

13.22: Putting It Together- Legal Environment

Synthesis

Now that you have studied the legal environment of business, let's go back and check on your roommate. What do you think the outcome of the lawsuit was?

You probably won't be surprised to learn that your roommate was liable for negligence in kicking over the paint bucket, but you may be dismayed to learn that you were, too. When it comes to the claim of assault and battery, your roommate was also liable for that, but you may be protected from liability. As for the damages that you'll have to pay in order to settle the homeowner's negligence suit, you'll be happy to know that you can indeed write them off as "ordinary" business expenses (unless they're paid by your insurance company).

After working through this module you should be aware that even after paying damages, you still fared better than your roommate, because assault and battery violates statutes established by two different types of law—criminal and civil.

It is incumbent on each business professional to become familiar with the legal environment in his or her profession. Employers may provide training regarding legal environment issues, such as anti-sexual-harassment training or anti-insider-trading training, but ultimately, becoming familiar with the legal environment is each person's individual responsibility. Remember that a defense of "I didn't know the law!" is no defense at all.

Summary

This module covered the legal environment of business. Below is a summary of the topics covered in this module.

The Meaning and Purpose of Law

The law as we defined it is a set of rules of conduct or procedure established by custom, agreement, or authority. It refers to the entire the body of rules and principles governing the affairs of a community and enforced by a political authority. The main purposes of the law are to establish standards, maintain order, resolve disputes, and protect liberties and rights.

Statutory and Common Law

There are different sources of law in the U.S. legal system. The U.S. Constitution is foundational; U.S. statutory and common law must be consistent with its provisions. Congress creates statutory law (with the signature of the president), and the courts interpret both statutory and constitutional law. Where there is neither constitutional law nor statutory law, the courts function in the realm of common law.

Tort Law

In common law jurisdictions, a tort is a civil wrong that unfairly causes someone else to suffer loss or harm, resulting in legal liability for the person who commits the tortious act. Torts may result from negligent as well as intentional or criminal actions.

Product liability is the area of law in which product manufacturers, distributors, and sellers are held responsible for the injuries caused by their products.

When someone pursues a claim under a tort, the goal (or legal remedy) is usually the award of damages. Damages are an award, typically of money, to be paid to a person as compensation for loss or injury.

Intellectual Property

Intellectual property refers to creations of the mind—creative works or ideas embodied in a form that can be shared or enable others to recreate, emulate, or manufacture them. There are three main ways to protect intellectual property: patents, trademarks, and copyrights.

Warranties

A first basis of recovery in products-liability theory is breach of warranty. There are two types of warranties: express and implied. Under the implied category are three major subtypes: the implied warranty of merchantability (only given by merchants), the implied warranty of fitness for a particular purpose, and the implied warranty of title. Under warranty law there must have been a sale of the goods; the plaintiff must bring the action within the statute of limitations; and the plaintiff must notify the seller within a reasonable time. The seller may limit or exclude express warranties or limit or exclude implied warranties.

Contracts

Every transaction in business creates a contract (agreement) between the parties. In order to determine whether a valid, enforceable contract exists, the following questions must be answered: (1) Did the parties reach an agreement? (2) Was consideration present? (3) Was the agreement legal? (4) Did the parties have capacity to make a contract? (5) Was the agreement in the proper form? Remedies available against someone who breaches a contract include damages, specific performance, and restitution. Frequently the party who is not in breach must choose between tort and contract remedies.

Consumer Protection and Antitrust Laws

A range of laws regulate consumer affairs, and their aim is to protect consumers from unscrupulous business practices or potentially dangerous products. Some of the most far-reaching consumer protection laws are the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Federal Food, Drug, and Cosmetics Act, and the Uniform Deceptive Trade Practices Act.

Antitrust legislation is another kind of consumer protection that aims to prevent unfair business practices that limit competition or control prices. The three core federal antitrust laws are the Sherman Act, the Federal Trade Commission Act, and the Clayton Act.

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