Instructor’s Manual

To Accompany

Hospitality Law

Managing Legal Issues in the Hospitality Industry

**Fifth Edition**

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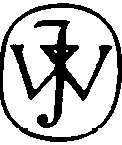
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Contents

[INTRODUCTION vi](#_Toc485043808)

[Creating an Interactive Learning Environment vi](#_Toc485043809)

[Eliciting Feedback on Your Teaching x](#_Toc485043810)

[Internet Resources xiv](#_Toc485043811)

[Assessment Tools xv](#_Toc485043812)

[SAMPLE SYLLABUS 16](#_Toc485043813)

[SAMPLE GROUP PROJECT 27](#_Toc485043814)

[Sample Code of Conduct for Group Activities 29](#_Toc485043815)

[Hospitality Facilities Safety and Security Checklist 30](#_Toc485043816)

[ADA Title III “Quick Look” Barriers Checklist 35](#_Toc485043817)

[Written Paper Criteria and Grade Sheet for Group Projects 36](#_Toc485043818)

[Peer Evaluation for Group Projects 3](#_Toc485043819)7

[SAMPLE GROUP OR INDIVIDUAL CASE PRESENTATION ASSIGNMENT 3](#_Toc485043820)8

[Oral Presentation Grading Criteria 39](#_Toc485043821)

[Sample CEO Memo 40](#_Toc485043822)

[LEGALESE “LINGO BINGO” 41](#_Toc485043823)

[CHAPTER 1 56](#_Toc485043824)

[Prevention Philosophy 56](#_Toc485043825)

[Outline 56](#_Toc485043826)

[Objectives 56](#_Toc485043827)

[A Day-in-the-Life of a Hospitality Manager 56](#_Toc485043828)

[Team Activities and Learning Experiences 57](#_Toc485043829)

[The Hospitality Industry in Court 58](#_Toc485043830)

[Potential Response for “Analyze the Situation 1.1” 59](#_Toc485043831)

[Potential Response for “Ethical Dilemma: Free Champagne” 59](#_Toc485043832)

[Potential Response for “What Would You Do” 59](#_Toc485043833)

[CHAPTER 2 61](#_Toc485043834)

[Government Agencies that Impact the Hospitality Industry 61](#_Toc485043835)

[Outline 61](#_Toc485043836)

[Objectives 62](#_Toc485043837)

[A Day-in-the-Life of a Hospitality Manager 62](#_Toc485043838)

[Team Activities and Learning Experiences 63](#_Toc485043839)

[The Hospitality Industry in Court 66](#_Toc485043840)

[Potential Response for “Analyze the Situation 2.1” 67](#_Toc485043841)

[Potential Response for “Analyze the Situation 2.2” 68](#_Toc485043842)

[Potential Response for “Analyze the Situation 2.3” 68](#_Toc485043843)

[Potential Response for “Analyze the Situation 2.4” 69](#_Toc485043844)

[Potential Response for “Analyze the Situation 2.5” 69](#_Toc485043845)

[Potential Response for “What Would You Do” 69](#_Toc485043846)

[CHAPTER 3 71](#_Toc485043847)

[Hospitality Business Structures 71](#_Toc485043848)

[Outline 71](#_Toc485043849)

[Objectives 71](#_Toc485043850)

[A Day-in-the-Life of a Hospitality Manager 71](#_Toc485043851)

[Team Activities and Learning Experiences 73](#_Toc485043852)

[Business Structures Chart 74](#_Toc485043853)

[The Hospitality Industry in Court 75](#_Toc485043854)

[Potential Response for “Analyze the Situation 3.1” 76](#_Toc485043855)

[Potential Response for “Analyze the Situation 3.2” 76](#_Toc485043856)

[Potential Response for “Analyze the Situation 3.3” 77](#_Toc485043857)

[Potential Response for “What Would You Do” 77](#_Toc485043858)

[CHAPTER 4 78](#_Toc485043859)

[Contract Basics 78](#_Toc485043860)

