



Proceedings

A monthly newsletter from McGraw-Hill Education



February 2018 Volume 9, Issue 7

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Dear Professor,

I hope your spring semester is off to a great start! Welcome to McGraw-Hill Education's February 2018 issue of Proceedings, a newsletter designed specifically with you, the Business Law educator, in mind. Volume 9, Issue 7 of Proceedings incorporates "hot topics" in business law, video suggestions, an ethical dilemma, teaching tips, and a "chapter key" cross-referencing the February 2018 newsletter topics with the various McGraw-Hill Education business law textbooks.

You will find a wide range of topics/issues in this publication, including:

1. A gender pay lawsuit against Google;
2. A political affiliation/race/gender discrimination lawsuit against Google;
3. The Kansas "swatting" death case and the defendant's waiver of an extradition hearing;
4. Videos related to a) a \$1.6 billion copyright infringement lawsuit against Spotify and b) Twitter's regulation of tweets made by former Milwaukee County (Wisconsin) Sheriff David A. Clarke, Jr.;
5. An "ethical dilemma" related to California's recent legalization of recreational marijuana; and
6. "Teaching tips" related to the Ethical Dilemma ("Recreational Pot Sales Out in California, with Celebratory 'Blunts' and Big Crowds") of the newsletter.

Happy Valentine's Day!

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Of Special Interest

This section of the newsletter covers three (3) topics:

- 1) A gender pay lawsuit against Google;
- 2) A political affiliation/race/gender discrimination lawsuit against Google; and
- 3) The Kansas "swatting" death case and the defendant's waiver of an extradition hearing.

Hot Topics in Business Law

Article 1: "Google Hit with Revised Gender Pay Lawsuit"

<http://money.cnn.com/2018/01/03/technology/google-gender-pay-lawsuit-revised/index.html>

Note: In addition to the article, please see the accompanying video also included at the above-referenced internet address.

According to the article, Google's alleged gender pay inequity extends to its preschool teachers, a new lawsuit alleges.

Four former Google employees, who previously worked in a range of roles at the company, have come forward as part of a revised gender-pay lawsuit filed recently.

Three of the women were part of an earlier lawsuit filed in September alleging that female employees are paid less than their male counterparts. That suit was dismissed in December by a California judge who rejected the class action claim as overly broad.

This newly filed suit more clearly defines the groups allegedly hindered by Google's unfair pay practices, including engineering, management, sales, and teaching roles.

The new suit adds a fourth former female worker, Heidi Lamar, who was employed by Google as a teacher at Google's Children Center in Palo Alto from around July 2013 to August 2017. Google offers childcare and early education as a perk for its employees.

Lamar claims that of the 150 teachers employed by Google during her tenure, just three were men. Two of the men hired were paid more than all but one of the women hired, she alleges.

Lamar joins the original plaintiffs, Kelly Ellis, Holly Pease, and Kelli Wisuri. The women worked at Google in various capacities: Ellis as a software engineer; Pease in various management roles, and Wisuri in various sales roles. The suit seeks class action status, on behalf of women similarly situated at Google.



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Google said it disputes the allegations of a gender-based pay disparity at the company.

"We disagree with the central allegations of this amended lawsuit. We work really hard to create a great workplace for everyone, and to give everyone the chance to thrive here," said Gina Scigliano, a Google spokeswoman. "Job levels and promotions are determined through rigorous hiring and promotion committees, and must pass multiple levels of review, including checks to make sure there is no bias in these decisions."

The suit cites a U.S. Department of Labor analysis of data on 21,000 Google employees for 2015. "That analysis found 'systemic compensation disparities against women pretty much across the entire workforce,'" the complaint said.

Google previously claimed its own analysis of its employees' compensation showed it had no gender pay gap, citing it pays women 99.7 cents to each dollar a man receives.

It also makes its equal pay methodology available to other businesses to test their own compensation practices.

Discussion Questions

1. As the article indicates, Heidi Lamar, a former Google preschool teacher, claims that of the 150 teachers employed by Google during her tenure, only three (3) were men. Is this prima facie evidence of gender discrimination against *male* applicants? Explain your response.

Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of gender, race, national origin, culture, and religion. Title VII protects men, as well as women, from gender discrimination. Further, Title VII outlaws two (2) particular types of discrimination: a) disparate treatment; and b) disparate impact. Disparate treatment is intentional discrimination, while disparate impact represents an organizational policy or practice that has the force or effect of discrimination. In terms of proving disparate impact discrimination, numbers and percentages do matter, so if 98 percent (147 out of 150) of the preschool teacher hires were women, that could be some evidence of discrimination—if challenged, Google could counter with evidence that despite its best efforts to attract male applicants, few applied for the positions.

