements of a will, such as two witnesses. The appeals court held that CBS did not have to pay because the FCC did not have a clear policy on momentary displays of nudity. An anonymous person posted several comments about Sarah Jones, a high school teacher and NFL cheerleader, stating that she was promiscuous and had a sexually transmitted disease. The need for predictability created the doctrine of stare decisis. (3) The manufacturer perfects by electronically filing a financing statement. A police officer in North Carolina stopped Nick’s car because it had a broken brake light. The first page of the report stated: “This report is intended for the information and use of the Board of Directors and Management of The First National Bank of Keystone and its regulatory agencies and should not be used by third parties for any other purpose.” A week later, the Board voted to hire Ellis, who then quit his job elsewhere to join Keystone. The need for predictability is apparent: People must know what the law is. Years later, the victims demanded justice. A word that a business uses to identify a product 3. The city should not use some phony moralizing to deny customers what they want. He was also a longtime friend of Disney chairman Michael Eisner, who recommended that Disney hire Ovitz as president. He will try to create doubt in the jury’s mind. Fair use doctrine Permits limited use of copyrighted material without permission of the author 1. After irate consumers filed suit against the poster company under the EFTA, the poster company agreed to pay back all the funds it had received. WCN 02-200-203 04341_ch11_hr_198-219.indd 212 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 213 E-signatures are valid in all 50 states. What is the rule in such cases? Hallie is telling her cousin Anne about the will she has just executed. The bankrupt is called the debtor in possession and, in essence, serves as trustee. Note that privity only exists between the user and the person from whom she actually bought the goods, but in strict liability cases, privity is not required. Arch refused to pay, claiming that Properties had no insurable interest in the complexes because it did not own them. Has he violated the law? A minor misstatement does not meet this second element of fraud. • Employees of public companies. He owns no real estate and is living rent-free with a relative. Pauline failed to perfect and is unprotected against other creditors. (The IRS agreed to drop charges against Checksfield, who had not paid his own taxes for three years.) Thanks to the information that Checksfield passed to the IRS, his client was indicted on criminal charges of evading taxes. A Nationwide appraiser determined that the Jeep was damaged beyond repair and recommended that the company pay her the value of the car, which was $25,000. Farnsworth believes he is selling Corbin a topaz; and Corbin thinks he is buying a topaz. The accountant checks the information in the sales ledger against the original invoice to ensure that the date, price, quantity, and customer’s name all match. The short answer is—a good grade in the course. The First Amendment pro- tects free speech and, therefore, sometimes undermines privacy rights. Amendment XXIII [1961]. Answer: If the transaction is actually a sale with a security interest, Article 9 governs, and that is precisely what the court held. And how can marijuana use be an important public policy when it is still illegal under federal law? Suppose Ms. Wilson shouts Battery A harmful or offensive bodily contact Assault An action that causes another person to fear an imminent battery Copyright 2019 Cengage Learning. Suppose the heating system in an apartment house in Juneau, Alaska, fails during January. Under some provisions of Reg D, the issuer can sell to an unlimited number of accredited investors, but to only 35 unaccredited investors. Norv states that he was “shocked” when BMW refused to go through with the deal. The jury concludes that Dolly has suffered $100,000 in damages. Scott & Sons, under an express warranty. WCN 02-200-203 04341_ch16_hr_295-314.indd 303 8/26/17 9:02 AM 304 Unit 3 Contracts and the UCC But aren’t all security interests PMSIs? bills—in his hands. The dining room provides great food from 7 a.m. to midnight, five days a week. Hoffman Plastics fired Jose Castro because he was supporting the efforts of union organizers. If you are curious about the full opinion, you can always look it up using the legal citation. The owner herself did nothing aggressive. Jade wins all of the money she paid. T F Each of the Code’s chapters has one of two objectives—rehabilitation or liquidation. Answer: The court held the defendant liable for $900 (treble damages) and an additional $900 in attorney’s fees. This nation has the highest bankruptcy rate in the world. Permission from the SEC to sell securities does not mean that the company has a good product or will be successful. (c) Outdoor can collect in the United States if the Australian court was fair and proper. In such a case, he collects only the market value of the work he has done, which is probably zero. On Monday morning, he tells his niece, Stephanie, “Tomorrow I’m going to give you my brand-new Tesla sports car.” Stephanie is ecstatic. WORKING PAPERS An accountant cannot show working papers to anyone RESULTS without the client’s permission (or a valid court order) and must allow the client access to the working papers. A trust is an entity that separates legal and beneficial ownership. FedEx refused her request for a termination hearing. PREGNANCY DISCRIMINATION Under the Pregnancy Discrimination Act, an employer may not fire, refuse to hire, or fail to promote a woman because she is pregnant. In 2016, a Dutch telecommunications company paid $795 million in fines for having given bribes to Uzbek officials. 1 Bohach v. Title VII does not prohibit discrimination against people who are unattractive. (3) Can Jade be compensated for defects? Glassdoor, Inc., 168 n. Good faith means an honest effort to meet both the spirit and letter of the contract. (b) The plaintiff must submit to arbitration. The same freedom applies to the method. Result: If PriceTouche did not perform as carefully as an ordinarily prudent accountant would under the circumstances, then it has violated its contract with Zapper and would be liable under contract law. Ultimately, the nudity clause read as follows: Producer has informed Artist that Artist’s role in the Picture might require Artist to appear and be photographed (a) nude, which nudity may include only above-thewaist nudity and rear below-the-waist nudity, but shall exclude frontal belowthe-waist nudity; and (b) in simulated sex scenes. Argument for NGS: This case is a perfect example of environmentalism run amok. The purpose is to prevent the government from destroying the lives of innocent citizens with repeated prosecutions. Do you think the incident was intentional or truly accidental? WCN 02-200-203 04341_ch19_hr_356-376.indd 364 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 365 3. If the dealership does not have to reveal to Treadway that it failed to send her credit application to a lender, she will never even know if she was the victim of discrimination. A Christian says he cannot work at Walmart on Sundays—his Sabbath. Li-Tsing will get nothing from a court either because a promise made in consideration of marriage must be in writing to be enforceable. Barney then pleads that if Li-Tsing will be his bride, he will give her an island he owns off the coast of California. Any choice about how a person should behave that is based on a sense of right and wrong is an ethics decision. For these reasons, some people have wondered whether international law exists at all. At about that time, her father died. CORPORATE SOCIAL RESPONSIBILITY An organization’s obligation to contribute positively to the world around it. Excessive bail shall not be required, no excessive fines imposed, nor cruel and unusual punishments inflicted. When the secured party has sold the collateral, it applies the proceeds of the sale: first, to its expenses in repossessing and selling the collateral and, second, to the debt. That oral contract is enforceable whether Betty stays one week or 57 years. These exercises guide students step by step through a case problem and then add in a critical thinking section based on “What If the Facts Were Different?” In a new third section, a writing component requires students to demonstrate their ability to forecast the legal implications of real-world business scenarios. Arbitration is a binding process in which the parties submit their dispute to a neutral private body for resolution. ROBINSON-PATMAN ACT (RPA) Under the RPA, it is illegal to charge RESULTS different prices to different purchasers if the items are the same and the price discrimination lessens competition. The fox may not have been in the henhouse but he allowed other foxes in. (c) Stephanie gets the car because there is no reason to dispute that Martin made the promise. (b) requires the EPA to test new chemicals, or old chemicals being used in a new way, before they can be used in products. On March 1, McMann borrowed $350,000 from First of America Bank, giving the bank a security interest in McMann’s present and after-acquired property. This ability to share intellectual property is both good news and bad. But when the Herzogs requested the collection’s return, Hungary refused. • Mid-level liability: trespassing children. State Farm Insurance agreed to pay its customers $200 million to settle such a suit. For example, researchers found that, people who buy an environmentally friendly product are more likely to cheat and steal afterwards than are those who have chosen the less socially conscious item.6 Moral licensing After doing something ethical, many people then have a tendency to act unethically. Also, he had not filled out the form, a CPM employee had. for another.” Quiet enjoyment The right to inhabit the property in peace. Assault occurs when a defendant performs some action that makes a plaintiff fear an imminent battery. If the clinic goes bankrupt and many creditors try to seize its assets, the manufacturer has first claim to the CT scanner. Ct. 2107 United States Supreme Court, 2013 CASE SUMMARY Facts: Mutations in two genes known as BRCA1 and BRCA2 can dramatically increase the risk of breast and ovarian cancer. Ultrahazardous activity A defendant engaging in such acts is virtually always liable for resulting harm. Dreyer had not done so. Owners and patrons of these shops have protested, claiming the restrictions unfairly deny access to a form of entertainment that the public obviously desires. The landlord waited eight months before renting the space to a new tenant and then sued, seeking the unpaid rent. Should a landlord have to pay $3,000 for a $1,000 debt? Result: If the two sides agree based on an important factual error, the contract is voidable by the injured party. Murdock and Carter immediately began efforts to make the purchase offer look good by driving down Dole’s share price with the release of false information. In the case of ATM and debit cards, banks cannot overdraw an account and charge an overdraft fee unless the consumer signs up for an overdraft plan. Under what conditions are life forms patentable? Apple knew that publishers disliked the $9.99 price because it hurt sales of their more expensive print books, but they had little leverage to negotiate with Amazon. Sales of a “Babe Ruth” bat III. I want you to have this signed first edition of Ulysses. He has also committed a crime, and the state may prosecute, seeking to imprison and fine him. The consideration that Kevin Green received in the contract was, of course, the Camaro. Order paper An instrument that includes the words “pay to the order of” or their equivalent. When accountants check backward to ensure there are data to support a transaction 3. WCN 02-200-203 04341_ch30_hr_576-592.indd 580 8/28/17 7:46 AM Chapter 30 However, the law presumes that a pretermitted child (i.e., a child left nothing under the parent’s will) was omitted by accident unless the parent clearly indicates in the will that he has omitted the child on purpose. Finally, the landlord may evict a tenant who has failed to pay rent. (b) a lawsuit for negligence, in a comparative negligence state. EFTA → (5) Regulates electronic payment E. Congress can impeach the president. The annual report contains detailed financial data. She understood the risk she was assuming, and there was no mutual mistake. 4th 1430 California Court of Appeals, 2011 CASE SUMMARY Facts: When Creative Ventures, LLC borrowed $3 million from defendant Jim Ward & Associates, it signed promissory notes, payable to Ward. Also, it is difficult at home to compare products or prices offered by competitors. The Supreme Court of California said yes, and thus created another exception to the general bystander rule. All product placements, but he preapproves the placement of Snickers candy bars d. Courts generally do not permit a use that will deprive the copyright owner of income or compete with the original work. 18 American Civil Liberties Union v. Has the store violated Title VII? Howey Co., 441 Walker, Rashad, 105 Wallace, Kerry, 600 Walmart, 348, 362 Warby Parker, 388 Warrant, 104 warrantless circumstances, 104–107 Warranties, 268 disclaimer, 271 express warranties, 268–269 implied for fitness for particular purpose, 271 implied warranties, 269 implied warranty of merchantability, 270 Warrior Fitness, 316 Washington Redskins, 530 Watts, Kristy, 109 Wells Fargo, 412, 449, 469 n. 14. To protect people’s privacy, courts require parties to show that the discovery request will to lead to relevant and admissible evidence. Once she began work (as an employee at will), Shiloh discovered that the sales force was organized around regions, not products, so she had to sell both devices and drugs. Make an argument that they should be liable for negligence. But the Camaro came with no guarantee, and Star Chevrolet, the dealer, refused. What result? T F Three parties are involved in a draft. Argument for Son: Who among you has not at one point or another become intoxicated, experienced emotions more powerful than usual, and regretted them the next morning? The golden rule in contracts cases is to give successful plaintiffs “the benefit of the bargain,” and not to punish defendants. After that, the Berg family had to travel in Mr. Berg’s panel truck, with their son sitting on the floor in the back. Would these women have had a claim under Title VII? But these gadgets, which gather, send, and receive data, pose new privacy and security challenges. T F The Code permits individual debtors (but not organizations) to keep some property for themselves. In the prosecution, the government must demonstrate proof beyond a reasonable doubt. (b) a deposition. 21. The injured party should not end up better off than she would have been under the agreement, nor should she suffer serious loss. A company must have an official address in the state in Registered agent Someone hired by a business to serve as its official presence in the state which it is incorporated so that the secretary of state knows where to contact it and so that anyone who wants to sue the corporation can serve the complaint in-state. • Can the promisee be compensated with money damages for any defects? In managing the trust, the trustees must put the interests of the beneficiaries first and disclose any relevant information to them. The contract stated that use of the road was solely for Omega employees and that Omega would be responsible for closing a gate that UP planned to build where the private road joined a public highway. • Plant life. They may not, however, have the right. Are these price limits legal? 12-2b Delegation of Duties Delegator A person who gives his obligation under a contract to someone else Delegatee A person who receives an obligation under a contract from someone else Garret has always dreamed of racing stock cars. We only request facts and figures, not state secrets. LEXIS 126346 United States District Court for the Northern District of California, 2013 CASE SUMMARY Facts: Microsoft Libya hired a Libyan citizen, Mahmoud Kedkad, to work as a Marketing Lead in Tripoli. 28-5c Tenant’s Duties Duty to Pay Rent Rent is the compensation the tenant pays the landlord for use of the premises, and paying the rent is the tenant’s foremost obligation. She gave him money to invest. Moreover, eighteen months after making this plan, Francis was diagnosed with dementia. WCN 02-200-203 04341_ch02_hr_015-038.indd 18 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 19 choice—between doing right and getting the right result—has been the subject of much philosophical debate. Google says it was because of his poor performance. Can she sue to enforce the deal and recover lost profits for unsold sausage and green pepper? When Luke, a landlord, asks to see a set of financials, Dusty asks his accountant, Ellen, to prepare a set for Luke. At what point is an invention too human to patent? Noah’s medical condition presents some financial uncertainty, but courts do not discharge student loans because a debtor might have a precarious financial situation. Despite its small size, it has a disproportionate influence on corporate law. No one is asking TeleTech to tolerate drug-impaired workers. She cannot perform three years of work in one year. You can find out about product recalls or file a report on an unsafe product at the Commission’s website (www.cpsc.gov) or at saferproducts.gov. It prevents someone from inventing a product, selling it for years, and then obtaining a 20-year monopoly with a patent. • A significant portion of the premium for the first year goes to pay overhead and commissions. LEXIS 4; 2016 WL 197267 Superior Court of Rhode Island, Providence, 2016 CASE SUMMARY Facts: David Lowman and Sarah Martino had an on-again, off-again romance. Can Nelson sue Saudi Arabia? You Be the Judge Resnick v. If Nash dies, the property will be owned as follows: (a) Quick ½, Onyx ½ (b) Quick 5/8, Onyx 3/8 (c) Quick 1/3, Onyx 1/3, Nash’s heirs 1/3 (d) Quick ½, Onyx ¼, Nash’s heirs ¼ 2. Keystone management then lied about the value of the loans. Directors know that shareholders are very unlikely to withhold their vote and, should that happen, fellow board members may well let them stay on anyway. A union may either walk off the job or stay on it, but it may not alternate. Anyone who has ever disposed of waste at a site is liable for cleanup costs. 2-2b Deontological Ethics Proponents of deontological ethics believe that utilitarians have it all wrong and that the results of a decision are not as important as the reason for making it. A rejection immediately terminates the offer. Tata employees sign an initial three-year employment commitment, often work overseas, and agree to work for a specified additional time when they return to India. Choice of Law and Forum Choice of law provisions determine which state’s laws will be used to interpret the contract. You Be the Judge: Did Starbucks breach an express warranty by underfilling its lattes? Harold still owns the mule. • If you wait more than 60 days after receipt of your bank statement, the bank is not responsible for any losses. • Analyze—Case-problem analysis promotes deeper critical thinking and legal rea- • soning by building on acquired knowledge. Ellen has been careless, and the financials are inaccurate. After Becky Chambers left her job at American Trans Air, Inc., she discovered that her former boss was telling anyone who called for a reference that Chambers “does not work good with other people,” is a “troublemaker,” and “would not be a good person to rehire.” However, Chambers was unable to prove that her boss had been primarily motivated by ill will. Under Delaware law, an oral operating agreement is enforceable unless it violates the Statute of Frauds. WCN 02-200-203 04341_ch24_hr_460-481.indd 468 10/6/17 12:28 PM Chapter 24 Consumer Protection 469 Here is a good example of the EFTA at work: Suk Jae Chang saw a great offer online for the free poster of his choice. As we revisit the enterprising couple, Noah is clearing the dinner dishes while Nina lights an e-cig, and compliments her partner on the pad Thai. Donny Delt and Sammy Sigma are students and roommates. Disputes with Credit Card Companies The Fair Credit Billing Act (FCBA) provides that if a consumer has a complaint about a bill and writes to the credit card company within 60 days of receipt of the bill, the company must acknowledge receipt of the complaint within 30 days and, then, within two billing cycles (but no more than 90 days) investigate the complaint and respond. Fixtures are goods that have become attached to real property. To protect the reliability of the system, the law will not excuse parties from the consequences of their mistaken filings, no matter how severe. Although all three countries started at the same economic level, Taiwan and South Korea today have much lower levels of infant mortality and much higher levels of education than India.10 In theory, then, sweatshops might not be all bad. When a hurricane blew, who had an insurable interest? At the same time, accounting was becoming more complicated. But he did not enter into a formal listing agreement with the broker, or take any other steps to rent the space, for about nine months. After all, the burden of proof is on the prosecution, so the defendant may not testify if his lawyer feels the prosecution has not proved its case. In a store, customers can simply walk out, but at home, they may feel trapped. If he applies for life If he applies for life insurance, should he admit to being a social smoker? Even though the Rancho Valencia had installed noise-abating equipment, the Mendezes could still hear music and announcements from its sound system for about 8 hours a month, mostly during the evenings. Wilson was not anticipating his demise, so his was a gift inter vivos. For example: “In some states, these professionals can form a corporation, but with the distinction that each professional is still liable for his or her own wrongful professional actions.” Why is this statement at best unnecessary and at worst misleading? Holden has a policy that permits any employee who works as late as 8:00 p.m. to eat dinner at the company’s expense. (See the “Result” at the end of this Exam Review section.) Copyright 2019 Cengage Learning. Here, Ehling stated a plausible claim for invasion of privacy. Similarly, the inventor of double-entry bookkeeping could copyright a pamphlet explaining his system, but not the system itself. Should wealthy people be able to avoid paying legitimate creditors? She also alleged that many Post employees had made racist and sexist remarks. For this to happen, one side must make an offer and the other must make an acceptance. Intention. The parties must still intend to create a contract. Under SOX, accountants for public companies must keep all audit work papers for at least seven years. OFF-DUTY ACTIVITIES In the absence of a specific law to the contrary, employers have the right to fire workers for off-duty conduct. Johnson 491 U.S. 397 United States Supreme Court, 1989 CASE SUMMARY Facts: Outside the Republican National Convention in Dallas, Gregory Johnson participated in a protest against policies of the Reagan administration. The lower courts agreed and the Supreme Court granted certiorari. But sometimes courts must sort through additional complications. The CISG is much less strict on sellers. ADA 1. WCN 02-200-203 04341_ch05_hr_079-100.indd 95 9/28/17 9:36 AM 96 Unit 1 The Legal Environment 3. When Wayne asked if Harmon would be reinstated, the commissioners all looked at each other before saying “Yes.” This informal vote was clear evidence that a promise was made. WCN 02-200-203 04341_ch05_hr_079-100.indd 93 9/28/17 9:36 AM 94 Unit 1 The Legal Environment Litigation 1. Amendment X [1791]. LIABILITY TO CLIENTS FOR COMMON LAW FRAUD Accountants are liable for fraud if: • They make a false statement of a material fact, • They know it is not true or recklessly disregard the truth, • The client justifiably relies on the statement, and • The reliance results in damages. After five years with a client, the lead audit partner must rotate off the account for at least five years. 21–24 and www.bbc.co.uk/schools/gcsebitesize/history/shp/britishsociety /livingworkingconditionsrev1.shtml. EXAMStrategy 6. Suppose that Gwendolyn has two children, Lance and Arthur. Legislative power gives the ability to create new laws. WCN 02-200-203 04341_ch08_hr_137-155.indd 146 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 147 Ultrahazardous Activity Ultrahazardous activities include using harmful chemicals, operating explosives, keeping wild animals, bringing dangerous substances onto property, and a few similar activities where the danger to the general public is especially great. Schneider filed suit. This one does, and Carson wins. (d) executed an engagement letter. Although René was upset when he learned that his son and his employee were in a sexual relationship, the affair continued during the trip. Ct. 2566 United States Supreme Court, 2012 CASE SUMMARY Facts: In 2010, Congress enacted the Affordable Care Act to increase the number of Americans covered by health insurance and decrease the cost of health care. A car accident would happen first, and then the drivers would agree to arbitration. You think to yourself, “This sounds like a real American success story. A principal can be liable for the acts of an agent who is not, in fact, acting with authority if the principal’s conduct causes a third party reasonably to believe that the agent is authorized. A warehouse will not store your furniture for free, but a friend might. Argument for Treadway: One goal of the ECOA is to provide notice to credit applicants about why they have Copyright 2019 Cengage Learning. Contracts Checklist Offer Acceptance Consideration Legality Capacity Consent Writing Offer In contract law, an act or statement that proposes definite terms and permits the other party to create a contract by accepting those terms 10-3 Why, you ask? Lowman asked for the ring back. It is not a big deal if we cheat on our expense account because we are basically honest and deserve that extra income. The owner of the store has been harmed, so he has the right to sue the thief in civil court to recover money damages. When you arrive, the previous tenant has not moved out. Eileen Murphy often cared for her elderly neighbor, Thomas Kenney. To win that case, Lonny Joe must prove that the electrician behaved unreasonably and caused the scratch. Hammer may refuse the delegation even if Brush is equally qualified. Codicil ___ D. They argued that they should receive a portion of the profits for every bottle of Aquafina ever sold. A sale of the plant life alone, without the land, is a sale of goods. A plaintiff may not enforce any of the following agreements unless the agreement, or some memorandum of it, is in writing and signed by the defendant. customers. Courts award these damages in relatively few cases. So they create a contract that keeps their options open. WCN 02-200-203 04341_ch20_hr_377-397.indd 389 10/9/17 1:51 PM 390 Unit 5 The Lifecycle of a Business A partner always has the power to leave a partnership but may not have the right. the seller has exercised all possible care in the preparation and sale of his product and b. To take one woeful example, the SEC discovered that most of PricewaterhouseCoopers’s partners were in violation of this rule, including half of the partners who were charged with enforcing it. Amendment IX [1791]. Luke Maturelli, a salesman, and Bien communicate by writing messages back and forth. WCN 02-200-203 04341_ch15_hr_278-294.indd 282 9/28/17 9:39 AM C h a p t e r 15 KRYSTAL ROUTE 66 OKLAHOMA CITY, OK 283 3808 January 2, 20 19 Trustie Car Lot Fifteen Thousand and no/100 PAY TO THE ORDER OF OK BANK Negotiable Instruments $ 1,500.00 DOLLARS OK, N.A. Krystal MEMO 0101107 42 766 72467 3909 In the following case, the amount of the check was not completely clear. As part of the plea bargain, you might be able to get her to disclose evidence about other people who might have taken part in this criminal activity. Those who die intestate often leave behind issues for lawyers to resolve. 2 The Business Judgment Rule Manager makes a decision Decision violates business judgment rule Decision complies with business judgment rule Approved by Special Committee? A Jehovah’s Witness needs to miss one of his scheduled shifts at UPS so that he can attend the Memorial, one of that religion’s most important events. Betts defended by saying that it was all horseplay and that he had intended no harm. As soon as the company knew, it made the public announcement. You want a friend to work in your store for the holiday season. When an agent has authority to perform acts that are necessary to accomplish an assignment 3. Prosecution Restitution When a guilty defendant must reimburse the victim for the harm suffered Suppose the police arrest Roger and accuse him of breaking into a store and stealing 50 computers. He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, providing two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. If Gwendolyn’s will says “per capita,” each of her grandchildren will inherit one-fifth of her estate. But Clarins has put a new spin on these offers with what it calls “gift with purpose.” Spend $75 on Clarins items at Macy’s and you receive free products and the companies will provide school meals to children in need. The reliance interest is designed to put the injured party in the position he would have been in had the parties never entered into a contract. And, third, the Constitution guarantees many basic rights to the American people. Answer: Probably. The automobile dealer ignored legal capacity. Method and Manner of Acceptance The “method” refers to whether acceptance is done in person or by mail, telephone, email, text, or fax. Janet and Rich argue frequently over questions and whether Beth should have to answer them. HOLOGRAPHIC WILL A will that is handwritten and signed by the testatrix but not witnessed. It is only available to individuals with less than $394,725 in unsecured debts and $1,184,200 in secured debts. Inventors have a grace period of one year once disclosure is made to apply for a patent. What about Mark? Then Leila informs Kendrick she does not need his help and will not pay him. There has to be bargaining that leads to an exchange between the parties. Suppose City contracts with Seller to buy Seller’s land for a domed stadium and then brings in Investor to complete the project. The business, including the hot sauce formula and goodwill, has a special, peculiar, unique value or character; it consists of property which Morris needs and could not be obtained elsewhere.” CHAPTER 13 1. Also, the federal government prohibits discrimination on gender identity among its employees and by government contractors. Chapter Conclusion The process of starting a business is immensely time consuming. Carter built a fence around Lot A and the Disputed Area. Microsoft argues that the contract should have been governed by Libyan Law No. 2 which replaced No. 1 and would have required the lawsuit to take place in Libya. He is so thrilled that she has arranged for him to star in the movie Little Men that he buys her an Aston Martin. Although TPG was profitable, the deadlock and dysfunction between the founders was causing irreparable harm. It is only fair that, if an attorney uses fear as a weapon, she must at the very least be professionally involved in the decision to file the lawsuit. To make health claims without such a disclaimer, POM must present supporting evidence from at least one scientifically valid study involving randomized and controlled human clinical trials. 2-4b Ethics Case: Weird Wierdsma Beatrix Szeremi immigrated to the United States from Hungary. WCN 02-200-203 04341_ch17_hr_315-335.indd 316 10/6/17 12:14 PM C h a p t e r 17 Agency 317 Thus far, this book has primarily dealt with issues of individual responsibility: What happens if you knock someone down or you sign an agreement? Freehold estate The right to possess land for an undefined length of time. Two men were killed. Raul has finished the

Inc., 271–272 Gatter v. Should states require corporations to disclose more information? What will happen if your spouse is transferred? They agree that the note will not be due until 60 days after completion of the work. Further, no law in Rhode Island prohibits topless dancing. WCN 02-200-203 04341_ch30_hr_576-592.indd 581 8/28/17 7:46 AM 582 Unit 7 Property Issue A person's direct descendants, such as children and grandchildren Per stirpes Each branch of the family receives an equal share Per capita Each heir receives the same amount In drafting a will, lawyers use the term issue instead of children. Honest." Does the argument work? Did he drown accidentally, obligating the insurance company to pay? Suppose that one of your friends posts a YouTube video of you texting behind the wheel and her father is so upset from watching it that he falls down the stairs. The company was owned by the Stiegelmann family, which included René (who worked for the company), and his son, Marcel (who did not). Which one? On or about July 5, 2018, plaintiff Smiles ("Smiles"), Defendant Coastal Insurance Co, Inc. Is Jackson's policy valid? Six months before Maria's lease expires, an out-of-town company offers her a new job at a substantial increase in pay. Sales 267 Different terms Proposed contract terms that raise issues that contradict those in the original offer Gap-fillers UCC rules for supplying missing terms 14-1c Performance and Remedies The Code's practical, flexible approach also shapes its rules about contract performance and remedy. He revealed to his boss that in his free time he liked to dress as a woman, even though he was happily married to a woman. Before the deal closed, the plane was sent to pick up PepsiCo's chairman of the board, who was stranded at Dulles airport. It need not necessarily be com- mercially valuable, but generally, it must do something. Spaw 794 F.3d 543 United States Court of Appeals for the Sixth Circuit, 2015 Facts: James Huff was the chairman of the Kenton County Airport Board, which manages the Cincinnati/ Northern Kentucky International Airport (CVG). A court will discharge an agreement if performing a contract was truly impossible but not if honoring the deal merely imposed a financial burden. Thus, Kant would say that the drug user should tell the truth on job applications, even if that meant she would never get hired. Children played with hot balls of chemical residue—what they called "fire stones"—that popped up through the ground. They did not sign an operating agreement but they orally agreed that they would dissolve the LLC if they could not get along. The NLRA guarantees the right of employees to engage in concerted action for mutual aid or protection. Her iPhone first captured Huff's discussion with Savage and, later his personal conversations with Bertha in their hotel room. Result: Sam was supposed to pay Piggy the face amount of the check plus interest. McGee 84 N.H. 114 New Hampshire Supreme Court, 1929 CASE SUMMARY Facts: Hawkins suffered a severe electrical burn on the palm of his right hand. (d) left work voluntarily without good cause. That is, if both parties offer a reasonable interpretation of the disputed provision, the courts choose the one provided by the party that did not draft it. Abandoned property Property that the owner has knowingly discarded because she no longer wants it Lost property Property accidentally given up Mislaid property Property the owner has intentionally placed somewhere and then forgotten • Abandoned property is something that the owner has knowingly discarded because she no longer wants it. Section 7. Issue: Was the non-compete agreement valid? And no day off would be complete without a joyride. The court ruled that, because the majority shareholders had violated their fiduciary duty to her, the company had to buy her stock, too.4 Otherwise, her shares would have been worthless. Everything and where you live. Stanford's widow sued Northwest on the theory that KA was Northwest's agent. Result: Only the government prosecutes criminal cases. If the partnership chooses to terminate the business, it must follow three steps: 1. Furthermore, the work was to commence approximately 4 to 11 days after the letter was written. She cannot use her track for drag rac- ing. Nuncupative will An oral will. You Be the Judge: Did the EPA act arbitrarily and capriciously in requiring NGS to spend half a billion dollars to 25-2b Climate Change improve winter visibility at the Grand Canyon by, at most, 7 percent? Is there anything wrong with that? Exhibit 21.3 illustrates these growth rates. Nor did the terms and conditions. 13 Treadway v. Parliament passed the original Statute of Frauds in 1677. Decision: Yes, Medford owned the Disputed Area. Finally, the Supreme Court (and lower federal courts) exercise judicial review over statutes and executive actions. WCN 02-200-203 04341_ch12_hr_220-241.indd 221 10/6/17 12:06 PM 222 Unit 3 Contracts and the UCC Donee beneficiary When the contracting party intended the benefit as a gift, the beneficiary is a donee beneficiary. (a) does; can (b) does; cannot (c) does not; cannot (d) does not; can 3. Seventyfive years ago, a factory owner could legally fire a worker for any reason at all—including, for example, her religion. Congress has the right to decide that protecting red wolves will one day produce a substantial commercial benefit to this country and that failure to preserve it may result in permanent, though unascertainable, loss. If you were to look online for a description of a professional corporation, you might find websites stressing that, in a PC, shareholders are still responsible for their own wrongdoing. Which country? If, for whatever reason, that degree of care is not possible, be sure to at least read the important terms carefully. Even if Sam had taken extraordinary care, he would lose. The hotel appealed. Three years later, the couple filed for divorce and Wendellyn claimed that Kris's oral promise entitled her to care for life. EXAM REVIEW 1. Manufacturing plants are much more expensive to build and operate in the United States than overseas. Her damages might be, for example, a lost opportunity to buy another house or wasted moving expenses. Brumberg sued Cipriani USA, Inc., for negligence. Yoplait has periodically run a "Save Lids to Save Lives" campaign. More U.S. law originates from one country than from any other. Accountants may not divulge information from clients that relates to federal tax advice. The story was based on a Russian folktale told to her by her own mother. The FLSA also prohibits "oppressive child labor," which means that children under 14 may work only in agriculture, entertainment, a family business, babysitting, or newspaper delivery. Happy Bank does not perfect. Yanni has asked Adam and Zoe to present the pros and cons of relocating to someplace cheaper. So Kenney told Murphy to write her name on the shares and keep them, which she did. amount of money. He offers no facts to support that this was done to discriminate against Arab Muslims. Typically, auditors will not be liable if they can show that they complied with GAAP and GAAS. Do you agree with this conclusion? These amounts were more than occasional dips into petty cash—they indicated a disregard of TPO's separate LLC identity. Are you satisfied with the ethical conduct of the Dannemans? Communications Decency Act of 1996 (CDA) Provides ISPs immunity from liability when information was provided by an end user Jones v. The consumer also has the right to report her side of the story. As explained in Chapter 28, most property that is held in a joint tenancy automatically passes to the surviving owner, regardless of provisions in the decedent's will. Because the complaint was purportedly prepared by a lawyer, the defendant might view the document as a legally valid statement of his obligation. The creditors' goals are to preserve as much of the debtor's assets as possible and to ensure that all creditors receive a fair share. 2§1.01 of the Restatement (Third) of Agency (2006), prepared by the American Law Institute. Refusing to Accept a Settlement Offer An insurer also violates the covenant of good faith and fair dealing when it wrongfully refuses to settle a claim. Ehling v. End-of-Chapter Exam Review and Questions GOAL: Encourage students to practice! At the end of the chapters, we provide a list of review points and several additional Exam Strategy exercises. DEBT COLLECTORS Under the Fair Debt Collection Practices Act (FDCPA) a debt collector may not harass or abuse debtors. Beth becomes upset that Janet doesn't seem sympathetic, but Chris explains that Janet is doing her job: She needs all the information, good and bad. Do any of the following examples cross the line into unethical behavior? A voidable contract occurs when one party has an option to cancel the Copyright 2019 Cengage Learning. Let's see how her story ended. Assignment A transfer of contract rights to a third party. The warrant had not been issued by a neutral magistrate. Coastal Insurance Company, Inc., Defendant _____ COMPLAINT Plaintiff Elizabeth Smiles states that: 1. She realized that when gang members entered the pub, they endangered her customers. After Carter died, Vicky Medford purchased his home. As a surgeon once said, "There is no condition so bad I can't make it worse by operating." Instead of, or in addition to, pay-for-service plans, many insurers offer managed care plans. A routine drug test revealed marijuana in his system. Finally, at least one state always views the ring as a pre-marriage gift, provided that the three elements of a gift are satisfied.4 The following chart distinguishes between a contract and a gift. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. • State implementation plans (SIPs). had a promising new cancer vaccine. The victim's family sues Rachel. It filed an insurance claim for $6.1 million, which was the cost to repair the damage that Wilma had caused to the apartments. The scholars at the American Law Institute and the National Conference of Commissioners on Uniform State Laws had great ideas, but they had no legal authority to make anyone do anything. Strategy: Only one of these parties can prosecute a criminal case and in only one kind of case can a defendant be found guilty. If CDM was so interested in its client list, it should have taken other steps to protect it. He uses water from the river for irrigation. If Plato knew that Socrates was bankrupt and had agreed with a creditor not to sell any of his inventory, Plato would not achieve BIOC status. Seeing no one within earshot, they had an actual expectation that their conversation was private. What should you say to the other officer? Once all the mom and pop corner groceries go out of business, MegaGrocery raises its prices to much higher levels. MERCHANT EXCEPTION A merchant who receives a signed memo confirming an oral contract may become liable if he fails to object within ten days. Lease Litig., 286–287 In re Carlisle Etcetera LLC, 387 n. A close relative of opinion is something called "puffery." Get ready for one of the most astonishing experiences you've ever had! This paragraph on puffery is going to be the finest part of any textbook you have ever read! "But what happens," you might wonder, "if this paragraph fails to astonish? Evolation Yoga, LLC 803 F.3d 1032 United States Court of Appeals for the Ninth Circuit, 2015 CASE SUMMARY Facts: Yoga is an ancient Hindu practice involving a com- bination of meditation, breathing exercises, and physical poses (called asanas). 2-3h Following Orders When someone in authority issues orders, even to do something clearly wrong, it is very tempting to comply. WCN 02-200-203 04341_ch11_hr_198-219.indd 199 10/6/17 11:53 AM 200 Unit 3 Contracts and the UCC Promise to Act or Forbear. A promise to do (or not do) something in the future counts as consideration. Because Nina and the seller were both merchants, her text could be enforced even against the defendant, who had never signed anything. The passenger? Prevalence of crime in the area. Can the company punish Jonathan for what he wrote on his Facebook page? The two parties had a good faith disagreement about the validity of the claim. The constitutions of most of our States assert that all power is inherent in the people; that they may exercise it by themselves, or they may act by representatives, freely and equally chosen; that it is their right and duty to be at all times armed; that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of the press. In a civil lawsuit, a plaintiff wins with a mere preponderance of the evidence. During each year, Easterwood farmed the land, harvested the crops, and prepared the land for the following year's planting. There is no logical reason why a denial of credit is an "adverse action" when done by a lender but not by a dealership. They are natural habitats for many fish and wildlife. Some groups have challenged this view, arguing that animals are fundamentally different from other forms of personal property. 15-1b Types of Negotiable Instruments There are two kinds of commercial paper: negotiable and non-negotiable instruments. During these campaigns, Yoplait profits by gaining market share. The mandatory images included a corpse after an autopsy, a smoker's damaged lung, and a man exhaling smoke out of a hole in his neck, among others. If so, do you place more blame for the problem on lawyers or on individuals who go to court? requires no formal steps for its creation. Abner Doubleday could have copyrighted a book setting out his particular version of the rules of baseball, but he could not have copyrighted the rules themselves, nor could he have required players to pay him a royalty. any criminal case. Sometimes debtors reaffirm because they feel guilty or want to maintain a good relationship with the creditor. What does all that boilerplate mean anyway? (e) The valet service is only liable for gross negligence. Two months later, Joe sells the hound to Emily for $2,800. But sometimes the law is quite different under the two sets of rules. POM Wonderful, LLC v. In other words, when one party perceives that the other has breached or will breach the contract, the injured party must try to prevent unnecessary loss. About 30 minutes later, she felt intense abdominal pain, which did not go away. Mel's complaint stated that three witnesses, at a bar, saw Kevin take at least eight drinks right before the damage was done. If it was accidental, should CBS still be held accountable? Windsor challenged the statute claiming the government had violated her right to equal protection. Would Guzelian's sister have a claim on Guzelian's estate? At a minimum, the court should keep the punitive award at that figure. Additional terms ___ B. In November, the women submitted a list of complaints to Soley, including a broken toilet, an inoperable garbage disposal, and a shattered skylight, as well as a leaking roof and cockroach infestation. If the president vetoes a proposed statute and the Congress wishes to pass it without his support, the idea must pass by a _____ majority vote in the House and Senate. 1984). Randy's behavior cannot be a proximate cause because Mark's behavior was not foreseeable. A trespasser is anyone on the property without consent. T F T he description of products in promotional materials can create express warranties. The UCC was created as an attempt to solve these two problems. Chapter 1 1. Yet the firm only had about a dozen lawyers. For example, the French patent office cannot refuse to accept an application from an American, as long as the American has complied with French law. 9 Result: The order forms are neither an offer nor an acceptance. Rejection If an offeree clearly indicates that he does not want to take the offer, then he has rejected it. Or lying to the point where you believe the lie is true? Decision: The agreement was only partly valid. Being fired is a tangible employment action. In his job as a bartender at the Capitol Grille restaurant, Christopher Kane often flirted with customers. It is enormously time-consuming and expensive for companies to locate all the relevant material, separate it from irrelevant or confidential matter, and furnish it. EXAMStrategy Question: Maine exempted many charitable institutions from real estate taxes but denied this benefit to a charity that primarily benefited out-of-state residents. The company took all of its employees (and Marcel) on a sailing trip in the Mediterranean. His conduct was utterly intolerable, and the verdict is reasonable. There are also specialized trial courts such as Bankruptcy Court, Tax Court, and others, which are, you will be happy to know, beyond the scope of this book. No matter what the principal and agent agree at the start, they can always change their minds later on, so long as the change is mutual. The statute does not explicitly prevent employers from banning its use. Do the offeror's words and actions indicate an intention to make a bargain? INTESTACY When someone dies without a will. Zach hired Andrew to act as his agent importing goods from Russia. Larceny is the trespassory taking of personal property with the intent to steal it. Perhaps because juries feel sympathy for those who must deal with an immovable bureaucracy, damage awards in these cases are often sizable, as the following case illustrates. Wise (and successful) entrepreneurs know how to use the law to their advantage. EXAMStrategy Question: Producer does not want Artist to pilot an airplane during the term of the contract. If Sarah hands Lenny the keys to a $600,000 yacht and says, "Lenny, it's yours," then it is his, since Sarah intends to transfer ownership right away. WCN 02-200-203 04341_ch04_hr_058-078.indd 63 8/24/17 1:35 PM 64 Unit 1 The Legal Environment "Speech" includes symbolic conduct. (c) Decal may continue in business only with the approval of a trustee. It also tested some sample questions on students at various state education colleges. The dealer's offer terminated. In extreme cases, if an LLC is established without enough capital to run its business, then a court may look to the members' assets. Employers must give minimum wage employees one rest day per week or face penalties. In re Grisham 436 B.R. 896 United States Bankruptcy Court for the Northern District of Texas, 2010 CASE SUMMARY Facts: William Grisham owned a Dodge truck. In the first round, the tests had the answers at the bottom of the page. In a recent case, hackers accessed employee information at the University of Pittsburgh Medical Center, used it to file fake tax returns, and then stole the tax refunds. Leo's payment represents 95 percent of what he promised, but there is a big difference between cash and a promissory note. Note that a check made out to "cash" is bearer paper. Strategy: Remember that majority shareholders in a close corporation owe a fiduciary duty to minority shareholders. While the monthly payments on the vehicle are not eye-popping, they are nonetheless unduly burdensome for him. List three provisions in a contract that would be material, and two that would not be. REVERSE DISCRIMINATION Reverse discrimination means making an employment decision that harms a non-Hispanic white person or a man because of his gender, color, or race. However, in early June, the Monroes travel through Arizona and discover it is too hot for them. Decision: Yes, the injured WTO member may retaliate by suspending another treaty. When Deana Wild, James Coates, and his mother, Virginia Rearden, went for a walk along the edge of a cliff at Big Sur, Wild slipped and fell to her death. Patent registration requires that the formula be disclosed publicly, which may be a boon for competitors and copyists alike. While helping with the dishes, she takes off her Rolex watch and forgets to put it back on when she leaves for the night. This global warming leads to significant climate change. The defendant's conduct actually caused the injury. A reasonable doctor always checks current medicines before prescribing new ones. But defective design cases have been more contentious. He was owed only the value of work completed, if any. If Socrates defaults on the loan, Athenian will have no right to repossess the 500 trees that are now at the Garden Supply. When Wayne asked the commissioners this question, they looked at each other and then said "Yes." The Copyright 2019 Cengage Learning. • Partners are liable to the partnership for gross negligence or intentional misconduct. In a democracy, we all participate in the crafting. The Fourth Amendment to the Constitution protects "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. This is the "peppercorn rule." 4. Was Lisa's deal formed when they orally agreed? WCN 02-200-203 04341_ch02_hr_015-038.indd 25 10/6/17 11:44 AM 26 Unit 1 The Legal Environment Rob has just found a great opportunity with a lot of potential profit. Would it be a violation of her Fifth Amendment right against self-incrimination to force her to unencrypt these files? Could we be in federal district court? It will be for the trial court to decide how much those defects are worth. There is no federal court jurisdiction. Is this judgment dischargeable in bankruptcy court? We are morally and legally entitled to present this entertainment. On net, total pay is higher. Reasoning: The Kellys are not required to live in poverty, but they must take further steps to reduce their A very small percentage of debtors who file for bankruptcy ask for a discharge of their student loans.4 Although the case did not end well for the Kellys, studies have shown that a substantial proportion of student-loan debtors who do ask for discharge receive at least partial relief from their debts. First, a plaintiff receives money for medical expenses that he has proven by producing bills from doctors, hospitals, physical therapists, and psychotherapists. If the decedent does not select an executor, the probate court appoints an administrator to Copyright 2019 Cengage Learning. 27-2c The Digital Millennium Copyright Act To bring copyright law into the internet age, Congress passed the Digital Millennium Copyright Act (DMCA), which provides that: • It is illegal to delete copyright information, such as the name of the author or the title of the article. TENANCIES Any lease for a stated, fixed period is a tenancy for years. Thus, each child of the decedent receives the same amount, and, if a child has already died, her heirs inherit her share. Under the Statute of Frauds, contracts that cannot possibly be performed within a year must be in writing. (d) does not require the debtor to show that the debtor's liabilities exceed the fair market value of assets. GENETIC INFORMATION NONDISCRIMINATION ACT Under GINA, employers with 15 or more workers may not require genetic testing, or use information about genetic makeup or family medical history as a factor in hiring, firing, or promoting employees. WCN 02-200-203 04341_ch15_hr_278-294.indd 293 9/28/17 9:39 AM 294 Unit 3 Contracts and the UCC 2. Totally frustrated, Horning asked a court to dissolve the business on the grounds that Klimowski despised him, Holdsworth resented him, and neither of them trusted him. They lease a house in a neighborhood near campus. That means it is governed by UCC §2-207. We knew that in such a calamity, we would need prompt reimbursement—compensation covering the immediate damage and our ongoing lost income. WCN 02-200-203 04341_ch27_hr_519-537.indd 524 8/28/17 7:30 AM Chapter 27 Intellectual Property 525 Priority between Two Inventors When two people invent the same product, who is entitled to the patent—the first to invent or the first to file an application? How can this be? She also has a duty to provide accurate information. Then a state investigation reveals that Purity has been cheating and its certificates are fakes. Towne Properties Asset Management Co., Ltd., 551–552 Lund v. It has 15 member nations. You Be the Judge Blasco v. Most people expect privacy in restrooms, even those at work. If you are clear about that, the question is easily answered. A court in a prior case had ordered the company to end this policy. Microsoft Corporation, Inc. If they are offended by the statute, they have the power to replace legislators who support it. No contract. YOU BE THE JUDGE WRITING PROBLEM An undercover drug informant learned from a mutual friend that Philip Friedman "knew where to get marijuana." The informant asked Friedman three times to get him some marijuana, and Friedman agreed after the third request. Fortunately, Connie decided against committing suicide. 8-1c Special Duty: Professionals A person at work has a heightened duty of care. Promise Made in Consideration of Marriage This is not the stuff of fairy tales: Barney is a multimillionaire with the integrity of a gangster and the charm of a tax collector. Or so that they can change the payment schedule to beneficiaries— either to delay distributions if need be (the beneficiary is still in that cult) or hasten payments if appropriate (in time to start tuition payments). For example, in a typical contract lawsuit, such as Beth's insurance claim, both plaintiff and defendant have a jury trial right whether they are in state or federal court. But there are still many PCs in existence because, in the past, PCs were the only option available to professionals (such as lawyers and doctors) other than a general partnership. Or had copyright gone crazy? WCN 02-200-203 04341_ch04_hr_058-078.indd 73 8/24/17 1:35 PM 74 Unit 1 The Legal Environment 7. (b) retailer who had previously relied on Manufacturer. Steps necessary to make a security interest valid against the whole world 3. • All shareholders must agree that the company should be an S corporation. Incorporator ___ E. Can either or both prove a bailment? They can be much more extensive and may include lost profits. However, she is shocked that one of her colleagues takes paper from the office for his children to use at home. Such clauses are valid if reasonable. Even after he married Kathleen, the plan drafted by White provided for her in her lifetime, but then gave everything to his children and Lauri. By mistake, she signed a contract transferring two parcels of land. Which chari- ties are most worthwhile? Having to litigate the meaning of this letter of intent was a waste of time and money for both parties. (See the "Result" at the end of this Case Questions section.) EXAMStrategy 7. Why do their members deserve limited liability? EXAMStrategy Question: Donald Waide had a contracting business. The member (that is, Hardie) controlled the LLC (in this case, TPO), 2. I don't even drink. WCN 02-200-203 04341_ch03_hr_039-057.indd 56 8/24/17 1:47 PM Chapter 3 International Law 57 constitutional rights because they were not on U.S. soil, even though they were held by Americans. Perpetual or dynasty trusts A trust that lasts forever Question: Maddie set up a trust for her children, with Field as trustee. A party is generally not required to render strict performance unless the contract expressly demands it and such a demand is reasonable. EPA 990 F.2d 1531 United States Court of Appeals for the Ninth Circuit, 1993 Facts: In the Clean Air Act, Congress directed the EPA to issue regulations that would protect visibility at national landmarks. • Instruments, such as drafts, checks, certificates of deposit, and notes. Severability viii. The trustee must act as a reasonable person would when managing the assets of another. Both creditors and debtor can propose plans. Contract Law Traditionally, many employers (and employees) thought that only a formal, signed document qualified as an employment contract. Unfortunately, the gel did not gel, at least not for long. If the board fails to take appropriate action, the auditors must issue an official report to the board. During the two weeks, some acres of Farmer Ted's crops die. As a general rule, both plaintiff and defendant have a right to demand a jury trial when the lawsuit is for money damages. In their case, they promised that if either ever won the lottery, they would split the winnings. Did the transaction appear to be commercially reasonable? Once you decide you need a written contract, then what? What conclusion do you draw about the quality of those shoes? Once a copyright expires, anyone may use the material. Harmon did not look for other work. Google paid consumers $19 million to settle the FTC's complaint that it had unfairly billed parents for charges that their children made through apps downloaded from the Google Play app store. Reasoning: Generally, landlords do not have a duty to protect their tenants from third party criminal acts. Argument for the Plaintiff-Appellant (Hotel): Your honors, my client did nothing wrong. Unethical behavior can also cause other, subtler damage. Imagine that you are the judge in the Elonis case. The plaintiff is not required to prove discrimination; he need only show a disparate impact—that the employment practice in question excludes a disproportionate number of people in a protected group (women and minorities, for instance). Civil law deals with the rights and duties between parties. CHAPTER 18 1. Issues: Did Murdock and Carter violate the business judgment rule? Starbucks Corp. Does it get worse than that? Their son, Noah, 18 months old, was born with serious birth defects that affected his physical and intellectual development. The principal and agent can agree that the agency relationship will terminate when the principal's goals have been achieved. Historically speaking, however, commercial paper is a relatively new development. Requires lenders to disclose the terms of a loan 2. But, the owner might have a good reason for the error. If the bank knew the intended use of the money (which a court could but need not infer from the location of the ATM), the debt is void. Trade secrets ___ D. Executed contract An agreement in which all parties have fulfilled their obligations. Mirror image rule ___C. Cookie did not insist on its terms, this is a minor addition, and Cookie never rejected it. 6-2a Larceny It is holiday season at the mall, the period of greatest profits—and the most crime. She cannot, however, recover more than the total that she is owed. Capitalization so inadequate that the organization cannot pay its reasonable debts, or 4. Carter enclosed it with a fence; Medford put up "No Trespassing Signs." Continuous for 20 years. No factual causation. Creditors have no right to vote on it. Adverse possession allows someone to take title to land if she demonstrates possession that is (1) exclusive, (2) open and notorious, (3) adverse or hostile to all others, and (4) continuous for a certain amount of time. Under the ADEA, the plaintiff must show that, but for his age, the employer would not have taken the action it did. Other courts have determined that sharing with just two coworkers invalidates any expectation of privacy. Therefore, employers should not ask about a job applicant's country of origin, but they are permitted to inquire if the person is authorized to work in the United States. Coverage also included "business interruption insurance" for one year, meaning the loss of pretax profit plus normal operating expenses, including payroll. To detain a customer in the manager's office for 20 minutes and question him about where he got an item is lawful. Should the police be required to obtain a warrant before searching? 2016 U.S. Dist. You Be the Judge Cases GOAL: Get them thinking independently. If his death is accidental, we are liable to pay double indemnity of $2 million. On a Saturday night, Lydia texted her coworker Marianna, warning her that she intended to tell their boss that other employees were slackers. The bad news is the word limited. When the house burned down, the insurance company refused to pay the policy because she did not have an insurable interest. The Constitution is a series of -compromises about power. The appeals court reversed this, holding that a hamburger could be unfit even if the bone occurred naturally. Corporate Opportunity Managers are in violation of the corporate opportunity doctrine if they compete against the corporation without its consent. (e) can have an oral operating agreement. Or a party may transfer her obligations under the contract, which is a delegation of duties. Practically speaking, cases like these are difficult for plaintiffs to win because they must prove that the nonmistaken party knew and that the parties had not assumed the risk of the error. Domestic corporation 21-2a Where to Incorporate? This issue is, however, one on which the courts are divided. When would harm by a domestic cat be foreseeable? When industrial plants use water as a coolant, they return it to the waterways at a high temperature that damages the ecosystem. A type of breach that substantially harms the innocent party 2. Marko's memo does so because he says he is confirming their discussion. An instrument is overdue the day after its due date. Then he hired Alexander Burnham to co-write the book. But it is important to remember that agents are always liable for their own torts. Who is likely to win? James T. The value of land lies in the owner's right to exclude, to prevent others from entering it. But that setting does not ensure privacy because she had no control over her Facebook friends' friends, who may be total strangers and number in the hundreds, if not thousands. What if the team backs out of the deal to buy the land? Without practice, too many students panic, jumping at a convenient answer, and leaving aside the tools they have spent the course acquiring. Rachel wins. 13-1c Mistakes 13-2 The Structure of a Contract 13-2a Terms That Vary by Contract 13-2b Boilerplate Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 14: Sales 14-1 Sales 14-1a Development of the UCC 14-1b Contract Formation 14-1c Performance and Remedies 14-2 Warranties 14-2a Express Warranties 14-2b Implied Warranties Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 15: Negotiable Instruments 15-1 Negotiable Instruments 15-1a Commercial Paper 15-1b Types of Negotiable Instruments 15-1c Negotiation 15-2 Holder in Due Course 15-2a Requirements for Being a Holder in Due Course 15-2b Defenses against a Holder in Due Course 15-2c Consumer Exception Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 16: Secured Transactions 16-1 Article 9: Terms and Scope 16-1a Scope of Article 9 16-2 Attachment of a Security Interest 16-2a Agreement 16-2b Possession 16-2c Value 16-2d Debtor Rights in the Collateral 16-2e Attachment to Future Property 16-3 Perfection 16-3a Perfection by Filing 16-3b Perfection by Possession 16-3c Perfection of Consumer Goods 16-4 Protection of Buyers 16-4a Buyers in Ordinary Course of Business 16-5 Priorities among Creditors 16-6 Default and Termination 16-6a Default 16-6b Termination Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion QuestionsUNIT 4: Agency and Employment Law Chapter 17 Agency 17-1 The Agency Relationship 17-1a Creating an Agency Relationship 17-1b Duties of Agents to Principals 17-1c Duties of Principals to Agents 17-1d Terminating an Agency Relationship 17-2 Liability to Third Parties 17-2a Principal's Liability for Contracts 17-2b Agent's Liability for Contracts 17-2c Principal's Liability for Negligent Physical Torts 17-2d Principal's Liability for Intentional Physical Torts 17-2e Principal's Liability for Nonphysical Torts 17-2f Agent's Liability for Torts Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 18: Employment and Labor Law 18-1 Employment at Will 18-2 Employment Security 18-2a Common Law Protections 18-2b Family and Medical Leave Act 18-2c Whistleblowing 18-3 Workplace Freedom and Safety 18-3a Off-Duty Activities 18-3b The Right to Free Speech 18-3c Lie Detector Tests 18-3d OSHA 18-3e Employee Data 18-3f Guns 18-4 Financial Protection 18-4a Fair Labor Standards Act 18-4b Workers' Compensation 18-4c Health Insurance 18-4d Social Security 18-5 Labor Unions 18-5a Organizing a Union 18-5b Collective Bargaining 18-5c Concerted Action Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 19: Employment Discrimination 19-1 Equal Pay Act of 1963 19-2 The Civil Rights Act of 1964 19-2a Prohibited Activities 19-2b Religion 19-2c Family Responsibility Discrimination 19-2d Sexual Orientation 19-2e Gender Identity and Expression 19-2f Immigration 19-2g Reverse Discrimination 19-2h Defenses to Charges of Discrimination 19-3 Pregnancy Discrimination Act 19-4 Age Discrimination 19-5 The Americans with Disabilities Act 19-5a The Hiring Process 19-5b Relationship with a Disabled Person 19-5c Obesity 19-5d Mental Disabilities 19-6 Genetic Information Nondiscrimination Act 19-7 Hiring Practices 19-7a Interviews 19-7b Social Media 19-8 Enforcement Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion QuestionsUNIT 5: The Lifecycle of a Business Chapter 20: Starting a Business: LLCs and Other Options 20-1 Sole Proprietorships 20-2 Corporations 20-2a Corporations in General 20-2b Special Types of Corporations 20-3 Limited Liability Companies 20-3a Limited Liability 20-3b Formation 20-3c Flexibility 20-3d Transferability of Interests 20-3e Duration 20-3f Going Public 20-3g Piercing the Company Veil 20-3h Legal Uncertainty 20-3i Choices: LLC versus Corporation 20-4 Social Enterprises 20-5 General Partnerships 20-5a Tax Status 20-5b Liability 20-5c Formation 20-5d Raising Capital 20-5e Management 20-5f Transfer of Ownership 20-5g Terminating a Partnership: Dissociation 20-6 Limited Liability Partnerships 20-7 Professional Corporations 20-8 Franchises Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions Chapter 21: Corporations 21-1 Promoter's Liability 21-2 Incorporation Process 21-2a Where to Incorporate? (b) The accountant made a false statement of fact. WCN 02-200-203 04341_ch13_hr_242-260.indd 255 10/6/17 12:09 PM 256 Unit 3 Contracts and the UCC EXAM REVIEW 1. It is a hodge-podge of different actors, legal systems, and cultures. An invention is not patentable if it is obvious to a person with ordinary skill in that particular area. Barwell did not perfect its interest. In particular, the debtor must list any recent payments to creditors and any other property held by someone else for the debtor. Jonathan Saltzman, "License Is Denied for Topless Dancing at Downtown Pub," Providence Journal-Bulletin, July 11, 1995, p. Although, in theory, intestacy laws are based on what most people would prefer, in practice, they are not. • The holder of a registered trademark generally has the right to use it as an internet domain name. WCN 02-200-203 04341_ch20_hr_377-397.indd 388 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 389 20-5d Raising Capital Financing a partnership may be difficult because the firm cannot sell shares as a corporation does. A promise not to file a meritless lawsuit has no value at all. Quinn was working for the seller. Coworkers and supervisors called him names like "brown boy," "spic," and "wetback." They also told him that "if it ain't white, it ain't right," and wrote "Go Back to Mexico" on the bathroom wall. Tenancy at will ___ E. 2 The Pesto Bank: (1) loans money to Basil and (2) takes a security interest in his equipment. No overnight homicide? I'm desperate to get a copy, so I will assume you agree unless I hear from you by 6:00 tonight." Marge hears nothing by the deadline and assumes she has a deal. T F Max, a 19-year-old sophomore, gets drunk at a fraternity party and then causes a serious car accident. The "reasonable person" rule is irrelevant in a strict liability case. When she returned the red car, Lonny Joe discovered a long scratch along one side. Public Policy. Some assignments are prohibited by public policy. In the movies, when a character wants to get serious about keeping a promise—really serious—he sometimes signs an agreement in blood. Everyone should have disability insurance to replace between 60 and 75 percent of their income. 30-2e Amending a Will A testator can generally revoke or alter a will at any time prior to death. WCN 02-200-203 04341_ch12_hr_220-241.indd 236 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 237 11. In recent years, some insurance companies have paid serious damages to settle fraud charges involving the sale of life insurance. Despite the absence of scientific support, POM conducted national advertising campaigns trumpeting the benefits of pomegranate juice, such as: "POM Wonderful Pomegranate Juice can help prevent premature aging, heart disease, stroke, Alzheimer's, even cancer." The Federal Trade Commission charged the Resnicks and POM under the FTC Act for making false, misleading, and unsubstantiated statements. By some mix-up, this amount was sent to a collection agency. A great combination of hard work and intelligence." But without hesitation, you toss the résumé into the wastebasket. 10-3d Communication of Acceptance The offeree must communicate his acceptance for it to be effective. 17-1a Creating an Agency Relationship In an agency relationship, someone (the agent) agrees to perform a task for, and under the control of, someone else (the principal).1 To create an agency relationship, there must be: • A principal and • An agent • Who mutually consent that the agent will act on behalf of the principal and • Be subject to the principal's control, • Thereby creating a fiduciary relationship.2 Principal In an agency relationship, the person for whom an agent is acting Agent In an agency relationship, the person who is acting on behalf of a principal Consent To establish consent, the principal must ask the agent to do something, and the agent must agree. Does Kim have a binding deal? Marta places a large, prefabricated plastic greenhouse in her backyard, with the steel frame bolted into concrete that she poured specially for that purpose. WCN 02-200-203 04341_ch28_hr_538-559.indd 559 10/6/17 12:30 PM PERSONAL PROPERTY AND BAILMENT CHAPTER 29 Ferris Bueller was not really sick. GT was not aware that it might be held liable for Ellis's lost wages. By creating a limited government of three branches and guaranteeing basic liberties to all citizens, the Constitution has become one of the most important documents ever written. But if Rachelle down the hall cheats, she is just corrupt. Trustee Someone who manages the assets of a trust. The same concept applies here. The debts become permanently discharged only when the bankrupt fully complies with the plan. Paul Thayer was a corporate director, deputy secretary of defense, and former fighter pilot who gave stock tips, based on information he had learned as a director, to his girlfriend in lieu of paying her rent. Lisa negotiates with Ed to buy 300 barbecue grills. The UCC will enforce a deal even though it is difficult, in common law terms, to say exactly when it was formed. But he was not that close to his children. App.4th 1640 California Court of Appeals, 2005 Facts: In the mid-1950s, Richard Boeken began smoking Marlboro cigarettes at the age of 10. After all, he had crossed her name out of the old will he had given his lawyer to use as a basis for the new document. The university argued that these religious views would have impeded the performance of his job, which required him to raise funds in the science community and work with university scientists. The defendant, who owns the third-story apartment, denies any wrongdoing, and it may be difficult or impossible for the plaintiff to prove why the air conditioner fell. Is Jackson liable to Jeff? Wrongful Discharge: Violating Public Policy Olga Monge was a schoolteacher in her native Costa Rica. Instead, he calls the dealer and upgrades to a yacht because he has figured out how to profit from the bad news. The Slippery Slope So many truly awful outcomes begin with that first step down the slippery slope. Customers were free to hire any service company, but most of the acreage was covered by service contracts with Howey-in-the-Hills. The primary English law of employment reflected this simpler time. (a) Retailers (b) Wholesalers that sell to distributors for resale (c) Consumers (d) Wholesalers that sell to buyers in ordinary course of business Copyright 2019 Cengage Learning. Rathke v. After filing for bankruptcy, Yvonne Brown sought permission of the court to reaffirm a $6,000 debt to her credit union. If not, which element did it lack? WCN 02-200-203 04341_appA_hr_A1-A14.indd 9 9/28/17 7:27 AM A10 APPENDIX A The Constitution of the United States the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In the famous Exxon Valdez case, the U.S. Supreme Court placed a severe limit on a certain type of punitive award. Critics argue that this rule may deny a day in court to plaintiffs who could, in fact, discover sufficient evidence if they were allowed to proceed with the pre-trial process of discovery. • It is illegal to distribute tools and technologies used to circ

