**Unit 1 – The Legal Environment**

Chapter 1 – Introduction to Law\*

Chapter Overview

Chapter Theme

The principles discussed in this book are practical. Neither the book nor the course is a theoretical exercise. The law will affect students*,* regardless of their careers, whether they want it to or not. The more students understand the law, the more they can use it productively.

Approaching the Teaching of Law

Whether teaching in an undergraduate or MBA program students generally fall into one of four categories: (1) those who do not intend law as a career but approach the material with an open mind; (2) those in whom the course kindles a strong interest in law, who for the first time consider law as a career; (3) those who enter the course with a strong interest in law and plan to attend law school ; and (4) those who are in the course only because their program requires it. The instructor’s job is to try to engage students in all four categories. Students in categories (2) and (3) may be more willing to explore the nuances of legal principles and see connections between legal topics. Students in categories (1) and (4) may respond most favorably to practical applications of the law, such as understanding the law governing employment or landlord/tenant relationships.

Issues for Discussion

Complexity

It is often frustrating to students, citizens, and even lawyers that law is so complex. Anglo‑American legal history consists, in part, of a clash of powerful, competing interests: property ownership, ethics, raw power, business practices, personal responsibility, social mores, and the need for predictability, to list a few. To understand the interplay of these forces is to understand why law is complicated.

Ambiguity

A related point is that many students—indeed, many non-lawyers—dislike the law’s ambiguity. They want to learn “the law” as a set of rules with unvarying application, and are uncomfortable with the “what if” scenarios through which lawyers learn to apply legal principles. Students must learn that law acquires meaning only through application. If students, especially those in categories (1) and (4) above, leave the course with greater understanding of why the law is ambiguous, why a lawyer’s first response to a question about the law is often “it depends,” then the instructor should consider it a success.

Competing Interests

From a newspaper article about a legal issue, students should identify two or more *competing* interests. In an article about tobacco litigation, they might compare the tobacco companies’ property interest in a profitable commodity, the companies’ obligation to divulge what they knew concerning nicotine, the personal responsibility of those who chose to smoke, the state’s interest in reducing medical costs, the companies’ right to free speech (advertising), the federal government’s interest in regulating smoking, and the state’s obligation to protect children. The more important the legal issue, the less likely there is a simple solution to make everyone happy.

Experience with Lawyers

If one is teaching graduate students or others who have actual business experience working with lawyers, it can be an excellent introduction to the course to elicit the pros and cons of those experiences. One fun way to do so is to ask students “why lawyers are great” and “why lawyers are frustrating.” Typical reasons given for “why lawyers are great:” “They help me avoid getting into trouble;” “They help to get me out of trouble;” and, “I can blame things on them.” Typical reasons given for “why lawyers are frustrating: “They are expensive;” “They make everything too complicated;” “They are slow;” “They don’t respond to my questions;” “They tell me what I don’t want to hear;” and, “They don’t know how to give “yes or no” answers.”

1-1 EXPLORING THE LAW

**The strong reach of the law touches nearly everything we do, especially at work.** At work, a mid—level manager might face issues of harassment of a subordinate by a coworker (employment law), negotiating a contract with a game developer (contract law), researching to see whether similar games already exist which might diminish her ability to market the new game (intellectual property law), a worker who may be using drugs (constitutional law and employment law), potential liability for injury caused by an employee on drugs (tort law and agency law).

**Law is also essential.** Every society of historical record had some legal system. Our legal system is largely based upon other English model, but many other societies contributed ideas.

**The law is intriguing.** When a large verdict is rendered, people ask whether the jury’s decision was right? Did the jury react emotionally? Or perhaps the anger caused by terrible trauma *should* be a part of a court case.

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 but the law is not that simple. Principles and rules of law come from many different sources. Why?

We inherited a complex structure of laws from England. And ours is a nation born in revolution and created, in large part, to protect the rights of its people from the government.

**Federalism**: A double-layered system of government, with the national and state governments each exercising important but limited powers.