2. As the article indicates, Ms. Lamar also claims that of the three (3) men hired by Google during her tenure, two (2) of the men were paid more than all but one (1) of the women hired. Is this prima facie evidence of pay discrimination against female preschool teachers? Explain your response.

This could be evidence of gender discrimination, but Google could counter with evidence that the two men who were paid more than all but one of the women hired had better credentials (education, experience, etc.) than their female counterparts, and therefore meritoriously deserved higher pay.

3. As the article indicates, the subject discrimination lawsuit cites a United States Department of Labor analysis of data on 21,000 Google employees for 2015, with the analysis indicating "systemic compensation disparities



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against women pretty much across the entire (Google) workforce.” Is this conclusive evidence of gender discrimination against female Google employees? Explain your response.

Although the United States Department of Labor analysis and conclusions regarding gender discrimination at Google might represent compelling evidence of illegal discrimination in violation of Title VII, it is not necessarily conclusive evidence. Determining liability is within the province of the jury, based on its careful consideration of all the evidence presented at trial.

Article 2: “Engineers Sue Google for Allegedly Discriminating against White Men and Conservatives”

<http://money.cnn.com/2018/01/08/technology/james-damore-google-lawsuit/index.html>

Note: In addition to the article, please see the accompanying video also included at the above-referenced internet address.

As the article indicates, James Damore, the Google senior software engineer fired over his controversial 3,300 word essay on diversity, filed a lawsuit against his former employer recently.

Damore -- along with former software engineer David Gudeman, who is a co-plaintiff -- allege that the tech firm discriminates against conservatives, white people, and men. Damore and Gudeman are seeking monetary and other damages.

The 161-page complaint, filed by the Dhillon Law Group in Santa Clara Superior Court, is on behalf of the two men. It is seeking class action status for three groups of people who it claims have been similarly discriminated against: Conservatives, Caucasians, and men.

"Damore, Gudeman, and other class members were ostracized, belittled, and punished for their heterodox political views, and for the added sin of their birth circumstances of being Caucasian and/or males," the suit reads. "Google's open hostility for conservative thought is paired with invidious discrimination on the basis of race and gender."

In response to the lawsuit, Google kept it brief. "We look forward to defending against Mr. Damore's lawsuit in court," a Google spokesperson said in a statement.

Google spokesman Ty Sheppard previously said that the company has strong policies against workplace retaliation, harassment and discrimination.

Damore, who worked at Google for three years, was fired from Google in August one week after his memo on Google's diversity policies went viral. Google CEO Sundar Pichai condemned parts of Damore's post that he said perpetuated stereotypes about women.



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Damore clarified his views in an interview with the media, noting that he was not "saying anything about the women at Google."

The suit alleges Google awarded bonuses to employees who "disagreed with and disparaged Damore," keep internal blacklists to prevent conservative individuals from employment opportunities and failed to protect employees who expressed support for President Donald Trump.

Gudeman worked at Google from 2013 until December 2016, when he claims he was wrongfully terminated from the tech company, according to the complaint.

He claims he was "chastised for attempting to stand up for Caucasian males and his conservative views" by Google's HR department.

Attorney Harmeet Dhillon, who is a national committeewoman for the Republican National Committee, said "dozens" of current and former Google employees have reached out to her firm after learning she is representing Damore because they've suffering similar discrimination. During a recent press conference, she said employees at other big tech companies also contacted her firm.

The suit includes allegations from other unnamed current and former employees.

"People don't want to out themselves as conservatives," she said. "Google has engaged in some shocking activities in my opinion. I was truly shocked myself ... There's a Lord of the Flies mentality."

This isn't the only workplace suit Google is facing. Last week, four former Google employees, who previously worked in a range of roles at the company, came forward as part of a revised gender-pay lawsuit. The women allege that female employees are paid less than their male counterparts.

Discussion Questions

1. Is employment discrimination on the basis of political affiliation prohibited by Title VII of the Civil Rights Act of 1964?

Employment discrimination on the basis of political affiliation is not specifically prohibited by Title VII of the Civil Rights Act of 1964. Title VII only addresses and prohibits five (5) particular types of discrimination: race, gender, national origin, culture, and religion.

2. What (if any) legal authority is Mr. Damore relying on in terms of his attempt to recover damages and other remedies for his alleged termination of employment due to political affiliation?

Mr. Damore is relying on California state law, which prohibits employment discrimination on the basis of political affiliation. It is important to note that although California generally bars employment discrimination on the basis of



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political affiliation, there are exceptions to this rule. For example, if the employee's political activities interfere with the employer's business model or mission, the employer could take disciplinary action (including termination of employment). Similarly, if the employee's involvement in political activities interferes with job performance, the employer could take disciplinary action as well.