to sell up to $1 million in securities in any 12-month period, provided that they: 443 Regulation D The most common and important type of private offering Accredited investors Institutions (such as banks and insurance companies) or individuals (with a net worth of more than $1 million or an annual income of more than $200,000) • Sell the securities through only one online platform that is operated by a broker-dealer or a funding portal (e.g., a website) that has registered with the SEC, • File an offering statement and annual reports with the SEC, • Limit investments by individuals to either 5 or 10 percent of their income or net worth (depending on their wealth), • Limit any advertising outside of the funding portal, and • Prohibit resale of the stock for one year (except to the company, accredited investors, family members, or as part of a registered offering). 1. Result: A buyer normally takes all fixtures. A gift made in contemplation of approaching death, can be revoked 4. Ethics Since Tim Cook became CEO of Apple, more than three-quarters of the company's buildings worldwide have been adapted to run on sustainable energy—sun, wind, water, or geothermal. 23-2c The Robinson-Patman Act Under the Robinson-Patman Act (RPA), it is illegal to charge different prices to different purchasers if: • The items are the same and • The price discrimination lessens competition. Ethics A chimera is a combination of two different animals' cells that creates a third animal with a genetic blend of the two. CPA QUESTION Generally, a corporation's articles of incorporation must include all of the following except the: (a) name of the corporation's registered agent. LEXIS 23655; 2008 WL 828032 United States District Court for the Western District of Pennsylvania, 2008 Facts: Staff Sergeant William E. The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session. Most commonly, government involvement is required to realign costs and benefits. Is Randy's car lost, abandoned, or mislaid? Therefore, the tax issues can be complicated and are a major reason why most professional groups now choose to be an LLC or an LLP. On or about September 15, 2018, Anthony Caruso accidentally drowned and died while swimming. Pagans were allowed to enter wearing their colors, and the pub did not call the police. Poirier claimed their agreement was unenforceable because the Statute of Frauds requires promises that cannot be performed within a year to be in writing. When Leona died, Evelyn informed the estate's executor that she was exercising her option. He also alleged that the compensation plan violated the company's pay-for-performance philosophy as outlined in the proxy statement. Federal courts have jurisdiction over these cases. (e) Kyle wins because Chuck has committed fraud. Typically, companies sell their consumer debts for pennies on the dollar to collection agencies that do not spend a lot of time and energy ascertaining whether the debt is real. If there was no such agreement, Hungary has a claim of ownership in the expropriated collection. An hour later, my plans change. Law can also be pay money damages to the surprising. Always juicy"; and it assured its users that it was impossible "for anyone to find out who you are and where you are located." The site also instructed users on how to download IP-cloaking software to further ensure anonymity. Secured Claims Creditors whose loans are secured by specific collateral are paid first. • Handwritten terms prevail over typed and printed terms. Because 7582 U.S. ___ (2017). It is the responsibility of this court to nullify such a harmful law. They can jurisdiction. Michelle decided to cross the tracks. MOTIONS A motion is a formal request to the court. Punishment The Eighth Amendment prohibits cruel and unusual punishment. Carter was an employee of the Sheriff's office in Hampton, Virginia. None of the parties realized that the termination statement for the Term Loan had been wrongly included. Jagger was fired for refusing to take the polygraph test. Who will pay for current changes necessary to prevent damage now and in the future? The correct determination of damages is related instead to the difference in value of the "100 percent perfect" hand Hawkins was promised and the hand as it was after the actual procedure. Otherwise, partners lose protection against personal liability. The buyer claims that the product injured her because the manu- facturer designed it poorly. Suppose, however, that BeachBall uses the financial statements to persuade a landlord to rent it a manufacturing facility. be sued as a group, or any of them can be sued individually for the full amount of the damages. Have you ever been convicted of a crime that would affect the performance of this job? • Facebook now takes a similar approach. All these changes required significant time and effort from Brune and other members of the theater department, who had to produce the new version in only three days. T F The first person to file the application is entitled to a patent over someone else who invented the product first. Randy works for a vending machine company. WCN 02-200-203 04341_ch12_hr_220-241.indd 228 10/6/17 12:06 PM C h a p t e r 12 12-4 Performance of a Contract 229 REMEDIES A remedy is the method a court uses to compensate an injured party. (b) gives a client incorrect advice based on an honest error judgment. (d) an innocent misrepresentation. In the last 15 years, more than 95% of all bankruptcy filings have been by consumers. The court should leave this issue to the citizens. The NLRB frequently makes rulings like the one described here. Does Oiler have a claim against Winn-Dixie? • They provide a reasonable time limit. George sues and easily proves Cecily breached a valid contract. T F Violating the environmental laws can be a criminal offense, punishable by a prison term. What is Disney's obligation to its young customers? What clubs, societies, or lodges do you belong to? WCN 02-200-203 04341_ch14_hr_261-277.indd 277 9/28/17 7:16 AM NEGOTIABLE INSTRUMENTS CHAPTER 15 With graduation looming, Chaz needs to rent an apartment and buy a car. WCN 02-200-203 04341_ch04_hr_058-078.indd 59 8/24/17 1:35 PM 60 Unit 1 The Legal Environment created the office of president, defining the scope of executive, or enforcement, power. Argument for Kennedy: The court's interpretation of the Constitution must evolve with society. Was the car unreasonably dangerous? WCN 02-200-203 04341_ch01_hr_001-014.indd 11 10/6/17 11:41 AM 12 Unit 1 The Legal Environment MATCHING QUESTIONS Match the following terms with their definitions: ___ A. Monsanto sued the farmer and won because the farmer had infringed Monsanto's plant patent by using the stored seeds without permission. You insist on a non-compete clause in the sale contract. WCN 02-200-203 04341_appA_hr_A1-A14.indd 1 9/28/17 7:27 AM A2 APPENDIX A The Constitution of the United States Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. WCN 02-200-203 04341_ch14_hr_261-277.indd 262 9/28/17 7:16 AM C h a p t e r 14 Sales 263 Noah and Nina, Revisited Noah and Nina each negotiated what they believed was an enforceable agreement, and both filed suit: Noah for the sale of his land, Nina for the purchase of drones. The Heritage officer said that the increase in this amount was meant to offset other provisions that favored Phibro. The statement must be false. Such a system does not violate Title VII. Unlike corporations, LLCs are not required to hold annual meetings or maintain a minute book. In the event of infringement, the rightful owner may be entitled to an injunction prohibiting further violations. (a) Yes, the WTO prohibits tariffs. Shauna sued the other pilot and the team. But he was aware of the work they were doing, and he should know that they would reasonably expect compensation. ("Coastal") and Anthony Caruso entered into an insurance contract ("the contract"), a copy of which is annexed hereto as Exhibit "A." This contract was signed by all parties or their authorized agents, in Multnomah County, Oregon. Moreover, Starbucks knew what it was doing because its company-wide policy instructed baristas to underfill latte cups. Debts That Cannot Be Discharged The following debts are never discharged, and the debtor remains liable in full until they are paid: • Recent income and property taxes; • Money obtained by fraud; • Cash advances on a credit card totaling more than $950 that an individual debtor takes out within 70 days before the order of relief; • Debts omitted from the Schedule of Assets and Liabilities; • Money owed for alimony, maintenance, or child support; • Debts stemming from intentional and malicious injury; • Debts that result from a violation of securities laws; and • Student loans. Stop and Frisk. None of us wants to live in a world in which police can randomly stop and frisk us on the street anytime they feel like it. Instead, it promised to deliver a 16-ounce latte—and that is exactly what it did. People are pushing and shoving because they know there is not enough food for everyone; some customers will go home hungry. The following options are available under the Bankruptcy Code: Number Topic Description Chapter 7 Liquidation The bankrupt's assets are sold to pay creditors. He believed that good rulers were the best guarantee of justice. Some commentators argue that because so much intellectual property is stolen, owners need longer protection. purchased a manufacturing plant in Virginia from American Viscose Corp., the owner of the plant since 1937. Ahmad, 1995 U.S. App. Someone who creates a trust. Beginning in 2009, Congress introduced a so-called income-based repayment plan (IBR) for student loans that are not in default. WCN 02-200-203 04341_ch22_hr_420-438.indd 429 8/26/17 11:29 AM 430 Unit 5 The Lifecycle of a Business A Chapter 11 proceeding follows many of the same steps as Chapter 7: a petition (either voluntary or involuntary), an order for relief, a meeting of creditors, proofs of claim, and an automatic stay. An invitee is someone who has a right to be on the property because it is a public place or a business open to the public. • Punitive damages in the amount of $18 million. And where would they invest the proceeds? Many people think that the term boilerplate is a synonym for boring and irrelevant, but it is worth remembering that the word comes from the iron or steel that protects the hull of a ship—something that shipbuilders ignore to the passengers' peril. 10See, for example, Bohach v. You defend based on the form you had them sign. Maine was subsidizing charities that served in-state residents and penalizing those that attracted campers from elsewhere. But whatever happens, she knows she will have income until the day she dies. Under what theory did the film makers argue that they had the right to use this music? A university decided against hiring an applicant after it learned from his website that, because of his religion, he doubted the theory of evolution. WCN 02-200-203 04341_ch24_hr_460-481.indd 480 10/6/17 12:28 PM Chapter 24 Consumer Protection 481 3. The company declined to recognize the union, which petitioned the NLRB to schedule an election. It is money laundering to take the proceeds of illegal acts and either conceal them or, as he did, use them to promote additional crimes. Decision: No, the bakery owner's lawyer revoked the offer before acceptance. WCN 02-200-203 04341_appC_hr_C01-C22.indd 9 9/28/17 7:28 AM C10 APPENDIX C Answers to Selected End-of-Chapter Questions CHAPTER 13 1. VAGUENESS When a provision in a contract is deliberately left unclear. Section 2-207 is full of exceptions, but there is no change in this basic requirement of contract law. 24-3c Home Mortgage Loans In the first decade of this century, the United States suffered through a bubble in housing prices, followed by a dramatic crash. Incoterms rules A series of three-letter codes used in international contracts for the sale of goods. Reasoning: "Appropriate" is a very broad term that requires consideration of all relevant factors. Conley owned video poker machines. Executrix 1. Affirm To allow a court decision to stand as is. While travelling to Pakistan, his plane was hijacked and taken to Iran, where he was killed. Under the federal Code, a debtor is allowed to exempt only $23,675 of the value of her home. 3 Judicial power, 61 Judicial review, 61 Jurisdiction, 80, 81e Jury, 42 grand jury, 107 trial (right to), 91, 103 K Kane, Christopher, 340 Kant, Immanuel, 19–20 Kardashian, Kim, 131 Knussman, Kevin, 341 L Labor unions collective bargaining, 348 concerted action, 348–349 lockouts, 349 NLRA Section 7, employees union guarantees, 347 NLRA Section 8, prohibitions on unfair labor practices (ULPs) by employers, 347 organizing exclusivity, 347 pattern, 348 picketing, 349 replacement workers, 349 Lago Agrio, 51 Land, 539 historical value of, 521 Land use regulation eminent domain, 543–544 nuisance law, 543 abatement, 543 zoning statutes, 543 Landlord, 544 Copyright 2019 Cengage Learning. GAAP ___ E. However, if they intend to operate in several states, they may choose to incorporate in a jurisdiction known for its favorable corporate laws, such as Delaware. Employers beat them with leather Conditions were particularly straps, nailed their ears to tables, and threw bad for children. WCN 02-200-203 04341_ch07_hr_121-136.indd 128 8/24/17 11:58 AM Chapter 7 Intentional Torts and Business Torts 129 7-2b Punitive Damages Here we look at a different kind of award, one that is more controversial and potentially more powerful: punitive damages. Thus, Raould's damages would be different for these two contracts. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (also known as the New York Convention) is an international treaty with 149 signatories that provides common rules for recognizing arbitration agreements. How could she pay her loans? It must also pay overhead expenses, such as marketing and administration. Evelyn's children and her husband, Leon, got nothing, although Leon was named as executor. Since the fines imposed by the EPA are almost always less than the cost of treatment, some cities have been slow to comply. Promising her husband, Mark, that she will be home by 11:00 p.m., she jumps into her car and heads back to Be Patient, Inc. Litig, 444–445 In re Motors Liquidation Co., 309 In re Roser, 307 In re Schoenwald, 522 n. THE SARBANES-OXLEY ACT (SOX) • Requires an accounting firm to make regular and complete reports to the audit committees of its clients; • Prohibits accounting firms that audit public companies from providing consulting services to those companies on certain topics, such as bookkeeping, financial information systems, human resources, and legal issues (unrelated to the audit); • Prohibits an accounting firm from auditing a company if one of the company's top officers has worked for the firm within the last year and was involved in the company's audit; and • Provides that a lead audit partner cannot work for a client in any auditing role for more than five years at a time. Familiar examples include the Environmental Protection Agency (EPA), the Securities and Exchange Commission (SEC), and the Internal Revenue Service (IRS), whose feelings are hurt if it does not hear from you every April 15. The court discharged her $340,000 in debt. This topic requires more explanation. You can't run the organization at $1.5 billion the same way you did at $500 million. Because of my deeds, you have suffered financially. Types of Collateral The personal property that may be used as collateral includes: • Goods, which are things that are movable. ISG Lackawanna, Inc., 127 U Union Pacific Railway Co. v. The person who pays a draft ___ D. WCN 02-200-203 04341_ch16_hr_295-314.indd 297 8/26/17 9:02 AM 298 Unit 3 Contracts and the UCC 16-1a Scope of Article 9 Article 9 applies to any transaction intended to create a security interest in personal property or fixtures. When Dan suffers a serious shock from the defect, RentaLot is liable to him, even though it was unaware of the problem. the issuer may advertise freely. Brilliant places the order by using a pre-printed form stating that the product is fully warranted for normal use and that seller is liable for compensatory and consequential damages. He proposes to Li-Tsing, who promptly rejects him. EXAMStrategy Question: Martha intended to transfer one piece of land to Paul. Also, Dreyer was on the road early so that he could attend a required training session. T Takings Clause Prohibits a state from taking private property for public use without just compensation. • The testator must sign it or direct someone else to sign it for him, if he is too weak. They both greeted customers (who numbered in the hundreds), supervised employees, and performed "other PR work." When Sulls left the nightclub at 1:45 a.m. with two friends, he drove off the highway at high speed, killing himself and one of his passengers, William Ridgaway, Jr. 4Donahue v. The landlord is also keeping a reversionary interest in the property, meaning the right to possess the property when the lease ends. WCN 02-200-203 04341_em_cases_hr_T1-T4.indd 3 10/6/17 12:34 PM Copyright 2019 Cengage Learning. The detectives suggest that you post notices around the company, informing all employees what happened to Gates and why. Most of this material is copyrighted and was very expensive to produce. Typically, in other countries, their goal is to protect creditors and punish debtors, but American laws are more lenient toward the bankrupt. Appropriate Behavior. An agent may not engage in inappropriate behavior that reflects badly on the principal. 16-6 Reasoning: On the day that Roser entered bankruptcy, Sovereign Bank had not filed its financing statement, which means that its security interest was not yet perfected. Grannis did not fare any better. Despite her many requests for help, Nationwide did nothing until Berg's lease expired two years later. Warner may not assign his right to Mayer's work to another director. YOU BE THE JUDGE WRITING PROBLEM The Lordship Point Gun Club operated a trap and skeet shooting club in Stratford, Connecticut, for 70 years. Hank was authorized to drive the van but not to speed. Suppose, however, that the company takes its financial statements to the Last National Bank of Tucson instead. Regulation D The most common and important type of private offering. But instead, the audit fees that companies pay per dollar of revenue earned have declined even as SOX has required auditors to do more work. King v. The part of the Act called the "individual mandate" required most Americans to maintain health insurance coverage, or else pay a penalty. Patent → (4) Grants the inventor exclusive use of an invention A. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. If relevant facts are not in dispute, then there is no need for a trial. Many retailers have policies that instruct employees not to attempt to stop shop- lifters. Under California law, the interest rate on a loan cannot be greater than 8 percent, except in certain circumstances. Quon, 560 U.S. 746 (2010). Jurisdiction refers to a court's power to hear a case. If Nicholas and Alexandra originally agree to a two-year term, but Nicholas decides he wants to go back to business school and Alexandra runs out of money after only one year, they can decide together to terminate the agency. Utility An invention must be useful for its stated purpose to be patentable. Break Limitations. Is there a legal problem with Chitika's system? A court declared him insane and institutionalized him. How can a court tell what money bought which asset? If the three doctors have formed a PC instead, Dr. Payne's Aspen condo and the assets of the PC will be at risk, but not the personal assets of the two other doctors. However, most of these organizations are relatively small, with fewer than 50 employees. Research indicates that CEOs who break the law outside of the office are more likely to engage in workplace fraud. If in doubt, get a hard copy, signed in ink. But, in this case, even the most cautious mind would not imagine that a package wrapped in a newspaper would spread wreckage throughout the station. The owners claimed that the city was trying to take land for private use, not public, in violation of the Takings Clause. The Supreme Court ultimately decided that RPM is a rule of reason violation because it can provide benefits to consumers. T F The description of products in promotional materials can create express warranties. WCN 02-200-203 04341_ch29_hr_560-575.indd 561 8/28/17 7:38 AM 562 Unit 7 Property Delivery Physical Delivery. The donor must deliver the property to the donee. An element is something that a plaintiff must prove to win a lawsuit. They sought the creation of a supranational organization that could ensure international peace and security, encourage economic and social cooperation, and protect human rights. Dean Carter owned and lived on Lot A. In addition, a public company must establish a clawback policy, whereby it can require the CEO and CFO to reimburse the company for any bonus or profits they receive from selling company stock within a year of the release of flawed financials. Delamirie, 565 Association for Molecular Pathology v. In these states, Nancy could rescind her contract, get her deposit back, and then sue the seller for any damages she has suffered. When legislators perceive that social changes have led to new criminal acts, they may respond with new statutes. The company's financial statements fairly present its financial condition in accordance with GAAP. (b) Chuck wins because the contract terms were unclear. As a result of that improper conduct, the plaintiff (BLD) was unable to collect on a debt against the insolvent LLC. Third, a plaintiff is paid for pain and suffering. King appealed. Is Sequenom's patent valid? ETHICS IN BUSINESS There is an ongoing debate about whether managers should focus only on what is best for shareholders or whether they should consider the interests of other stakeholders as well. Spinem believed it would make a profit only if Reina appeared in the film, so it demanded the right to discharge the agreement if Reina dropped out. Tam,7 the Court held that the rule prohibiting insulting trademarks was unconstitutional: the First Amendment prohibits the government from silencing offensive words and messages—no matter how hurtful. Adopters of this text often call or email us to ask questions, offer suggestions, share pedagogical concerns, or inquire about ancillaries. Answer: Yes, because the custodian thought he was serving the purpose of his employer. Shawe himself acknowledged the conflict's "potential for grievously harming" TPG. For example, the sales ledger might report that 30 aircraft engines were sold. Sierra was a merchant with respect to scuba hoses because it routinely manufactured and sold them. • Consideration. LLC, 12 Misc. Fraud The companies trained their salespeople to tell elderly customers that a new policy was better when, in fact, it was much worse. Julie keeps the baseball. Answer: Alison will inherit everything. I have every confidence that Autonomy will be a very big and very profitable business. THE FOURTH AMENDMENT The Fourth Amendment to the Constitu- tion prohibits unreasonable searches and seizures by the government. 24-2a Deceptive Acts or Practices Many deceptive acts or practices involve advertisements. 12 Daniell v. Argument for Microsoft: Your honors, the presump- tion against extraterritorial application of U.S. statutes is strong: Unless Congress specifically states that a statute applies overseas, courts must presume that it does not. This federal Constitution does three basic things. • What services the warrantor will provide, at whose expense, and for what period of time. Charter is easy, but should have thoughtful operating agreement. The right to keep some wardrobe items The Producer negotiated: 1. If the will leaves property to "my children" and one child dies before the testator, the child's children would not inherit their parent's share. L.J. 495 (2012). • A convention is a treaty on a specific issue that affects all the participants, like the UN Convention on Contracts for the International Sale of Goods. Courts look at two separate causation issues: Was the defendant's behavior the factual cause of the harm? In some factories, half of the workers were under the age of 12. "It could get Ferris responded. Look on the internet for your state's rules on exempt property. Pillsbury Co., 162 n. Quay told Ellis that Keystone would receive a clean, unqualified opinion. Jason applied for a homeowners policy through CPM Insurance Services, Inc. 4Montana is one example. The America Invents Act allows inventors to "buy" their way to the front of the line and expedite review of their inventions through a Track One application. • Animals. In 1982, inspections revealed a chemical used to manufacture this rayon in groundwater near the plant. Fisk University, 312 S.W.3d 1 (2009). If he succumbs to that temptation, however, he is committing a fraudulent transfer. The elements in a defamation case are: 1. And similarly with contract law: If the owner of land agrees in writing to sell property to a buyer at a stated price, the seller must go through with the deal, and the legal outcome matches our moral expectations. Result: In this case, Daisy is liable for the damage to the car because that was a physi- cal tort within the scope of employment. If we understand the system, we can affect the largest source of contemporary law. The judge rules that Beth must discuss Tony's romantic life only if Coastal has evidence that he was involved with someone outside his marriage. Although Hawes purchased a substantial quantity of goods on credit from Basic, it made few payments on the accounts until the following March, when it paid Basic over $21,000. The CBA at Red Corp. But even that money is not enough to keep Bubba solvent: He defaults on his loan to Francine and goes into bankruptcy. Jonathan's Facebook postings have nothing to do with work conditions, and illegal activity is not protected. Strategy: Does Dave have a subjective expectation of privacy? In some states, professionals such as lawyers and accountants are not permitted to operate as an LLC; the LLP form is their only option other than a general partnership. The buyer believes what he hears but does not much care because he plans to demolish the building and construct a day-care center. Is this testing legal? "A delicious way to get your vitamins." But these vitamins were a minuscule part of the cookie. Suppose you find a wristwatch in your house that you know belongs to a friend. It was the EPA's job to define that Copyright 2019 Cengage Learning. Let's define these terms. The following case presents a problem with definiteness, concerning a famous television series. This was an issue on which many people had strong opinions. Generally, the finder gets no rights in property that has simply been mislaid. 1-2a Analyzing a Case A law case is the decision a court has made in a civil lawsuit or criminal prosecution. Was her Facebook wall strong enough to protect her privacy? T F In a contract for the sale of goods, the offer may include any terms the offeror wishes; the offeree must accept on exactly those terms or reject the deal. However, in other states, a court finding a clause unreasonable will declare it void in its entirety—enabling the seller to open a competing business next door. CAPACITY Minors, mentally impaired persons, and intoxicated persons generally may disaffirm contracts. Therefore, when you write a check, you are the drawer, and the bank is the drawee. (b) Millie has no valid security interest in the ring because she has not filed appropriate papers. SEEL-7's conductor and brakeman also understood the peril, but rather than posting a flagman who could have stopped traffic when a train approached, they walked to the far end of their train to repair the mechanical problem. (d) Outdoor can collect in the United States because both the United States and Australia have common law systems. Did the therapist have a duty to warn Tarasoff? The CFPB alleged that the Firm's lawyers were not actually doing the legal work. Kendrick's lawsuit is governed by the common law of contracts. 1The word principal is always used when referring to a person. WCN 02-200-203 04341_appA_hr_A1-A14.indd 14 9/28/17 7:27 AM APPENDIX B A1 UNIFORM COMMERCIAL CODE The Uniform Commercial Code can be found at: or B1 Copyright 2019 Cengage Learning. Also, coerced confessions are unreliable because the defendant may confess simply to end the torture. Rob refused to turn in the form with a lie. In reaction to a shooting, Ehling posted the following statement on her Facebook page, which limited access to just her "friends." An 88 yr old sociopath white supremacist opened fire in the Wash D.C. Holocaust Museum this morning and killed an innocent guard (leaving children). Are these terms appropriate for your industry? As the opening scenario illustrates, the lives of many workers were grim. OSHA may assess fines for violations and order employers to correct unsafe conditions. To have an illegal monopoly, a company must: I. You have just been notified that 150 of the cars have caught on fire, while thousands of others have overheated. Circuit City Stores fired 8 percent of its employees because they could be replaced with people who would work for less. Felice's site also claimed that Vogel was "WANTED as a Dead Beat Dad" because he was behind on his child support They had no defense payments. It could be an erroneous prediction about future prices, such as an expectation that oil prices will rise. Only one of the two plaintiffs succeeded. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. They were crisp, organized, and current. Medicare fraud, which Stacey committed, is a crime because Congress has outlawed it. Connie was very depressed. In 1995, however, the taxes expired, and Congress refused to renew them. Requires all federal agencies to prepare an environmental impact statement Copyright 2019 Cengage Learning. WCN 02-200-203 04341_ch31_hr_593-610.indd 595 9/28/17 6:45 AM 596 Unit 7 Property These are the rules on insurable interest: • Definition. But it is also important that you be able to afford to do the right thing. Coopers is not liable. In this case, the tied products are the undesirable films like Tugboat Annie Sails Again. 4IFRS are established by the International Accounting Standards Board, a privately funded organization located in London. These searches sometimes reveal information that is illegal for employers to act on, such as age, religion, pregnancy, or illness. This employment practice is increasingly common. Bilateral contract A contract where both parties make a promise. Conforming goods Satisfy the contract terms Cover To reasonably obtain substitute goods because another party has not honored a contract 2UCC §2-106(2). And even if cigarettes did contribute to his failing health, Mr. Boeken chose to smoke throughout his life, even after major surgery on one of his lungs. For example, police do need a warrant to: • Search the contents of your cell phone or personal computer, • Intercept email in transit, • Read private Facebook profiles and postings, • Attach a GPS tracking device to your car, or • Require a blood test. During the next 100 years, the world's average temperature is likely to rise 2 to 6 degree Fahrenheit, producing the warmest climate in the history of humankind. REQUIREMENTS FOR NEGOTIABILITY To be negotiable, an instrument must: • Be in writing, • Be signed by the maker or drawer, • Contain an unconditional promise or order to pay, • State a definite amount of money that is clear "within its four corners," • Be payable on demand or at a definite time, and • Be payable to order or to bearer. What is your corrected vision? Even if the university agrees to this outrageous demand, that agreement is not a valid contract because the professor is already under an obligation to post final grades. The principal does not have to micromanage the agent. Will his defense work? For example, an auditor or her family must not maintain a financial or business relationship with a client. In its contract with Elite, North Pointe had agreed to pay up to $5,000 for medical expenses for a bodily injury caused by an accident occurring on Elite's premises, regardless of fault. An ageist remark, in and of itself, does not prove discrimination. Look, we get it. Judicial review ___D. The report further warns that climate change will cause extreme storms, flooding, drought, landslides, air pollution, water and food shortages, the extinction of plants and animals, and an increase in refugees and poverty worldwide.1 A bipartisan committee of American business leaders, politicians, and academics predicts that climate change in the United States will lead to constant flooding along the coasts, and the destruction of important industries in the south, such as tourism and agriculture, as summers become too hot to grow crops—or even to be outside.2 Preventing climate change is a highly complex problem because any solution requires international political cooperation coupled with major behavioral changes. • Acting of her own free will. Since few of these companies ever go public, investors have limited opportunities to sell their stock or realize any return on their investment. Which law applies? However, its patent on cDNA is valid because this material is different from anything found in nature. Estate Planning 579 Argument for Francis's Children: Before meeting Kathleen, Francis had always used Edward White, a lawyer who knew the family well. Implied authority → (2) When an agent has authority to perform acts that are necessary to accomplish an assignment Chapter 18 A. Maker 4. Both houses are organized into dozens of committees, each with special functions. T F A landlord may charge a tenant for normal wear and tear on an apartment, but the charges must be reasonable. Felix persuades his neighbor, Faith, that he has invented a fabulous beauty cream guaranteed to remove wrinkles. Predatory pricing is another example of improper conduct. RESULTS 3. Result: Aukerman wins. You know that under CPSC rules, you are required to report toy defects within 24 hours. Delivery of personal property to the intended bailee II. The store promptly sells the note to a finance company. However, while the UCC offers a contract law that is more flexible than the common law, it also requires a higher level of responsibility from the merchants it serves. Jones wanted the license numbers of the subcontractors that Quake would be using, but Quake could not furnish those numbers until it had assured its subcontractors that they had the job. WCN 02-200-203 04341_ch02_hr_015-038.indd 21 10/6/17 11:44 AM 22 Unit 1 The Legal Environment general satisfaction with life, but when people work so hard or so dishonestly that their health, friendships, and leisure activities suffer, it has the reverse effect. She has also committed negligence, and the injured party will file a lawsuit against her, seeking money. Judges define "signature" very broadly. Strategy: Because there is no contract, the Hoffmans must rely on either promissory estoppel or quasi-contract. 3d 811 (9th Cir. It is assault even if the battery never occurs. Scientists were concerned that the sounds emitted by the sonar would harm marine mammals, such as whales, dolphins, and sea lions. If, however, he knocks a hole in a wall or damages the plumbing, the landlord may collect the cost of repairs, either by using the security deposit or, if necessary, by suing. In addition to the legal fees required to establish a trust, the trustees may have to be paid. Before trial begins, a defendant in a civil lawsuit believes that, even if the plain- tiff proves everything he has alleged, the law requires the defendant to win. WCN 02-200-203 04341_ch22_hr_420-438.indd 431 8/26/17 11:29 AM 432 Unit 5 The Lifecycle of a Business 22-4a Beginning a Chapter 13 Case To initiate a Chapter 13 case, the debtor must file a voluntary petition. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper, he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States. Now reverse the problem. 21-4a Voluntary Termination by the Shareholders To terminate a corporation, the shareholders undertake a three-step process: 1. WCN 02-200-203 04341_ch23_hr_439-459.indd 456 8/28/17 7:11 AM Chapter 23 Securities and Antitrust 457 4. The company also argues that, even if it did receive the sheet, the disclaimer was not clear and conspicuous. They both owned half of TPG's stock, were co-chief executive officers, and were the only directors. Second Bank lends Diminishing goes bankmoney and perfects its rupt, and both banks security interest by filing attempt to take the rolla financing statement. T F Contract dates and deadlines are strictly enforceable unless the parties agree otherwise. Since then, Congress has enacted important legislation to prevent discrimination in the workplace. He also told Sue privately that she did not have the right to make admissions decisions. Article 9 employs terms not used elsewhere, so we must lead off with some definitions: • Fixtures are goods that have become attached to real estate. Judged by this standard, flag burning is symbolic speech. Leslie buys a house from Jamal. Partition Partition by kind A form of partition in which a property is divided among co-owners Since any tenant in common has the power to convey her interest, some people may find themselves sharing ownership with others they do not know or, worse, dislike. Answer: Yes, they are entitled to the value of their work, said the court in Chesney v. WCN 02-200-203 04341_ch10_hr_177-197.indd 195 10/6/17 11:47 AM 196 Unit 3 Contracts and the UCC (c) lose, because he rejected the offer. 3. Result: If Mark had told the truth, Farmstead still would have issued the policy, but the premium would have been higher. A partnership of doctors in Billings, Montana, sought to build a larger office build- ing. The Supreme Court ruled that a maximum security men's prison could refuse to hire women correctional officers. Copyright 2019 Cengage Learning. • On Tuesday morning, Eric mails his acceptance. Employers who hide terms or sneak them into contracts after the employee has accepted the job may be acting illegally. The dealer, of course, was allowed to keep the defective RV and stare out the ill-fitting windows. Someone who inherits assets ___ B. Ethics Presumably, the agents knew that defrauding elderly people was wrong. Ultimately, a jury determined that Rearden had pushed Wild over the cliff to collect on the policy and it convicted her of first degree murder. Three years late? independently. Second: What about Jonathan's marijuana use? As a result, the company had the right to void the policy. Executory contract A binding agreement in which one or more of the parties has not fulfilled its obligations. Using a pen to write one's name, though sufficient, is not required. It is simply a written request that the agency furnish whatever information it has on the subject specified. Rowley's business became unprofitable, and she asked the city's real estate officer for permission to assign her lease. ETHICS John Stevens owned a dilapidated apartment that he rented to James and Cora Chesney for a low rent. The agreement between Bob and Cathy says nothing about assignment. Notice of Outstanding Claims or Other Defects A holder is on notice that an instrument has an outstanding claim or other defect if: 1. A Signal Co. shareholder sued to prevent the sale. • If an unauthorized transfer takes place using just your number, not your card, then you are not liable at all as long as you report the loss within 60 days of receiving the bank statement showing the loss. The plaintiff must show that the defendant's excuse was a pretext. Thus, if California residents skydive while smoking a cigarette, they may lose their lives, but not their jobs. Where there is doubt about the current (or future) status of a doctrine, we say so. This threat is largely caused by humans. Has FedEx violated the law? The accountant (1) cannot show the working papers to anyone without the client's permission (or a valid court order) and (2) must allow the client access to the working papers. Although the two brokers do not have actual or implied authority to sell the fraudulent stock, their employer is nonetheless liable on the grounds that the brokers appeared to have authority. Nothing worked out as he had planned. Women, minorities, and gay students were disproportionately affected. Later that year, Chase visited New Jersey. After weeks of delay, Edwin concedes he hasn't a cummerbund to his name. He calls the examining doctor, who admits that Tony could have committed suicide by swimming out too far. Is the "contract" between Chris and Chez Luc legally binding? RentaLot does not realize that the sander has faulty wiring, but a reasonable inspection would have revealed the problem. For example, they have created a new category of food that is meant to be more than a snack but less than a meal, such as Hot Pockets. Judges rely more on written submissions than on lawyers' oral arguments. Bystanders are much more likely to react if they are alone and have to form an independent judgment. Class Actions Class action A suit filed by a group of plaintiffs with related claims Suppose Janet uncovers evidence that Coastal denies 80 percent of all life insurance claims, calling them suicide. Although the two members were in total conflict, one of them refused to vote for dissolution. Jones has demonstrated no specific harm to her job. He could go to jail, and his company could be harshly penalized. Hungary, 566 Del Lago Partners, Inc. If Ohio passed a tax on milk produced in other states, a federal court would declare the law void, as a violation of the Commerce Clause. • Businesses everywhere will be able to operate more efficiently, and transactions will be more convenient, if the law surrounding most of their transactions is the same in all 50 states. Many credit the Statute of Anne with greatly expanding the burst of intellectual activity that we now refer to as the Enlightenment. You also know that making the required report could have a significant impact on Mattel's profitability. (e) lose, because Louise revoked the offer. Some critics argue that food companies Many processed food bear responsibility for this overeating because they make products are harmful their products too alluring. The jury in that case is also deliberating. WCN 02-200-203 04341_ch14_hr_261-277.indd 264 9/28/17 7:16 AM C h a p t e r 14 upon. State trial court D. Choice of forum Determines the state in which any litigation would take place. It seems only fair that they be paid as much as Nationwide's lawyers, who bore no financial risk, lost the case, and behaved badly in the process. The definition of a latte is a milk-based coffee drink topped with milk foam. The Firm filed a motion to dismiss the complaint. A handful of states—California, Colorado, Montana, Oregon, Vermont, and Washington—also allow doctors to prescribe a lethal dose of medication at the request of a terminal patient who is suffering intolerably. Deponent The person being questioned in a deposition Production of Documents and Materials Each side may ask the other side to produce relevant documents for inspection and copying; to produce physical objects, such as part of a car alleged to be defective; and for permission to enter on land to make an inspection, for example, at the scene of an accident. The strong hand of the law touches us all. Medical marijuana Employment and Labor Law 339 changed her life—now she can hold a job and care for her family. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it. 4-2a Committee Work Congress is organized into two houses: the House of Representatives and the Senate. The company made all the required disclosures but scattered them throughout the loan document and intermixed them with confusing terms that were not required by TILA. Caitlin promises to pay $900,000 on that date. They are therefore entitled to a share of his estate. If you receive any of these prohibited contacts, you can file a complaint at www.fcc.gov/complaints. Called Pure Power Boot Camp, Brenner's gym was modeled on a U.S. Marine training facility, with an indoor obstacle course, camouflage colors, and a rubber floor designed to look like dirt. However, its influence is so widespread that many of its rules like the Incoterms are now accepted as the global standard in international business. The Ohio State University wrote to Philip Foster offering him an appointment as a professor and chair of the art history department. Instead, the Court has to assume the provision was left out of the Second Contract on purpose. Answer: McGarry v. A year later, the police downloaded information from his car's onboard computer, which they were able to use to convict him of the crime. Strategy: To hire based on sex is a violation of Title VII unless sex is a BFOQ for the job. When Kathleen asked for a reason for the rejection, she was told that the credit bureau did not have enough information about her to establish creditworthiness. They deservedly receive the attention of the public and the law. This was your opportunity to really make a difference! WTF!!! And to the other guards go to target practice. Craig calls his stockbroker, Alice, and asks her to buy 100 shares of Banshee Corp. Chapter Conclusion Environmental laws have a pervasive impact on our lives. Olive's search uncovers Basil's previous security agreement, and she realizes it would be unwise to make the loan. Article II Copyright 2019 Cengage Learning. You Be the Judge In re HP Secs. Answer: Yes. (d) The promises are conditional. Violations of the antitrust laws are divided into two categories: per se and rule of reason. (The promisor is the one who makes the promise that the third party beneficiary is seeking to enforce. The accident was caused by the bus driver's negligence. BONA FIDE OCCUPATIONAL QUALIFICATION (BFOQ) An employer is permitted to establish discriminatory job requirements if they are essential to the position in question. Chapter Conclusion Contracts govern countless areas of our lives, from intimate family issues to multibillion dollar corporate deals. If so, did the contract between Chateau and Sabate USA have to be in writing? But even if directors are rejected by shareholders, the other board members can refuse to accept their resignation. It

inherits whatever claims and defenses arise out of that contract. You Be the Judge: Did the Hercules board violate its fiduciary duty when it approved the compensation plan? WCN 02-200-203 04341_ch05_hr_079-100.indd 99 9/28/17 9:36 AM 100 Unit 1 The Legal Environment DISCUSSION QUESTIONS 1. They claim that, at that time, they arranged for Hungary to retain possession of the collection so that the works could stay in Hungary. IMMIGRATION Under Title VII, it is illegal for employers to discriminate against noncitizens because "national origin" is a protected category. Why did the Dannemans not understand the papers they had signed? Georgina rents Sam her sailboat for a month. She has a wonderful time at the dance, but decides the pendant was an extravagance, returns it, and demands a refund. Should you post the notices? T F The Due Process Clause requires that any citizen is entitled to a jury trial before any right or property interest is taken. Your views are vital. The product does not have to be absolutely safe. (e) consumer. Now, as the justice's imagined world has come to reality, the law struggles to keep up with technology's rapid changes. The 1934 Act bans three types of insider trading: short-swing trading, classic insider trading, and misappropriation. criminal prosecution. (a) Contract (b) Remedy (c) Negligence (d) Assault (e) Battery 5. Or the law of Argentina or New Jersey? In enforcing this provision of the Constitution, the courts ask whether a person had a reasonable expectation of privacy. Slight care 1. In sum, the federal government cannot make people buy health insurance, but it can tax those who do not. Mediation A form of ADR in which a neutral third party guides the disputing parties toward a voluntary settlement. Murder, robbery, rape, wire fraud, and embezzlement are felonies. • Lost property—the finder generally has rights superior to everyone but the true owner, except that if she found it on land belonging to another, the property owner generally is entitled to it. It is no longer a mere idea; it is the law of the land. It found that the therapist was negligent in failing to warn. Should Hardie be personally liable for TPO's debts? Different terms 1. Of course, the company has the right to recover from the two brokers in the unlikely event that they have assets. Decision: Hawkins should receive the difference between the benefit the contract promised and the benefit he actually received. The manager of a parking lot, the finder of lost property, and the operator of an airport security system must all realize that they may incur substantial liability for personal property, whether they intend to accept that obligation or not. Strategy: Was McConkey protected by a statute? Do you agree with him? They may protect customer lists that have been expensive to produce. Fraud is a tort, but it typically occurs during the negotiation or performance of a contract, and it is discussed in detail in Unit 2, on contracts. The United Kingdom has not signed the CISG. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present. All four of these requirements were met: Issue: Was the commissioners' promise to Harmon enforceable? The court ordered him to stop. Cappier,2 through no fault of the railroad, a train struck a man, severing an arm and a leg. Issue: Is the anti-taking provision of the ESA constitutional? T F In a lawsuit for money damages, both the plaintiff and the defendant are generally entitled to a jury. The contract clearly stated that the plane was sold as is. It is a religious law based on both the Koran and 5Shari'a means "path" in Arabic. The defendant must show that its action had a nondiscriminatory reason. UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT A U.S. act requiring states to recognize foreign judgments under certain conditions. WCN 02-200-203 04341_ch22_hr_420-438.indd 425 8/26/17 11:29 AM 426 Unit 5 The Lifecycle of a Business Unsecured Claims Last, and frequently very much least, unsecured creditors have now reached the delicatessen counter. The grantor could create a trust in her will that allows her husband to spend the income and, upon his death, gives the principal to their children. Congress passes statutes about air safety, but U.S. senators do not stand around air traffic towers, serving coffee to keep everyone awake. Blaine _____ disclose in her articles that she receives free tickets. Increasingly, however, courts have been willing to enforce an employer's more casual promises, whether written or oral. As an investment banker, Maher learned about companies that were secretly developing innovative medical treatments. Offeror ___E. Being rich and famous? In contrast, a little league dad was found liable for defamation after falsely posting that his son's team encouraged adulterous affairs between the coaches and the players' mothers.21 Unlike the "crazy" comment, the latter was a fact. PREDATORY PRICING Predatory pricing occurs when a company lowers its prices below cost to drive competitors out of business. Exchange. It is the sum total of all the judicial decisions that have not been overturned by appellate courts. You are obligated to return the watch to the true owner, and until you do so, you are the bailee, liable for harm to the property. No one—including you—is good at overcoming the biases that these conflicts create. There is no evidence in the record that CCB did get the specification sheet in question. After the Norman conquest of England, William the Conqueror introduced trial by combat to settle disputes: The winner of the battle was right. c. Merchantable means that the goods are fit for the ordinary purposes for which they are used.11 This rule contains several important principles: • Unless excluded or modified means that the seller does have a chance to escape this warranty. F A gift is unenforceable unless both parties give consideration. The Code demands only an indication that the parties reached an agreement. Their only access to the beach was through a vacant tract of protected coastal land—the Disputed Area which was not part of either lot. Danny asks his father to buy stock in FoneBank. Each is worth $2,500, but it is Sunday, and the local rare-coin store is closed. Misdemeanor A less serious crime, often punishable by less than a year in a county jail. After a long day full of adventures, the friends returned to collect the car, only to discover that its mileage has gone from 124.5 to 329. For example, a president who wishes to push for higher air quality standards may appoint a forceful environmentalist to run the Environmental Protection Agency (EPA), whereas a president who dislikes federal regulations will choose a more passive agency head. (c) Consumers 5. Freedom of Information Act. Congress passed the landmark Freedom of Information Act (known as "FOIA") in 1966. (a) To avoid liability, Oil Co. had to offer the leases to Pogo's board of directors. Evolation Yoga, LLC, 526 Blasco v. But should companies be willing to improve the world even if their efforts reduce profitability? Kevin was the manager of a radio station, WABC. Strategy: A landlord is entitled to begin proper eviction proceedings against a tenant who has not paid rent. Any- one can obtain a copy of it. Ch. LEXIS 298; 2013 WL 6460898 (Del. The implied warranty of habitability requires that a landlord meet all standards set by the local building code, or that the premises be fit for human habitation. The obligee has a substantial interest in personal performance by the obligor. A nickname or phrase will violate his rights if it clearly identifies the plaintiff. Is there an exception for the a ttorney– client privilege? Above a certain level, more money does not make for more day-to-day happiness. Doe, 167 n. Consent. Anyone lawfully living in a dwelling can allow the police in to search without a warrant. WCN 02-200-203 04341_ch25_hr_482-500.indd 486 8/28/17 7:20 AM Chapter 25 Environmental Law 487 benefits were not born equally by everyone. A buyer has the right to inspect the goods before paying or accepting3 and may reject nonconforming goods by notifying the seller within a reasonable time.4 Frame Shop may lawfully open Wholesaler's shipping crates before paying and is entitled to refuse the cherry wood. Diamond v. Having a reserve fund to cover six months' living expenses makes it easier for you to leave a job that violates your personal ethics. (c) Dolly wins $50,000. Issue: Did the parties form a contract? Someone painting the outside of a building you own crashed through a window, injuring a visiting executive. The Statute of Frauds requires it. Cooks are free to use them and experiment with new ingredients. 2347 U.S.C. §230. WCN 02-200-203 04341_ch19_hr_356-376.indd 368 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 369 Such misuse of social media has consequences. Rachel hurries to the tree and sees the skydiver bleeding profusely. 2002). 1 The Election Process in Corporations Shareholders Directors Elect Officers Elect Copyright 2019 Cengage Learning. (b) The criminal defendant is entitled to a lawyer even if she cannot afford to pay for it herself. THE 1934 ACT Under the 1934 Act, an issuer must register with the SEC if (1) it completes a public offering under the 1933 Act, or (2) its securities are traded on a national exchange (such as the New York Stock Exchange), or (3) it has 2,000 shareholders (or 500 who are unaccredited investors) and total assets that exceed $10 million. Suppose Breeder writes to Pet Shop, offering to sell 100 guinea pigs at $2 each. It presented the authors of this textbook with a dilemma: Should we risk subjecting our readers to emotional distress to teach them about the tort? Those who felt the costs were too high, such as power plants, sued to stop enforcement of the rules. However, being morbidly obese (defined as having double the normal body weight) is a disability, no matter what the cause. Upon graduation from business school, Zoe has been offered a job as a product manager at a start-up, Appsley Co. She would be Employee #18. And when firms are faced with a vote, they tend to reduce CEO salaries and golden parachutes but increase stock awards and pensions. If she did not promise, are there unusual reasons to hold her liable anyway? WCN 02-200-203 04341_ch30_hr_576-592.indd 577 8/28/17 7:46 AM 578 Unit 7 Property To make probate law more consistent, the National Conference of Commissioners on Uniform State Laws drafted a Uniform Probate Code (UPC). A $200,000 10-year term policy on a 25-year-old nonsmoking woman in good health costs as little as $110 annually; at age 60, the same policy costs about $480. In the following case, the American Civil Liberties Union (ACLU) demanded to know more about the Central Intelligence Agency's (CIA) use of unmanned aerial vehicles (drones). Suppose you are going out of town for the weekend and lend your motorcycle to Stan. Her husband, Adam, had a B.A. in Fine Arts with a concentration in Digital Cinema. ARSON Arson is the malicious use of fire or explosives to damage or destroy real estate or personal property. Because of this right, the government must appoint a lawyer to represent, free of charge, any defendant who cannot afford one. • A promise to give something of value counts as consideration. The lease establishes a periodic tenancy for one year, starting September 1 and ending the following August 31. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified. Exception: Full Performance by the Seller. If the seller completely performs her side of a contract for an interest in land, a court is likely to enforce the agreement even if it was oral. • They had it coming. Elting, 403–404 Smyth v. Understanding personal property can be worth its weight in gold… or Ferraris, art, or jewels. WCN 02-200-203 04341_ch20_hr_377-397.indd 392 10/9/17 1:51 PM Chapter 20 Separate Taxable Entity Personal Liability for Owners Ease of Formation S Corporation No No Difficult Limited Liability Company No No General Partnership No Limited Liability Partnership Transferable Interests (Easily Bought and Sold) Starting a Business: LLCs and Other Options Perpetual Existence Other Features Transfer restrictions Yes Only 100 shareholders. In this case, the chimney sweep found the jewels, so they belonged to him. As a matter of public policy, all states have decided that the sale of personal injury claims could create an unseemly and unethical marketplace. Besides protecting the interests of all creditors, the committee may play a role in developing the plan of reorganization. • Mislaid property—generally, the finder has no rights in the property. Drawer The person who issues a draft Drawee The person who pays a draft. THE ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986 (ECPA) The ECPA is a federal statute that prohibits unauthorized interception or disclosure of wire and electronic communications. The false predictions did, indeed, cause Dole's stock price to fall. Judicial review Refers to the power of federal courts to declare a statute or governmental action unconstitutional and void Copyright 2019 Cengage Learning. One day, after driving Daisy to a board meeting, he went to the car wash. WCN 02-200-203 04341_ch08_hr_137-155.indd 141 9/28/17 7:17 AM 142 Unit 2 Torts E x h ibit 8 . and David Brune, 343–344 Armorie v. The courts have found these contracts valid for reasons of commercial necessity. When Alexander Grant discovered discrepancies in CDS's client funds accounts, it notified those companies that were clients of both firms. EPA, 134 S. • Engage—Real-world videos with related questions help engage students by displaying the relevance of business law in everyday life. Instead, you pay in advance to load funds onto the card and you can only spend what is there. Reverse To rule that the loser in a previous case wins, with no new trial. Later on, the discussions of the other chapters will indicate how they differ from Chapter 7. Leaving a stricken worker in the hot sun was not reasonable, and Davis was liable.3 And this is how the common law often changes: bit by tiny bit. A tenancy in common might have two owners, or 22, or any number. Interest at normal trade rates for unpaid balances." Manufacturer clearly intends to form a contract. Hostile. Issue: Could the landlord be liable for the tenant's injuries? Today, 193 countries are members of the United Nations (UN). (e) you must return it, but the company must reimburse you for postage. Or what if the suspect denies permission to enter but the police go back later and the tenant consents? The classic example of predatory pricing is a large grocery store that comes into a small town offering exceptionally low prices that are subsidized by profits from its other branches. Manufacturers care about retail prices because pricing affects the product's image with consumers. His carelessness exposed his conversation to Spaw. Or set a due date on a Sunday and then charge a late fee if payment arrives on Monday? Did a contract signed in blood count? IKA-Works, Inc. Co., 596–597 Bedford v. (See the "Result" at the end of this Exam Review section.) 10. Pools vary widely, and the Seller cannot guarantee any specific level of performance or cleanliness. They can be sued as a group, or any of them can be sued individually for the full amount of the damages. SENIORITY A legitimate seniority system is legal even if it perpetuates past discrimination. You can order these reports at . Around midnight, guests from a wedding party made a rowdy entrance. Boeken filed suit against Philip Morris for fraud and other torts. Which one of the following transactions is not governed by Article 2 of the UCC? In these deals, investors make a lump sum payment now, in return for a share of the athlete's future earnings. Is this a good argument? Issuer is an all-purpose term that means both maker and drawer. How should the appellate court rule? In the meantime, the Great Recession had caused the Manhattan real estate market to slump, and many purchasers of Rushmore condominiums wanted to cancel their contracts and obtain a refund of their deposits. Environmental Protection Agency, 486 n. 18-3c Lie Detector Tests Under the Employee Polygraph Protection Act of 1988, employers may not require, or even suggest, that an employee or job candidate submit to a polygraph test except as part of an "ongoing investigation" into crimes that have occurred. (d) Neither party is bound because the agreement was never put in writing. To bolster the case, a plaintiff uses expert testimony, such as the psychiatrists who testified for Bien. For years, the United States has refused to comply with a WTO ruling and has strangled Antigua's trade in services. Decision: Yes, a jury could find that Ehling's expectation was reasonable. Answer: Linda had an insurable interest because she had made a substantial financial contribution by paying the mortgage. Lisa's letter never said when she required delivery of the barbecue grills or when she would pay. Management Duties Partners have a f iduciary duty to the partnership. Douglas Corp. (a) Dolly wins nothing. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. WCN 02-200-203 04341_ch30_hr_576-592.indd 579 8/28/17 7:46 AM 580 Unit 7 Property Holographic Will Holographic will A will that is handwritten and signed by the testator, but not witnessed Some states recognize a holographic will, which is a will that is handwritten and signed by the testatrix, but not witnessed. Which one was it? Thus the possession was continuous for the 20-year period. And so, to offer broadband over an electrical grid, data must take a detour around transformers. Quinn recom- mends a Ford Focus that she has been taking care of its whole life. Finally, the seller may simply sue for the contract price if the buyer has accepted the goods or if the goods are conforming and resale is impossible.9 If the goods were manufactured to the buyer's unique specifications, there might be no other market for them, and the seller should receive the contract price. Air pollution can cause or increase the severity of serious disorders such as asthma, bronchitis, cancer, dementia, emphysema, heart disease, obesity, pneumonia, and strokes. Artist shall have a right of meaningful prior consultation with the director of the Picture regarding the manner of photography of any scenes in which Artist appears nude or engaged in simulated sex acts. Shareholders elect directors. To answer these questions, it is important to understand the economics of the insurance industry. Frederick faxes Kim, offering to sell a 50 percent interest in the Fab Hotel in New York for only $135 million. If the company did not pay the judgment, Emily would have to, from her personal assets. They later moved towards the back of the pub, and Kerkoulas believed they were departing. WCN 02-200-203 04341_ch02_hr_015-038.indd 37 10/6/17 11:44 AM 38 Unit 1 The Legal Environment did not withdraw Ice-T's song, but Reebok fired Ross over his lyrics. The problem with Kant is that the ends do matter. The contract covers a plant that has experienced operating losses over the past several years. WCN 02-200-203 04341_ibc_hr.indd 1 9/27/17 3:40 PM INTRODUCTION TO Business 6 th E D I T I O N Law Jeffrey F. The Board reacted by mounting a disinformation campaign to undermine the evidence that its own scientists believed to be true. Rescission. Regulates credit reports 3. Argument for Linda: She was harmed when the house burned down because she and her children had no place to live. Who wins the suit? EXPRESS AND IMPLIED CONTRACTS If the parties formally agreed and stated explicit terms, there is probably an express contract. you must pay for it only if you use it. