

## Assignment 1 (15 % of total course grade)

**IMPORTANT:** Please submit all assignments as an attachment via Blackboard. Please make sure your name is on the attachment document so the course facilitator knows to whom it belongs to when reviewing a printed paper copy. You are responsible for submitting the file properly and on-time. If you have issues, please review the Blackboard FAQ on how to submit assignments and attach files in the Course Documents section.

### Assignment Overview

Why do you need to have a basic understanding of law when working in business? You need to understand enough about the law to make educated decisions to avoid risks and keep your business out of trouble.

You need to understand your rights and the rights of your customers, employees, investors, your peers, and those of your vendors and suppliers—all within the context of Canadian law and sometimes international law.

You also need to know how to leverage the law for the best business outcomes. This is particularly important in contract law. You need to understand your risks and potential impacts of contract clauses.

From the finance and accounting perspective, or as a senior executive or member of a board of directors, you need to understand what you are responsible for and liable for in terms of financial reporting, dealing with investors and regulatory agencies.

For this assignment you will apply your learning from weeks 1 through 5 of this course, including your readings from the textbook and self-directed research.

Your learning activities will help you reach the following learning objectives:

- Understand how having a knowledge of the law can help you as a business person
- Have a basic knowledge of the Canadian law system and processes work
- Be able to identify business risk within the legal context
- Be aware of the avenues available for conflict/dispute resolution related to business and contracts

Supporting information needed to complete this assignment is provided in your textbook, your course reading list, and self-directed research using online resources.

This assignment includes four parts:

- Part 1: Law in the context of business
- Part 2: The Canadian law system
- Part 3: Understanding and mitigating risk in business
- Part 4: Dispute Resolution in business

### Assignment Requirements

Each assignment must be submitted as an attachment via Blackboard. Please make sure your name is on the attachment document so the course facilitator knows to whom it belongs to when reviewing a printed paper copy.

Review the College policies on plagiarism and lateness to ensure that you meet the College's standard requirements.

Refer to your course calendar and your course facilitator's instructions for any additional requirements or clarifications on submission criteria and due dates.

You should be able to respond to the assignment questions in four to six pages. You are expected to present your answers and responses articulately and with care; meaning your work should be grammatically correct, easy to read, and be free of typos and spelling mistakes.

## Marking Rubric

Your assignment will be evaluated using the following rubric:

Assignment Section	Evaluation Criteria	Marks
<b>Part 1</b>	<ul style="list-style-type: none"> <li>• Responses are:               <ul style="list-style-type: none"> <li>○ supported by appropriate references to the text and readings</li> <li>○ detailed and relevant to the questions and requirements and show evidence of understanding of the concepts</li> <li>○ appropriate in length (1 page maximum)</li> </ul> </li> </ul>	20
<b>Part 2</b>	<ul style="list-style-type: none"> <li>• Responses are:               <ul style="list-style-type: none"> <li>○ supported by appropriate references to the text and readings</li> <li>○ detailed and relevant to the questions and requirements and show evidence of understanding of the concepts</li> <li>○ appropriate in length (1 page maximum)</li> </ul> </li> </ul>	20
<b>Part 3</b>	<ul style="list-style-type: none"> <li>• Responses are:               <ul style="list-style-type: none"> <li>○ supported by appropriate references to the text and readings</li> <li>○ detailed and relevant to the questions and requirements and show evidence of understanding of the concepts</li> <li>○ appropriate in length (1 page maximum)</li> </ul> </li> </ul>	20
<b>Part 4</b>	<ul style="list-style-type: none"> <li>• Responses are:               <ul style="list-style-type: none"> <li>○ supported by appropriate references to the text and readings</li> <li>○ detailed and relevant to the questions and requirements and show evidence of understanding of the concepts</li> <li>○ appropriate in length (1 page maximum)</li> </ul> </li> </ul>	20
<b>Overall Quality</b>	<ul style="list-style-type: none"> <li>• Assignment is free of typos, spelling mistakes, and</li> </ul>	20

	grammatical errors • Responses are easy to read and articulate	
<b>Assignment grade</b>		100
<b>Percent of total course grade</b>		15%

### Part 1: Law in the context of business (20 marks)

When responding to this section, consider the information provided in your course reading assignments as well as information you find from self-directed research activities. As applicable, provide appropriate references to any text or materials.

As a business person you need to understand the law and legal system so that you can make ethical, responsible, and intelligent decisions regarding the business. You also need to know what you DON'T know so that you can seek legal advice and guidance when necessary to avoid disputes or litigation that might have severely negative impact to you and your business.