3. As the article indicates, while he was an employee at Google, Mr. Damore circulated an internal memorandum in which he made some general observations about females in terms of their suitability for employment in the technology sector. Conduct some research regarding this memorandum and Google's reaction to it, and indicate whether, in your reasoned opinion, Mr. Damore's beliefs regarding women (as reflected in his written memorandum) will likely affect the outcome of his lawsuit against Google.

In his memorandum, Mr. Damore made some general observations about the suitability of female employees in the technology sector. Essentially, Mr. Damore claimed that women are not as well-suited as men to perform technology-related jobs. According to Google, its decision to terminate Mr. Damore was based on the company's conclusion that Mr. Damore's stereotypical views of women were inconsistent with Google's express policy to promote employee diversity.

In his lawsuit, Mr. Damore will assert that California law bars employment discrimination on the basis of political or ideological views—namely, that employees with conservative ideology have the right to express their views. However, Mr. Damore is also subject to Google's defense, based on California law as well, which states that if the employee's political or ideological views interfere with the employer's mission, the employer can take disciplinary action (including termination of employment).

Article 3: "California Man Accused in Kansas 'Swatting' Death Waives Extradition"

<http://abcnews.go.com/US/california-man-accused-kansas-swatting-death-waives-extradition/story?id=52113725>

Note: In addition to the article, please see the accompanying video also included at the above-referenced internet address.

According to the article, a 25-year-old man wanted in Kansas for allegedly making a hoax 911 call that led to the killing of an unarmed man by police has waived extradition proceedings in California.

Tyler Barriss, of South Los Angeles, appeared before a judge in Los Angeles Superior Court recently, five days after being arrested on a fugitive-from-justice warrant for allegedly making the so-called "swatting" call. Barriss acknowledged that he is the person wanted in Kansas, and he waived his right to an extradition hearing.

The warrant, filed by Los Angeles County prosecutors, says Barriss was charged in Kansas on December 29 with the felony of making a false alarm.



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Kansas authorities have until February 2 to pick up Barriss, the judge said. In the meantime, he remains held without bail in Los Angeles County. It's unclear if he has a lawyer.

Barriss is accused of prank calling police on December 28 about an alleged shooting with hostages at a residence in Wichita, Kansas.

The incident began around 6:18 p.m. Central Time when authorities there received a 911 call from a man who said he had shot his father in the head while his parents were arguing. The caller also said he was holding his other family members at gunpoint inside the home and was thinking about setting the house on fire, police said.

The caller repeatedly gave authorities his alleged home address, leading Wichita police officers to the house.

Upon arriving at the scene, officers surrounded the front of the house, preparing to make contact with the caller inside, police said.

A 28-year-old man opened the door of the home and was told to raise his hands and walk toward the officers -- a command he obeyed for "a very short time" until he moved his hands back down to his waist, police said.

The officers ordered him again to put his hands up but the man lowered them down again, police said. As the man turned toward officers on the east side of the home, he lowered his hands to his waistband and suddenly pulled them up to the officers, police said. That's when an officer on the north side of the home fired one round, striking the man.

Officers then entered the home and found four individuals inside alive and unharmed, police said.

The man who was shot was taken to a local hospital where he was pronounced dead. Police didn't find any weapons on him and officers learned he did not make the 911 call, according to Troy Livingston, deputy chief of the Wichita Police Department.

No one else was injured during the incident, police said.

Police have not yet released the identity of the man killed in the incident. But Wichita resident Lisa Finch identified him as her son, Andrew Finch, in an interview with reporters. Lisa Finch said that her son was a father of two young children.

Livingston said investigators believe the prank call was a case of "swatting," in which a 911 caller intends to deceive law enforcement about an alleged serious emergency. According to The Associated Press, the FBI has estimated that roughly 400 cases of swatting occur nationwide every year.



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The officer who fired the shot has been placed on administrative leave, which Livingston said is standard protocol. Livingston did not name that officer but said he's a seven-year veteran of the department.

Police have released audio of the 911 call as well as seven seconds of grainy footage from a body-camera worn by an officer standing next to the one who fired the shot.

The Glendale Police Department in Los Angeles County confirmed that Barriss made about 20 calls to universities and media outlets throughout the country around the time he was arrested for a bomb threat to ABC station KABC in Los Angeles in 2015. Barriss received a two-year sentence, court records show.

Glendale police said since the calls were made around the country, the FBI would take the scope of the cases. The FBI said in a recent statement that "The FBI worked with Glendale PD based on a series of threats allegedly made by Barriss in/around 2015 and deferred to the state to pursue prosecution, as is the case in many swatting-related matters involving local police."