[Outline 78](#_Toc485043861)

[Objectives 78](#_Toc485043862)

[A Day-in-the-Life of a Hospitality Manager 78](#_Toc485043863)

[Team Activities and Learning Experiences 80](#_Toc485043864)

[The Hospitality Industry in Court 85](#_Toc485043865)

[Potential Response for “Analyze the Situation 4.1” 86](#_Toc485043866)

[Potential Response for “Analyze the Situation 4.2” 87](#_Toc485043867)

[Potential Response for “Analyze the Situation 4.3” 87](#_Toc485043868)

[Potential Response for “Analyze the Situation 4.4” 87](#_Toc485043869)

[Potential Response for “What Would You Do” 87](#_Toc485043870)

[CHAPTER 5 88](#_Toc485043871)

[Significant Hospitality Contracts 88](#_Toc485043872)

[Outline 88](#_Toc485043873)

[Objectives 88](#_Toc485043874)

[A Day-in-the-Life of a Hospitality Manager 88](#_Toc485043875)

[Team Activities and Learning Experiences 90](#_Toc485043876)

[Franchise Arrangements 94](#_Toc485043877)

[The Hospitality Industry in Court 95](#_Toc485043878)

[Potential Response for “Analyze the Situation 5.1” 97](#_Toc485043879)

[Potential Response for “Analyze the Situation 5.2” 97](#_Toc485043880)

[Potential Response for “What Would You Do” 98](#_Toc485043881)

[CHAPTER 6 99](#_Toc485043882)

[Legally Managing Property 99](#_Toc485043883)

[Outline 99](#_Toc485043884)

[Objectives 99](#_Toc485043885)

[A Day-in-the-Life of a Hospitality Manager 100](#_Toc485043886)

[Team Activities and Learning Experiences 100](#_Toc485043887)

[The Hospitality Industry in Court 103](#_Toc485043888)

[Potential Response for “Analyze the Situation 6.1” 107](#_Toc485043889)

[Potential Response for “Analyze the Situation 6.2” 106](#_Toc485043890)

[Potential Response for “Analyze the Situation 6.3” 106](#_Toc485043891)

[CHAPTER 7 107](#_Toc485043892)

[Legally Selecting Employees 107](#_Toc485043893)

[Outline 107](#_Toc485043894)

[Objectives 107](#_Toc485043895)

A [Day-in-the-life of a Hospitality Manager 107](#_Toc485043896)

[Team Activities and Learning Experiences 109](#_Toc485043897)

[Chapter 7 Sample Interview Script 110](#_Toc485043898)

[The Hospitality Industry in Court 113](#_Toc485043899)

[Potential Response for “Analyze the Situation 7.1” 115](#_Toc485043900)

[Potential Response for “Analyze the Situation 7.2” 115](#_Toc485043901)

[Potential Response for “Analyze the Situation 7.3” 115](#_Toc485043902)

[Potential Response for “What Would You Do” 116](#_Toc485043903)

[CHAPTER 8 117](#_Toc485043904)

[Legally Managing Employees 117](#_Toc485043905)

[Outline 117](#_Toc485043906)

[Objectives 118](#_Toc485043907)

A [Day-in-the-life of a Hospitality Manager 118](#_Toc485043908)

[Team Activities and Learning Experiences 119](#_Toc485043909)

[The Hospitality Industry in Court 121](#_Toc485043910)

[Potential Response for “Analyze the Situation 8.1” 124](#_Toc485043911)

[Potential Response for “Analyze the Situation 8.2” 124](#_Toc485043912)

[Potential Response for “Analyze the Situation 8.3” 124](#_Toc485043913)

[Potential Response for “Analyze the Situation 8.4” 125](#_Toc485043914)

[Potential Response for “What Would You Do” 125](#_Toc485043915)

[CHAPTER 9 126](#_Toc485043916)

[Your Responsibilities as a Hospitality Operator 126](#_Toc485043917)

[Outline 126](#_Toc485043918)