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies. Wendy's required its meat to be chopped and "free from bone or cartilage in excess of 1/8 inch in any dimension." GMSC beef was inspected continuously by state regulators and was certified by the United States Department of Agriculture (USDA). The creditors have the right to elect a trustee, but often they do not bother. The principle that precedent is binding on later cases is stare decisis, which means "let the decision stand." Stare decisis makes the law predictable, and this in turn enables businesses and private citizens to plan intelligently. You Be the Judge Roe v. Procedural due process Ensures that before the government takes liberty or property, the affected person has a fair chance to oppose the action The Takings Clause Kabrina owns a 10-acre parcel of undeveloped land on Lake Halcyon. Strategy: Under UCC §2-207, an additional term will generally become part of a binding agreement for goods, unless …? Eighteen months later, Francis was diagnosed with dementia. Staats alleged that his termination violated public Copyright 2019 Cengage Learning. Verdicts such as this may cause each of us to pay more for our next automobile. Only one of them. He says, "I'll sell you this briefcase for $100." Describe four ways in which this offer might be terminated. This is implied authority. Later that day, Clyde applied for insurance coverage. Rep. The government itself prosecutes the wrongdoer, regardless of what the bank president or car owner wants. Upon my arrival, I found an associate who informed me that the laptops were in stock. Plaintiffs do not have to prove duty, breach, or foreseeable harm. CREATING AN AGENCY RELATIONSHIP To create an agency relation- ship, there must be: A principal and an agent who mutually consent that the agent will act on behalf of the principal and be subject to the principal's control, thereby creating a fiduciary relationship. In the Guzman case, the plaintiff alleged that a male editor had offered a permanent reporter job to a young female copy assistant in exchange for sexual performance. What is the result under the Front Page test? A court's decision is often referred to as its holding. It was not made in the ordinary course. • A neutral arena. CONSTITUTIONAL POWERS Article I of the Constitution creates the Congress and grants all legislative power to it. MERGERS The Clayton Act prohibits mergers that are anticompetitive. Carter refused to remove it, but orally agreed to allow Cruz to reach the pier through a gate that opened from Lot B to the Disputed Area. Secondary boycotts are generally illegal. If you are driving a car, you have a duty to all the other people near you to drive like a reasonable person. In roughly 60 percent of the states, employers are not allowed to prohibit workers from smoking. The first case is about a provision of the statute that directs the EPA to regulate power plant emissions, if "appropriate and necessary." Should the EPA consider costs when making that decision? Darity recovered under the federal False Claims Act, a statute that permits lawsuits against anyone who defrauds the government. Communicated. Both parties were mistaken as to the existence of Arthur's land. In addition, this policy will enhance HIC's position as a progressive enterprise. • A statement of what the consumer must do and what expenses he must pay. Haushalter, 508 n. EXAMStrategy Question: Eric mails glossy brochures to 25,000 people, offering to sell them a one- month time-share in a stylish apartment in Las Vegas. However, a union may not exercise power however it likes: Along with a union's exclusive bargaining power goes a duty of fair representation, which requires that it treat all members fairly, impartially, and in good faith. You Be the Judge Huff v. Then we examine issues of contract performance and remedies. Alternative dispute resolution Resolving disputes out of court, through formal or informal processes. But the law creates an exception: If a person has been adjudicated insane, then all of his future agreements are void. Do you plan to have children? In one survey, a majority of those questioned said that they had witnessed unethical behavior in their workplace and that this behavior had reduced productivity, job stability, and profits. Does this mean that he gets a full court trial on the plagiarism charge? Personal jurisdiction is the legal authority to require Copyright 2019 Cengage Learning. In that case, if the bailor chooses the lower rate, the limitation on liability is enforceable. Would that be wrong? Decanting Pouring the assets out of one trust into another Termination A trust ends upon the occurrence of any of these events: • On the date indicated by the grantor. When Carter erected the fence, she complained that it obstructed her access to the pier. For example, the parties may agree to rescind their contract, meaning that they terminate it by mutual agreement. Route 18 responded with delays and did not provide a new lease, despite repeated pleas. An arsonist burned down Liesl's house. Alaska owes legal duties to its prisoners. The government takes your land through the power of eminent domain. WCN 02-200-203 04341_ch09_hr_156-176.indd 156 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 157 The internet, social media, big data, the cloud, smart appliances, and artificial intelligence are all components of what we know as the digital world. • The court has no enforcement power. 2-4h Ethics Case: Mickey Weighs In Disney decided that only healthy foods could be advertised on its children's television channels, radio stations, and websites. Litigation The process of resolving disputes in court. CDM announced the creation of the group through a press release. Evelyn Claussen won specific performance. T F Incoterm rules define terms used in international contracts. WCN 02-200-203 04341_ch12_hr_220-241.indd 241 10/6/17 12:06 PM CHAPTER PRACTICAL CONTRACTS 13 Two true stories: One Lawyer (on the phone with her client, Judd): Harry's lawyer just emailed me a letter that Harry says he got from you last year. 3Sakraida v. When Giant, Inc., hired Kelly, it gave her an entire binder of papers to sign. The living room ceiling was supposed to be 18 feet high, but it is only 17 feet; the pool was to be azure, yet it is aquamarine; the maid's room was Copyright 2019 Cengage Learning. Then the firm entered the consulting business. Investors could have become holders if Ward had negotiated the notes by indorsing and transferring possession to the investors. Formation Basics: §2-204 UCC §2-204 provides three important rules that enable parties to make a contract quickly and informally: 1. (a) The debtor in possession; a cramdown (b) A person appointed by the U.S. Trustee; fraud (c) The head of the creditors' committee; reaffirmation (d) The U.S. Trustee; a voidable preference CASE QUESTIONS 1. The state supreme court held that because the directors had been so careless, they had to prove that the price and the process by which it had been determined were both fair. Appellate courts generally accept the facts given to them by trial courts and review the trial record to see if the court made errors of law. Finding a solution is even more challenging because, as the following ethics discussion illustrates, some powerful players have refused to accept its reality. INDEPENDENT DIRECTORS For publicly traded companies, indepen- dent directors must comprise a majority of the board and the entire audit, compensation, corporate governance, and nominating committees. Friedman was not entrapped—he was caught. As a result of the hurricane damage, the apartments lost $39,000 in rents. The landlord, an avid sled-dog racer, tells the tenants he is too busy to fix the problem. LEXIS 10830 (2d Cir. Ultimately, 90 percent of the couplers throughout the Cincinnati area leaked and caused millions of dollars in losses. Who will win? LIABILITY FOR CREDIT CARDS A credit card holder is liable only for the first $50 in unauthorized charges made before the credit card company is notified that the card was stolen. The plaintiff must convince the jury that his or her version of the facts is at least slightly more likely than the defendant's version. The whole purpose of contracts is to enable the parties to control their futures. Answer: The NLRB is an administrative agency and creates administrative law. After David inherits a house from his grandmother, he hires Nell to auction off the house and its contents. "Hey kid!" he shouts. A purchase money security interest (PMSI) is one taken by the person who sells the collateral or by the person who advances money so the debtor can buy the collateral.9 Assume the 4UCC §9-503. This rule was designed to prevent injustice in a farming society. • Commercial Activity. PROMISES MADE DURING THE HIRING PROCESS Promises made during the hiring process are generally enforceable, even if not approved by the company's top executives. And there was. Over time, people improved their standard of living by bartering for goods and services that other people could provide more efficiently. If the true owner comes forward, he gets his property back; otherwise, the finder may keep it. Which will Jamal get to take when he moves, and which will Leslie own? to hire an assistant coach. Argument for Wendell: For years of his adult life, Wendell worked the family farm as if it was his own. Result: A promise not to pilot an airplane is a covenant. REGIONAL TRADE AGREEMENTS Trade agreements promoting common policies among member states. There are two kinds of carriers: common carriers and contract carriers. The central idea of consideration is simple: Contracts must be a two-way street. Piercing the company veil A court holds members of an LLC Promisor The person who makes the promise. The contract could say, "Until Artist completes all services required hereunder, he shall not pilot an airplane." 13-2b Boilerplate Choice of law provisions Determine which state's laws will be used to interpret the contract Choice of forum Determines the state in which any litigation would take place These standard provisions are typically placed in a section entitled Miscellaneous. Prohibits price discrimination ___B. She thinks that a state court judge may take the issue more seriously than a federal district court judge. Reaffirm To promise to pay a debt even after it is discharged. Ivan would inherit her farm under the written will she executed in her lawyer's office. Both the DOJ and the Federal Trade Commission (FTC) have authority to enforce the antitrust laws. T F Once you have purchased a CD and copied it onto your iPod, it is legal to give the CD to a friend. Registration with the Copyright Office of the Library of Congress is necessary only if the holder wishes to bring suit to enforce the copyright. A party that loses at the court of appeals may ask the state supreme court to hear an appeal, but the state's highest court may choose not to accept the case. The company suffered a disastrous fire, which destroyed its building and all inventory. It asked the court to dismiss the lawsuit. Should the law ban consumer arbitration agreements? Sara Beth is clearly liable.1 As to the snowmobile at the bottom of the run, if a court determines that was gross negligence (carelessness far greater than ordinary negligence), then the exculpatory clause will again be ignored. You have a major $600 problem. He removed an apparently unoccupied car from a public street without immediate confrontation, violence, threats, or objection. But is this fair? It indicates that a policy is temporarily in effect. Half smirking, he implied that all of them had been sold in the last 8 minutes. Sherman repeatedly refused, but ultimately agreed to help end Kalchinian's suffering by providing him with drugs. She alleged that in May 1991, the governor arranged for her to meet him in a hotel room in Little Rock, Arkansas. JPMorgan Chase Bank was the secured party on both transactions. An accounting firm cannot audit a company if one of the cli- ent's top officers has worked for that accounting firm within the prior year and was involved in the company's audit. The board of directors accepted the offer without obtaining an updated valuation of the subsidiary or determining if other companies would offer a higher price. Similarly, people's behavior changes if an event is framed as a loss rather than a gain. WCN 02-200-203 04341_ch29_hr_560-575.indd 575 8/28/17 7:38 AM CHAPTER ESTATE PLANNING 30 Pablo Picasso created thousands of artworks: paintings, sculptures, drawings, and sketches. But what if Quake cannot get a commitment from its subcontractors until they are certain that it has the job? Answer: Randy's behavior (filling the vending machine) did lead to the harm, but since he did not do anything wrong, he did not breach his duty. The president can veto congressional legislation. Rich files a brief arguing that there were two basic errors at the trial: First, that the jury's verdict is clearly contrary to the evidence; and second, that the judge gave the wrong instructions to the jury. Reasoning: First Amendment protection does not depend on the truth, popularity, or social utility of the ideas expressed. At that point, it determined that Cerros had not faced discrimination. Those specific legal exceptions to the employment-at-will doctrine are the topic of this chapter and the next. In a fraudulent transfer, the bankrupt's goal is to hold on to assets himself. When Gloria finishes acting in the movie and the producer pays her final fee, their contract will be fully executed. A social guest is a typical licensee. Noah, scowling, wonders what went wrong. A corporation is simply required to have whatever officers are listed in the bylaws. In each case, a sympathetic plaintiff can demonstrate an injury, but there is no contract. Evaluate both of Romi's claims. On May 14, Hawes filed a voluntary petition under Chapter 7. Surveillance and Discrimination The ability to share our opinions, relationship status, and location on social media sites like Facebook, Twitter, and Instagram has revolutionized the way we communicate and socialize. Nature of the crime. EXAMStrategy Question: When Phil McConkey interviewed for a job as an insurance agent with Alexander & Alexander, the company did not tell him that it was engaged in secret negotiations to merge with Aon. WCN 02-200-203 04341_ch25_hr_482-500.indd 500 8/28/17 7:20 AM CHAPTER 26 ACCOUNTANTS' LIABILITY The accounting firm Arthur Andersen prided itself on its ethics. Upon the advice of an independent compensation consultant, the Disney board approved Ovitz's contract. (She filed suit under a pseudonym because medical marijuana use is illegal under federal law.) You Be the Judge: Did TeleTech violate public policy when it fired Roe? Bait-and-switch A practice where sellers advertise products that are not generally available but are being used to draw interested parties in so that they will buy other items. Snow began to fall into the living room through the skylight. (c) an executed contract. Hellerstedt, 4 n. She knew about the checks, but she could never say no to him. Typically, the debtor lacks assets to pay everyone, so all creditors struggle to be the first in line. WCN 02-200-203 04341_ch17_hr_315-335.indd 335 10/6/17 12:14 PM EMPLOYMENT AND LABOR LAW CHAPTER 18 Before there were laws to protect employees, working conditions could be horrific. Which of the following activities is legal under Title VII? Reasoning: To establish this type of sexual harassment case, a plaintiff must show that her refusal to submit to unwelcome sexual advances resulted in specific harm to her job. 908 United States Court of Appeals for the Eleventh Circuit, 2014 Facts: The Banta family controlled a complex network of companies. Issue: Did Sovereign Bank, a PMSI holder, obtain priority over the bankruptcy trustee? (d) 1/5 to each surviving child and grandchild 3. Beth claims that Rich has scheduled too many depositions; the time and expense are a huge burden to a small company. 25-2 Environmental Law Externality When people do not bear the full cost of their decisions AIR POLLUTION The major sources of air pollution are power plants, refineries, factories, and motor vehicles. This short period of time indicates that the parties intended to be bound by the letter so that work could begin quickly. What if you fail to pay a rent on time? protect people from the dangers of form contracts that they have little power to change. The judges reinstate the jury's verdict. Fear of punishment, the belief in authority figures, and the ability to rationalize, all play a role. Are the SOX rules on consulting services sufficiently strict? Integration vii. Nigerian troops raided 60 Ogoni towns where they hanged nine leaders. EXAMStrategy Question: Joe buys an Otterhound named Barky from Purity Dog Shop. What about renter's insurance for his apartment? The surgeon is not liable. He hoped to sell each scarf for a $40 gross profit and wanted to make $2,000 per day. My clients would not have paid as much as they did for the latte if they had known it was only 12 ounces of actual coffee. The debtor also has enormous non-dischargeable 22-3 debts. There are no warranties, express or implied." On the third night the unit is used, it causes a fire and burns down the factory. Martino refused to return his calls, much less the ring. For the defendant to be liable, the type of harm must have been reasonably foreseeable. However, possession imposes one important duty: A secured party must use reasonable care in the custody and preservation of collateral in her possession.8 Reliable Bank holds 1,000 shares of stock as collateral for a loan it made to Grady. Arriving at a restaurant, Max gives his car keys to the valet. WCN 02-200-203 04341_ch15_hr_278-294.indd 287 9/28/17 9:39 AM 288 Unit 3 Contracts and the UCC The following case illustrates the value of being a holder in due course. If Alice borrows money from a bank and uses her Mercedes as collateral, she is the debtor because she owns the car. He was also a recovered alcoholic and drug user. What difference does it make? Article 2 applies to contracts that sell goods, and also to contracts that sell a mix of goods and services if the predominant purpose of the deal is to sell goods. Dana is liable if she ignores spilled coffee that causes Perry to slip. Mistake of Value. Here is one case in which it pays to know less. The danger of individual relativism is obvious: It can justify just about anything. This chapter's opening scenario is fictional, but the following real case involves a similar situation. But the Fifth Amendment to the U.S. Constitution states: "nor shall private property be taken for public use, without just compensation." The Supreme Court has held that this clause, the Takings Clause, applies not only to the federal government, but also to state and local governments. About four times per chapter, we stop the action and give students a two-minute quiz. Comment letter A letter from the SEC to an issuer listing changes that must be made to the registration statement Go effective The SEC authorizes a company to begin the public sale of its stock. Daphne lives next door to a day-care center and builds a treehouse on her property. Cramdown When a court approves a plan of reorganization over the objection of some of the creditors. A majority of the shareholders vote to dissolve. 3-2 ACTORS IN INTERNATIONAL LAW Because international law must balance the interests and roles of many different people, organizations, and states, there are many significant actors. RIGHT TO A JURY A criminal defendant has a right to a trial by jury for any charge that could result in a sentence of six months or longer. Manuela buys 20,000 shares of her company's stock in June at $10 a share. WCN 02-200-203 04341_ch18_hr_336-355.indd 349 10/6/17 12:23 PM 350 Unit 4 Agency and Employment Law Chapter Conclusion Since the first time one person worked for another, there has been tension in the workplace. Half of all whole life policyholders drop their policies in the first seven or eight years. Evelyn could exercise her option any time during Leona's lifetime or within six months of Leona's death. It failed to do so. On what grounds might Abbott claim that the note is invalid? Neither of these prohibitions applied to white staff. CRIMINAL LIABILITY The Justice Department has the right to prosecute willful violations under the 1933 Act and the 1934 Act. The holder has notice of certain claims or disputes. (See the "Result" at the end of this Case Questions section.) 6. Result: The couple could not trademark the name unless they had already or were intending to attach it to a product used in interstate commerce. After 9/11, the company held meetings to talk about security issues. Express contract An agreement with all important terms Foreign enforcement Means that the court system of a country will assist in enforcing or collecting on the verdict awarded by a foreign court. You should grant Kevin's summary judgment motion. This case was important in establishing the rules of negligence. Have you ever made an agreement that mattered to you, only to have the other person refuse to follow through on the deal? Money laundering Using the proceeds of criminal acts either to promote crime or conceal the source of the money. To avoid this double set of fees, a business that will be operating primarily in one state would probably Foreign corporation A corporation operating in a state in which it did not incorporate Copyright 2019 Cengage Learning. In the same building, Schwachman leased other retail space to Pampered Pet, a dog grooming shop. T F A nuncupative will does not need to be witnessed. A day later, Louis offers Dick $250,000. LEXIS 228. 5Chris Taylor, "Tim Cook to Climate Change Deniers: Get Out of Apple Stock," Mashable, March 1, 2014. Decision: Yes, consumers are likely to be confused between Slickcraft and Sleekcraft boats. WCN 02-200-203 04341_ch10_hr_177-197.indd 188 10/6/17 11:47 AM C h a p t e r 10 Forming a Contract 189 Nadel v. Only under pressure from Congress did the board clawback $69 million of the $286 million Stumpf had earned during his tenure at the bank. On many issues, states reached essentially similar conclusions, and contract law developed in the same direction. When Krystal borrows money from the government to pay her college tuition, she signs a note stating, "I promise to pay to the Department of Education all loan amounts disbursed under the terms of this Promissory Note, plus interest and other charges and fees that may become due as provided in this Promissory Note." She is the maker because she is the one who has made the promise. Was YouTube wrong? However, no scenes shall be shot in which Artist's buttocks and/or genitalia are shown, depicted, or otherwise visible without Artist's prior written consent. WCN 02-200-203 04341_ch05_hr_079-100.indd 92 9/28/17 9:36 AM Chapter 5 Dispute Resolution 93 accident, she is entitled to $1 million; if she has proven that his death was accidental, she is entitled to $2 million. Lussier's boss discovered that he had lied on his employment application about the disorderly conduct charges and fired him. However, in the aftermath of the 9/11 terrorist attacks, FISA's protections were weakened. From a Latin phrase that means "one thing in return for another," quid pro quo harassment occurs if any aspect of a job is made contingent upon sexual activity. I never gave you permission! I refuse to pay these expenses!" David is wrong. In July, Kyle arrives with the money, but Chuck refuses to sell. What Life Principles were operating here? Pillsbury Co., 914 F. With Beth's approval, Janet phones Rich and offers to settle for $1.2 million. (Chapter 13, however, is available only to individuals.) The traditional term for someone who could not pay his debts was bankrupt, but the Code uses the term debtor instead. Focuses on the reasons for which decisions are made 5. Quake sued, seeking to recover the money it spent in preparation and its loss of anticipated profit. This chapter will explore ethics dilemmas that commonly arise in workplaces, and present tools for making decisions when the law does not require or prohibit any particular choice. To win such a case, a plaintiff must establish four elements: • There was a contract between the plaintiff and a third party; • The defendant knew of the contract; • The defendant improperly induced the third party to breach the contract or made performance of the contract impossible; and • There was injury to the plaintiff. Should the IFRS be adopted in the United States? A court ruled that a movie theater chain with a 93 percent share of the box office in Las Vegas did not have a monopoly because its market share had decreased to 75 percent within three years. Goods do not include land or a house because neither is movable, nor do they include a stock certificate. He finally finishes the race at noon on Sunday and quits the business. They need to prove, for example, that no other grocery chain will come to town. The executor's job is to pay debts of the deceased, obtain money owed to him, and disburse the assets according to the will. WCN 02-200-203 04341_ch02_hr_015-038.indd 26 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 27 2-3p Reacting to Unethical Behavior When faced with unethical behavior in your organization, you have three choices. Does the law mirror its sentiment? 5Karl Knauz Motors, 358 NLRB No.164 (2012). The question is not what Huff thought, assumed, or wanted—it is whether it was reasonable for him to believe he was entitled to complete privacy under the circumstances. pleted, the investment bank representing the issuer begins its sales effort. But Michael is able to perform the essential functions of the job, so Cyrus violated the law when he withdrew the offer. Of pre-trial preparation? Magazine, and Boston Magazine. RESULTS 4. Result: Dave does not have a reasonable expectation of privacy on his work computer, even if he is on break and on his private Facebook page. Tracy agrees in writing to lease you a 30,000-square-foot store in her shopping mall. Instead, they were attracting potential buyers for the photos. King was primarily

could add a device to its cars that would reduce air pollution. Lifestyle Laws A few states, such as California, have passed lifestyle laws that protect the right of employees to engage in any lawful activity when off duty. You put the ring in your pocket. Almost one-third of the American workforce does some gig work. The Teamsters Union is attempting to organize the drivers at We Haul trucking company. Tenancy for Years Any lease for a stated, fixed period is a tenancy for years. JURY'S ROLE 6. It has no problems in any of the seven areas listed at the beginning of this chapter, and a court will enforce it. Mutual funds may offer better investment opportunities. Because people are often bolder behind a computer than in person, these posts—and worse—commonly appear online. Typically, the goal of a predatory pricing scheme is either to win control of a market or to maintain it. A driver and four-wheel-drive SUV to transport him to the set 12. • Acceptance. 5-5b Arbitration In this form of ADR, the parties agree to bring in a neutral third party, but with a major difference: The arbitrator has the power to impose an award. We consider the First, Fifth, and Fourteenth Amendments in this chapter and the Fourth, Fifth, and Sixth Amendments in Chapter 6 on crime. Bad strategy, Donna. EXAMStrategy Question: The purchaser of a business insisted on putting this clause in the sales contract: The seller would not compete, for five years, "anywhere in the United States, the continent of North America, or anywhere else on Earth." What danger does that contract represent to the purchaser? State Supreme Court Appellate Courts Appeal Courts General Civil Division General Criminal Division Small Claims Division Municipal Division Trial Courts of General Jurisdiction Land Division Juvenile Division Domestic Relations Division Probate Division Trial Courts of Limited Jurisdiction the defendant to stand trial, pay judgments, and the like. McDonald's case. Like his siblings, he helped around the house and tended to the land for most of his adult life. Three hundred people respond, sending in the money. 6NLRB v. They could have met all the requirements of an S corporation or an LLC. Thus Tracey can recover from either or both of them. They performed well in the training but none of them ever served as astronauts because NASA changed its rules to require jet fighter experience for astronauts. Sue Ellen delivers the picture, in excellent condition, two weeks late. Darby often uses the Holden Uber account to charge a ride back to his apartment, although the cost is twice as high as to her own place. When Sheryl founded a Silicon Valley company, she placed half of her stock in a trust for her children. What is her Life Principle? T F If we are listening to witnesses testify, we must be in a trial court. Although she told the company about her medical marijuana use, it fired her for failing a required drug test. A contract clause intended to relieve one party from potential tort liability 2. EXAMStrategy Question: Benzaquin had a radio talk show. Deontological The duty to do the right thing, regardless of the Drawer The person who issues a draft. He and his wife served as officers and directors of the organization, but, during the eight years of its existence, the corporation held only one meeting. Deposition 1. In the auditor's view, the company's financial statements do not accurately reflect its financial position. Are horizontal price-fixing and vertical price-fixing per se violations of the Sherman Act? Estimates suggest that over 4 million data records are lost or stolen every day. The difficulty, of course, is applying this general rule to the wide variety of problems that may arise when people or companies do business. 13-1c Mistakes This author once worked with a lawyer who made a mistake in a contract. The Beards will seek their expectation interest. Since its employees were the only ones who prepared and served the food, it was highly unlikely that another guest could have slipped the shard in the food without being seen. Only one-tenth of those participants who had been told they were late for their talk stopped to help the ill man, while almost two-thirds of those who thought they had plenty of time did stop. If only he had understood business law. If the law prohibited the mere possession of a monopoly, it might discourage companies from producing excellent products or offering low prices. The plaintiff cannot claim that the defendant breached a contract because none ever existed. No board of directors is required. Consideration is proof that the parties intended to be bound to their promises. It is efficient (taking only 40 days!) and effective at reviving ailing companies. Kurt asked his car mechanic, Quinn, for help in buying a used car. The burden is on the finder to prove that the property was abandoned, which will be impossible in this case since no one would throw away cash and credit cards. Starbucks breached its express warranty and injured my clients, who received much less than what was promised. Some of the witnesses Rich deposed, such as the tennis partner Jerry Johnson, have nothing that will help Coastal's case, so he does not call them. It was the primary source of wealth and social status. On the bleachers, he overheard an insider talking about a company that was going to be acquired. Strategy: The family's arguments might seem compelling, but are they relevant? Gatter was aware of rumors linking René romantically with various female employees. In common law systems such as ours, the same term is also used to describe contract, tort, and other areas of private law (i.e., civil law versus criminal law). There are dozens of other committees, some very powerful because they control vast amounts of money, and some relatively weak. Lowman sued Martino for the return of the engagement ring. Clinton, 89 Jones v. 25-5 CHEMICALS More than 85,000 chemicals are used in food, drugs, cosmetics, pesticides, and other products. Answer: Whitehouse v. Just before the house is ready for painting, Spot gets a better job elsewhere and wants to delegate his duties to Brush. Under the ADEA, a plaintiff may bring suit 60 days after filing a charge with the EEOC. PRIVATE INTERNATIONAL LAW The law governing private parties in international commercial and legal transactions. Courts can also play this role, and indeed, in the absence of boilerplate, they will. An accounting team's worst nightmare might be to wake up one morning and discover that a company for which it had repeatedly issued clean opinions did not really exist. Inevitably the issue arises: Are these freelance workers independent contractors or employees? When the judge is the fact finder, the proceeding is called a bench trial. In fact, the man had a fatal stroke. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as the Congress. Wrongful discharge ___E. The court held that Howey was selling a security (no matter how orange or tart) because the purchaser was investing in a common enterprise (the orange grove) expecting to earn a profit from Howey's farm work. Her previous will, signed and witnessed in a lawyer's office, left everything to her significant other, Ivan. Is there a problem? Today, most new law is statutory. If he waits until after two days, the bank will only replace stolen funds above $500. At the age of 16, he left home for Stanford University and from there had gone on to Stanford Law School, where he finished third in his class. Is a member personally liable for the debt of an LLC that was caused by his own negligence? Two weeks in preproduction (wardrobe and rehearsals) b. Argument for Philip Morris: The court should substantially reduce the $100 million punitive award because it is totally arbitrary. Once you do, you never hear from him again. And, of course, having read this chapter, you will never mistake $0.10 for $0.01. The deed described the southern boundary as the section line between sections 11 and 14 of the land. You Be the Judge: Did the defendants have scienter? He was vindicated a few months later, when the client went bankrupt. Once the SEC finishes its review of the registration statement, it sends the issuer a comment letter listing required changes. Alpha files a continuation statement on September 1, 2022. 820 Kansas Supreme Court, 2015 Facts: Francis Cresto was married three times over a 50-year period. Contracts Checklist Offer Acceptance Consideration Legality Capacity Consent Writing 11-2a Non-compete Agreements: Sale of a Business Kory has operated a real estate office, Hearth Attack, in a small city for 35 years, building an excellent reputation and many ties with the community. The secured party must pay the surplus to the debtor. Kevin Green got his money and Star Chevrolet received a fine lesson. One purpose of the meeting was to reinstate the former president. Terminations, on the other hand, are effective when received. Kalchinian and Sherman met in the waiting room of a doctor's office where they were both being treated for drug addiction. He regularly threatened to fire the clerks he supervised. Later, Bart writes on the back, "Pay to the order of Charlotte." He signs his name and gives the check to her. How do we measure the costs and benefits? Is this right? He wants to sue Dick, who lives in Ohio. She has committed the crime of driving while intoxicated, and the state will prosecute. The Justice Department shut down three of the most popular online poker websites. 11UCC §9-320(a). Chapter 7 Chapter 11 Chapter 13 Objective Liquidation Reorganization Consumer reorganization Who May Use It Individual or organization Individual or organization Individual Type of Petition Voluntary or involuntary Voluntary or involuntary Only voluntary Administration of Bankruptcy Estate Trustee Debtor in possession Trustee Selection of Trustee Creditors have right to elect trustee; otherwise, U.S. Trustee makes appointment. A year ago, Hot Air Systems installed a new heating system in Dolly's house. The Pure Power case highlights a common agency issue: If your employees decide to leave for greener pastures, what obligation do they owe you in that period before they actually walk out the door? The contract is voidable, which meant that the injured party is not forced to rescind the deal but may if he wants. When Jason was sued by someone who claimed to have been bitten by one of his dogs, CPM rescinded his policy for material misrepresentation. What must the writing contain? Suppose Travis represents both director Steven Spielberg and actress Jennifer Lawrence. Was Starbucks brewing trouble? This advice was wrong, and Coopers was negligent in giving it. "Help!" the man shouts. Brenner hired Ruben Belliard and Alexander Fell as drill instructors. As we saw in Chapter 6 on crime, the Fourth Amendment protects the privacy rights of criminal defendants. Neither Bi-Economy nor Harleysville ever imagined such an open-ended insurance obligation, and the insurer should not pay an extra cent. Impact on Debtor's Postpetition Income Not affected; debtor keeps all future earnings. If Lenny telephones Jane the next day and says that he has changed his mind, he gets the money back. The garage ceiling was too low. Argument for Schneider: Amazon has editorial discretion over the posted comments. T F A bystander who sees someone in peril must come to that person's assistance, but only if he can do so without endangering himself or others. Suppose, some years after graduation, you are a mid-level manager at Sublime Corp., which manufactures and distributes video games. To the public, Carter announced substantially worse cost estimates than the two men truly expected. 20-6 IMITED LIABILITY L PARTNERSHIPS A limited liability partnership (LLP) offers the limited liability of a corporation and the tax status of a flow-through organization. It was not quite a parking or car rental agreement, but was it a bailment? 5-3b Opening Statements The next day, each attorney makes an opening statement to the jury, summarizing the proof he or she expects to offer, with the plaintiff going first. (d) the difference between $700,000 and the condominium's market value. His columns often affect the stock prices of the companies he writes about. Argument for the Defendant: Officer Struble saw Rodriguez driving dangerously. It is rare for contract performance to be truly impossible but common for it to become a financial burden to one party. Make sure you know that distinction. WCN 02-200-203 04341_ch26_hr_501-518.indd 507 10/6/17 12:32 PM 508 Unit 6 Government Regulation 26-3b Fraud Courts consider fraud to be much worse than negligence because it is intentional. 14UCC §9-513. ! Docum ent The Critical Issue: Has the Pesto Bank perfected its security interest? What major constitutional issue did this raise? You can tell Google what to do when you become inactive: Either it can delete your whole account or you can specify who will have access to what. An involuntary debtor must now make all the filings that accompany a voluntary petition. Internet service providers (ISPs) Companies that connect users to the internet. • Investment banks typically "make a market" in stocks, meaning that they hold extra shares so that orders can be filled smoothly. The pair wore gang insignia, in violation of the bar's rules. If you are carrying out a decision or simply observing one that makes you uncomfortable, then it is time to consult your Life Principles and review the section on ethics traps. Kailen has a screen saver that shows various people having sex. WCN 02-200-203 04341_ch09_hr_156-176.indd 157 8/24/17 12:19 PM 158 Unit 2 Torts employers are within their rights to reject applicants. He used the hospital's email system to send emails to his lawyer. Two blocks away, a pet pig, asleep on the window ledge of a twelfth-story apartment, is startled by the noise, awakens with a start, and plunges to the sidewalk, killing a veterinarian who was making a house call. Thus, both faculty and students are less likely to face unpleasant surprises on exams. WCN 02-200-203 04341_ch04_hr_058-078.indd 76 8/24/17 1:35 PM Chapter 4 Constitutional, Statutory, Administrative, and Common Law 77 CASE QUESTIONS 1. The dealer pointed out that it was not responsible for the accident, and that the car had no warranty of any kind. IFRS "International financial reporting standards" are an international alternative to GAAP. United States, 50 Miranda v. Principal's Remedies When the Agent Breaches a Duty A principal has three potential remedies when an agent breaches her duty: 1. Drawer → (2) The person who issues a draft C. Now, there is a vigorous trade in alligator hides. WCN 02-200-203 04341_gls_hr_G1-G14.indd 5 9/28/17 7:30 AM G6 G lo s s a ry Gift A voluntary transfer of property from one person to Implied authority The agent has authority to perform acts another, without consideration. Other common forms of internet fraud include the following. Instead, he spent more time in bed with his next-door neighbor. Answer: Based on Madariaga v. RESULTS 8. Result: There was no gate, and Omega had no right to build one. They may not talk at all when the conductor is on the podium. Rylands, 1993 Conn. for his account. Second, she must show that the promisee wanted to benefit her for one of two reasons: either to satisfy some duty owed or to make her a gift. At the time of its mistake, Coopers did not know when the offering would take place, nor that one date would be more favorable than another. (d) the consent of a majority of the stockholders. Raul has never been to Vermont and has never sold a painting to anyone else from Vermont. To solve the mystery of the devious defecator, Atlas required cheek swabs from two of its workers so that it could compare their DNA with that of the feces. For the prior 20 years every owner of Lot A had maintained the Disputed Area and treated it as their own. Ethics Banks and credit card companies lobbied Congress hard to insert the prohibition against repeat bankruptcy filings. Establishes rules for treating newly created wastes 3. The decline in stock price was unrelated to Oregon's financial condition or Coopers' conduct. LinkedIn is a leading social media site for professional and business networking. At the time of the bankruptcy hearing, five years after the accident, Khan had not paid Yusufji anything. 1 V Roe v. ETHICS JuicyCampus.com was a website where college students could anony- mously gossip about their schools. (e) Just III 5. Suppose a short memorandum between textile dealers indicates that Seller will sell to Buyer "grade AA, 100 percent cotton, white athletic socks." If the writing does not state the price, the parties can testify at court about what the market price was at the time of the deal. To encourage similarity among state corporation statutes, the American Bar Association drafted the Model Business Corporation Act (the Model Act) as an example. Is it certain that the defendant promised to do something? In these contracts, nudity is always a contentious issue. Actavis expected that, once these generics entered the market, it would keep only 30 percent of its annual $1.5 billion in sales. Shareholder model → (3) requires business decisions that maximize the owners' return on investment C. Suppose Martha telephones Joe and leaves a message on his answering machine, asking if Joe would consider selling his vacation condo on Lake Michigan. Finding the right level of medical care and choice is a complex problem. Battery is an intentional touching of another person in a way that is harmful or offensive. Because the court found this use of the horse to be nonordinary, the buyers were entitled to an implied warranty of fitness. Conditional promise → (1) Promises that a party agrees to perform only if the other side has first done what it promised Chapter 14 A. They may even pay fees that actually exceed the amount they borrowed. FedEx fired him. Whistleblowing Auditors who suspect that a client has committed an illegal act must notify the client's board of directors. If the NLRB determines that the union has identified an appropriate bargaining unit and has enough valid cards, it orders an election. • Perfection is a series of steps the secured party must take to protect its rights in the collateral against people other than the debtor. Is Laurie correct? (d) The accountant knew the statement was false. Each partner must turn over to the partnership all earnings from any activity that is related to the partnership's business. After years on the job, Harmon was arrested for improperly changing a judging sheet to favor a horse. United States Constitution → (4) The supreme law of the land Chapter 2 A. The victim sued the owner of the hotel, claiming that its employees were partly responsible for the injuries—even though they did not participate in the brawl. He typically worked five to seven days a week but Affinity would call him each day to tell him whether or not he would be working the following day. Arbitration permits both sides to keep secret many files that would have to be divulged in a court case, potentially depriving the opposing side of valuable evidence. Second, in order to win double indemnity damages, she must show that the death was accidental. Insurable Interest An insurance contract is not valid unless the owner has an insurable interest in the subject matter of the policy. Is Pete liable to Arlene? Assuming this one lawyer did nothing but review collection suits for eight hours a day, five days a week, every week of the year without vacation, he would literally have spent less than a minute on each lawsuit. She also took out fire insurance. 4New York Central & Hudson River R.R. Co. v. The UCC gives a few buyers special protection. The person who issues a draft ___ C. WCN 02-200-203 04341_ch27_hr_519-537.indd 525 8/28/17 7:30 AM 526 Unit 7 Property Bikram's Yoga College of India, L.P. v. Legislators pass laws that permit such trusts to attract trust business from out of state. Alpha perfects its security interest by properly filing a financing statement on January 1, 2018. The victims argued that U.S. courts were demanded justice. (e) Neither party is bound because the agreement was never signed. 30-2a Requirements for a Valid Will Generally speaking, a person may leave his assets to whomever he wants. Brigitte Cruz owned and lived on Lot B. What does this law require? 8. Result: The common law judge would hear the arguments of lawyers, who formulate their argument based on prior courts' rulings. 4. Result: No, it was not unreasonable. Answer: No. A PMSI in consumer goods perfects automatically. strongly agree agree neutral disagree strongly disagree 4. But by the time the decision was reached, legal fees had swallowed up all the cash in the estate.1 1Adapted from Lynn Barber, "A Perfectly Packaged Picasso," The Independent, December 9, 1990, p. But only the government can prosecute a crime and punish Roger by sending him to prison. (In the movie contract, one of the paragraphs was 1,000 words.) At least now you understand the structure and meaning of the most important provisions so that you can negotiate and analyze contracts more effectively. Advantages of a Corporation Limited Liability. If a business flops, its shareholders lose their investment in the company but not their other assets. Article 9 applies any time the parties intended to create a security interest in any of the items listed above. Offer In contract law, an act or statement that proposes definite terms and permits the other party to create a contract by accepting those terms. Employers can voluntarily introduce an affirmative action plan to remedy the effects of past practices or to achieve equitable representation of minorities and women. Problems with Definiteness It is not enough that the offeror indicate that she intends to enter into an agreement. Salman knew the information was coming from Maher. Instead of redoing his whole will, he can ask his lawyer to draw up a codicil changing only that one provision. While in the fields, Carey fainted from sunstroke and remained unconscious. Strategy: Attachment occurs if the parties made a security agreement and there was authentication or possession, the secured party has given value, and the debtor had rights in the collateral. Because it is essential for you to understand the type of behavior considered "outrageous" in IIED cases, we included the disturbing details. The statute imposes two requirements on insiders: 1. Directing someone to enter personal information on a website that is an illegal imitation of a legitimate site 5. Joe faxes a signed letter to Martha saying, "There is no way I could sell the condo for less than $150,000." Martha promptly sends Joe a cashier's check for that amount. We will look at the structure and content of a standard written contract and answer questions such as: What do all these legal terms mean? 3Fleming v. After he reported these incidents to a supervisor, two other drivers came up to him one night in the parking lot holding a crowbar. He was paid $23 per delivery. CPA QUESTION In order to negotiate bearer paper, one must: (a) (b) (c) (d) indorse the paper. An offer generally may be accepted by performance or by a promise, unless it specifies a particular method. 2. Result: From this set of facts, there is no reason to believe that the travel agent was disloyal, disobeyed instructions, or failed to provide information. Janet suggests they wait until oral argument, another eight months. Nothing was left open. The parties must be adults of sound mind. Chemicals are so common in consumer products (such as shampoo, clothing, furniture, and even cash register receipts) that babies are now born with hundreds of chemicals in their blood. Res ipsa loquitur Means "the thing speaks for itself" and refers to cases where the facts imply that the defendant's negligence caused the harm 3Based on Hebert v. In this section, we examine a type of clause common in employment contracts. An unenforceable agreement is one with a legal defect. If HBI terminated Mendenhall because he offended people, it would have to prove that a majority of the public did indeed take offense to the tweets—that is the termination standard the contract imposes. Employee at will ___B. $15 per hour? Not exactly. As with S corps, a goal of close corporation statutes is to encourage entrepreneurship. involved. The unaudited statements showed earnings of $1.9 million, but the accountants calculated that the company had lost about $500,000. The trial court dismissed the claim, ruling that the bone was natural to the food and that the hamburger was therefore fit for its ordinary purpose. Reasoning: An offer definitely existed. No. The suit is based on state common law. Cappier, 68 n. The defendant is selling its products below cost. Neither Noah nor Nina ever heard again from the other parties. • Third-party interests. This situation is different from, say, fire insurance, where the insured may be tempted to burn down a building. You want to negotiate concessions from labor to reduce the losses. If they do a bad job, they could cause additional injury. The FTC ad rules also apply to apps and social media. Typically, a tenancy at will is vague, with no specified rental period and with payment, perhaps, to be made in kind. The government argued that Congress could order most Americans to buy health insurance because if only the old or sick made this purchase, rates would increase and, as a result, affect interstate commerce. For example, a merchant may be held to an oral contract if she received written confirmation of it, even though the merchant herself never signed the confirmation. Cybersecurity The internet has ushered in a wave of new crimes, from phishing (attempts to fraudulently acquire personal data from users) to denial-of-service attacks (which paralyze computers and networks). Buyer agrees to purchase pencils from Seller. Decision: The ESA is constitutional. For this service, the trustee is allowed to keep up to 10 percent of the payments. Frequently, a party will make an assignment and delegation simultaneously, transferring both rights (such as the right to inhabit an apartment) and duties (like the obligation to pay monthly rent) to a third party. Argument for Gateway: The ECOA applies to "any creditor." Its goal is to prevent discrimination in granting credit. She actively took steps to protect her Facebook page from public viewing. Imagine a car salesman who offers you a car for $8,000, but who also says that he can knock the price down to $6,500 if you will buy the car "as is." If you live in a state that does not give consumers special protections, which deal would be more appealing? A fire would set off an alarm in Rampart's office, and the security company was then supposed to notify Nationwide immediately. It must allow the consumer to stop payment of the transfer by oral or written notice up to three business days before the scheduled date. But maybe you can sell me something." 50 Cent cannot believe it, but he really is very thirsty. 4Dulin v. There was no fraud or trickery on the part of the restaurant (the terms were clear, not buried so that Chris was unaware of them). However, the boundaries between legal use and copyright violation can be subtle so it is important to pay attention to the following four factors, which determine whether a use is a fair one. Imitation slices contain the same amount of calcium as Kraft Singles. 12-4a Expectation Interest This is the most common remedy. They are the most common monetary award for the expectation interest. Dusty cannot pay his rent, and Carter files suit against Ellen. A few days later, Haynes broke into Lindsay's new apartment and raped her. Not surprisingly, courts are particularly protective of the judicial process. Obviously, if your roommate put the glass in the peanut butter thinking it was funny, neither the manufacturer nor the store would be liable. Argument for Heritage: The parties conducted negotiations by sending drafts back and forth rather than by talking on the phone. She does not want to wait four or five months only to learn that they must start all over. Representations and warranties are statements of fact about the present or past—they are true when the contract is signed (or at some other specific, designated time). The law, as we will see in Chapter 11, requires that this contract be in writing because it cannot be completed within one year. And so it could go on forever.3 2§3-201. A plaintiff in the United States can sue a foreign country that is engaged in commercial, but not political, activity. But the Superior Court reversed, so Harmon appealed to the Supreme Court of Delaware. At a team meeting, the CEO announces that, from now on, HIC will not hire smokers, and all employees will be regularly tested for nicotine. Ethics The Colombian flower industry supplies 75 percent of all cut flowers sold in the United States between Valentine's Day and Mother's Day. As you read the following case, you might ask yourself why Grant Thornton accountants were willing to do what they did. Vazquez has presented a prima facie case—she has shown that she was treated differently from similar people who are not protected under Title VII. EXAMStrategy Question: There is a collision between cars driven by Candy and Zeke. Beth hesitates but turns it down. Finn learns that, despite his stellar record, he is being paid less than other salespeople at Barry Co. So he decides to start his own company. The following case is about that issue. Was there additional evidence that the parties had reached an agreement? it is nonobvious. One of the most important is attracting outside investors—people with money but without the knowledge or desire to manage the enterprise. Who can be held liable for the assault? Suppose, six months after selling you the business, Kory goes to work for a competing realtor two blocks away. WCN 02-200-203 04341_ch21_hr_398-419.indd 419 10/6/17 12:27 PM BANKRUPTCY CHAPTER 22 Three bankruptcy stories: 1. protects the partners from liability for the debts of the partnership. Clarins and Macy's hope that cosmetic buyers, many of whom are women with children, will find this opportunity to feed children particularly compelling. And an employer must treat pregnancy and childbirth as any other temporary disability. Then, before firing him, TNT was required to give him a copy of the report and a description of his rights under this statute. (d) will not protect directors who make a decision that harms the company. Courts have struggled with this issue and have reached opposing results in similar cases. Of course! What about your driving? Atlanta, LLC, 102 F. WCN 02-200-203 04341_gls_hr_G1-G14.indd 14 9/28/17 7:30 AM Ta b l e o f C a s e s A Advanced Battery Techs., Inc. The bank will not give him a loan to buy the practice without checking the dentist's financial record. At one point, Son pricked his finger with a safety pin and wrote the following in his own blood: "Sir, please forgive me. Thus, the only matter before the court is whether an oral operating agreement is enforceable and Delaware law is very clear that it is. Article III places the Supreme Court at the head of the judicial branch of the federal government. 28-2 CONCURRENT ESTATES When two or more people own real property at the same time, they have concurrent estates. The new will left the estate to Rodney and Beverly equally. Careless Inc. WCN 02-200-203 04341_ch21_hr_398-419.indd 410 10/6/17 12:27 PM Chapter 21 Corporations 411 E x h i b it 2 1. Liability Section 10(b) (and Rule 10b-5) prohibit fraud in connection with the purchase and sale of any security, whether or not the security is registered under the 1934 Act. Mere allegations of GAAP violations or accounting irregularities, or even a lack of due diligence, do not constitute securities fraud. Yet there must also be flexibility in the law, some means to respond to new problems and changing social mores. Should the contract be in writing? "Chaz promises to pay Trustie $15,000" would work. If lenders give a QM, they are deemed to have complied with TILA because it is likely that the borrower can afford to repay the loan. Two years later, Mark was shot to death. One question for the jury was whether she had voluntarily participated in the crime. Adjudicating Cases. The federal court system hears criminal and civil cases. Statutes of limitations vary widely. 1997). Most criminal laws are statutes, passed by Congress or a state legislature. Rights of the Parties after Assignment Once the assignment is made and the obligor notified, the assignee may enforce her contractual rights against the obligor. The idea for the business may come first, but legal considerations should occupy a close second place. To receive a patent, an invention must meet all of the following tests, except: (a) (b) (c) (d) (e) it has not ever been used anyplace in the world. You Be the Judge Lund v. Son later refused to honor the bloody document and pay Kim the money. Later, Huff and Savage retreated to an outdoor hotel balcony to discuss CVG personnel matters, including the possible firing of the CEO. Strategy: Whenever water is involved, look at the provisions of the CWA. But sometimes, even if a patent is available, trade secret protection may make more business sense. If the seller cancels, Zach must return her money within ten days. • With his categorical imperative, Kant argued that you should not do something unless you would be willing to have everyone else do it too. No environmental statute has been more controversial than the ESA. EXAMStrategy Question: In 1572, during the reign of Queen Elizabeth I of England, a patent application was filed for a knife with a bone rather than a wooden handle. He did not engage in a face-to-face outburst to management, make malicious or untrue statements, use any obscenities, or threaten management. Bylaws A document that specifies the organizational rules of an organization, such as the date of the annual meeting and the required number of directors. WCN 02-200-203 04341_ch16_hr_295-314.indd 314 8/26/17 9:02 AM Agency and Employment Law UNIT 4 Copyright 2019 Cengage Learning. Many states have outlawed strikes by public employees. He did not know there would be a cyclist nearby. Walmart broke the law when one of its managers told employees that workers who went on strike would be looking for a new job and also that "If it were up to me, I'd shoot the union." Authorization Cards. Taylor Swift wanted to trademark her song lyrics: "And I'll write your name." She _____. Under what theory? Donna gives a promissory note to C. The common law insisted that the parties clearly agree on all important terms. Do they have an obligation to look out for the greater good or should they focus on maximizing their shareholder returns? (b) requires no formal steps for its creation. Was Fastball's denial in bad faith? Was it? T F A landowner might be liable if a dinner guest fell on a broken porch step, but not liable if a trespasser fell on the same place. Thus, all of an S corp's profits (and losses) pass through to the shareholders, who pay tax at their individual rates. You Be the Judge Zankel v. What should Maddie do? Strategy: Look at the statutes that govern waste disposal. All contracts begin when a person or a company proposes a deal. They shoveled snow, cut grass, and assembled IKEA furniture, but never chose a form of organization. However, there is no duty to warn about obvious dangers, a point evidently lost on some manufacturers. Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress. You are liable if you are even slightly inattentive in handling the lawn mower, and you can expect to pay for virtually any harm done. (a) unilateral contract. all of the loan and the interest. Now it was okay for me to say it right then because I was just telling you that it's illegal for me to say I want to kill my wife. In addition, a debtor must complete a course on financial management before receiving a discharge. Comment on the law and the ethics. Landmark Case Armorie v. Naffziger, 264–265 Jeffrey M. Sonya." Neither party prints a copy of the two emails. These choices dramatically influence what issues the agencies choose to pursue and how aggressively they do so. 20. Scope of employment cases raise two major issues: authorization and abandonment. Evelyn's children argued that they were entitled to a share of Josiah's estate because he had not left her or them out on purpose. Amendment XXII [1951]. (e) a lawsuit for assault. As the play went into production, however, the two men quarreled. Did Leonard have apparent authority? When Stone sued the company, the jury determined she was only 45 percent at fault. When a lawyer asks questions of her own witness, it is direct examination. This statute applies in situations where consumers ask banks to wire funds on a regular basis to pay, say, their monthly health club fee or their mortgage. Baer v. Conversely, hospitals may not be paid to treat preventable conditions, such as bedsores. In the event of a dispute between a customer and a merchant, the credit card company cannot bill the customer if (1) she makes a good faith effort to resolve the dispute, (2) the dispute is for more than $50, and (3) the merchant is in the same state where she lives, or within 100 miles of her house. Lydia, who owes the money, is called the obligor; that is, the one obligated to do something. Lacy read these statements before purchasing stock in the company. G.E. Capital Corp. The first U.S. copyright law in 1790 protected only maps, charts, and books. But the court did appoint a mediator first. Different terms Proposed contract terms that raise issues that contradict those in the original offer. Custom and General Principles of Law Customary international law International rules that have become binding through a pattern of consistent, longstanding behavior For hundreds of years, until treaties became common, custom was the main way international law was created. Warrior Fitness Boot Camp, LLC 813 F. WCN 02-200-203 04341_ch02_hr_015-038.indd 20 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility others believe that it is right to be tolerant of different views and customs. Perhaps by using a neutral law. T F A party with a perfected security interest takes priority over a party with an unperfected interest. Sullivan 376 U.S. 254 United States Supreme Court, 1964 CASE SUMMARY Facts: In 1960, The New York Times (NYT) ran a full-page advertisement paid for by civil rights activists. WCN 02-200-203 04341_ch16_hr_295-314.indd 313 8/26/17 9:02 AM 314 Unit 3 Contracts and the UCC 5. She is 40 years old and has worked in the hair-care industry for 25 years. • On Monday afternoon, Eric writes "I accept" on the fax, and Masako mails a revocation of her offer. Discharge is an essential part of bankruptcy law. What do you say? (e) the issuer changed his mind after signing the instrument. Under the business judgment rule, managers are not liable for decisions they make: Duty of Loyalty • In good faith • For a lawful purpose • Without a conflict of interest • To advance the best interests of the corporation Duty of Care • With the care that an ordinarily prudent person would take in a similar situation Copyright 2019 Cengage Learning. Soon after the sale was completed, the cruise line realized that the $235,000 price quote was per carat, not the total price. Bradley Smith and forty of his closest fraternity brothers had been partying there for hours. WCN 02-200-203 04341_ch19_hr_356-376.indd 363 8/26/17 10:26 AM 364 Unit 4 Agency and Employment Law 2. When purchasing insurance, it is important to remember that insurance companies have a lot of data on people like you so they can predict accurately the probability that a calamity will befall you. However, because Libyan Law No. 1 had been repealed and replaced by Libyan Law No. 2, Microsoft argued that No. 2 applied and that this statute would also have required the case to be heard in Libya. Aukerman filed suit, seeking a court order that he had acquired the disputed land by adverse possession. You may file a civil suit against him and will collect money damages if you can prove your case. In these contentious areas, courts continually face one question: When someone is injured, who is responsible? In the following case, the holder of the notes had reason to know that all was not well between the parties to the original contract. Chapter Conclusion Real property law is ancient but forceful. The airline fired two of the employees and gave a warning letter to the third. In the end, his thefts totaled $65 billion. Reasoning: Under tort law, a defendant may be liable simply based on his behavior, that is, if he has failed to act like a reasonable person. Megan is liable to Dave and the girlfriend unless the defect in the ladder was obvious. The following case examines whether a bailment was created during one of history's greatest tragedies. (a) I, II, and III (b) Neither I, II, nor III (c) II and III (d) Just III (e) Just I 5. it is a gift to you. The two boys got lesser (but still substantial) sentences because the judge believed Jeen had masterminded the crime. We value those connections, are eager to respond, and would be happy to hear from you. Hackett was in a romantic relationship with Kathleen's daughter Rita. CPA QUESTION Under the UCC Article 9, perfection of a security interest by a creditor provides added protection against other parties if the debtor does not pay its debts. WCN 02-200-203 04341_ch19_hr_356-376.indd 359 8/26/17 10:26 AM 360 Unit 4 Agency and Employment Law Sexual Harassment. Sexual harassment involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which are so severe and pervasive that they interfere with an employee's ability to work. First, that Tony died. 12. 16-2c Value For the security interest to attach, the secured party must give value. A district attorney, paid by the government, brings the case to court. Legal responsibility that comes from performing ultrahazardous acts TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. • Current Focus. now, that's a different story! Once we have examined the essential parts of contracts, the unit will turn to other important issues. Decision: Yes, the parties formed a contract. the employer provides the computer system. T F When a debtor defaults, a secured party may seize the collateral and hold it, using reasonable care, but may not sell or lease it. Hanna & Assocs., P.C. 114 F. Six movie distributors refused to sell individual films to television stations. As it turns out, we did not have any dedicated computing equipment. Ijtihad The process of Islamic legal and religious reasoning 3-4 In this case, the American judge conducted an exceptionally in-depth analysis on Saudi law and reasoning. For this reason, we will focus the rest of our patent discussion on them. A successful plaintiff can sue for treble (i.e., triple) damages from the defendant. The hypothetical about Stacey is based on many real cases and is used to illustrate that crime does not always dress the way we expect. Which child fared better? The Trump administration withdrew the Obama rules and began work on new ones. Consequential damages are appropriate in cases where a plaintiff suffers a loss that was not covered in the contract. Full warranty The seller must promise to fix a defective product for a reasonable time without charge. Since there were no opponents, one vote was sufficient (and that vote could be his own). 7-1e Intentional Infliction of Emotional Distress Intentional infliction of emotional distress Extreme and outrageous conduct that causes serious emotional harm A credit officer was struggling in vain to locate Sheehan, who owed money on his car. Which of the following statements is false? Ultimately Hearst was convicted, sent to prison, and then later pardoned. Assuming he is unable to sell the scarves to a retail store (which is probable because retailers will have made purchases long ago), George should be able to recover the cost of the silk fabric he bought and perhaps something for the hours of labor he spent cutting and sewing. The trial court gave summary judgment to the state, and Whayne appealed. Later, Son and Kim met in a sushi restaurant and drank heroic quantities of alcohol. So most states threw out the contributory negligence rule, replacing it with comparative negligence. fired Sam five days after he got a tattoo. Then the directors elect the officers of the corporation. The distributors were engaging in an illegal tying arrangement. Which rule do you think is more sensible? They wanted restitution. Chapter Conclusion Many times in your life, you will be tempted to do something that you know in your heart of hearts is wrong. Traciers & Associates, Inc., 308 City of Ontario v. For reasons of confidentiality, however, we have changed the names. If he had merely transferred ownership, that would have been only an assignment. Do you care if your doctor uses a pen given to her by a pharmaceutical company? T F A gift causa mortis is automatically revoked if the donor dies shortly after making it. If principals direct their agents to commit an act, it seems fair to hold the principal liable when that act causes harm. Japan taxed imported vodka seven times higher than its own domestic version, shochu, even though both were distilled similarly. 5-3g Verdict The jury deliberates informally, with all jurors entitled to voice their opinion. But stray remarks may be relevant, circumstantial evidence of discrimination. One evening after a meet, he has a pleasant dinner with another coach in the same conin a very unpleasant way, ference. Stein could only have fired Brune if his behavior had been violent or had raised serious issues about his ability to do his job. A surgeon who removes the wrong kidney from a patient commits a different kind of tort, called negligence. These are not abstract speculations for philosophers. The union and the employer must bargain in good faith, but they are not obligated to reach an agreement. However evenhanded this rule may have sounded in theory, in practice, it could lead to harsh results. Soley's agent told the tenants that if they cleaned the unit themselves, they would receive a $750 credit on their first month's rent of $1,000. A motion to compel discovery is a request to the court for an order requiring the other side to answer discovery. Issue: Is The Dirty immune from liability under the CDA? How much money are the Beards entitled to, and why? The instrument must be signed by the maker or drawer. • The principal is in business. FTC, 461–462 Pure Power Boot Camp, Inc. Under Delaware corporation law, a court can intervene, even if the business is successful. The food chain is disrupted. Ag Pro, Inc., 425 U.S. 273 (1976). Buyer in ordinary course of business (BIOC) Someone who buys goods in good faith from a seller who routinely deals in such goods. Answer: You are in violation of Section 16. These codes vary from state to state. N National treatment The principle of nondiscrimination between foreigners and locals. When the bailment benefits only the bailor, the bailee must use only slight care. Proximate cause Refers to a party who contributes to a loss in a way that a reasonable person could anticipate. Draft the contract. Regulates companies once they have gone public ___C. Kommit, 31 Mass. Answer: Should be in writing: • The sale of stock • A merger agreement • The sale of land • Anything that falls under the Statute of Frauds Need not be in writing: • An agreement with friends in which not much money is involved—to chip in to buy a present • With someone with whom you have an ongoing relationship, who has proved to be trustworthy in the past, and to whom you can afford the loss—a routine supplier • You do not have time to do a proper written contract, and you would prefer to bear the risk of loss over the risk of not getting the deal done. The actual written decision may be 3 paragraphs or 75 pages.