**U.S. Constitution**: The supreme law of the United States.

United States Constitution

America’s greatest legal achievement was the writing of the U.S. Constitution. Any law that conflicts with the U.S. Constitution is void. The Federal Constitution establishes:

**Branches of Government**

The Founding Fathers sought a division of government power, not wanting all power centralized in anyone.The Constitution divides legal authority into three pieces:

***Legislative power*** is the ability to create new laws; it is balanced by executive power of the veto and judicial power of interpretation and determination of validity. Article I creates Congress, comprised of a Senate and a House of Representatives.

***Executive power*** is the authority to enforce laws; it is balanced by the legislative power to override a veto and to impeach and the judicial power to interpret. Article II makes the president the Commander-in-Chief.

***Judicial power*** is the power to interpret laws and determine their validity; it is balanced by the executive power to appoint justices and legislative power to approve justice nominees. Congress can also amend the Constitution with the approval of the states. It is often every bit as important as the ability to create laws in the first place. 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]](#footnote-1) At times, courts void laws altogether. In 2016, the Supreme Court struck down a Texas law regulating abortion clinics and the doctors who worked in them. 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.

**Checks and Balances**

The authors of the Constitution also wanted to give each part of the government some power over the other two branches. They wanted to create a system that, without broad agreement, would tend towards inaction. The president can veto Congressional legislation. Congress can impeach the president. The Supreme Court can void laws passed by Congress. The president appoints judges, but they must be approved by the Senate. Congress can override the Supreme Court by amending the Constitution. The president and Congress influence the Supreme Court by controlling who is placed on the court in the first place. Many of these checks and balances will be examined in more detail later in the text.

Fundamental Rights

The Constitution also grants many of our most basic liberties, generally found in the amendments to the Constitution. The First Amendment guarantees the rights of free speech, free press, and the free exercise of religion. The Fourth, Fifth, and Sixth protect the rights of any person accused of a crime. Other Amendments ensure that the government treats all people equally, and that it pays for any property it takes from a citizen.

Statutes

**Statute**: A law created by a legislature.

The Constitution gives to the Congress the power to pass laws on various subjects. A proposed law is called a bill; a bill created by a legislature that has become law is called a **statute**.

Common Law

***Stare decisis****:* The principle that precedent is binding on later cases.

The collective body of court decisions throughout history comprise the common law. Judges of all courts below the Supreme Court will refer to previous cases (precedent) to rule on present cases. **The principle that precedent is binding on later cases is called *stare decisis*, meaning, “let the decision stand.”** But note that precedent is binding only on *lower* courts, which can be quite beneficial. In 1896, the Supreme Court decided that segregation was legal under certain conditions.[[2]](#footnote-2) In 1954, faced with the same issue, the court changed its mind.[[3]](#footnote-3)

Court Orders

Sometimes judges issue court orders on a particular person or entity. This may be an order to do something or an order to refrain from some action.

Administrative Law

Administrative agencies are created by Congress or by an order of the President. Their purpose is to carry out the day-to-day work of enforcing the statutes passed by Congress. Agencies have the power to create regulations, which are as binding as laws.

1-1b Classifications

Criminal and Civil Law

**Criminal law:** Concerns behavior so threatening that society prohibits it.

**Civil law**: Regulates the rights and duties between parties.

**Criminal law concerns behavior so threatening that society outlaws it altogether.** The government itself prosecutes the wrongdoer. The victim is not in charge of the case, although she may appear as a witness. The government will seek to punish the defendant with a prison sentence, a fine, or both. If there is a fine, the money goes to the state, not to the injured party.

**Civil law** is different, and most of this book is about civil law. **The civil law regulates the rights and duties between parties**. It does not involve guilt or punishment, two legal concepts with which students are likely most familiar Chapter 6 addresses criminal law. Some conduct involves both civil and criminal law, as we will see in the *Pub Zone* case.

Law and Morality

Law and morality are clearly different yet obviously related. Often the law duplicates what all of us would regard as a moral position. But we have had laws that we now clearly regard as immoral. Finally, there are legal issues where the morality is less clear.