Barriss pleaded no contest to two felony charges of false report of a bomb and malicious informing of a bomb in May 2016 in relation to the bomb threat made to KABC. He was sentenced to two years and eight months in jail, court records show.

Discussion Questions

1. Define extradition, and explain what an extradition hearing is.

Extradition is the process by which a state (or nation), in response to the request of another state (or nation), turns over to the requesting jurisdiction an individual charged with or convicted of a crime in that jurisdiction.

In an extradition hearing, a court would determine whether extradition is appropriate, and establish the details regarding the actual extradition process.

2. As the article indicates, Tyler Barriss has waived extradition proceedings in California. Why would Mr. Barriss (or any other defendant) waive the right to an extradition hearing?

Any answer to this question would be conjectural, since no one knows the actual reason why Mr. Barriss would choose to waive extradition. Perhaps Mr. Barriss did not feel that there were any strong legal arguments to prohibit his extradition.

3. As the article indicates, Mr. Barriss has been charged in Kansas with the felony of making a false alarm. In your reasoned opinion, should Mr. Barriss be charged with manslaughter? Murder?

Based on the evidence presented in the article, there is no clear and convincing evidence that Mr. Barriss intended for the unidentified man to die as a result of Barriss' false report. Murder is defined as the intentional taking of the life of another human being with malice aforethought.



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Manslaughter involves the death of another human being due to the defendant's gross negligence or extreme negligence. Although the facts presented in the article might arguably support a manslaughter charge, it is ultimately the prosecutor's decision as to which particular charge(s) to bring against a defendant. There is a possibility that the prosecutor in this case might later amend/supplement the charge to include an allegation of manslaughter. Such a procedural move would likely be based on the prosecutor's confidence, based on the evidence, that he or she could prove beyond reasonable doubt the elements of manslaughter.



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Video Suggestions

Video 1: “Spotify Sued for \$1.6 Billion over Tom Petty, Steely Dan Music Copyrights”

<https://www.usatoday.com/story/tech/news/2018/01/02/spotify-sued-1-6-billion-over-tom-petty-steely-dan-music-copyrights/997351001/>

Note: In addition to the video, please see the following article also included at the above-referenced internet address:

“Spotify Sued for \$1.6 Billion over Tom Petty, Steely Dan Music Copyrights”

According to the article, a company representing thousands of songwriters including Tom Petty, Neil Young and Steely Dan has sued streaming music provider Spotify seeking at least \$1.6 billion in damages.

Wixen Music Publishing of Los Angeles filed a lawsuit in federal court in California charging the Swedish tech company with playing tens of thousands of songs without licenses or compensation. The suit is seeking damages of at least \$1.6 billion and a ruling to prevent Spotify from playing songs such as Petty's *Free Fallin'* until proper terms are reached.

"Spotify has built a billion dollar business on the backs of songwriters and publishers whose music Spotify is using, in many cases without obtaining and paying for the necessary licenses," alleges the suit, filed December 29 in U.S. District Court in L.A.

This is just the latest legal action facing Spotify, which declined comment on the lawsuit. Earlier this year, Spotify settled a class action lawsuit for \$43.4 million and a separate lawsuit with the National Music Publishers Association for \$30 million.

Those cases also charged Spotify with playing music without proper licensing and compensation. Spotify has maintained it wants to properly compensate for the music it streams, but has not always been able to find the data to identify rights holders.

Spotify, which has 60 million subscribers, could be valued as high as \$20 billion when it goes public later this year with a planned direct listing on the New York Stock Exchange that bypasses a traditional IPO.



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Revenue from streaming music accounted for the majority of United States major record labels' sales for the first time ever last year, soundly vaulting over the one-time leader digital downloads.

Meanwhile, several other suits filed by songwriters and publishers still linger. But Spotify is likely looking forward to a possible legislative solution to how to handle licensing of songs.

The Music Modernization Act, a bill introduced two weeks ago in the U.S. House of Representatives, would make it easier for streaming services to acquire proper licenses and bolster royalty payments to copyright owners. Rep. Doug Collins, R-Ga., and Rep. Hakeem Jeffries, D-N.Y., hope to have the bill readied for President Trump's approval soon.

That bill is what led Wixen, which administers song rights for artists, to file its lawsuit last week, says the company's president Randall Wixen. That's because the bill's language, as it is currently written, could prevent copyright holders from getting past payments they think they deserve from Spotify or other streaming services.

"We are very disappointed that these services will retroactively get a free pass for actions that were previously illegal" unless a suit is filed before January 1, Wixen said in a statement. "Neither we nor our clients are interested in becoming litigants but we have been faced with a choice of forfeiting rights and damages, or taking action at this time. We regret that this otherwise admirable proposed bill has had this effect, and we hope that Spotify nonetheless comes to the table with a fair and reasonable approach to reaching a resolution with us."