information about their company in violation of their fiduciary duty; • They know the information is confidential; and • They benefit (or expect to benefit) directly or indirectly. Term insurance is the best choice for someone who simply wants to protect his family by replacing his income if he dies before retirement. healthcare decisions for a person who is incompetent. Lindsay had a limp. What could OSHA do to pursue the investigation? But when the bank learned about the bankruptcy, it denied his loan even though her bankruptcy in no way affects his ability to pay the loan. Therefore, his actions were not either a factual cause or a proximate cause. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law. The site's user agreement informs its members that "your account belongs to you." Through his personal LinkedIn account and on behalf of CDM, Simms launched a LinkedIn group called the CIO Speaker Bureau. You are negotiating a new labor contract with union officials. In court, the tenant argued that the landlord could not unreasonably withhold her consent. But the gift had two conditions: The pieces could not be sold and they had to be displayed as one collection. He did both at once. Federal question case A claim based on the U.S. Constitution, a federal statute, or a federal treaty Diversity Cases Even if no federal law is at issue, federal courts have jurisdiction when (1) the plaintiff and defendant are citizens of different states and (2) the amount in dispute exceeds $75,000. This transaction is not commercially reasonable, and Griffin should have realized immediately that Felix was up to no good. LEXIS 2300 (6th Cir. One of Smith's friends brashly hit on a young woman in the wedding party, infuriating her date. "It's my land, and I should be able to do what I want with it!" Do you sympathize with Al, or do you think the zoning restriction is reasonable? Agents who commit torts are personally responsible whether or not their principal is also liable. AUTOMATIC TERMINATION An agency relationship automatically terminates if the principal or agent no longer can perform the required duties or if the activity becomes illegal. He finally agreed to stop—in exchange for a suspended contempt sentence. So Stahl resigned from Ampersand and formed another corporation to produce the play. PLEADINGS A complaint and an answer are the two most important pleadings; that is, documents that start a lawsuit. (d) lose, because the agreement was not put in writing. Environmental advocates argued, however, that the wanton destruction of whole species will ultimately and inevitably lead to disaster for humankind. 20 Palsgraf v. Although both sides need to be careful in reading a contract—litigation benefits no one—the side that prepares the documents bears a special burden. A Gallup poll found that only 21 percent of Americans have "a great deal" or "quite a lot" of confidence in big business. Also, venture capitalists sometimes prefer to invest in C corporations for three reasons: (1) LLCs involve arcane tax issues; (2) C corporations are easier to merge, sell, or take public; and (3) the law of LLCs is uncertain. Only content providers are liable.23 But to avoid liability, the ISP or website must not write, edit, encourage, or otherwise develop the content. For example, the Armed Services committee of each house oversees the huge defense budget and the workings of the armed forces. Executrix → (6) A personal representative chosen by the decedent to carry out the terms of a will C. Element Three: Justifiable Reliance The injured party must also show that she actually did rely on the false statement and that her reliance was reasonable. These massive troves of information and communication shape every aspect of our lives—how we do business, shop, date, apply for jobs, obtain news, campaign for election, make new friends, and even start revolutions. 20-3b Formation It is easy to form an LLC; the only required document is a certificate of organization (also called a charter). In strict liability, the injured person need not prove that the defendant's conduct was unreasonable. WCN 02-200-203 04341_ch13_hr_242-260.indd 251 10/6/17 12:09 PM 252 Unit 3 Contracts and the UCC Language of the Covenants. To clarify who exactly is doing what, covenants in a contract should use the active, not passive voice. Under the Fair and Accurate Credit Transactions Act (FACTA), consumers are entitled by law to one free credit report every year from each of the three major reporting agencies. The landlord was ordered to pay substantial damages.3 28-4b Zoning Zoning statutes are state laws that permit local communities to regulate building and land use. It could have been performed within one year if, say, Betty quit the job after six months. The court granted specific performance on the sale of the hot sauce recipe. The form on which you are relying is an exculpatory clause, that is, one that attempts to release you from liability in the event of injury to another party. Would such an indictment be ethical? T F Any individual, business, or federal agency that significantly affects the quality of the environment must file an EIS. Typed terms win over printed terms. 28-3c A Claim Adverse or Hostile to the Owner The user must clearly assert that the land is his. The store is also bound by express warranty if the clerk gives the painter a brochure making the same promise or a sample that indicates the same thing. Using the proceeds of criminal acts to promote crime ___E. Other witnesses agreed. 11-4a Fraud Fraud Intending to induce the other party to contract, knowing the words are false or uncertain that they are true Fraud begins when a party to a contract says something that is factually wrong. Only later do you realize that his profile had a little "VC" in the upper corner. Salman was also guilty because he knew that Maher had improperly disclosed the information. Hundreds of millions of people—including two-thirds of the world's megacities—are in coastal areas that could be flooded. Only after this extensive process did she undertake to analyze the Saudi tort of ghasb. Number of Shares. Before stock can be sold, it must first be authorized in the charter. As a result, it kept the lights turned off in the hallways. WCN 02-200-203 04341_ch21_hr_398-419.indd 408 10/6/17 12:27 PM Chapter 21 Corporations 409 Shareholder Meetings A corporation must hold some version of an annual shareholders meeting to conduct such matters as electing directors. The two owners argued repeatedly and Ned refused to meet with Sarah, although he was willing to take her phone calls. An anonymous third party—not The Dirty or Richie— was responsible for Jones's defamation. Corporations are considered persons and receive most of the same protections. Tata sued. Issue: Did the city's plan violate the Takings Clause? Ultimately, the agreement went through eight drafts, and this pricing term was never altered despite several other changes and additions. Elonis appealed, arguing that the test for a true threat should include the speaker's intent to threaten, not the listener's perception. At Red, union and management have bargained a new CBA to impasse. Instead, this area is governed by a patchwork of constitutional law, common law, and federal and state statutes. LIVING WILL A living will allows people to appoint a healthcare proxy and/or refuse medical treatment that would prolong life. 5 NLRB v. However, this case was subsequently overruled by the DC Circuit in American Meat Institute v. It doesn't matter that the DNA did not match. To the Committee, he presented five-year financial projections that he had manipulated to look worse than they were. Many a client has said, "but my lawyer insists…." If the lawyer takes the blame, the client is able to maintain a better relationship with the other party. Short-Swing Trading Section 16 of the 1934 Act applies to officers, directors, and shareholders who own more than 10 percent of the company. THE PRINCIPAL'S REMEDIES IN THE EVENT OF A BREACH The principal has three potential remedies when the agent breaches her duty: recovery of damages the breach has caused, recovery of any profits earned by the agent from the breach, and rescission of any transaction with the agent. One time, an officer of the Grain Company asked Kendall to sign not only his own name but also his wife's name to the promissory note. T F It is legal for a company to sell its product at a price below cost so long as it does not intend to drive competitors out of business. People who serve alcohol to others take a risk. Felix's mother has already lent him money, so she has given value. Many have attachments that are sometimes hundreds of pages long. Although Zapper rebuilt it, the apartment building turned out not to be profitable, at least in part because of the delay in construction. The top rung is loose, and Megan knows it, but she forgets to tell Dave. Grain Company sold this note to Bank. criminal. Strategy: Two parties have a valid security interest in this machine. When the PTO refused to grant the band a trademark, the members appealed to the Supreme Court. cDNA is different because the lab technician creates something new when making cDNA. Officials argued that these detainees did not enjoy Copyright 2019 Cengage Learning. Google "NOAA rising sea level viewer." 2Risky Business: The Economic Risks of Climate Change in the United States. Whayne perfected the next day. Courts are generally unsympathetic to claims under this provision. Kim had a right to sue at any time, and he gave the right up. Entry onto land, or improvements made to it, by a buyer who has no written contract Copyright 2019 Cengage Learning. To prove intent, Gatter need only show that the behavior was intentional, not that the harasser intended hostility or abuse. Courts may decide not to apply the Exxon Valdez reasoning in other cases. Courts will not rescind contracts on the basis of a prediction error, a mistaken value, or where the parties assume the risk of error. EXAMStrategy Question: Otto and his nephew Nick formed a corporation to operate a furniture store in Washington, D.C. Otto owned 51 percent and Nick 49 percent of the company's stock. • Many states prosecute violations of their securities laws. What we think of as "owning" land is in fact a freehold estate, that is, the right to possess real property and use it in any lawful manner for an indefinite time. He survived. Labor committees handle legislation concerning organized labor and working conditions. Congress may perform any of the functions enumerated in Article I, section 8, such as imposing taxes, spending money, creating copyrights, supporting the military, declaring war, and so forth. The principal and agent can agree in advance how long their relationship will last. When Romi attempted to move it outside, the cat bit her. Anyone who knows that an instrument has been altered or forged cannot be a holder in due course. If Reina knew about Ace's contract with Spinem when she signed to do the film, she is liable for $2 million. Anyone who issues fraudulent securities is in violation of the 1933 Act, whether or not the securities are registered. ENTRAPMENT When the government induces the defendant to break the law, the prosecution must prove beyond a reasonable doubt that the defendant was predisposed to commit the crime. NEGLIGENT PHYSICAL TORTS OF AN EMPLOYEE An employer is liable for a physical tort negligently committed by an employee acting within the scope of employment. This was the student's reaction: "I really enjoy reading the [Beatty] textbook, and I have decided that I will give you this memo ASAP, but I am keeping the book until Wednesday so that I may continue reading. It is a crime that costs Americans during the 90 minutes Stacey countless dollars each year, yet Stacey will not was at her desk, but she will even mention it to friends or family. Felix sells the note to his old friend, Griffin, for $2,000. Although White was available, Hackett suggested another Kansas lawyer, James Logan, who had been a federal judge. Courts no longer rubber-stamp any agreement that two parties have made. Answer: The accountant was not liable. 20Krinsky v. For years, the two friends sold chili dogs, cheese dogs, and the ever traditional hot dogs from a stand on a tiny island on a lake. But what counts as independent? He noticed puddles in both asphalt lanes, found the concrete starting pads unsafe, and believed the racing surface needed to be ground off and reapplied. Arden discovered that a Joseph Thomas Drury, who coincidentally had the same birth date as Joseph Bruce Drury, had served a prison sentence for drunk driving. A truly shameful example of the compensation game occurred after the 9/11 terrorist attacks. • Action learning ideas. But in 2013, the America Invents Act (AIA) changed the law so that the first person to file a patent application has priority. The Congress may determine the Time of Chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States. A1. Sandy is a landscape gardener and estimates the tree damage at $30,000 to $40,000. COMMON LAW The common law evolves in awkward fits and starts because courts attempt to achieve two contradictory purposes: predictability and flexibility. Closing To indicate that the parties have agreed to the terms of the contract, they must sign it. The I-9 form must be kept for three years after the worker is hired or one year after termination. When the cable guy removed the Comcast equipment, he mistakenly left behind a modem worth $220. Cameron would have a lot of explaining to do.1 1Adapted from the classic 1986 John Hughes film Ferris Bueller's Day Off. Holder in due course Someone who has given value for an instrument, in good faith, without notice of outstanding claims or other defenses Holder For order paper, anyone in possession of the instrument if it is payable to or indorsed to her; for bearer paper, anyone in possession Value The holder has already done something in exchange for the instrument. A federal court held that this practice violated the copyright laws because the material was more than one short passage and because it was sold to students. WCN 02-200-203 04341_ch10_hr_177-197.indd 182 10/6/17 11:47 AM C h a p t e r 10 Executives, lawyers, and judges wanted a body of law for business transactions that reflected modern commercial methods and provided uniformity throughout the United States. Who wins, and why? The "unhealthy pig" issue is an additional term because the offer said nothing about it. Loral Corp., 57 Cal. And shooting a movie can be grueling work, so you want to ensure that your physical and psychological needs are met, particularly when you are on location away from home. If a manager engages in self-dealing, which of the following answers will not protect him from a finding that he violated the business judgment rule? After the officer was disciplined, he filed suit alleging that the department had violated his Fourth Amendment rights. The ACLU's request goes too far in the name of freedom of information. Ultimately, Builder never finished the house, and the Beards moved elsewhere. They destroyed mail that contained sensitive data and avoided uploading any such information online. Brady sends a check for a few months, but the payments stop. BAILMENT A bailment is the rightful possession of goods by one who is not the owner. At the time we entered into the contract, Harleysville could easily foresee that if it responded slowly, with insufficient payments, we could not survive. WCN 02-200-203 04341_ch07_hr_121-136.indd 136 8/24/17 11:58 AM CHAPTER 8 NEGLIGENCE, STRICT LIABILITY, AND PRODUCT LIABILITY The story you are about to read is true; not even the names have been changed. The UAGA also provides that unless a decedent has affirmatively indicated her desire not to be a donor, family members have the right to make a gift of her organs after death. Business partners, employers, and employees have an insurable Key person life insurance Companies buy insurance on their officers to help the companies recover if they were to die. He figures the return on this deal would be 20 percent. Indeed, one of the Code's primary goals is to ensure that creditors are paid in the proper order, not according to who pushes to the front of the line. She can win only in a comparative negligence state. Slight care → (5) Required level of care in a bailment made for the sole benefit of the bailor Chapter 30 A. is a form of organization favored by venture capitalists. If an instrument is undated, it is treated as a demand instrument and is negotiable. And the problem is likely to grow with technology. Upon expiration of its 25-year lease, Brunswick had the option of either buying the property or purchasing a 99-year lease, both on very favorable terms. Are they ethical according to your Life Principles? The court presumes that the debtor wants to reaffirm the debt to prevent the lender from repossessing the truck. Suppose that the testatrix inherited a million dollars 20 years before her death. It also limits child labor. Who is responsible for that? However, the court granted their request that their loans not be discharged, on the grounds that Milbank had acted in bad faith. Duke Power, 401 U.S. 424 (S. WCN 02-200-203 04341_ch04_hr_058-078.indd 67 8/24/17 1:35 PM 68 Unit 1 The Legal Environment 4-3 Common law Legal precedents created by appellate courts COMMON LAW What, if anything, must you do if you see someone in danger? When one party is so intoxicated that he cannot understand the nature and consequences of the transaction, the contract is voidable. WCN 02-200-203 04341_appC_hr_C01-C22.indd 3 9/28/17 7:28 AM C4 APPENDIX C Answers to Selected End-of-Chapter Questions CHAPTER 3 1. But could these be trade secrets? Wastewater. The doctor left a tube in Price's body at the site of the incision. If he fails to do that, the bank can seize the collateral. You argue that when you signed the contract, you did not truly consent because you lacked essential information. Producer must make payment and then sue Artist, hoping to recover damages in court. In 1963, Ray's son and his wife re-entered the cottage and began to use it one month a year, for 25 years. A mechanic had improperly installed the swimming pool heater, which leaked carbon monoxide fumes into the house where he slept, killing him. We've only heard one side . . . For those of you who said we want to see Bin Laden burn in hell, I ask how would God feel about your heart? (Thus, they are not nonprofits.) Their focus is on the triple bottom line: "people, planet, and profits." In other words, they must create value for some combination of their stakeholders (employees, suppliers, customers, creditors), their community, the environment, and their investors. Merchantability ___ D. 22-4b Plan of Payment The debtor must file a plan of payment within 15 days after filing the voluntary petition. He would like to pay her $75,000, which is half of what a product manager at a more established company would earn. Finally, it addresses people: Public international law sets out the basic rules of human rights and laws defining the treatment of refugees, prisoners of war, and international criminals. • Requires all federal agencies to: • Ensure that their actions will not jeopardize an endangered species and • Avoid damage to habitat that is critical to the survival of endangered species. The Federal Aviation Administration, which requires all airlines to ensure that your seats are upright before takeoff and landing, is an administrative agency. But then he added, "We do a lot of things for reasons besides profit motive. What is a fair copyright term? The union and the employer are not obligated to reach an agreement, but they are required to bargain in good faith. Thus, I might believe that being faithful to one partner is the cornerstone of an ethical life. Should the law permit this sale? The brawl caused Schmalfeldt extensive dental damage, to the tune of $1,921. (Note that in this case, Blasco was paying 17.5 percent interest for a two-week loan, which is an annual compounded interest rate of 6,500 percent. As it turns out, this kind of thing actually happens in real life. The local communities, whether cities, towns, or counties, then pass zoning ordinances that control many aspects of land development. Zoning statutes State laws that permit local communities to regulate land use Ethics Many people abhor "adult" businesses, such as strip clubs and pornography shops. (See the "Result" at the end of this Exam Review section.) 9. Could the school exclude her on the basis of gender? The United States guarantees its workers fewer rights than virtually any other industrialized nation. Strategy: Impossibility means that the promisor cannot do what he promised to do. Nick allowed the officer to search the car and, during the search, the officer found cocaine. Minor children cannot legally manage property on their own, so parents or grandparents often establish trusts to take care of these assets until the children are of age. The effect of the use upon the potential market. Should SOX apply to an employee of a U.S. subsidiary working abroad? The idea behind punitive damages is that certain behavior is so unacceptable that society must make an example of it. This agreement is governed by the Uniform Commercial Code. In this section, we look at how Congress does its work creating statutes. Did it act with scienter? Each family member contributes for the sake of the group, not for the sake of ownership. American bosses have great freedom to manage their employees. Strategy: Do not be fooled by red herrings about Kevin's drinking or the value of the trees. The United Nations is one of the most important. In Saudi Arabia, judicial decisions are not in themselves a source of law and are not even open to public inspection. The movies have the same plot, but there is no copyright violation because their expressions of the basic idea are different. Compensatory damages → (1) Money awarded to an injured plaintiff E. Common law → (1) Law created by judges Chapter 5 A. (c) A federal agency demands various internal documents from a corporation. Jake mentions that a similar game is already on the market. The source of the BBC's story was "confidential working papers" from Venables's accountant. The parties live in different states, and the amount in question is over $75,000. This happened with Francoise's vineyard. This is logical since a court can surmise other terms, such as price, based on market conditions. Years later, he decided to apply for a utility patent. WCN 02-200-203 04341_ch31_hr_593-610.indd 596 9/28/17 6:45 AM Chapter 31 loss was its management fees which, in this case, was $1,600. One study found that 45 percent of directors who are technically independent have friendship ties to the CEO. ADEA ____D. How do you go about preparing a list of Life Principles? See Third party beneficiaries Benefit corporations, 388 Berners-Lee, Tim, 167 Beyond a reasonable doubt, 91 Bien, Mitchel, example of intentional tort/ compensatory damages, 127 Big data, 158 Bilateral contract, 180 Bilateral treaty, 44 Bill of Rights, protection for accused, 102 Bill (proposed statute), 67 Blackstone, William, 102 Blind spots, as an ethics trap, 25 Blue sky laws, 448 BMW, 344 Bob's Chrysler, 109 Boisjoly, Roger, 24 Bona fide occupational qualification (BFOQ), 364 customer preferences circumstances, 364–365 Branches of government, 4 Brandeis, Louis, 156, 157 Breach of a contract, 228 of duty, 138, 141 and material breach in contract, 251 of the peace, 308 of trust (by accountants), 506 Brenner, Lauren, 316 British Petroleum (BP), 114 "Bubbling" concept, 71 Buffett, Warren, 23, 412 Burden of proof, 91, 91e, 103 Bureau of Land Management, 70 Burlington Square Mall, 549 Burnham, Alexander, 230 Business judgment rule, 404–405, 405e Business organization types importance of selection, 379 See also Corporations; Franchises; General partnerships; Limited liability companies (LLCs); Limited liability partnership (LLP); Professional corporations (PCs); Social enterprises; Sole proprietorships Business torts commercial exploitation, 131 tortious interference with a contract, 130–131 Businesses. The message might be an email telling you that you need to update your email or bank account information, or it might be an online message that appears to be from a friend suggesting that you click on a link to a great article. Jeffrey F. Skiing is a recreational activity. Retaliation means that the employer has done something that would deter a reasonable worker from complaining about discrimination. The EPA sets limits, by industry, on the amount of each type of pollution any point source can discharge and the technology that must be used to treat it. • After signing the instrument, his debts were discharged in bankruptcy. What if a racing sailboat, designed only for speed, is dangerously unstable in the hands of a less experienced sailor? (c) an employee is entitled to leave to care for any member of his household. (b) embezzlement 5. She will fall a second time. SLAPP A SLAPP, or strategic lawsuit against public participation, is a defamation lawsuit whose main objective is to silence speech through intimidation, rather than win a defamation case on the merits. Here is a tragic example of why an insurable interest is important. A psychiatrist testifies that John has suffered serious psychological harm. This kind of bailment is called a gratuitous bailment, and the bailee is liable only for gross negligence. Brockwell signed a form stating that Lake Gaston had no responsibility for any loss to any property in or on the boat. This is a statement likely to harm another person's reputation. The owner of Ollie's BBQ argues that his business is local and has no impact on interstate commerce. When a car is damaged or stolen, the lot's owner may try to avoid liability by claiming it lacked control of the parked auto and therefore was not a bailee. The amount and proportion of the work that is used. The company claimed that it was Michelle's foolish risk that led to her death. T F An annuity is simply a type of life insurance. Over 50 years later, Fisk could not pay to maintain the collection and decided to sell two of the pieces. T F If police are interrogating a criminal suspect in custody and he says that he does not want to talk, the police must stop questioning him. (See the "Result" at the end of this Exam Review section.) 4. The best way to preserve the flag's special role in our lives is not to punish those who feel differently, but to persuade them that they are wrong. 6. Result: The court ruled that the hospital could read the emails. 6-3a Making False Statements It is illegal to make false statements or engage in a cover up during any dealings with the U. Blaine _____ disclose on his blog that he receives free tickets. That is the good news. That money was considered an unofficial bonus. She was also black, Hispanic, Puerto Rican, and female. GOOD FAITH Good faith performance is required in all contracts. Now we see another reason why the politicians from our chapter opener lost their defamation case. Joe's good faith does not save him, and Emily is entitled to rescind. Neither test gauged the ability to perform a particular job. To solve this problem, the law assumes that the agent has authority to do anything that is reasonably necessary to accomplish her task. Dorsey had committed two crimes that cost businesses billions of dollars annually—fraud (for failing to repay the loans) and arson (for burning down the dealership). None of these All of these I and II II and III I and III 2. Bank lends money to Auto Dealer to purchase 150 new cars, which are the collateral. The Chesneys counterclaimed, seeking the value of the work they had done. The jury awards the full $1,000 for the tractor repairs, and $60,000 for the lost crops. WCN 02-200-203 04341_ch28_hr_538-559.indd 545 10/6/17 12:30 PM 546 Unit 7 Property Tenancy at Sufferance A tenancy at sufferance occurs when a tenant remains on the premises, against the wishes of the landlord, after the expiration of a true tenancy. An attorney told them about the law of adverse possession. Were these forms of organization right for these businesses? Attorney's Fees vi. CHAPTER 9 True/False: None Copyright 2019 Cengage Learning. In the prior Exam Strategy, Trevor's employer was liable despite the fact that he was on his day off because he was on a business trip for the company. Would you fire a warehouse worker who behaved this way? National Franchisee Association v. Janet probes about Tony's home life, the status of the business, his personal finances, everything. The debtor pays the trustee who, in turn, transmits these funds to creditors. A major crime has occurred during the 90 minutes A major crime has occurred Stacey was at her desk, but she will never report it to the police. Probable cause means that, based on all the information presented, it is likely that evidence of a crime will be found in the place to be searched. Our Revolution presented us an album on which we were free to write what we pleased. Unger has filed papers opposing the bankruptcy petition. They sued Aetna under the legal theory of promissory estoppel. When the price of crude oil goes up, so do their profits and therefore the salaries of oil company CEOs. Yet, the CEOs' behavior has no impact on crude prices. A principal is undisclosed if the third party did not know of his existence. Harleysville Ins. In other words, a partner can always dissociate, but if he has violated the partnership agreement, he will have to pay damages for any harm that his departure caused. Answer: Ann does. (d) the states and the people. Although an editor's position was open, the company did not offer her that job. But the trio concocted an elaborate plan for the perfect "day off" from the doldrums of their senior year of high school. the seller is engaged in the business of selling such a product and b. Businesspeople sometimes view this lawyering as a waste of time and a potential deal killer, but it may just save them from some dire failure. For example, Basil might have taken out another loan, from his friend Olive, and used the same property as collateral. This concept of hostile environment first arose in the context of sexual harassment. Consumer credit contract A contract in which a consumer borrows money from a lender to purchase goods and services from a seller who is affiliated with the lender. During this litigation, Nationwide repeatedly hid evidence and violated discovery orders by refusing to turn over documents. THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (FISA) The FISA provides the rules for the government's collection of foreign intelligence within the United States. Plaintiff The person who is suing. Decision: No, ITT did not have the right unilaterally to change the layoff policy because a valid implied contract prevented the company from doing so. It is merely an invitation to bargain. In cases that do not involve maritime law, the ratio is usually limited to 9-to-1. The following case involves a similar situation: The business idea was great—the corporation had revenues of almost half a billion dollars—but the two shareholders were at each other's throats. The only way this system could work, in the short run, was if Brican kept selling more and more machines. Madison, 5 U.S. 137 (1803), federal courts have insisted that they have the power to review acts of the other two branches. As more daily devices become interconnected, even household items and medical devices are at risk of breach. WCN 02-200-203 04341_ch11_hr_198-219.indd 218 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 219 2. Each Exhibeo consisted of a computer and a television which could, say, demonstrate proper flossing technique and show ads for expensive cosmetic procedures. The same day, he phones Janet and increases his settlement offer to $425,000. Of course, we present the theory of how laws work, but we also explain when reality is different. Resale price maintenance (RPM) or vertical price-fixing A manufacturer sets minimum prices that retailers may charge. Four years later, the colonies sent delegates to craft a new constitution, but they faced conflicts on a basic issue: How much power should the federal government be given? He measures the acres himself and calculates a total of 200. The time has come simply to say "good riddance" to it. Answer: The court ruled no; Barrow did not have a reasonable expectation of privacy. If the seller told her the system was "like new," Nancy may rescind the deal. Before making the statements, though, he should ask himself if he wants the burden of having to prove them true in court. T F A principal is always liable on a contract, whether he is fully disclosed, unidentified, or undisclosed. T F John Rawls believed that everyone should have the same income. Net returns on invested capital The company's return on its P Paris Accord An international agreement to prevent climate change by reducing GHGs. Partition by kind A form of partition in which a property is divided among co-owners. After his daughter Evelyn died, Josiah executed a new will. Stanford had originally purchased a ticket on Northwest Airlines but had traded it in for a seat on Kuwait Airways (KA). Traditionally, parties signed arbitration agreements after an incident. Let's look at another example. (4) What is the government's burden of proof? Not only do they own about two-thirds of all publicly traded companies, but they also are much more likely to vote their shares than individual shareholders are. Under the terms of the lease, the tenant could assign the lease only if the landlord gave her consent, which she had the right to withhold "for any reason whatsoever, at her sole discretion." The tenant grew too ill to run the restaurant and asked permission to assign the lease. But when a mistake occurred in Heritage's favor, Heritage refused to honor the intended terms of the agreement. As long as neither of them is a nonresident alien, Spring High could also be an S corporation. Force Majeure A force majeure event is a disruptive, unexpected occurrence for which neither party is to blame and that prevents one or both parties from complying with the contract. Disability insurance Replaces the insured's income if he agreement. (They persisted even after they learned that Mr. Jackson had died.) The court ordered the store to pay actual damages, attorney's fees, court costs, and punitive damages. T F The idea that current cases must be decided based on earlier cases is called legal positivism. embarrassed . . . The employer should not have hired such a disobedient worker. • Courts base their judgments on the code and on the writings of law professors. WARRANT As a general rule, the police must obtain a warrant before conducting a search, but there are seven circumstances under which the police may search without a warrant: plain view, emergencies, automobiles, lawful arrest, consent, stop and frisk, and no expectation of privacy. No society anywhere will compete very long or successfully with people stabbing each other 2Virtually all of the examples in this chapter are true events involving real people. Neither thinks they should choose an LLC. One fateful night, on the way home from dinner, they stopped at a convenience store and bought several $20 lottery tickets. Consider promissory estoppel and quasi-contracts. Is following past precedent something that seems sensible to you: always, usually, sometimes, rarely, or never? Consequential Damages In addition to direct damages, the injured party may seek consequential damages, or as they are also known, "special damages." Consequential damages reimburse for harm that results from the particular circumstances of the plaintiff. Drawee The person who pays a draft. G1 Copyright 2019 Cengage Learning. He is at risk for two substantial fines and prison sentences. Strategy: The opposite outcomes are probably due to the different burdens of proof in a civil and a criminal case. CHAPTER 7 1. A higher class is paid in full before the next class receives any payment at all.The debtor is entitled to any funds remaining after all claims have been paid. WCN 02-200-203 04341_ch05_hr_079-100.indd 91 9/28/17 9:36 AM 92 Unit 1 The Legal Environment 5-3d Plaintiff 's Case Direct examination A lawyer asks questions of his or her own witness. Beth and Janet will go to the office of Coastal's lawyer, and Beth will answer questions under oath. A year later, Winstar filed for bankruptcy protection and investors sued GT. Issue: Was Martino entitled to keep the engagement ring? How could you protect yourself from being in that situation? Thus, only if the marks are quite similar, and the goods closely related, will infringement be found. Agreement on Trade Related Aspects of Intellectual Property (TRIPS) A treaty on intellectual property. Howey Co. owned large citrus groves in Florida. Download these slides at www.cengagebrain.com. Authoritative. We insist, as you do, on a law book that is indisputably accurate. WCN 02-200-203 04341_ch01_hr_001-014.indd 3 10/6/17 11:41 AM 4 Unit 1 The Legal Environment Federalism A double-layered system of government, with the national and state governments each exercising important but limited powers We inherited a complex structure of laws from England. She can decide who gets how much when. The following agency is charged with the regulation of electronic communications: (a) National Security Agency (b) Federal Trade Commission (c) Federal Communications Commission (d) Foreign Intelligence Surveillance Court 2. [E]very unjustifiable protection against such intrusion by the Government upon the privacy of the invasions of individual individual, whatever the means employed, must be security? Some people who knew a little bit about adverse possession decided to take advantage: They shamelessly occupied vacant homes, claiming them as their own, changing locks, purchasing electricity—and waiting for the statutory period to pass. Suppose that after Shirley receives Dick's letter, she decides against rare books in favor of original scripts from the South Park television show. Don Easterwood testified that in Jackson County it was common for a tenant farmer to prepare the soil for the following year but then move. Olive knew nothing about the bank's original loan. Apparent authority ___ C. The law assumes that if the testator does not leave anything to his issue or does not refer to them in his will, it is because he has forgotten them. Tracing ___ C. If Larnell delivers the check to Patty but forgets to sign it, the check has not been indorsed and therefore cannot be negotiated—it has no value to Patty. This chapter, therefore, speaks only of general trends among the states. Result: Wolfe is personally liable on any contract he signed before incorporation, no matter whose name is on the contract. What is your ethical obligation? Innocent Misrepresentation Misrepresentation A statement that is factually wrong If all elements of fraud are present except the misrepresentation of fact was not made intentionally or recklessly, then innocent misrepresentation has occurred. Matters were more complicated one night when Steven James sped down a highway and crashed into a car that had stalled on the roadway, thereby killing the driver. becomes unable to work because of illness or injury. For example, the franchisees could show that Burger King's motive was to weaken them so much that the company could take them over itself. A court can revoke a discharge within one year if it discovers the debtor engaged in fraud or concealment. As with many topics in this book, the problem has no easy answer. IMPLIED AUTHORITY Implied authority includes authority to perform acts that are reasonably necessary to accomplish the designated task. There are two categories of sexual harassment: Quid pro quo A Latin phrase that means "one thing in return for another" 1. I still want to do it if you do." Ed does not respond, but a week later, a truck shows up at Lisa's store with the 300 grills, and Lisa accepts them. Tort A violation of a duty imposed by the civil law. But her partners tell him that although he can inherit the value of her partnership, he has no right to be a partner. • Rates and fees: • During the first year, fees must be less than 25 percent of a card's credit limit. She told Steve to get Maddie to drop the matter. The LLC itself pays no taxes, so it can pass on $3,333 to each of its owners (who are called "members"). Accordingly, our MindTap product provides a five-step Learning Path designed to meet these critical needs while also allowing instructors to measure skills and outcomes with ease. The flyer, posted all around campus and online, falsely advertised that he was seeking a male romantic partner. California and Delaware prohibit online booksellers from sharing the list of books browsed, read, or purchased by their customers. Goodman's pain was intense, and his dental repairs took months. If the shareholders and creditors accept it, then the bankruptcy case terminates. 11-5c Sale of Goods The UCC requires a writing for the sale of goods priced at $500 or more. Lawrence, a Splash executive, is hoping to land a $700 million contract with a country in Southeast Asia. WCN 02-200-203 04341_ch21_hr_398-419.indd 398 10/6/17 12:27 PM Chapter 21 21-1 Corporations 399 PROMOTER'S LIABILITY Someone who organizes a corporation is called a promoter. Long Island Railroad, he made a decision that still influences negligence thinking today. For example, earlier decisions protected a student's right to wear a black armband in protest against American military actions. Sixty percent of the nation's waters are safe for fishing and swimming, up from only 30 percent when the Clean Water Act was passed. Imagine that I call you and say, "I'm going out of town this weekend. Because of the government's great power and the severe penalties it can impose, criminal procedure is designed to protect the accused and ensure that criminal trials are fair. WCN 02-200-203 04341_ch30_hr_576-592.indd 576 8/28/17 7:46 AM Chapter 30 30-1 Estate Planning 577 INTRODUCTION There is one immutable law of the universe: "You can't take it with you." But you can control where your assets go after your death. How would you phrase it? Many wealthy people use a testamentary trust to control their assets after death. Argument for Blasco: For a check to be negotiable, two rules apply: 1. deny to any person within its jurisdiction the equal protection of the laws." This is the Equal Protection Clause, and it means that, generally speaking, all levels of government must treat people equally. The statement must be communicated to at least one person other than the plaintiff. Unfortunately for Tracey, Parker was a fully disclosed principal—Tracey knew of his existence and his identity. • The two parties must have bargained for whatever was exchanged. PROSPECTUS All investors must receive a copy of the prospectus before purchasing stock in a public offering. This material does not harm downstream water. Will A legal document that disposes of the testator's property after death. For example, an inventor discovered a new use for existing chemical compounds but was not permitted to patent it because the compounds had already been described in prior publications, though the new uses had not.2 Note, however, that a disclosure does not count under this provision if it was made by the inventor in the one year prior to filing the application. Lost property Property accidentally given up. However, more than half the states now permit so-called perpetual or dynasty trusts— trusts that do last for hundreds of years, or sometimes forever. The company's website stated that the governing law would be the law of France and only French courts could hear claims. After the registration had expired, the partnership entered into a lease. False imprisonment The intentional restraint of another person without reasonable cause or consent 7-1c Battery and Assault Assault and battery are related but not identical. Gates denies the theft, but you fire him nonetheless. But what if the going rate for a PR manager with Joe's experience is $65,000? It is illegal to conspire to commit a crime, even if that crime never actually occurs. If the president signs it, a new statute is created. Consequential damages Damages that result from the unique circumstances of the plaintiff. T F Oral promises made by the employer during the hiring process are not enforceable. GT appealed. As a result, money had to be kept in a safe place, and banks developed to meet that need. The district filed a motion to dismiss. However, once NCMIC discovered the truth, it increased its lending tenfold. Phibro-Tech, Inc. Although the lawyer's goal is to protect you, a good attorney should be a deal maker, not a deal breaker. He explains the law and the burden of proof, telling the jury that it is Beth's obligation to prove her case. WCN 02-200-203 04341_appC_hr_C01-C22.indd 18 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C19 CHAPTER 23 1. Would this be a valid defense? Codicil An amendment to a will. EXTRATERRITORIALITY The power of one nation to impose its laws in other countries. Who will do what to whom, with what results? Strategy: There are three potential bases for liability—contract, negligence, and breach of trust. Max hired a male corporate lawyer because his clients had more confidence in male lawyers. Issuers provide less disclosure in return for selling less stock, to fewer (often wealthier) investors. WCN 02-200-203 04341_appC_hr_C01-C22.indd 6 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C7 CHAPTER 24 1. Breach 6. At trial, the jury awarded the Smiths $1.9 million, which meant that Armeen was liable for $400,000 rather than the zero dollars he would have had to pay if Liberty had accepted the Smiths' offer. Stare decisis 4. As a result, polluters could shift emission among smokestacks in a single factory to avoid EPA regulation. • Deontological thinkers such as Immanuel Kant believe it is important to do the right thing, no matter the result. If not, in what specific circumstances is it fair to stretch liability to other people? Keith felt that the CEO of his company was about to make a bad decision, but he was unable to persuade the man to choose a different alternative. 872 F. The FTC also regulates truth in advertising and endorsements—and its rules apply equally to bloggers, YouTubers, online reviewers, and others on social media. Delaney v. Explain the relationship between voters, Congress, and the law. Ethics For 70 years, the PTO refused to register marks that were considered offensive or disparaging. Tracing An auditor takes an item of original data and tracks it forward to ensure that it has been properly recorded throughout the bookkeeping process. To the dam's supporters, this decision was ludicrous: stopping a dam (on which $100 million in taxpayer money had already been spent) to save a little fish that no one had ever even thought of before the dam (or damn) controversy. Answer: Ray v. 3Except in Louisiana, whose laws are based on the French model. It goes into effect as soon as the petition is filed. Surprisingly, when the participants were paid more for each correct answer ($10 as opposed to $0.50) they cheated less. (c) The police are never allowed to question the accused without a lawyer present. To meet that goal, an instrument must comply with this fundamental rule of commercial paper: The possessor of a piece of commercial paper has an unconditional right to be paid, so long as (1) the paper is negotiable, (2) it has been negotiated to the possessor, (3) the possessor is a holder in due course, and (4) the issuer cannot claim a valid defense. ITT had no right to change the layoff policy unilaterally. Pope Benedict XVI wrote that homosexuality is "a strong tendency ordered toward an intrinsic moral evil," while his successor, Pope Francis took a different approach, saying, "If someone is gay and he searches for the L

one, he asks me if I want the service plan. (a) The company must give him an explanation for his termination. Scope of Employment You remember: An employer is liable for a negligent physical tort committed by an employee acting within the scope of employment. (d) a RICO violation. ETHICS On November 5, Hawes, Inc., a small subcontractor, opened an account with Basic Corp., a supplier of construction materials. WCN 02-200-203 04341_ch27_hr_519-537.indd 522 8/28/17 7:30 AM Chapter 27 Intellectual Property 523 patenting). What law has Ahmad violated? A month later, another bottle arrives, like magic, in the mail. Given that one goal of a contract is to avoid litigation, it can be useful to define in the contract itself what a breach is. Civil law is different, and most of this book is about civil law. Classes of Stock. Shareholders often make different contributions to a company. When two parties are in a contract, they are in privity. The landlord refused. After he dies, his Physician-assisted death or assisted suicide When a doctor prescribes a lethal dose of medication at the request of a terminal patient who is suffering intolerably widow and children claim that they are entitled to a share of his estate. WCN 02-200-203 04341_ch17_hr_315-335.indd 317 10/6/17 12:14 PM 318 Unit 4 Agency and Employment Law William Stanford was an employee of the Agency for International Development. Moreover, celebrities must disclose their relationships with advertisers when touting products on social media. If the defendant intended to do the physical act and a reasonable plaintiff would be offended by it, battery has occurred. But "corporate democracy" in America bears little resemblance to a political democracy. Benzaquin and two young grandsons had to find other transportation. WCN 02-200-203 04341_appA_hr_A1-A14.indd 3 9/28/17 7:27 AM A4 APPENDIX A The Constitution of the United States To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water; To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline described by Congress; To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof. Reasoning: The red wolf has great impact on interstate commerce: • Red wolves attract tourists and could contribute between $40 and $180 million per year to the economy of North Carolina. The president is also the commander-in-chief of the armed forces, meaning that the president heads the military. Not quite. Police caught Lance, and two legal actions followed, one civil and one criminal. WCN 02-200-203 04341_appA_hr_A1-A14.indd 5 9/28/17 7:27 AM A6 APPENDIX A The Constitution of the United States Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States." Section 2. Extends patent protection overseas 4. In any event, Struble had reason to be suspicious. But what about the pizza parlor owner? Amazon's policy suggests that these comments should be civil (e.g., no profanity or spiteful remarks). In the following case, an elderly man disowned his children. Vazquez filed a disparate treatment claim under Title VII. WCN 02-200-203 04341_fm_hr_i-xxii.indd 17 10/6/17 11:39 AM xviii P re face Humor. Throughout the text we use humor—judiciously—to lighten and enlighten. She offers to settle for $100,000, but the insurance company refuses because it only has $100,000 at risk anyway. We focus on appellate courts because they are the only ones to make rulings or determinations of law. Note that only religion, sex, or national origin can be a BFOQ— never race or color. For example: • Google has set up an Inactive Account Management system ("Inactive" is Googlese for "dead"). figured out how to unscramble his roommate's cable signal so they could watch cable on a second television. Physical and Mental Examination A party may ask the court to order an examination of the other party, if his physical or mental condition is relevant, for example, in a case of medical malpractice. The government may regulate the time, place, and manner of speech, for example, by prohibiting a midnight rally or insisting that demonstrators remain within a specified area. The creditors have no right to the debtor's future earnings. Precedent Earlier decisions by a court on similar or iden- tical issues, on which subsequent court decisions can be based. She had little choice but to do so. Colby's agent secured a contract with Contemporary Books, which included a $100,000 advance. The five permanent members were the primary victors in World War II. Does Duncan have to pay Abe? Frustrated, he whistles to a 10-year-old kid who is walking by. The FDA issued regulations requiring tobacco companies to put graphic warning images on their packages. [W]e consider them not otherwise changeable than by the authority of the people. Alternatively, the plaintiffs could show (1) that no reasonable person would have set the price of a DCB at $1.00 and (2) this pricing caused severe harm to the franchises. T F Any employer always has the right to insist that employees submit to a lie detector test. Go to the place. However, even if these allegations are true, all are trivial and none is sufficient to create a sexual harassment suit. Her car was never stolen; it was simply towed. If Basil defaults on his loan, Pesto may insist he deliver the goods to the bank. But Wendell thought he deserved a cut. And the court may order a convicted defendant to hand over any property or money used in the criminal acts or derived from them. All injuries were the result of "clean hits"—none of the plays resulted in a penalty. Final offer." After a short conversation with her client, Janet calls back and accepts the offer. To win, the plaintiff must now prove either that the employer's reason is a pretext or that other, less discriminatory rules would achieve the same results. If the debtor owns a business, it terminates. statement. But Craig's evidence will never be heard. But it becomes important when the offeror revokes her offer at about the same time the offeree accepts. "No, no, I need to borrow fifty cents!" The kid walks over. If sellers had known that the same person was purchasing this large block of land, the price of the real estate would have skyrocketed. If Rowena resides in one of the majority of states that accepts a holographic will, then Ivan is out of luck and the National Gallery will inherit all. The law of defamation concerns false statements that harm someone's reputation. Is a Facebook "like" protected under the First Amendment? Sometimes parties fail to create a valid contract even when they exchange an offer and acceptance. There is no escaping this fact: The greater the measure of mutual trust and confidence in the ethics of a society, the greater its economic strength. WCN 02-200-203 04341_ch09_hr_156-176.indd 160 8/24/17 12:19 PM Chapter 9 Privacy and Internet Law 161 Although the Fourth Amendment does not govern the private sector, the reasonable expectation of privacy analysis is a guide to judges and lawmakers in every area of privacy law, including the privacy torts (which we discuss next) and surveillance laws. (c) the paper has been indorsed to the possessor. ("FOB" stands for "free on board.") Note that the ICC does not make law. If they are vague, then even if the offeree agrees to the deal, a court does not have enough information to enforce it, and there is no contract. Decision: The investors were not holders in due course and could not keep the interest Creative had paid. Suppose the living room is only 14 feet high, or 12 feet, or 5 feet? Wolfe does not know the amount of the interest unless he reads the loan agreement. (b) credit cards. Federal security laws are based on the assumption that, as long as the issuer pro- vides adequate disclosure, investors are knowledgeable enough to assess the quality of a stock. Was this conduct improper? A WTO panel ruled that the United States' inconsistent gambling laws violated GATS and ordered that it bring them into compliance. Did the opportunity to produce Philly's Beat belong to Ampersand? Most of it is also available for a fee through such legitimate sites as iTunes. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 6 9/28/17 7:29 AM Index financial benefits, 18 increased happiness, 18 reasons for study, 16–17 theories of, 18–19 Front Page test, 20 moral universalism and relativism, 20–21 Rawlsian justice, 20 utilitarian ethics, 19 traps, 21–25 avoidance practices, 26 truth in borrowing case example, 25–26 See also Ethics principles (applications and questions); Life Principles; Unethical behavior (responses to) Ethics principles (applications and questions), 27 applications examples CEO lawbreaker case, 27–28 Disney's support for healthy foods, 30 gift with purpose, 32 overseas workers' issues, 31 relocating after storm damage, 29–30 smoking and hiring decisions, 28–29 breaking rules for emergencies, 7 child labor, 45 chimera patents, 524 corporate social responsibility (CSR), 32 "fox in henhouse" auditor, 503 lenders targeting consumers with bad credit history, 428 liability and posting parking policies, 567 Life Principles and credit card companies, 467 not following "unreasonable" laws, 474 offensive trademark names, 530 organization's responsibility to customers, 30 to employees, 29 to overseas workers, 31 to society, 28 personal ethics in workplace, 27 rationalization trap, 319 services without compensation question, 188 shareholder money on unprofitable activities, 487 shell corporations and disclosure, 400–401 torture, 49 traps of Exxon Board, 486 by insurance agents defrauding elderly, 598 zoning and adult businesses, 543 Etsy, 388 Euphemisms, as an ethics trap, 24 Exam strategy (book feature), 9 Exchange (bargain for), 200–201 Exclusionary Rule, 106 Executed contract, 181 Executive power, 61 Executor, promise in writing, 212 Executor/executrix, 577 Executory contract, 180 Exit, response to unethical behavior, 27 Expectation interest, 229 Experian, 469 Expiration (of offer), 189 Express authority (in agency law), 322 Express contract, 181 Externality and environmental actions, 483 Extraterritoriality, 49 Exxon, 486 Exxon Valdez case and tort reform, 130 F Facebook and E-discovery, 88–89 and Front Page test, 20 and hiring, 368–369 incorporator, 400 legacy contact policy, 582–583 and surveillance, 157, 162 and workplace freedom, 344 Factual cause, 139, 141 Fair and Accurate Credit Transactions Act (FACTA), 470 Fair Credit Billing Act (FCBA), 468 Fair Credit Reporting Act (FCRA), 469 Fair Debt Collection Practices Act (FDCPA), 470–471 Fair Labor Standards Act (FLSA), 346 False Claims Act, 341 False imprisonment, 125 False statements (to the U.S. government), 111 Family and Medical Leave Act (FMLA), 341 Faulkner, Shannon, 66 Federal Aviation Administration, 70 Federal Bureau of Investigation, 71 Federal Communications Commission (FCC), 71 Federal courts, 80, 83 appellate courts U.S. Courts of Appeals, 83 U.S. Supreme Court, 83 diversity cases, 83 federal question cases, 83 trial court, 83 Federal Sentencing Guidelines, 114 I7 Federal Trade Commission Act (FTCA), 170 Section 5 prohibition of deceptive sales acts/ practices, 170, 461 unordered merchandise, 464 Federal Trade Commission (FTC), 70 antitrust enforcement, 449 mergers, 452 consumer laws enforcement, 461 internet regulation, 170 deceptive/unfair advertising, 170 spam, 170–171 Federal Unemployment Tax Act (FUTA), 346 Federalism, 4, 60 Felice, Joseph, 122 Fell, Alexander, 316 Felony, 103 Fiduciary relationship, duty of agents, 318 Fifth Amendment, 64–65 self-incrimination, 107 Financial protection for employees, 346 Fair Labor Standards Act (FLSA), 346 health insurance (COBRA), 346 Social Security, 346 workers' compensation statutes, 346 Financing statement (UCC definition), 296 First Amendment (free speech), 63–64, 124 exceptions, 167–168 and privacy rights, 161 First National Bank of Highland, 109 Fixtures (UCC definition), 296 Flow-through tax entity, 379 Following orders, as an ethics trap, 24 Food companies ethics of, 15 addiction, 15 funding dubious science, 16 increasing calories, 16 increasing quantities, 15 targeting poorer countries, 16 Forbearance (item of value), 199 Force majeure, 255 Ford, 529 Ford Motor Company, 131 Foreign Corrupt Practices Act (FCPA), 49, 113 Foreign enforcement, 51 Foreign Intelligence Surveillance Act (FISA), 165–166 Foreign recognition, 51 Foreign Sovereign Immunities Act (FSIA), 42 Forestal case, 51–52 Copyright 2019 Cengage Learning. What is Liberty's liability? The EPA order is simply a waste of money. A patent is not available solely for an idea, but only for its tangible application. 3Most of these countries have also ratified the agreement. If Jerome and Tara have a contract, and if the deal falls apart, can Kevin sue to enforce the agreement? F Student loans can never be discharged. But there are some exceptions to this rule. Could the defendant have assisted without peril to himself? While on vacation in Georgia, she buys one of Raul's paintings for $500. Co. v. Why Don't Directors Use More Accurate Measures of Performance? Several reasons: • Other people's money. He paid James McCarger $5,000 for help in writing an early draft and promised McCarger another $5,000 if the book was published. He wanted to know if there was any way they could trademark the name so that no one else could use it. Most courts will allow Adam to enforce the oral contract and collect the full purchase price from Maggie. In a residential area, the user would have to occupy the land year round for the prescribed period. Enforcing the warrant would be an unlawful application of the SCA and an intrusion on the privacy of Microsoft's customer. Hotel patrons often assume that anything they bring to a hotel is safe. PMSI ___ E. Pamela Mason, a 14-year-old babysitter, was brutally murdered. Is the school district liable for this intentional tort by its employee? Such bailments are common. They were not authorized to collect payment from customers. Tracey does not know Parker, but she figures any friend of Augusta's must be okay. The customer drives out of the shop, cannot stop at a red light, and hits a bicyclist crossing the intersection. Because a minor lacks legal capacity, she normally can create only a voidable contract. Here, the misstatement was material because the insurance company would not have issued the policy, or would have charged a much higher premium, if it had known about the cocaine. What Life Principles would you apply? Therefore, once the police deprive a suspect of his freedom, they are required to protect his constitutional right to avoid selfincrimination. of the seller, that goods will meet certain standards. The Dominican government claimed immunity. Harmon sued the Commission, claiming promissory estoppel. Research shows that the funnier or more original the example, the longer students will remember it. WCN 02-200-203 04341_ch13_hr_242-260.indd 250 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 251 3. When a union tried to organize Starbucks workers, the company prohibited employees from discussing the union or their working conditions and posting union material on employee bulletin boards. To repay the loan, she gave MSC a check for $587.50, which it promised not to cash for two weeks. 3 Indeed, consumers even believe that food made by a trustworthy company has fewer calories than the same product made by a disreputable competitor. A Jewish police officer wants to wear a beard and yarmulke as part of his religious observance. Notice the UCC's eminently pragmatic goal: to make contracts work. Who wants to be a millionaire? If George has a track record in the industry, he will be able to show a market price for his services. David Murdock was a controlling shareholder, chairman, CEO, and comptroller. MAGNUSON-MOSS WARRANTY ACT The Magnuson-Moss Warranty Act applies to written warranties on goods (not services) sold to consumers. We want to leave the world better than we found it." His advice to the objecting shareholder: "Get out of the stock." Should Cook be spending shareholder money on activities that do not enhance the bottom line? Suppose Megan lends her stepladder to Dave. By any measure, the UCC has been a success. Under the UCC, a court may enforce a bargain even though one or more terms were left open. Kevin's lawyer has moved for summary judgment. Rent is $800 per month. Instead, Linda pays personal income tax on all business profits. A holder cannot ignore suspicious circumstances that cry out for investigation. L. Unknown to Sovereign Bank, Roser had declared bankruptcy only 12 days after he purchased the car. In the following sections, we explain all of these important terms. 30-2i Property Not Transferred by Will A will does not control the distribution of retirement benefits, life insurance, or most joint property. A life insurance contract is one example: The person buying life insurance pays premiums to the insurance company so that, upon his death, his designated beneficiary will receive a payout. It was foreseeable that conduct like the defendant's might cause this type of harm. At the time of his death, Francis and Kathleen lived in Kansas and the numerous family seemed to get along well. CCA applied the more stringent Arizona standard. Kuney, The Elements of Contract Drafting, Thomson/West, 2006. The major provisions of SOX as it relates to auditors are as follows: Public Company Accounting Oversight Board (PCAOB) The PCAOB regulates public accounting firms. CHAPTER 21 1. WCN 02-200-203 04341_ch05_hr_079-100.indd 94 9/28/17 9:36 AM Chapter 5 ensures that there will be a final result, although the parties lose control of the outcome. When Bryan went to Ball-Mart, Kathleen, who knew nothing about cards, was filling in for the owner. In practice, however, the cost of saving a species can be astronomical. Registered agent → (2) The company's representative in its state of incorporation Chapter 22 A. WCN 02-200-203 04341_ch22_hr_420-438.indd 432 8/26/17 11:29 AM Chapter 22 Bankruptcy 433 EXAM REVIEW The following chart sets out the important elements of each bankruptcy chapter. Shawe is right that any order to sell a profitable company should be issued reluctantly and cautiously, after a consideration of other options. III. Treadway called the dealer to say that she was interested in purchasing a used car. As we will see, research shows that people who think about the right rules for living are less likely to do wrong. These trusts avoid estate taxes and generally allow donors to control their money. I don't want to, anymore." Craig thought Tony seemed suicidal and urged him to see a therapist Craig knew. They responded to these persuasive arguments: • Businesses will benefit if most commercial transactions are governed by the modern and efficient contract law principles that are outlined in the UCC. It was an exclusive group, with access limited by strict privacy settings and containing information extremely valuable to any CDM competitor. WCN 02-200-203 04341_ch26_hr_501-518.indd 506 10/6/17 12:32 PM Chapter 26 Accountants' Liability 507 say, is to provide an independent, professional source of assurance that a company's audited financial statements are accurate. Fraudulent Transfers Fraudulent transfer Occurs when a debtor gives assets to someone other than a creditor for the purpose of hindering, delaying, or defrauding creditors Suppose that a debtor sees bankruptcy approaching across the horizon like a tornado. MATCHING QUESTIONS Match the following terms with their definitions: 1. ELECTIONS Shareholders elect directors. Bona Fide Occupational Qualification Bona fide occupational qualification (BFOQ) An employer is permitted to establish discriminatory job requirements if they are essential to the position in question. Class action A suit filed by a group of plaintiffs with related claims. You Be the Judge: Did Kathleen exercise undue influence? She accepts his offer because she thinks the painting is, at best, by one of Courbet's students. If the agent is guilty, the corporation is too. The basic pattern in third party law is quite simple. If the owner is still occupying the land, or if other members of the public share its use, there can be no adverse possession. Despite the disclaimers, many who knew him found his posts troubling—and threatening. A municipality must obtain a permit for any discharge from a wastewater treatment plant. As a bystander, are you required to help? Both the executor and the administrator are entitled to reasonable compensation—typically between 1 and 5 percent of the estate's value, although family members and friends often waive the fee. Spaw, who was the executive assistant to CVG's CEO, did not answer, so Huff hung up and put his iPhone in his jacket pocket. If you are a smart consumer, you will: I. Benzaquin, 390 Mass. Mill might argue that more people benefited by using the money to help the employees. With her permission, Gateway obtained her credit report. (e) Jennifer refuses to hire Alexis because her child is ill and she frequently has to take him to the hospital. Many employment statutes were passed by Congress and therefore apply nationally. When Cruz attempted to use the Disputed Area gate, Medford kicked her out and accused her of trespassing. The judge runs the trial. However, there is no house, so there will be no specific performance. EXAMStrategy Question: Kathleen, a single woman, applied for an Exxon credit card. Apply that rule as well. Argument for the EPA: How can NGS, or anyone else, measure the benefit of protecting a national treasure like the Grand Canyon? To preserve free debate about the official conduct of public officials, it is necessary to limit their ability to recover damages in defamation suits. It did not have offices or warehouses in the state of Washington, but it did send about a dozen salespeople there. When he purchased the warehouse, he took a corporate opportunity that he should have offered first to the furniture store. CONSUMER EXCEPTION The Federal Trade Commission requires all promissory notes in consumer credit contracts to contain language preventing any subsequent holder from being a holder in due course. S Corporations S corporation A corporation that provides limited liability to its owners and the tax status of a flow-through entity C corporation A corporation that provides limited liability to its owners, but is a taxable entity Congress created S corporations (aka "S corps") to encourage entrepreneurship through tax breaks. International Standards In 2007, the Securities and Exchange Commission (SEC) began allowing foreign companies to use international financial reporting standards (IFRS) instead of GAAP.4 The SEC is considering a proposal that would allow U.S. companies to supplement their GAAP filings with IFRS information. If three co-tenants own a 300-acre farm and the court can divide the land so that the three sections are of roughly equal value, it will perform a partition in kind, even if one or two of the co-tenants oppose partition. An international convention that governs the sale of goods ___E. Over a four-year period, the Firm filed more than 350,000 (yes, 350,000) debt collection lawsuits. With her reputation and connections, she would ruin your chances of success. Although he was obviously drunk, employees at Silk Stockings continued to serve him. An S corporation would have been possible because the owners could have deducted their losses on this investment from their (substantial) other income and still enjoyed limited liability. Available at riskybusiness.org. Turn off any cell phones, laptops, or other electronic devices. A life insurance policy on his brother II. Exclusive. He sued Stephanie for harm to the red car. E-Discovery The internet age changed discovery. T F If auditors discover that company officers have committed an illegal act, they must always report this wrongdoing to the SEC. hired Traciers & Associates to repossess her white Ford Expedition. • You Get Access: Anytime, anywhere access of digital products, eBooks, and eChapters, on your desktop, laptop, or phone. And we are all at risk: Even the most careful person shares potentially sensitive information every day when she gives her credit card to a waiter, files her taxes online, or registers for a coupon. AUTOMOBILE INSURANCE Basic automobile insurance includes collision, RESULTS comprehensive, liability, personal injury protection, and uninsured motorist. The Super Sneakers are personal property (not real estate), they were in the possession of the Foot Forum, and the teenager deliberately left without paying, intending never to return the goods. If you were the CEO of Thomas Wierdsma's company, would you fire him? A severe roof leak caused water damage in one of the bedrooms. that are reasonably necessary to accomplish an authorized transaction, even if the principal does not specify them. IKA-Works, Inc., 360–361 Carey v. If an owner had no reason to foresee injury from a third party, the owner is probably not liable for such harm. Professor Watson, who teaches Ralph's marketing class, notifies the school's dean that the young man plagiarized material that he included in his recent paper. Can the cruise line void the transaction? (d) He could be fired for any reason. Answer: Prudence is not a holder in due course because she did not give value. Many employees do not negotiate their non-competes—or even realize they have one until the shocking day when they try to leave their jobs. She soon came upon Tony's dog, Blue, tied to an old picket fence. In either of two ways: The secured party can file suit against the debtor to obtain a court order requiring the debtor to deliver the collateral. During this process, it lied to the court and violated numerous court orders, including an order from a prior court that it stop its official policy of refusing to pay reasonable claims. Are there any types of transactions that you might be more inclined to avoid? However, the pub failed to enforce its sensible rule and failed even to telephone the police. Courtney, 385 Forestal Guarani S.A. v. These chapters hold creditors at bay while the debtor develops a payment plan. The difference in outcome demonstrates one of the changes that the UCC has wrought in the law of commercial contracts and illustrates why everyone in business needs a working knowledge of the Code. Despite the fees, 98,000 people signed up. Reasoning: To create a binding agreement, the offer and acceptance must be definite enough that a court can tell what the parties were obligated to do. The participants were the plaintiff and defendant in a tort case. The president of R. How much was George's time worth in making the scarves? They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and Copyright 2019 Cengage Learning. Result: Yes, the court ruled that the material Edward placed in the water was pollution. EXAMStrategy Question: Daisy was the founder of an internet start-up company. When the wind blew some of those patented seeds into an unsuspecting farmer's field and these grew into herbicide-resistant plants, the farmer decided to save some seeds for future plantings. When forced to assume it, we were for a free, durable and well- novices in its science. EXAMStrategy Question: Norv owned a Ford dealership and wanted to expand by obtaining a BMW outlet. (b) The number $100,000 should be written in words. FOIA exempts nine categories from disclosure. Forming a Contract 183 Goods Are things that are movable, other than money and investment securities EXAMStrategy Question: Leila agrees to pay Kendrick $35,000 to repair windmills. Let us apply these principles to a case that involves a fraternity party. The minimum contacts doctrine is satisfied. They risk only their investment, as if they were shareholders of a corporation. Most contracts are discharged by full performance. Judges draw an imaginary line around the defendant and say that she owes a duty to the people within the circle, but not to those outside it. The Islamic law judge would engage in a process of ijtihad, which incorporates legal knowledge with religious reasoning based on the Koran and teachings and actions of Muhammad. But if a promisor dies, other kinds of contracts live on. The interviewer may ask only whether an applicant can perform the work. WCN 02-200-203 04341_ch12_hr_220-241.indd 234 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 235 Injunction An injunction is a court order that requires someone to refrain from doing something. He was acquitted because his minister testified that they had spent the evening of the murder playing Scrabble together. It is a violation of the duty of loyalty under the business judgment rule. An appeals court affirms a lower court's ruling. However, responsible adults understand how important it is not to leave their financial affairs in chaos when they do eventually die. Under Regulation Crowdfunding: (a) (b) (c) (d) the issuer may sell to no more than 35 unaccredited investors. M Majority voting Directors must resign if more than half the shares that vote in an uncontested election withhold their vote from them. There is no love in this story: For 15 years, Kristy Watts worked part time as a bookkeeper for romance writer Danielle Steele, handling payroll and accounting. Louisiana argued that the statute did not violate the amendment and that the voters must be allowed to express their abhorrence of so evil an act. Arbitration v. Its actions are often challenged in court—both by those who think its enforcement efforts are too rigorous and others who seek even stricter enforcement. (b) Paula, who lives in New York City, wants to sue Dizzy Movie Theatres, whose principal place of business is Dallas. Lydia asked the bankruptcy court to discharge her debt. This process is called piercing the company veil. Fixture → (2) Goods that have become attached to real property E. WCN 02-200-203 04341_ch23_hr_439-459.indd 459 8/28/17 7:11 AM CONSUMER PROTECTION CHAPTER 24 The following online review was written by JA2009 on He was EXTREMELY the consumer website my3cents.com: rude, implying that I was In yesterday's Sunday newspaper insert, I saw that "cheap" for not adding Staples was featuring an Acer laptop for $449. Strategy: Agencies makes rules, investigate, and adjudicate. The board has a fiduciary obligation to the shareholders. You Be the Judge Gulino v. I am afraid that if I tell the truth, I will never get a job. Defendant acted intentionally, knowingly, willfully, wantonly, and with malice. This rule explains why we often hear "this call may be monitored for training purposes" when we call companies. Because so many businesses incorporate in the state, its courts hear a vast number of corporate cases, thus creating a large body of precedent which makes the law more predictable. Does such a decision help or hurt shareholders? When Keith turned out to be correct, the CEO gave him no credit, saying, "You are equally responsible because your arguments weren't compelling enough." Keith thought the man had a point. decide it. There is no precedent whatsoever for ignoring the definiteness requirement, in this type of contract or any other. The purchase price was $150,000, and the parties specified all assets to be transferred. But a bad operating agreement is every bit as dangerous. 