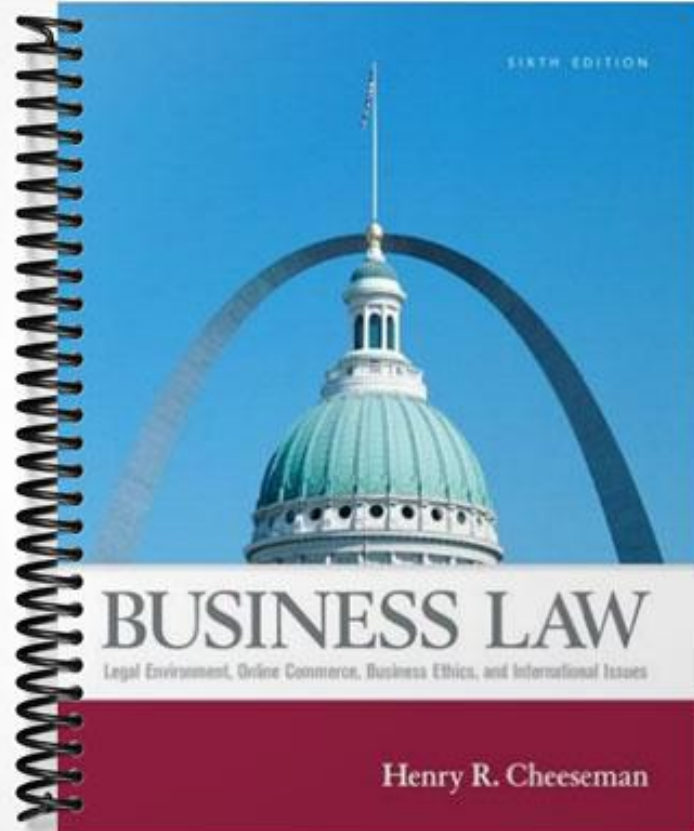


SOLUTIONS MANUAL



SIXTH EDITION



BUSINESS LAW

Legal Environment, Online Commerce, Business Ethics, and International Issues

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Chapter 2 *Court Systems and Jurisdictions*



I was never ruined but twice, once when I lost a lawsuit, and once when I won one.
Voltaire

I. Teacher to Teacher Dialogue

When it comes to capturing and retaining students' attention, today's teachers find themselves in a most competitive environment. Twenty-first century technological advances have provided our students with all kinds of instant access to information. These devices have given many students both a "mute button" mindset in the classroom that can make it very difficult for teachers to overcome many of their students' preconceptions, and a series of distractions, as text messaging and surfing for emails compete with our lectures and discussions..

Take, for example, the average undergraduate's notion of how trials are conducted and the role of attorneys in that process. Invariably these perceptions center on popular television series such as *Law and Order*, *Boston Legal*, and *Court TV*. Current media focus on numerous law-related issues has generated a whole new wave of public interest in the workings of our legal system. The downside is that the media have created many myths on law and lawyers. In the older world of pop culture, no one knew until the end who really committed the crime until a surprise witness shows up to "finger" the bad guy. In more modern versions, the crime is committed before the first set of commercials, and the police, lawyers, and the court spend the remaining fifty-five minutes trying to bring the criminal to justice, and failing almost as often as they succeed.

Welcome to Real World 101! A trial rarely resembles the goings on found in the entertainment media. Trials are long, tedious, emotionally and financially draining processes for all parties concerned. In many ways, a trial represents a failure by the parties to reach some sort of satisfactory solution of the issue beforehand. Rarely do the parties actually want to go through a labyrinth of pleadings, motions, and the like, feeling all the while totally dependent on the

sometimes questionable competence of their attorneys. Unlike the world of entertainment, the job of an attorney is to keep his or her client out of court. The attorney's professional advice should anticipate and resolve potential legal problems before, rather than after, the fact, if at all possible.

II. Chapter Objectives

- Describe the state court systems.
- Describe the federal court systems.
- Compare the jurisdiction of state and federal courts.
- List and describe the types of decisions that are issued by the U.S. Supreme Court.
- Define standing to sue and venue.

III. Key Question Checklist

- Which court has jurisdiction?

IV. Text Materials

The highest court in the land is the Supreme Court of the United States. Decisions issued by this court serve as precedent for all other courts in the nation.

