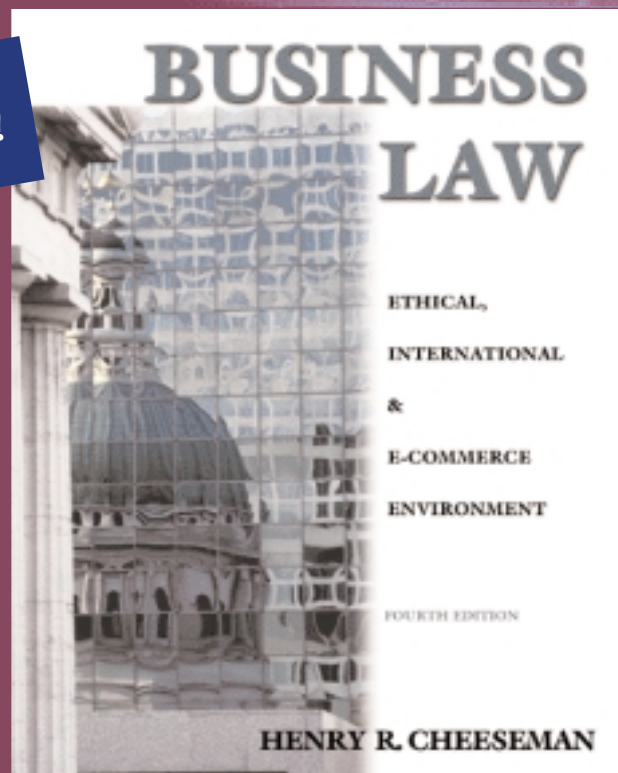


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Dear Colleagues,

Each semester, as I stand up in front of a new group of business majors in my Business Law class, I am struck by the thought that, statutes aside, I know two very important things that they have yet to learn. The first is that I draw as much from them as they do from me. Their youth, enthusiasm, questions, and even the doubts a few of them hold about the relevance of law to their futures, fuel my teaching. They don't know that every time they open their minds to look at a point from a new perspective or critically question something they have taken for granted, I get a wonderful reward for the work that I do.

The other thing I know (and I am sure you do, as well) is that both teaching and learning the law are all about stories. The stories I tell provide the framework on which students will hang everything they learn about the law in my class. It is my hope that long after the facts about the specific language of the statutes have faded, they will retain that framework. Several years from now, "unintentional torts" may draw only a glimmer of recognition with business managers who learn about them as students in my class this year. However, they will likely recall the story of the man who sued Pepsi as a result of impotence caused by a vending machine. The story sticks and gives students the hook on which to hang the concepts.

I remind myself of these two facts each time I sit down to work on writing and revising my textbooks, as well. My goal is to present business law in a way that will spur students to ask questions, to go beyond rote memorization. They need to see the law as an evolving outgrowth of its environment, and that environment keeps changing. In addition to the social, ethical, and international contexts I have incorporated in previous editions of *Business Law*, this edition adds coverage and emphasis on the Internet and entrepreneurship as two vital catalysts to the law and a key part of its environment.

The features presented in the following pages were all selected with that goal in mind. I hope that you allow *Business Law, Fourth Edition* to provide the foundation as you engage students with your own stories of the law and its applications.

