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FROM THE CLASSROOM

The following article is in the online supplement accessible at <http://www.sealsb.org>:

TEACHING THE IMPACT OF LITIGATION COSTS ON THE LEGAL ENVIRONMENT
OF BUSINESS: INSTRUCTION TO SUPPLEMENT UNDERGRADUATE BUSINESS
LAW TEXTBOOKS IS NEEDED

By: Konrad S. Lee and Matthew I. Thue

EDITOR'S CORNER: A LOOK AT WHERE WE HAVE BEEN AND WHERE WE ARE GOING

The *Journal of Legal Studies in Business (JLSB)* was first published in the spring of 1992. In that first volume, a message from Renee Culverhouse, the President of the Southeastern Academy of Legal Studies in Business (SEALSB), provides some historical information. The SEALSB had just adopted its present name and its new journal, entitled *Southeastern Journal of Legal Studies in Business*, changed to an academic, print publication replacing the refereed proceedings. That first volume contained articles that had been presented at the SEALSB annual meeting in October 1991. Over the span of a few years, "Southeastern" was dropped from the journal title, a double blind peer-reviewed process was installed, and West Publishing began publishing the journal as a service to SEALSB.

Presently, *JLSB* publishes high quality, blind/peer reviewed legal research, and it is indexed in *Cabell's Directory of Publishing Opportunities in Management and Marketing*, as well as in *The Index to Legal Periodicals & Books*. The journal has over seven hundred institutional and individual subscribers. *JLSB* is the official publication of SEALSB and it is published once per year. Information concerning SEALSB is accessible at <http://www.sealsb.org>. SEALSB is a regional academy covering Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee; even though many SEALSB members are from those states, the organization welcomes and encourages those outside the southeast region to become SEALSB members.

In early November of 2008, the SEALSB Executive Committee developed and implemented a new configuration and plan of succession for the *JLSB* editorial board. Under the new configuration, the Editor-in-Chief, will be supported by a Senior Articles Editor and an Articles Editor, each to serve a two-year term. At the end of two years, the Editor-in-Chief steps down from the editorial board, with the Senior Articles Editor becoming the new Editor-in-Chief and the Articles Editor filling the position of Senior Articles Editor. A new Articles Editor will be chosen by the outgoing Editor-in-Chief, Senior Articles Editor, and Articles Editor. The Executive Committee appointed Carol M. Bast (University of Central Florida) as *JLSB* Editor-in-Chief, Mark Blodgett (Suffolk University) as Senior Articles Editor, and Konrad Lee (Utah State University) as Articles Editor.

Beginning with volume 14, an online supplementary "pocket part" accompanies the print volume. The *JLSB* print volume will continue to serve its mission of providing an important publication vehicle for academic scholarship based on substantive research relevant to business and law. The mission of the *JLSB* online supplement will be to provide publishing opportunities for authors producing pedagogical scholarship concerning law and business-related higher education outside of law school; the articles published in the *JLSB* online supplement comprise a significant resource for members of the Academy of Legal Studies in Business, members of ALSB regional affiliates, and others concerned with legal pedagogy.

In preparing this volume 14, I would like to recognize the work of the many authors, staff editors, and reviewers. I would also like to thank the SEALS Executive Committee for the confidence it placed in me by appointing me editor-in-chief. *JLSB* could not have been published without the invaluable assistance of the current publisher Cengage Learning. Vicky True of Cengage Learning has been especially helpful in making volume 14 a reality.

This print volume contains five articles and the online supplement contains one article, with the substance of the articles reflecting the varying research interests of their authors. The substance of the articles range from morals clauses in contracts, to bankruptcy, to the Florida Equal Access to Justice Act, to the role of the arbitrator, to teaching about the cost of litigation.

In the first article, *Morality and Money: Contractual Morals Clauses as Fiscal and Reputational Safeguards*, Amanda Harmon Cooley, Marka B. Fleming and Gwendolyn McFadden-Wade review the use of morals clauses over the last eighty-five years. Early on, morals clauses were incorporated into employment contracts in the movie industry and are now a standard feature of many employment contracts for professional athletes as well as endorsement contracts and sponsorship contracts. Although in the past the purpose of morals clause was to make the employee conform to a particular religious or political standard, the authors conclude that the dominant purpose of morals clauses today is to protect a contracting party's profits and reputation.

The second and fourth articles concern bankruptcy. Roxane DeLaurell authored *The Russians Are Coming, the Russians Are Coming: Cross Border Bankruptcy Before Chapter 15 and Beyond, The Strange Case of Yukos Oil*. The article examines the application of new Chapter 15 of the United States Bankruptcy Code to multinational businesses, using Yukos Oil as an example. Yukos Oil, with roots in Russia, filed for bankruptcy in the United States. A United States bankruptcy court in Texas was asked to determine whether the court had jurisdiction.

The third article, authored by Brian Elzweig and Patrick Creehan, focuses on the definition of a small business party under the Florida Equal Access to Justice Act which allows a prevailing small business party to collect attorney fees and costs against the State. The title of the article, *Unequal Justice for All: Inconsistencies in the Definition of a "Small Business Party" Under the Florida Equal Access to Justice Act*, encapsulates the authors' finding that ambiguous language in the Florida Statute that has resulted in inconsistent awards of attorney's fees. The authors suggest that the Act be amended to make the definition clear and offer suggestions of ways in which this might be done.

The title of the fourth article, *Non-Consumer Individual Chapter 7 Debtors Get a Pass: No Rhyme or Reason for the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005's Disparate Treatment* by Robert Landry shows how amendments affecting individual consumers has resulted in a disparity of treatment between consumers and non-consumer individuals. Landry then proposes amendments to Chapter 7 to remove this disparity.

In *The Appropriate Level of Discipline Under the “Just Cause” Standard: The Role of the Arbitrator*, Harvey Shrage considers the actions of arbitrators when reviewing disciplinary actions taken against an employee by an employer. After studying the definition of just cause and the role of the arbitrator, the article analyzes two years of labor arbitration decisions in discipline cases. The article concludes that arbitrators usually uphold employer discipline under an arbitrary and capricious standard and lower the penalty where some of the employer allegations cannot be proven; however, the arbitrator would reverse where the employer allegations cannot be proven.

The article, *Teaching the Impact of Litigation Costs on the Legal Environment of Business: Instruction to Supplement Undergraduate Business Law Textbooks Is Needed*, begins with the summary of three cases, which would be considered by most to be frivolous. In each of these cases, attendant litigation expenses had a profound effect on at least one of the affected parties. The premise of the article by Konrad Lee and Matthew Thue is that the standard business law text fail to factor litigation costs into the business law course. The authors conclude that instructors should incorporate a discussion of litigation costs into the business law course.

- Carol M. Bast