[Objectives 126](#_Toc485043919)

A [Day-in-the-life of a Hospitality Manager 127](#_Toc485043920)

[Team Activities and Learning Activities 128](#_Toc485043921)

[The Hospitality Industry in Court 128](#_Toc485043922)

[Potential Response for “Analyze the Situation 9.1” 129](#_Toc485043923)

[Potential Response for “Analyze the Situation 9.2” 130](#_Toc485043924)

[Potential Response for “What Would You Do” 130](#_Toc485043925)

[CHAPTER 10 131](#_Toc485043926)

[Your Responsibility as a Hospitality Operator to Guests 131](#_Toc485043927)

[Outline](#_Toc485043928) 131

[Objectives 131](#_Toc485043929)

A [Day-in-the-life of a Hospitality Manager 132](#_Toc485043930)

[Team Activities and Learning Experiences 133](#_Toc485043931)

[The Hospitality Industry in Court 134](#_Toc485043932)

[Potential Response for “Analyze the Situation 10.1” 136](#_Toc485043933)

[Potential Response for “Analyze the Situation 10.2” 136](#_Toc485043934)

[Potential Response for “Analyze the Situation 10.3” 136](#_Toc485043935)

[Potential Response for “Analyze the Situation 10.4” 136](#_Toc485043936)

[Potential Response for “What Would You Do” 137](#_Toc485043937)

[CHAPTER 11 138](#_Toc485043938)

[Your Responsibilities for Guests’ Property 138](#_Toc485043939)

[Outline 138](#_Toc485043940)

[Objectives 138](#_Toc485043941)

A [Day-in-the-life of a Hospitality Manager 138](#_Toc485043942)

[Team Activities and Learning Experiences 140](#_Toc485043943)

[The Hospitality Industry in Court 140](#_Toc485043944)

[Potential Response for “Analyze the Situation 11.1” 142](#_Toc485043945)

[Potential Response for “Analyze the Situation 11.2” 143](#_Toc485043946)

[Potential Response for “Analyze the Situation 11.3” 143](#_Toc485043947)

[Potential Response for “What Would You Do” 143](#_Toc485043948)

[CHAPTER 12 144](#_Toc485043949)

[Your Responsibilities When Serving Food and Beverages 144](#_Toc485043950)

[Outline 144](#_Toc485043951)

[Objectives 144](#_Toc485043952)

A [Day-in-the-life of a Hospitality Manager 144](#_Toc485043953)

[Team Activities and Learning Experiences 146](#_Toc485043954)

[The Hospitality Industry in Court 146](#_Toc485043955)

[Potential Response for “Analyze the Situation 12.1” 149](#_Toc485043956)

[Potential Response for “Analyze the Situation 12.2” 149](#_Toc485043957)

[Potential Response for “Analyze the Situation 12.3” 149](#_Toc485043958)

[Potential Response for “Analyze the Situation 12.4” 149](#_Toc485043959)

[Potential Response for “Analyze the Situation 12.5” 150](#_Toc485043960)

[Potential Response for “Analyze the Situation 12.6” 150](#_Toc485043961)

[CHAPTER 13 151](#_Toc485043962)

[Legal Characteristics of Travel and Tourism 151](#_Toc485043963)

[Outline 151](#_Toc485043964)

[Objectives 151](#_Toc485043965)

A [Day-in-the-life of a Hospitality Manager 152](#_Toc485043966)

[Team Activities and Learning Experiences 153](#_Toc485043967)

[Travel and Tourism Law Class Assignment 153](#_Toc485043968)

[The Hospitality Industry in Court 155](#_Toc485043969)

[Potential Response for “Analyze the Situation 13.1” 157](#_Toc485043970)

[Potential Response for “Analyze the Situation 13.2” 157](#_Toc485043971)

[Potential Response for “What Would You Do” 157](#_Toc485043972)

[CHAPTER 14 158](#_Toc485043973)

[Safety and Security Issues 158](#_Toc485043974)

[Outline 158](#_Toc485043975)