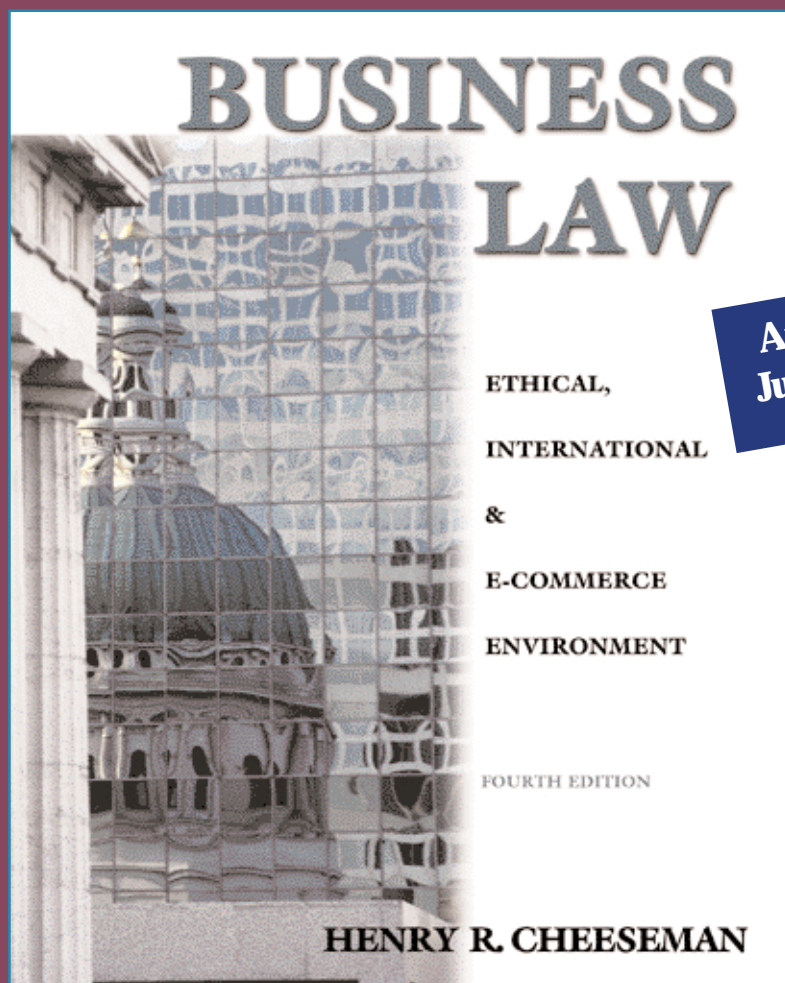
Sincerely,

Henry R. Cheeseman
January 1, 2000

***Now more motivating,
more current, more complete
with coverage of technology
and the Internet...***

The Fourth Edition of Henry Cheeseman's *Business Law: Ethical, International, and E-Commerce Environment* builds on the strengths of its author and its predecessors! Long known for his motivating and accessible writing style, Henry Cheeseman provides complete coverage of traditional business law topics and the legal environment in which business must operate.

However, in the Fourth Edition—the basis for all the books in the series—the author now goes a step further: he presents thorough coverage of the hottest topics currently discussed in business law, such as E-Commerce, Internet Law, entrepreneurship, and more.



New Internet Chapters

Two new chapters have been added to this edition. Chapter 17, *Intellectual Property & Internet Law*, and Chapter 18, *E-Commerce & Internet Law*, address the hottest emerging topics in business law. With thorough coverage of domain names, trademark infringement cases, digital signatures, the Digital Millennium Act, the Anticybersquatters Act, the Uniform Electronic Transactions Act, and other statutes and laws, this new material introduces students to every relevant feature of electronic commerce and Internet business.

748 *UNIT X* *Entrepreneur Law*

E-Commerce & Internet Law

CYBER BUSINESS PLANS ARE PATENTABLE

There are four categories of inventions that federal patent law recognizes: (1) machines, (2) articles of manufacture, (3) compositions, and (4) processes. For centuries most patents involved tangible inventions, such as the telephone and the light bulb. But the computer and Internet have changed the traditional view of what is patentable. Consider the case of *State Street Bank of Trust of Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998).

Signature Financial Group, Inc. (Signature) filed for and was granted a patent for a computerized accounting system that determines share prices through a series of mathematical calculations that is then used to manage mutual funds (U.S. Patent No. 5,195,026). State Street Bank, another financial institution that wanted to offer a similar mutual fund investment program to clients, sued to have Signature's patent invalidated, arguing that its intangible financial business model was a "process" that was protected under federal patent law. The U.S. Court of Appeals, Federal Circuit, upheld the patent as a "practical application of a mathematical algorithm, formula, or calculation, because it produces a useful, concrete and tangible result."