11. Stationary source Any building or facility that emits a certain level of pollution BACT Best available control technology • Regulation of stationary sources. It knew that Lindsay had good reason to feel threatened by Haynes. They believe that the harsh treatment of suspected terrorists has been successful in keeping America safe. If a party fully accomplishes what the contract requires, his duties are discharged. (a) are; is (b) are; is not (c) are not; is (d) are not; is not Copyright 2019 Cengage Learning. 21-2b The Charter Once a company has decided where to incorporate, the next step is to file the charter with the secretary of state in the state of incorporation. You're slacking Tucson. Embezzlement 4. Ijtihad The process of Islamic legal and religious reasoning. $20 per hour? 7. Result: The court ruled for the landlord. In each case, someone other than the true owner has rightful, temporary possession of personal property. Finally, she collapsed at work, and he fired her. Many sales are covered by implied warranties. The SEC also has the right to ban any accountant who engages in "unethical or improper professional conduct" from auditing any publicly traded company. Two medical cases illustrate the reasonable person standard. Kuehn appealed, and the appeals court's decision follows. The franchisees cannot meet any of these tests. But people who care about privacy should be worried. Occasional personal use is permitted; however, the system should not be used to solicit for outside business ventures, charitable organizations, or for any political or religious purpose, unless authorized by the Director of Human Resources. There is no evidence that the NYT acted with malice. Administrative Law In a society as large and complex as ours, the executive and legislative branches of government cannot oversee all aspects of commerce. T F An agent may never act for two principals whose interests conflict. Unfortunately, their problems had only begun. Consumer Fin. When he refused to pay the children, they sued. A gift involves three elements: 1. The right to fire Artist if his appearance or voice materially changes before or during the filming of the movie 6. The required standard may be stated in the lease, created by a state statute, or implied by law. Universal Music Corp., 528 n. If a country refuses to comply with the WTO's ruling, affected nations may retaliate by imposing punitive tariffs or other measures. To ensure this result, the terms of the contract must be conditional not reciprocal. This section will usually include some mention of what happened at the trial court. The defendant must enter a plea to the charges. Does it provide enough protection to investors? CISG. The United Nations Convention on Contracts for the International Sale of Goods (CISG) aims to make sales law more uniform and predictable—and to make international contracting easier. American Airlines, Inc. Michael and Scarlett cannot agree on the price he will pay her to manage his hotels in the third year of their contract. In making this decision, courts must (1) assess whether there is compelling evidence of wrongful conduct and (2) balance the need for disclosure against First Amendment concerns. It is important to note that precedent is only binding on lower courts. When the company discovered that Jackson and Miri were not married, it refused to pay the claim on the grounds Copyright 2019 Cengage Learning. Treasury stock ___ D. Most bailments benefit both parties. Globally, the Big Four earn 57 percent of their income from consulting. The UCC's implied warranties seem reasonable—that goods are fit for their normal purposes, for example. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 16 9/28/17 7:29 AM By withholding work and wages, the company hopes to pressure the union to bargain less aggressively. Privacy is somewhat subjec- tive. Consider this example that a student told us: During college, I used drugs—some cocaine, but mostly prescription painkillers. He cannot win. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence. When evaluating whether consideration exists, the promise to mow someone's lawn next week is the equivalent of actually doing the yardwork. Patrick calls the police, but because of a misunderstanding, the police are very slow to arrive. The Code provisions about perfecting generally do not apply to motor vehicles, trailers, mobile homes, boats, or farm tractors. Result: Generally, the sale of leased property does not affect the lease but merely substitutes one landlord, the purchaser, for another, the seller. But Shiloh is unlikely to win on that claim—the behavior was not extreme and outrageous enough. (b) win a case of commercial exploitation. Argument for the Government: Officer Struble stopped a car that had swerved onto the shoulder of the highway. Students are given appellate arguments on both sides of the question and then must prepare a written opinion. At the time of the accident, Rayner's blood alcohol level was 0.15, exceeding the legal limit. ETHICS To conceive a child, some infertile couples need an egg from a fertile woman. A child jumped into the pile and was cut by the rake. Linda owns ExSciTe (which stands for Excellence in Science Teaching), a sole proprietorship that helps teachers prepare hands-on science experiments in the classroom using such basic items as vinegar, lemon juice, and red cabbage. It argued that such a requirement was implied in the Second Contract and, furthermore, Libyan Law No. 1 required it. You are the president of Turbocharge, Inc., a publicly traded company. If, before he made that purchase, one of his employees had knowingly bought the songs instead, that employee would have violated her duty to Jackson. • Disclosure. Horning v. FIRST AMENDMENT The First Amendment protects most freedom of speech, although the government may regulate the time, place, and manner of speech. However, in a bailment, a presumption of negligence arises. What Life Principles might the executives of credit card companies use when setting policies? (d) the possessor is a holder in due course. DEFAMATION Employers may be liable for defamation if they give false and unfavorable references. Be aware, however, individuals are always responsible for their own acts. The NYT did not check the ad's accuracy before publishing it. But years later, the relationship was on the rocks—and Lowman was dying. (a) It is not clear who Purchaser and Seller are. It awarded Boeken $5.5 million in compensatory damages and also assessed punitive damages—of $3 billion. Forestal appealed. Florida law defines an insurable interest as a "substantial economic interest" in keeping the property "free from loss, destruction, or pecuniary damage or impairment." You Be the Judge: Did Properties have an insurable interest in the three apartment complexes? The bank had to do what was best for her, even if it wasn't what she wanted. • Probate. Can Dave's employer snoop? operating agreement. To win a case, a plaintiff must prove all of the elements listed above. Close corporations can typically operate without a board of directors, a formal set of bylaws, or annual shareholder meetings. But the theory is that, because the principal controls the agent, he should be able to prevent misbehavior. Parties generally create a bailment by agreement. Winding up. As she exited a Marshall's store and walked to her car, a store security guard asked her what was wrong. 11-5b What the Writing Must Contain Each of the five types of contract described earlier must be in writing in order to be enforceable. WCN 02-200-203 04341_ch04_hr_058-078.indd 60 8/24/17 1:35 PM Chapter 4 Decision: No. Although Congress does not have the power to make Americans purchase health insurance, it is authorized under the Constitution to impose a tax on the uninsured. (b) embezzlement. Arbitration is generally faster and cheaper than litigation. Konitz did not want to sign, but Tindall insisted. The UPC provides a complex formula that depends on how long the couple was married and what percentage of marital assets each owned. Grand jury A group of ordinary citizens that decides whether there is probable cause the defendant committed the crime with which she is charged. Ambiguity When a provision in a contract is unclear by accident. When Heritage brought the error to Phibro's attention, Phibro agreed to make the change, even though it was to Phibro's disadvantage to do so. WCN 02-200-203 04341_ch12_hr_220-241.indd 230 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 231 Note that punitive damages are absent from our list. These are the rules on prepaid debit cards: • Before consumers buy a card, issuers must clearly disclose all fees. But the appellate court overturned this decision, ruling that the case should go to a jury because these events could, indeed, have created a hostile work environment. Who will pay for past damage inflicted before anyone understood the harm that pollutants cause? He argued that the hotel was liable because it knew that the brawl was imminent and could have easily prevented it by calling security or ejecting the angry drunks. There are exceptions, but overall this act has reduced the government's exchange of information about us "behind our back." For more on privacy law, see Chapter 9 on cyberlaw and privacy. Probable cause means that it is likely that evidence of a crime will be found in the place to be searched. Remedies available to the successful plaintiff include hiring, reinstatement, retroactive seniority, back pay, front pay (to compensate for future lost wages), reasonable attorney's fees, and damages up to $300,000. But the number of directors elected via proxy access is typically limited to the greater of two directors or 20 percent of board seats. The tapes he produced destroyed his credibility and his political base, and he became the first president to resign his office. Agencies promulgate two types of rules: legislative and interpretive. (a) shareholder; did (b) shareholder; did not (c) stakeholder; did (d) stakeholder; did not 2. Plaintiffs argue that auditors owe an important duty to a trusting public. She accepted? Diminishing Perspective, a railroad, borrows $75 million from the First Bank, which takes a security interest in Diminishing's rolling stock (railroad cars) and immediately perfects by filing. Cengage Testing Powered by Cognero. Cognero is a flexible online system that allows you to author, edit, and manage test bank content from multiple Cengage solutions; create multiple test versions in an instant; and deliver tests from your LMS, your classroom, or wherever you want. Burlington failed to mitigate, so it also failed to recover its losses. Suppose that Augusta simply asks to buy the horse herself, without mentioning that she is purchasing it for Parker. Janet files a reply brief, opposing Rich on both issues. The next year, the company was profitable. WCN 02-200-203 04341_ch27_hr_519-537.indd 534 8/28/17 7:30 AM Chapter 27 Intellectual Property 535 Which of these activities is legal under the Digital Millennium Copyright Act? However, there is an exception to this rule: If the creditor files a financing statement for a PMSI within 20 days after the debtor receives the collateral, that security interest is deemed to have been perfected as of the date of the debtor receives the collateral, not the day on which the financing statement was filed. The price Murdock paid was not fair. Might be performed within one year, although could take many years to perform. I want to say 2 things to the DC medics. The former shareholders sued, alleging that the directors had made an uninformed decision. Obscure work, to be sure, yet the results could be seen and even smelled, because the EPA's definition would determine the quality of air entering our lungs every time we breathe. Decision: The trial court was overruled and summary judgment denied. Common carrier A company that transports goods and makes its services regularly available to the general public Contract carrier A company that transports goods for particular customers 29-2g Innkeepers Hotels, motels, and inns frequently act as bailees of their guests' property. They were entitled to the assets in the trust when they turned 21. 20-1 SOLE PROPRIETORSHIPS A sole proprietorship is an unincorporated business owned by one person. This issue has been in dispute for over a decade. Did Andreo? Bilateral contract 2. SOX prohibits accounting firms that audit public companies from providing consulting services to those clients on topics such as bookkeeping, financial information systems, human resources, and legal issues (unrelated to the audit). The two agree to test drive a 300ZX, and Maturelli takes Bien's own car keys. 7Extraterritoriality can also refer to exemption from local laws. E x h i b i t 16 . But how far would the court go in balancing national security with freedom of information. But we would reward the type of work that provides the most benefit to the community as a whole. "Enhanced interrogation techniques" seem like a great idea, until you learn that it means "torture." In a business setting, to "smooth earnings" sounds a lot better than to "cook the books" or "commit fraud." And "right-sizing" is more palatable than "firing a whole bunch of people." In making ethical decisions, it is important to use accurate terminology. Do the order forms indicate a meeting of the minds? In Chapter 28, we saw that real property is land and things firmly attached to it, such as buildings, crops, and minerals. THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD (PCAOB) The PCAOB regulates public accounting firms. We have not developed consensus on climate change. However, the board did not really understand how much Ovitz would earn under the contract. • A facilitating payment for a routine governmental action does not count as a bribe and is legal. • Inventory, meaning goods held by someone for sale or lease, such as all the beds and chairs in a

Several of Lewis River's customers sued, unhappy with the weeds in their grass. He knows that, once the storm hits and he files a petition, everything he owns except a few items of exempt property will become part of the bankruptcy estate. TechDisk manufactured computer components. But where would they find it? Both Eliza and Joe have made promises to induce the other's action. Thomas also testified in a deposition that it was not bad to lie to a federal agency. WCN 02-200-203 04341_ch13_hr_242-260.indd 242 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 243 Businesspeople, not surprisingly, tend to focus more on business than on the technicalities of contract law. Edith Windsor and Thea Spyer had been together for 40 years, and married for two, when Spyer died. Right to Organize Section 7 of the NLRA guarantees employees the right to organize and join unions, bargain collectively, and engage in other concerted activities. The CAA's major provisions are as follows: • National standards. (c) The terms are complex. Tariq Ahmad decided to dispose of some of his laboratory's hazardous chemicals by shipping them to his home in Pakistan. maximum number of shares it can issue. If she goes into a coma, her husband has the right to direct her doctors to withhold treatment. At some point, a court will conclude that Daniel has so thoroughly botched the job that he deserves little or no money. Here is how damages are calculated. As it flows over the ground, it brings along pesticides, fertilizer, heavy metals, animal waste, and dirt. • An established body of law. Being hungry is no fun. This notice of award authorizes the work set forth in the attached documents at a lump sum price of $1,060,568.00. Punches were thrown. (These chapters require the bankrupt to repay some debt.) The voluntary petition must include the following documents: Document Description Petition Begins the case. For several years, CSK Auto, Inc., fraudulently reported inflated earnings. Consideration → (2) The idea that contracts must be a twoway street Chapter 12 A. ASSIGNMENT A tenant typically may assign a lease or sublet the premises only with the landlord's permission, but the current trend is to prohibit a landlord from unreasonably withholding permission. Would your opinion change if you saw them being sold at heavily discounted prices? Arbitration ___B. And, although Kristen's flower shop did not survive, bankruptcy laws will protect her so that she is not afraid to try entrepreneurship again. When Kerry Wallace shaved her head to promote the Star Trek films, she bought insurance in case her hair failed to grow back. Should a city have the right to restrict adult businesses? Standards vary depending upon use: higher for drinking, fishing, or recreation than for irrigation or industry. A landlord generally insists on a covenant in the lease prohibiting the tenant from assigning without the landlord's written permission. What happens if your agent assaults someone or signs a contract in your name? Because the principal has done something to make an innocent third party believe the agent is authorized, the principal is every bit as liable to the third party as if the agent did have authority. WCN 02-200-203 04341_ch11_hr_198-219.indd 214 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 215 • Promises made by an executor of an estate, • Promises made in consideration of marriage, and • The sale of goods worth $500 or more. It may be that they are not sure what they can get from the other side or, in some cases, even what they really want. Let's see. In addition, the Equal Employment Opportunity Commission (EEOC) ruled that discriminating against someone for being transgender is a violation of Title VII. You are the bailor, and your friend is the bailee. 30-2k End of Life Health Issues Living Wills Living wills or advance directives In the event that a person is unable to make medical decisions, this document indicates her preferences and may also appoint someone else to make these decisions for her. GECC sued the Dannemans for that amount. TRUST'S TERM There are three possible outcomes for a trust: decanting, ter- RESULTS mination, or perpetual life. G GAAP "Generally accepted accounting principles" are the rules for preparing financial statements. Either the debtor has defaulted, or it has performed its obligations and may terminate the security agreement. Your company has sold millions of Jeep Wrangler Power Wheels. Purchasers were expected to hire someone to take care of their trees. When Derek Andreason presented a bill for $41,957 worth of meticulously itemized work that he had done under the agents' supervision, Aetna refused to pay. In 1936, the organization first proposed the Incoterms rules, which define a series of three-letter codes commonly used in international contracts for the sale of goods. Brune's email was clearly intended to do that. However, labor is refusing any compromises. If she fails to qualify as a creditor or donee beneficiary, then she is merely an incidental beneficiary, and she may not enforce the deal. However, when someone wants to assign rights governed by the Statute of Frauds, she must do it in writing. MERICANS WITH DISABILITIES A ACT The Americans with Disabilities Act (ADA) prohibits employers from discriminating on the basis of disability. Strategy: Review the requirements for being a holder in due course. Amendment XXVI [1971]. The court dismissed the first claim because the franchise agreement unambiguously permitted Burger King to Copyright 2019 Cengage Learning. Hector agrees. Don't Even Consider Asking Go Ahead and Ask (if job related) How many days were you sick last year? Before making an important choice, bring in System 2 thinking. Only a jury may decide that issue. Does the CISG apply to Paula's claim? The Paris Convention for the Protection of Industrial Property requires each member country to grant to citizens of other member countries the same rights under patent law as its own citizens enjoy. A principal and agent have a personal relationship. About a year earlier, two unencrypted laptops containing the health information, Social Security numbers, names, addresses, and phone numbers of 1.2 million AvMed customers had been stolen from the company's offices. Many administrative agencies are familiar. The Term Loan is unsecured. But the New Hampshire Supreme Court decided to change the rule. When Sarah sues, she will: (a) win $850. (Here, the information could be interpreted as a tip to the bartender.) Ryanne would not be liable unless she knew the information was confidential and had come from an insider who was violating his fiduciary duty. EXAMStrategy Question: Dr. Norman Scott was the head of the orthopedics department at a hospital. Predatory Pricing Predatory pricing occurs when a company lowers its prices below cost to drive competitors out of business. To rescind for unilateral mistake, the mistaken party must demonstrate that he entered the contract because of a basic factual error and that the nonmistaken party knew or had reason to know of the error. As part of this effort, company executives and the investment bankers conduct a road show; that is, they travel around the country making presentations to potential investors. (b) Both are guilty of larceny and violating RICO. Trustie lied about the car's condition. Joint tenancy has one other curious feature. Furthermore, in determining compensation, the board considers not only past performance but also prospective contributions. If you had helped a terminally ill person die, you might not want everyone to know that you had done so, especially if you lived in a state where assisted suicide is illegal. Criminal law Concerns behavior so threatening that society prohibits it. What happens if the minor is not able to return the consideration because he no longer has it or it has been destroyed? You Be the Judge Raul v. But, as many courts acknowledge, those terms have created legal confusion, so we use factual cause and foreseeable types of harm, the issues on which most decisions ultimately focus. Five weeks later, Stein met with Brune again. But the market for your vehicle, well … tanks. Part of the problem with the slippery slope is that, once we lie, it becomes easier to lie again. Congress, in turn, had the right to override the veto, ensuring that the president would not become a dictator. WCN 02-200-203 04341_ch07_hr_121-136.indd 134 8/24/17 11:58 AM Chapter 7 Intentional Torts and Business Torts 135 2. Issue: Was Bikram Yoga copyrightable? MindTap also includes: • Case Collection where instructors can find over 1,600 additional cases that were included in several previous editions of all of the Cengage Business Law or Legal Environment texts. In a criminal case, which statement is true? What kind of suit is this? Generally, a debtor defaults when he fails to make payments due or enters bankruptcy proceedings. As to Richie's own commentary, the website is also immune. After reading this chapter, do you believe that international law exists? Prior to this test, women had to undergo invasive tests that carried a slight risk of miscarriage. Austria, Indonesia, and Colombia are all members of the WTO. Producers believe that nudity sells movie tickets; actors are afraid that it will tarnish their reputation. Analyzing whether a contract exists involves inquiring into these issues: offer, acceptance, consideration, capacity, legal purpose, consent, and sometimes, whether the deal is in writing. "No problem," he said. Texas argues that its interest in honoring the flag justifies its prosecution of Johnson, since he knew that his action would be deeply offensive to many citizens. The Estates is a suburb outside of Los Angeles. First, we will distinguish between criminal and civil law. The store turns out to be closed, but luckily for him, a vending machine sits outside. 574 (Bankr. The owner of a sole proprietorship has limited options for financing her business. Which of the following questions would your lawyer not need to ask to determine if the painter was your employee? Result: The reverend lost. Assignment of rights ___ B. Morris, 639 S.W.2d 709 (1982). Although the road itself may not have been significant enough to require an impact statement, its purpose was to provide access for logging, which did require an EIS. It had acted without customers' permission, deceptively advertised promotional benefits, and then mishandled billing disputes. What are the damages that flow directly from the contract? WCN 02-200-203 04341_ch24_hr_460-481.indd 473 10/6/17 12:28 PM 474 Unit 6 Government Regulation • Individuals have the right to sue for damages, including attorney's fees, from anyone who knowingly violates a consumer product safety rule. Toward the end of the second lease, after Easterwood had harvested his crop, he and PIC began discussing the terms of another lease. So the contract states that Actor could refuse to shoot nude scenes altogether, or he could shoot them and then, after viewing them, decide not to allow them in the movie. The company will pay no dividends, and the shares cannot be sold. (a) (b) (c) (d) (e) A trial court finds a criminal defendant guilty. On October 12, James Camp agreed to provide services to Shawn Sheth by October 15. THE UCC The Uniform Commercial Code is designed to modernize commercial law and make it uniform throughout the country. Congress passed the RPA in 1936 to prevent large chains from driving small, local stores out of business. It is also difficult for Mom and Pop to show that MegaGrocery will be able to make up all its lost profits once the corner grocery is out of the way. However, the trial court judge overruled the jury's verdict. Deontological The duty to do the right thing, regardless of the result Categorical imperative An act is only ethical if it would be acceptable for everyone to do the same thing. WCN 02-200-203 04341_appC_hr_C01-C22.indd 11 9/28/17 7:28 AM C12 APPENDIX C Answers to Selected End-of-Chapter Questions CHAPTER 27 1. Each has special powers and certain limitations. T F An agent has a duty to provide the principal with all information in her possession that she has reason to believe the principal wants to know, even if he does not specifically ask for it. Raul lives in Georgia. Then Facebook changed its policy Copyright 2019 Cengage Learning. The NLRA permits the parties to bargain almost any subject they wish, but it requires them to bargain wages, hours, and other terms and conditions of employment. WCN 02-200-203 04341_ch23_hr_439-459.indd 445 8/28/17 7:11 AM 446 Unit 6 Government Regulation Section 16 is a strict liability provision. A con artist who tricks you out of your money with a phony offer to sell you a boat commits fraud, yet another tort. To do so would cost NGS $430 million in capital expenditures initially, and then $89.6 million annually. On one occasion, he measured the length of her skirt to judge its compliance with the prison's dress code and told her that it looked "real good"; constantly told her how attractive he found her; made references to his physical fitness, considering his advanced age; asked Singleton if he made her nervous (she answered "yes"); and repeatedly remarked to Singleton that, if he had a wife as attractive as Singleton, he would not permit her to work in a prison facility around so many inmates. the user or consumer has not bought the product from or entered into any contractual relation with the seller. This notification gives the government an opportunity to prevent a merger ahead of time, rather than trying to untangle one after the fact. HACKING The federal Computer Fraud and Abuse Act of 1986 prohibits hacking. When the boss fired Clarence from his job at a moving company, she said it was because he could no longer lift heavy furniture, his salary was too high, and as he got older, he would have a hard time remembering stuff. A voidable contract occurs when the law permits one party to terminate the agreement. WCN 02-200-203 04341_ch23_hr_439-459.indd 448 8/28/17 7:11 AM Chapter 23 23-2 Securities and Antitrust 449 ANTITRUST Congress passed the Sherman Act in 1890 to prevent businesses from becoming so powerful that they could control important markets. • In the business of selling. Bankruptcy laws are controversial. GATT 1. This is called tortious interference with a contract. What type of lawsuit is this—criminal or civil? Mary Price went for a consultation about a surgical procedure to remove abdomi- nal fat. In addition, the applicant must be the first to use the mark in interstate commerce. • He was tricked into signing the instrument without knowing what it was and without any reasonable way to find out. However, the LLC is not right for everyone. A court cannot give him an expectation interest, so George will ask for reliance damages. Consider how the three separate powers balance one another: Congress was given the power to pass statutes, a major grant of power. After two years, all pain may cease for a decade—or forever. She takes out her cell phone to call 911 for help, but just then Bozo runs away. But if the point is really important to you, it may be wiser to resolve the issue before you sign the contract. Six states had passed laws permitting capital punishment for child rape, though the remaining 44 states had not. 21-6a The Relationship between Shareholders and Managers Activist investor A shareholder with a large block of stock whose goal is to influence management decisions and strategic direction At one time, corporate stock was primarily owned by individuals. McGrath was grateful to him for his lie because it gave her strength and hope. When is it payable and for how much? If the government proves its case, the defendant can be punished with large fines and a prison sentence of up to 20 years. Baxendale. How could Mylan comply with the business judgment rule in connection with this transaction? Rather, it is important to do the right thing, no matter the result. If all three elements are met, the donee becomes the legal owner of the property. Sal says to Jennifer, "I'll trim all of your trees if you pay me $300." Jennifer replies, "It's a deal, if you'll also feed my dog next week when I go on vacation." Does the common law or the UCC apply to Sal's proposal? Extra payment if the filming takes longer than ten weeks 3. Decision: Yes, res ipsa loquitur applies. GE headquarters were near Newtown, many of its employees lived in the area, and some had children in the Sandy Hook School. Iqbal's pleadings contained the following information: (1) Most of the 9/11 detainees were Arab Muslim men; (2) detainees like Iqbal suffered harsh treatment in prison; Copyright 2019 Cengage Learning. The level of care required depends upon who receives the benefit of the bailment. For example, a state statute might require the guest to register the nature and value of the goods with the hotel. In the movie contract, which side was the more successful negotiator? If a parked car is damaged, will a court honor the disclaimer? It is important to distinguish between two branches of international law: public and private. Principle, on the other hand, refers to a fundamental idea. 5-3f Closing Argument Both lawyers sum up their case to the jury, explaining how they hope the jury will interpret what they have heard. You are entitled to information that the Internal Revenue Service, or the Federal Bureau of Investigation, has collected about you. State in the letter that it is not a contract, that it is a memorandum summarizing negotiations thus far, but that neither party will be bound until a full written contract is signed. He can have an interest in a contract if the agreement gives him some benefit. The First Amendment protects anonymous speech, provided it is lawful. It also has a fourth option—a written binder. Covenant A promise or undertaking contained in a lease whose breach does not result in eviction Condition A promise or undertaking contained in a lease whose breach may result in eviction • Tort law. VALUE The courts will seldom inquire into the adequacy of consideration. Once, another employee hit him. No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law. It was novel—no one had ever done it before. If the accountant is unaware of the risk, it cannot be held liable. The professor sees it coming and ducks just in time; the laptop smashes against the chalkboard. The manager, Roger Dionne, informed the waitresses that "there was some stealing going on." Until he found out who was doing it, he intended to fire all the waitresses in alphabetical order, starting with the letter "A." Dionne then fired Agis. Is Omega liable? The Delucas applied to the city for a license to employ topless dancers in the pub. "I can't promise you anything about this land," he says, "but they've found gold on every adjoining parcel." Priscilla, eager for gold, buys the land, digs long and hard, and discovers—mud. Michigan v. If the Court hears a new flag-burning case in this decade, should it consider changing its ruling or should it follow precedent? What does that omission tell you about the relative bargaining power of the two parties? You Be the Judge: Was Coopers liable for Oregon's loss? Someone who has signed a valid will. This case ended up in litigation over the definition of the word "substantial." Litigation is never a happy result. We should end it by noting one way in which all of us have some direct control over these ubiquitous authorities: information. Fourth Amendment Protects against illegal searches. Yes, if the operating agreement permits Varies by state, but generally, yes Becomes taxable entity if it goes public Yes Easy No Depends on the remaining partners No No Difficult No Depends on the partnership agreement Professional Corporation Yes No Difficult Shareholders must all be members of same profession. Under Delaware law, corporations have the right to decide that the corporate opportunity doctrine does not apply to its managers. (See the "Result" at the end of this Exam Review section.) 17. If you receive telemarketing calls after your telephone number has been in the registry for 31 days, you can file a complaint at donotcall.gov or at the toll free number above. Undue influence means that one person has enough influence over another to persuade her to do something against her free will. "$1,500: One thousand and five dollars." (d) Donna signed the note without reading it. Thus, it is absolutely crucial that an operating agreement be carefully crafted and that members understand its provisions. What can a company do to reduce this pressure?12 10The data in this and the preceding paragraph are from Nicholas D. The Blasco case involved a payday loan, for which she was paying 6,500 percent interest. When the owner purchases the policy, the company typically sets a premium that stays constant over the life of the policy. In the following case, a nurse was offended when her supervisor snooped on her Facebook postings. For example, Plato's Garden Supply purchases 500 hemlocks from Socrates' Farm, a grower. PER CAPITA In a will, a per stirpes distribution means that each branch of the family receives an equal share. "The lawyer is not permitted to witness the will." III. you. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal. In short, be careful. Finally, a national health emergency was declared, and 800 families were relocated.6 In the past, it was common for companies to discard waste in waterways, landfills, or open dumps. To be successful in a suit under the Securities Act of 1933, the plaintiff must prove: Important Mistake in the Registration Statement Plaintiff Lost Money (a) No Yes (b) No No (c) Yes No (d) Yes Yes Copyright 2019 Cengage Learning. Patients are sometimes resentful of these constraints. Even though you acted without any bad intent, you must turn over all your profits to the company. Hungary argues that there was no bailment agreement because one of the key elements to bailment formation was absent: consent. His mission? A jury will have to determine the amount that Hardie owes BLD. However, the testatrix must be: • Of legal age (which is 18). Robert Baer was a prosecutor in New Jersey who wanted to write for television. Paul Chambers, Traciers's field manager, staked out the address on file, waiting for a chance to make his move. As we will see in Unit 4 on sales, U.S. contract law excuses buyers from paying if the seller's performance is not absolutely perfect. This document is not required, but can be exceedingly helpful, as Jeffrey Horning learned in the opening scenario. In return for retaining some of their assets, debtors typically promise to pay creditors a portion of their future earnings. The company pays dividends on this cash value and typically, after some years, the dividends are large enough to cover the premium so that the owner does not have to pay any more. Without access to the U.S. market, it was just a pipe dream. After a federal judge refused to dismiss criminal charges against him, Michael Reed took revenge by electronically filing a UCC financing statement listing the judge as the debtor on a $3.4 million loan. Corp., 162–163 Ellis v. WCN 02-200-203 04341_ch09_hr_156-176.indd 176 8/24/17 12:19 PM Contracts and the UCC UNIT 3 Copyright 2019 Cengage Learning. Implied Warranty of Habitability. Three college students rented a house from Les and Martha Vanlandingham. (e) Red and Blue have violated labor law, but not by committing ULPs. CASE QUESTIONS 1. T F The ICC makes international law. When CCA applied Arizona law to discipline Rathke, it breached the contract. Later, Joseph's widow, Euphemia, found out that Rodd had bought back all of the children's stock, while refusing to buy any of hers. Its goal is to ensure that trusts do not last forever. Was the board of directors liable for this employee's wrong-doing? In each of the examples above, the parties consented to the bailment. What would Kant or Mill say? Users can also specify that Facebook delete their account. However, the picketers are not permitted to use physical force to prevent someone from crossing the line. T F A defendant cannot be liable for defamation if the statement, no matter how harmful, is true. Typically, common shareholders have the right to vote and preferred shareholders do not, but there are many exceptions to this rule. 22-1 VERVIEW OF THE BANKRUPTCY O code The U.S. Bankruptcy Code (the Code) has three primary goals: 1. Defendant Coastal Insurance Company, Inc., is incorporated under the laws of Georgia and has as its usual place of business 148 Thrift Street, Savannah, Georgia. The federal Defense of Marriage Act (DOMA) defined marriage as a union between a man and a woman. Travis cannot represent these two clients when they are negotiating with each other unless they both agree to let her. Be Patient is a healthcare organization that owns five geriatric facilities. This action is legal under the ADEA. If the general area, or the particular premises, has a high crime rate, courts are more likely to hold that the crime was foreseeable and the landlord responsible. One of America's greatest judges, Benjamin Cardozo, offered a way to analyze negligence cases more than 80 years ago. Breach → (3) A defendant's failure to perform a legal duty C. Society needed a system for transferring paper funds easily. When Extell began selling the units, it agreed to refund any buyer's down payment if the first closing did not occur by September 1, 2009. In the Duke Power case, a higher percentage of whites than blacks passed the tests required for one of the good jobs. Her old firm might seek an injunction that prohibits her from working for her new firm until her non-compete has expired. Suppose that Madison Keys wins the River Oaks Club Open. WCN 02-200-203 04341_ch02_hr_015-038.indd 27 10/6/17 11:44 AM 28 Unit 1 The Legal Environment went to jail. He phones the landlord to tell him this, but the landlord is on vacation and Michael leaves a message. Testatrix is the female version (from the Latin). T F Managers have a fiduciary duty to shareholders. He ultimately auctions the masterpiece for $2.4 million. T F An affidavit is the government's formal charge of criminal wrongdoing. Informational Control and the Public Subpoena An order to appear at a particular time and place Subpoena duces tecum An order to require a person to produce certain documents or things Adjudicate To hold a formal hearing about an issue and then decide it Administrative law judge (ALJ) An agency employee who acts as an impartial decision maker We started this section describing the pervasiveness of administrative agencies. The physician is liable for the harm. They had already paid more than the abated rent to the landlord, so they owed nothing for the last five months.4 Duty to Return Security Deposit Most landlords require tenants to pay a security deposit, to be used to finance repairs in case the tenant damages the premises. Type of Agreement Enforceability Cannot be performed within one year. One role of the law is to prevent these bad things. The following are the most important forms of discovery. Paige says she wants "to negotiate Owen's raise at the Holiday Inn." Nancy yells "Crap!" at the top of her lungs every time her Rotisserie Baseball team loses. HEALTH INSURANCE Health insurance is available in pay-for-service plans, managed care plans, or HMOs. Some doctors and hospitals are now experimenting with value-based care. When Fiscante was unable to meet his obligations, various creditors attempted to seize the lawnmower. F In a disparate impact case, an employer may be liable for a rule that is not discriminatory on its face. 15-2c Consumer Exception Consumer credit contract A contract in which a consumer borrows money from a lender to purchase goods and services from a seller who is affiliated with the lender The most common use for negotiable instruments is in consumer transactions. While working part time at a Supercorp restaurant, Jenna spills a bucket of hot French fries on a customer. Forming a Contract 181 Executed contract An agreement in which all parties have fulfilled their obligations Valid, Unenforceable, Voidable, and Void Agreements A valid contract is one that satisfies all of the law's requirements. • Just because the Orchestra says the musicians are independent contractors does not mean the musicians believe that to be true. Congress amended TILA hoping to prevent another such crash. But, in the case of violence, courts are divided. (b) Blue has committed a ULP, but Red has not. When some additional leases became available, Oil Co. purchased all of them for itself. Good health, companionship, and enjoyable leisure activities all contribute more to happiness than money does. Tony's shoes and clothing were piled neatly nearby. Bruno agrees to sell them to her for $10,000, payable 30 days after delivery. Fraud Scienter An action is done knowingly or recklessly with an intent to deceive, manipulate, or defraud. Most nations respect this principle. An employer may refuse to hire women to work in a men's bathroom, and vice versa. There is no gift because Lou did not intend to transfer ownership immediately, and he did not deliver the tickets. The informant later offered to sell Friedman three pounds of marijuana. Kevin Fitzgerald represented a down-and-out district in the Massachusetts House of Representatives. WCN 02-200-203 04341_ch10_hr_177-197.indd 185 10/6/17 11:47 AM Unit 3 186 Contracts and the UCC reasonably assumed he would be paid, and PIC Realty knew it. The judge summons the lawyers to court, and Beth goes as well. WCN 02-200-203 04341_ch03_hr_039-057.indd 53 8/24/17 1:47 PM 54 Unit 1 The Legal Environment 13. Companies typically must pay filing fees and franchise taxes in their state of incorporation, plus in any state in which they do business. WCN 02-200-203 04341_ch14_hr_261-277.indd 275 9/28/17 7:16 AM 276 Unit 3 Contracts and the UCC CASE QUESTIONS 1. The Code even permits the seller to cure after the delivery date if doing so is reasonable. (c) will be dismissed unless the debtor has 12 or more unsecured creditors whose claims total at least $5,000. If his behavior had been wrongful, it would have been a factual cause. If the debtor fails to pay, the secured party may repossess the collateral, meaning take it away. Although Maher disapproved of Michael's trades and implored him to stop, Maher continued to give his brother tips. If Emily was careless, then she would be liable even though she was a company shareholder because being a shareholder does not protect her from liability for her own wrongdoing. It applies even if the insider did not actually take advantage of secret information or try to manipulate the market; if she bought and sold or sold and bought stock in a six-month period, she is liable for any profits she earned. Because the purse contained photo identification, Francia could easily have located its owner. Marina Stengart used her company laptop to communicate with her lawyer via her personal, password-protected, web-based email account. Loyalty It is always important to pick one's battles. And the two stopped at nothing. If Chip helps out his daughter Sarah by buying a policy to insure her apartment, then _____ is the insured, _____ is the beneficiary, and _____ is the owner. People v. In the following case, the plaintiffs lost not only profits, but their entire business. Although the Code lists various types of exempt property, it permits states to opt out of the federal system and define a different set of exemptions. No choice is irrevocable because both debtors and creditors have the right to ask the court to convert a case from one chapter to another at any time during the proceedings. As a voter, investor, juror, entrepreneur, and community member, you will influence and be affected by the law. Tied product In a tying arrangement, the product that a buyer must purchase as the condition for being allowed to buy another product.. (See the "Result" at the end of this Exam Review section.) 3. Ethics Was it fair for Chase to use Baer's services without compensation? The jury voted to sentence Kennedy to death, which was permitted by the Louisiana statute. The Supreme Court has held: • If the victimized employee has suffered a "tangible employment action" such as firing, demotion, or reassignment, the company is liable to her for harassment by a supervisor. In this 1903 case, the court held that the railroad had no duty to help the injured man. The Beatty/Samuelson/Abril Difference Our goal in writing this book was to capture the passion and excitement, the sheer enjoyment, of the law. This stock is, in a sense, secondhand because other people—perhaps many others—have already owned it. WCN 02-200-203 04341_ch01_hr_001-014.indd 1 10/6/17 11:41 AM INTRODUCTION TO LAW CHAPTER 1 The Pagans were a motorcycle gang with a reputation for violence. 2 Kim v. In many contract negotiations, one party knows more, which helps him secure favorable deals. The general rule is as follows: An object is a fixture if (1) it is attached to property in such a way that removing it would damage the property (like leaving a hole in the wall), (2) it was especially made or adapted to the particular property (such as custom-made bookshelves fitted in a library), or (3) the owner of the property clearly intends the item to remain permanently. Strategy: A sole discretion clause grants the absolute right to make a decision. The state bought most of the properties from willing sellers. (Colo.) LLC 71 Wn.2d 736 Washington Supreme Court, 2011 Facts: The voters of Washington state passed the Medical Use of Marijuana Act (MUMA) which stated: Humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their physician's professional medical judgment and discretion. State legislatures operate similarly, but the work of Congress is better documented and obviously of national importance. Here is their story. If the offer does not specify a type of acceptance, the offeree may accept in any reasonable manner and method. Not if it relates to work conditions and involves concerted activity. She stated that "Autonomy is a terrific product"—an odd description for a fraudulent deal. T F A force majeure clause indicates who has the authority to write the first draft of the contract. The business is his idea; he raises the capital, hires the lawyers, calls the shots. Restoring the other party to its original position 5. Courts have carved some exceptions during the last 100 years, but the basic rule still stands. Value A holder in due course must give value for an instrument. Elonis's conviction was based solely on how others interpreted his posts, rather than on evidence of his own mental state or intent. Assignment of rights → (6) Transfer of benefits under a contract C. Outcome? Typically, the party with the most bargaining power prepares the drafts. T F An agreement for the sale of 600 plastic cups, worth $0.50 each, must be in writing to be enforceable. Condition A promise or undertaking contained in a lease whose breach may result in eviction. Charles Toussaint was fired without warning five years after he joined the company. (Her admission under oath made the lack of a written contract irrelevant.) However, she could not recall making the agreement on any particular date. • Typed terms win over printed terms. Triec, Inc., is a small electrical contracting company in Springfield, Ohio, owned by its executives, Yeazell, Jones, and Heaton. It may also prosecute a business, claiming that it lied about corporate assets in a stock sale. Think first of important categories. In some circumstances, they can be held legally responsible for the actions of the people they serve. WCN 02-200-203 04341_gls_hr_G1-G14.indd 6 9/28/17 7:30 AM G7 G lo s s a ry International Court of Justice (ICJ) The judicial branch of the United Nations. 8 Result: Red Owl received no benefit from the Hoffmans' sale of their store or purchase of the lot. 1 Dom fails to repair brakes, which causes Superseding cause Cyclist hits pothole Customer's brakes to fail, which causes Customer's car to hit cyclist Pig to fall, which causes Death of veterinarian = No factual causation = Dom is not liable to cyclist = Factual causation and foreseeable type of harm = Dom is liable to cyclist Factual causation but no foreseeable type of harm = Dom is not liable to veterinarian Every minute, about 19 people fall victim to the crime that occurred in the following case. Since employees could quit their factory jobs whenever they wanted, it was thought to be only fair for employers to have the same freedom to fire a worker. And sometimes they are negotiable even if not filled out correctly. WCN 02-200-203 04341_ch20_hr_377-397.indd 381 10/9/17 1:51 PM 382 Unit 5 The Lifecycle of a Business 20-2b Special Types of Corporations Both the federal tax code and state laws allow for special types of corporations. Report. T F The Clean Water Act requires anyone discharging pollution into navigable water to obtain a permit from the EPA. What amount is fair? In awarding punitive damages, a court must consider three "guideposts": Punitive damages Punishment of the defendant for conduct that is extreme and outrageous • The reprehensibility of the defendant's conduct, • The ratio between the harm suffered and the award, and • The difference between the punitive award and any civil penalties used in similar cases. Eddie, a beginning student, "blows out" his knee attempting an advanced racing turn. Under the FTC Act, an advertisement is deceptive if it contains an important misrepresentation or omission that is likely to mislead a reasonable consumer. 5Natasha Singer, "Mapping, and Sharing, the Consumer Genome," The New York Times, June 16, 2012. Therefore, Geico did not have to notify Edo of an adverse decision because his premium would have been the same even if his credit report had been neutral. WCN 02-200-203 04341_fm_hr_i-xxii.indd 19 10/6/17 11:39 AM xx P re face PowerPoint Lecture Review Slides. PowerPoint slides are available for use by instructors for enhancing their lectures and to aid students in note taking. It is priceless, and it is yours." The book is worth about $200,000. No, not the guy in hospitality. They are more likely to recall an intellectual property rule involving the copyrightability of yoga than a plain-vanilla example about a common widget. Imagine what your life would be like if you had to subsist only on what you could make yourself. But one thing employers cannot do is access an employee's social media profile by trickery or coercion. Assignment A transfer of contract rights to a third party Delegation A transfer of contract duties to a third party 12-2a Assignment Lydia needs 500 bottles of champagne. During live national coverage of a Super Bowl halftime show, Justin Timberlake tore off part of Janet Jackson's shirt, exposing her breast for nine-sixteenths of a second. 16-6b Termination When the debtor pays the full debt, the secured party must complete a termination statement, a document indicating that it no longer claims a security interest in the collateral.14 These forms are commonly called UCC-3 statements. Bruno then assigns to Doug his rights to Lydia's money, and in exchange Doug gives up his claim against Bruno for $8,000. Hours pass. Tracy has violated her duty, but she has not committed a crime. Toys were among the worst offenders, injuring 700,000 children a year. EXAMStrategy Question: The appearance policy at Starwood Hotels prohibited employees from wearing hairstyles that showed excessive scalp. Grady instructs the bank to sell the shares and use the proceeds to pay off his debt in full. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 4 9/28/17 7:29 AM Index Cost–benefit analysis, example of utilitarian business practice, 19 Counteroffer, 189 Court orders, 5 Court systems, 80 Covenant, 249, 545 Cover (for seller/UCC), 267 Cramdown (in Chapter 11), 430 Credit. City of Stamford, Conn., 933 F.2d 1131, 1991 U.S. App. He denied having called her dishonest or immoral. The common Results law mirror image rule requires acceptance on precisely the same terms as the offer. How much profitability (or income) would you be willing to give up to protect children you do not know? (d) opinion 3. Actavis PLC 787 F.3d 638 United States Court of Appeals for the Second Circuit, 2015 CASE SUMMARY Facts: Namenda IR is a drug used to treat Alzheimer's dis- ease (a devastating form of dementia). (a) it has not ever been used anyplace in the world. maintain its control improperly. If they reduced this travel, they could save $200 a month in gas. LIABILITY TO THIRD PARTIES FOR NEGLIGENCE Accountants who fail to exercise due care are liable to (1) any third party they knew would rely on the information and (2) anyone else in the same class. You can register to be an organ donor: • Under the Uniform Anatomical Gift Act (UAGA), by putting a provision in your will or by signing an organ donation card in the presence of two witnesses; • Using a smartphone app such as the Donate Life section of the iPhone Health app; or • In some states, by signing up when you apply for or renew a driver's license. At some point during the negotiations, the lawyer for Heritage asked his client if the $0.10 figure was accurate. A secondary boycott is a picket line established not at the employer's premises but at a different workplace. What legal remedy are the Temples seeking? The development plan included one section for a waterfront conference hotel and stores; a second one for 80 private residences; and one for research facilities. Reynolds Tobacco Co. v. WCN 02-200-203 04341_ch01_hr_001-014.indd 8 10/6/17 11:41 AM Chapter 1 Introduction to Law 9 Let us examine the reasoning. Voluntary action. Courts have the authority to imprison or fine those who violate their orders. T F About one-half of all lawsuits settle before trial. Ryan could not stay awake at work—and was unable to remember and keep track of key parts of his job. FRAUD Fraud is grounds for disaffirming a contract. There is simply no way to prove a causal connection between the AvMed breach and the subsequent identity thefts. What would that claim be? Suppose two people are living together: the suspect and a tenant. Argument for the Lees: Conseco weaves a clever argument, but let's look at what they are really saying. The two spoke at least four times that year, and Baer sent Chase a letter about the script. The contracts between SABIC and Mobil and Exxon were governed by Saudi law and forbade the parties from charging each other hidden fees. The invoice contained a forum selection clause providing that any dispute would be heard in a French court. Shawe appealed. Cummings answered, "No." A year after the policy was issued, Cummings died of a gunshot wound. WCN 02-200-203 04341_ch01_hr_001-014.indd 6 10/6/17 11:41 AM Chapter 1 Introduction to Law 7 One of the goals of Chapter 2, on ethics, is to offer you new tools for that task. Exercising a Legal Right. Dorothy Frampton was injured while working at the Central Indiana Gas Co. After she filed a claim under the state's workers' compensation plan, the company fired her. But in this easy answer lurks a danger. Sound familiar? Emanuel, "The Ethics of Not Hiring Smokers," New England Journal of Medicine, April 11, 2013, 368:1369–1371. Get what you need to get the grades at CengageBrain.com Copyright 2019 Cengage Learning. Between perfected security interests, the first to file or perfect wins. National treatment The principle of nondiscrimination between foreigners and locals The WTO tries to promote free trade by limiting countries' efforts to unfairly protect their domestic industries. Reasoning: To determine whether consumer confusion is likely, the following factors are relevant: • Strength of the mark: The more creative or arbi- trary a mark, the stronger its protection. In fact, they followed a customer named Karl Kuehn to the men's room, where, without any provocation, they savagely beat him. Locals knew it as "Hot Dog Island" and visited frequently on jet skis. Ultimately, he pleaded guilty to one felony count and Copyright 2019 Cengage Learning. Duty of Loyalty As the following case reveals, the two employees in the opening scenario violated their duty of loyalty to Brenner. You Be the Judge: Was there consideration? Should the courts permit the Navy to proceed without an EIS? A court also has the right to take a step that is much more damaging to shareholders than simply selling or dissolving the corporation—it can remove the shareholders' limited liability. If the agent and principal are both liable, which does the injured third party sue? Part performance → (5) Entry onto land, or improvements made to it, by a buyer who has no written contract C1 Copyright 2019 Cengage Learning. Was Farmstead in the right? The statutory period in Indiana is 20 years. WCN 02-200-203 04341_ch09_hr_156-176.indd 173 8/24/17 12:19 PM 174 Unit 2 Torts MULTIPLE-CHOICE QUESTIONS 1. One of the earliest ESA battles involved the snail darter—a 3-inch fish that lived in the Little Tennessee River. FAMILY RESPONSIBILITY DISCRIMINATION Men and women may not be treated differently because of their family responsibilities. Otto then entered into an agreement between himself and the furniture store to lease a storefront that he owned. Even if the policy itself does not explicitly include such a provision, an increasing number of courts (but not all) imply this covenant. Eventually, both of them failed, and Kim lost his investment. For example, one company patented a unique rose whose color combination did not exist in nature. Imagine that you sign a lease and that you are to move into your new apartment on August 15. Would you be willing to relocate? The EPA _____ have authority to regulate greenhouse gases. Was it the proximate cause?2 Factual Cause Factual cause Proximate Cause Proximate cause If the defendant's breach led to the ultimate harm, it is a factual cause. The person who issues the insurance policy and serves as guarantor. Congress shall have power to enforce this article by appropriate legislation. The law will treat Doug as though he had entered into the contract with Lydia. It informed Mendenhall it was ending the contract because his tweets offended the majority of the public. Superfund Another name for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). and 2. In Iowa, a bystander could now be liable if he was the employer and if the worker was suddenly stricken and if it was an emergency and if the employer was present. Rice signed the deal precisely to protect itself against price increases. (c) He could only be fired for a good reason. 692 F3d 148 United States Court of Appeals for the Second Circuit, 2011 CASE SUMMARY Facts: Grant Thornton (GT) audited Winstar, a broad- band

200-203 04341_ch25_hr_482-500.indd 493 8/28/17 7:20 AM 494 Unit 6 Government Regulation The following case discusses the advantages of protecting endangered species. Cash in hand is often more valuable. The owners sue for the value of their vehicles—about $2,000 for Kim's clunker and $350,000 for Jack's Ferrari. The Federal Unemployment Tax Act (FUTA) is the part of the Social Security system that provides support to the unemployed. If Austria imposes a tariff on imports of coffee beans from Colombia, but not from Indonesia, is it in violation of WTO principles? Having suffered significant injuries, Nadel filed suit. McGee, 229–230 Hayes v. She cannot investigate him because she does not know his name. They may have borrowed from a family member or an important supplier. Gatter was fired for disobeying orders. Smith made his decision, and Del Lago should not be held accountable for his poor choices. About 40 red wolves wandered from the refuges onto private property. At his birthday party, the man says to the videographer, in front of 100 witnesses, "I have an appointment with my lawyer tomorrow, but in the meantime, you should know that I want all of my assets to go to the orphanage that raised me." On his way home that night, he dies in a car accident. Michael had no signs of dementia—he was the host of a popular television talk show. Patrick has committed false imprisonment, and John will win. Are the standards essential for the job? Harvey v. FEDERALISM Our federal system of government means that law comes from a national government in Washington, D.C., and from 50 state governments. For example, eleva- tors are goods when a company manufactures them, but they become fixtures when installed in a building. This will discourage others from stealing. If workers fear that making a claim for workers' comp will get them fired, then no one will file and the whole point of the statute will be undermined. Strategy: There are four elements to adverse possession. Was AvMed the only company that had the plaintiff's information? 11"When the Jobs Inspector Calls," The Economist, March 31, 2012. For this reason, defendants must prove that the unauthorized revelation would have offended most reasonable people. Kris Alan Dane, 2016 WY 38; 368 P.3d 914; 2016 Wyo. We will analyze the most common issues of performance and discharge. A felony is a crime in which the sentence could be a year or more. Distracted, he crashed into Olivia's house, causing substantial damage. Apply them. ETHICS Chitika, Inc., provided online tracking tools on websites. Likewise, a corporation that qualifies for S corp status with the IRS will not necessarily be treated as a close corporation under state law unless it complies with those particular requirements. As we remember from our discussion of the business judgment rule in Chapter 21, managers have wide latitude in how they spend any funds they raise. But it does exist, and is important to study, because our globalized world is more and more dependent on it each day. The owner can adjust the premiums over the life of the policy and also adjust the allocation of the premiums between insurance and savings. We recognize that the online experience is as important to the students—and you—as the book itself. As the owner of the business, Linda is responsible for all of its debts. If Basil were to default, the collateral would go straight to Pesto Bank, leaving Olive empty-handed. Jannusch v. Sometimes courts will enforce agreements even if they fail to meet the usual requirements of a contract. (Colo.) LLC, 338–339 Verizon Communs., Inc. The person whose loss is the subject of the insurance policy. To take effect, the agreement must be ratified by which of the following? The kids had never gone to Disney World. Moreover, it is well established that an employee commuting to and from work is not within the scope of employment. The legacy contact has the right to download an archive of posts, but is not allowed to see private messages. When visitors of the Grand Resort Hotel reported the presence of thick dirt and dark hair in the bathtubs, TripAdvisor ranked it one of the "Dirtiest Hotels in America." Grand Resort sued TripAdvisor for defamation, but lost. One morning, he fills up a v ending machine that is on the third floor of an office building. WCN 02-200-203 04341_ch17_hr_315-335.indd 329 10/6/17 12:14 PM 330 Unit 4 Agency and Employment Law EXAMStrategy Question: When Bess signed up for a fancy trip, she emphasized to her travel agent that she was seriously allergic to lead paint, and, therefore, she could stay only in new hotels. As a result, it is worth only $6,000— not the $15,000 Chaz paid. 1976). Consequential damages Damages resulting from the unique circumstances of the injured party. John Rawls was an American philosopher who referred to these circumstances into which we are born as life prospects. As a train began to leave the station, a man carrying a plain package ran to catch it. Or was Connie just unreasonable? If Larnell signs the back of the check and delivers it to Patty, he has met the two requirements for negotiating order paper: indorsement and delivery. The part of the Constitution that requires compensation in eminent domain cases 3. PLEADINGS 2. 24-2 SALES Section 5 of the Federal Trade Commission Act (FTC Act) prohibits unfair and deceptive acts or practices. WCN 02-200-203 04341_ch16_hr_295-314.indd 310 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 311 b. Tim represents the bad news in bankruptcy laws. WCN 02-200-203 04341_em_cases_hr_T1-T4.indd 2 10/6/17 12:34 PM TA B L E O F CAS E S POM Wonderful, LLC. Issue: Will the court enforce this open-ended promise to share future lottery winnings? Under UCC §2-201(2), a signed memo between merchants that would be binding against the sender is sufficient to satisfy the Statute of Frauds against the recipient if he reads it and fails to object within ten days. However, it is absurd to suggest that in addition to that, we are liable for an open-ended commitment for permanent destruction of the business. As we look more closely at the elements of contract law, we will encounter some intricate issues, but remember that we are usually interested in answering three basic questions of common sense, all relating to promises: 1. The duration of the contract is also basic: How long do the mutual obligations last? So, per stirpes is better if you have few siblings; per capita is better if your sibling group is larger than the average sibling group in the extended family. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member. 31-2b Limiting Claims by the Insured Insurance policies can sometimes look like a quick way to make easy money. We refer to this tendency as moral licensing. Does she have a valid claim against her employer? The court may modify the decision, for example, by affirming that the plaintiff wins but decreasing the size of the award. Thus, Congress may create and regulate a post office because postal service is on the list. The father of an American woman killed in terrorist attacks in Paris sued Twitter, Facebook, and YouTube, alleging the sites knowingly allowed terrorists to recruit members, raise money, and spread extremist propaganda. Debit and ATM Cards Fees. Debit cards are used to make purchases (they are also called check cards). Arbitration → (5) A form of ADR that leads to a binding decision C. Issue: Did Dalton violate the NLRA by f iring Brune? POWER AND RIGHT TO TERMINATE Both the agent and the principal have the power to terminate an agency relationship, but they may not have the right. The phrase indicates that once a court has decided a particular issue, it will generally apply the same rule in future cases. 175, 454 N.E.2d 95 (1983). If a guest fails to follow the statutory requirements, he receives no compensation for any losses suffered. COBRA applies to any company with 20 or more workers. Finally, comment on the ethics. These courts do not hear witnesses or take new evidence. Clients may put as much trust in their accountant as they do in their lawyer, clergy, or psychiatrist. Ortega, 157 n. Therefore, it does not need to be in writing. The Takings Clause prohibits a state from taking private property for public use without just compensation. WCN 02-200-203 04341_ch16_hr_295-314.indd 304 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 305 Socrates routinely deals in hemlocks. Where the seller at the time of contracting knows about a particular purpose for which the buyer wants the goods and knows that the buyer is relying on the seller's skill or judgment, there is (unless excluded or modified) an implied warranty that the goods shall be fit for such purpose.13 Notice that the seller must know about some special use the buyer intends and realize that the buyer is relying on the seller's judgment. Imagine how Belliard and Fell might have rationalized their wrongdoing. When his boss, Sheriff Roberts, was up for reelection against Adams, Carter "liked" the Adams campaign's Facebook page. The opening scenario describes a classic bait-and-switch. Building Codes. Many state and local governments have passed building codes that mandate minimum standards for commercial property, residential property, or both. He asked to be assigned to a job in the United States. He produces a signed statement from Sandy, Mel's neighbor. T F A landlord could be liable for a constructive eviction even if he never asked the tenant to leave. WCN 02-200-203 04341_gls_hr_G1-G14.indd 10 9/28/17 7:30 AM G11 G lo s s a ry Scienter An action is done knowingly or recklessly with an intent to deceive, manipulate, or defraud. • I deserve this because . The following case illustrates how difficult these situations can be. Argument for the teachers: The fact that the test cov- ered liberal arts and sciences does not prove that it was job related; arts and sciences is an extremely broad classification that encompasses far more than the basic knowledge teachers need to be competent in the classroom. However, a month before the premiere, the school halted the production because some parents were offended by the play's stereotypical depiction of Asians. In the three years he had owned the pet, the animal had never bitten anyone. The parties must decide where disagreements will be resolved. Does he have the power to do this? Comment. Result: The court agreed with the defendants: When laws do not explicitly state that they cover conduct abroad, judges cannot interpret them to do so. When, instead, the hole simply got bigger, he faced increased pressure to stretch the metrics even more. He consented to employer surveillance when he logged in. Intended beneficiary ___C. Simms, 532 Central Arizona Water Conservation District v. Stare decisis The principle that legal conclusions must be reached after an analysis of past judgments. EXPECTATION INTEREST The expectation interest puts the injured party in the position she would have been in had both sides fully performed. Payday loans Small loans with high interest rates made to people who need money to make it to the next paycheck 24-3b Truth in Lending Act The federal Truth in Lending Act (TILA) does not regulate interest rates or the terms of a loan; these rules are set by state law. S corporation 1. When it contracted with CCA, it was acquiring services that it otherwise would have performed itself: housing inmates. Va. 343, 352 S.E.2d 93 (1986). (Parking in downtown Chicago is for not locking the garage," tough.) But Cameron was nervous. Its characters could no longer associate with unhealthy foods. • Criminal Law. Is such a clause valid? They also protect against copyists looking to unfairly profit from another's work. The insurable interest can be no greater than the actual amount of loss suffered. But consumers are often unaware of who has access to what personal information, how it is being used, and with what consequences. Tobias's statement is: (a) a bilateral mistake. Contemporary published Lost Victory several years late, and the book flopped, earning no significant revenue. Eminent domain The power of the government to take private property for public use 3Lew v. It did not deny Treadway credit for the simple reason that it is not in the credit business; it simply failed to send the application to a lender. Is this law a good idea? This is an issue of tort liability, which we examine in Chapter 9. The false statement was material, and 3. We might decide, for example, to pay doctors more than baseball players. In carrying out the terms of the trust, the trustees have a fiduciary duty to the beneficiary. Strategy: The question raises three separate issues: warranty (the disclaimer), negligence (the safety record), and strict liability (the defect). If the user makes neither choice, Facebook will, at the request of a family member and upon proof of death, either convert a user's timeline to a "memorial page" or deactivate it altogether. A limited liability company: (a) (b) (c) (d) (e) is regulated by a well-established body of law. T F A trustee must obtain approval from the beneficiaries before decanting a trust. We include the latest research on ethical decision-making, such as ethics traps (why people make decisions they know to be wrong). Glenayre Elec., 280 F.3d 741, 743 (7th Cir. Harvey and Whitaker finally settled. In short, an indictment is not the same thing as a guilty verdict. She is willing to work through her breaks and give up her rest day, working through her exhaustion. Both men were employed by the corporation. DISCOVERY 3. But in other cases, injury is unclear. WCN 02-200-203 04341_ch12_hr_220-241.indd 220 10/6/17 12:06 PM C h a p t e r 12 Performance of a Contract 221 Could Schmalfeldt enforce the bar's contract rights, or did he have to put his money where his mouth was? Boris borrows $5 for lunch from his employer's credit union. CPA QUESTION Assuming all other requirements are met, a corporation may elect to be treated as an S corporation under the Internal Revenue Code if it has: (a) both common and preferred stockholders. She has managed to cut her grocery bill to virtually nothing. If courts cannot tell who owns what, they are likely to grant creditors access to the assets of both the organization and its members. And let's face it: Accidents happen, especially at a bar late at night. (See the "Result" at the end of this Exam Review section.) 3. Result: The government will prosecute Bill for dealing in drugs. But if Sarah says to Max, "Next week, I'm going to give you my yacht," Max has not received a gift because Sarah did not intend an immediate transfer. The fax says, "Confirming our agrmt—I pick any 15 cars fr yr lot—30% below blue book." Seth reads the fax, laughs, and throws it away. Exception: Part Performance by the Buyer. The buyer of land may be able to enforce an oral contract if she paid part of the purchase price and either entered upon the land or made improvements to it. Living Trust Living trust or inter vivos trust A trust established while the grantor is still alive Revocable A trust that the grantor can terminate or change at any time Testamentary trust A trust that goes into effect when a grantor dies Also known as an inter vivos trust, a living trust is established while the grantor is still alive. Ct. 2427 (S. If Reliable neglects to sell the stock for five days and the share price drops by 40 percent during that period, the bank will suffer the loss, not Grady. Appropriately, the end of a partnership begins with a dissociation. Chemque manufactures Q-gel. But the Supreme Court dramatically narrowed the definition of navigable water, with the result that the EPA may no longer have the right to regulate one-third of the waterways that feed the nation's drinking water. Strategy: The two types of wills have different requirements for witnesses. The Securities and Exchange Commission (SEC), which regulates the securities industry, requires financial institutions to adopt written policies, procedures, and training programs to safeguard customer records and information. Goodman v. Affinity required all drivers to buy their mobile telephones and their uniforms from the company. Collateral may change categories depending on its holder and how it is being used at the time of default. Interference with a contract ___B. Section 3. These laws were silent as to their application abroad. This happens, for example, when an agreement is signed under duress or a party commits fraud. The courts of some states have modified these distinctions, and a few have eliminated them altogether. Wholesaler sells Retailer 5,000 pounds of candy on credit. Result: Eric has committed fraud. Poirier 165 So.3d 663 Florida Supreme Court, 2015 CASE SUMMARY Facts: Howard Browning and Lynn Poirier were romantic partners. A court must decide today the full extent of present and future damages; Copyright 2019 Cengage Learning. Do not try this at home. She was sleek, as quick as a cat, and a beautiful deep blue. When a debtor has money to pay all of its debts, there are no concerns about security interests. Elmer never signed any such promise, and the agreement cannot be enforced against him. (Myriad), obtained a number of patents on these genes. These accountants would be liable to any foreseeable users—including investors, creditors, and customers. You have dinner with Jake, who has his own software company. The great majority of these rights also extend to citizens of other countries who are in the United States. • Contracting parties can opt out. • Taxes. 4 Matal v. When a consumer's unforeseeable use of a product causes injury, the manufacturer is not liable in negligence or strict liability. CHAPTER 30 1. Question: After a jury ordered actor Kim Basinger to pay $8 million for breaching RESULTS a movie contract, she filed for bankruptcy protection, claiming $5 million in assets and $11 million in liabilities. Vazquez was African-American and Hispanic. Do employers have any obligation to warn about them? The mere prospect of preparing an EIS tends to eliminate the worst projects. 