

Business Law, 17e

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©2019

ISBN: 1259917118

Detailed List of New Features

For this edition, we welcome Joshua E. Perry, our Indiana University colleague, to the author team. He has made significant contributions to the creation of the 17th Edition and will continue to play a key authorship role in future editions.

For this edition, longtime co-author Arlen Langvardt has moved into the lead author role. This move continues the text's tradition of reliance on an author team with extensive teaching experience in a broad range of required and elective course. As always, the author team utilizes its experience to ensure that the text features comprehensive, up-to-date content, cases, and examples of current interest to students.

In this edition, there are many new cases, the text has been updated to include recent developments, and a significant number of problem cases have been replaced with new ones. The book continues to include both hypothetical examples and real-life cases so that we can target particular issues that deserve emphasis.

Chapter by Chapter Changes

Chapter 1

- New case with engaging facts flowing out of an injury to a patron by a flying hot dog at a Major League Baseball game, illustrating case law reasoning.
- Case that garnered significant mainstream and social media coverage in 2017 for illustrating the tremendous stakes that sometimes accompany the judicial interpretation of ambiguous legislative language (in this instance, the absence of an Oxford comma).

Chapter 2

- New chapter-opening problem dealing with jurisdiction, power of removal, discovery, and trial-related matters.
- Discussion of recent calls for legislative action to restrict the use of arbitration in certain settings.
- *Tyson Foods, Inc. v. Bouaphakeo*, an important class-action decision issued by the Supreme Court in 2016.

Chapter 3

- Discussion of *Reed v. Gilbert* and *Expressions Hair Design v. Schneiderman*, important First Amendment

decisions handed down by the Supreme Court in 2015 and 2017, respectively.

- Discussion of the government speech doctrine.
- *Matal v. Tam*, the 2017 decision in which the Supreme Court struck down, for First Amendment reasons, the federal statutory provision that allowed the U.S. Patent & Trademark Office to bar a trademark from registered status if the trademark was disparaging to individuals or groups.
- *Obergefell v. Hodges*, the landmark 2015 decision in which the Supreme Court invoked due process and equal protection principles in holding that same-sex couples cannot be denied the fundamental right of marriage.
- Updated discussion of affirmative action issues in light of *Fisher v. University of Texas*, decided by the Supreme Court in 2016.

Chapter 4

- Revised discussion of all ethical theories, including addition of virtue theory and exploration of profit maximization in the context of shareholder theory.
- Revised discussion of what it means to “lead ethically.”
- Chapter 5
- *Shaw v. United States*, a 2017 Supreme Court decision dealing with criminal intent and with the importance of focusing on the particular elements required by a criminal statute.
- Discussion of *Utah v. Strieff*, a 2016 Supreme Court decision illustrating the Court’s tendency to narrow the application of the exclusionary rule.
- *RJR Nabisco, Inc. v. European Community*, a 2016 decision in which the Supreme Court held that RICO’s substantive provisions have some extra-territorial application but that the statute’s civil damages remedy for private plaintiffs does not apply extra-territorially.

Chapter 6

- New chapter-opening problem that picks up on the facts in the chapter-opening problem in Chapter 2 and goes on to address tort issues.
- Updated Figure 2 that discusses the *O’Bannon* decision and the reactions of some colleges and universities.
- New case dealing with battery and with the application of a shopkeepers’ statute to protect a store against false imprisonment liability to a suspected shoplifter.
- 2016 Oregon Supreme Court decision dealing with whether statements in an online review were actionable false statements of supposed fact for purposes of a defamation claim or whether the statements were, instead, protected opinion.
- New case dealing with damages in nuisance cases.

Chapter 7

- New case dealing with whether employers whose employees are exposed to asbestos in their work have a duty to take reasonable steps to lessen that likelihood that members of those employees’ households are exposed to asbestos when the employees go home.
- New case dealing with whether negligence per se can apply when the defendant violated a local housing code rather than a state or federal statute.
- New case dealing with the bystander variety of claims for negligent infliction of emotional distress.
- New case dealing with whether an otherwise lawful fireworks display is an abnormally dangerous activity to which strict liability should attach.

Chapter 8

- *Impression Products, Inc. v. Lexmark International*, a 2017 Supreme Court decision dealing with whether the exhaustion doctrine applies when the first sale of an item covered by a patent occurred outside the United

States.