Taking the lead from the State Street case, many persons and businesses have filed for and received patents for business and financial models that are used over the Internet. Critics contend that granting patents for intangible processes was not intended when Congress enacted federal patent law. Business plan patent holders counter that the trend reflects a necessary evolution in patent law and claims that business plan patents are to the Internet Age what machine patents were to the Industrial Age. These proponents argue that critics had the same complaints when chemicals, polymers, and biotech patents were first granted. One thing is certain: the exponential growth in computer and Internet business plan patents will lead to an avalanche of patent litigation.

New

E-Commerce & Internet Law

More than 60 **E-Commerce & Internet Law** boxes can be found throughout the text. These boxes focus on legal issues businesses face as they either launch new Internet ventures or rise to the challenge of incorporating online technologies into their existing business models and provide a variety of compelling discussion questions. You'll find interesting, real-world examples featured, such as: "Broad Free Speech Granted in Cyberspace," "Cyber Business Plans are Patentable," "Encryption Technology Unlocked for Export," and more!

Entrepreneur and the Law

Part of the changing fabric of American business is the rapid increase in the number of entrepreneurial ventures launched each year. A dedicated chapter called **Law for Entrepreneurs** and more than 40 **Entrepreneur and the Law** boxes take a look at some successes and failures in recent years and the legal implications involved. Examples include "Pokemon Invades the United States," "Planet Hollywood Plunges to Earth," and "Entrepreneurial Spirit: The Creation of Amazon.com."

757 *UNIT X* *Entrepreneur Law*

Entrepreneur and the Law

THE ENTREPRENEURIAL SPIRIT: AMAZON.COM

In 1994, Jeff Bezos, the son of a Cuban immigrant to the United States, had made it big. After graduating from Princeton University, he had gone on to Wall Street where he worked for a hedge fund. But Bezos saw and even greater opportunity: on-line commerce. So he quit his job, jumped in the car with his wife, MacKenzie, and headed west. While she drove, he typed on his laptop computer. Bezos drew up a list of 20 products that he figured he could sell on-line but then narrowed it to two—books and music. Bezos settled on books for two reasons. First, there are more to sell (about 1.3 million books in print versus 300,000 music titles). Second, the likelihood of publishing second line imprints (that is, second companies that dominated music) was the waste of bookstores, the largest being Barnes & Noble with 12 percent of the industry's \$25 billion annual sale.

After climbing out Colorado and Oregon, Bezos and his wife settled in Seattle, Washington. They rented a house, hired four employees, and started Amazon.com out of their garage. Bezos and his family incorporated the business, sold some stock to friends and other investors, and kept the rest of the stock for themselves. Bezos took traditional business—bookstore—on-line. He reasoned that books were fungible—easy to sell the same product—and that a portion of a traditional bookstore's cost represented the real assets on which the store set. So Bezos leased up a distribution center in Oregon and began taking orders in cyberspace. Amazon.com sold its first book in July 1995.

Amazon.com became a success, at least at selling books. However, it was not a success at making a profit, losing money for years. But Bezos' business plan called for building a client base and making

New

Limited Liability Companies (LLC) Chapter

Chapter 34, **Limited Liability Companies**, provides thorough coverage of this emerging method of business organization.

International Coverage

Chapter 4, **Comparative and International Law**, is devoted exclusively to coverage of international laws, courts, organizations, dispute resolution, and regional trade agreements. Plus over 40 **International Perspectives** boxes are placed strategically to allow students to draw comparisons to the American system of justice and different International Systems. A few examples include “China and U.S. Reach Landmark Trade Pact,” “International Protection of Intellectual Property Rights,” and “Hiding Money in Off-shore Banks.”

International Perspective

CHINA AND THE U.S. REACH LANDMARK TRADE PACT



For the past 50 years, China and the United States have pursued divergent paths. China became the world's largest communist country and the United States the leading democracy. China maintained its agricultural nature, while the United States pursued industrialization. China's businesses were state-owned, while those in the United States were privately owned under a capitalist system. So what do these countries have in common? A new landmark trade pact. For over a decade, the two countries engaged in on-again, off-again trade negotiations. Then in November 1999, after much poring over and bludgeoning, the two countries reached a compromise that each thought rated their interests sufficiently to ink the agreement.