20-5 Partnership An unincorporated association of two or more co-owners who operate a business for profit General partner One of the owners of a general partnership GENERAL PARTNERSHIPS A partnership is an unincorporated association of two or more co-owners who operate a business for profit. Then they called their parents to share the good of the dining room. Because the digital world has transformed the way we live, it has forced changes in the law—from criminal law to employment law, and constitutional law to contracts. Her lease prohibited assignment or subletting without the landlord's permission. Under Chapter 7 (but not the other chapters), only the debts of individuals can be discharged, not those of business organizations. Failure to perform these obligations constitutes a breach of the contract and will require the payment of damages. The Bank of Tulsa was the trustee. There are many instances when the law duplicates what all of us would regard as a moral position. Rogers's family sued Omega, claiming that Omega failed to keep the gate closed as the contract required. In the following case, the police had the right to stop the driver, but could they search his car? The victim also sued the fraternity, its officers, and national organization, all the fraternity members who contributed money to buy the alcohol, the university, and others. The jury is deliberating. Parties should never include such a provision in a contract unless _____. What legal obligations does his employer have to Ryan? Did Exxon violate the law? Someone who has a legal right to enter upon land ___C. That is to say, they are conditional. Exhibit 15.1 illustrates the difference between negotiable and non-negotiable commercial paper. In the case of _____, the court can approve a plan of reorganization over the objections of the creditors. If partition by kind is impossible because there is no fair way to divide the property, the court will order the real estate sold and the proceeds divided equally. Recall from Chapter 11 that, for consideration to exist, parties must make an exchange. CPA QUESTION Which of the following requirements must be met to create a bailment? One major retailer advertised a "Black Friday only" laptop for $150. 19-2g Reverse Discrimination George Dulin was a white man who had worked as a lawyer at Greenwood Leflore Hospital for 24 years. His contract with the hospital provided for $14 million in severance pay if the hospital fired him without cause. In response, Winstar assigned two auditors who had no experience with telecommunications companies. Do businesses have an affirmative duty to do good? Legislative rules have the full effect of a statute. On the one hand, the owner can produce and sell unlimited copies of, say, a song; but on the other hand, the owner has no easy way to determine if someone is using the song for free. Jade will lose her appeal. Answer: In 2013, a California federal court invalidated Sequenom's patent on the basis that it covered a natural phenomenon—the presence of DNA from the fetus in the mother's blood. Once it is parked, he swoops He knows who you are in and takes it away. He can also execute an amendment—called a codicil —to change specific terms of the will while keeping the rest of it intact. Begin by asking what your goals are for the project. After two hours of interrogation, Miranda signed a confession that said that it had been made voluntarily. If the children were dead, their children (the grandchildren of the decedents) would split the parents' portions. They tend to check the reactions of others, and if everyone else seems calm, they assume that all is right. Strategy: What does the ECPA provide? A financing statement could properly state that it applies to "all inventory in the debtor's Houston warehouse." If the debtor has given a security interest in everything he owns, then it is sufficient to state simply that the financing statement covers "all assets" or "all personal property." Place and Duration of Filing Article 9 specifies where a secured party must file. And, perhaps surprisingly, the additional terms will often become part of the contract. Six years later, in 1934, Congress made unauthorized wiretapping illegal for the first time. When this content points to illegality or fraud, 2The Supreme Court has recognized that employers have a legitimate interest in monitoring their employees, especially for reasonable work-related reasons. As CDM's point person for social media, Simms created, controlled, and managed various social media groups and profiles to promote his employer. Makem responds with its own memo stating that in the event of defective phones, Makem is liable only to repair or replace and is not liable for consequential damages, lost profits, or any other damages. A jury awarded Price $275,000 in damages in a suit against Britton. Issue: Was the railroad liable for Palsgraf 's injuries? She signs and sends a fax to Seth, a used car wholesaler who has a huge lot of cars in the same city. The Supreme Court has held that businesses can force consumers to arbitrate rather than bring class actions. Larceny → (5) The trespassory taking of personal property C. Should administrative agencies be able to "tell business what to do"? In Kevin's answer, he denied being in the bar that night and causing the damage. How old are you? Therefore, it is negotiable and MSC is not liable. The purpose of MUMA is to protect doctors and patients from criminal liability, not to create an unlimited right to use medical marijuana. 20-7 PROFESSIONAL CORPORATIONS Professional corporations (PCs) are mostly a legacy form of organization—few businesses would now elect to be a PC. FCRA ___ D. ITT does not guarantee continued employment to employees and retains the right to terminate or lay off employees." Second, the handbook stated that "ITT reserves the right to amend, modify, or cancel this handbook, as well as any or all of the various policies [or rules] outlined in it." Four years later, ITT notified its hourly employees that layoff guidelines for hourly employees would be based not on seniority but on ability and performance. WCN 02-200-203 04341_ch05_hr_079-100.indd 88 9/28/17 9:36 AM Chapter 5 Dispute Resolution 89 information. They shot, raped, tortured, and beat protesters and their families. In a bystander case, it is the job of the state's highest court to say what legal obligations, if any, a bystander has. Merchants The UCC evolved to provide merchants with rules that would meet their unique business needs. A transfer is fraudulent if it is made within the year before a petition is filed and its purpose is to hinder, delay, or defraud creditors. (a) (b) (c) (d) (e) Defamation Injury caused on the job Injury caused by a tiger that escapes from a zoo Injury caused partially by the plaintiff and partially by the defendant Injury caused by the defendant's careless driving 2. (a) (b) (c) (d) Operating a factory dangerously Issuing a law that discriminates against a certain group Suspending the civil rights of its people None of the above 2. But in a few cases, a court may be willing to infer that the defendant caused the harm, under the doctrine of res ipsa loquitur ("the thing speaks for itself"). • The ICJ only has jurisdiction over states that have agreed to be bound by its decisions. This investigation is called due diligence. ernment, British and Dutch companies, and non-U.S. citizens?1 Many people throughout the ages have asked this basic question: What is international law? (e) international treaty. Created by federal law ___C. In this way, it encourages people to build freely upon the idea of others. Implied Authority Implied authority The agent has authority to perform acts that are reasonably necessary to accomplish an authorized transaction, even if the principal does not specify them. Upon departure, Simms refused to relinquish control of the LinkedIn group or to provide CDM with the group's membership list. Is it good for people to inherit money? • Consumers have the right to set a fixed credit limit. They are debating whether BRT had a duty to protect Tony from an armed robbery committed by a stranger. Assumption of the risk A person who voluntarily enters a situation of obvious danger cannot complain if she is injured. Some laws also apply to the way information is collected and from whom. He thought it applied only to exotic animals, not dogs. The major disadvantage of a trust is expense. Companies like Dell, Ford, and Heinz have trademarks because, more than just surnames, they achieved recognition as brands in themselves. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall be counted. Cannot be disclaimed 4. Even if a large number of shareholders withheld their votes, the nominee might be embarrassed, but as long as he received that one vote, he was elected. WCN 02-200-203 04341_ch18_hr_336-355.indd 353 10/6/17 12:23 PM 354 Unit 4 Agency and Employment Law 5. SABIC cannot purposefully select the U.S. legal system and then complain that it had no access to a shari'a judge. Contributory and Comparative Negligence Sixteen-year-old Michelle Wightman was out driving at night, with her friend Karrie Wieber in the passenger seat. Foreign recognition Means that a foreign judgment has legal validity in another country. Lund, 186 M I Marks v. Food companies also work hard to create new categories of products that increase the number of times a day that people eat and the amount of calories in each session. Multiple-Choice Questions Presented are the answers for the ODD-numbered multiple-choice questions in the end-of-chapter material. That item of value can be either an "act," a "forbearance," or a promise to do either of these. The agreement, though called a lease, was actually a financing arrangement with a security interest. A periodic tenancy is created for a fixed period and then automatically continues for additional periods until either party notifies the other of termination. Dr. Marion Fernandez, the general administrator of the Instituto and Secretary of the Republic, sought a loan for the Instituto. Assuming both houses then pass the same version of the bill, the bill goes to the president. This policy would reduce the company's expenses (an estimated $4,000 per smoker each year) while increasing its productivity (no smoking breaks, fewer sick days). The company was liable for not having revealed the merger negotiations. At that point, the policy has generated little more than commissions for the agent. The Ryan card was marked "1200", so Bryan asked Kathleen if this meant 12 dollars. It also punished pro-union employees with unfavorable work assignments. The flight had already been postponed twice, and, as managers, they had to be convinced that it was not safe to fly. Mobile wins. 18-3a Off-Duty Activities In the absence of a specific law to the contrary, employers do have the right to fire workers for off-duty conduct. It is not easy for the mistaken party to rescind a contract—the more astute party may simply have made a better bargain. "Relax. "Because of my broken arm, I couldn't sign my name, so I just told Bertrand, the lawyer, to sign it for me. (1) With what crime is Eric charged? Periodic Tenancy A periodic tenancy is created for a fixed period and then automatically continues for additional periods until either party notifies the other of termination. Many years later, the city began to restore its high school. States must also develop a plan for nonpoint source pollution. GAAS → (4) Rules for conducting audits C. What ethical obligation do American companies have to support environmental legislation that may impose higher Copyright 2019 Cengage Learning. Montgomery's police commissioner (L. Its goal is to clean up hazardous wastes that were illegally dumped in the past. For example, a debtor who has taken out a loan secured by a car may reaffirm that debt so that the finance company will not repossess it. United States Department of Justice, 72 Consumer Fin. Did the company violate the NLRA? FedEx gave Marcie Dutschmann an employment handbook stating that (1) she was an at will employee, (2) the handbook did not create any contractual rights, and (3) employees who were fired had the right to a termination hearing. In addition to the government, anyone injured by an antitrust violation has the right to sue for damages. You are willing to engage in unethical behavior at work to make sure that you keep your job? In quasi-contract cases, the defendant did not make any promise, but did receive a benefit from the plaintiff and retaining that benefit would be unfair. It is possible that a consensus is developing in favor of the death penalty for these brutal assaults. Those who oppose it argue that federal court judges are all appointed, not elected, and that we should not permit judges to nullify a statute passed by elected officials because that diminishes the people's role in their government. In fact, he had had all of the above. Per capita means that each heir receives the same amount. BIOC status is available only if the seller created the security interest. The president of Stanford University served on the board of Google even as the company financed $25 million worth of university activities. However, Garret remains personally obligated. Any reasonable investigation would have revealed Brican's shaky financial position and that it was losing money on every Exhibeo it sold. To buy a spectacular new aquarium, she borrows $25,000 from her sister, Pauline, and signs an agreement giving Pauline a security interest in the tank. Matt hires Sheila to put aluminum siding on his house. RELIGION Employers must make reasonable accommodation for a worker's religious beliefs unless the request would cause undue hardship for the business. The government will take no interest in Diane's dispute. NES also consulted 1,200 teachers and education professors. Rodney is a star player on the Los Angeles Lakers basketball team. Does this rule make sense? The company itself has no obligation to hunt down the heirs of dead customers. Factories were so dirty that workers fell sick and died from illnesses such as pneumonia and tuberculosis. 11-4 Reality of Consent Smiley offers to sell you his house for $300,000, and you agree to buy it in writing. Next thing he knew, his division was just making up policies. This is a row of dominoes that veers off to the side, leaving the last domino (the cyclist's injury) untouched. Under contributory negligence, if the plaintiff is even slightly negligent, she recovers nothing. A contracting party may transfer his rights under the contract, which is called an assignment of rights. Also, LinkedIn's terms are clear: The account belongs to the individual user who created it, which in this case is Simms. i nsure against as many different kinds of risks as you can so that no matter what happens, you will be protected. Second, for a search to be legal, police must have a good reason to suspect a specific criminal activity, which Struble did not have. Even if Caitlin had insisted on such a clause, a court would be unlikely to enforce it because the requirement is unreasonable. Quasi-contract A possible remedy for an injured plaintiff in a case with no valid contract, when the plaintiff can show benefit to the defendant, reasonable expectation of payment, and unjust enrichment. The United States is unusual in this regard—in most other countries, only the government is able to sue antitrust violators. Courts have the power under Title VII to order affirmative action to remedy the effects of past discrimination. Contracts Checklist Offer Acceptance Consideration Legality Capacity Consent Writing Capacity The legal ability to enter into a contract 11-3a Minors A minor is someone under the age of 18. MOTION TO DISMISS A request that the court terminate a case because the law does not offer a legal remedy for the plaintiff's problem. The magic spell is broken, however, when you get your credit card bill and see that, without your authorization, the company has charged you for the new supply of Anushka. She offers to sell you the business and its goodwill for $300,000. The police do have the right to stop and frisk, but only if they have a clear and specific reason to suspect that criminal activity may be afoot and that the person may be armed and dangerous. Sokol purchased $10 million worth of Lubrizol stock before recommending Lubrizol to Buffett. The company argued that it was not engaged in business in the state and, therefore, that Washington courts had no jurisdiction over it. Wholesaler never responds to Marko's fax and sells his entire supply to Lana. Moral universalism A belief that some acts are always right or always wrong. (a) (b) (c) (d) (e) The buyer has three days to cancel the order. An employer has the right to monitor workers' electronic communications if: (a) (b) (c) (d) (e) the employee consents. True, it is more expensive than he had planned, but he will surely get a raise soon. Binder A short document acknowledging receipt of an application and premium for an insurance policy. The answer tells the court and the plaintiff exactly what issues are in dispute. Colorado passes a hotel tax of 8 percent for Colorado residents and 15 percent for out-of-state visitors. Ct. 1994). Traditionally, the courts had interpreted this term in a way that gave the EPA the right to regulate virtually all water polluters. DISABILITY INSURANCE Disability insurance replaces the insured's income if he becomes unable to work because of illness or injury. Thus, accountants own the working papers they have created. The court also considered appointing a custodian to serve as a third director or some form of tie-breaker in company decision-making. United States, 212 U.S. 481 (S. The laws vary, but many distinguish between economic damages and non-economic damages. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law. Here is an example relating to the element of "duty," which the court discussed in the Pub Zone case. Dirty World Entertainment Recordings LLC 755 F.3d 398 United States Court of Appeals for the Sixth Circuit, 2014 CASE SUMMARY Facts: Nik Richie ran a gossip website, TheDirty.com. Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment. WCN 02-200-203 04341_ch23_hr_439-459.indd 458 8/28/17 7:11 AM Chapter 23 Securities and Antitrust 459 DISCUSSION QUESTIONS 1. • Purpose. Disclaimer of opinion. Its sales and stock price plummeted, and it faced criminal investigations. JPMorgan's internal investigation failed to find this wrongdoing. BSC argued that, because SOX made no mention of extraterritorial application, it did not apply to overseas employees. Result: The writing must indicate that the two parties reached an agreement. A worker who quits voluntarily or is fired for just cause is not entitled to unemployment benefits. By permitting attorney's fees, such laws ensure that injured tenants have access to court and a remedy. 26-5b Accountant-Client Privilege Traditionally, an accountant-client privilege did not exist under federal law. At one point, I would wait outside emergency rooms hoping to buy drugs from people who were leaving. (c) Injury caused by a tiger that escapes from a zoo 3. Aukerman installed a new electrified fence, cleared the land on "his" side of the new fence, and began to graze cattle there. • Social Media Passwords. (a) No, because arson is a form of vandalism. What provisions would you want? Personal jurisdiction generally exists if: • The defendant is a resident of the state in which a lawsuit is filed; or • The defendant files documents in court, such as an answer to the complaint; or • A summons is served on a defendant. She demanded her day in court, but Giant's attorneys filed a motion to dismiss on the grounds that both parties were required to arbitrate. While he was in prison, guards confined him to his cell 23 hours a day, kicked and punched him, and refused to let him pray. What is the likely outcome? (d) win $1,200 (12 months times $100). Eighteen years after the Kansas case of Cappier, the court in nearby Iowa found the basis for one exception. With growing excitement, Chaz loads all his worldly When he arrives, possessions into his car and heads over to his new his key does not apartment. Marcos's backyard pool, which measured 35 feet by 18 feet, needed a new filter. For instance, the United Nations headquarters in New York City is located on land purchased secretly. Tony arrives at 8:00 p.m., parks in the lot, and is robbed at gunpoint by a man who beats him and escapes with his money. (e) Quid pro quo. In some states, for example, an injured party must sue on oral contracts within three years, on a sale of goods contract within four years, and on some written contracts within five years. To a deontological thinker, the ends do not justify the means. Alexander Grant & Co. did accounting work for Consolidata Services, Inc. Review the list of six contracts that must be in writing. McClung, 379 US 294 (1964). • No one named in a will should also serve as a witness because, in many states, a witness may not inherit under a will. And if a plaintiff has a poor case, he might intentionally try to make the discovery process more expensive for the defendant than a reasonable settlement offer. THE INTERNATIONAL CHAMBER OF COMMERCE (ICC) The world's largest global business organization. A tenancy at sufferance occurs when a tenant remains, against the wishes of the landlord, after the expiration of a true tenancy. Negotiated means that an instrument has been transferred to the holder by someone other than the issuer. And a court may dissolve a corporation or order that it be sold if it is insolvent or if its directors and shareholders cannot resolve conflict over how the corporation should be managed. The wit of man cannot devise a more solid basis for a free, durable and welladministered republic. You want to know what happened? WCN 02-200-203 04341_ch03_hr_039-057.indd 48 8/24/17 1:47 PM Chapter 3 International Law 49 Customary international law governed behavior on the battlefield and the treatment of prisoners of war until the creation of the Geneva Conventions, which codified these customary practices. She then fired him, effective at the end of the school year. If the producer signs up another actress two months later, Gloria has no claim against him. Beacon Hudson Mountain Corp., 88 N.Y.2d 154 Court of Appeals of New York, 1996. Suppose the grantor has a husband and children. Once a job offer has been made, the company may require a medical test if it is required of all entering employees in similar jobs. (c) The promises are reciprocal. Killing livestock also has an impact on interstate commerce. Once the bailor has proven the existence of a bailment and loss or harm to the goods, a presumption of negligence arises, and the burden shifts to the bailee to prove adequate care. A disabled person is someone with a physical or mental impairment that substantially limits a major life activity or the operation of a major bodily function or someone who is regarded as having such an impairment. The refrigerator frequently malfunctioned, and the roommates repaired it several times. 2015 U.S. Dist. Novelty An invention must be new to be patentable. Decision: Jones failed to make out a claim of sexual harassment. Any discharge into navigable water from a point source is illegal without a permit (from the EPA or a state). 2 Burden of Proof. The trial court held that she did not, and Medford appealed. Shirley, age 30 and in good health, gives Terry an eraser for his birthday. Answer: Chateau de Charmes Wine v. For example, if the decedents had two children, under per stirpes distribution, they would each inherit half the estate. Breach of duty A defendant breaches his duty of due care by failing to behave the way a reasonable person would under similar circumstances. (a) The First Amendment (b) The Communications Decency Act Copyright 2019 Cengage Learning. Countless advertisements, targeted at boys aged 10 to 18, convinced him and his friends that the "Marlboro Man" was powerful, healthy, and manly. A week or so after they signed the contract, Wolfe incorporated Wolfe Construction, Inc. Beth is unsure what to do. AIR Under the Clean Air Act (CAA), the EPA has the authority to regulate both the total amount of existing air pollution and its ongoing production. Although the government prosecuted Rhino and Backdraft for their vicious assault, our case does not concern that prosecution. A large award of money should deter the defendant from repeating the mistake and others from ever making it. This alarmed many, who feared that the new federal government would have unlimited power over their lives. The doctor told Hawkins, "I will guarantee to make the hand a hundred percent perfect." Hawkins hired him to perform the operation. Also, trust income taxes can be higher than if the assets are held by an individual. The agency agreement automatically ended. (d) Bob may assign his claim, but Cathy may nullify the assignment. • Remember your Life Principles. When Apple was about to introduce its first iPad, it wanted to be able to offer ebooks, but feared it could not compete with Amazon's price of $9.99 per book. Moreover, he did not keep records of these personal payments. At least the dealership would have had a repairable automobile. When the hearings are done, though, the town may write you a check and grind your house into goalposts, whether you like it or not. In the following case, we can almost see the roller coasters, smell the cotton candy—and hear the carnival owners arguing. (b) impossibility. WCN 02-200-203 04341_ch25_hr_482-500.indd 490 8/28/17 7:20 AM Chapter 25 Environmental Law 491 EXAMStrategy Question: In 1963, FMC Corp. EXAMStrategy Question: Hiller Systems, Inc., was performing a safety inspection on board the M/V Cape Diamond, an ocean-going vessel, when an accident occurred involving the fire extinguishing equipment. Two men sued Pepsi, claiming that the company stole the idea for Aquafina water from them. Is the list of non-dischargeable debts appropriate? Is it fair for bankrupts to be allowed to keep multimillion-dollar homes while their creditors remain unpaid? However, this advantage is diminishing as other states copy Delaware's laws. Peter Singer, a Princeton professor, argues that people should give away one-third of their income to worthy charities. For that, you need System 2 thoughts—those that are conscious and logical. For the first 120 days after the order for relief, the debtor has the exclusive right to propose a plan. The agents reassured the couple that all the damage was covered by their insurance, instructed them on which things to throw out and replace, and helped them choose materials for repairing other items. Suppose that wealthy old Ebenezer has several chronic illnesses that cause him great suffering and prevent him from doing any of the activities that once gave meaning to his life. WCN 02-200-203 04341_ch31_hr_593-610.indd 604 9/28/17 6:45 AM Chapter 31 Insurance 605 MATCHING QUESTIONS Match the following terms with their definitions: ___ A. People are more likely to be offered employment because of their efforts and talents rather than their age, appearance, faith, family background, or health. Ace promises Reina $3 million, providing she shows up June 1 and works until the film is finished. 10. Result: No. Indeed, Leonard had told Jacobson that he did not have authority. • Sit-down strikes. To solve this problem, some states require promissory notes given by a consumer to carry the words "consumer paper." Notes with these words are non-negotiable and no one is a holder in due course. SURVIVING SPOUSE AND CHILDREN A spouse is entitled to a certain share of the decedent's estate. 3d 402 (N.Y. Sup. He was found guilty of a criminal violation. The U.S. Attorney General appoints a U.S. Trustee for each region of the country to administer bankruptcy law. 10-2b Quasi-Contract Don Easterwood leased more than 5,000 acres of farmland in Jackson County, Texas, from PIC Realty for one year. If the president signs the bill, it becomes a statute; if he vetoes it, Congress can pass it over his veto with a two-thirds majority in each house. guards) and follow Rhino and Backdraft to the back of the pub. Who would enforce it? WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 12 9/28/17 7:29 AM Index joint tenancy (and right of survivorship), 540 tenancy in common (and right to partition), 540 rule of adverse possession, 539, 541 clear assertion of ownership by user, 541 continuous possession for statutory period, 541 entry and exclusive possession, 541 open and notorious possession, 541 See also Land use regulation; Landlord– tenant law Reasonable certainty, 213 Record (UCC definition), 296 Reframing, as an ethics trap, 24 Regional trade agreements (RTAs), 45–46 Registered agent (in incorporation), 400 Regulation D (Reg D), 443 Regulation (in digital world), 166 consumer protection, 170–171 cybersecurity issues, 171 of online speech, 167 defamation, 167–168 violence, 168 of user-generated content, 167 Rejection (of offer), 189 Remand, 8 Repossession (UCC definition), 296 Res ipsa loquitur, 143–144 Resale price maintenance (RPM)/vertical price-fixing, Sherman Act violation, 450 Rescission, 233 Resource Conservation and Recovery Act (RCRA), 490 Restitution, 102 Reverse, 8 Re

Elizabeth Nadel as she crossed a street. T F A store is permitted to advertise a product as long as it can obtain within seven days sufficient stock to meet demand. But you might believe that monogamy goes against human nature, so it is right to have relationships with many partners. Rylands v. Officer Morgan Struble stopped him, questioned him, ran a records check on the car registration and his driver's license, and then gave him a warning ticket. You Be the Judge Strumlauf v. Schmalfeldt tried to walk away, but was struck in the face by the other player, who then fled—never to be heard from again. Blake tells his client that there are five good reasons to set up a trust. The essential UCC rule: A contract for the sale of goods worth $500 or more is not enforceable unless there is some writing, signed by the defendant, indicating that the parties reached an agreement. We compete as a society. (c) Yes because these price variations harmed competition. To be patented, an invention must be useful. WCN 02-200-203 04341_ch19_hr_356-376.indd 358 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 359 2. The same judge wrote the opinion in both of these scienter cases. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. Would he get away with it? Recall the deliberately bizarre case we posed earlier of the pig falling from a window ledge and killing a veterinarian. Under the UPC, a notarized will does not require any witnesses, but only a few states have passed this provision. Reasoning: A defendant is liable for the intentional infliction of emotional distress only when his conduct is outrageous in character, extreme in degree, and utterly intolerable in a civilized community. • It completes a public offering under the 1933 Act, or • Its securities are traded on a national exchange (such as the New York Stock Exchange), or • It has at least 2,000 shareholders (or 500 who are unaccredited investors) and total assets that exceed $10 million. 2-3c Rationalization Virtually any foul deed can be rationalized. Konitz bought the business, and Tindall helped with the bidding and bonding. What could be more of a forbearance than that? Recall Gloria, who agrees to act in the producer's film beginning in three months. Perfection → (2) Steps necessary to make a security interest valid against the whole world A. The dentists quit making Negotiable Instruments 287 their lease payments and NCMIC sued them. WCN 02-200-203 04341_ch24_hr_460-481.indd 479 10/6/17 12:28 PM 480 Unit 6 Government Regulation 3. The basement often flooded, and when it was dry, rats and opossums lived in it. (Plus a fabulous bottle of wine!) • A cooperative culture. How about human-animal chimeras made in a lab (maybe called a "heep")? Access the resources you need to succeed wherever, whenever. Those circumstances include loans by a licensed real estate broker. Should the court "pierce the corporate veil" and hold Michael personally liable? T F Non-compete clauses are suspect because they tend to restrain free trade. To prove a violation, the plaintiff must present evidence that the work was original and that either: • The infringer actually copied the work or • The infringer had access to the original and the two works are substantially similar. And, like a tax, it is paid to the Treasury and produces some revenue for the government. Although he commented on it, he did not materially add to the defamation. Were there earlier incidents or warnings? They can only hope that some goods remain. In most states, the landlord is legally required to remove the previous tenant. The Builder knew they needed the house as of the contract date, and he could foresee that his breach would force them to pay rent. 693 F.3d 1317 United States Court of Appeals for the Eleventh Circuit, 2012 Facts: Juana Curry and William Moore, customers of AvMed insurance, took care to protect their private information. Reggie's Finance Co. is happy to buy Chaz's promissory note from Trustie, but the price Reggie is willing to pay depends upon whether the note is negotiable. Furthermore, any prerecorded telemarketing calls must provide an opt-out option at the beginning so that the caller can avoid receiving any future calls from that source. The Endangered Species Act (ESA): • Requires the Department of the Interior's Fish and Wildlife Service (FWS) to: • Prepare a list of species that are in danger of becoming extinct or likely to become endangered and • Develop plans to revive these species. Ct. N.M. 1984). instrument, in good faith, without notice of outstanding claims or other defenses. If you were the manager of a car rental agency, how aggressive would you be in encouraging your agents to sell these policies? The burning of fossil fuels produces gases—carbon dioxide, methane, and nitrous oxide (greenhouse gases or GHGs)—that trap heat in the Earth's atmosphere. The Rays acquired title by adverse possession. 10. Result: The court found that Cremers was not liable under the CDA. "Reasonable person" means someone of the defendant's occupation. required for a civil case. A competing station lured him away. An LLP was a possibility, as long as the owners did not anticipate selling their shares. She agrees in writing to buy 1,000 tons of sand from Frank for $20 per ton, with delivery on June 1, at her resort. T F A contract may not be rescinded based on puffery. When Gregg died, his will left his money equally to his two children, Max and Alison, whom he explicitly named. YOU BE THE JUDGE WRITING PROBLEM Linda and Eddie had two chil- dren before they were divorced. T F If an offer demands a reply within a stated period, the offeree's silence indicates acceptance. Design patents are granted to anyone who invents a new, original, and ornamental design for an article. Thus, he suffered a substantial detriment. As a result of this turmoil, major clients became reluctant to renew contracts. Employees did not park the vehicle, and Jack kept the keys. In some states, if a married person dies intestate, some portion of her property (one-half or two-thirds) goes to her spouse, and the remainder to her issue (including grandchildren). To obtain this permission, the government need only demonstrate that the surveillance (1) targets "persons reasonably believed to be located outside the United States" and (2) seeks "foreign intelligence information." This standard gives the government broad powers to collect emails, phone calls, and other electronic communications between people in the United States and anyone abroad. WCN 02-200-203 04341_ch11_hr_198-219.indd 207 10/6/17 11:53 AM 208 Unit 3 Contracts and the UCC it may be economically harmful for her to do so. • Inability to perform required duties. The parties realized that Konitz could succeed with the business only if Tindall gave support and assistance for a year or so after the purchase, especially by helping with the process of bidding for jobs and obtaining bonds to guarantee performance. 1O'Hagan used the profits that he gained through this trading to conceal his previous embezzlement of client funds. WCN 02-200-203 04341_ch22_hr_420-438.indd 420 8/26/17 11:29 AM Chapter 22 Bankruptcy 421 I get stuck paying all my bills? The court declared: The injured party may recover consequential damages only if the breaching party should have foreseen them when the two sides formed the contract. Strategy: Accountants are not liable for every error they make, only if they fail to act like an ordinarily prudent accountant. He then fled the scene of the crime. Indeed, one study found that half the offering companies were in violation. MasterCard, Visa, JPMorgan Chase, and Bank of America recently paid a $6 billion fine for having fixed the prices they charged merchants for processing credit and debit card payments. One hundred pairs or 100,000? • If the card allows consumers to overdraw their accounts, they are entitled to the same protections as credit card holders under the CARD Act. The president appoints judges to the federal courts, but these nominees do not serve unless approved by the Senate. The insurer pays for virtually any treatment that any doctor orders. WCN 02-200-203 04341_ch04_hr_058-078.indd 62 8/24/17 1:35 PM Chapter 4 You Be the Judge: Did the Louisiana statute violate the onstitution by permitting the death penalty in a case of child rape? Dom has breached his duty to his customer, but he is not liable to the cyclist—she would have been hurt anyway. However, most state laws and the ULLCA, provide that an LLC has perpetual existence and, thus, continues in operation even after a member withdraws. Qualified mortgage (QM) A mortgage that, according to the CFPB, complies with TILA To help lenders comply with these requirements, the CFPB established criteria for what it calls qualified mortgages (QMs). • It offends our fundamental sense of fairness. WCN 02-200-203 04341_ch03_hr_039-057.indd 41 8/24/17 1:46 PM 42 Unit 1 The Legal Environment Sovereignty Each government has the absolute authority to rule its people and its territory In ancient times, when kings were seen as gods, it was well established that no "god" could interfere in the internal affairs of another. This is a true story. Before signing a contract, check carefully and thoughtfully the names of the parties, the dates, dollar amounts, and interest rates. Ski schools use them, and so do parking lots, landlords, warehouses, and day-care centers. Sadri's agreement was not a binding contract because of a problem with legality. Likewise, a worker could not stay the winter and then leave for greener pastures in the spring. Is this sensible? Issue: Would repayment of their student loans cause the Kellys undue hardship? I'm gonna work on my surfing for a year or two." The next day you come to your senses and write the firm, accepting its offer. Andersen was dead. They promised that, once Carl made the conversion, he would only have to pay premiums on the new policy for a sixmonth waiting period. It held that Monge's firing was a wrongful discharge. WCN 02-200-203 04341_ch21_hr_398-419.indd 416 10/6/17 12:27 PM Chapter 21 Corporations 417 TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. The cop did not know the law. It was concerned that high prices might coerce women into donating, despite some risks to their health, or lead donors to conceal health issues that would make them ineligible to donate. To obtain classics such as Treasure of the Sierra Madre and Casablanca (the tying product), the station also had to purchase such forgettable films as Gorilla Man and Tugboat Annie Sails Again (the tied product). This process is called physician-assisted death or assisted suicide. 16-3c Perfection of Consumer Goods Purchase money security interest (PMSI) An interest taken by the person who sells the collateral or advances money so the debtor can buy it The UCC gives special treatment to security interests in most consumer goods. Duke Power was decided almost a half century ago. The following list provides reasons why a party would strongly consider putting a contract in writing. In these cases, restitution often goes hand in hand with rescission, which means to "undo" a contract and put the parties where they were before they made the agreement. A licensee is anyone on the land for her own purposes but with the owner's permission. Other, scarier types—terrorists, drug dealers, kleptocrats, and tax evaders—use so-called "shell corporations" to hide illegal money. 12City of Ontario v. Lower prices led to lower quality, as Andersen (and other auditors) felt they could not afford to invest as many hours in their audits. T F Title VII applies to all aspects of the employment relationship, including hiring, firing, and promotion. Should American companies (and consumers) buy goods that are produced in sweatshop factories? The principal can recover from the agent any damages the breach has caused. 4UCC §2-601, 602. Result: It is illegal to employ unauthorized workers. 20-3h Legal Uncertainty As we have observed, LLCs are a relatively new form of organization. Beatty Boston University Susan S. 12-4c Restitution Interest Jim and Bonnie Hyler bought an expensive recreational vehicle (RV) from Autorama. To approve this reaffirmation would cause hardship for this debtor and does not otherwise seem justified. Decision: Yes, the Dirty is immune from liability. T F Under the Truth in Lending Act, it does not matter how the information is disclosed, so long as it is disclosed someplace on the first page of the loan document. It has also affected workplace relationships as technology allows employers to monitor what their employees and job applicants do and say on the job and in their spare time.2 Employer intrusion into an employee's personal life may lead to discriminatory practices. In this case, it seemed that Josiah had not forgotten Evelyn or her children. You are liable even if you had no idea that something on your property posed a hidden danger. When the president vetoes a bill, Congress has one last chance to make it law: an override. Sokol made a $3 million profit when Berkshire acquired Lubrizol. It consists of rules and principles that apply to the conduct of states,2 international organizations, businesses, and individuals across borders. WCN 02-200-203 04341_ch06_hr_101-120.indd 117 8/24/17 1:38 PM 118 Unit 1 The Legal Environment 2. Ethical conduct may not always be the most profitable, but it does generate a range of benefits for employees, companies, and society. Although it sounds like a requirement to give someone special treatment, "most favored nation" means that countries must treat every other member nation equally. Lawyers and Clients Businesspeople are optimists—they believe that they have negotiated a great deal and everything is going to go well—sales will boom, the company will prosper. • Disclosure of Personally Identifying Information. Sometimes it will include unpleasantly sharp attacks on government and public officials. Does it save the day? A business should keep customers safe from other customers. By contrast, the pizza parlor owner will surely lose. More than half of the food served in the restaurant had passed through interstate commerce. CHAPTER 22 1. (b) England 3. If members of the jury like him, they will tend to pay more attention to his presentation of evidence. EPA ___B. control the market. Utility Patents Whenever people use the word "patent" by itself, they are referring to a utility patent. If an agency does a good faith EIS, honestly looking at the available alternatives, projects tend to be kinder to the environment, at little extra cost. Suppose Rowena is on a plane that suffers engine trouble. LIABILITY FOR DEBIT AND ATM CARDS If the consumer reports the theft of a debit or ATM card within two days of discovering it, the bank must make good on all losses above $50. In addition, by executive order, the federal government prohibits discrimination on the basis of sexual orientation among its own employees and also among government contractors. Fitzgerald claimed not to know about the will until Guzelian's death four years later. What would Kant and Mill say is the right thing to do in this case? Physician-assisted death or assisted suicide When a doctor prescribes a lethal dose of medication at the request of a terminal patient who is suffering intolerably. 27-3a Ownership and Registration Under common law, the first person to use a mark in trade owns it. That conclusion is wrong: No regulation Environmental Law 485 is "appropriate" if it does significantly more harm than good. Spam Spam Unsolicited commercial email Spam is officially known as unsolicited commercial email or unsolicited bulk email. The judge instructed the jury that all allegations were deemed true, and their job was to award damages. Annuities Provide payment to a beneficiary during his lifetime Deferred annuity contract The owner makes a lump-sum payment now but receives no income until a later date. The common law of Pennsylvania consists of all cases decided by the courts in that state. A contract without boilerplate is valid and enforceable, but these provisions do play an important protective role. Any other mark or logo placed on a document to indicate acceptance, even an "X," will likely satisfy the Statute of Frauds. For example, the CISG does not provide rules for determining whether a contract is fraudulent: This substantive rule is left to the discretion of each country. Although Jason had not read this part of the form, he nonetheless signed the application attesting that he had read it and that the answers were true. Luckily, Sunny had a chance to dial 911 as she heard the boys breaking in. Blair Co.'s top officers asked an investment bank to find a buyer for the company. Jurisdiction A court's power to hear a case and bind the parties to its determination. Strategy: The state was treating organizations differently depending on the states their campers come from. Of course, a seller has rights, too. The purpose of the complaint is to inform the defendant of the general nature of the claims and the need to come into court and protect his interests. She drives his car, all right—to Las Vegas, where she hits the slots. Opponents of the treaty argue that NAFTA costs the United States jobs and lowers the living standards of American workers by forcing them to compete with low-paid labor. A company is called a domestic corporation in the state in which it incorporates and a foreign corporation everywhere else. Once a party receives an offer, he must respond to it in a certain way. The CIA's principal mission is foreign intelligence, not targeted-killing programs like drone strikes. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. • Estate. He recovered $300,000 in damages for this defamation. In health maintenance organizations, known as HMOs, the patient can be treated only by doctors in the organization unless there is some extraordinary need for an outside specialist. She told the officer that she had "someone who would accept if the lease was assigned." Rowley provided no other information about the assignee. T F Payday loans are illegal. Wade, 4 n. Statute of limitations Limits the time within which an injured party may file suit. A fiduciary duty exists in a personal relationship if: • The recipient has promised to keep the information secret; • The communicator has a reasonable expectation that the recipient will not tell; or • The recipient has obtained the information from her spouse, parent, child, or sibling. What defense did Elmer make, and what was the outcome? He asks about Enviro-Vision's past and present. International law is different. To verify transactions, accountants use two mirror image processes—vouching and tracing. CONSTITUTION The Constitution is a series of compromises about power. Food and Drug Administration, 696 F.3d 1205 (2012). What would its defense be? The agreement for Satellite, LLC provided that the company could only be dissolved by a unanimous vote of its members. King quit Head Start and began working as manager of a Sports Clips shop, located in the same mall as the store she just left. Whether or not Pete faces legal liability, is it a good idea for accountants to recommend investments to clients? The family hired Baxendale to cart the damaged part to a foundry, where a new one could be manufactured. Insiders. A corporate insider is guilty of insider trading under §10(b), if she: • Has material, nonpublic information and • Breaches a fiduciary duty to her company • By trading on the information • Whether or not she makes a profit. If the true owner cannot be located, the mislaid item belongs to the owner of the premises where the item was found. However, when he revealed that he was in the process of becoming Diane Schroer, the Library of Congress withdrew the offer. An economic strike is one intended to gain wages or benefits. This activity counts as free speech under the Constitution. When the federal government began investigating Enron's bankruptcy, panicked Andersen employees 1Later in this chapter, the Winstar case provides a good example of this point. I leave all my assets to the National Gallery of Art in Washington, D.C.," and then signs her name. So long as Trustie keeps the note, Chaz's obligation to pay is contingent upon the validity of the underlying contract. But now, institutional investors—pension plans, mutual funds, asset management firms, hedge funds, insurance companies, banks, foundations, and university endowments—are the most important shareholders of public companies. What is the purpose of a trial? In short, Brican was losing money on every Exhibeo it sold but would pocket the $24,000 from NCMIC upfront and then worry later about the $29,000 it owed in Viso ads. TERMINATION To terminate a corporation, the shareholders undertake a three-step process: a shareholder vote, the filing of Articles of Dissolution, and the winding up of the enterprise's business. Washington's collection action is directly related to commercially valuable activities that took place within the state's borders. Their tendency was to say the right rectangle had more even when the left one clearly did. Restitution Restoring an injured party to its original position Copyright 2019 Cengage Learning. Arson is the malicious use of fire or explosives to damage or destroy any real estate or personal property. 4-1b Power Granted Congressional Power Commerce Clause Gives Congress the power to regulate commerce with foreign nations and among states Article I of the Constitution creates the Congress, with its two houses. In which case is a plaintiff most likely to sue based on strict liability? The United States complained that Shanghai's system had a direct effect on its imports. Moral relativism A belief that a decision may be right even if it is not in keeping with one's own ethical standards. Phibro contacted Heritage to say that the $0.10 term was a typo and not what the two parties had originally agreed. The filing of the bankruptcy petition creates a new legal entity separate from the debtor— the bankruptcy estate. 27-1c Patent Application and Issuance To obtain a patent, the inventor must file a complex application with the PTO. Dom is liable to the cyclist. If a doctor testifies that he needs future treatment, Bien will offer evidence of how much that will cost. GM's unsecured creditors argued that the termination statement was valid and the Term Loan was now unsecured. Yes. Many of the protections for those accused of a crime are found in the first ten amendments to the United States Constitution, known as the Bill of Rights. The plaintiff also argues that the unusually high profit margins ABAT reported in its SEC filings triggered an obligation for Bagell to review the AIC filings. The rule that requires lower courts to decide cases based on precedent 4. Suppose that Eloise sues Grover to enforce an alleged oral contract Copyright 2019 Cengage Learning. Next week, I'm going to give you two tickets to Rigoletto. (b) Yes, the WTO prohibits excise taxes. (c) is the correct answer. Answer: During the first year, credit card fees must be less than 25 percent of a card's credit limit. Although tax issues are beyond the scope of this chapter, they are an important element of estate planning, often affecting not only how people transfer their property but, in some cases, to whom. They had no defense when mean and nasty statements were posted about them online. (d) The creditors' committee must select a trustee to manage Decal's affairs. They may look like swamps, they may even be swamps, but their unattractive appearance should not disguise their vital role in the aquatic world. Winstar was one of GT's largest and most important clients, but only 12 percent of the company's fees came from auditing, the rest were for consulting projects. For example, improving economic and social conditions overseas can create new customers with money to spend. This time, she showed him a copy of his email and he admitted he had written it. A final neighbor, Lorne, offers "all the money I have on me"—$100—for the last coin. Here are pitfalls to avoid. Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited. These nominees are then included in the company's proxy material, saving substantial Proxy The person whom a shareholder appoints to vote for her at a meeting of the corporation; also the document a shareholder signs appointing this substitute voter Proxy statement Information a company provides to shareholders in preparation for the annual meeting Annual report A document containing detailed financial information that public companies provide to their shareholders "Corporate democracy" in America bears little resemblance to a political democracy. After a baseball game, Randy cannot find his car in the stadium parking lot. Note that what counts is the intention to benefit, not actual benefit. A triangular, one-halfinch bone shaving may be inherent to a cut of beef, but whether a reasonable consumer would anticipate it is normally a question for the jury. (c) plaintiff must prove her case by a preponderance of the evidence. This note is found in the wreckage of the plane. The jurors have serious doubts about what happened, but they find Asbury's evidence slightly more convincing than Park's. It turned out that the Grain Company did not actually own the hogs it had given Kendall and the true owner took them away. After moving to New Hampshire, she attended college in the evenings to earn a U.S. teaching degree. The power of federal courts to examine the constitutionality of statutes and acts of government 2. • Circulating an email to company employees wrongly accusing her of financial misdeeds. • Prohibits: • Any sale or transport of these species; • Any taking of an endangered animal species (taking is defined as harassing, harming, killing, or capturing any endangered species or modifying its habitat in such a way that its population is likely to decline); and • The taking of any endangered plant species on federal property. Sarah wants to sue him in Vermont. Imagine that you personally own shares in Butterfly, Inc. What law or laws govern these lawsuits? Will it provide other benefits for consumers? Michael Ovitz earned $25 million a year as a founder of a premier Hollywood tal- ent agency. He was not involved in the fraud, however, and was never charged with a crime. But if the pig had been jolted off the window ledge by Sam's Blasting Company, doing perfectly lawful blasting for a new building down the street, Sam would be liable. Then the happy couple grabbed a bottle of champagne and placed a side bet on whose contract would prove more profitable. We do not honor our flag by punishing those who burn it because in doing so we diminish the freedom that this cherished emblem represents. Jones Brothers Construction Corporation reserves the right to cancel this letter of intent if the parties cannot agree on a fully executed subcontract agreement. • Violations of securities or commodities laws. One person's secret is another's reality show. Do you have one? Such abuse might occasionally catch a criminal, but it would injure innocent people and make all citizens fearful of the government that is supposed to represent them. Generally speaking, a party must file in a central filing office located in the state where an individual debtor lives or where an organization has its executive office.7 Once a financing statement has been filed, it is effective for five years (except for a manufactured home, where it lasts 30 years). An opinion is not a statement of fact. RICO prohibits using two or more racketeering acts to accomplish any of these goals: (1) investing in or acquiring legitimate businesses with criminal money, (2) maintaining or acquiring businesses through criminal activity, or (3) operating businesses through criminal activity. Third party beneficiary Someone who is not a party to a contract but stands to benefit from it. A law passed by a legislative body 6. Constructive Eviction. If a landlord substantially interferes with the tenant's use and enjoyment of the premises, he has constructively evicted her. Bankers suggested to both Sokol and the CEO of Lubrizol that the company might be a good buy for Berkshire. Microsoft asks the court to assume that the Second Contract had an implied provision requiring lawsuits to take place in Libya. A court may nullify an EPA order if it determines that the Agency's action was arbitrary and capricious. He then sought his fee, but the Instituto and the Dominican government refused to pay. DePrince's traveling companions, who both happened to be gemologists, told him that the price was too good to be true: A diamond that large should cost at least $2 million. Microsoft Libya evacuated all of its employees, including Kedkad, to the United States. WCN 02-200-203 04341_fm_hr_i-xxii.indd 14 10/6/17 11:39 AM P re fa ce NOTE FROM THE AUTHORS Enhanced Digital Content—MindTap™ Our goal—and yours—is for the students to learn the material. Only one class of stock. WCN 02-200-203 04341_ch09_hr_156-176.indd 163 8/24/17 12:19 PM 164 Unit 2 Torts Ben Franklin once said, "three may keep a secret, if two of them are dead." In the following case, one could not keep a secret—because he had an iPhone in his pocket. Exculpatory clause ___E. 7-1b False Imprisonment False imprisonment is the intentional restraint of another person without reasonable cause and without consent. ARTICLE VII The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same. WCN 02-200-203 04341_ch29_hr_560-575.indd 566 8/28/17 7:38 AM Chapter 29 Personal Property and Bailment 567 EXAMStrategy Question: Jack arrives at Airport Hotel's valet parking area in a Ferrari, just as Kim drives up in her rustbucket car. On several occasions, Lackawanna employees threatened to kill Turley. A business should keep people outside its own establishment safe if it is reasonable to do so. Often, a buyer will purchase goods that have a security interest created by someone other than the seller. Was the policy valid? Both of the clients in this opening scenario ended up being bound by a contract they did not want. (d) The valet service has no liability to Max, regardless of how the dent was caused. (b) tells potential customers that their premiums will decline when that is not true. Let's take an example: Sally's Shoe Store and Baker Boots agree that she will pay $20,000 for 100 pairs of boots. T F When a contract goes wrong, a third party can always recover damages from the agent, whether the principal is fully disclosed, unidentified, or undisclosed. EXAMStrategy Question: A fire breaks out in Arnie's house, destroying the building and causing $150,000 damage to an adjacent store. In the principal cases in each chapter, we provide the state or federal citation, unless it is not available, in which case we use the LEXIS and Westlaw citations. 2d 757 United States District Court for the Southern District of Ohio, 2009 CASE SUMMARY Facts: CCB Ohio specializes in upgrading power lines in a way that makes it possible to offer broadband service over an electrical grid. New York Convention Widely accepted treaty on the court enforcement of arbitral awards. It took hours and many repetitions before anyone tried to prevent the abduction. Should judges ignore their life experiences, political leanings, and feelings when making judicial decisions? However, the renovation had not removed all the lead paint, and Bess became ill after staying at the hotel. The contractor had failed to substantially perform and was not entitled to his contract price. However, this coverage is very profitable for the rental companies. Yet the court awarded Kevin the full value of his car. • Administrator or administratrix. The following table sets out the waiting times before debtors can file a new bankruptcy petition: Prior Case To File under Chapter 7, Must Wait: To File under Chapter 13, Must Wait: Chapter 7 8 years 4 years Chapter 11 8 years 4 years Chapter 13 6 years 2 years EXAMStrategy 1. The contract between the producer and Gloria is an express contract because the parties explicitly state what Gloria will do, where and when she will do it, and how much she will be paid. Rich snorts, "Yeah, right." Then he snaps, "$750,000. When there is some uncertainty in the financial statements TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. This is a difficult hurdle to overcome, but there are some exceptions: • Waiver. The court's own explanation of the facts is often many pages long and may involve complex matters irrelevant to the subject covered in this book, so we relate only what is necessary. Head Start Family Hair Salons, Inc., 203 Krinsky v. They will do whatever it takes to achieve the right result, no matter what. WCN 02-200-203 04341_ch22_hr_420-438.indd 423 8/26/17 11:29 AM 424 Unit 5 The Lifecycle of a Business store knew about the bankruptcy filing, its employees called and visited the Jacksons's house over 30 times. These prepetition debts are discharged. Of course, it is. Affirm To uphold a lower court's ruling. EXAMStrategy Question: Jenny asked a neighbor, Tom, to water her flowers while she was on v acation. A company offered credit cards to consumers with low credit scores. Arson The malicious use of fire or explosives to damage or Adverse possession Allows someone to take title to land imminent battery. plaintiff must prove her case beyond a reasonable doubt. First, the CISG only applies to commercial sales contracts, not personal ones. 5-1 COURT SYSTEMS The United States has more than 50 systems of courts. (Note that an LLP has no general partners, only limited ones.) To form an LLP, the partners must file a statement of qualification with state officials. Fraud and certain types of mistake make a contract unenforceable. HP CEO Meg Whitman hired PricewaterhouseCoopers to investigate reports of serious accounting improprieties at Autonomy. If the car is defective, Chaz will not have to pay back the full amount of the Trustie loan. The forms are exchanged in the mail or electronically, with neither side clearly agreeing to the other party's terms. United States, 156 n. Insurable interest 3. Exhibit 16.1 illustrates this transaction. 10-1b Types of Contracts Bilateral and Unilateral Contracts Bilateral contract A contract where both parties make a promise Unilateral contract A contract where one party makes a promise that the other party can accept only by doing something In a bilateral contract, both parties make a promise. Therefore, the firing was legal. (b) Had you checked the painter's references? ETHICS Richard and Michelle Kommit traveled to New Jersey to have fun in the casinos. For example, the Supreme Court has ruled that the death penalty is not cruel and unusual as long as it is not imposed in an arbitrary or capricious manner. Could the landlord have prevented it? Some debt collectors buy spreadsheets with nothing more than a list of names, addresses, Social Security numbers, and amounts allegedly owed. A mutt is entirely different from a dog that might become a champion. Louisiana, 62–63 Olmstead v. WCN 02-200-203 04341_ch27_hr_519-537.indd 531 8/28/17 7:30 AM 532 Unit 7 Property process, method, or compilation of information that, when used in business, gives the owner an advantage over competitors who do not know it. Catherine suffered serious physical injuries in an automobile accident and became acutely depressed as a result. But a well-drafted lease generally includes many provisions, called covenants and conditions. An appraiser valued a subsidiary of Signal Co. at between $230 million and $260 million. Little sues Warm. When users clicked on Vogel's name, when mean and nasty they were led to another website—www.satan. The court must confirm or reject the plan within 45 days after its filing. WTO GATT created the WTO, which resolves disputes between signatories to the treaty. That event no longer appears on her credit record but, on the form the bank asked her to sign, it asked about all bankruptcies. It is illegal for creditors to collect debts after a bankruptcy filing, except that creditors are entitled to payment on negotiable instruments.1 Ordinarily, checks are negotiable instruments, but only if they are for a definite amount. District Judge denied Paramount's motion to dismiss the lawsuit as to defamation. (a) (b) (c) (d) (e) Common law Statutes National law Local law Empirical law 4. The manufacturer proves that it uses extraordinary care in keeping foreign particles out of the jars and thoroughly inspects each container before it is shipped. FLSA → (5) A federal statute that regulates wages and limits child labor E. Farmfield is a two-hour drive from the nearest city, Little Rock. Carl falls unconscious. Properties's share of those rents was $1,600. Together, they state: "No person shall be . The potential penalty here is 20 years, so it is a felony. WCN 02-200-203 04341_ch28_hr_538-559.indd 539 10/6/17 12:30 PM 540 Unit 7 Property 28-2a Tenancy in Common Tenancy in common Two or more people holding equal interest in a property, but with no right of survivorship The most common form of concurrent estate is tenancy in common. Codicil An amendment to a will 30-2f Intestacy When singer Prince died unexpectedly at age 57, he had assets worth hundreds of millions of dollars and a vault of unreleased recordings. (And, recently the Department of Education has been offering rehabilitation programs that allow borrowers to get out of default upon payment of as little as $5 per month.) If debtors are accepted into an IBR plan (because they have a "partial financial hardship"), their monthly payments are based on their income, not the size of their debt. Comparative negligence A plaintiff may generally recover even if she is partially responsible. Not only that, but he lives near Matt and can see that Matt's house is only half finished. Chapter Conclusion It is not enough to bargain effectively and obtain a contract that gives you exactly what you want. Concerned that the men were plotting against her boss, Spaw put her office phone on speaker mode and used an iPhone to record Huff's call. Other companies, however, jealously guard information, often because corporate officers believe that disclosure would lead to adverse rules. 10-3b Termination of Offers As we have seen, the great power that an offeree has is to form a contract by accepting an offer. Argument for the Delucas: Our pub is perfectly legal. • Is the seller requiring the buyer to purchase the two products together? Moreover, his children were all well-off, she was not. In the f ollowing case, the accounting firm had clearly breached its duty. As a result, the incidence of strokes and lung cancer would decline dramatically, saving society hundreds of millions of dollars over the life of the cars. A note (also called a promissory note) is your promise that you will pay money. Gateway did not provide financing itself; instead, it arranged loans through banks or finance companies. Museum then hires Sue Ellen to restore the picture, her work to be done no later than September 14. The SEC has adopted rules requiring companies to disclose the ratio between the CEO's total pay and the median total compensation for all other company employees. WCN 02-200-203 04341_ch25_hr_482-500.indd 492 8/28/17 7:20 AM Chapter 25 Environmental Law 493 25-6b Endangered Species Act Worldwide, 25 percent of mammals, 13 percent of birds, 33 percent of reptiles, and 70 percent of plants are threatened with extinction. In this section, the parties list the addresses where these notices can be sent. In the basic annuity contract, the owner makes a lump-sum payment to an insurance company in return for a fixed annual income for the rest of her life, no matter how long she lives. Both the United States and Antigua were members of GATS, under which each agree to free trade (including nondiscrimination and national treatment) in online services. 31-3c Health Insurance Traditional health insurance plans are pay for service. (a) ambiguous; they are sure they will be able to reach an agreement later (b) vague; they are sure they will be able to reach an agreement later (c) ambiguous; they would not mind if the other side's interpretation prevails in litigation (d) vague; they would not mind if the other side's interpretation prevails in litigation 5. Garret transfers the car and equipment to Brady, who agrees in writing to pay all money owed to Maybelle. Strategy: Battery and assault are intentional torts, which are irrelevant in a typical car accident. Unbeknownst to Spielberg, Trang has written her own script. He is personally liable for any damages to the corporation. Omega was not liable. Must she do so? For example, healthcare personnel who work with blood are not permitted to eat or drink in areas where the blood is kept and must not put their mouths on any instruments used to store blood. Without Brune's knowledge, Sloan gave a copy of this email to Stein, and she summoned Brune to a meeting. T F In a disparate impact case, an employer may be liable for a rule that is not discriminatory on its face. WCN 02-200-203 04341_appC_hr_C01-C22.indd 2 9/28/17 7:28 AM APPENDIX C Answers to Selected End-of-Chapter Questions C. The application asked if he had, within the prior five years, used any controlled drugs without a prescription by a physician. This does not sound like a stock you want in your retirement fund; on the other hand, the SEC will not prevent Green Bay from selling it, or you from buying it, as long as you understand what the risks are. Neither Wilkerson nor the company ever paid Ajouelo. The behavior of Phillip Morris has caused terrible harm. The valet says he did not cause it. But Burnham was hopelessly late with the manuscript, and Colby missed his publication date. (See below dancing child to YouTube for the outcome.) Clearly, someone had gone for friends and family nuts. Sadly, Defendant did wear down Berg, who will never receive her due justice. ETHICS Mary Ann Singleton was the librarian at a maximum-security prison located in Tazewell County, Virginia. He was arrested and convicted under a Texas statute that prohibited desecrating the flag, but the Texas Court of Criminal Appeals reversed on the grounds that the conviction violated the First Amendment. Legislators b explain the difference by saying, "In our experience, boys simply care more about sports than girls do." The new plan is: (a) valid. Amanda did as she was told. 31-3a Property Insurance Property insurance (also known as casualty insurance) covers physical damage to real estate, personal property (boats, furnishings), or inventory from causes such as fire, smoke, lightning, wind, riot, vandalism, or theft. A federal court will hear a case only if it involves a federal question or diversity jurisdiction. Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. Do Vermont courts have personal jurisdiction over Raul? To do this, the company files a registration statement with the SEC. 7 Medford v. Raoul has added a term to Elaine's offer. If, after a reasonable number of efforts to fix the defective product, it still does not work, the consumer must have the right to a refund or a replacement without charge. Ch. 2013). Students also know where they stand— both individually and compared to the highest performers in the class. QUIET ENJOYMENT All tenants are entitled to the quiet enjoyment of the premises, without the interference of the landlord. In the case of a check, the bank is the drawee. Plato is a BIOC: He is buying in good faith, and 10UCC §9-309(1). 18. If the person who takes over the contract fails to pay Artist, then Producer is liable. Kris argued that his promise was unenforceable because it should have been in writing. During the Gold Rush, John Tuppela bought an Alaskan mine. Her family was stunned to find out that she had purchased a $15 million life insurance policy, with the proceeds payable to a company J. Reasoning: This promise could have been completed within a year of its making. But the parties in the Enviro-Vision dispute are unable to compromise and are headed for trial. 6-3f Punishing a Corporation Fines The most common punishment for a corporation is a fine. The company should not be allowed to say one thing and put the opposite in writing. A house (which is real property) contains many fixtures. Duty to Obey Instructions. An agent must obey her principal's instructions unless the principal directs her to behave illegally or unethically. This is a case of true impossibility. Throughout the text, you will find ethics questions and features, like the one that follows, which ask you to grapple with the moral dimensions of legal questions. 19-8 ENFORCEMENT The EEOC is the federal agency responsible for enforcing the Equal Pay Act, Title VII, the Pregnancy Discrimination Act, the ADEA, the ADA, and GINA. Most (but not all) living trusts are revocable, meaning that the grantor can terminate or change the trust at any time. Did Comcast violate its duty of good faith? The case reached the U.S. Supreme Court. Chateau, a Canadian winery, contracted over the phone to buy 1.2 million wine corks from Sabate USA, the U.S. subsidiary of Sabate France. Many contracts create third party beneficiaries. Was Fernando an employee or independent contractor? A party is expected to mitigate his damages—that is, to keep damages as low as he reasonably can. Beth is very anxious and wants to settle. Under the CIA's interpretation of the national s ecurity exemption, it could refuse to provide any information about anything it does because everything in some way relates to foreign activities or national security. Outdoor Technologies (an Australian company) obtained a judgment for $500,000 against Silver Star (a Chinese company) in a court in Australia. In Chapter 2 on ethics we discussed the beliefs of Immanuel Kant and John Stuart Mill. To do so, they must warn him that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either hired by him or provided by the government. Result: Both FMC and the U.S. government are liable for cleanup under CERCLA. They demanded that he give the Keypoint stock to Coast. WCN 02-200-203 04341_ch11_hr_198-219.indd 204 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 205 Strategy: The issue is whether the exculpatory clause is valid. Engagement letter A written contract by which a client hires an accountant 26-2b Negligence An accountant is liable for negligence to a client who can prove both of the following elements: • The accountant breached his duty to his client by failing to exercise the degree of skill and competence that an ordinarily prudent accountant would under the circumstances. Go to youtube.com and watch the advertisements for freecreditreport.com. But how far does your duty extend? 27-3c Trademark Infringement To win a trademark infringement suit, the original trademark owner must show that the alleged infringer's trademark is likely to confuse customers about who has made the goods or provided the services. Loral Corp., 365 n. Students love the Exam Strategy feature. When the company breached its contract, Paula sought to sue in the United States under the CISG. And the Douglas employee handbook clearly stated that employees should have no visible tattoos. Ethics Mark Zuckerberg was happy to have