- Discussion of other recent Supreme Court decisions on patent issues.
- *Star Athletica, LLC v. Varsity Brands, Inc.*, a 2017 decision in which the Supreme Court held that designs incorporated into items of clothing may be copyrightable pictorial or graphic works if the designs are separable from the non-copyrightable useful articles (the items of clothing).
- Discussion of *Matal v. Tam*, the 2017 Supreme Court decision in which the Supreme Court struck down, for First Amendment reasons, a statutory provision that allowed the U.S. Patent and Trademark Office to refuse to register—or cancel the registration of—a trademark was disparaging to individuals or groups. (The case is included in Chapter 3.)
- Discussion of *Matal v. Tam*'s apparently controlling legal effect regarding recent years' controversy over whether the Washington Redskins trademark should continue to hold registered status.
- Discussion of the Defend Trade Secrets Act, which Congress enacted in 2016.
- *POM Wonderful LLC v. Coca-Cola Co.*, in which the Supreme Court held that the Food and Drug Administration's regulatory oversight over certain product labels did not preclude a private party's Lanham Act § 43(a) lawsuit regarding supposed false advertising on the label of the defendant's product.

Chapter 9

- New case to show how contracts can be based on the context of the interactions of the parties as much as their writings.
- Promissory estoppel case based on a literal life-and-death situation.

Chapter 10

- Case applying the modern common law standard of definiteness for offers.
- Arising in the context of the terms and conditions for a ride-sharing app, a case that explores which terms in an offer can ultimately bind an offeree.
- Replacing the District Court opinion in *Kolodziej v. Mason* with the opinion of the Circuit Court of Appeals, which more concisely discusses what constitutes a reward offer.

Chapter 11

- Case on the objective standard of intent to accept in the context of an Internet commerce dispute.
- Case to illustrate that the traditional mirror image rule still is applied in common law settings.
- A revised UCC § 2–207 flowchart, which accounts for the majority rules in situations not explicitly covered in the language of the Code.

Chapter 12

- *Franchise Holding II LLC v. Huntington Restaurants Group, Inc.*, an earlier version of which was included in the 16th Edition to illustrate the typical judicial approach to concerns about adequacy of consideration, is updated with a subsequent opinion from the proceedings, a clearer statement of the facts, and a more concise treatment of the adequacy issue.
- New cases to illustrate bargained-for exchange and the common law approach to contract modification.

Chapter 13

- New cases dealing with unilateral mistake and duress.

Chapter 14

- New case dealing with whether a parent can bind a minor child to a pre-injury liability waiver.

Chapter 15

- New case exploring substantive unconscionability in the context of an Uber driver agreement.

Chapter 16

- New case analyzing the statute of frauds in the context of a winning lottery ticket, promises to share the proceeds, and love gone wrong.
- New case exploring the parole evidence rule's application to verbal promises to fund an international student's three-year scholarship.

Chapter 17

- New case dealing with anti-assignment clauses under the UCC.
- New case dealing with limitations on third-party-beneficiary status for members of the public.

Chapter 18

- New case illustrating the creation and effect of a condition precedent.
- New case starring famous boxing promoter Don King and featuring an unsuccessful claim of impossibility.

Chapter 19

- New case dealing with whether a merchant could transfer voidable title to a subsequent buyer in the ordinary course of business.

Chapter 20

- New case dealing with the alternative tests used by courts in breach of implied warranty of merchantability cases involving food.
- New case dealing with negligent design issues in litigation involving motor vehicles and with the disagreement among courts over whether to recognize the crashworthiness doctrine in such cases.
- New case dealing with whether a limited remedy that called for repair or replacement failed of its essential purpose, thus entitling the plaintiff to obtain damages from the defendant in a breach of express warranty case.

Chapter 21

- New case dealing with considerations involved in determining whether a buyer acted reasonably to revoke acceptance.

Chapter 22

- New case regarding the enforceability of an attempted limitation of remedies.

Chapter 23

- New case in which the court concluded that money secreted in the wall of a home belonged to the estate of the person who had placed the money there, rather than to the current owner of the home.

Chapter 24

- New case illustrating partition issues involved in a joint tenancy.
- New case dealing with an easement by necessity.

Chapter 25

- New case exploring what constitutes a disfavored exculpatory clause in a lease.
- New case dealing with abandonment of a lease and its effect on the duty to mitigate damages.

Chapter 26

- New case illustrating the rule regarding testamentary capacity.

Chapter 27

- Updated Figure 1 and updated Ethics in Action box, with each addressing issues regarding the fate of the Affordable Care Act.
- New cases dealing with the scope and effect of exclusion clauses in property insurance and liability insurance policies.

Chapter 28

- New case in which a lienholder was held liable for damages to the owner of a vehicle sold at auction to satisfy the lien, where the lien was unlawful because the lienholder sought to include, within the lien, charges that a controlling statute did not authorize for inclusion.

Chapter 29

- New case dealing with whether information that appeared on a sales ticket met the requirements for a security agreement.

Chapter 31

- New case in which the court held that a promissory note that evidenced a revolving line of credit extended to the borrower was not a negotiable instrument.

Chapter 32

- New case in which the court held that one who took a postdated check did so in good faith and could qualify as a holder in due course.