Section 1: State Court Systems

Each [state](#) and the District of Columbia has a separate court system.

Limited-Jurisdiction Trial Courts – These [courts](#) are also referred to as inferior trial courts and hear specialized matters. They include traffic, probate, and family courts, as well as small claims courts. The decisions of these judges are appealable to general-jurisdiction or appellate courts.

General-Jurisdiction Trial Courts – These courts of record have the testimony and evidence recorded and stored, and hear items outside the jurisdiction of the limited-jurisdiction courts.

Decisions may be appealed to an intermediate appellate court or a state supreme court.

Intermediate Appellate Courts – Courts of appeal review the trial court record to determine if there have been any reversible errors or mistakes at law. They may hear brief oral argument, as well. These decisions are appealable to the state's highest court.

Highest State Court – This court hears appeals from intermediate state courts and certain other courts. New testimony and evidence are not allowed, and the decisions are usually final. If a question of law is involved, it may be heard on appeal up to the U.S. Supreme Court.

Section 2: [Federal](#) Court System

Article III of the U.S. Constitution and Congress have established both the [U.S. Supreme Court](#) and the [federal courts system](#). Federal justices receive lifetime appointments from the president, upon the advice and consent of the Senate.

Special Federal Courts – There are four courts of limited jurisdiction in the federal system: the [U.S. Tax Court](#) which deals with federal tax matters, the [U.S. Court of Federal Claims](#) dealing with cases brought against the U.S., the U.S. Court of International Trade that sits on cases dealing with tariffs and international commercial disputes, and the [U.S. Bankruptcy Court](#).

U.S. District Courts – The federal court system's courts of general jurisdiction, these ninety-six courts impanel juries, receive evidence, hear testimony, and decide cases. Appeals are made to the U.S. Court of Appeal.

U.S. Courts of Appeal – There are intermediate appellate courts in all thirteen circuits that hear appeals from the district courts, certain special courts, and administrative agencies. Usually sitting as a three-judge panel, these courts review lower court records and administrative agency actions for errors, without hearing new testimony or oral evidence.

Section 3: U.S. Supreme Court

Nine justices sit on the highest court in the U.S. Administered by a chief justice who is appointed by the president; the other eight justices are called associate justices. Appeals are heard from the federal circuit courts of appeals, special federal courts, federal district courts, and the highest state courts. As before, no new testimony or evidence may be presented, but a brief oral argument is permitted.

Decisions by the U.S. Supreme Court – In order for the U.S. Supreme Court to hear a case, a petitioner must file a petition for certiorari with the Court. If the case is accepted for review, the Court issues a writ of certiorari. Decisions by the Court will be unanimous if all the justices agree as to both the outcome and the reasoning, and these decisions become precedent.

If most of the justices agree as to both the outcome and the reasoning, then it is considered a majority decision, and the opinion issued becomes precedent.

When the majority of the justices agree as to the outcome, but not as to the reasoning, it is called a plurality decision, and is not accepted as precedent for later decisions.

Justices that agree with the outcome, but not the reasoning in a case may write a concurring opinion, while those who do not agree with the outcome may file a dissenting opinion.

A tie decision may occur when the Supreme Court sits without all of its justices. This will reaffirm the lower court decision, but will not serve as precedent.

Section 4: Subject Matter Jurisdiction of Courts

Jurisdiction of Federal Courts – Federal courts have limited jurisdiction to hear both federal question arising from the U.S. Constitution, treaties, federal statutes and regulations, and where there is a diversity of citizenship. They also have exclusive jurisdiction to hear matters involving federal crimes, antitrust, bankruptcy, patent and copyright matters, suits against the U.S., and admiralty cases.

Jurisdiction of State Courts – State courts will sit on cases that are not reserved to the federal courts, like real estate law, business entity questions, sales and lease contracts, negotiable instruments, and matters of state law.

State courts have concurrent jurisdiction with the federal courts on matters involving diversity of citizenship and federal questions that do not fall within the exclusive jurisdiction of the federal courts.

Section 5: Jurisdiction of Courts

In order to bring a lawsuit, the plaintiff must have standing to sue, the court must have jurisdiction to hear the case, and the case must be brought in the proper venue.