and threatening messages and was forced to move out of her home. They might, for example, find in accounts payable a bill for the purchase of 1,000 reams of photocopy paper. More ethical? (One employee had tried to wear eight union buttons.) Is this rule a ULP? In 1961, NASA began admitting women into its astronaut training program. Because misnamed debtors have created so much conflict, the Code offers a straightforward test: A financing statement is effective if a computer search run under the debtor's correct name produces it. Garret was the delegator and Brady was the delegatee. Common carrier A company that transports goods and makes Contract A promise that the law will enforce. But if, before the tablet self-destructs, Emerson negotiates the note to Kayla, then Jake is liable to Kayla for the full amount of the note, regardless of his claims against Emerson. Either the promoter or the company lawyer typically serves as the incorporator. Is it yours to keep? Most courts accept Cardozo's viewpoint in the P alsgraf case. EXAMStrategy Question: Mr. and Ms. Beard contracted for Builder to construct a house on property he owned and sell it to the Beards for $785,000. Argument for Defendant: Membership of a LinkedIn group cannot be a trade secret for the simple reason that it is not secret. Felice, the website's author, was ultimately successful in his defense because he proved that Vogel did in fact fail to pay child support and Grannis had filed for bankruptcy. It is hard for Mom and Pop to prove that MegaGrocery intended for them to go out of business. The Hoffmans borrowed the extra money from relatives, but then Lukowitz informed them that the cost would be $34,000. Discharge The bankrupt no longer has an obligation to pay Engagement letter A written contract by which a client hires a debt. NAFTA 2. Can the Hoffmans recover any money? The vast majority of all contracts involve such documents. WCN 02-200-203 04341_fm_hr_i-xxii.indd 18 10/6/17 11:39 AM P re face xix • CPA Questions. Judicial Review. Judicial review refers to the power of federal courts to declare a statute or governmental action unconstitutional and void. Was the accounting firm liable? Remember, though: The terms of the UCC are precise. The gift becomes final upon delivery, and the donor may not revoke it. They also produce about a third of America's GHGs. The Obama administration had imposed strict fuel economy rules to reduce pollution but car manufacturers complained that the cost of complying with these rules was too high. Companies are victims of crimes, and sometimes they also commit criminal actions. Eloise has established part performance and will be allowed to enforce her contract. He promises to pay Diane $500 tomorrow if she will give him the pail of water, which she does. A law officer may not lead an investigation and simultaneously decide what searches are permissible. Within 18 months, 40 percent of CCB Ohio's couplers were leaking liquefied Q-gel. We want students to think through problems and reach their own answers guided by sound logic and legal knowledge. As we have seen, an essential part of consideration is that both parties must get something of value. Strict liability means that if the defendant's conduct led to the harm, the defendant is liable, even if she exercises extraordinary care. WCN 02-200-203 04341_ch06_hr_101-120.indd 111 8/24/17 1:38 PM 112 Unit 1 The Legal Environment 6-3b RICO Racketeer Influenced and Corrupt Organizations Act (RICO) A powerful federal statute, originally aimed at organized crime, now used against many ordinary businesses Racketeering acts Any of a long list of specified crimes, such as embezzlement, arson, mail fraud, and wire fraud The Racketeer Influenced and Corrupt Organizations Act (RICO) is one of the most powerful and controversial statutes ever written. One of the most important items on this list of Congressional powers concerns trade. If a consumer does not want foam in her coffee, she is free to drink an Americano, a macchiato, or the drip coffee of the day. The lien became part of the public record. (See the "Result" at the end of this Exam Review section.) 13. Deloitte & Touche, 62 Cal. The Dannemans had constant problems with the machine and stopped making payments. Abandonment. This Exam Strategy also illustrates the second major issue in a scopeof-employment case: abandonment. (See the "Result" at the end of this Exam Review section.) 25. Employee or Independent Contractor? Unfortunately the line between employee and independent contractor is fuzzy. See also Crimes committed by business; Crimes that harm businesses Buyers in ordinary course of business (BIOC), protection for, 304–305 Bystander cases, 69–70 C Caesar's Tahoe, 198 Campaign (in union organizing process), 348 Capacity (contract checklist element), 179, 198, 205 intoxication, 206 mentally impaired persons, 206 and voidable contracts, 206 minors, 205 disaffirmance, 205 restitution, 205 Capitol Grille, 340 CARD Act (credit/debit/ATM cards), 466–467 Cardozo, Benjamin, 138 Carey, Ed, 69 Carey v. If Shifty still has the note, does Duncan have to pay it? In other words, a copyright holder has rights to the way she expressed an idea, not a monopoly on the underlying idea or process. He had no obligation to respond truthfully to wrongful questions. But if directors anger the CEO, they may be out on their ear. T F There is no need to have a will unless you have substantial assets. Instead, clients need to protect themselves as best they can. 10,000 10,000 LLC Corporation $2,167 shareholder $2,167 shareholder $2,167 shareholder $433 IRS $433 IRS $433 IRS $3500 IRS $ $1,734 Bank $ $1,734 Bank $ $1,734 Bank $3,333 member $1,320 IRS $ $2,013 Bank $ $2,013 Bank $3,333 member $3,333 member $1,320 IRS $1,320 IRS $ $2,013 Bank EXAMStrategy Question: Consider these two entrepreneurs: Judith formed a corporation to write a blog that is unlikely to generate substantial revenues. WCN 02-200-203 04341_appA_hr_A1-A14.indd 11 9/28/17 7:27 AM A12 APPENDIX A The Constitution of the United States Amendment XX [1933]. The supervisor sent a copy of the posting to the boards that regulate nursing and paramedics in New Jersey with a letter saying that the hospital was concerned that this statement showed a disregard for patient safety. GECC? 16-2b Possession In certain cases, the security agreement need not be in writing if the parties have an oral agreement and the secured party has possession. The trial court dismissed the case and she appealed. But the court ruled she could perform the essential functions of the job because she was able to work the day shift when other officers were present. This brings us to our next topic—the structure of a contract. NGS has been causing harm to the Grand Canyon, and now it should remedy the damage. What would have been the result if James had applied the Front Page test? "Street crimes" are indeed serious threats to our security and happiness. By withdrawing the IR version from the market prior to the generic version becoming available, Actavis forced consumers to switch, knowing that a change back was highly unlikely for these patients. Fiduciary Relationship Fiduciary relationship One of trust in which a trustee acts for the benefit of the beneficiary, always putting the interests of the beneficiary before his own A fiduciary relationship is one of trust: The beneficiary places special confidence in the fiduciary who, in turn, is obligated to act in good faith and candor, doing what is best for the beneficiary, rather than acting in his own best interest. At times, a court may discharge a party who has not performed. The only silver lining to your cloud is that you make a large profit. Shari'a law is very different from our common law system. WCN 02-200-203 04341_ch19_hr_356-376.indd 360 8/26/17 10:26 AM C h a p t e r 19 judgment on his part, but there was no evidence that he intended to expose himself. 22. No. A counteroffer is a rejection. Adverse opinion. (BEAT). He submitted a Rockford Files script to Chase, who agreed to meet with Baer. The person who enters into the policy and pays the premiums 5. Suppose Bradshaw Steel in Pittsburgh agrees to deliver 1,000 tons of steel beams to Rice Construction in Saudi Arabia at a given price, but a week later, the cost of raw ore increases 30 percent. Most leases expressly state this covenant of quiet enjoyment. • Of sound mind. So YouTube took down the video. For consumers with even modest income and high debt, Chapter 11 is the only option. Microsoft fired him. Is this clause reasonable? Appellate courts review the record to see if there have been errors of law. He considered himself to be the owner, as had Arketex for 8 years and Clark for 15. If the power company wanted to use tests, it would have to find some that measured an employee's ability to perform particular jobs. Neither negligence nor strict liability imposes a duty to warn of known dangers. (c) Carter will lose because Ellen did not know that he would see the financials. AcneApp falsely claimed that applying its blue and red lights to skin would reduce acne. Strategy: Look at the requirements for each chapter. Apple approached the publishers and offered to sell their ebooks at a higher price, but only if they would refuse to sell to Amazon unless that company also raised its prices. BURDEN OF PROOF The plaintiff's burden of proof in a civil lawsuit is preponderance of the evidence, meaning that its version of the facts must be at least slightly more persuasive than the defendant's. Logan, an impartial lawyer, interviewed Francis extensively before he signed the documents. The profile, which included Carafano's photo, telephone number, and home address, invited men with "a strong sexual appetite" to join her in a one-night stand. Evans & Associates v. A vase thrown into a garbage can is abandoned. Is Jason's policy with CPM valid? Laurie alleged that he is liable for the full amount because her breach was not material. INTENTIONAL PHYSICAL TORTS A principal is not liable for the intentional physical torts of an employee unless (1) the employee intended to serve some purpose of the employer or (2) the employer was negligent in hiring or supervising the employee. William Haggett, the Bath CEO, was notified about the file just as he was walking out the door to give a luncheon speech. • Increases in rates and fees: • Are not allowed on any charges already incurred (until a cardholder has missed two consecutive payments). 18-5b Collective Bargaining Collective bargaining agreement (CBA) A contract between a union and a company Once a union is formed, a company must then bargain with it toward the goal of creating a new contract, which is called a collective bargaining agreement (CBA). Dissolution 4. Objective test. A customer can, say, be charged $150 in overdraft fees on $50 worth of overdrafts. Spielberg may be perfectly happy to buy Trang's script, but he has the right, as her principal, to know that she is the person with whom he is dealing. Normally a manufacturer or a seller gives a warranty, and a buyer relies on it. A student found the murals and took them home, and he later notified the federal government's General Services Administration (GSA) of his find. LEXIS 660 (Mass. DEFAULT AND TERMINATION We have reached the end of the line. The movie contract provides another example of deliberate vagueness. Issues: Was the termination statement valid? Utilitarianism → (1) requires doing "the greatest good for the greatest number" E. • Choice of Language and Currency. Amendment VI [1791]. EXAMStrategy Question: Roofing Company wrote a check to Dan for his work on a house. From her own experience tending bar and conversations with city police, she knew that some of the gangs, including the Pagans, were dangerous and prone to attack customers for no reason. John Rayner, who was under 21 years of age, left the party. • A consumer reporting agency cannot report medical information without the consumer's permission. The company has a valid concern that if King is permitted to work anywhere she wants, she could take away many customers from Head Start. If Kyle's house burns down on April 2, the insurer must pay, even though it has not yet issued the final policy. Years later, Kelly filed a sexual harassment suit, alleging that her boss fondled her. Maureen, Eddie, and Toby's families all sue Pike's Pique. COMMON LAW The legal system based on precedent and adversarial pro- cess that was inherited by most British colonies, including the United States and Australia. Gallatin's security interest perfected without any filing at all, and so the bank wins. Suppose that, long before shooting began, Ace had sold the film's soundtrack rights to Spinem Sound for $2 million. If the donor later says, "I've changed my mind, give that back!" the donee is free to refuse. The EPA, however, developed the "bubble concept," ruling that "stationary source" meant an entire factory, but not the individual smokestacks. As discussed in Chapter 1, society considers such behavior so threatening that the government itself will prosecute the wrongdoer, whether or not the car owner or bank president wants the case to go forward. LuYu, your personnel manager, reports that a silicon chip worker often seems drowsy; she suspects drug use. Over a four-year period, they installed two new bathrooms, carpeted the floors, installed new septic and heating systems, and rewired, replumbed, and painted. Ken trades on this information. Many people complain about "gridlock" in Washington, but the government is sluggish by design. You Be the Judge: Should the court enforce the contract as written or as the parties agreed in their meeting? For a nuncupative will to be valid: • The testatrix must know she is dying, • There must be two witnesses, and • These witnesses must know that they are listening to her will. Is this agreement there? Compilation of information that would give its owner an advantage in business TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Was he acting within the scope of employment? Argument for Jones: This letter was not a contract. WCN 02-200-203 04341_ch08_hr_137-155.indd 140 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 141 8-1d Breach of Duty The second element of a plaintiff's negligence case is breach of duty. The new term is part of a valid contract, and the answer is (a). Corporations must also hold meetings for both shareholders and directors. Other contracts are more complex. Disclaimer A statement that a particular warranty does not apply CCB Ohio, LLC v. In Alaska, company pipelines spilled 200,000 gallons of crude oil onto the tundra. WCN 02-200-203 04341_ch27_hr_519-537.indd 521 8/28/17 7:30 AM 522 Unit 7 Property Plant patents are not without controversy. She is mistaken. 1-2d You Be the Judge Many cases involve difficult decisions for juries and judges. She requested that Charles Meadows, an American citizen, secure the Instituto a bank loan of $12 million. She sued Ford for damages under negligence and strict liability. Typically, the landlord requires that rent be paid at the beginning of each rental period, whether that is monthly, annually, or otherwise. T F Federal law limits the number of hours every employee can work. The jury concluded that reasonable compensatory damages were $1 million. In the AMF case, the court prohibited Nescher from using the name "Sleekcraft" ever again—a costly punishment for any company. (d) No contract was formed because Distrib's reply was a counteroffer. WCN 02-200-203 04341_ch12_hr_220-241.indd 227 10/6/17 12:06 PM 228 Unit 3 Contracts and the UCC HBI told inconsistent stories. Good mediators do not need a law degree, but they must have a sense of humor and low blood pressure. Strategy: Betts argues that he intended no harm. There are many variations on this theme, but they all work to limit treatment choices. Huff knew his phone was capable of pocket-dialing and transmitting his conversation, but he took no precautions to safeguard against this foreseeable event. (b) void. Dispute Resolution 95 Arbitration agreements Contracts in which the parties agree to arbitrate their claims instead of filing a lawsuit Chapter Conclusion No one will ever know for sure whether Tony took his own life. In a sit-down strike, members stop working but remain at their job posts, physically blocking replacement workers from taking their places. That is not a PMSI, since the store did not use the money to purchase the collateral. When the police arrived, the two boys fled. An employer is permitted to establish discriminatory job requirements if they are essential to the position in question. When they were dating, Kris promised his wife Wendellyn that if she moved to Wyoming and married him, he would take care of her for the rest of her life. Secured transactions are one method for ensuring that creditors are paid. Shortly, we will look at other flow-through entities, such as partnerships and limited liability companies (LLCs) where, again, all taxes are paid directly by the owners, and none by the business itself. She must hire her own lawyer, who will file a lawsuit. In these cases, the law is willing to assume injury without requiring the plaintiff to prove it. West purchased a horse from Strauss. UNFAIR PRACTICES The Federal Trade Commission (FTC) prohibits unfair and deceptive acts or practices. Protects the particular expression of an idea 2. 2 Massachusetts v. For that reason, most people who buy insurance pay more in premiums than they ultimately receive from the policy. Issue: Should a threat be def ined by the speaker's intent or by the listener's reasonable perception? Argument for United Technologies: Comerford is a lawyer, and we assume he can read. But, if the company is performing poorly, the officers also need to be rewarded—you guessed it—to keep them from jumping ship. WCN 02-200-203 04341_ch22_hr_420-438.indd 430 8/26/17 11:29 AM Chapter 22 Bankruptcy 431 Exhibit 22.2 The Steps in a Chapter 11 Bankruptcy Rejection Voluntary Petition Cramdown Plan Voting Involuntary Petition Confirmation Discharge Acceptance 22-3f Small-Business Bankruptcy To aid the creditors of small businesses, Congress added provisions that speed up the bankruptcy process for entities with less than $2,566,050 in debt. Now let's consider a more modern example. Issues: Was Bagell liable to ABAT investors? REDELIVERY The bailee is strictly liable to redeliver the goods to the bailor. A manufacturer is liable for failing to warn the purchaser or users about the dangers of normal use and also foreseeable misuse. This machine can harvest any size of wheat crop ever planted in the state." Sometimes a manufacturer offers a warranty as a means of attracting buyers: "We provide the finest bumper-to-bumper warranty in the automobile industry." Other times, the law itself imposes a warranty on goods, requiring the manufacturer to meet certain standards whether it wants to or not. Justice requires that the government, when seeking to punish an individual, must find the evidence itself rather than force him to reveal it from his own mouth. CPA QUESTION To establish a cause of action based on strict liability in tort for personal injuries resulting from using a defective product, one of the elements that the plaintiff must prove is that the seller (defendant): (a) failed to exercise due care. Driving to work in the government car at 6:40 the next morning on the way to an early training session, Dreyer struck and killed 12-year-old Justin Zankel. Total shareholder return The percentage increase in stock price appreciation and dividends. Repeatedly doing so is a RICO violation. The injured party must prove a false statement of fact, materiality, and justifiable reliance. The National Labor Relations Board ruled that the musicians were employees. A doctor prescribes a powerful drug without asking his patient about other medicines she is currently taking. Funding dubious science. So they boosted their sales numbers by shipping out bricks wrapped up to look like components. Generally, a store may detain a customer or worker for alleged shoplifting provided there is a reasonable basis for the suspicion and the detention is done reasonably. One of his most outspoken critics registered the website fallwell.com—note the misspelling—to criticize the minister's views on homosexuality. The "people" who are protected include citizens and, for most purposes, corporations. 2013 NY Slip Op 06759 Supreme Court of New York, 2013 CASE SUMMARY Facts: Cornell professor Joan Jacobs Brumberg attended a university fundraiser catered by Cipriani, where she feasted on fancy appetizers. A check is the most common form of a draft—it is an order telling a bank to pay money. This is a major change from ordinary negligence cases. The Internal Revenue Code imposes various criminal penalties on accountants for wrongdoing in the preparation of tax returns. 1-2b Analysis Plaintiff The person who is suing Defendant The person being sued Holding A court's decision Reverse To declare the lower court's ruling wrong and void Remand To send a case back down to a lower court Affirm To uphold a lower court's ruling Let's take it from the top. He made no attempt to do so and his defense is unpersuasive. 23-1c Securities Exchange Act of 1934 Registration Most buyers do not purchase new securities from the issuer in an IPO. Suppose the peanut butter jar did in fact contain a glass sliver when it left the factory. Because those emails were located in its Dublin datacenter, Microsoft refused to comply, arguing that the SCA did not apply to data housed abroad. Was Atlas liable to the workers? We know that shareholders cannot manage the day-to-day affairs of a corporation, but what control do they exercise over the enterprises they own? Not since Congress passed the Genetic Information Nondiscrimination Act (GINA). Goods Any movable physical object except for money and securities This chapter will focus on Article 2 of the UCC, which applies to the sale of goods. Instead, each country establishes its own goals and there are no penalties for countries that set low goals or who fail to achieve their set targets. False imprisonment cases most commonly arise in retail stores, which sometimes detain employees or customers for suspected theft. INFORMED DECISION Under the duty of care, managers must make an informed decision, that is, with the care that an ordinarily prudent person would take in a similar situation. Sherman Act 3. Hans promoted five white males because they were the most senior. This type of provision is called a safe harbor and is the reason YouTube is still in business. Example: • Barry Switzer, then head football coach at the University of Oklahoma, went to a track meet to see his son compete. A California Court of Appeals decided the following case after the establishment of the three guideposts. PRODUCT LIABILITY Product liability may arise in various ways: • A seller will be liable if her conduct is not that of a reasonable person. She decided to think about it during lunch. Warner, a feature film director, hires Mayer to be his assistant on a film to be shot over the next ten weeks. Should the court do so? As you can guess, an administratrix is a female administrator. How should the financing statement list this debtor's name? Find such a statement, and analyze it. Decision: No, Bagell was not liable because it had not acted with scienter. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. The trustee can void any fraudulent transfer. To force disclosure, agencies use subpoenas and searches. Microsoft operates Outlook.com, a free web-based email service. When Farmstead discovered the traffic tickets, it denied coverage to his beneficiary. Reasoning: U.S. courts can apply other nations' laws. WCN 02-200-203 04341_ch11_hr_198-219.indd 206 10/6/17 11:53 AM C h a p t e r 11 Requirements for a Contract 207 Element One: Intentional or Reckless Misrepresentation of Fact The injured party must show a false statement of fact. Result: When the valet drove Kim's car away, the hotel assumed control with intent to possess. No matter what bankruptcy laws are in place, he will not say no to Disney World. • Clawbacks. Activist investor A shareholder with a large block of stock Apparent authority A principal does something to make an innocent third party believe that an agent is acting with the principal's authority, even though the agent is not authorized. Prediction Error. Imagine you purchased a used electric car, predicting that its value would certainly skyrocket when gas prices rise. Should there be? On October 14, fearing that Camp would violate the contract, Sheth stopped payment on the check. Does the state have the power to wreck Kabrina's plans? 18-5c Concerted Action Concerted action Tactics taken by union members to gain bargaining advantage Concerted action refers to any tactics that union members take in unison to gain some bargaining advantage. Negligence In negligence cases concerning goods, plaintiffs most often raise one or more of these claims: • Negligent design. Issue: Would reaff irmation of this debt create an undue hardship for the debtor? Is cost–benefit analysis an effective tool in environmental disputes? A gift inter vivos is one made without any such fear of death. A lower court dismissed her case on a motion for summary judgment, concluding there was not enough proof that Cipriani caused Brumberg's injury. Because they want the house itself, and not money damages, the drop in value is irrelevant. During the 90 minutes of escalating tensions, the bar staff continued to serve alcohol, ignored the blatant risks, and did not even call security. While verbal agreements often amount to contracts, some types of contracts must be in writing to be enforceable. What Life Principles would you apply in this situation? She also left a trust for her dog, Trouble.4 Trust An entity that separates the legal and beneficial ownership of assets Grantor Someone who creates and funds a trust, also called a settlor or donor Trustee Someone who manages the assets of a trust Beneficiary Someone who receives the financial proceeds of a trust • Caring for children. 13-2a Terms that Vary by Contract In this section, we look at provisions that are unique to the specific facts of each agreement. If the car is defective, then Chaz is not liable to Trustie for the full amount of the note. After five years, the statement will expire and leave the secured party unprotected unless she files a continuation statement within six months prior to expiration. Although this book is filled with examples of technology in diverse areas of law, this chapter focuses on the legal issues that are unique to the digital world—privacy and internet law. NEGOTIATION To be negotiated, order paper must first be indorsed and then delivered to the transferee. Lawyers can help in this negotiation and drafting process because they have worked on other similar deals and they know what can go wrong. We elect the local legislators who pass state statutes; we vote for the senators and representatives who create federal statutes. The injured person must show only that the defendant manufactured or sold Copyright 2019 Cengage Learning. (a) (b) (c) (d) Shannon tells Connor that she will promote him if he will sleep with her. It contained information about the competitors' bid that would be a huge advantage to Bath. For example, it reported that a large percentage of its revenue was from equipment sales to Lucent Technologies, a strategic partner. Which of the following statements regarding Quincy's petition is correct? Internationally, there are over 1,000 social benefit organizations in 33 countries. 657 United States District Court for the Eastern District of Arkansas, 1998 CASE SUMMARY Facts: In 1991, Bill Clinton was governor of Arkansas. But the UCC rules "save" the contract. This suspension would mean that Antigua could freely use, reproduce, and distribute any U.S.-copyrighted, trademarked, or patented works—a real blow to the United States entertainment, pharmaceutical, and technology industries. States must identify how each body of water is used. Let's start with an introduction to contracts. A federal statute that regulates wages and limits child labor 6. Were these paintings securities? 8UCC §9-207. No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. The goal of these programs is to remedy the effects of past discrimination. Assignor The person making an assignment. Covenant ___ D. It is also illegal to distribute false copyright information. Which of the following believed that the dignity of human beings must be respected and that the most ethical decisions are made out of a sense of obligation? • Issue. T F Privately held companies that begin as corporations often change to LLCs before going public. This is: (a) an express contract. And, as with all torts, strict liability concerns claims of physical harm. What provisions should be included? Suppose the Pesto Bank obtains a security interest in Basil's catering equipment and then perfects by filing with the secretary of state in the state capital. Jones would then be forced to decide whether it was willing to make a binding commitment. What ethics traps might Wierdsma's boss face in this situation? He had three biological children with his first wife; a stepdaughter, Lauri, with his second wife; and seven stepchildren with his third wife, Kathleen. By the end of the chapter, you will have a road map for understanding a written contract.1 To illustrate our discussion of contract provisions, we will use a real movie contract between an actor and a producer. In return, the inventor publicly discloses information about the invention that anyone can use upon expiration of the patent. Fourteen- and fifteen-year-olds are permitted to work limited hours after school in nonhazardous jobs, such as retail. 19-5a The Hiring Process An employer may not ask about disabilities before making a job offer. This approach is referred to as moral relativism. The Telemarketing Sales Rule specifies that once telemarketers do talk with a consumer, they must tell the truth clearly and completely before the customer pays. The vaguely unsatisfying feeling about it all is only too common and indicates why litigation is best avoided—by reasonable negotiation. No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen. T F Negotiation means that an instrument has been transferred to the holder by the issuer. WCN 02-200-203 04341_ch01_hr_001-014.indd 2 10/6/17 11:41 AM Chapter 1 1-1 Introduction to Law 3 EXPLORING THE LAW A driver is seriously injured in an automobile accident, and the jury concludes that the car had a design defect. Clarence is 60. • If you report the theft within two days of discovering it, the bank will reimburse you for all losses above $50. The clinic simultaneously authenticates a security agreement, giving the manufacturer a security interest in the CT scanner. • Disclose the following facts: • The total of payments. W.D. Ky. 1983). We may not always like the way our legal system works, but we depend on it to keep our society functioning. Reciprocal promise ___ E. D Debtor Another term for bankrupt. To encourage debtors to file for bankruptcy despite the pain involved, the Code offers a powerful incentive: a fresh start. In return, employees are not permitted to sue their employers for negligence. He also posted both a photo of a car that a 13-year-old had accidentally driven into a pond, and snide comments about the incident. These activities make Amazon an information content provider, not protected by the Communications Decency Act. Result: The bullies committed a horrible act, but they are not liable under the public disclosure tort. Would you pay them a commission or base their salaries on the number of policies they sold? THIRD PARTY BENEFICIARY A third party beneficiary is an intended beneficiary and may enforce a contract only if the parties intended her to benefit from the agreement and (1) enforcing the promise will satisfy a debt of the promisee to the beneficiary or (2) the promisee intended to make a gift to the beneficiary. United States, 277 U.S. 438 (1928). Recall that a tenant in common, by contrast, has the power to leave his interest in the real estate to his heirs. • Evidence of actual confusion: AMF introduced evi- dence that confusion had occurred both in the trade and in the mind of the buying public. This approach is called moral universalism. Create your own potential, and be unstoppable with MindTap. Dom, the mechanic whose negligence caused the car crash, could not be liable for the veterinarian's death because the plunging pig was not foreseeable. The contract will be enforced only to the extent of the quantity stated. And I didn't get The kids had never gone a bonus this year. It would be wrong to deny recovery. Identity Theft. In identity theft, thieves steal the victim's social security number and other personal information such as bank account numbers and mother's maiden name, which they use to obtain loans and credit cards. It turns out that work and a stranger someone else is living in his apartment. After Alissa's exuberant "yes" during the appetizer course, the newly engaged couple could not contain The angry maître d' their excitement. Clean opinion An unqualified opinion. 11-2b Non-compete Agreements: Employment Contracts Employers have legitimate worries that workers might go to a competitor and take with them significant business or trade secrets and other proprietary information. He gives Michael the choice of paying the higher rent or leaving. As we saw earlier in the Ehling case, coercion may constitute an invasion of privacy. Stevens did nothing to create either. (b) The deal is crucial to your life or the life of your business. Once there, they kissed and he suggested sexual intercourse, but Gatter, who had just met him, said "no." Later that night, however, she gave in. When profitability increases and, with it, a company's stock price, managers benefit because their compensation is often tied to corporate results, either explicitly or through ownership of stock and options. (e) Bob may not assign his claim because it violates public policy. (b) the possessor is the payee. You can find them by googling "federal register bankruptcy revision of dollar amounts." Copyright 2019 Cengage Learning. The officers of the corporation pay its debts and distribute the remaining property to shareholders. 25-3b Major Provisions Under the CWA: • Point sources. That is why Xerox Corp. And if I don't, what the heck, it'll be Jane's problem, not mine." Agents, as a rule, may have fewer assets than their principal, but it is important that their personal assets be at risk in the event of their negligent behavior. As a result, the offering was delayed from May 2 to June 13. Moreover, Antigua imports services from the United States that are worth much less than the $21 million a year that it is owed. Notice that Megan's liability is not only to the bailee, but also to any others injured by the defects. 4 New York Times Co. v. If a company's stock price is doing well, then, by all means, the executives must be rewarded to keep them from jumping ship. Sam does not have a problem that the law can address, so the court will grant the motion to dismiss. She still has to pay Terry because: (a) on eBay, the rule is "buyer beware." (b) Terry's rights are not affected by Junior's misdeeds. Rate the following types of gambling from most acceptable to least acceptable: — online poker — state lotteries — horse racing — casino gambling — bets on pro sports — bets on college sports 5. The companies trained their salespeople to tell elderly customers that a new policy was better when, in fact, it was much worse. Under the RPA, a plaintiff must prove both that price discrimination occurred and that it lessened competition. After 60 days, however, you are liable for the full amount. However, they ejected strangers, mowed the property, removed debris, and cut down dead foliage, which is sufficient evidence of occupancy. The shareholders of a close corporation often need to work closely together in the management of the company. For the next 90 minutes, the fraternity members and the wedding party exchanged escalating curses and threats, while the bartender looked on and served drinks. A ring! You stop in at the local jewelry shop, where you learn the ruby marvel is worth just over $70,000. Is there anything that would help the problem, or will we always have large numbers of lawsuits? When Microsoft customers send and receive Outlook emails, the company stores the emails on a network of servers housed in datacenters in over 40 countries. What ethics traps is she facing? When Theodore Staats went to his company's "Council of Honor Convention," he was accompanied by a woman who was not his wife, although he told everyone she was. What will be the outcome if the jury believes that Lance stole the numbers? Article II of the Constitution establishes the president as commander-in-chief of the armed forces and the head of the executive branch of the federal government. T F You should primarily buy insurance to protect against harm that you cannot afford to repair. Administrative agencies affect each of us every day in hundreds of ways. But sometimes the states disagreed, and contract law took on the aspect of a patchwork quilt. Each state must develop plans to achieve these EPA standards. MATERIAL MISREPRESENTATION Insurers have the right to void a policy if the insured makes a material misstatement or conceals a material fact. Disaffirmance A minor who wishes to escape from a contract generally may disaffirm it; that is, he may notify the other party that he refuses to be bound by the agreement. Real property usually also includes anything underground ("subsurface rights") and some amount of airspace above land ("air rights"). If the company was going to rely on an argument about its finances, it had to present proof of its statements. 2-3 21 Moral relativism A belief that a decision may be right even if it is not in keeping with one's own ethics standards Ethics Traps Very few people wake up one morning and think, "Today I'll do something unethical." Then why do we make unethical decisions? Exhibit 20.1 compares the single taxation of an LLC (a flow-through entity) with the double taxation of corporations. CHAPTER 19 1. The case went to the Supreme Court. Independent Directors. Independent directors are members of the board who are not employed by the company and do not have close ties to the CEO. Is an ISP or web host liable for transmitting it to the world? The bystander rule, that hardy oak, is alive and well. What about the way in which Shiloh was fired? 2Except Illinois, New York, and Washington. Until recently, major world traders like Brazil had refused to sign. Things go wrong all the time, and people are hurt in large ways and small. Which of these remedies should Morris seek: expectation, restitution, specific performance, or reformation? About ten days later, the six employees were laid off, though less-senior employees kept their jobs. The common law Statute of Frauds requires any agreement for the sale of land to be in writing and signed by the party to be charged (the defendant), in this case the buyer in Texas. Soley refused to respond to discovery requests, and eventually the trial court gave a default judgment for the plaintiffs. Son, 200 Oregon Steel Mills, Inc. While staying at the New Orleans Hilton, Allen Chase was drugged by a woman he met at the hotel bar. When Jones sued UPS, alleging a racially hostile work environment, the trial court granted UPS's motion for summary judgment. Often, the people making decisions do not bear the full cost of their choices. But the sod grown from the Scott seeds developed weeds, a breach of Scott's warranty. Microsoft Corporation, Inc., 253 Kelly v. • The Internal Revenue Code imposes criminal penalties on accountants for wrongdoing in the preparation of tax returns. The state of Kentucky filed a tax lien against Panbowl Energy, claiming unpaid taxes. 97 (E.D. Pa. 1996). Congress established the Public Company Accounting Oversight Board (PCAOB) to ensure that investors receive accurate and complete financial information. • Whole life insurance provides the same amount of insurance throughout the insured's life. ExamStrategy CPA QUESTION: A CPA's duty of due care to a client most likely will be breached when a CPA: (a) gives a client an oral instead of a written report. Owner ___ D. We examined several exceptions to normal perfection rules involving BIOCs, consumer goods, and so on. The Exam Strategy feature teaches you to figure out exactly what issue is at stake, and then analyze it in a logical, consistent manner. Stores often make a larger profit from the insurance than from the product itself. ." Copyright 2019 Cengage Learning. This means, for example, that Makem could be liable for lost profits if a salesperson's phone fails during a lucrative sales pitch. WCN 02-200-203 04341_ch16_hr_295-314.indd 308 8/26/17 9:02 AM C h a p t e r 16 Secured Transactions 309 the sale leaves a deficiency; that is, insufficient funds to pay off the debt. Apply the distinction between comparative and contributory negligence to the evidence here. The monthly payments were $400. … but he could keep royalties from his novel on scuba diving. Rich wants his questions answered, so he files a motion to compel discovery. the issuer is required to make disclosures, but only to unaccredited investors. She and her husband both earned sizable incomes during their careers. The tenants found another place to live, but before they had moved, Soley's agents broke into the apartment and took many of their belongings. He is entitled to possession of the apartment, as well as damages for rent he may have been forced to pay elsewhere, injury to his possessions, and the cost of retrieving them. statement of the facts alleged by the plaintiff and his or her legal claims. Can it be that the Constitution affords no Constitution affords no protection against such invasions of individual security? This kind of estate can also be created in a will. A record will be made of anything you say, and it may be given in evidence if you are brought to trial." What is the goal of this British law? Is Cremers liable to Batzel for the harm that this inaccurate information caused? It has a picture of a dog with a phone number, and it reads, "I'll pay $100 to anyone who returns my lost dog." If Leo sees the sign, finds the producer, and merely promises to find the dog, he has not created a contract. However, being fired for bringing a lover to an employer's convention is not a threat to public policy. T F Only the federal government regulates securities offerings; the states do not. 20-3a Limited Liability Members are not personally liable for the debts of the company. The CISG requires parties to negotiate in good faith and modify the contract in case of unforeseen circumstances. T F The first person to file the application is entitled a patent over someone else who invented the product first. To divide the debtor's assets fairly between the debtor and creditors, and 3. WCN 02-200-203 04341_ch30_hr_576-592.indd 589 8/28/17 7:46 AM 590 Unit 7 Property TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. CHAPTER 20 1. If Danny had passed that information on to his sister, and she traded on it, then she would be guilty of misappropriation, too. Some Life Principles focus not so much on right versus wrong but rather serve as a general guide for living a happier, more engaged life: I will keep promises, forgive those who harm me, say "I'm sorry," appreciate my blessings every day, understand the other person's point of view, try to say "yes" when asked for a favor. Then we had some to Disney World. An entrepreneur might promise a competitor not to open a competing business, or an elderly driver (with a valid driver's license) might promise concerned family members that he will not drive at night. If the house is swarming with the nasty pests, the statement is a misrepresentation. You guys got nothin' to worry about. The Jannusches sued. An injured person must show the following: 1. A void agreement means that the law will ignore the deal regardless of what the parties want. Ann's father made a valid inter vivos gift of the violin while Ann was still a student. I've applied for a job, but the application asks if I have ever used drugs illegally. In this case, the jury awarded Bien $573,815, calculated as in the following table2: Past medical $ 70.00 Future medical 6,000.00 Past rehabilitation 3,205.00 Past lost earning capacity 112,910.00 Future lost earning capacity 34,650.00 Past physical symptoms and discomfort 50,000.00 Future physical symptoms and discomfort 50,000.00 Past emotional injury and mental anguish 101,980.00 Future emotional injury and mental anguish 200,000.00 Past loss of society and reduced ability to interact socially with family, former fiancée and friends, and hearing (i.e., nondeaf) people in general 10,000.00 Future loss of society and reduced ability to socially interact with family, former fiancée and friends, and hearing people 5,000.00 TOTAL $573,815.00 2The compensatory damages are described in George Grubbs Enterprises v. Although tortious acts and their consequences are diverse, two generalities apply. Noah and Nina made a great couple because both were compulsive entrepreneurs. WCN 02-200-203 04341_ch07_hr_121-136.indd 122 8/24/17 11:58 AM Chapter 7 Intentional Torts and Business Torts This odd word "tort" is borrowed from the French, meaning "wrong." And that is what it means in law: A tort is a wrong. Lindsay immediately told TP managers and begged them to let her out of her lease. In this event, the law determines how the decedent's property will be distributed. For that, you need to know your credit score (usually called a FICO score).5 This number (which ranges between 300 and 850) is based on your credit report and is supposed to predict your ability to pay your bills. John Rawls → (2) thought that society should try to make up for people's different life prospects Chapter 3 A. Strategy: Begin by isolating the legal issue. Under OSHA: • Employers are under a general obligation to keep their workplace free from hazards that could cause serious harm to employees. The services were rendered directly to the prisoners, so it is clear that the contract was for their benefit. To raise money for rebuilding, she sells the stock at $12 per share, making a profit of $40,000. The court stated: Nothing in [Title VII] precludes the use of testing or measuring procedures; obviously they are useful. The purpose of the scene was to criticize the song's message. The business judgment rule includes a requirement of good faith, which means that the decision-maker must be honest and act in the best interests of the corporation and its shareholders. The advantages of a sole proprietorship are: Sole proprietorship An unincorporated business owned by one person • Ease of formation. WCN 02-200-203 04341_ch01_hr_001-014.indd 5 10/6/17 11:41 AM Unit 1 6 The Legal Environment Senators do not stand around

one or both, as she chooses. violated the Robinson-Patman Act by selling at lower prices to Reserve’s competitors. The purpose and character of the use. T F In a contract for the sale of goods, the offer may include any terms the offeror wishes; the offeree must accept on exactly those terms or reject the deal. Can Emma keep this generous gift? If WTO-member Greece grants fellow member Laos a special discount on customs duties for certain products, that treatment must be extended to all other WTO members. Should a small business have priority over what would surely have been a much larger, more profitable use of this name? We paid for business interruption insurance for an obvious reason: In the event of a disaster, we lacked the resources to keep going while buildings were constructed and inventory purchased. Verbal confrontations ensued. And even if directors start out independent, the longer they serve on the board the more likely they are to become the CEO’s friend. 23. Two years passed and the United States did not act. Gaining unauthorized access to a computer system is called hacking. They may not coerce or bribe an appraiser into misstating a home’s value. An employee with a burdensome non-compete might be willing to tolerate harsh treatment just to avoid unemployment. The agency prohibited him from practicing on behalf of any publicly traded company or other entity regulated by the SEC. Does the accountant have the right to disclose the content of working papers? Does the coverage of the Statute of Frauds make sense as it currently stands? Before the structure was complete, it burned to the ground. If a court finds all these elements present, it will generally award the value of the goods or services that the plaintiff has conferred. The CFPB filed suit alleging that the Firm had violated the Fair Debt Collection Practices Act. As its economic value increases, so does the need to understand the rules of intellectual property law. Its role is to ensure that the company has disclosed enough information to enable investors to make an informed decision. Remember that the SEC does not assess the value of the stock or the merit of the investment. Candy, fast food, and sugared cereals were banned from its parks. The first step that a court takes in choosing a remedy is to decide what interest it is trying to protect. Many count on this extra money for survival. The person whose loss is the subject of an insurance policy TRUE/FALSE QUESTIONS Circle T for true or F for false: 1. Jackson stated that this behavior caused her great difficulty in managing the staff, and also immense Copyright 2019 Cengage Learning. In that civil lawsuit, a court will decide whether Freddy must pay what he promised; however, even if Freddy loses, he will not go to jail. and Exxon Chemical Arabia, Inc. Investors will be unwilling to buy in the market unless they believe in its fundamental honesty. But is their company also liable? At least both parties would know where they stood. • He was underage (typically younger than 18) at the time he signed the instrument. WCN 02-200-203 04341_ch28_hr_538-559.indd 554 10/6/17 12:30 PM Chapter 28 Real Property and Landlord–Tenant Law 555 13. Is Prudence a holder in due course? As a result, cDNA is not a “product of nature” and is patentable. Other creditors demanded that the boat be sold, claiming that Gallatin’s security interest had been filed in the wrong place. However, statements that are simply opinions are never defamatory, no matter how harmful or insulting or offensive. Because Enviro-Vision is a partnership, she files the suit on behalf of Beth, personally. And then you have to determine whether the Statute of Frauds requires a writing. Appellate courts never hear witnesses and never have juries. WCN 02-200-203 04341_ch17_hr_315-335.indd 320 10/6/17 12:14 PM C h a p t e r 17 Agency 321 17-1d Terminating an Agency Relationship Here are the options for ending an agency relationship: • Term agreement. The Trump administration then directed the EPA to revoke the Clean Power Plan. To back out of a contract on the grounds of intoxication, you must be able to provide evidence that you did not understand the “nature of the agreement” or the basic deal that you made. The defendant breached her duty of care or failed to meet her legal obligations. When Schneider complained, an Amazon representative agreed that some of the postings violated its guidelines and promised that they would be removed within one to two business days. Like many start-ups today, Maven’s Court probably would have been an LLC or an S corporation. His wife and sons, who held the copyright, sued to block this use of the song. For example, in 2016, the Supreme Court struck down a Texas law regulating abortion clinics and the doctors who worked in them. Unless, that is, the operating agreement provides otherwise. It is important to remember, as we examine the rules and exceptions, that Parliament and the state legislatures all had a commendable, straightforward purpose in passing their respective Statute of Frauds: to provide a court with the best possible evidence of whether the parties intended to make a contract. WCN 02-200-203 04341_ch28_hr_538-559.indd 552 10/6/17 12:30 PM Chapter 28 Real Property and Landlord–Tenant Law 553 Strategy: An object is a fixture if a reasonable person would consider the item to be a permanent part of the property, taking into account attachment, adaptation, and other objective manifestations of permanence. The FDD must provide information on: • The history of the franchisor and its key executives • Litigation with franchisees • Bankruptcy filings by the company and its officers and directors • Costs to buy and operate a franchise • Restrictions, if any, on suppliers, products, and customers • Territory—any limitations (in either the real or virtual worlds) on where the franchi- Franchise Disclosure Document (FDD) A disclosure document that a franchisor must deliver to a potential purchaser see can sell or any restrictions on other franchisees selling in the same territory • Business continuity—the circumstances under which the franchisor can terminate the franchisee and the franchisee’s rights to renew or sell the franchise • Required advertising expenses • A list of current franchisees and those that have left in the prior three years The purpose of the FDD is to ensure that the franchisor discloses all material facts. Critics say that privacy is outdated—or even overrated—and argue that, if consumers really cared about it, they would share less information online. In a race between the law and technology, it is usually technology that wins. (c) win possession of the apartment because he has the right to evict Michael at any time, for any reason. Plaintiff is probably a: (a) distributor with no understanding of legal terminology. What would Kant and Mill say? This feature offers updates of text material. Like all bubbles, this one began when prices rose and people began to believe that they could not lose money. But remember that an important goal of a contract is to avoid the courthouse. 17-2a Principal’s Liability for Contracts The principal is liable for the acts and statements of his agent if the agent had authority. WCN 02-200-203 04341_ch31_hr_593-610.indd 605 9/28/17 6:45 AM 606 Unit 7 Property (a) (b) (c) (d) (e) I, II, and III Neither I, II, nor III I and II I and III II and III 2. (a) (b) (c) (d) Elect officers Receive annual dividends Approve dissolution Prevent corporate borrowing 3. Is the insurance company liable? The snail darter was the first in a long line of ESA controversies that have included charismatic animals such as bald eagles, grizzly bears, bighorn sheep, and rockhopper penguins, but also more obscure fauna such as the Banbury Springs limpet and the tripleribbed milkvetch. Under the Lanham Act, the owner files an application with the PTO in Washington, D.C. The PTO will accept an application only if the owner has already used the mark attached to a product in interstate commerce or promises to use the mark within six months after the filing. Both this person and the card the shareholder signs to appoint the substitute voter are called a proxy. Should the motion to dismiss be granted? Searches without a Warrant There are seven circumstances under which police may search without a warrant. Assault An action that causes another person to fear an Assignee The person receiving an assignment. The parent company shipped the corks from France to Canada, along with a pre-printed invoice. What terms should each party consider? The Commission suspended him without pay pending the outcome of the criminal case. Decision: No, copyright law does not protect abstract ideas or systems, only their expression. (d) Carter will lose because he had no contract with Ellen. LEXIS 7308, 2016 WL 1657953 United States Court of Appeals, District of Columbia Circuit, 2016 Facts: Alarmed by the reported use of drones to kill people, the ACLU submitted a broad FOIA request to the CIA seeking information on drones, including targets, number of strikes, and number of civilians killed. • If you wait until after two days, the bank will only replace stolen funds above $500. THE FAIR LABOR STANDARDS ACT (FLSA) The Fair Labor Standards Act regulates minimum and overtime wages. For Producer, it is company headquarters. Instead, Burger King forced them to sell double-cheeseburgers (DCB) for $1.00, which was below cost. Tim’s account: “It happened all at once. Discharged → (2) When a party has no more obligations under a contract Chapter 13 A. WCN 02-200-203 04341_ch16_hr_295-314.indd 309 8/26/17 9:02 AM 310 Unit 3 Contracts and the UCC Chapter Conclusion Secured transactions are essential to modern commerce. In short, Myriad’s patent on DNA is invalid because DNA is a product of nature. Rich Stewart sits with a Coastal executive. This chapter covers four topics in employment law: (1) employment security, (2) workplace freedom and safety, (3) financial protection, and (4) labor unions. Before the trial began, the attorney representing the bakery’s owner offered a $100,000 settlement, which Nadel refused. Why did they do it? In 1954, on the exact same issue, the Court changed its mind. In addition, businesses large and small have vast amounts of data stored electronically. If Georgina sues Sam, she only needs to demonstrate that the parties had a bailment and that he failed to return the boat. The two were arrested in the United States for a massive securities fraud: They had lied to their clients about investments—and used some of the money entrusted to them to repair their homes and buy horses. Are you a U.S. citizen? Capacity: Both parties must have the legal ability to form a contract. Adam says, “If we rebuild overseas, our employees will never find equivalent jobs. it is signed only by the drawee. Connecticut National Bank of Hartford v. Are the Kraft advertisements deceptive? 2-3j Lost in a Crowd On a busy street, a man picks up a seven-year-old girl and carries her away while she screams, “You’re not my dad—someone help me!” No one responds. Should the court permit the reaffirmation? MERCHANDISE BOUGHT BY MAIL, BY TELEPHONE, OR ONLINE Under FTC rules for this type of merchandise, sellers must ship an item within the time stated or, if no time is given, within 30 days after receipt of the order. The Instituto de Auxilios y Viviendas is a government agency of the Dominican Republic. If investors lose money, auditors are liable for any important misstatement or omission in the financial statements that they prepared for the registration statement. 10-2 Enforcing Non-Contracts Now we turn away from “true” contracts and consider two unusual circumstances. T F If an offer demands a reply within a stated period, the offeree’s silence indicates acceptance. ETHICS TRAPS • Money • Competition • Rationalization • The fudge factor • I did it for someone else • The slippery slope • We can’t be objective about ourselves • Moral licensing • Conflicts of interest • Conformity • Following orders • Euphemisms and reframing • Lost in a crowd • Short-term perspective • Optimism bias • Blind spots Copyright 2019 Cengage Learning. Look, for example, at Chapter 21 on corporations. (c) $10,000. Chapter Conclusion We depend upon the law to give us a stable nation and economy, a fair society, a safe place to live and work. He had not tipped anyone on purpose—he had simply been careless. Mirror image rule A contract doctrine that requires acceptance to be on exactly the same terms as the offer. Actavis estimated that this early removal of IR would enable it to keep 80 to 100 percent of the market. In the ballet shoes case, suppose Retailer has contracts to resell the goods to ballet companies at an average profit of $10 per pair. Cremers posted Smith’s email on the Network’s website and sent it to the Network’s subscribers. After a year, Allstate agreed to defend Harvey. Kevin repaired the car himself. 3d 348 (Ill. When behavior by a principal convinces a third party that the agent is authorized, even though she is not 5. Courts have generally held that employees do not have a reasonable expectation of privacy in the workplace, especially if using hardware provided by the employer,10 or if the 9Polly Sprenger, “Sun on Privacy: ‘Get Over It,’” Wired.com, January 26, 1999. If a suburban homeowner begins to raise pigs in her backyard, the neighbors may find the bouquet offensive; a court will probably issue an abatement; that is, an order requiring the homeowner to eliminate the nuisance. As the Court said, “United States law governs domestically but does not rule the world.” Any other result could cause confusion and international Extraterritoriality The power of one country’s laws to reach activities outside of its borders U.S. law governs domestically but does not rule the world. Scram.” The producer is correct that there was no express contract because the parties had not spoken for several weeks. The Fords decided that they would go no higher than $2,500 a month. During this period, no one may make, use, or sell the invention without permission. How many times a semester does a student ask you, “What can I do to study for the exam?” We are happy to help them study and earn a good grade because that means that they will also be learning. Porter, “Bankrupt Profits: The Credit Industry’s Business Model for Postbankruptcy Lending,” 93 Iowa L. WCN 02-200-203 04341_fm_hr_i-xxii.indd 5 10/6/17 11:39 AM vi C ontent s 3-4 Sources and Applicability of International Law 3-4a Sources of International Law 3-4b Interaction of Foreign and Domestic Laws Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 44 44 49 52 52 54 54 55 56 56 Chapter 4 Constitutional, Statutory, Administrative, and Common Law58 4-1 Constitutional Law 59 4-1a Government Power 59 4-1b Power Granted 60 4-1c Protected Rights 63 4-1d Fifth Amendment: Due Process and the Takings Clause64 4-1e Fourteenth Amendment: Equal Protection Clause66 4-2 Statutory Law 66 4-2a Committee Work 67 4-3 Common Law 68 4-3a Stare Decisis68 4-3b Bystander Cases 68 4-4 Administrative Law 70 4-4a Rule Making 70 4-4b Investigation 71 4-4c Adjudication 71 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 73 73 75 75 76 77 77 Chapter 5 Dispute Resolution79 5-1 Court Systems 5-1a State Courts 5-1b Federal Courts 5-2 Litigation 5-2a Pleadings 5-2b The Discovery Process 5-2c Summary Judgment 80 80 83 84 84 87 89 5-3 Trial 5-3a Right to Jury Trial 5-3b Opening Statements 5-3c Burden of Proof 5-3d Plaintiff’s Case 5-3e Defendant’s Case 5-3f Closing Argument 5-3g Verdict 5-4 Appeals 5-4a Appeal Court Options 5-5 Alternative Dispute Resolution 5-5a Mediation 5-5b Arbitration Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 90 91 91 91 92 92 92 93 93 93 94 94 94 95 95 97 97 98 99 100 Chapter 6 Crime101 6-1 Criminal Procedure 6-1a A Civil versus a Criminal Case 6-1b State of Mind 6-1c Gathering Evidence: The Fourth Amendment 6-1d After Arrest 6-2 Crimes That Harm Businesses (and Their Customers) 6-2a Larceny 6-2b Embezzlement 6-2c Fraud 6-2d Arson 6-2e Hacking 6-3 Crimes Committed by Business 6-3a Making False Statements 6-3b RICO 6-3c Money Laundering 6-3d Hiring Illegal Workers 6-3e Foreign Corrupt Practices Act 6-3f Punishing a Corporation 102 102 103 Chapter Conclusion Exam Review Matching Questions True/False Questions Multiple-Choice Questions Case Questions Discussion Questions 114 114 117 117 117 118 119 104 106 109 109 109 109 111 111 111 111 112 112 113 113 113 Copyright 2019 Cengage Learning. False imprisonment: A store may detain someone if it does so reasonably. Would you trust a group of strangers to arrive at a fair verdict, or would you prefer a judge to decide the case? The true test of whether a vague clause belongs in a contract is this: Would you sign the contract if you knew that the other side’s interpretation might win in court? (a) must, must (b) need not, need not (c) must, need not (d) need not, must 3. Nixon denied any wrongdoing. The contract prohibits delegation, or 3. 1 P Kuehn v. WCN 02-200-203 04341_ch15_hr_278-294.indd 291 9/28/17 9:39 AM 292 Unit 3 Contracts and the UCC 2. Other research has confirmed that people who focus on good relationships are happier than those who rely on external goals, such as money or fame, for satisfaction. Being in a hurry, or in a crowd, being able to rationalize easily, using euphemisms, doing what every else does, receiving an order, being dazzled by money, these can all lead you to make a quick and wrong System 1 decision. Secondary boycott A picket line established not at the employer’s premises but at a different workplace Lockouts The workers have bargained with management for weeks, and discussions have turned belligerent. Apple was not willing to sell ebooks at a loss. Argument for the Shareholders: Long after it knew of problems with the Autonomy purchase, HP executives made filings with the SEC and statements to investors that gave no hint of trouble. She figures wrong—Parker is a charming deadbeat. When Reina quit, Spinem terminated the contract. Ordinary care → (4) Required level of care in a bailment made for the mutual benefit of the bailor and bailee Chapter 27 C3 E. What duties do gift recipients have to donors? After a year in which its financial results and stock price had declined substantially, the Hercules board unanimously approved a compensation plan that raised executive pay by between 40 percent and 190 percent. Reed argued that he was innocent because the financing statement did not list collateral—and would never have succeeded in perfecting a claim. Gary Ewing, on parole from a nine-year prison term, was prosecuted Copyright 2019 Cengage Learning. Suppose that Uncle Herman, who has a long and elaborate will, now wants his sterling silver Swiss Army knife to go to Cousin Larry rather than Niece Shannon. Argument for the Government: Nothing in the SCA’s text, structure, purpose, or history indicates that Congress wanted to limit where electronic records could be seized. Intentional torts Involve harm caused by deliberate action. • Moral universalism is the belief that some types of behavior are always right or always wrong, regardless of what others may think. Indeed, JPMorgan’s attorney responded, “Nice job on the documents.” Both UCC-3s were filed with Delaware’s secretary of state. After that, the software would resume tracking. The defendant’s breach led to the ultimate harm. Decision: The court pierced TPO’s company veil and held Hardie liable for its debts. The clause was void and Brockwell won. “I can win that one in court.” Not a helpful attitude, given that one purpose of a contract is to avoid litigation. Courts are unwilling to protect fraudsters who try to use an LLC as a shield against liability. After hearings, she proposes a bill she believes will remedy the problem. Also, if the plaintiff is seeking an equitable remedy, such as an injunction (an order not to do something), there is no jury right for either party. Introduction To Business Law Business Law Introduction To 6 th EDITION Introduction To Business Law Copyright 2019 Cengage Learning. How much should the exemption be? (c) Sonya is bound by the agreement, but Louise is not. At this point, it becomes a statute without the president’s signature. The goal is to protect the officers and preserve evidence. Derrick sues Kendrick, and Kendrick files suit against Leila. Next, we look at changes the Code has made in the centuries-old requirement of a writing. As with offline defamation, a plaintiff must prove that the defendant communicated a false statement, which harmed his reputation. Instead, it proposes rules whose adoption is voluntary. However, the parties never contemplated an additional, enormous payment for cessation of the business. One afternoon while visiting friends, tennis star Vitas Gerulaitis fell asleep in their pool house. What if I allow a government official and his family to stay there for two weeks? But the agent did violate his duty of care when choosing hotels for Bess. This was based on the Myriad precedent discussed in this chapter. Manufacturer sells a brand-new, solar-powered refrigerator. If, for example, employees are allowed time off from work for other medical disabilities, women must also be allowed a maternity leave. Proxy statement Information a company provides to before filing a bankruptcy petition. If you had substantial assets, would you put them in such a trust? Writing is required for some contracts. Any individual state may impose stricter rules than the EPA. Jack parks as instructed, locking the Ferrari and keeping the keys. LEXIS 543 Common Pleas Court of Berks County, Pennsylvania, 2014 CASE SUMMARY Facts: Sheryl Berg was in a serious accident while driving her Jeep Grand Cherokee. Right or wrong, Google is simply different: Younger contributors, inexperienced first-line managers, and the super-fast pace are just a few examples of the environment.” According to Reid, even as he received a positive review, Hölzle and other employees made derogatory agerelated remarks such as his ideas were “obsolete,” “ancient,” and “too old to matter,” that he was “slow,” “fuzzy,” “sluggish,” and “lethargic,” an “old man,” an “old guy,” and an 19-5 Disabled person Someone with a physical or mental impairment that substantially limits a major life activity, or someone who is regarded as having such an impairment “old fuddy-duddy,” and that he did not “display a sense of urgency” and “lacked energy.” Nineteen months after Reid joined Google, he was fired. Next thing Howard knew, Lynn was gone—along with the lottery tickets. • The physical environment. True impossibility is generally limited to these three causes: 1. Under the ECOA, Exxon was required to tell Kathleen the real reasons for the credit denial. These are a series of questions-and-answers on pivotal cases and topics. Introductory Paragraph Copyright 2019 Cengage Learning. Klein sued PepsiCo for specific performance, arguing that he could not find a similar jet on the market for that price. Note, however, that any debtor who has received a discharge under Chapter 7 or 11 within the prior four years or under Chapter 13 within the prior two years is not eligible for discharge under Chapter 13. 30-2j Anatomical Gifts The demand for transplants of organs, such as hearts, corneas, kidneys, livers, pituitary glands, and even skin, is much greater than the supply. Pollutants that have no single source but result from events such Nonpoint sources Pollutants that have no single producer but result from events such as storm-water runoff or rain as storm-water runoff. The Code governs many aspects of commerce, including the sale and leasing of goods, negotiable instruments, bank deposits, letters of credit, investment securities, secured transactions, and other commercial matters. TAKINGS CLAUSE The Takings Clause prohibits a state from taking private property for public use without just compensation. Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. Has a security agreement attached? Arizona 384 U.S. 436 United States Supreme Court, 1966 CASE SUMMARY Facts: Ernesto Miranda was a mentally ill, penniless Mexican immigrant. ACCEPTANCE The offeree must say or do something to accept. This ensures that the owner can protect his property by ejecting the user. Fourteen years after that oral promise, they purchased a million-dollar winning ticket. Many eligible debtors do not apply for this program because they are unaware of it or are confused by the complex process. Between back taxes, alimony, child support, and student loans, debtors can leave the bankruptcy process with hundreds of thousands of dollars in debt that has not been discharged. By the time help arrived, the victim had died. If the two hot dog entrepreneurs have grilled those dogs for the full statutory period, they should take title to the island. In all loans covered by TILA, the lender must: • Disclose all information clearly. in Lowell, Massachusetts, produced twice as much wastewater as its treatment facility could handle. Is there a compromise position? Pipes froze. Defenses to Copyright Infringement: Fair Use In some circumstances, copying or selling a protected work is justified by public policy and freedom of speech. Understanding contract principles is essential for a successful business or a professional career and is invaluable in private life. In later years, new cases challenged courts to further refine the common law bystander rule. WCN 02-200-203 04341_ch09_hr_156-176.indd 168 8/24/17 12:19 PM Chapter 9 the jury that the First Amendment does not protect a “true threat.” The test of a true threat, according to the judge, was whether a reasonable person would perceive the statement as threatening. Safety. Taxes. As we have seen, a sole proprietorship is a flow-through entity that does not pay taxes itself; all taxes are paid directly by the owner. As in many price-fixing cases, the participants were responding to what they viewed as overwhelming market power (in this case, on the part of Amazon). Would it be better to discharge all kinds of agreements if one of the parties passes away? Priority Claims Each category of priority claims is paid in order, with the first group receiving full payment before the next group receives anything. Should both houses re-pass the bill, each by a two-thirds margin, it becomes law over the president’s veto. Defamation How would you like to be called crazy, a cockroach, mega-scumbag, and crook in front of thousands of people? Partnership 5. The principal grants express authority by words or conduct that, reasonably interpreted, cause the agent to believe the principal desires her to act on the principal’s account. Exempt property → (1) Property that individual debtors can keep for themselves E. Compensatory damages 3. It was possible that the price was within a range of fairness but, even so, the minority shareholders are entitled to a “fairer” price. The Supreme Court of Texas upheld a jury award of $100,000 for the workers. Voice Wrongdoing often occurs because everyone just goes along to get along. Get over it.”9 Facebook founder Mark Zuckerberg has said that privacy is an outdated social norm. If Josiah had mentioned Evelyn, then the assumption would be that he had not forgotten her or her children. The comments about Schneider’s books were not so kind. This act, this sudden change of heart, does not reflect Francis’s free will. Satellite Healthcare, 2013 Del. The court interpreted that slang phrase as a general expression of contempt, not a fact. He counterclaims for the $90,000 still due. What should Deloitte have done in response to Anderson’s punishment? Although Broom’s statements were harsh, inappropriate, rude, vulgar, and unkind, we are constrained to find that his conduct does not meet the threshold of outrageousness and egregiousness necessary to sustain a claim for intentional infliction of emotional distress. 6-1d After Arrest Right to a Lawyer: The Sixth Amendment The Sixth Amendment guarantees the right to a lawyer at all important stages of the criminal process. Samuelson is a Professor of Business Law at the Boston University Questrom School of Business. Various initials have been carved into its bark—the exceptions we have seen and a variety of others—but the trunk is strong and the leaves green. Trademarks are important to both consumers and businesses. That is, they do not consider what the parties meant to say or do or thought they said or did. In performing their duties, accountants must follow two sets of rules: (1) generally accepted accounting principles (GAAP) and (2) generally accepted auditing standards (GAAS). Joe has committed: (a) assault. These marketmakers expect to earn a certain profit, but inside traders skim some of it off. While in her second year at the Juilliard School of Music in New York City, Ann Rylands had a chance to borrow for one month a rare Guadagnini violin, made in 1768. Members must treat the LLC like a separate organization. WCN 02-200-203 04341_ch05_hr_079-100.indd 83 9/28/17 9:36 AM 84 Unit 1 The Legal Environment EXAMStrategy Question: Mark has sued Janelle based on the state common law of negligence. Since opinions are not factual, they do not generally count as defamatory statements. WCN 02-200-203 04341_ch14_hr_261-277.indd 274 9/28/17 7:16 AM C h a p t e r 14 Sales 275 MULTIPLE-CHOICE QUESTIONS 1. During his suspension, Harmon asked Wayne to find out from the Commission whether it would reinstate him if he was acquitted. They knew that is what we wanted to avoid—and it is just what happened. The arbitrator allows each side equal time to present its case and, after deliberation, issues a binding decision, generally without giving reasons. Strategy: When a tenant abandons leased property early, the landlord is obligated to mitigate damages. 7. Result: This question is resolved by the first of those three steps. Result: National treatment means that a WTO country cannot give special treatment or benefits to its own goods. The intentional infliction of emotional distress results from extreme and outrageous conduct that causes serious emotional harm. Reasoning: The law in most states classifies engagement rings as conditional gifts. We will look in greater detail at these UCC changes. But copyright protects the way that ideas are presented, not the ideas themselves. For example, toward the end of the second day, Rich asks Beth whether she and Tony had been sexually involved. Many states also have their own version of the EEOC. Federal agencies have also addressed cybersecurity. Landmark Case New York Times Co. v. Promissory estoppel focuses on the defendant’s promise and the plaintiff’s reliance. It is useful to analyze this issue now rather than to rationalize later. How likely were the scarves to sell? Even Congress intervened to try to keep the tube in place. (b) Hardknuckle Bank owes Bob money on a consumer claim. Fraud Deception for the purpose of obtaining money or property Wire Fraud and Mail Fraud Wire and mail fraud are additional federal crimes involving the use of interstate mail, telegram, telephone, radio, or television to obtain property by deceit. He phoned them several times, aggressively demanding payments. Delaney did as he was told. The party in contract negotiations who receives the first offer Invitations to Bargain An invitation to bargain is not an offer. But the cracked beams were very serious and might require major reconstruction. However, a strike is illegal in the following situations: • Cooling-off period. For preauthorized transactions, the bank must follow two rules: 1. Targeting poorer countries. WCN 02-200-203 04341_ch02_hr_015-038.indd 16 10/6/17 11:44 AM Chapter 2 Ethics and Corporate Social Responsibility 17 times each week for family activities. 2008 U.S. Dist. Under the terms of their divorce, Eddie became the owner of their house. Answer: Answers will vary. The principal factors in the risk-utility test include: • The value of the product; • The gravity, or seriousness, of the danger; • The likelihood that such danger will occur; • The mechanical feasibility of a safer alternative design; and • The adverse consequences of an alternative design. The likeliest reason that Bob wants to do this is: (a) Cathy also owes Hardknuckle Bank money. First, both parties must promise to submit disputes to arbitration. Also, the federal government prohibits discrimination based on sexual orientation among its own employees and also among government contractors. They both do. In most cases, this mailbox rule is just a detail. She neither visited him nor returned his calls. The Nicholses had exchanged a policy on which they owed nothing further for a policy on which they now had to pay premiums that they could not afford. WCN 02-200-203 04341_ch29_hr_560-575.indd 569 8/28/17 7:38 AM 570 Unit 7 Property Chapter Conclusion Personal property law plays an almost daily role in all of our lives. At 9 a.m., he is in a good mood and promises to buy his coworker a Starbucks during the lunch hour. The promissory notes in this case are payable to Ward, which is also in possession of the notes. CHAPTER 14 1. WCN 02-200-203 04341_ch21_hr_398-419.indd 406 10/6/17 12:27 PM Chapter 21 Corporations 407 With interest, the total amount owed was about $170 million. WCN 02-200-203 04341_gls_hr_G1-G14.indd 2 9/28/17 7:30 AM G3 G lo s s a ry Commercial exploitation Prohibits the unauthorized use of another person’s likeness or voice for business purposes. Although joint tenants may not convey their interest by will, they may do so during their lifetime. Conditional Promises that a party agrees to perform only if the other side also does what it promised. The court ordered PIC to pay the fair market value of Easterwood’s labors. Issue: Are Evelyn’s children entitled to a share of Josiah’s estate? (b) Clause 1 is a representation, and Clause 2 is a covenant. Reserve Supply Corp., a cooperative of 379 lumber dealers, charged that Owens-Corning Fiberglass Corp. Suppose the movie producer tacks a sign to a community bulletin board. Creative Landmark Ventures, LLC Jim Ward & Associates 195 Cal. Some state trial courts have very limited jurisdiction, while others have the power to hear almost any case. Fortunately, he has three gold coins that he inherited from his grandfather. Or you can sue and recover from $500 to $1,500 per call. Superior Court, 543 n. Automobiles. If police have lawfully stopped a car and then observe evidence of other crimes in the car, such as burglary tools, they may search. Should she have prevented the harm? Inventors who pay a fee and file a so-called PCT patent application are granted patent protection in the 151 PCT countries for up to 30 months. Suddenly he left everything to her, including family heirlooms and farm. The Madariagas owned a restaurant where they served “Albert’s Famous Mexican Hot Sauce.” They entered into a contract to sell the restaurant and the formula for the secret sauce to Morris. This approach is understandable but dangerous. Duke Power required all applicants to its most desirable departments to have a high school education or satisfactory scores on two tests that measured intelligence and mechanical ability. Result: The court found for Vazquez, believing that Starwood did have a discriminatory intent. CHAPTER 10 1. Does the restaurant owner have a valid claim against the website? WCN 02-200-203 04341_ch16_hr_295-314.indd 307 8/26/17 9:02 AM 308 Unit 3 Contracts and the UCC Breach of the peace Any action that disturbs public tranquility and order can be done without a breach of the peace. When you get your oil changed, you are paying in part for the new oil and oil filter (goods) and in part for the labor required to do the job (services). Nor may they charge prepayment penalties on adjustable rate mortgages. Term Insurance Term insurance is the simplest, cheapest life insurance option. She had no obligation to do anything. On October 13, Camp sold the check to Buckeye Check Cashing for $1,261.31. Studies show that more than 75 percent of mediated cases do reach a voluntary settlement. If the promisee is fulfilling some duty, the third party beneficiary is called a creditor beneficiary. For 25 years, she had worked as a hairstylist. What ethics traps does he face? First of all, the law has a fancier word than typo—it is scrivener’s error. agrees to buy a car from Shifty for $25,000. WCN 02-200-203 04341_ch31_hr_593-610.indd 609 9/28/17 6:45 AM Copyright 2019 Cengage Learning. Stopping the car and running a records check are reasonable ways to protect highway safety. He might want to assign his obligation to act in this movie to some other actor. Money awarded to an injured plaintiff ___B. GATT, GATS, AND TRIPS The goal of the General Agreement on Tariffs and Trade (GATT) is to lower trade barriers worldwide. Note well, though: Unless you have a contract that specifies a particular term, or your company in some other way limits its rights by, for example, stating in the handbook that employees will only be fired for good cause, then you are an employee at will. The terms of the offer must also be definite. The operation resulted in a hairy palm for Hawkins. An employee cannot be paid at a lesser rate for equal work than employees of the opposite sex 2. My clients shared their information with AvMed to secure insurance, and lo and behold, someone used that same information to open unauthorized bank accounts. Definitely! People are not objective when comparing themselves to others. Yet there is also a chance that in 15 or 20 years, the trauma will lead to painful arthritis. In some states, it is up to the new tenant either to evict the existing occupant or to begin charging him rent. An employer cannot fire a woman for having an abortion. The court therefore concludes that the Pub Zone was liable for the Pagans’ injury to Kuehn, and the judges reinstate the jury’s verdict for the injured man. Should Hoffman have to pay? Barrow was a government employee. In-house detectives inform you that Gates, an employee, was seen stealing valuable computer equipment. In some states, they would qualify for close corporation status without having to elect it. What kind of law was it creating? This treaty has been controversial, for all the usual reasons. Artist cannot say, “I’m too busy—here’s my cousin Jack.” So the movie contract provides that Artist cannot delegate his services. In a criminal prosecution, the government must offer proof beyond a reasonable doubt in order to win a conviction. Although the information is the same, the way it is presented affects behavior. (e) subject to the Takings Clause. Both Whitaker and Harvey were insured by Allstate, under identical homeowners policies. Almost all statutes are created by the same method. Also, these IBR plans are only available for government, not private, loans. Music stars Beyoncé and Jay-Z named their newborn daughter Blue Ivy and then rushed to trademark the name, because they planned to use it in commerce. How uninsured medical bills. Tenancy at sufferance 1. Privacy and Internet Law 169 Decision: To be a crime, a threat must have been made with an intent to harm. The defendant must have divulged the secret information to a number of people, not just one other person. Creditors usually receive a portion of the individual’s current assets and future earnings. the monitoring occurs in the ordinary course of business. The Facebook charter authorizes 10 million shares. Nationwide Discount Furniture hired Rampart Security to install an alarm in its warehouse. Those issues involve some of the 1,500 species in the United States that have already been listed. The bailee is typically, though not always, permitted to use the property. When reading a contract, try to imagine all the different ways a clause can be interpreted. The Winner First Bank, because it perfected first. Abe gives the note to his daughter, Prudence, for her birthday. (c) Hardknuckle Bank owes Bob money on a repair job. A stationary source is any building or facility that emits a certain level of pollution. • The Orchestra supplies crucial tools: music, stands, chairs, and concert hall. Then Struble walked his dog twice around the vehicle. • Mislaid property is something the owner has intentionally placed somewhere and then forgotten. Has Edward violated the CWA? According to the Vienna Convention on the Law of Treaties, a treaty is an international agreement governed by international law. A different term contradicts one made by the offeror. Leo owns a flower company near Bogotá, Colombia. T F When a debtor defaults, a secured party may seize the collateral and hold it, using reasonable care, but may not sell or lease it. Giant often buys shipments the size of railroad containers, which cost less to deliver than smaller boxes. Each blames the other for the accident, and the two have stopped speaking. FOURTH AMENDMENT The Fourth Amendment to the Constitution prohibits the government from making illegal searches and seizures of individuals, corporations, partnerships, and other organizations. What does your spouse do? (An attorney-in-fact need not be a lawyer.) Typically, a power of attorney expires if the principal revokes it, becomes incapacitated, or dies. And they must repay their loans, for the simple reason that they cannot obtain a discharge again anytime soon.5 Is this strategy ethical? By trebling the damages, state legislatures have given landlords a financial incentive to be fair. Um, but what’s interesting is that it’s very illegal to say I really, really think someone out there should kill my wife. There is no contract. The Social Security program is financed through a tax on wages that is paid by employers, employees, and the self-employed. International arbitral bodies, such as the ICC, issue arbitral awards, but enforcement depends upon the laws of the individual countries where the parties operate. Because of DOMA, the federal government did not treat Windsor as a surviving spouse for purposes of estate taxes, so she was presented with a tax bill of $363,000. Was it unethical of the bars to broadcast the games that they were able to pick up? In his view, it was their goal to “make my remaining time with Horning, LLC so unbearable that I will relent and give them for a pittance the remainder of the company for which they have paid nothing to date.” Although the court was sympathetic, it refused to help. Mendenhall’s tweets got much attention. Strategy: Generally, a creditor obtains a perfected security interest by filing or possession. If he does get life insurance, he must admit that he is a smoker (even if just “social”). The parties can agree that other acts will constitute default, such as the debtor’s failure to maintain insurance on the collateral. One week later, she notifies Junior. Venture capitalists will insist that Hortense’s business be a corporation, especially if it is going public soon. If there is something on the land that may be reasonably expected to attract children, the landowner is probably liable for any harm. (d) implied contract. Coopers & Lybrand, LLP 336 Ore. Seller’s Remedies Of course, a seller has rights, too. Various members of Congress proposed legislation designed to end this new practice. The Supreme Court ruled in favor of an expansion of Congressional power pursuant to the commerce clause. SECURITIES EXCHANGE ACT OF 1934 Under the 1934 Act, an auditor is liable for making (1) a misstatement or omission of a material fact (2) knowingly or recklessly with the intent to deceive, manipulate, or defraud (3) that the plaintiff relies on in purchasing or selling a security. reward behavior that provides the most benefit to the community as a whole. He wrote that his lyrics were fictitious, an art form, and part of his First Amendment rights. The Statute of Frauds requires some sort of “signature” to prove that the defendant committed to the deal. Is Owens-Corning in violation of the RPA? State of Washington 326 U.S. 310 United States Supreme Court, 1945 CASE SUMMARY Facts: Although International Shoe manufactured footwear only in St. Louis, Missouri, it sold its products nationwide. If she sues Good Guys, how will she fare? WCN 02-200-203 04341_ch29_hr_560-575.indd 567 8/28/17 7:38 AM 568 Unit 7 Property and shows a forged letter, supposedly from Rudy, granting Blake permission to remove the drums. The court ruled that indeed there was no contract, but all elements of quasi-contract had been satisfied. The purpose of this rule is to encourage prompt disclosure of inventions. The president orders troops called up in the national defense. Later that morning, the coworker is rude to Marvin, who then changes his mind about buying the coffee. What difference would that make when determining ownership? It is comprised of 15 elected judges from 15 countries representing the world’s principal legal systems. As a result, Oregon had to delay its securities offering for six weeks. Also, Kathleen was in the room when Francis signed the documents. Intentional infliction of emotional distress ___G. Garret has legally delegated to Brady his duty to repay Maybelle. Case Questions 1. Companies collecting information from Californians (including by mobile app) must disclose their consumer software tracking policies. Based on the UCC, the Jannusches won a case they would have lost under the common law. WCN 02-200-203 04341_ch19_hr_356-376.indd 362 8/26/17 10:26 AM C h a p t e r 19 Employment Discrimination 363 When he revealed that he was in the process of becoming Diane Schroer, the job offer was withdrawn. Traditionally, courts took the view that sex under Title VII applied only to how people were born, not what they “chose” to become. VOLUNTARY ACT A defendant is