Chapter 33

- New case dealing with the obligation of a party who signs a note as an accommodation maker.
- New case in which an individual deposited check containing false endorsements to a corporate account and was held liable for breach of the transfer warranties he made in depositing the checks.

Chapter 34

- New case in which a bank was held liable for cashing eight checks that contained forged drawer's signatures and then charged them against the customer's account.
- New case in which the court concluded that a "void after 90 days" notation on a check was not the legal equivalent of a stop-payment order.
- New case in which a dozen NFL players failed in their attempt to recover losses sustained when their agent diverted funds from checking accounts maintained in their names because the players failed to provide timely notice to the bank where the accounts were held.
- Revised text material on electronic transfers.

Chapter 35

- Updated discussion of fiduciary duty to help emphasize the extent of commitment associated with being a fiduciary.
- Updated discussion clarifying and delimiting an agent's apparent authority.
- New case discussing how the duty of nondisclosure and confidentiality continues after the agency ends.
- New case discussing whether a principal is liable under actual and apparent authority for an assault upon a third party by a terminated employee.

Chapter 36

- New case discussing the breach of an implied warranty of authority by a corporate president.
- New case involving respondeat superior and direct liability.

Chapter 37

- New case in which the court found that a business involved in a large broadband infrastructure construction project was not a purported partner with another company despite federal documentation and a website where the companies referred to themselves as partners.

Chapter 38

- New case involving an interpretation of a partnership agreement to determine whether active partners were entitled to compensation absent the agreement of the passive partners.

Chapter 39

- New case involving dissociation of partner and dissolution of partnership without the benefit of a partnership agreement.

Chapter 40

- New case demonstrating the importance of an LLC operating agreement in determining whether the majority of the company's members could continue the business after dissolution.

Chapter 41

- New case dealing with a corporation's discussion of "doing business" in a state and the prohibition of a lawsuit prior to acquisition of a certificate of authority.

Chapter 42

- New case in which the court discusses the definition of promoter and discusses promoter liability relative to the adoption of pre-incorporation contracts.

Chapter 43

- New case dealing with the business judgment rule relative to a merger, as well as voting rights, good faith, and fiduciary duty.

Chapter 44

- New case describing the limits of a shareholder's right of inspection vis-à-vis the intended use of the information once gathered.
- New case in which the federal circuit court discusses the right of minority shareholders to sue majority shareholders in regard to a "freeze-out" merger.

Chapter 45

- New federal circuit case involving the application of the family resemblance test to determine whether a promissory note is a security within the meaning of federal securities law.

Chapter 46

- New case discussing the elements of negligence as they apply to a financial audit.
- New federal circuit case discussing the primary intent rule and the liability of a major accounting firm to third parties.

Chapter 47

- Discussion of uses of the Congressional Review Act in the early months of the Trump administration to undo certain recently promulgated administrative agency regulations.
- Discussion of *Michigan v. Environmental Protection Agency*, a 2015 decision in which the Supreme Court struck down certain EPA regulations as unreasonable interpretations of the Clean Air Act.

Chapter 48

- *POM Wonderful, LLC v. Federal Trade Commission*, a recent D.C. Circuit decision dealing with the FTC's approach to allegedly deceptive health-related claims, the types of substantiation that may be required to support such claims, and the remedial orders that may be issued by the FTC in deceptive advertising cases.

Chapter 49

- Updated Global Business Environment box that discusses the apparent tendency of European Union regulators to be more aggressive than U.S. regulators with regard to firms with especially dominant market shares.
- Discussion of the trend toward treating more tying arrangements under the rule of reason.
- *Suture Express, Inc. v. Owens & Minor Distribution, Inc.*, a 2017 Tenth Circuit decision dealing with the market power element of tying arrangement cases and offering a reminder that the claimed harm must be to competition, not merely to a competitor.

Chapter 50

- *North Carolina State Board of Dental Examiners v. FTC*, a 2015 decision in which the Supreme Court outlined what is necessary for the state-action exemption to apply.

Chapter 51

- Expanded and updated discussion of the developments in Title VII jurisprudence related to whether sexual orientation and gender identity discrimination are sex discrimination.
- New case dealing with the bona fide occupational qualification defense under Title VII.
- Case exploring the parties' duty to engage in the interactive process in good faith when determining the possibility of accommodation under the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008.
- Two new cases to separately illustrate the objective standard of offensiveness and the affirmative defense to a supervisory hostile environment in supervisory sexual harassment claims under Title VII.
- New case exploring common law exceptions to the employment-at-will rule.

Chapter 52

- Revised material regarding climate change.
- Discussions of recent developments in the environmental area, such as the Clean Power Plan and the new rule on Waters of the United States.
- Related discussions of the extent to which such developments' ultimate status is uncertain as a result of efforts by the Trump administration to undo them.

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