

## **FIELDS OF LAW SPECIALIZATION**

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### **Summary**

This topic discusses how lawyers develop areas of practice and details several specific areas of legal specialization. The articles within this theme, using the United States as a model, feature both traditional and modern areas of legal practice. This topic summarizes various policy and historical issues surrounding the practice areas and encapsulates current controversies.

Legal education does not require a declared area of specialization or interest. Consequently, attorneys develop areas of specialization through practical experience and/or master of laws degrees. This topic briefly reviews the options available to the legal practitioner and outlines nine specific practice areas: food safety, business and trade law, intellectual property, criminal law, environmental law, family and child law, immigration law, telecommunications law, and tax law.

### **1. Introduction**

Legal education does not usually certify an individual to practice a particular type of law. Practically speaking, all lawyers are trained to be general practitioners. A general practitioner is a lawyer who handles a variety of legal issues and may be the first contact

for resolution because she or he is qualified to undertake a wide assortment of legal matters. Often a case may be too large or involved for a general practitioner and may require a specialist. In any modern state, law is sufficiently complex that it has become divided into subspecialties.

Civil legal issues can typically be broken into two categories: transactional law and litigation. Transactions embrace a variety of acts and agreements that are the subject of negotiation. Buying, selling, leasing, lending and mortgaging are all forms of transactions. Transactional law is simply the law governing all types of transactions. Litigation, on the other hand, is the formal process that is initiated when a person or entity brings a civil lawsuit. It involves a series of complex steps that may lead to a court trial and ultimately a resolution of the matter through court order or settlement.

Transactional law and litigation are further divided into areas of specialization. Because law is present in almost every aspect of life, the practice of law offers a wide selection of legal specialties. Most lawyers focus on an area that is in line with their personal values and professional goals. A number of these specialties are discussed in detail within this theme by authors with expertise in each particular area.

## **2. Legal Support of Food Safety**

In the chapter within this theme titled *Legal Support of Food Safety* Professor Leticia Diaz of Barry University School of Law discusses the legal regime protecting consumers from harm caused by unsafe food. Using the experience of the United States as an example, she traces the efforts of government regulatory agencies to ensure that food supplies are safe and do not poison consumers or transmit disease while at the same time avoiding the creation of unduly burdensome regulations.

Regulation of food, including additives, herbs and dietary supplements, in the United States, is governed by the US Food and Drug Administration (FDA). The first rules enacted in the early 1900s were aimed at protecting consumers from unsafe food products, but the language was somewhat unclear. Scientific advances were occurring quickly and additional, clarifying regulation became a leading concern. In the 1930s, food additives regulation gained importance, leading to amendments in the 1950s.

A food additive is any matter either directly or indirectly added to a food. Food additives include color additives, which are either certified by the FDA or exempt from certification. The process of FDA approval includes the manufacturer's petition stating that the additive functions as expected and often requires further testing on animals and/or humans. Short and long term effects of the additive are considered. The strict regulation process prohibits the use of any additives that have been found to induce cancer.

Of more recent concern are genetically modified foods and irradiated foods. Food manufacturers are consistently developing new ways to enhance food and make it more appealing to consumers. The use of biotechnology and DNA techniques to change a food product is called genetic engineering. This process is highly controversial. Though the modern methods prove safer, opponents continue to argue that any unnatural change

to food is unsafe. The FDA conducts strict tests to ensure the food's safety and requires pre-market clearance before the food can be introduced to the public. The FDA is authorized to remove any food from the market that it finds unsafe or of risk to the public. Professor Diaz explains the process as well as the opposing viewpoints.

Irradiation is a process of treating food with radiant energy to rid it of any harmful bacteria, insects and parasites. Manufactures are required to label any foods that have been treated with irradiation. The goal is to eliminate food-borne illnesses, but many groups worry about its effects and oppose the use of irradiation. The process is strictly regulated by the FDA and must be conducted according to safety measures.