We have had laws that we now clearly regard as immoral. Seventy-five years ago, a factory owner could legally fire a worker for any reason at all, including, for example, her religion.

Finally, there are legal issues where the morality is not so clear. Suppose you serve alcohol to a guest who becomes intoxicated and then causes an automobile accident, seriously injuring a pedestrian? Should you, the social host, be liable? This is an issue of tort liability which we will examine in Chapter 9. Students will have the opportunity to re=examine their own moral beliefs, when we cover Chapter 2 on ethics.

**1-1c Working with the Book’s Features**

**Analyzing a Case**

A law case is the decision a court has made in a civil lawsuit or criminal prosecution. Cases are the heart of the law and an important part of this book. Reading them effectively takes practice. This chapter’s opening scenario is fictional, but the following real case involves a similar situation. Who can be held liable for the assault?

**Analysis**

**Plaintiff:** The party who is suing.

**Defendant:** The party being sued.

**Holding:** A court’s decision

**Reverse:** To declare the lower court’s ruling wrong and voice

**Remand:** To send a case back down to a lower court.

**Affirm:** To uphold a lower court’s ruling.

The case name is “Kuehn v. Pub Zone.” Karl Kuehn is the plaintiff, who is suing. The Pub Zone is the defendant, and is being sued. The next line gives the legal citation, which indicates where to find the case in a law library. We explain in the footnote how to locate a book if you plan to do research.[[4]](#footnote-4)

j0199759Case: Kuehn v Pub Zone, C364 N.J. Super, 301, Court of New Jersey, 2003

**Facts:** Maria Kerkoulas owned the Pub Zone bar, frequented by many motorcycle gangs, and knew from her own experience and conversations with police that some of the gangs, including the Pagans, were dangerous and prone to attack customers for no reason. Kerkoulas posted a sign prohibiting any motorcycle gangs from entering the bar while wearing “colors,” that is, gang insignia. Based on her experience, she believed that gangs without their colors were less prone to violence.

Rhino, Backdraft, and several other Pagans pushed past the bouncer wearing colors and approached the bar. Although she saw their colors, Kerkoulas served them one drink. They later moved towards the back of the pub, and Kerkoulas believed they were departing. In fact, they followed a customer named Karl Kuehn to the men’s room, where without any provocation they savagely beat him, causing serious injuries.

Kuehn sued the Pub Zone. The jury awarded him $300,000 in damages. The trial court judge overruled the jury’s verdict and granted judgment for the Pub Zone, meaning that the tavern owed nothing. The judge ruled that the pub’s owner could not have foreseen the attack on Kuehn, and had no duty to protect him from an outlaw motorcycle gang. Kuehn appealed.

**Issue:** **Did the Pub Zone have a duty to protect Kuehn from the Pagans’ attack?**

**Holding:** Yes. Whether a duty exists depends upon an evaluation of a number of factors including the nature of the underlying risk of harm, the opportunity and ability to exercise care to prevent the harm, the comparative interests of, and the relationships between or among the parties, and, based on considerations of public policy and fairness, the societal interest in the proposed solution.

Since the possessor [of a business] is not an insurer of the visitor’s safety, he is ordinarily under no duty to exercise any care until he knows or has reason to know that the acts of the third person are occurring, or are about to occur. He may, however, know or have reason to know, from past experience, that there is a likelihood of conduct on the part of third persons in general which is likely to endanger the safety of the visitor, even though he has no reason to expect it on the part of any particular individual.

The totality of the circumstances presented in this case give rise to a duty on the part of the Pub Zone to have taken reasonable precautions against the danger posed by the Pagans as a group. There was no reason to suspect any particular Pagan of violent conduct, but Kerkoulas knew the gang collectively had engaged in random violence. Thus, Kerkoulas had knowledge, as the result of past experience and from other sources, that there was a likelihood of conduct on the part of third persons in general that was likely to endanger the safety of a patron at some unspecified future time.A duty to take precautions against the endangering conduct thus arose.