security interest takes priority over a party with an unperfected interest. Suddenly, Lola announced that she wanted a divorce. Accessing Email. The Stored Communications Act (Title II of the ECPA) prohibits unauthorized access to or disclosure of stored wire and electronic communications. (a) The parties have a binding contract for the sale of Louise's house. Regardless of the state, parents have to file parenting plans or come up with custody and visitation agreements via court intervention. The worker can then accept that offer by beginning or continuing employment. Do you love ice cream? Whenever you take a stance about a legal issue, whether in the corporate office, the voting booth, or as part of local community groups, you help to create the social fabric of our nation. Issue: Was Rathke an intended benef iciary of the contract between the state of Alaska and CCA? Issue: Did the Affordable Care Act violate the Commerce Clause? When they decide a case, each justice casts an equal vote. Someone who buys goods in good faith from a seller who deals in such goods 2. 267 S.W.3d 386 Texas Court of Appeals, 2008 CASE SUMMARY Facts: Marissa Chapa defaulted on her car loan, so Ford Motor Credit Corp. Freddy is late for a meeting where he expects to make a $30 million profit; he's desperate for water for his car. The assumption of the risk doctrine exempts the undefeated team from liability. The lawyer argued that the blood test was protected by the client-attorney privilege because the hospital had been his agent and therefore a member of the defense team. The musicians sought to unionize, but only employees, not independent contractors, have the right to join a union. Five months later, he filed a Certificate of Incorporation with the secretary of state for Delaware, and Facebook began its life as a corporation. In this chapter, we consider intentional torts, that is, harm caused by a deliberate action. In this case, Chuck was not the company's agent, and Hot Air had not done anything that would reasonably lead Dolly to believe that he was the company's agent. The trial judge reduced the punitive award to $100 million. A trial court sided with Harmon. But while law is a vital tool for crafting the society we want, there are no easy answers about how to create it. Most lockouts are legal. The chandelier and the faucets were goods when they were sold to the builder because they were movable. To ensure that you do not end up in a similar predicament, be sure to consider the following when you negotiate international deals: • Choice of Law: What Law Governs? The parties, called joint tenants, again own a percentage of the entire property and also have the absolute right of partition. This rule has been the law in England and the United States since the seventeenth century. Attachment → (5) Steps necessary to make a security interest valid against the debtor, but not against third parties A. From that point on, Ann owned it. Jones appealed the case. One study found that 45 percent of employers snooped around in candidates' social media profiles before hiring. WCN 02-200-203 04341_ch31_hr_593-610.indd 599 9/28/17 6:45 AM 600 Unit 7 Property EXAMStrategy Question: Geoff takes out renters' insurance with Fastball Insurance Co. On the application where it asks if he has any pets, he fills in "poodle." Although he does not know it, his "poodle" is really a Portuguese water dog. Can Ryan be fired? As we will see in this chapter, managers face many choices in which the most profitable option is not the most ethical choice. WCN 02-200-203 04341_ch21_hr_398-419.indd 417 10/6/17 12:27 PM 418 Unit 5 The Lifecycle of a Business 5. The principal is liable for the actions of the employee that occur while the employee is at work, but not for actions that occur after the employee has abandoned the principal's business. • On Thursday morning, Masako's revocation arrives at Eric's office. It has failed to do so, and Patterson will be acquitted. Will this decision lead to higher or lower prices for consumers? Leave Kevin $1 in his will. The city's unemployment rate was double that of the state generally, and the population was at its lowest point in 75 years. A qualified privilege means that employers are liable only for false statements that they know to be false or that are primarily motivated by ill will. Air pollution is both a national and global issue, with particularly acute externalities. Beatty, Susan S. Children as young as four worked in mines, sitting in the dark all day, opening the door for coal trucks. (d) retailer who failed to notice the "as is" label. The defendant intends that the plaintiff go out of business. (a) (b) (c) (d) (e) A court order to a company to stop polluting the air. Terri Schiavo was only 26 years old when her heart stopped beating one evening, causing brain damage that put her in a persistent vegetative state. Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin. Sokol mentioned to Buffett "in passing" that he owned shares of Lubrizol. And 50 Cent received something of small, but measurable, value. Most often, the "duty" that a promisee will be fulfilling is a debt already owed to the beneficiary. The plaintiff must submit to arbitration. 5. He signs a promissory note in that amount, guaranteeing that he will repay Maybelle the full amount, plus interest, on a monthly basis over ten years. Claims of illegality often arise concerning non-compete clauses and exculpatory clauses. For example, if Congress passed a law imposing a new tax on all trucks engaged in interstate transportation, the law is valid. Although the home was hers, the land belonged to a landlord, who agreed to give her a long-term lease. Reciprocal Promises and Conditions. If one party to a contract breaches it, the other parties want to make sure that they can walk away without any further obligation to keep performing their covenants. T F Some states are comparative negligence states, but the majority are contributory negligence states. WCN 02-200-203 04341_fm_hr_i-xxii.indd 21 10/6/17 11:39 AM To w.f.s., "the fountain from the which my current runs" s.s.s. To a.f.a., with gratitude and love p.s.a. Copyright 2019 Cengage Learning. (e) express contract. Stevens, 435 Pa. Super. • Nonobvious. Should a plaintiff in a civil case be required to prove his case beyond a reasonable doubt? Lund 848 N.W.2d 266 North Dakota Supreme Court, 2014 Facts: Wendell Lund was a dutiful son to his parents, Orville and Betty. Lawful Arrest. Police may always search a suspect they have arrested. The decision is reversed, and the jury's verdict is reinstated. The defects were life-threatening to scuba divers, and the hoses could not be used for normal purposes.12 The scuba equipment was not merchantable because a properly made scuba hose should never crack under normal use. Suppose, alternatively, that just as the customer is exiting the repair shop, the bicyclist hits a pothole and tumbles off her cycle. A promissory note is used in virtually every loan transaction, whether the borrower is paying for a multimillion-dollar company, a television, or college tuition. Part performance ___D. You cannot consider sex when hiring neurosurgeons, but you can when selecting urologists and gynecologists. In short, a client cannot hire one of its auditors to ensure a friendly attitude. We had no occasion to search into musty records, to hunt up royal parchments, or to investigate the laws and institutions of a semi-barbarous ancestry. One evening they sat on their penthouse roof deck, overlooking the twinkling Chicago skyline. 15-1c Negotiation Negotiable instruments are meant to act as a substitute for currency—that is, to be freely transferable in the marketplace, just as currency is. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. By contrast, assume the collision of car and bicycle produces a loud crash. Transportation sped up. 1983). When the bar staff finally decided to call for help, they did not even have the number. Not knowing what to do with the injured animal, the driver took it to Bailey. (c) a fraud. As a result, the Slants were able to register their name and the Redskins will likely recover theirs. Children and grandchildren 4. New York and California courts often reach similar conclusions when presented with similar cases, but they are under no obligation to do so. Bruce Springsteen insured his voice and Rihanna her legs. Well, you may not want to celebrate too soon. (b) You must write the bank at least three days before the first of the month. The contract cannot be permitted to impoverish King and her daughter. Summary judgment is appropriate when some essential facts are not disputed. The Dirty appealed, arguing that the CDA protected it from liability. Fernando is an art dealer who specializes in nineteenth-century French painting. RESULTS 4. Result: Although Boldt was in an unfortunate situation—he could have lost his job if he had not been willing to dump the industrial waste—he was found guilty of a criminal violation of the CWA. The corporation also has the right to cancel both leases and to purchase the warehouse from him. Many courts hold that employers may use cost–benefit analysis— they are not required to make an expensive accommodation that provides little benefit. Abandoned property Property that the owner has knowingly discarded because she no longer wants it. Employers might impose arbitrary fines that consumed most of a worker's pay. Critics respond that this view is just another way of saying: "Given how much money accounting firms want to earn each year, they may not spend as much time as they should on an audit, especially in a complex situation." Arthur Andersen got in trouble, in part, because of its desire to maintain high levels of profitability. Betty gets a job at Burger Brain, throwing fries in oil. Strategy: Wolfe's argument is wrong. POM spent more than $35 million sponsoring medical research to show the benefits of pomegranate juice on heart disease, prostate cancer, and erectile dysfunction. This check is simply an order by River Oaks (the drawer) to its bank (the drawee) to pay money to Keys (the payee). United States, 168–169 Estate of Lowman v. If a homeowner buys fire insurance for her house, she is the insured, the owner, and the beneficiary because she bought the policy and receives the proceeds if her house burns down. Would other, less discriminatory rules have achieved the same result? Suppose Masako's offer has one twist: • On Monday morning, Masako faxes her offer to Eric. DelawareCase Harness Racing Commission 62 A.3d 1198 Delaware Supreme Court, 2013 CASE SUMMARY Facts: The Delaware Harness Racing Commission (Commission) hired Donald Harmon to enforce racetrack rules. In California, as in many states, gambling illegal is void and on credit is not allowed. Its opening paragraph states: This shall confirm the agreement ("Agreement") between WINTERFIELD PRODUCTIONS ("Producer") and CLAY PARKER ("Artist") regarding the acting services of Artist in connection with the theatrical motion picture tentatively entitled "DAWN RISING" (the "Picture"),2 as follows: Covenants Now we get to the heart of the contract: What are the parties agreeing to do? When the strike is over, the company has no obligation to lay off the replacement workers to make room for the strikers. Those who make a living by crafting agreements are expected to understand the legal consequences of their words and deeds. An easy way to gauge the importance of law is to glance through any newspaper and read about nations that lack a strong system of justice. The following case ends the chapter with some drama. In addition, one of her bosses asked her how she "looked so white," given that her father was of Sicilian descent. AN AGENT'S DUTIES TO THE PRINCIPAL An agent owes these duties to the principal: duty of loyalty, duty to obey instructions, duty of care, and duty to provide information. The insurance company then has the option of either accepting or rejecting the offer. WCN 02-200-203 04341_ch02_hr_015-038.indd 38 10/6/17 11:44 AM CHAPTER 3 INTERNATIONAL LAW In the early 1990s, a Dutch and British conglomerate named Royal Dutch Petroleum (RDP) operated oil production facilities in Ogoni, a region of Nigeria. Shari'a is based on the Muslim holy book, the Koran, and the teachings and actions of the Prophet Muhammed. The Commonwealth of Virginia refused to prepare TMDLs for polluted Accotink Creek. This is a family business, and no one but my children will ever get stock. (e) legally irrelevant. The defendant suggests that, because Huff knew his iPhone was capable of pocket-dialing, his expectation was not reasonable. Angel and Linda Mendez bought a home next door to Rancho Valencia, a fancy hotel on 45 acres of land. • Proximity of the goods: When goods are related, it is more likely that the public will be confused. Greenhouse gases or GHGs Gases that trap heat in the Incorporator The person who signs the charter and files it with the secretary of state. Examples: • If the director of research for MediSearch, Inc., buys stock in the company at a time when she knows that its scientists have found a vaccination for Zika but before that information is public, she is guilty of insider trading. She might allege that she is entitled to damages for the intentional infliction of emotional distress. The airlines had an agreement permitting passengers to exchange tickets from one to another. The Kellys' annual income was $70,000; but their combined educational loans exceeded $160,000. All is forgiven, if not forgotten. The Framers, as they have come to be called because they made or "framed" the original document, had to compromise. issues, Beth filed an insurance claim with the Coastal Insurance Group. Virtually every hair-care facility in those counties is located within two miles of a Head Start business and is thus covered by the non-competition agreement. • Flexibility. Because he had prior convictions, the crime, normally a misdemeanor, was treated as a felony. Such as an oil spill in the ocean. For example, assisted suicide is legal in a few states. The Ford did not have an internal release latch or other emergency against committing suicide. It is hard to imagine a purchaser who would legitimately need such wide-ranging protection. However, neither GAAS nor GAAP requires an auditor to review a company's foreign regulatory filings. They also serve as a filter for neighboring bodies of water, trapping chemicals and sediments. In the past, it had been Nationwide's written policy to fight lawsuits at any cost. Question: A man asked a question of the advice columnist at his local newspa- per. In deciding this issue, a judge would consider whether the parties intentionally made an agreement, which included: • A valid offer and acceptance. However, Trustie does not want to keep the note. It can be revoked or altered at any time until death. He cannot, for example, transfer the right to participate in firm management or vote on firm matters. Faulty descriptions of the debtor's name have led to thousands of disputes and untold years of litigation as subsequent creditors have failed to locate any record of an earlier claim on the debtor's property. WCN 02-200-203 04341_ch24_hr_460-481.indd 463 10/6/17 12:28 PM 464 Unit 6 Government Regulation 24-2g Unordered Merchandise Under §5 of the FTC Act, anyone who receives unordered merchandise in the mail may treat it as a gift. Rescission The undoing of a contract, which puts both parties in the positions they were in when they made the agreement. Sewer lines feed into publicly owned wastewater treatment plants, also known as municipal sewage plants. Is this fair? A lot of the time I read more than what is assigned—I just don't want to stop." • "I had no idea business law could be so interesting." From MBA students: • "Actually enjoyed reading the text book, which is a rarity for me." • "The law textbook was excellent through and through." From a Fortune 500 vice president, enrolled in an Executive MBA program: • "I really liked the chapters. Plea bargain An agreement in which the defendant pleads guilty to a reduced charge, and the prosecution recommends to the judge a relatively lenient sentence Copyright 2019 Cengage Learning. What interest rate must she pay? Facebook is a public company, what duties does Today, the company is valued he owe to shareholders? Notices x. In other states, employment restrictions are highly scrutinized for fairness. United States, 111 n. Alexandra hires Nicholas to help her purchase guitars previously owned by rock stars. The court disagreed, however, holding that the hospital employees were not agents for the lawyer because they had not consented to act in that role. Just ask John Vogel and Paul Grannis. The next day, Bill is in jail, and Freddy refuses to pay for Diane's water. Was this discharge wrongful? Unfortunately, these outcomes are not uncommon in international business. If a contract does contain an ambiguous provision, the courts interpret it against the drafter of the contract. ship of assets. Professor Abril's research has appeared in the American Business Law Journal, Harvard Journal of Law & Technology, Florida Law Review, Houston Law Review, Wake Forest Law Review, and Columbia Business Law Journal, among other journals. We wish to stress that courts are highly skeptical of intoxication arguments. And the Texas property buyer changed his mind, deciding to develop an ecotourism lodge in Greenland instead and refusing to pay Noah for his land. 3These calculations assume the highest tax rates. Yes, ruled the Utah Court of Appeals. The premiums do not rise during the term of the policy, but they may each time it is renewed. Since the Herzogs were under duress when they made the postwar deal, a valid bailment could not have been created. In response, Courtney filed a motion to dismiss, arguing that the operating agreement required Ferret's claim to be arbitrated. Such as quotas on the amount of a particular good that can be imported The WTO is empowered to settle trade disputes between its member states. On her death, the money would go to their son, Rob. Grp., 165 n. The following case involves libel per se, The New York Times, and alleged police brutality. The transferee of non-negotiable commercial paper has the same rights—no more, no less—as the person who made the original contract. Desperate, Ted agrees to the proposal. Does Noelle have a valid claim for wrongful termination? The Supreme Court ruled that Duke Power was violating Title VII because its rules had a disparate impact on a protected category. After earning her A.B. at Harvard University and her J.D. at Harvard Law School, Professor Samuelson practiced with the firm of Choate, Hall and Stewart. They did not want all power centralized in a monarch or anyone else. Argument for the Musicians: The musicians are employees because: • The Orchestra regulates virtually all aspects of the musicians' performance, including their dress and posture: ■■ They are not permitted to cross their legs. They are outraged by cases like Coolidge v. Lukowitz then told Hoffman that the price had gone up to $26,000. Suppose a lumber sales clerk knows that a buyer is relying on his advice to choose the best wood for a house being built in a swamp. Get the free MindTap Mobile App and learn wherever you are. New World did not create the security interest—Lila Williams did. One of the essential terms is price. A company's CEO and CFO must certify that: • The information in the quarterly and annual reports is true, • The company has effective internal controls, and • The officers have informed the company's audit committee and its auditors of any concerns that they have about the internal control system. This rule is based on the principle of respondeat superior, which is a Latin phrase meaning: "let the master answer." Note that the employer (i.e., the principal) is liable for negligent misbehavior by the employee (i.e., the agent) whether or not the employer was at fault. SEXUAL HARASSMENT Sexual harassment involves unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that are so severe and pervasive that they interfere with an employee's ability to work. Ct. 2004). Indeed, there is some evidence that higher income levels actually reduce the ability to appreciate small pleasures. Instead, the numbers simply clarified the words. The act of an administrative agency creating a new rule 5. Pepsi failed to file a timely answer, and the judge entered a default judgment in the amount of $1.26 billion. WCN 02-200-203 04341_ch23_hr_439-459.indd 451 8/28/17 7:11 AM 452 Unit 6 Government Regulation Predatory pricing cases can be difficult to win. No matter—the will did not meet the requirements of the statute, so her children were in luck. Arbitration clauses are generally enforceable if both parties agree to submit disputes to arbitration, the clauses provide a neutral forum for hearing the dispute and both parties have the right to select the arbitrators. The Foreign Corrupt Practices Act, discussed in Chapter 7 on crime, prohibits bribery on foreign soil. Consumer advocates contend, however, that manufacturers such as Nike are simply protecting dealers from competition. Order for relief An official acknowledgment that a debtor is under the jurisdiction of the bankruptcy court. He also included slang and examples that appealed to a youthful student market. New Hampshire case, 106 Copyright Act, 526 Copyrights, 525–526 fair use (defenses to infringement), 527–528 infringement, 527–528 laws Copyright Act, 526 Digital Millennium Copyright Act (DMCA), 528 term, 527 Corporate social responsibility (CSR), 32 Corporations, 380 advantages, 380 C corporation, 382 close corporation, 382–383 death, 402 piercing the corporate veil circumstances, 404 termination by the state, 403 voluntary termination by shareholders, 402 disadvantages, 380, 381e executive compensation, 410, 411e government regulation, 412 pay for performance, 410–411 reasons for inaccurate performance measures, 411–412 promoter's liability, 399 S corporations (S corps), 382 "shell," 400–401 structure (Model Act requirements), 401–402 bylaws, 402 election process, 401–402, 401e minute book, 402 quorum, 402 written consent, 402 vs LLCs, 387 See also Incorporation process; Management (of a corporation) duties; Professional corporations (PCs) Copyright 2019 Cengage Learning. Courts determine liability by looking at factors such as the nature of the crime, what a reasonable landlord would have done to prevent it, and the foreseeability of the attack. Given the circumstances, is Dave's expectation of privacy accepted by society? They hear appeals of cases already tried below. WCN 02-200-203 04341_ch08_hr_137-155.indd 152 9/28/17 7:17 AM Chapter 8 Negligence, Strict Liability, and Product Liability 153 MULTIPLE-CHOICE QUESTIONS 1. The dealership would lure desperate prospects off the bankruptcy rolls and into the showroom with promises of financing for a used car, and then sell a new car to their "co-signer" (who was, in fact, the sole signer). What is the "holiday season"? This is a material breach, and Bubba is discharged. The elements of a gift are intention to transfer ownership immediately, delivery, and acceptance. Nationwide had the Jeep destroyed because it was worried about its liability if the bank sold the defective car to someone who was then injured. (c) quasi-contract. The promisee is the other party to the contract.) In other words, a third party beneficiary must show two things in order to enforce a contract that two other people created. 11-4b Mistake A mistake can take many forms. This statute applies Copyright 2019 Cengage Learning. 133 S. Should makers of assault rifles be liable for these tragedies? (e) Bob and Cathy are close friends. An involuntary petition must meet all of the following requirements: • The debtor must owe at least $15,775 in unsecured claims to the creditors who file.3 • If the debtor has at least 12 creditors, 3 or more must sign the petition. In the example above, it is easy to apply the rules. Under GINA, employers may not require genetic testing, or use information about genetic makeup or family medical history as a factor in hiring, firing, or promoting employees. In re Dole Food Co. 2015 Del. Bill meets a stranger who introduces herself as Katrina. Community members can use the old doctrine of nuisance for more serious problems than pigs. (a) Yes to both (b) No to both (c) The shareholders have the right to call a meeting, but not to reinstate the president. Punitive damages → (1) Money awarded to punish the wrongdoer G. Jacqueline Kennedy Onassis's will is particularly popular. However, an insurer has a right to void a policy if the insured makes any material misstatement. The best-known proponent of the deontological model was the eighteenth-century German philosopher Immanuel Kant. For example, a residential lease allows the tenant to use the property for normal living purposes, but not for any retail, commercial, or industrial purpose. He subsequently lost his entire investment. As the saying goes, "The only thing necessary for the triumph of evil is that good men do nothing." For example, when the CEO was sexually harassing Laura, she left quietly for fear that, if she reported him, he would harm her career. (a) James Smith (b) J.B. Smith (c) Jim Smith (d) James Brown Smith 3. If these deadlines are not met, the case can be converted to Chapter 7 or dismissed. That is larceny. T F An agent has a duty to provide the principal with all information in her possession that she has reason to believe the principal wants to know, even if he does not specifically ask for it. Second, there is one term for which no flexibility is allowed. To what theory of ethics is Professor Singer subscribing? • A duty of care. Reasoning: A tipper is only liable if he breaches his fiduciary duty by disclosing inside information for a personal benefit. TeleTech is undermining the statute and jeopardizing its clear policies. Besides, Whitman's statements were nothing but sales talk and, therefore, create no liability. It makes going without insurance just another thing the government taxes, like buying gasoline or earning income. But such a dramatic statement is not necessary. A federal statute, the Electronic Signatures in Global and National Commerce Act (E-SIGN) extends UETA's principles to interstate and foreign commerce. The individual mandate is constitutional, because it can reasonably be interpreted as a tax. Courts have found that offensive jokes, intrusive comments about clothes or body parts, and public displays of pornographic pictures can create a hostile environment. Sleekcraft Boats, 530–531 D Ashcroft v. UCC Statute of Frauds The UCC requires a writing for any sales of goods priced $500 or more. Could you carry a 100-pound weight, as required by this job? 8Harald Schmidt, Kristin Voigt, and Ezekiel J. In a recent year, there was one bankruptcy filing for every 200 Americans.1 Clearly, bankruptcy laws play a vital role in our economy. If he hands her a $50 bill, he also accepts the offer. The tax rule violated the Commerce Clause and was void. The court granted the Danneman's motion for summary judgment. What are her other remedies? Also, a young child may be an unreliable witness for a case where the stakes are so Constitutional, Statutory, Administrative, and Common Law 63 high. (a) the debtor in possession; a cramdown CHAPTER 23 1. And, even in the absence of a trade secret agreement, they were not permitted to copy her client list. A donor makes constructive delivery by transferring ownership without a physical delivery. Madison says to a group of students, "I'll pay $35 to the first one of you who shows up at my house and mows my lawn." II. 26-1c Audits Audits are a major source of potential liability for accountants, so it is important to understand what an auditor does. He _____ argue that a corporate leader's sole obligation is to make money for the company's owners. Issue: Was the use of Sleekcraft versus Slickcraft likely to confuse consumers? Disclaimers To make life easier, the UCC permits a seller to make a disclaimer of all warranties by conspicuously stating that the goods are sold "as is" or "with all faults." But, as is often the case, we must point out two exceptions: First, written express warranties generally cannot be disclaimed. In tests, investigative reporters have found it virtually impossible to get their mistakes corrected. Argument for Oregon: Coopers was negligent in giving advice to Oregon. Jesse accepted the offer. WCN 02-200-203 04341_em_indx_hr_I1-I16.indd 9 9/28/17 7:29 AM I10 Index Landlord–tenant law, 544 contract law, 545 landlord's duties to deliver possession, 546 to return security deposit, 547 landlord's duties quiet enjoyment, 546 actual eviction, 546 constructive eviction, 546 landlord's duties to maintain premises, 546 building codes, 547 implied warranty of habitability, 547 lease, 547 property law, 544 tenancy types, 545 periodic tenancy, 545 tenancy at sufferance, 546 tenancy at will, 545 tenancy for years, 545 tenant's duties to mitigate, 549 to pay rent, 548 to use premises properly, 549 tort law, 545 See also Liability of landlords and tenants Landowners (special duty), 140 liability level for invitee (highest level), 140 licensee (higher level), 140 trespassing adults (lowest), 140 trespassing children (mid-level), 140 Lanham Act, 529 Larceny, 109 Law classification of, 6 essential to every society, 3 intriguing nature of, 3 and morality, 6–7 sources, 3–6 Lawful arrest (warrantless circumstance), 105 Lawyer, right to (Sixth Amendment), 106 Leahy-Smith America Invents Act (AIA), 524, 525 Track One system provision, 525 Leasehold, 544 Legal systems of the world, 42 civil law, 42–43 common law, 42 Islamic law, 43 Legality (contract checklist element), 179, 198, 201 exculpatory clauses, 203–204 unenforceable conditions for, 204 non-compete agreements employment contracts, 202–203 sale of business, 202–203 Legislative rules, 70 Lenz, Stephanie, 520, 528 Liability of landlords and tenants crime, 551 landlord's liability, 551 tenant's liability, 550–551 Liability to third parties (agency law) agent's liability for contracts, 322, 323e fully disclosed principal, 322 undisclosed principal, 323 unidentified principal, 323 agent's liability for torts, 329 principal's liability for contracts, 321 apparent authority, 322 express authority, 322 implied authority, 322 principal's liability for intentional physical torts, 328 principal's liability for negligent physical torts, 324 employee, 324–325, 326e scope of employment, 326–327 principal's liability for nonphysical torts, 328 Libel, 124 tort example, 123 Liberatore, Albert, 328 Library of Congress, 362 Licensee, and landowner liability, 140 Life Principles, 16 avoiding ethics traps, 26 Life prospects, 20 Limited liability companies (LLCs), 383 duration, 385 flexibility, 385 formation, 384–385 going public, 386 legal uncertainty, 387 liability, 383 low-profit limited liability companies (L3Cs), 388 oral operating agreements (option), 385 piercing the company veil, 386 transferability of interests, 385 vs corporation, 387 Limited liability partnership (LLP), 390 Litigation, 80, 94t discovery process, 87–89 pleadings, 84–86 summary judgment, 89 See also Appeals; Trial L'Occitane, 461 Locke, Richard, 31 Lockouts, 349 Long-arm statute, 82 Lost in a crowd, as an ethics trap, 24 Lost Victory, 230 Love Canal, 489 Low-profit limited liability company (L3C), 388 Loyalty, response to unethical behavior, 27 Lying, ethic issues/special cases, 25 M Mackie, Emily, 168 Macy's, 32 Madoff, Bernard, 25 Magistrate, 105 n. T F A subpoena is an order punishing a defendant who has violated a court ruling. Pickwick had a five-year lease but abandoned the space almost two years early and ceased paying rent. That the Artist help promote the movie on dates subject to Artist's approval, which shall not be unreasonably withheld Breach. Throughout the life of a contract, there could be many small breaches. Law is powerful, essential, and fascinating. For example, once a songwriter puts notes on paper, the work is copyrighted without further ado. Notice that a trivial breach, such as a one-day delay in delivering the tuxedos, would not have discharged Bubba. If the card allows consumers to overdraw their accounts, they are entitled to the same protections as credit card holders. WCN 02-200-203 04341_ch03_hr_039-057.indd 40 8/24/17 1:46 PM Chapter 3 International Law 41 The following agencies, which operate under the UN's umbrella, have great impact on world business: • The World Bank's mandate is to end poverty by encouraging development. (c) Immanuel Kant 5. This requirement is the least restrictive: An invention will only be denied a patent if it has absolutely no practical utility. If Lisa refused to pay, a court would rule that the parties assumed she would pay within a commercially reasonable time, such as 30 days. T F Becky punches Kelly in the nose. Imagine the price of an airplane ticket increasing just for you because airlines know you are flying to your honeymoon—or paying more for your health insurance because an insurer learns that you have purchased a book on diabetes online. Two days after the business season ended, they returned Festival Foods to the Jannusches, stating that the income was lower than expected. Any friend of Felix knows he is not trustworthy, especially when presenting a promissory note signed by a neighbor. The will must also indicate whether issue are to inherit per stirpes or per capita. WCN 02-200-203 04341_gls_hr_G1-G14.indd 8 9/28/17 7:30 AM G9 G lo s s a ry Per se An automatic breach of antitrust laws. A holder can prohibit others from using any product that is substantially the same, license the product to others for a fee, and recover damages from anyone who uses the product without permission. Should the common law change so that all contracts valued at $500 or more have a writing requirement, or would that place an undue burden on businesses? Reasoning: Because both the United States, where Daros is located, and Argentina, where Forestal is based, are signatories to the CISG and the alleged contract at issue involves the sale of goods, the CISG generally governs the claim. In the following case, two brothers started down a slippery slope of tipping that ended with a family member going to prison. Issue: Did Chambers commit a breach of the peace in repossessing the car? Where would this trial take place? They both get something of value—Sally gets the boots, Baker gets the money. She may also sue the tenant for non-payment of rent, demanding the unpaid sums, cost of collection, and interest. Decision: Yes, the defendants did have a duty of due care to Hernandez. Banking committees develop expertise on financial institutions. Probable Cause Probable cause It is likely that evidence of a crime will be found in the place to be searched The magistrate will issue a warrant only if there is probable cause. Analyzing the timeline, the bakery owner's attorney indicated that if a verdict had been returned, he revoked the offer. Armorie handed the ring to the goldsmith's apprentice, who removed the jewels from the ring and pretended to weigh it. But maybe not all doctors—perhaps just the ones who research cancer cures or provide care for the poor, not cosmetic surgeons operating on the affluent. Look, he left the line blank after the words 'two hundred.'" Taking his pen out with a flourish, Tony changes the zeroes to nines and adds the words "ninety-nine." He then indorses the check over to Liza, who is definitely not a holder in due course. Why should it be illegal for American companies to pay bribes in countries where everyone else is? By having a will, testators can: • Ensure that their assets are distributed in accordance with their wishes. Regardless of how formal the hearing, one requirement is constant: The fact finder must be neutral. Collective bargaining agreement (CBA) A contract between a union and a company. CHAPTER 6 1. (c) The greenhouse cannot be part of the real property if Marta owns a fee simple absolute. The person who has died. But his car will not start. Adam orally agrees to sell his condominium to Maggie for $150,000. Defendants will try to show that the plaintiff had no contract. A promise to make a gift in the future is unenforceable. (b) No because Figgins was an unidentified principal. Zach sells Cutco Knives door to door. Is Finn liable to Barry? After the company was caught, it spent $18 billion on fines, legal costs, and car repairs. If you used the ring to play catch with friends, you are liable. Trademark ___E. WCN 02-200-203 04341_ch20_hr_377-397.indd 382 10/9/17 1:51 PM Chapter 20 Starting a Business: LLCs and Other Options 383 • Dispute resolution. So Wilson requested a market analysis, but Citicorp refused. He argued that the Louisiana statute was unconstitutional. Had the state forbidden all construction on her land, it would have been obligated to pay Kabrina. Finally, in the 1990s, he quit after he was diagnosed with lung cancer but resumed smoking again once he had recovered from the surgery. Taking time to investigate a situation before making disclosures to the investing public is not fraudulent; it is prudent and reasonable. • Proximate cause. Richie did not create or develop the defamatory content. Martino told Lowman that she would not marry him because he could not afford the house she wanted. The jury found Miranda guilty of kidnapping and rape. • The Security Council is charged with maintaining international peace. For example, once a check has been stamped "Insufficient Funds" by the bank, it has been dishonored, and no one who obtains it afterward can be a holder in due course. In this chapter, we look at two ways to acquire personal property: by receiving it as a gift and by finding it. Reasoning: In determining the validity of a termination statement, the secured party's intent is irrelevant. If Guzman can prove these facts to be true, she will win because she has offered evidence of both pretext and intent. A tenant may never use the premises for an illegal activity, such as gambling or selling drugs, whether or not the lease mentions the issue. WCN 02-200-203 04341_ch25_hr_482-500.indd 499 8/28/17 7:20 AM 500 Unit 6 Government Regulation costs? (d) Both clauses are covenants. An S corporation is also a reasonable choice because, for now, it makes sense to limit their tax liability. Section 6. App. She was convinced Tony was incapable of suicide. Compensatory damages Are intended to restore the plaintiff to the position he was in before the defendant's conduct caused injury. But do companies have a corporate social responsibility—that is, an obligation to contribute positively to the world around it? A consumer credit contract is one in which a consumer borrows money from a lender to purchase goods and services from a seller who is affiliated with the lender. Lost profits and goodwill are both consequential damages, and both are potentially recoverable. You will also seek equitable relief—namely, an injunction ordering Tracy not to lease to anyone else. Can a Delaware court order the sale of a successful business? Reasonable safety features must be built in if they can be included at a tolerable cost. While employing someone is a commercial activity, the Court reasoned that the injury stemmed from his arrest. The defense of mistake is not a cure-all for all bad deals. The theory behind diversity jurisdiction is that courts of one state might be biased against citizens of another state. Review your current course grade and compare your progress with your peers. Landmark Case Palsgraf v. To learn the answer, we look to another section of the Fifth Amendment. Intentional deception, frequently used to obtain a contract with another party 4. PepsiCo entered into a contract to sell its corporate jet to Klein for $4.6 million. WCN 02-200-203 04341_ch20_hr_377-397.indd 390 10/9/17 1:51 PM Chapter 20 20-8 Starting a Business: LLCs and Other Options 391 FRANCHISES This chapter has presented an overview of the various forms of organization. ExxonMobil and SABIC sued each other in a Delaware court for breach of contract and tort.6 Because the U.S. court was required to apply Saudi law, the judge brought in experts in shari'a law for instruction. Ct., Oh. 1983). However, if the essential terms are so uncertain that a court cannot decide whether the agreement has been broken, there is no contract. Created by state law ___E. 11-2c Exculpatory Clauses You decide to capitalize on your expert ability as a skier and open a ski school in Colorado called "Pike's Pique." But you realize that skiing sometimes causes injuries, so you require anyone signing up for lessons to sign this form: I agree to hold Pike's Pique and its employees entirely harmless in the event that I am injured in any way or for any reason or cause, including but not limited to any acts, whether negligent or otherwise, of Pike's Pique or any employee or agent thereof. First it was not paid—perhaps due to a miscommunication or cultural difference. Prince's song "Let's Go Crazy" was playing in the background as her pajama-clad toddler ran laps around the kitchen with a push toy. He repeatedly beat her and threatened to suffocate and drown her. J Libel Written defamation. Even if it applied, Interieures has conspicuously opted out of it. WCN 02-200-203 04341_fm_hr_i-xxii.indd 20 10/6/17 11:39 AM P re face xxi Patricia Sánchez Abril is a Professor of Business Law and Vice Dean for Graduate Business Programs and Executive Education at the University of Miami School of Business Administration. All the owners had maintained the land and kept everyone else off for more than 20 years. NLRB, 324–325 Lew v. The firm desperately needs cash now, and appeals may take years. Friedman was tried for trafficking in drugs. If the court rejects the plan of reorganization, the creditors must develop a new one. Despite his efforts, it crashes, killing everyone aboard. Strategy: A court makes an objective assessment of what the parties did and said to determine whether they had a meeting of the minds and intended to form a contract. Do you agree with this argument? Everything went really well at first. I'm sorry, but I want it back," she pleads. EXAMStrategy Question: Winona owns a tropical fish store. The New York Times rule has been extended to all public figures, like actors, business leaders, and anyone else who assumes an influential and visible role in society. In a subsequent draft of the agreement prepared by Phibro, the $.01 number was changed to $0.10—that is, from 1 cent to 10 cents. 17-1b Duties of Agents to Principals As part of their fiduciary duty to the principal, agents owe a duty of loyalty. T F To be negotiable, bearer paper must be indorsed and delivered to the transferee. devise a more solid basis We had never been permitted to exercise selfgovernment. If such a bailment was created, Hungary was merely the keeper, not the owner, of the artwork during the time of the family's exile. After an unfair labor practices (ULP) strike, union members are entitled to their jobs back, even if that means the employer must lay off replacement workers. 27-2b Copyright Infringement and Fair Use Anyone who uses copyrighted material without permission is violating the Copyright Act. Tomorrow, Ann will move across the country to start a new job. This is an important status because a BIOC is generally not affected by security interests in the goods. But if a company is going to do business in several states, incorporation in Delaware offers certain advantages: • Flexible laws that favor management. With larger gifts, the recipients are more aware and, therefore, make more effort to overcome their biases. the power to impose a binding decision. Defamation ___E. The case of Diamond v. It does not embrace the common law system of binding precedent. When two parties make no agreement in advance about the duration of their agreement 2. Janet starts thinking about the two methods of dispute resolution: litigation and alternative dispute resolution. Someone had to have put the shard there. Ct. 817 (Mass. Did United Technologies breach express or implied warranties? WCN 02-200-203 04341_ch01_hr_001-014.indd 10 10/6/17 11:41 AM Chapter 1 Introduction to Law 11 EXAM REVIEW 1. When the Green Bay Packers football team sold an offering of stock to finance stadium improvements, the prospectus admitted: Security Any transaction in which the buyer invests money in a common enterprise and expects to earn a profit predominantly from the efforts of others Securities Act of 1933 Also referred to as the 1933 Act, this statute regulates the issuance of new securities. The rules are different for the transferee of non-negotiable commercial paper: His rights are the same—no more, no less—as the person who made the original contract. • Work relationships. Norv's "shock" is irrelevant. Outside Benefits. An agent may not receive profits unless the principal knows and approves. In the end, Congress overruled the Supreme Court and authorized completion of the dam. In promissory estoppel cases, the defendant made a promise that the plaintiff relied on. Although Spring High could be an LLC, it is not a form favored by venture capitalists. Kevin Knussman was the first person to win a lawsuit under the FMLA. He operated the business out of an office in his home. 6Hayes v. (a) (b) (c) (d) Investment in a legitimate business Two or more criminal acts Maintaining or acquiring businesses through criminal activity Operating a business through criminal activity 5. Who is liable to the customer? This number is the actual rate of interest the consumer pays on an annual basis. For example, courts will not enforce unreasonable non-compete clauses

most digital products. 28-7b Landlord’s Liability Historically, the common law held a landlord responsible only for injuries that occurred in the common areas, or those due to the landlord’s negligent maintenance of the property. The second term is purchase money security interest. (c) Either A or B. California generally prohibits non-competes, but research shows that California businesses require non-competes from their workers more than employers in any other state. well . ETHICS Lisa Preece rented an apartment from Turman Realty, paying a $300 security deposit. Islamic law, also known as shari’a, is a legal system most commonly found in Africa, Asia, and the Middle East.5 There is much variation in the interpretation and practice of both Islam and Islamic law. The bill must be voted on and approved by both branches of Congress. Peter Oiler was a truck driver who delivered groceries to Winn-Dixie stores. The bad news is that doctors and patients Pay for service plans The insurer pays for whatever treatments a doctor orders Copyright 2019 Cengage Learning. Davis abandoned the premises, leaving many months’ rent unpaid. That is a hard burden, and Stephanie will likely lose. The six distributors controlled a great many classic movies. • I am not harming a person—it is just a big company. And so, since a verdict had in fact been returned, the offer was no longer open. the SEC will not allow sales unless the issuer has complied with all disclosure rules. Raul makes an offer to Tina. During his two years at Google, Reid’s only written performance review stated that he had consistently met expectations. WCN 02-200-203 04341_ch13_hr_242-260.indd 246 10/6/17 12:09 PM C h a p t e r 13 Practical Contracts 247 Ambiguity Vagueness occurs when the parties do not want the contract to be clear. A villainous goldsmith sought to take advantage of a poor boy. Less is more. 19-2a Prohibited Activities Protected categories Race, color, religion, sex, or national origin There are four types of illegal activities under this statute: disparate treatment, disparate impact, hostile environment, and retaliation. Currently, the federal government is encouraging a third option, so-called value-based care. To dishonor an instrument is to refuse to pay it. Shareholders must then pay tax on any dividends from the corporation. Then we will take a look at the intersection between law and morality. They asked him if he had reported them to the supervisor. To create a bailment, the bailee must assume physical control with intent to possess. However, if the process is careless, then the managers will be liable unless the decision was entirely fair to the shareholders. What kind of fresh start is that? Dyer, 246 Ill. IKA filed a motion for summary judgment. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No one saw Tony die. Because the ring is considered a conditional gift, the donor is entitled to its return. Whatever Chaney may have expected when she posted the picture, she in fact surrendered her privacy because society would not recognize an expectation of privacy as legitimate. Treadway could have applied for credit on her own, but elected not to. It explicitly stated that Jones awarded the contract to Quake. But neither the United States nor any State shall assume or pay any debt or obligation incurred in Copyright 2019 Cengage Learning. The state supreme court affirmed the death sentence, and Kennedy appealed to the United States Supreme Court. The donor must also intend the property to transfer immediately. We have heard that business law instructors want to help students Prepare for class, Engage with the course concepts to reinforce learning, Apply these concepts in real-world scenarios, use legal reasoning and critical thinking to Analyze business law content, and Evaluate real business scenarios and their legal implications. It is not enough simply to say, “Chaz owes Trustie $15,000.” He has to indicate that he owes the money and also that he intends to pay it. At trial, that charge was thrown out, but the jury nevertheless convicted her of lying to the officers who had investigated the alleged insider trading. You would not be liable for the father’s tumble because it was not foreseeable that he would be harmed by your texting. And if his business fails, the court would take his personal assets. 2But as the group Blood, Sweat & Tears once observed, “What goes up, must come down.” Copyright 2019 Cengage Learning. Do you think it is possible? Any changes in the script that materially affect his role c. Brunswick owned a tennis club on property that it leased from Route 18. The Occupational Safety and Health Administration (OSHA) holds adversarial hearings to determine whether a manufacturing plant is dangerous. 22-3e Discharge A confirmed plan of reorganization is binding on the debtor and creditors. A doctor must do a reasonable and professional job, but she cannot guarantee a happy outcome. This is one of five “deal breakers” that we present in this chapter: 1. He threatened them by saying that he knew where their families lived. Making a true statement, no matter how cruel, is not defamation. First, the document stated that “nothing contained herein shall be construed as a guarantee of continued employment. SOLE DISCRETION A party with sole discretion has the absolute right to make any decision on that issue. What important values are involved in this issue? Felix never delivers the sales samples to Faith. She invites her friends over for Photobook meals and has their laundry done for free. James O’Hagan was a lawyer in a firm that represented a company attempting to take over Pillsbury Co. Although O’Hagan did not work on the case, he heard about it and then bought stock in Pillsbury. When several different participants were potentially liable, a plaintiff could sue any one defendant or any group of defendants for the full amount of the damages. According to Title II of the Civil Rights Act of 1964, the federal government has the right to prohibit racial discrimination in hotels, restaurants, and other public facilities because local activities have a substantial effect on interstate commerce. Fiduciary relationship One of trust in which a trustee acts for the benefit of the beneficiary, always putting the interests of the beneficiary before his own. Liesl purchased an insurance policy on her house. Is Jennifer’s reply an acceptance? A secured party may sell, lease, or otherwise dispose of the collateral in any commercially reasonable manner.13 Typically, the secured party will sell the collateral in either a private or a public sale. 1Donee comes from the word donate, meaning “to give.” Copyright 2019 Cengage Learning. Courts use this equitable remedy when money damages would be inadequate to compensate the injured party. Geoff files suit. to injure the person of another” across state lines. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill. Chapter 13 is specifically designed for individuals, but is only available to those whose debt does not exceed certain limits. In deciding whether an LLC is right for your business, there are other features besides liability and tax status that you should consider. However, since he had never worked with this director, he did not want to promise that he would definitely appear in nude scenes. One night at a company outing, Law- rence, a visiting account manager, made some wildly inappropriate sexual remarks to Maddie, who is on Steve’s team. But the law is also clear that these votes are non-binding, they do not overrule board decisions, and they do not create any fiduciary duty on the part of the board. Sovereign Immunity Foreign Sovereign Immunities Act (FSIA) A U.S. statute that provides that American courts generally cannot hear suits against foreign governments Sovereign immunity holds that the courts of one nation lack the jurisdiction (power) to hear suits against foreign governments. The two have bargained for this deal, so there is valid consideration. (d) someone living on the property has consented to the search. It is important to understand the ethics traps that create great temptation to do what we know to be wrong or fail to do what we know to be right. In addition, Grisham owed $200,000 in non-dischargeable debt and $70,000 in unsecured loans. Elonis posted: Did you know that it’s illegal for me to say I want to kill my wife? Using a false statement to damage someone’s reputation 7. A real drug dealer would have leapt at an opportunity to sell. State-of-the-art digital technology. That issue has been deeply and bitterly debated in the United States ever since the terrorist attacks of 9/11. Believing that the hotel bartender had helped the woman who drugged him, Chase sued Hilton for negligence in the amount of $575,000. But what is his remedy? Commercial exploitation Prohibits the unauthorized use of another person’s likeness or voice for business purposes Chapter Conclusion This chapter has been a potpourri of misdeeds, a bubbling cauldron of conduct best avoided. and Smith had suffered a fractured skull, among other serious injuries. (However, the court will sometimes order restitution, meaning that the defendant must reimburse the victim for the harm suffered.) Copyright 2019 Cengage Learning. Beth is tempted but wants Janet’s advice. But then students were upset about not being able to perform. The district court denied the motion, and Hungary appealed. WCN 02-200-203 04341_ch13_hr_242-260.indd 243 10/6/17 12:09 PM 244 Unit 3 Contracts and the UCC protect against everything that can possibly go wrong. Spaw, 164 Lancaster Symphony Orchestra v. Issues: Was Ford negligent in failing to warn Connie of the missing latch? A patient at the Duke Hospital suffered brain damage after a doctor administered the wrong anesthetic. Courts look closely to make sure that the restrictions are no broader than necessary to meet the employer’s objective. Any activities conducted on this system may be monitored for any reason at the discretion of BizCorp.” Once an employee has logged in, have the parties formed a valid contract? But then, after Russia attacked Ukraine, the U.S. government imposed sanctions that prohibited the importation of these items. While Americans are proud to say that our Constitution has influenced the laws of other countries, the debate becomes considerably more heated when it involves the influence of foreign or international law on the United States. Order paper An instrument that includes the words “pay to the order of” or their equivalent Bearer paper An instrument payable “to bearer” 6. As the end of the patent term neared, other companies developed generic alternatives. We appealed to those of The wit of man cannot nature, and found them engraved on our hearts. • Insurer. These two sets of standards include broadly phrased general principles, as well as specific guidelines and illustrations. Subsequently, four other banks also refused to make the loan. Since the majority of the senior assistant coaches are male, most of the head coaches are, too. Some regard this wide application as a tremendous advance in law enforcement, but others view it as an oppressive weapon used to club ethical companies into settlements they should never have to make. LEXIS 2011, 2009 WL 597232 Court of Appeal of California, 2009 Facts: Stephen Son was a part-owner and -operator of two corporations. The legal entity that holds title to assets after the owner dies and before the property is distributed. Ch. LEXIS 223; 2015 WL 5052214 Court of Chancery of Delaware, 2015 CASE SUMMARY Facts: Dole Food Co. was one of the world’s largest pro- ducers of fresh fruit and vegetables. (b) The transaction was of minor importance to the company. If Gwendolyn’s will says “per stirpes,” Lance’s child will inherit her father’s entire share, which is half of Gwendolyn’s estate. Answer: Scott is wrong. Bailey acted as a volunteer at his own risk that he might not be compensated. Tess writes a rent check for $600 to her landlord, Larnell. Also, imagine an 0–10 team on which the average lineman weighs 170 pounds. The ladder need not be serviceable as a boat ramp. (d) the power of a court to hear a particular case. When a union tried to organize employees, management prohibited workers from wearing more than one pro-union pin at a time. Regional Trade Agreements. Regional trade agreements (RTAs) reduce trade restrictions and promote common trade policies among member nations that are located near each other. If an individual runs a business without taking any formal steps to create an organization, she automatically has a sole proprietorship. In those cases, he claimed, the landowner compensated the farmer for the work done. Janet and Rich each consider moving for summary judgment, but both correctly decide that they would lose. ICJ 5. Issues: Did the tipper receive a benef it? RESULTS Strategy: This was an oral agreement, so the issue is whether the promise had to be in writing to be enforceable. Yet, sometimes they do. 8-1f Damages Finally, a plaintiff must prove that he has been injured or that he has had some kind of measureable losses. Substantial Performance. Daniel, the house builder, won his case against Caitlin because he fulfilled most of his obligations, even though he did an imperfect job. When Corona leased farmland to a strawberry farmer named Armando Munoz Juarez, it claimed a security interest in his strawberry crop. • Financing statement is a record intended to notify the general public that the secured party has a security interest in the collateral. Was Friedman entrapped? The evidence that GT consciously ignored Winstar’s fraud goes beyond a mere failure to uncover wrongdoing. How did it rationalize its decisions? The Commission refused to reinstate him as promised. Will’s trial was first. Suppose that Suspicion Bank and Happy Bank had both failed to perfect. WCN 02-200-203 04341_ch24_hr_460-481.indd 464 10/6/17 12:28 PM Chapter 24 Consumer Protection 465 24-3a Payday Loans A woman borrows $2,600 and then makes payments on the loan for over a year, totaling $4,000. Marge telephones Vick and leaves a message on his voice mail: “I’ll pay $75 for your business law textbook from last semester. He did not ask permission because he thought it was too late to call his boss. The president was allowed to appoint federal judges and members of his cabinet, but only with a consenting vote from the Senate. Zipper, escalator, aspirin, linoleum, thermos, yo-yo, band-aid, ping-pong, and nylon all started out as trademarks. Oil Co. was a controlling shareholder of Pogo, a company that drilled for oil and gas in the Gulf of Mexico. The EPA sets national air quality standards. The most important feature distinguishing one from the other is how each tenancy terminates. 21. Result: Edo’s premium was based on his current situation, not his credit history. You could tell them that, without concessions, the plant will be closed, although that is not true. The FTC requires all promissory notes in consumer credit contracts to contain the following language: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. He printed out the contract, signed it and mailed it, along with a plot plan showing the surveyed land. They then price their premiums so that they will make a profit. There are no easy answers to any of the questions because there has never been a democracy so large, so diverse, or so powerful. Ct. 1659 (2013). The clause is valid. Both sides in litigation sometimes use gamesmanship during discovery. L Material breach A violation of a contract that defeats an essential purpose of the agreement. Strategy: First: As employees at will, are Jagger and Jonathan protected by a statute? His writing fails to satisfy the Statute of Frauds, and he loses the suit. “I can start tomorrow at 8 a.m. I’ll take $45,000, and I also want 10 percent of any profits you make above last year’s.” Just then Bill loses his cell phone signal. 2013 U.S. Dist. Slander Oral defamation. When she complained to her boss over lunch in the employee cafeteria, he said in a loud voice, “You’re a big girl now—it’s time you learned that you don’t always get what you want.” He then fired her on the spot. Some states outlaw such loans or heavily regulate the interest rates. Otherwise, they are proportionately liable. Reasoning: An employer has the right to lay off an at-will employee for virtually any reason. WCN 02-200-203 04341_ch07_hr_121-136.indd 131 8/24/17 11:58 AM 132 Unit 2 Torts Strategy: Review the elements of defamation. 29-2f Common Carriers and Contract Carriers A carrier is a company that transports goods for others. Should you have a will? The expectation interest is designed to put the injured party in the position she would have been in had both sides fully performed their obligations. 3. Result: A holographic will does not require witnesses; a nuncupative will requires two. Claudia neither listed his house on the Multiple Listing Service, used by all the area brokers, nor posted it online, but when the Fords contacted her looking for rental housing, she did show them Taylor’s place. Responding to the ACLU’s FOIA request would reveal sensitive information about the CIA’s capabilities, limitations, priorities, and resources. Some store owners fear false imprisonment lawsuits and possible injuries to workers more than losses related to stolen merchandise. 19-6 ENETIC INFORMATION G NONDISCRIMINATION ACT Suppose you want to promote someone to chief financial officer, but you know that her mother and sister both died young of breast cancer. But the policy was invalid because neither Reardon nor Coates had an insurable interest in the dead woman. The most important exemptions permit an agency to keep confidential information that relates to criminal investigations, internal agency matters such as personnel or policy discussions, trade secrets or financial institutions, an individual’s private life, or national security. This phenomenon is so common that these directors who serve on a board with less than majority support from shareholders have a name: zombie directors. The following categories are not distinctive and cannot be trademarked: • Generic trademarks. If James speaks out against the nonsmoking policy, his job prospects could be damaged. He died of cancer before the case was concluded. 5-1a State Courts The typical state court system forms a pyramid, as Exhibit 5.1 shows. He lands in an enormous tree, suspended 45 feet above ground. A fixed fee of $1,800,000, to be paid in equal installments at the end of each week of filming 2. (d) No, the WTO’s most favored nation rules permit Austria to do this. What is your Life Principle on this issue? Grants the inventor exclusive use of an invention 5. California passed a “three strikes” law, dramatically increasing sentences for repeat offenders. Reasonably means ordinary or usual under the circumstances. (b) Dolly wins $30,000. There was evidence that GT learned of and advised against the use of clearly deceptive accounting schemes, but eventually acquiesced in the schemes by issuing an unqualified audit opinion. Also, by purchasing stock in Keypoint, Vern took a corporate opportunity. Today the United States only agrees to ICJ jurisdiction on a case-by-case basis. Since it is impossible to check each and every transaction, they verify a sample of various types of transactions. The Supreme Court ruled that, under the CAA, the EPA may not consider cost when setting air quality standards to protect the public health.8 A bipartisan group of 42 of the country’s most respected economists filed a brief arguing that, from an economic perspective, it is wrong not to consider costs. Material means important enough to affect an investor’s decision. On the program, he complained about an incident in which state trooper Fleming had stopped his car, apparently for lack of a proper license plate and safety sticker. Pub Zone. “My land is worthless,” Kabrina replies. 2Website localization is the process of adapting a website from one country into the language and culture of another. Even if the tort was committed to benefit the principal, the agent is still liable. Some finance companies are now willing to extend credit to people who are poor risks, on one condition: The company can install on the car tracking software that has the ability to disable the ignition if debtors miss a payment. Have you ever received a performance warning due to your attendance? 2See Frost’s poem entitled “Mending Wall” (1914). It must be filed with the secretary of state in the jurisdiction in which the LLC is being formed. Kant would say that it is the wrong thing to do. The purpose of the 1934 Act is to provide investors with ongoing information about public companies (i.e., companies with publicly traded stock). Is that legal? She slowly followed the cars ahead of her. Both girls are angry because their schools prohibit them from joining their respective wrestling teams, where only boys are allowed. He also owed his wife $25,000 in child support. Reasoning: The unsigned operating agreement states that Delaware law applies. WCN 02-200-203 04341_ch15_hr_278-294.indd 288 9/28/17 9:39 AM C h a p t e r 15 Negotiable Instruments 289 Chapter Conclusion Commercial paper provides essential grease to the wheels of commerce. Regulations based on gender, race, or fundamental rights are generally void. Sandra Guzman was an editor at The New York Post. It is Stacey who committed a crime—Medicare fraud. MULTIPLE-CHOICE QUESTIONS 1. This is in sharp contrast to litigation, where one party is very likely to lose. NONPHYSICAL TORTS A principal is liable for nonphysical torts of an employee (whether intentional or unintentional) only if the employee was acting with express, implied, or apparent authority.

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