Prior to the agreement, the United States had annually granted China "most favored nation" status which permitted China to import most goods and services into the United States. The new trade pact eliminates the need for this annual ritual. In exchange for being granted the right to import most goods and services to the United States, China, which had substantially restricted imports into its country, has agreed to open its markets to foreign goods and services in the following ways:

- Telecommunications- Foreign telephone companies may now own up to 50 percent of Chinese telephone companies.
- Entertainment- China will double the number of U.S. (for students)

Contemporary Business Application

VIAGRA STIRS THE HEART, SOMETIMES TOO QUICKLY



The anti-impotency drug Viagra, introduced in 1997, was heralded as the most important drug to hit the market since the birth control pill. Viagra is prescribed by doctors to male patients who cannot have or have trouble getting erections and helps such men have intercourse. It became wildly successful and is now used by millions of men worldwide. In the United States, the Food and Drug Administration (FDA) approved the drug for use by the general public. A black market for Viagra has developed in countries where the drug has not been given government approval. Pfizer, the manufacturer of the drug, is receiving a financial bounty from its now-famous drug.

It seems that Viagra not only gets men's hearts starting again, but it may also cause their hearts to explode, literally. After hundreds of deaths of men taking the drug were reported, the FDA investigated and found that men with certain health predispositions may be at risk of death if they take Viagra. Therefore, the FDA now requires Viagra labels to warn of these risks.

Men who have had a heart attack or an irregular heart beat in the past six months

Men who have a history of cardiac failure or coronary artery disease that caused angina

Men who have significant high or low blood pressure

Viagra causes visual disturbance—particularly the ability to distinguish between blue and green—in about 3 percent of the men who use it. And Viagra sometimes works too well, causing penile pain, or painful erections that last up to four hours. Doctors and consumers must also be warned against these conditions.

Pfizer asserts that its aggressively marketed drug was not the culprit in the reported deaths, but that the drug was taken by men with health problems who should have not used the drug. By requiring the new warnings, the FDA wants men with the noted risk factors to first consult with their doctors.

Contemporary Business Applications

Though the Internet receives much of the attention when considering emerging business legal issues, there are still many challenges that present themselves from more traditional fronts. Over 40 **Contemporary Business Applications** boxes explore modern legal issues confronting businesses. “The Economic Espionage Act,” “Bootlegging Outlawed Again,” and “Viagra Sometimes Stirs the Heart Too Quickly” are just a few examples of the topics discussed.

Ethics

Chapter 8, **Ethics and Social Responsibility of Business** is just the beginning of the coverage of ethical issues contained in the Fourth Edition. Over 40 **Ethical Perspectives** boxes emphasize the importance of ethics in making business decisions, while they provide examples of ethical issues from real companies. These boxes set forth the facts of real court cases and ask the reader to consider the ethical issues raised in the case. New examples such as “Whistleblowers Sing for Millions,” “Joe Camel Exhales,” and “State Farm: Not Such a Good Neighbor” are included in this edition. Every case in the book concludes with an ethics question. Finally each chapter ends with additional ethics cases.

Ethical Perspective

STATE FARM NOT SUCH A GOOD NEIGHBOR



Most car drivers purchase auto theft insurance to cover the value from liability for accidents. Many drivers also purchase collision insurance, which means that the insurance covers the cost of repairing an insured damaged automobile. Collision insurance policies usually provide that replacement parts be of “like kind and quality” to the original damaged parts. But what if the replacement parts are “inferior” parts, that is, parts manufactured by companies other than the original automobile manufacturer. Do these generic parts qualify as “like kind and quality”? Many courts (and their lawyers, of course) did not think so and used that insurance company, State Farm Mutual Automobile Insurance Company, the largest insurance company in the United States, as the touchstone for including replacement parts in their policies without talking to them.

The plaintiffs' case was based on behalf of all newly insured owners of State Farm included all those who had their automobiles repaired by State Farm over the past 10 years. The plaintiffs purchased State Farm auto insurance for many years.