**Question:**  **What kind of case is this, civil or criminal?**

**Answer:** Civil.

**Question:** **What is the difference?**

**Answer:** In a civil suit, one party is suing the other. In a criminal prosecution, the government is seeking to punish someone for conduct that society will not tolerate.

**Question:** **Who is the *plaintiff* (the party who is suing) and who the *defendant* (the party being sued)?**

**Answer:** Kuehn is the plaintiff and Pub Zone is the defendant.

**Question:** **What is the key issue in this civil suit?**

**Answer:** Whether Pub Zone had a duty to protect Kuehn.

**Question:** **Why does Pub Zone claim it had no duty to Kuehn?**

**Answer:** Pub Zone argued that the attack was unforeseeable and that Pub Zone was not responsible for guaranteeing the personal safety of its patrons.

**Question:** **What did the trial court conclude?**

**Answer:** Although the jury found in favor of Kuehn and awarded him $300,000 in damages, the trial court judge overruled the verdict and damage award and granted judgment for Pub Zone.

**Question:** **What did the appellate court decide?**

**Answer:** That Pub Zone *did* have a duty to protect Kuehn. The court reinstated the jury verdict and damage award.

**Question:** **Why did the court decide that Pub Zone had a duty?**

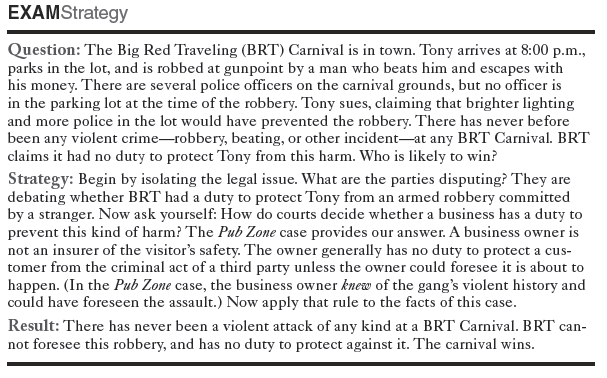
**Answer:** Kerkoulas’ sign prohibiting patrons from wearing gang colors, and the Pub Zone’s practice of calling police when patrons violated this rule, showed the Pub’s awareness of the risk of violence of such gangs. Kerkoulas also knew that the Pagans had participated in past acts of random violence. Thus, Pub Zone had a duty to take precautions against such violence.

**Question:** **What should Pub Zone have done to satisfy its duty?**

**Answer:** Enforce its existing rules. Despite Pub Zone’s policy against gang colors, Kerkoulas allowed the Pagans to remain in the bar and drink. Train bouncers and all other staff to be aware of patrons from whom such violence is foreseeable. If such patrons refuse to leave the club when asked, Pub Zone should be consistent in calling the police to address the problem.

Exam Strategy

This feature gives the student practice analyzing cases the way lawyers do – and the way they *must* on tests. Law exams are different from most others because you must determine the issue from the facts provided. See below for an example.



You Be the Judge

Many cases involve difficult decisions for juries and judges. Often both parties have legitimate, opposing arguments. Most chapters will have a feature called, “You Be the Judge,” in which the facts of a case are presented, but not thte court’s holding. We leave it to the students to debate and decide which position is stronger, or add their own arguments to those given.

You Be the Judge: Del Lago Partners, Inc. v. Smith[[5]](#footnote-5)

Note: There are two reasons for using this case. First is to introduce students to the “You Be the Judge” feature. There is one such case in almost every chapter. The text provides the facts and issue and then, in place of the court’s holding, gives competing arguments for the two sides. The text’s authors wrote the arguments, often based on majority and/or dissenting opinions in the case. Since students do not have the “answer,” they are forced to think for themselves.

An instructor can use these cases in many ways:

Divide the class in two and assign each side to argue for one of the parties.

Have students vote on the outcome before and after revealing the court’s holding.

Require students to prepare a short paper giving their own “holding.”

Have one or two students argue each side before the “court” (the professor and remaining students).

The second reason for using this case is that it builds on the issue of negligence introduced in the *Kuehn v Pub Zone* case, above. This time, the court confronts not only the question of whether a duty is owed, but also whether the injury was foreseeable.

