Chapter 1: Business and Its Legal Environment
1: Schools of Jurisprudential Thought

• At a minimum, law consists of enforceable rules governing relationships among persons and between persons and society.

• There are several different “schools” of law:
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The Natural Law School

- The oldest view of jurisprudence dating back to Aristotle.
- The Declaration of Independence assumes “the Laws of Nature.”
Natural Law: Rev. Martin Luther King, Jr.

*Letter from the Birmingham Jail,* April 16, 1963 “[T]here are two types of laws: just and unjust laws. . . . A just law is a man-made code that squares with the moral law . . . . An unjust law is a code that is out of harmony with the moral law. . . . An unjust law is a human law that is not rooted in eternal and natural law.”
The Positivist School

- Law, and therefore rights and ethics, are not universal. The morality of a law, or whether the law is “bad or good”, is irrelevant.
The Historical School

• Concentrates on the origin and history of the legal system.
• Law derives its legitimacy from the principles and standards that have proved historically workable.
Legal Realism

• Law is a tool to promote social justice.
2: Business Activities and the Legal Environment

• Law regulates many different areas of business.
• Study of business law also involves a knowledge of ethics in decision-making.
• Many different laws may affect a single business transaction.
Areas of Law that May Affect Business Decision-Making
3: Sources of American Law

• U.S. and State Constitutions.
• Statutory Law--federal and state statutes.
  – Uniform Commercial Code.
  – Restatements of the Law.
• Administrative Law.
• Case Law and Common Law Doctrines.
American law is based largely on English Common Law originating in medieval England.
The common law was based largely on traditions, social customs, rules and cases developed over hundreds of years after the Norman conquest in 1066.
Early English Courts

• At common law, there were two separate court systems with two different types of remedies:
  – COURTS OF LAW (monetary relief).
  – COURTS OF EQUITY (non-monetary relief), based on “notions of justice and fair dealing.”
Courts of Law

- Also called “king’s courts” where judges were appointed by the king.
- Remedies limited to those provided at law, i.e., land, chattel, money.
- Judges resolved disputes by application of rules of law to the facts of the case before the court.
Courts of Equity

• Equitable relief was sometimes available in instances where a strict application of the law to the facts of the case compelled a result that was legal but unjust.

• Equitable maxims.
Legal and Equitable Remedies Today

• Today federal and state courts of general jurisdiction have consolidated remedies at law and remedies at equity.

• Generally, the same court can fashion a remedy that includes both damages and equitable or injunctive relief.
The Doctrine of *Stare Decisis*

• *Stare decisis* is a Latin phrase meaning “to stand on decided cases.”
  – Makes the law stable and predictable.
  – Increases judicial efficiency by relieving courts of having to reinvent legal principles for each case brought before them.

• *Stare decisis* is “judge made law” based on precedent.
Case Precedents and Case Reporters

• Precedents are judicial decisions that give rise to legal principles that can be applied in future cases based upon similar facts.

• Precedents and other forms of positive law, such as statutes, constitutions, and regulations are referred to as binding authorities and must be followed.

• Today, cases are published or ‘reported’ in books called reporters (see Appendix).
Departure from Precedent

• In cases of “first impression” where there is no precedent, the court may refer to positive law, public policy, and widely held social values in order to craft the best new precedent.
Stare Decisis and Legal Reasoning

• Method used by judges to reach a decision.
• Basic Steps: Many courts and attorneys frame decisions and briefs using the IRAC format: Issue, Rule, Application (Analysis) and Conclusion.
  – What are the key facts and issues?
  – What rules or laws apply?
  – How do the rules of law apply to these facts?
Forms of Legal Reasoning

• Deductive Reasoning: Makes use of syllogism, a type of logical relationship involving a major premise and a minor premise

• Linear Reasoning: Proceeds from point to point, with the final point being the conclusion

• Reasoning by Analogy: Analysis that compares facts of present case with facts of similar previously-decided cases.
5: The Common Law Today

• Common law today governs transactions not covered by statutory law.

• Restatements of the Law:
  – By the American Law Institute,
  – Summarize the common law of most states.
6: Classifications of Law

• Every type of law will be either:
  – Civil or Criminal (and either),
  – Substantive or Procedural (and either),
  – Public or Private.

• “Cyberlaw” is traditional law applied in the online forums.
Civil vs. Criminal Law

- Civil law defines the rights between individuals or individuals and governments.
- Criminal law defines an individual’s obligations to society as a whole.
Substantive vs. Procedural

• Substantive law defines or creates the rights and obligations of persons and governments.

• Procedural law provides the steps one must follow in order to avail oneself of one’s legal rights or enforce another’s legal obligations.
7: How to Find Primary Sources of Law

• Finding Statutory Law.
  – State Statutes (Texas).

• Finding Administrative Law.

• Finding Case Law.
  – Supreme Court Cases at Findlaw.com.
  – Federal Court Cases at Findlaw.com.
  – State Court Cases at Findlaw.com.
• Legal cases are identified by a “legal citation” (or a “cite”) as the example below:

**Berger v. City of Seattle, 512 F.3d.582 (9th Cir. 2008).**

Title: First Party is Plaintiff, second party is Defendant. The parties are either *italicized* or underlined.
8: How to Read & Understand Case Law

• Legal cases are identified by a “legal citation” (or a “cite”) as the example below:

Berger v. City of Seattle, 512 F.3d.582 (9th Cir. 2008).

The case is found in the Federal 3rd Reporter, Volume 512, page 582.
Legal cases are identified by a “legal citation” (or a “cite”) as the example below:

*Berger v. City of Seattle, 512 F.3d.582 (9th Cir. 2008).*

The case was decided by the Ninth Circuit Federal Court of Appeals in 2008.