[Objectives 158](#_Toc485043976)

A [Day-in-the-life of a Hospitality Manager 159](#_Toc485043977)

[Team Activities and Learning Experiences 160](#_Toc485043978)

[The Hospitality Industry in Court 161](#_Toc485043979)

[Potential Response for “Analyze the Situation 14.1” 163](#_Toc485043980)

[Potential Response for “Analyze the Situation 14.2” 164](#_Toc485043981)

[Potential Response for “Analyze the Situation 14.3” 164](#_Toc485043982)

[Potential Response for “Analyze the Situation 14.4” 164](#_Toc485043983)

[Potential Response for “Analyze the Situation 14.5” 164](#_Toc485043984)

[Potential Response for “Analyze the Situation 14.6” 164](#_Toc485043985)

[Potential Response for “What Would You Do” 165](#_Toc485043986)

[CHAPTER 15 166](#_Toc485043987)

[Managing Insurance 166](#_Toc485043988)

[Outline 166](#_Toc485043989)

[Objectives 166](#_Toc485043990)

A [Day-in-the-life of a Hospitality Manager 166](#_Toc485043991)

[Team Activities and Learning Experiences 167](#_Toc485043992)

[The Hospitality Industry in Court 168](#_Toc485043993)

[Potential Response for “Analyze the Situation 15.1” 169](#_Toc485043994)

[Potential Response for “Analyze the Situation 15.2” 170](#_Toc485043995)

[Potential Response for “What Would You Do” 170](#_Toc485043996)

[APPENDIX A 171](#_Toc485043997)

[Lawyers v. Layman 171](#_Toc485043998)

[APPENDIX B 172](#_Toc485043999)

[Professional Standards for Classroom 172](#_Toc485044000)

[APPENDIX C 173](#_Toc485044001)

[Guest Speaker Protocols 173](#_Toc485044002)

# INTRODUCTION

## Creating an Interactive Learning Environment

***Hospitality Law: Managing Legal Issues in the Hospitality Industry, Fifth Edition***, has been designed as a tool to help you develop a hospitality law course that will foster within students an attitude of “compliance and prevention” in their work ethic and personal management philosophy. Compliance and prevention means teaching students ways to prevent or limit their legal liability by complying with legal norms. Instead of approaching the topic of hospitality law from a traditional case study viewpoint, ***Hospitality Law*** provides an understanding of the basic foundations and principles of the laws affecting the hospitality industry. It then goes on to provide guidelines and techniques that show students how to manage preventatively and apply a practical legal awareness to their actions.

Much of the textbook’s effectiveness as a learning tool relies on having students participate in an interactive learning process. Several different types of learning features and exercises are already included in the text. These directly involve students and are intended to help develop a pattern of behavior that will teach them to consider the legal implications of day-to-day management activities. Recognizing the importance of technology, both in education and in the industry, a number of activities were designed to showcase the additional value of the Internet as a lifelong learning tool.

***Chapter Outline****.* Each chapter begins with an outline that helps students see how topics fit together in the context of the overall subject they are learning about.

***In This Chapter You Will Learn****.* More than just a list of learning objectives, this feature identifies concrete skills and necessary information that students will acquire after studying the chapter. By demonstrating “how” the information will be useful to them in their management careers, students will be further motivated to learn.

***Legalese****.* Legal definitions are provided, written in simple language to help students develop the vocabulary and understanding they need to follow the law. Included in this ***Instructor’s Manual*** is a template for a bingo game to utilize and reinforce these definitions. Also included is a tongue-in-cheek difference between lawyers and a laymen (non-lawyer); see **Appendix A.**

***Analyze the Situation****.* In these hypothetical but realistic scenarios, students will learn how a legal concept they have just encountered in the textbook is relevant to situations they will likely face in the hospitality industry. These situations—and the critical thinking questions that accompany them—may be assigned to students individually or discussed in a classroom setting. We have intentionally made the facts ambiguous, to challenge students to think through the situation, and to foster discussion in the classroom. Accordingly, there is usually not a clear solution to the situation and we encourage faculty to resist the urge to supply an answer. In this manual, we have included potential solutions or points of view for these exercises. You may have different views or opinions and we encourage you to share them with your students and with us for possible inclusion in future editions at dsb.lodgelaw@gmail.com.