State Farm had breached its contract to provide replacement parts of “like kind and quality.” The case went to trial in rural Illinois, Illinois. After hearing the evidence, the jury believed the plaintiffs and held that State Farm had breached its contract with the insureds. As a remedy, the jury returned a verdict of \$48 million against State Farm. In a further blow, the trial court judge held that State Farm had concealed or withheld and tucked on an additional \$70 million in punitive and other damages, bringing the total award to almost \$113 million. State Farm has over \$7 billion in assets. Each of the 47 million affected insureds would receive on average about \$275 from State Farm.

State Farm argues that it did nothing wrong and that because of the judge's out-of-control award will be hurt by higher insurance costs. The plaintiffs argue that State Farm is only getting caught cheating its insureds and now must pay for its misbehavior. Litigation is pending against other automobile insurance companies because of the same issue.

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Appendix A:

Critical Legal Thinking Writing Assignment Cases

Consistent features aimed at student success

The superior cases found in the Cheeseman texts are just the beginning of the tools that help your students succeed. Throughout the chapters (and at each chapter's end) you'll find carefully designed features that work together to ensure that readers are motivated, engaged, and can master the concepts presented.

Exhibits

Many legal forms and documents may be foreign to students. Therefore, Henry Cheeseman has included many illustrations of these items to help students become familiar with them.

Student Annotations

Margin notes encourage students to consider important aspects of the topics as they read them, and help them expand their understanding of the topic. The types of annotations include:

- Margin Glossary: Summaries of legal concepts and principles
- Business Brief: Highlights the application of law to business.
- Quotes: Provide historical context

Concept Summaries

These useful reviews appear periodically throughout each chapter and offer students a brief summary of the immediately proceeding content.

Working the Web Exercises

These innovative chapter-ending exercises require students to access web sites relevant to the chapter material and work through interactive activities.

Critical Legal Thinking Cases

Critical Legal Thinking permeates this book! At the end of each chapter, students are presented with cases and associated questions that require them to apply the chapter content as well as their critical and analytical skills. Approximately 10 of these case exercises appear in each chapter, each drawn from real life cases.

Critical Legal Thinking Writing Assignments

These extensive assignments in the language of the court appear at the end of each chapter and are designed to give students experience in briefing cases and applying their critical legal thinking abilities.

Superior, interesting cases. . .

The hallmark of any book by Henry Cheeseman



Hoffman v Los Angeles Magazine, Inc.
33 F.Supp.2d 967 (1998)
United States District Court, C.D. California

CASE 5-2

FACTS

Dustin Hoffman is one of the most successful and recognizable motion picture actors. He has appeared in such movie classics as *The Graduate* and *Rainman* and has won two Academy Awards, a Golden Globe Award, and an Emmy for his work. In 1982, Hoffman appeared as the main character in the movie *Tootsie*, where he played a male actor who dressed as a woman to get acting jobs as an actress. In the movie, Hoffman appeared in a woman's bright red dress posing in front of the American flag, which was used as a stillshot in advertising for the movie. The movie was a great commercial success.

In 1997, the *Los Angeles Magazine*, a glossy regional magazine, decided to rev up sales by including more celebrity photos in the magazine. The March 1997 issue included a feature called "Grand Illusions" where celebrity figures were dressed in clothes, shoes, and accessories of fashion designers who advertised in the magazine. One photo was the full-figure shot of Dustin Hoffman from *Tootsie* that had been digitally altered to remove the red dress and heels and replace them with a all-gown designed by Richard Tyler and high heel shoes designed by Ralph Lauren. *Los Angeles Magazine* did not ask Mr. Hoffman for permission to use his name and likeness. After the magazine was published, Mr. Hoffman sued *Los Angeles Magazine, Inc.* in federal court to protect his name from commercial exploitation and to recover damages.

ISSUE

Did *Los Angeles Magazine, Inc.* misappropriate Dustin Hoffman's right to publicity?