Discussion Questions

1. Define copyright.

A copyright is the right of exclusivity given to the creator of a literary or artistic work to control the dissemination of the copyrighted work. The duration of a copyright protection is finite; for an individual copyright holder, the length of the legal protection is for the life of the creator, plus 70 years.

2. What are the legal remedies available to a copyright holder for a copyright violation?

The copyright holder can request a temporary injunction against the defendant for the duration of the litigation. If granted, the temporary injunction would prohibit the defendant from using the copyrighted material during the course of the lawsuit. If the copyright holder (the plaintiff) prevails in the lawsuit, the court will convert the temporary injunction into a permanent one.

The copyright holder (the plaintiff) can also request monetary damages, which would be based on either a) profits lost by the plaintiff due to the defendant's violation of the copyright or b) profits generated by the defendant as a result of the copyright violation.



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3. As the article indicates, Spotify has maintained that it wants to properly compensate for the music it streams, but has not always been able to find the data to identify rights holders. In your opinion, is this a legitimate defense to liability for copyright violation? Why or why not?

This is an opinion question, so student responses may vary. In your author's opinion, due diligence (in terms of research) would likely result in the identification of copyright holders.

Video 2: "Twitter Polices David Clarke, Makes Him Remove Over-The-Top Rhetoric"

<https://www.usatoday.com/story/news/politics/onpolitics/2018/01/02/twitter-brief-ban-david-clarke/997672001/>

Note: In addition to the video, please see the following article also included at the above-referenced internet address:

"Twitter Polices David Clarke, Makes Him Remove Over-The-Top Rhetoric"

According to the article, known for his incendiary rhetoric, former Milwaukee County Sheriff David A. Clarke Jr. took it a step too far recently — and was briefly banned from Twitter as a result.

The Twitter account for Clarke, a frequent surrogate for President Donald Trump, was placed in read-only mode until he deleted several tweets, including one in which he threatened to punch the media "in the nose" and "make them taste their own blood."

In the tweet, Clarke included a picture of one wrestler with his picture superimposed on it while kicking another wrestler bearing the red CNN logo. A third wrestler with the Republican president's picture on it held the CNN wrestler.

A Twitter spokeswoman said: "I can confirm the CNN story is accurate. We won't have any further details to share."

The wrestler post and two others was removed from @SheriffClarke, and the longtime Democratic lawman was back to doing what he loves most — lambasting the media on Twitter.

"I will NOT be Intimidated into silence by LYING LIB MEDIA," Clarke wrote. "I will NOT be intimidated by LIBERAL hyper partisan government HACKS who weaponize government authority (sic) to go after people whose views they don't like. I will STAND AND FIGHT for TRUTH & what I believe is RIGHT. JOIN ME."

Clarke served as Milwaukee County sheriff from 2002 until August when he abruptly resigned to go to work for the pro-Trump super PAC America First Action as a spokesman and senior adviser. He has also created a new company called DAC Enterprises, based in Maryland.



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Over the years, the ex-sheriff has used social media to try to provoke others. For instance, during the 2016 presidential campaign, he tweeted that it was time for Americans to pick up “pitchforks and torches” in response to what he called a “rigged” electoral system.

He went off most recently after several outlets posted a copy of a search warrant for Clarke's emails from March 2017.

Federal officials were looking into how Clarke and his staff handled a case in which the then-sheriff felt he was disrespected by a fellow plane passenger in January 2017. The investigation of Clarke was closed four months later.

But some media outlets did not make it clear that the search warrant came from a now-closed case, prompting Clarke's outburst.

One Twitter user said that the person had complained to the social media outfit and received a message saying Clarke's account was temporarily blocked.

"We have reviewed the account you reported and have locked it because we found it to be in violation of the Twitter Rules," the email said. "If the account owner complies with our requested actions and stated policies, the account will be unlocked."

Soon after, Clarke was back on Twitter, having posted or retweeted five items.

Discussion Questions

1. Describe the “free speech” provision of the First Amendment to the United States Constitution.

According to the First Amendment to the United States Constitution, “Congress shall make no law...abridging the freedom of speech...”

2. Are comments made on Twitter and other social media outlets protected by the First Amendment? Why or why not?

The First Amendment only protects against government abridgment of speech; accordingly, comments made on Twitter or other social media outlets are not constitutionally-protected speech.

3. Does Twitter have a legal and/or ethical obligation to monitor comments its subscribers make via their Twitter accounts? Explain your response.

This is an opinion question, so student responses may vary.



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Of Special Interest

This section of the newsletter addresses California's recent legalization of recreational marijuana.