***Search the Web****.*  Every chapter includes interactive “Search the Web” exercises. Students are directed to a carefully chosen collection of Internet sites that hospitality managers can use to find guidelines, access information, or learn more about the hospitality industry and the law. The questions that are part of every exercise are intended to guide students through a particular Internet website and demonstrate how the use of the Internet can help them become better hospitality managers. Please note that the website URLs and addresses, as well as their internal functionality change frequently. Therefore, please execute the web exercise yourself in advance to be certain that it is still accurate prior to assigning it. We will make every effort to update the web exercises and the updates will be found in the Academic Resources section in the Solutions Store at [www.HospitalityLawyer.com](http://www.HospitalityLawyer.com). If you find errors or omissions in the exercises, please let us know by telephoning (404) 822-0736 or emailing dsb.lodgelaw@gmail.com.

***Legally Managing at Work***. These sidebars contain practical legal guidelines for managers, covering a variety of situations that directly relate to restaurant and hotel operations. Topics range from recommended steps for managers when responding to guest injuries or health emergencies, to legal guidelines when drawing up contracts, or dealing with the media during an emergency situation. Using checklists, step-by-step procedures, and written forms, students will learn how to create policies and respond to situations in a manner that will help ensure compliance with the law and protect their business.

***What Would You Do*?** These realistic decision-making scenarios ask students to put themselves in a situation that requires them to apply the legal principles they have learned in the chapter. Many include a concrete activity, and all contain questions that require students to make a personal decision in a set of circumstances they may likely face in their future careers. In this manual, we have included potential solutions or points of view for these exercises. You may have different views or opinions and we encourage you to share them with your students and with us for possible inclusion in future editions at dsb.lodgelaw@gmail.com.

***International Snapshots****.* We have updated and added “International Snapshots” to all chapters to give the instructor and students a different perspective on legal issues. Each of these was contributed by practicing attorneys or professionals in their field and describe the differences between U.S. law and the international arena in general or as it compares to a particular foreign country law.

***What Did You Learn in This Chapter*?** The main ideas and objectives of each chapter are briefly summarized. The summary can be used by students as a supplement to, but not substitution for, a thorough review of the chapter material.

***This Instructor’s Manual includes additional pedagogy ideas to enhance the classroom experience such as the following.***

***Opening Vignette****.* In the fifth edition, the opening vignettes have been removed from the textbook and are now included in this instructor’s manual.Students may follow the daily routine of fictional hotel manager Trisha Sangus, as she grapples with challenges and dilemmas that demonstrate how an understanding of the chapter topic would be critical to a real-life hospitality manager’s decision-making ability. These vignettes can be used to introduce topics in the classroom setting at the beginning of each class lecture on the various topics. There are many more relevant cases archived in the Academic Resources section of the Solutions Store on HospitalityLawyer.com.

***The Hospitality Industry in Court.***Instructors often use actual legal cases as examples or learning tools in their hospitality law course. The challenge lies in selecting cases that effectively illustrate the topic being discussed. Many court cases that become famous are often ultimately decided on the basis of procedural issues or legal technicalities, rather than the facts of the case. Consequently, they are of interest to law students, but much less helpful to hospitality managers. This ***Instructor’s Manual*** includes summaries of real hospitality cases. The cases have been selected specifically to reinforce the “compliance and prevention” theme of the textbook. Each case also presents a factual summary, questions for the court (which presents the issue at hand in a simplified manner), the court decision and a message to management (which provides a recommendation for similar situations that might arise in their establishments).