**Facts:** It was late night at the Del Lago hotel bar. Bradley Smith and 40 of his closest fraternity brothers had been partying there for hours. Around midnight, guests from a wedding party made a rowdy entrance. One of Smith’s friends brashly hit on a young woman in the wedding party, infuriating her date. Verbal confrontations ensued. 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. Until… the inevitable occurred. Punches were thrown. Before Smith knew it, someone placed him in a headlock and threw him against a wall.

As dozens fought, the bar manager fumbled to call hotel security, but realized he did not even have the phone number. When security eventually arrived, the free-for-all had ended … and Smith had suffered a fractured skull, among other serious injuries.

Smith sued Del Lago for negligence. 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. The lower court agreed. The hotel appealed.

**You Be the Judge:** ***Did the hotel have a duty to protect Smith from imminent assault?***

**Argument for the Plaintiff-Appellant (Hotel):** Your honors, my client did nothing wrong. The Del Lago staff did not create the danger. Smith was a grown man who drank voluntarily and joined the right knowing that he was at risk for injury. The hotel did not owe a duty to someone who engages in such reckless behavior. And let’s face it: Accidents happen, especially at a bar late at night. Moreover, a bar owner cannot possibly monitor the words exchanged between patrons that may lead to a fight.

The law has developed sensibly. People are left to decide for themselves whether to jump into a dangerous situation. Smith made his decision, and Del Lago should not be held accountable for his poor choices.

**Argument for the Defendant-Appellee (Smith):** Your honors, Del Lago had a moral and legal duty to protect its guests from this obvious and imminent assault. 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. The hotel knew that a fight was going to break out, and should have taken the proper precautions to protects guests form that foreseeable danger.

During the 90 minutes of escalating tensions, the bar staff continued to serve alcohol, ignored the blatant risks, and did not even call security. When the bar staff finally decided to call for help,, they did not even have the number. It was too little, too late. The establishment had already breached its duty of care to protects its guests from foreseeable harm.

**Holding:** The court of appeals affirmed the judgment of the Court of Appeals, upholding the decision of the jury.

**Question:** **Did the hotel owe a duty to the patron who was injured?**

**Answer:** Yes, in this case, the hotel owed a duty to the patron because it had reason to know that an imminent risk of harm existed.

**Question:** **How did it breach this duty?**

**Answer:** For an hour and a half, the hotel knowingly served rowdy and drunk rivals who were engaged in repeated and aggressive verbal and physical confrontations, which resulted in a full-scale brawl The staff observed, but did nothing to reduce the hostility, which was unreasonable in the circumstances. Injury was foreseeable.

**Question:** **What is the key issue in this civil suit?**

**Answer:** The key issue is whether the injury to a patron was foreseeable.

**Question:** **What factors impose a duty of care upon such an establishment?**

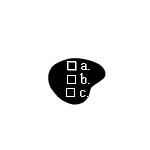
**Answer:** When the establishment knows or has reason to know of an unreasonable risk of harm. In this case, the hotel had actual and direct knowledge that a violent brawl was imminent between drunk, belligerent patrons, and had ample time and means to defuse the situation.

**Question**: **Did the hotel breach its duty?**

**Answer:** Yes, despite escalating verbal disputes and shoving between the groups over the course of 90 minutes, the hotel took no action, continued to serve drinks and did not call security until it was too late.

**Chapter Conclusion**

We depend upon the law to give us a stable nation and economy, a fair society, and a safe place to live and work. But while law is a vital tool for crafting the society we want, there are no easy answers about how to create it. In a democracy, we all participate in the crafting. A working knowledge of the law can build a successful career – and a solid democracy.