Ethical Dilemma

Ethical Dilemma “Recreational Pot Sales Roll Out in California, with Celebratory 'Blunts' and Big Crowds”

<http://www.latimes.com/local/lanow/la-me-california-marijuana-sales-20180101-story.html>

Note: In addition to the article, please see the video also included at the above-referenced internet address.

According to the article, the legal sale of recreational marijuana began recently in California with fanfare, celebratory 'blunts' and some anxiety.

Companies began selling pot in a relatively small number of businesses recently, with more expected to join in the coming days and weeks.

The state has issued dozens of permits for retailers to begin recreational sales, expanding a market that is expected to grow to \$7 billion annually by 2020. Several of those retailers are in West Hollywood, but they won't open until later at the city's request. That makes Santa Ana's licensed stores the closest option for Angelenos who want to buy recreational marijuana on New Year's Day. Buyers could also trek to San Diego or the Palm Springs area to purchase pot.

To sell cannabis commercially in January — for recreational or medical use — marijuana businesses must have local approval and a state license. Existing medical marijuana dispensaries have been given first priority for recreational sales.

The city of Los Angeles has yet to start issuing local licenses to pot shops, which stirred unease among some existing medical marijuana dispensaries that have been following city rules.

Hundreds of customers — everyone from older people in leisure suits to a young man in pajamas got in line — waited upwards of an hour to buy such things as pre-rolled joints to topical creams and foods infused with marijuana.

Urbn Leaf, which operates stores in Bay Park and Golden Hill, rented a 40-foot bus to bring customers in from a bar in Pacific Beach. The company also had 31 drivers making deliveries in San Diego, which is currently the only part of the county where recreational cannabis can be sold.



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"We can deliver marijuana in 20 minutes; it's like pizza," said Will Senn, co-founder of Urbn Leaf.

He surveyed the line outside of his Bay Park store and said, "This is crazy. We hoped for big crowds, and prepared. But we didn't expect this."

The store had served more than 350 customers, more than it serves all day.

"We're at capacity inside, we have 75 people in line, and the line is getting longer," Senn said. "We would get as many as 1,000 people by the end of the day."

Johnny Hernandez, a tattoo artist from Modesto, celebrated by smoking "Happy New Year blunts" with his cousins.

"This is something we've all been waiting for," he said. "It is something that can help so many people and there's no reason why we should not be sharing that."

Hernandez said he hoped the legalization of recreational marijuana would help alleviate the remaining stigma some still believe surrounds marijuana use.

"People might actually realize weed isn't bad. It helps a lot of people," he said.

Berkeley Mayor Jesse Arreguin and state Sen. Nancy Skinner were on hand for a ribbon-cutting ceremony as his city began selling marijuana legally. Customers began lining up before dawn recently outside Berkeley Patients Group, one of the oldest dispensaries in the nation. A big crowd also gathered at Harborside dispensary in nearby Oakland.

Heather Sposeto came to Sacramento's Northstar Holistic Collective with her boyfriend, Matthew Wilcox, to check out the hype around California's newly legalized marijuana.

The 50-year-old Sposeto doesn't smoke pot, but said she's considering starting now that it became legal.

She said being in the dispensary, with counters of options ranging from chocolate to bud, felt "surreal."

Wilcox purchased some pot after perusing the options. The 53-year-old smokes recreationally almost daily but had never been in a dispensary. He said given the price, he's likely to continue purchasing through his personal connections.

Jeff Deakin waited all night outside Harborside with his wife and dog. The 66-year-old says it's a big deal that they can buy cannabis while feeling safe and secure, without having to make the purchase in a back alley.



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California's Bureau of Cannabis Control is continuing to review applications and approve licenses after retail sales of marijuana became legal on the New Year's Day holiday.

Spokesman Alex Traverso says he isn't aware of any problems at the roughly 100 shops around the state that began selling pot Monday.

There has been growing anticipation over the beginning of pot sales.

"We are excited. We just got our state license ... so immediately there was extra energy in everyone's step," said Robert Taft Jr., founder of the medical marijuana dispensary 420 Central in Santa Ana. "Being part of history is an amazing thing."

Taft said he brought in five new cash registers and hired six additional "bud tenders" in preparation for the new law. He also doubled his inventory and consulted with his attorneys daily to ensure his store was in full compliance.

Taft has also increased the store's security, adding 24-hour armed guards. Selling recreational marijuana is an all-cash business.

Kiloh, president of the United Cannabis Business Assn., now says his dispensary will be able to continue providing medical marijuana to patients in January by operating as a "collective" until it has received state and local licenses. After weighing their legal options, most of the marijuana shops in his group are operating the same way, Kiloh said.

As soon as L.A. grants them approval, those marijuana dispensaries will seek state licenses, he added.

For many in the industry, the new law signals a long-awaited shift.