Standing to Sue – The plaintiff must have some stake in the outcome of the suit

In Personam Jurisdiction – Personal jurisdiction is achieved by the plaintiff filing the lawsuit with a court, granting it jurisdiction over the plaintiff. The court must also have jurisdiction over the defendant, which is obtained through service of process. Service is usually accomplished by personal service of the summons and complaint, but may be made by some alternative form of notice. Parties disputing the jurisdiction of the court may make a special appearance to argue their side.

In Rem and Quasi in Rem Jurisdiction – In rem jurisdiction is “jurisdiction over the thing,” and grants a court the power to hear and decide a case if the property is located in the state, even if there is no personal jurisdiction.

Quasi in rem or attachment jurisdiction allows a judgment obtained against a defendant to be collected by attaching property.

Long-Arm Statutes – Provided a nonresident person or business has some minimum contact with a state, the courts can obtain jurisdiction.

Case 2.1: *Carnival Cruise Lines, Inc. v. Shute*

Facts: Mrs. Shute sued Carnival Cruise Lines, Inc., (Carnival) for injuries suffered while she was a passenger aboard one of its ships. The suit was filed in Washington. However, the trial court dismissed the suit on a motion for summary judgment that argued that the contract of the parties specified that defendant could only be sued in Florida courts. The Washington appellate court reversed the trial court and the defendant appealed to the United States Supreme Court.

Issue: Is the forum selection clause in the contract enforceable?

Decision: Reversed. The forum clause is fundamentally fair.

Reason: *Blackmun, J.* Several advantages flow from recognizing the validity of this nonnegotiated forum clause freely entered into by both parties:

(1) The cruise line would not risk having to defend actions brought simultaneously in several jurisdictions.

(2) Litigation expense is reduced for both parties if they both know where suits can be brought.

(3) Passengers who purchase tickets can expect to benefit from reduced prices due to the savings generated by reasonable and fair clauses.

It, therefore, seems better to permit the reasonable inclusion of a forum selection clause whenever its benefits outweigh its dangers.

V. Answers to Critical Legal Thinking Cases

Federal Question

2.1. Yes, the federal courts have the jurisdiction to hear Nutrilab’s case. Federal courts have limited jurisdiction, granted to them by the Constitution and Congress. Part of this limited jurisdiction is to hear cases involving federal questions. Federal question cases are cases arising under the U.S. Constitution, treaties, and federal statutes and regulations. Federal courts have original jurisdiction to hear federal question cases. Nutrilab was disputing the FDA’s application of a federal statute to stop their distribution of Starch Blockers. The Starch Blockers case was therefore one arising under a federal statute, and this gave the federal court original jurisdiction to hear the case. Any lawsuit, such as this one brought by Nutrilab, that involves a federal question must be brought in a federal court. *Nutrilab, Inc. v. Schweiker*, 713 F. 2d 335 (7th Cir. 1983).

Jurisdiction

2.2. Yes, the case can be removed to a federal court on the basis of diversity of citizenship. If a case over which the federal courts have concurrent jurisdiction is brought in a state court, the case can be removed to a federal court. Federal courts have concurrent jurisdiction over cases involving parties with diverse citizenship. Diversity of citizenship is defined as a case involving (1) citizens of different states, (2) a citizen of a state and a citizen of a foreign country, (3) a citizen of a state and a foreign country where the foreign country is the plaintiff. A corporation is considered to be a citizen of the state in which it is incorporated. A case that is brought must involve more than \$50,000. The lawsuit between Allison and ITE involved a citizen of the state

of Mississippi, and a citizen of a foreign country, Japan. The amount Allison was suing for was greater than \$50,000. This meant that the case could be removed from Mississippi State Court to a federal court. The federal court had concurrent jurisdiction over the case, based upon the diversity of citizenship between Allison and ITE. *Allison v. ITE Imperial Corp.*, 729 F. Supp. 45 (S.D. Miss. 1990).

In Personam Jurisdiction

2.3. Yes, the New Jersey court does have jurisdiction over Peoples Trust and Mozuck. Jurisdiction over the person is called *in personam* jurisdiction. A plaintiff, by filing a lawsuit with the court, gives the court *in personam* jurisdiction over himself. The court must also have *in personam* jurisdiction over the defendant, which is usually obtained by having that person served within the boundaries of the state. Service of process is usually accomplished by personal service of the summons on the defendant. The New Jersey State Court gained jurisdiction over Peoples Trust when it filed the suit with the Court. The Court gained jurisdiction over the Mozucks by service of process. The Mozucks had been properly served when the process server left the summons in their mailbox. The process server had gone to the Mozuck home in New Jersey and left the summons with a woman who had identified herself as the defendant. Because Mrs. Mozuck was within the boundaries of the state when she was served, the Court had *in personam* jurisdiction over her. Therefore, the New Jersey court had *in personam* jurisdiction over both parties in this case. *Peoples Trust Co. v. Mozuck*, 236 A.2d 630 (N.J.Super. 1967).