***Team Activities and Learning Experiences.*** Employers continue to stress the importance of working in teams. This is especially true for managers at every level, who may be called on to participate in committees or supervise projects with other groups of employees. This ***Instructor’s Manual*** provides you with classroom-tested activities that will stimulate thinking and discussion, while allowing students to practice the team building and social skills they will need to succeed as hospitality managers.This ***Instructor’s Manual*** also includes specific exercises designed to build students’ writing skills. For example, students may be asked to draft a policy for their staff, write a memo to their boss, or perhaps compose a letter to a local government official. Each chapter also includes at least one assignment that requires students to use the Internet. These are excellent tools for an instructor to utilize for formative evaluation purposes. We also hope the instructor will encourage the students to utilize these questions and exercises to self-evaluate their own learning outcomes from studying the material and class discussions.

***PowerPoint Decks****.* Slide decks to support each chapter have been developed and can be located in the Academic Resources section of the Solutions Store at www.HospitalityLawyer.com and at [www.wiley.com/college/barth](http://www.wiley.com/college/barth).

***Test Bank.*** The test bank, included in this instructor’s manual may also be found on the Instructor’s Book Companion Site on [www.wiley.com/college/barth](http://www.wiley.com/college/barth). A Computerized Test Bank is also available for the adopting professor.

***Current Topics***. You may want to begin each class/period with a recent issue or topic concerning the hospitality industry (see [www.smartbrief/ahla](http://www.smartbrief/ahla) for hotel topics or [www.smartbrief/nra](http://www.smartbrief/nra) for restaurant topics) or, follow @Hospitality\_Law on Twitter for a daily feed of current legal, safety, and security challenges encountered by the hospitality industry.

***Professional Standards.*** See Appendix B for a list of expected student behaviors to be used in the classroom.

***Guest Speakers***. Perhaps you may already have talented speakers to share real world experience with your students. If not, please remember that university attorneys may be a good resource for discussing numerous topics such as contracts and employment law. Attendance at your university’s career fair is another good resource to seek volunteer guest speakers. Usually HR executives/managers working a career fair booth are good candidates for speaking in classrooms. Students enjoy having different people to hear their insights about the real world. Make sure you ask speakers to share what they see as the latest trends concerning the topic you want your students to learn. Providing complimentary parking and a cool bottle of water to your guest lecturers are nice touches, as is a personalized hand-written thank you note. You may also want to prompt your students on how to behave during guest lectures and also for them to have questions ready to ask the visitors. Also, some pointers about handling guest speakers in a hospitable manner. See Appendix C for suggested Guest Speaker Protocols.

Thank you very much for utilizing the textbook in your classes. If you have any suggestions that would enhance the textbook or the website, please let us know. Also, if you have any articles that you would like to submit to the on-line journal, please send them to us for review. If you need further clarification on any of the discussion situations included in the textbook please contact us.

If you have any vignettes or situations that you would like to share with the rest of the academic community, please forward those as well. Finally, if you just want to say hello, we would welcome the opportunity to talk with you.

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# CHAPTER 1

## Prevention Philosophy

### Outline

1.1 THE FUTURE HOSPITALITY MANAGER AND THE LEGAL ENVIRONMENT

1.2 THE HOSPITALITY MANAGER AND LEGAL MANAGEMENT

Historical Origins of the Law

Evolutionary Nature of Common Law

Preventative Legal Management

1.3 ETHICS AND THE LAW

An Ethical Dilemma: Free Champagne

Codes of Ethics

### Objectives

1. Why the study of laws related to hospitality is important.
2. The historical origins of the law and its evolutionary nature.
3. A philosophical framework to help prevent legal difficulties before they begin.
4. How to evaluate management actions on an ethical basis.

