



# Hello!

→ DO NOW:

1. *Open up the notes on Google Docs for today*
  - Foundations of Law
2. *Pick up your class notes copy and vocabulary sheets*
3. **DO NOW:**
  - **What are the 4 functions of law?**

Goldman | Sigismond

# Business Law

PRINCIPLES AND PRACTICES 9e

CHAPTER

1

# Foundations of Law



# Learning Objectives

- Describe the influences of Roman law and especially the English common law on the development of law in the United States.
- Differentiate between civil and criminal law.
- Explain why uniform laws were introduced into our legal system.



# Development of Law

## → Roman law:

➤ *Prior to Romans, most law was oral.*

- The Romans developed the concept of written codes (or laws) that everyone could know and understand.
- The Roman Code was revised by Napoleon to create the Napoleonic Code, used today in Europe and many countries in Central and South America and Asia.



# Development of Law

## → Common law:

- *Unwritten law based on local English customs..*
  - Developed in England after the Norman conquest of A.D. 1066.
  - Refers to the body of legal decisions by English judges over many years, based on local customs and traditions.
- *Each new case served as a “**precedent**” for later decisions, which created the doctrine of “**stare decisis**” (“to stand by a decision which was previously decided”).*



# Civil Law vs. Criminal Law

## → Civil laws:

- *Law dealing with the relationships between individuals*
  - Ex. Car accidents, divorce, invasion of property
- *Protect rights and property of individuals from harmful acts of others.*
  - The injured party (the Plaintiff) may be awarded money damages if he can prove his case.



# Civil Law vs. Criminal Law

## → Criminal laws:

- *Laws that deal with the relationships between individuals and society and that maintain order.*
  - Protect society from acts of individuals that are considered so dangerous, (or potentially dangerous), that they threaten peace and order within a society.
- *A person accused of committing a crime is charged by government*
  - If the person is convicted, he or she will be punished by prison and fines if applicable.
- *Government must prove its case beyond a reasonable doubt and jury verdict must be unanimous.*



# Case Study: Miller v. Smith

→ Miller was driving home from shopping on a winter afternoon when he saw a snowball coming toward his car. The snowball, which contained a rock, hit the hood of his car with a thump. Miller stopped the car, got out, and discovered a large dent in his hood caused by the snowball. When Miller spotted Smith hiding behind a nearby parked car and confronted him, Smith admitted to throwing the snowball and Miller called the police.

1. *Does Miller have a civil case? Why or why not?*
2. *Could there be any criminal action? Why or why not?*



# Civil vs. Criminal Law

TABLE  
1.1

A Comparison of Civil and Criminal Law

	Civil Law	Criminal Law
Protects	An individual's rights and property from the harmful acts of other individuals, such as slander or trespass, or from a person's breach of contract.	Society from the harmful acts of individuals, such as theft, murder, or driving while intoxicated.
Provides	Money damages (compensation) or equitable relief to a person who is harmed by the wrongful conduct or breach of contract of another person. Equitable relief consists of ordering a person to perform a certain act (specific performance) or to cease carrying on certain conduct (injunction).	Punishment in the form of capital punishment, imprisonment, or fines imposed on a person who is found guilty of violating the law.
Requires	A civil lawsuit by the person harmed (plaintiff) so as to recover.	Prosecution (criminal action) by government (federal or state) acting for society (plaintiff) against the accused person.
Type of wrong addressed	Private (individual versus individual). An example of a case title indicating a civil action is <i>Ramirez v. Ames</i> .	Public (society versus individual). Examples of case titles indicating a criminal action are <i>United States v. Moll</i> (federal) and <i>State of Nevada v. Martin</i> (state).
Required to win	Preponderance of the evidence (one party presenting more convincing evidence to the jury than the other party).	Determination of guilt beyond a reasonable doubt (jury entirely convinced of guilt).



# Law vs. Equity

- In a civil case, money is not always a suitable or adequate remedy for violation of certain rights.
- In such cases, equitable (nonmonetary) relief is available, based on fairness and justice.

# Law vs. Equity

**TABLE  
1.2**

**Differences Between Law and Equity**

	<b>Law</b>	<b>Equity</b>
Begin a proceeding	Initiate a lawsuit	File a petition
Parties	Plaintiff and defendant	Petitioner and respondent
Remedy sought by the injured party	Sum of money for damages to compensate for the loss sustained	Enforcement of a right (specific performance) or the prevention of further violation of a right (injunction)
Reason remedy is sought	Money adequately repays the injured party for a loss.	Damages are difficult to measure in money terms; therefore, an award of money to an injured party would be unfair.
Decision on the remedy is made	By a judge or jury	Solely by a judge (with an advisory jury in some states)
Legal name for the decision	Judgment/Order	Decree/Order
Remedy enforced	Execution of a judgment initiated by the plaintiff	Contempt proceedings initiated by the plaintiff if the defendant fails to perform



# Uniform Laws

- Much of our business law developed from early English merchants courts, called “law merchant” which became a part of the common law, passed to the United States.
- Uniform Commercial Code (UCC) is an example of the updated merchant code.



# Exit Ticket

→ Answer the following questions using your notes from today and last week:

1. *Laws passed by state governments are called \_\_\_\_\_.*
2. *Laws that protect the rights of property and individuals from harm and provide remedies are called \_\_\_\_\_ laws.*
3. *Unwritten law is called \_\_\_\_\_ law.*