"The days of the dime bag are long, long gone," said Daniel Yi, spokesman for MedMen, one of the three West Hollywood shops that will be selling cannabis for recreational use.

Medical marijuana customers at the shop recently browsed through lotions, honey and wellness packages infused with cannabis. Some poked at an iPad with a menu showing closeups of different marijuana buds.

Yi said the new law will make it hard for the country to ignore the emergence of recreational cannabis.

"This is the most populous state. We've popularized yoga. We've popularized sushi," he said. "I think this is going to move the needle like nothing else when it comes to the national conversation."



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Brian Gordon believes the new law will help remove the stigma from a drug that is already widely used.

Unfortunately, he said, that progress costs money.

When he went to purchase an ounce of low-grade cannabis from his regular West Hollywood dispensary, he was told that the new law would significantly drive up prices. State, city and sales taxes will push up the price of the drug by more than a third.

Those who register with the Los Angeles County Department of Health and enroll in the medical marijuana program will be exempted from paying sales taxes, but they will still see a 25% increase.

Gordon, who is between jobs, said the increase will hurt him and other patients who use the drug for medical purposes.

"I don't mind paying the extra money if the money is actually being used for good," said Gordon, who uses cannabis to ease his sciatica pain.

At a nearby marijuana shop, a bud tender said that patients have expressed shock and anger at the increased cost.

"This is not right," he said. He requested anonymity because he feared losing his job for speaking about the issue without the shop owner's permission.

The bud tender said he would not have voted to legalize recreational marijuana use if he knew the cost would jump so high. He was worried that additional tax increases would be enacted, and that shop owners will pass on the cost of running a legal marijuana business to customers.

Discussion Questions

1. As the article indicates, it is now legal (with some restrictions) in California to sell and purchase marijuana for medicinal and/or recreational purposes. Is it ethical? What determines whether the sale and purchase of marijuana is ethical?

This is an opinion question, so student responses will likely vary. On the particular question of what determines whether the sale and purchase of marijuana is ethical, this can be based on: a) individual opinion; b) prevailing public opinion; and/or c) the law (since legal standards are often based on ethical principles).

2. The article references Heather Sposeto, a 50-year-old woman who claims that although she does not currently smoke marijuana, she is considering doing so now that it is legal. Does this in any way affect your view regarding whether California (or a number of other states) should have legalized marijuana? Explain your response.

This is an opinion question, so student responses may vary.



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3. Please review Teaching Tip 1 (“California Pot Advocates Say Tax Rates Too High as Legal Sales Begin”) of this newsletter. Is it ethical for a governing body (for example, the State of California) to tax the sale of marijuana? Explain your response.

This is an opinion question, so student responses may vary.



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Of Special Interest

This section of the newsletter will assist you in addressing the Ethical Dilemma (“Recreational Pot Sales Roll Out in California, with Celebratory ‘Blunts’ and Big Crowds”) of the newsletter.

Teaching Tips

Teaching Tip 1 (Related to the Ethical Dilemma--“Recreational Pot Sales Roll Out in California, with Celebratory ‘Blunts’ and Big Crowds”): “California Pot Advocates Say Tax Rates Too High as Legal Sales Begin”

<http://sanfrancisco.cbslocal.com/2018/01/02/california-marijuana-legalization-high-tax-rates/>

Note: In addition to the article, please see the following video also included at the above-referenced internet address. Please use this article and video to enrich your discussion of the issue(s) presented in the Ethical Dilemma of this newsletter.

According to the article, while marijuana dispensaries across California experienced long lines on the first day of legal recreational pot sales, advocates warn the legal industry won’t survive without big changes.

“I’m very happy about – thrilled really – to see the legalization of cannabis in California,” said Steve DeAngelo, co-founder and CEO of Harborside in Oakland. “At the same time, I’m terrified about what’s going to happen with these taxes.”

Harborside has been a medical marijuana dispensary for more than a decade, and is now selling recreational marijuana at a much higher price.

“In our shop here, the tax rate has gone from 15 percent all the way up to almost 35 percent for adult consumers,” DeAngelo said.

Here’s how that math works for Harborside. There is the regular state sales tax of 6 percent, and the regular Alameda County sales tax of 3.25 percent. Then there is a 15 percent state tax on marijuana, and a 10 percent Oakland tax on recreational marijuana.

Total taxes: 34.25 percent.

“That is a huge hit. And it’s going to mean that a significant number of people, less affluent consumers, are going to turn to the lower prices of the underground market,” DeAngelo said.



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Some customers are willing to pay a premium for quality product, such as Geno Escalante, who was among those in line recently.

“We all want the best stuff and you know the best stuff is always here at Harborside,” Escalante said.