1. Do you think that the Canadian Charter of Rights and Freedoms strikes a good balance between protecting the rights of a business or individual, and allowing governments to legislate for the benefit of larger groups, or even all members of society? Is section one of the Charter necessary, or should an individual's or business's fundamental rights and freedoms be absolute? (min. 1/2 page single-spaced)
2. Provide an example where a Court may put consumers' or public rights above the rights of a business? (i.e. a case where section 1 of the Charter does justify an the infringement of the fundamental rights and freedoms of a business) (min.1/4 page single-spaced)
3. Joe has recently opened a bar and adjoining restaurant, specializing in seafood. It is named "The Finny Friends" after a restaurant that Joe he had visited in Toronto several years ago. In accordance with the law, Joe has a liquor license from the provincial liquor licensing authority that limits the seating capacity in the bar to 30.

As Joe's bar becomes increasing popular, he begins to regularly allow over 60 patrons in at one time. Eventually he is caught, and – having already received two warnings – his operation is closed down for 30 days.

Joe is flabbergasted at the severity of the penalty. Soon thereafter, Joe is contacted by a lawyer for The Finny Friends restaurant in Toronto. The lawyer says that Joe has 48 hours to take down his restaurant awning and destroy anything else with the name The Finny Friends on it (including menus, invoices, place-mats, napkins, and even match covers) or he will bring an application for a court order to that effect. To make matters worse, a health inspector is on Joe's doorstep saying that there have been several recent reports of food-poisoning originating from Joe's restaurant.

What has gone wrong in Joe's business and why? (min. ½ page single-spaced).

### Part 2: The Canadian law system (20 marks)

Review the case of R. v Banks – a case decided by the Ontario Court of Appeal. Copies of the case are available from

<http://www.canlii.org/en/on/onca/doc/2007/2007onca19/2007onca19.html>

Or at:

<http://www.ontariocourts.on.ca/decisions/2007/january/2007ONCA0019.htm>

**Note:** The Supreme Court of Canada refused leave to appeal from the Ontario Court of Appeal decision in 2007. While this case illustrates a Charter issue and how the common law interacts with statute law, this case is only being referred to you on the issue of precedent – you do not need to thoroughly understand the various legal issues raised in order to answer this question.

**Questions:**

In terms of the **Doctrine of Precedent:**

- What effect does this ruling have on other Courts in Canada?
- Is a British Columbia Court bound to follow the new ruling?
- Is the Court of Appeal in Alberta bound by this decision?
- If the Supreme Court of Canada did hear the appeal from the Ontario Court of Appeal and decided the case - What effect does the ruling have on other courts in Canada?

(min. ½ page for all questions)

### Part 3: Understanding and mitigating risk in business (20 marks)

Understanding and mitigating risk is critical for a business person. Each day you need to make decisions or take actions that may involve some risk. You need to be able to evaluate the risks and know how to mitigate them effectively.

Please review the following news story available at the link below (if you have problems with the link, try cutting and pasting the link directly into your internet browser):

<http://www.cbc.ca/canada/british-columbia/story/2011/01/19/contaminated-meat-halal-plant-pitt-meadows.html>

In terms of managing risk for tort liability (page 56 text) how can or should such a risk be minimized by Pitt-Meadows? (min. ½ page single spaced)

### Part 4: Dispute resolution in business (20 marks)

Research in Motion (RIM) is a Canadian company that has achieved huge success based on its main product, the BlackBerry wireless mobile device. This success is largely based on five patents that RIM has registered in Canada and the United States.

NTP Ltd. is an American company whose only assets are U.S. patents. NTP claimed that RIM had violated its patent rights through sale of the BlackBerry. NTP claimed significant damages and a court order prohibiting RIM from selling Blackberries.

The dispute went to trial and a jury found that RIM had violated NTP's patents. RIM later challenged NTP's patent registrations.

The two companies reached a tentative settlement of \$450 million, but it failed. It was left to the court to make a final decision on the remedies against RIM.

RIM's profit forecast and share price suffered and its planned expansion into China was jeopardized. Shortly before the judge was to make his decision, the companies reached a final settlement of \$612 million.

Please read the following news story at the link below:

<http://www.montrealgazette.com/technology/Analysis+Apple+prevailed+over+Samsung+patent+case/7150197/story.html>

In light of the two case situations and Samsung's loss in Court after an unsuccessful attempt to settle its case, would ADR (page 23 of text) have been a better solution for Samsung – why or why not? (min. ½ page single-spaced)