A third area of regulation includes dietary supplements. Vitamins, minerals and herbs have become increasingly popular in society. The government, therefore, has recently passed legislation placing dietary supplements under a separate category, no longer regulated under the same rules as food. Dietary supplement manufactures are not required to meet pre-market testing procedures, but they must comply with strict safety standards. Manufacturers must follow strict labeling guidelines including accurate ingredient lists and specific statements indicating that the supplement is not meant to cure or prevent disease. With the continued introduction of new foods and food products, the law of food safety will undoubtedly increase in volume and complexity.

### **3. Business and Trade Law**

In the chapter within this theme titled *Business and Trade Law* Professor Susan Tiefenbrun of Thomas Jefferson School of Law discusses Business and Trade Law. Professor Tiefenbrun first explains various types of transactions and their components, as well as the importance of relatively unencumbered trade. She then examines the existing international structures and United States laws governing business and trade, and concludes with an examination of related issues including financing, failed transactions and dispute resolution.

Professor Tiefenbrun begins with an overview of the common types of international business transactions: trade, licensing and direct investment. Trade is the import and export of goods across borders. Trade may be necessary for nations to obtain resources not domestically available, to obtain products that are less expensive than domestically available, to maintain positive foreign relationships and to assist developing nations. Regulation is necessary to ensure a fair and consistent method of competition. Many countries impose tariffs on imports to accomplish domestic goals, such as encouragement of domestic product consumption. Several laws govern international trade differing from region to region. Tariffs depend on the country of origin, the type of goods being traded and preferential trade agreements. Trade has continually been a topic of controversy. Advocators of trade support the reasons mentioned above as well as the free flow of people and services that result from the free flow of goods. Those who oppose unrestricted trade are wary of national security issues, conservation of natural resources and loss of domestic jobs.

Licensing applies to the exchange and protection of intellectual property. As discussed more specifically in the article within this theme titled *Copyright, Trademark and*

*Patent Law*, infringement occurs with the unauthorized use of a patent, copyright or trademark. Licensing is a way to assign the patent, copyright or trademark rights to another individual or entity. The owner retains ownership, but the licensee is entitled to use the intellectual property within the stipulations of the license agreement. Because piracy, or infringement, has become quite commonplace on the international market, it is a huge concern for international policymakers and businesses.

Direct investment involves the formalization of private entity relationships including partnerships, joint ventures and acquisitions of foreign companies. The result can be a lucrative deal for all involved parties, but there are significant risks associated with establishing a direct investment. These risks include changes in currency rates, differing accounting practices, difficulty in complying with both domestic and foreign laws and cultural differences. International disputes are typically resolved by mediation, arbitration or litigation, and can be quite costly.

The construction of trade agreements is a complex process. Language barriers, cultural and business practice differences, and physical distance all contribute to the difficulty. Preparation and finalization of the documents can be a lengthy process. A bill of lading and letter of credit accompany each sale. The transfer of the bill of lading is equivalent to the transfer of title. The letter of credit protects the buyer from receiving nonconforming documents while ensuring that the seller will be paid. In absence of fraud, the bank is required to pay the seller once conforming documents have been received. The buyer is still at risk at this point because although payment is not made until conforming documents are received, there is no similar requirement for payment to be held until conforming goods are received. Therefore, a buyer's only recourse is to sue the seller, which will likely cause temporary merchandise shortages and costly dispute resolution. Though most jurisdictions have laws protecting parties from commercial impracticability and frustration of purpose, there continue to be risks associated with international agreements. Quality negotiation is key.

Professor Tiefenbrun details a number of the domestic and international organizations that regulate international trade including the World Trade Organization, the General Agreement of Tariffs and Trade, the Organization of Petroleum Exporting Countries and the World Bank. She also explains the trade and tariff acts adopted in the United States and their role in international trade.

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### **Biographical Sketch**

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