Matching Questions

Match the following terms with their definitions:

\_\_\_\_\_A. Statute 1. Law created by judges

\_\_\_\_\_B. Administrative agencies 2. Let the decision stand

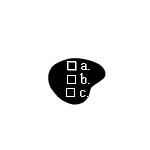
\_\_\_\_\_C. Common law 3. A law passed by Congress or a state legislature

\_\_\_\_\_D. Stare decisis 4. The supreme law of the land

\_\_\_\_\_E. United States Constitution 5. The IRS, the EPA, the FCC, the SEC

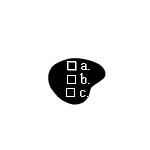
**Answers:**

1. Is 3
2. Is 5
3. Is 1
4. Is 2
5. Is 4

True/False Questions

Circle T for true or F for false: (**Correct answers are bolded)**

1. T **F** The idea that current cases must be decided based on earlier cases is called legal positivism.
2. **T** F Civil lawsuits are brought to court by the injured party, but criminal cases must be prosecuted by the government.
3. T **F** Congress established the federal government by passing a series of statutes.
4. T **F** The federal government has three branches: executive, legislative, and administrative.
5. **T** F Law is different from morality, but the two are closely linked.

Multiple Choice Questions

1. More U.S. law originates from one country than from any other. Which country?

1. France
2. England
3. Germany
4. Spain
5. Canada

**Answer:** B.

2. Under the United States Constitution, power that is not expressly given to the federal government is retained by:

1. The courts
2. The Congress
3. The Founders
4. The states and the people
5. International treaty

**Answer:** D

3. Judges use precedent to create what kind of law?

1. Common law
2. Statutes
3. National Law
4. Local law
5. Empirical law

**Answer:** A

4. 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. 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.

1. simple; simple
2. simple; two-thirds
3. simple; three-fourths
4. two-thirds, three-fourths

**Answer:** B. – >50% to pass initially (a simple majority), 2/3 if an override is necessary.

5. What part of the Constitution addresses most basic liberties?

1. Article I
2. Article II
3. Article III
4. The amendments

**Answer:** D

**Case Questions**

1. Union organizers at a hospital wanted to distribute leaflets to potential union members, but hospital rules prohibited leafleting in areas of patient care, hallways, cafeterias, and any areas open to the public. The National Labor Relations Board (NLRB) ruled that these restrictions violated the law and ordered the hospital to permit the activities in the cafeteria and coffee shop. The NLRB cannot create common law or statutory law. What kind of law was it creating?

**Answer:** Administrative law. As an administrative agency, the NLRB has the authority and jurisdiction to create such regulations in furtherance of its agency mission and mandate.

2**.** 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. 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. 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. What kind of law did Congress create? Explain the relationship between voters, Congress, and the law.

**Answer:** Congress created a statutory law, as authorized by Article II of the Constitution. As for the relationship between voters, Congress, and the law, students may posit that voters elect to Congress members who agree with what they believe, or at least, hope to do so. But of course, answers will vary. Voters who are disappointed in what their representatives have done may vote them out at the next opportunity.

3.ETHICS The greatest of all Chinese lawgivers, Confucius, did not esteem written laws. He believed that good rulers were the best guarantee of justice. Does our legal system rely primarily on the rule of law or the rule of people? Which do you instinctively trust more?

**Answer:** Hopefully, students will recognize that the rule of law provides more safety, security and justice than a reliance on the current ruler. But as to which they instinctively trust more, answers will vary.

4. Lance, a hacker, stole 15,000 credit card numbers and sold them on the black market, making millions. Police caught Lance, and two legal actions followed, one civil and one criminal. Who will be responsible for bringing the civil case? What will be the outcome if the jury believes that Lance was responsible for identity thefts? Who will be responsible for bringing the criminal case? What will be the outcome if the jury believes that Lance stole the numbers?

**Answer:** The civil cases will be brought by the victims of identity theft, and the outcome of a successful case against Lance would be some type of monetary award for damages suffered. The criminal case will be brought by state prosecutors and the outcome would be imprisonment for Lance.

5. The father of an American woman killed in the Paris terrorist attacks sued Twitter, Facebook, and YouTube, alleging the sites knowingly allowed terrorists to recruit members, raise money, and spread extremist propaganda. The sites defended themselves by saying that their policies prohibit terrorist recruitment and that, when alerted to it, they quickly remove offending videos. What type of lawsuit is this – criminal or civil? What responsibilities, if any, should social media sites have for the spread of terrorism?