OPINION

IN THE LANGUAGE OF THE COURT

Torticia, District Judge: The right to use Plaintiff Dustin Hoffman's name and likeness is an extremely valuable commodity and privilege not only because of Mr. Hoffman's status as an actor, but because he does not lawfully permit commercial use of his identity. Since appearing in the film *The Graduate*, Mr. Hoffman has consistently granted and granted the honour in which he has been known to the public. Mr. Hoffman maintains a strict policy of not rendering commercial products for fear that he will be perceived as a vulgar act by his fans and motion picture industry executives, suggesting that his career is in danger and that he no longer has the honour, respect, and the love of his fans as before.

Defendant *Los Angeles Magazine, Inc.*, did not seek or obtain permission from Mr. Hoffman to use his name or likeness in the March 1997 issue of *Los Angeles Magazine* and, in particular, did not obtain Mr. Hoffman's consent to commercially publish or display his design or advertising in the magazine. The reason permission was not sought is because *Los Angeles Magazine* knew or should have known that the celebrities whose would not consent or alternatively would demand payment for the fair market value for their right to utilize their names and likenesses in this manner for commercial exploitation. The photographs were manipulated and altered in such a manner that the celebrities were commercially exploited and were misled of their dignity, professionalism and talent. To be honest, the celebrities were misled by technology.

Plaintiff Dustin Hoffman, has been damaged by Defendant *Los Angeles Magazine, Inc.*, for the month-to-month use of his name and likeness in various advertisements, articles of clothing designed by Richard Tyler and Ralph Lauren. In addition, Mr. Hoffman has been damaged by *Los Angeles Magazine* for the month-to-month use of his name and likeness in a "Vanity model." The fair market value of Plaintiff's damages is the value that a celebrity of Mr. Hoffman's reputation, appeal, talent and fame would bring in the open market for this type of service in a publication in a regional magazine in the Los Angeles area. The Court finds the fair market value of Plaintiff's name and likeness used for various merchandising purposes to be \$1,200,000. The Court also finds that Plaintiff has established by clear and convincing evidence that Plaintiff is entitled to an award of punitive damages of \$1,200,000.

DECISION AND REMEDY

The federal district court held that *Los Angeles Magazine, Inc.* had misappropriated Plaintiff Dustin Hoffman's right to publicity and awarded Mr. Hoffman \$1.5 million in compensatory damages and \$1.5 million in punitive damages.

Case Questions

Critical Legal Thinking: Should the right to publicity be a protected right? Why or why not?

Ethics: Did *Los Angeles Magazine* act ethically in using Dustin Hoffman's celebrity status without getting his permission or paying him?

Business Application: What kind of message does this case send to parties who intend to commercially exploit a celebrity's name and likeness?

Outstanding cases can be found in all the Cheeseman texts, and the new Fourth Edition is no exception. The featured cases were selected because of their relevance to business and for the way they'll grab and retain the attention of your students. Appropriate in topic and length, the cases presented are all current and engaging. Three to five cases per chapter are

presented in an edited format, which retains the language of the court. The format of each case includes: Facts; Issue; Opinion; In the Language of Court; Decision and Remedy; Case Questions. Three case questions follow every case in the book to promote active learning. The questions deal with issues of ethics, policy, and business implications.

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- **Research Area**—Your own personal resource library includes tutorials, descriptive links to virtual libraries, and a wealth of search engines and resources.

For the professor

- **Teaching Resources** include resources contributed by professors throughout the world such as teaching tips, techniques, academic papers, sample syllabi, and *Talk to the Team*, a moderated faculty chat room.
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- **What's New** gives you one click access to all newly posted PHLIP resources.

For the student

- **Talk to the Tutor**, virtual office hours that allow students to post questions from any supported discipline and receive responses from the dedicated PHLIP/CW faculty team.
- **Writing Resource Center**, an online writing center that provides links to online directories, thesauruses, writing tutors, style and grammar guides, and additional tools.
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- **Study Tips**, an area for students to learn to develop better study skills.

TotaLaw CD-ROM

This learning resource can be valuepacked FREE with every student copy of the Cheeseman text.

TotaLaw includes the complete text of 30 of the most important and relevant acts that have made an impact on the business world. A built-in feature allows users to search by keyword. This extensive resource is easy to load, convenient to use, and includes the U.S. Constitution, the United Nations Charter, the Uniform Commercial Code, and much more.