### A Day-in-the-Life of a Hospitality Manager

TRISHA SANGUS WAS busy and more than a little frustrated. As the general manager of a 275-room resort hotel, she knew that the peak season was about to begin, and she had no front office manager to handle the supervision of her front desk staff, the reservationists, van drivers, night auditors, and other guest service employees. Without an experienced front office manager, the tourist season could be extremely difficult. She had spent the entire morning on the telephone attempting to do background checks on the three top applicants she had interviewed. Inevitably, she got the same response from all of the past employers she called. Either they would not give out any information about the candidates or they would only tell Trisha the person’s name and employment dates. It seemed as if everyone was too cautious to say anything that she could use to help make a good hiring decision. She wondered if it was worth the effort of verifying the employment of her applicants at all.

Her thoughts were interrupted by the telephone. It was her human resource director, asking whether Trisha had made a decision about purchasing employee workbooks that explained the new tip-reporting requirements, which had changed again, making obsolete the current booklets that had been used for employee training. Trisha asked the director to get a cost estimate on the 75 booklets they would need and promised a decision in the next few days. As she hung up the telephone, Trisha wondered how many of her food and beverage employees were actually in compliance with the new reporting requirements. *It sure seemed easier when the government left people alone,* she thought. On the other hand, it was only fair for employees to pay all the taxes they legally owed.

Trisha looked at her watch and jumped up from behind her desk. Her monthly safety meeting was about to start. The meeting was to be chaired by her director of security, and she knew how important it was to attend. It sent the right message, Trisha thought, for her employees on the Safety Committee to see her at the meetings. It let them know how she felt about the importance of safety and security training. Unfortunately, she had only had time to skim the article “Workplace Violence,” which she knew was to make up the major topic of this week’s meeting. Lately, it seemed there were too few hours in the day to accomplish all that she had to. Keeping up her own education in the field was getting harder and harder each month.

The last meeting of the day was the most difficult. Sanitation scores on the local Health Department inspections had been going down over the past few months. The violations were not serious, but the scores did tell Trisha that the managers in that department seemed to be letting the small things slip. A quick walk through the kitchen made Trisha aware that the problems remained unresolved. She wondered why the standards seemed to be slipping, despite the fact that her food and beverage director, and indeed most of the food and beverage staff, were long-time property employees.

As Trisha walked back to her office, she reflected on the issues of the day. She had worked hard to become a general manager. She was one of the youngest GMs in her company. The customer contact she so enjoyed, however, seemed to be less and less a part of her daily routine now. Rules, regulations, and paperwork seemed to consume most of her time. She needed to reprioritize her efforts, but so many issues were important that she was not quite sure where to start.

As she flipped through the afternoon mail, she noticed a headline on the front page of the local newspaper: “City Hotel Targeted in Lawsuit.” She was familiar with the hotel. Its general manager was one of her friends and colleagues. Trisha knew that it was an important part of her job to minimize the chances of a lawsuit like the one in the paper from happening at her hotel. She wondered if her own efforts were enough, and if not, what she could do to improve them.

### Team Activities and Learning Experiences

1. Draft a one-page code of conduct for an independent restaurant with 50 employees. Be prepared to justify your document to the rest of the class.
2. Discuss a recent change in federal, state, or local laws that impact the hospitality industry. Is it a good law? Who does it benefit or burden? For example, obesity claims, transgender bathroom issues, firearms in the workplace, and pool chair lifts for disabled guests.
3. Prepare a 5-minute training session for your staff that emphasizes the importance of preventing, rather than reacting to, legal liability. Give an example of a situation where this might arise.
4. Give an example, other than the one mentioned in the text, of a recent change in federal, state, or local law that has impacted the hospitality industry. Explain why you believe the law was enacted and whether you believe it was good legislation.
5. Give a hospitality example of the importance that “selection” makes in the STEM process.
6. Give a hospitality example of the importance of “teaching” in the STEM process.
7. Give a hospitality example of the importance of “education” in the STEM process.
8. Give a hospitality example of the importance of “managing” in the STEM process.
9. A vendor has agreed to clean your hotel carpets at a very competitive price. In a telephone conversation with you, the vendor states that if it gets the contract, members of its staff will “do your home carpets once a year” as a thank you. Apply the seven criteria for ethical behavior to this situation.
10. Using the Internet, locate a state law of any type that relates to business operations. Use your search engine to help. Keywords to use include: “state,” “laws,” and “business.” Describe the law in a one-paragraph essay.
11. Management seeking to motivate employees can use the four quarters approach. At the beginning of the day, put all four quarters in the same pocket, either pants or jacket. The goal is to move all four quarters to the other side of the pants or the jacket by complimenting four different employees on their work ethics and/or behavior. The sound of the coins will be a constant reminder to compliment the employees. At the end of the day, all four quarters should be on the opposite side of the pants or jacket, meaning at least four employees were complimented. Continue to do this method until it is a habit.
12. Students can sign up for free email newsletters. These free newsletters arrive daily in your inbox as an email and put together the most current industry news pertaining to a wide variety of industry sources all in one email message. Below are links to lodging and food service newsletters. Instructors may develop pedagogy to incorporate news items in lectures/in-class activities or assign to students as extra credit.