DeAngelo said the black market may be lower cost, but Harborside offers hundreds of products not available on the black market and they also offer consumer protection.

“All of our medicine is tested in a laboratory,” DeAngelo said. “It’s evaluated both for safety, for things like pesticides and pathogenic molds, and it’s also evaluated for potency.”

Still, all this protection isn’t cheap. In addition to taxes, marijuana regulations drive up the cost.

“We have to pay rent, we have to have security systems, we have to pay licensing fees, we have to have insurance, we have to buy equipment,” DeAngelo said.

It adds up. And not everyone can pay the higher prices – people who are disabled or on fixed incomes, may have no choice but to go to the black market.

“They can barely afford cannabis now, much less with a 35 or 40 percent tax increase,” DeAngelo said.

And when people aren’t buying regulated marijuana, the state is getting zero taxes.

Colorado, Washington state and Oregon each legalized marijuana at one tax rate and then had to lower the rate to keep people in the legitimate market. DeAngelo said California will have to do the same.

“I don’t think that the current tax rate for cannabis in California is sustainable,” he said.

Escalante concurs. “I honestly don’t think this tax is gonna last too much,” the customer said.

“They’ll see that cannabis is not bad. It’s a plant.”

DeAngelo says it makes no sense that marijuana is taxed so much more than alcohol.

California taxes beer and wine at 20 cents a gallon – that amount has not changed since 1991.

As for federal alcohol taxes, the new tax law taking effect next year decreases the taxes on beer, wine and spirits.



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Teaching Tip 2 (Related to the Ethical Dilemma--“Recreational Pot Sales Roll Out in California, with Celebratory 'Blunts' and Big Crowds”): “Legal Recreational Marijuana Sales Begin In California”

Please use the following National Public Radio’s “Here and Now” audio segment to enrich your discussion of the issue(s) presented in the Ethical Dilemma of this newsletter:

<http://www.wbur.org/hereandnow/2018/01/01/legal-recreational-marijuana-california>



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Chapter Key for McGraw-Hill Education Business Law Texts:

	Hot Topics	Video Suggestions	Ethical Dilemma	Teaching Tips
Barnes et al., Law for Business	Chapters 5 and 25	Chapters 8 and 33	Chapter 3	Chapter 3
Bennett-Alexander & Hartman, Employment Law for Business	Chapters 1, 3, 4 and 8	N/A	N/A	N/A
Kubasek et al., Dynamic Business Law	Chapters 7 and 43	Chapters 5 and 12	Chapter 2	Chapter 2
Kubasek et al., Dynamic Business Law: The Essentials	Chapters 6 and 24	Chapters 5 and 8	Chapter 2	Chapter 2
Liuzzo, Essentials of Business Law	Chapters 3, 31 and 32	Chapters 5 and 28	Chapter 2	Chapter 2
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment	Chapters 5 and 51	Chapters 3 and 8	Chapter 4	Chapter 4
McAdams et al., Law, Business & Society	Chapters 4, 12 and 13	Chapters 5 and 16	Chapter 2	Chapter 2
Melvin, The Legal Environment of Business: A Managerial Approach	Chapters 11, 12 and 22	Chapters 2 and 24	Chapter 5	Chapter 5
Pagnattaro et al., The Legal and Regulatory Environment of Business	Chapters 13 and 20	Chapters 6 and 11	Chapter 2	Chapter 2
Sukys, Brown, Business Law with UCC Applications	Chapters 5 and 23	Chapters 2 and 33	Chapter 1	Chapter 1



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This Newsletter Supports the Following Business Law Texts:

- Barnes et al., Law for Business, 13th Edition ©2018 (1259722325)
- Bennett-Alexander et al., Employment Law for Business, 9th Edition ©2019 (1259722333) *New edition now available!*
- Kubasek et al., Dynamic Business Law, 4th Edition ©2017 (1259723585)
- Kubasek et al., Dynamic Business Law: The Essentials, 4th Edition ©2019 (125991710X) *New edition now available!*
- Liuzzo, Essentials of Business Law, 9th Edition ©2016 (07802319X) *New edition available Feb 2018!*
- Langvardt (formerly Mallor) et al., Business Law: The Ethical, Global, and E-Commerce Environment, 17th Edition ©2019 (1259917118) *New edition now available!*
- McAdams et al., Law, Business & Society, 12th Edition ©2018 (1259721884)
- Melvin, The Legal Environment of Business: A Managerial Approach, 3rd edition ©2018 (1259686205)
- Pagnattaro et al., The Legal and Regulatory Environment of Business, 18th Edition ©2019 (1259917126) *New edition now available!*
- Sukys (formerly Brown/Sukys), Business Law with UCC Applications, 14th Edition ©2017 (0077733738)