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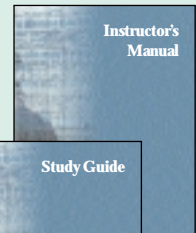


Print and Video Supplements Complete the Package

To ensure consistency of style, approach, and coverage amongst the critical print supplements, these supplements were all prepared by a single author team working in conjunction with the text author, Henry Cheeseman.

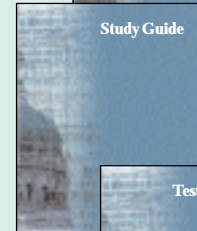
Instructor's Manual

In addition to bulleted chapter outlines and the answers to the text questions and cases this useful manual is directly linked to the slides provided in the PowerPoint package.



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The study guide includes a bulleted outline for each chapter, a variety of objective questions and Critical Legal Thinking Essays to effectively reinforcement the concepts introduced in the chapter.



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With over 30% new questions from the last edition, the Test Item File is available in both hardcopy and electronic format. The Test Item File contains multiple choice, true/false, fill-in-the-blank, and essay questions.



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CPA Review Guide

The CPA Review Guide covers all topics tested on the Business Law section of the CPA Exam. It can be valuepacked with any of the Henry Cheeseman titles at a discounted cost or purchased separately by students.

Supplements that equal the text in excellence

Dedicated to reliability, consistency, and accuracy, the new author team of the Cheeseman supplements bring a host of talents to these vital teaching and learning tools. You'll find that the supplements that accompany the new edition of Business Law are more visually attractive, are more integrated with the text, and are more comprehensive and easier to use.

Rhonda Carlson, the team leader for the Cheeseman franchise supplements authors, is an accomplished teacher, writer and editor. She is currently teaching at the University of Denver School of Law. Ms. Carlson has also taught at the University of Colorado, and worked as a law librarian, an executive in academic legal publishing, a writing consultant, and a freelance writer of legal and academic publications. She holds a bachelor's degree from the University of Illinois Champaign, a master's degree in library science from U. C. Berkeley, and a law degree from Hastings College of Law, San Francisco.

Edward Gac holds an undergraduate degree in political science from Western Illinois University and a law degree from the University of Illinois College of Law, Champaign. Also an accomplished writer, researcher, teacher, and editor, Mr. Gac currently lives in Boulder, Colorado, where he teaches courses in taxation and business law at the University of Colorado. In addition, in the mid-1990s Mr. Gac helped establish new special exchange programs in Ukraine, Belarus, and Estonia on behalf of the Economics Institute.

John Ballantine is a senior instructor of business law at the University of Colorado at Boulder. Mr. Ballantine's experience working with students is long and varied, from working as a tutor in the late 80s to teaching many tax and business courses and seminars to the present. He earned a bachelor's degree at Purdue University, a master's degree in business administration at Indiana University, and a law degree at the University of Colorado.

Mary Wilder currently works as Director of Legal Writing and Associate Director of Lawyering Process at the University of Denver College of Law. In the past, she has served as a legal writing instructor, an editor, a research and reference librarian, and lecturer. Ms. Wilder holds a bachelor's degree in history from Trinity University in San Antonio, Texas, a master's degree in Russian history, a master's degree in Librarianship, and a law degree, all from the University of Colorado, Boulder.

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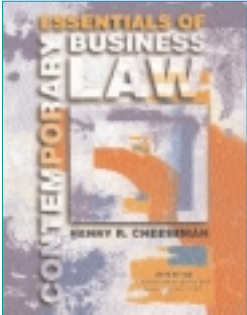
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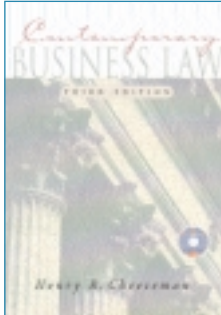
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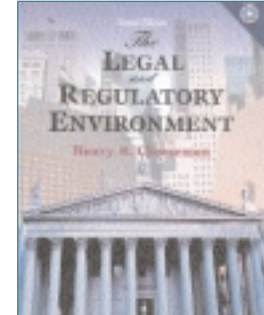
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