VI. Answers to Business Ethics Cases

2.4. No. Based on the de minimis theory, i.e., “the law disregards trifles,” the trial court was correct in dismissing the case. Justice King believed that this lawsuit is an absurd waste of the resources of the courts and of the taxpayers’ money. The courts are already too heavily burdened to be used to punish advertisers who use junk mail. *Harris v. Time*, 191 C.App. 3d 449, 237 Cal. Rptr. 584 (Cal. App. 1987).

VII. Terms

- appeal—The act of asking an appellate court to overturn a decision after the trial court’s final judgment has been entered.
- appellant—The appealing party in an appeal. Also known as *petitioner*.
- appellee—The responding party in an appeal. Also known as *respondent*.
- concurrent jurisdiction—Jurisdiction shared by two or more courts.
- consolidation—The act of a court to combine two or more separate lawsuits into one lawsuit.
- Court of Appeals for the Federal Circuit—A court of appeals in Washington, D.C., that has special appellate jurisdiction to review the decisions of the Claims Court, the Patent and Trademark Office, and the Court of International Trade.
- diversity of citizenship—A case between (1) citizens of different states and (2) a citizen of a state and a citizen or subject of a foreign country.
- exclusive jurisdiction—Jurisdiction held by only one court.
- federal question—A case arising under the U.S. Constitution, treaties, and federal statutes and regulations.
- forum-selection clause—Contract provision that designates a certain court to hear any dispute concerning nonperformance of the contract.

- general-jurisdiction trial court—A court that hears cases of a general nature that are not within the jurisdiction of limited-jurisdiction trial courts. Testimony and evidence at trial are recorded and stored for future reference.
- *in personam* jurisdiction—Jurisdiction over the parties to a lawsuit.
- *in rem* jurisdiction—Jurisdiction to hear a case because of jurisdiction over the property of the lawsuit.
- intermediate appellate court—An intermediate court that hears appeals from trial courts.
- intervention—The act of others to join as parties to an existing lawsuit.
- jurisdiction—The authority of a court to hear a case.
- limited-jurisdiction trial court—A court that hears matters of a specialized or limited nature.
- long-arm statute—A statute that extends a state’s jurisdiction to nonresidents who were not served a summons within the state.
- petition for certiorari—A petition asking the Supreme Court to hear one’s case.
- physical or mental examination—A court may order another party to submit to a physical or mental examination prior to trial.
- plaintiff—The party who files the lawsuit.
- pleadings—The paperwork that is filed with the court to initiate and respond to a lawsuit.
- *quasi in rem* jurisdiction—Jurisdiction allowed a plaintiff who obtains a judgment in one state to try to collect the judgment by attaching property of the defendant located in another state.
- reply—Filed by the original plaintiff to answer the defendant’s cross-complaint.
- service of process—A summons is served on the defendant to obtain personal jurisdiction over him or her.
- small claims court—A court that hears civil cases involving a small dollar amounts.
- special federal courts—Federal courts that hear matters of specialized or limited jurisdiction.
- standing to sue—The plaintiff must have some stake in the outcome of the lawsuit.
- state supreme court—The highest court in a state court system; it hears appeals from intermediate state courts and certain trial courts.
- statute of limitations—Statute that establishes the time period during which a lawsuit must be brought; if the lawsuit is not brought within this period, the injured party loses the right to sue.
- subject matter jurisdiction—Jurisdiction over the subject matter of a lawsuit.
- United States courts of appeals—The federal court system’s intermediate appellate court.
- United States district courts—The federal court system’s trial courts of general jurisdiction.
- United States Supreme Court—The highest court in the land. It is located in Washington, D.C.
- venue—A concept that requires lawsuits to be heard by the court with jurisdiction that is nearest the location in which the incident occurred or where the parties reside.
- writ of certiorari—An official notice that the Supreme Court will review one’s case.