**Answer:** The case is a civil case, but answers will vary as to the scope of the responsibilities social media sites should have for the spread of terrorism.

Discussion Questions

1. Do you believe that there are too many lawsuits in the United States: If so, do you place more blame for the problem on lawyers or on individuals who go to court? Is there anything that would help the problem, or will we always have large numbers of lawsuits?

**Answer:** Answers will vary.

1. In the 1980s, the Supreme Court ruled that it is legal for protesters to burn the American flag. This activity counts as free speech under the Constitution. If the Court hears a new flag-burning case in this decade, should it consider changing its ruling or should it follow precedent? Is following past precedent something that seems sensible to you:

a. always b. usually c. sometimes d. rarely e. never

**Answer:** Answers will vary.

1. When should a business be held legally responsible for customer safety? Consider the following statements, and circle your opinion.
   1. A business should keep customers safe from its own employees

Strongly agree agree neutral disagree strongly disagree

* 1. A business should keep customers safe from other customers

Strongly agree agree neutral disagree strongly disagree

* 1. A business should keep customers safe from themselves. (Example: an intoxicated customer who can no longer walk straight)

Strongly agree agree neutral disagree strongly disagree

* 1. A business should keep people outside its own establishment safe if it is reasonable to do so.

Strongly agree agree neutral disagree strongly disagree

**Answer:** Answers will vary.

1. In his most famous novel, *The Red and the Black*, the French author Stendhal (1783-1842) wrote: “Prior to laws, what is natural is only the strength of the lion, or the need of the creature suffering from hunger or cold, in short, need.” Do you agree with Stendhal? Without laws, would society quickly crumble?

**Answer:** Answers will vary.

5. Should judges ignore their life experiences, political leanings, and feelings when making judicial decisions? Do you think it is possible?

**Answer:** Answers will vary.

Suggested Additional Assignments

Research

Students should pick up an issue of any newspaper and find *ten* articles dealing with legal issues. The articles might refer to contract disputes, negligence suits, international trade agreements, statutory debates in Congress, environmental conflicts, employment issues, and so on. If researching articles in the classroom, make the search competitive—time how quickly students can find ten articles, or see who can find the most articles in two minutes. Students should select an article that interests them and be prepared to discuss it.

Poll

At the beginning of a course, it can be useful to get a feel for student attitudes about law and lawyers. The instructor might copy and distribute this poll on the first day, have students collate the responses, and chart the results on the board as a prelude to discussion.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Strongly Agree: 5 | 4 | Neutral:  3 | 2 | Strongly Disagree: 1 |
| 1. A system of laws is essential in a democratic society. |  |  |  |  |  |
| 2. The American legal system is one of the best in the world. |  |  |  |  |  |
| 3. Lawyers are among the most dishonest people in the United States. |  |  |  |  |  |
| 4. Lawyers are paid too much. |  |  |  |  |  |
| 5. Being on a jury is a waste of time. |  |  |  |  |  |
| 6. Juries frequently award absurdly high judgments |  |  |  |  |  |
| 7. It is fairly easy to manipulate the legal system. |  |  |  |  |  |
| 8. The legal system often abuses large corporations. |  |  |  |  |  |
| 9. Other nations do a better job than the United States of resolving disputes. |  |  |  |  |  |
| 10. The typical business executive has more integrity than the average lawyer. |  |  |  |  |  |

1. Roe v. Wade, 410 U.S. 113 (1973) [↑](#footnote-ref-1)
2. Plessy v. Ferguson, 163 U.S. 537 (1896). [↑](#footnote-ref-2)
3. Brown v. Board of Education of Topeka, 347 UJ.S. 483 (1954). [↑](#footnote-ref-3)
4. If you want to do legal research, you need to know where to find particular legal decisions. A citation is the case’s “address,” which guides you to the official book in which it is published. [See the text for the entire footnote.] [↑](#footnote-ref-4)
5. 307 S.W.3d 762, Supreme Court of Texas, 2010. [↑](#footnote-ref-5)