[www.smartbrief.com](http://www.smartbrief.com) (many industries available)

[www.smartbrief.com/ahla/](http://www.smartbrief.com/ahla/) (lodging)

[www.smartbrief.com/nra/](http://www.smartbrief.com/nra/) (food service)

Also, here is another great resource for up-to-date information on hotels:

<http://www.hotel-online.com/>

### The Hospitality Industry in Court

There are several ways that you can access full copies of legal cases:

1. Go to www.HospitalityLawyer.com and click on “Solutions,” then “Find Academic Resources,” then “Hospitality Law Textbook Support,” then “Referenced Cases.”

2. Go to the John Wiley & Sons, Inc. (the publisher of this book) website, at www.wiley.com/college/Barth.

3. If you have access to Lexis/Nexus or Westlaw or an attorney with online research tools, search for cases there.

4. If you have access to a law library, ask the librarian for assistance in locating a hard copy of the case.

5. Search other websites such as www.findlaw.com for cases or use any search engine and search by case name.

### Potential Response for “Analyze the Situation 1.1”

As a manager you have an obligation to do what is best for the business. Obviously, in this situation you are torn because you also feel an allegiance to your friend.

The legal issue here is, if because of your friend’s drinking problem a customer or employee should become injured at the restaurant, it could be argued that the restaurant knew or should have known of the problem because of your knowledge of the second arrest. And knowing of the problem and failing to take any steps to correct it created a danger for customers, other employees, or perhaps innocent third parties (i.e., the manager becomes intoxicated at the restaurant and has an accident driving home and injures an innocent driver).

Accordingly, sharing this with your employer is the legally responsible thing to do.

It might also be helpful for you to revisit this dilemma after you have read the rest of the chapter particularly the section on ethics and apply the seven-step ethical decision-making process to this situation.

### Potential Response for “Ethical Dilemma: Free Champagne”

You have several alternatives. Listed below are a few, feel free to add your own.

1. First thing to do is check your company’s conflict of interest policy.
2. If required under your company policy, notify the general manager or director of human resources about the gift and how you intend to dispose of it.
3. You could return the champagne to the vendor with a kind note thanking him or her for their generosity and explaining why it is inappropriate for you to accept the gift.
4. If legal in your state, you could give the champagne to the company either for use in their general inventory or for use at a social event for all employees.
5. You could let the vendor know that it is inappropriate for you to accept the champagne but perhaps he or she might consider donating it to a charity of his or her choice to be auctioned off to raise money for the charity.

### Potential Response for “What Would You Do”

Once again you are faced with an ethical dilemma. You have an obligation to maximize profit for your operation so the loss from the revenue from the sale of cigarettes could be significant. However, you also have an obligation to your community and your employee’s health. Apply the seven-step ethical decision-making process to this situation and see what you come up with after answering the seven questions. It is important to remember that as a business owner or operator in a community you will have the ability to impact legislation, certainly on a local level, and perhaps on a state or even national level. Accordingly, you need to think through the consequences to all of the different constituencies and stakeholders that can be impacted by your taking a position and/or influencing the outcome.