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Certain page references might not match exactly, and certain technical rules will be out of date but those are not the focus of the class. Pottow, The Law of Debtors and Creditors: Allan Farnsworth et al. Cases and Materials Foundation Press: Selected Statutes Foundation Press: In press; edition is For our purposes, the edition of the statute book contains the same material as the edition, and should be significantly cheaper once the edition comes out. Versions before differ in some material respects and should not be used. Press , or ed. Joshua Dressler and George C. The first one listed is the cheaper, lighter, softback that only covers this course, Criminal Procedure: The second book with identical page numbers for our purposes covers this class AND Criminal Procedure: Investigation and is the book that Professor Squires will be using for that class in the Sp. Thus, if you are taking both classes, the second book may be your choice. Please note that you will need Volumes 1 and 2. There is a Statutory Supplement that you can buy; however, since all the statutes can be accessed free online, you do not need to purchase the supplement though you may find it helpful to have all the statutes in one place. Since the book was recently published, it most likely will not be available in the bookstore before classes begin. You can download the books online https: There is a less expensive Kindle version, but the publishers caution against the Kindle version because there are no page numbers and some other formatting quirks. I will assign readings based on page numbers, so if you purchase the Kindle version you will need to cross-reference your book with someone in class who has a book with page numbers. Chapters 1 and 2 can be downloaded for free https: This may be useful for those who are not sure they want to stay in the class. For printed copies from Amazon: Problems in Trial Advocacy by Anthony J. Any of these are fine for class.

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Chapter 2 : United States corporate law - Wikipedia

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Cedar now moves under Federal Rule of Civil Procedure 56 for summary judgment dismissing the complaint, contending the parties never formed a final contract; Hanwha cross-moves for summary judgment in its own favor. For the reasons that follow, I hold that because the parties could not agree on a choice of law, they did not form a contract. Background From January to April , Cedar, a New York corporation, and Hanwha, a Korean corporation, entered into twenty discrete transactions for the purchase and sale of various petrochemicals. In each of the twenty transactions, the parties formed contracts under the same procedure. First, Hanwha would submit a bid to Cedar for a given petrochemical at a given quantity and at a given price. Following formation of the firm bid, Cedar would transmit a package of contract documents to Hanwha, meant to incorporate and finalize all the terms of the contract. The package of documents contained two items: Cedar always signed the contract sheet when submitting these documents to Hanwha. The contract sheets drafted by Cedar for the twenty contracts provide the same substantive information, which can be described in three parts. First, at the top, Cedar provided a provision stating, "We hereby confirm the following transaction between Hanwha Corp. Second, in the body of the contract sheets, Cedar would identify the product, quantity, and price contemplated by the firm bid. Third, at the bottom, Cedar would provide a provision incorporating the standard terms and conditions by reference. This final provision also identified the laws Cedar chose to govern the contracts, and typically provided that New York law, the Uniform Commercial Code "UCC" , and Incoterms [1] governed the contract. After Cedar would send these signed contract documents to Hanwha, Hanwha would do one of three things: On three occasions, Hanwha modified the contract sheets by providing its own choice of law to govern the contracts. On all twenty occasions, upon completion of this process, Cedar and Hanwha both performed their obligations under their contracts. Cedar accepted the bid, thus creating a firm bid for the purchase and sale of the Toluene. As per usual, Cedar provided in the contract sheet that New York law, the UCC, and Incoterms would govern the contract, and also provided in the standard terms and conditions that New York law would govern. Hanwha did not immediately respond to the contract documents, but engaged with Cedar in preparing a bill of lading and nominating a vessel for the ocean carriage. Approximately a week after Cedar had sent Hanwha the contract documents for the Toluene sale, Hanwha returned them in modified form. On the contract sheet, Hanwha had modified the provision providing for governing law, crossing out New York law and the UCC, leaving only the provision that Incoterms was to govern the contract. When Hanwha returned the amended contract documents, it added an additional term, stated in the body of the email transmitting the amended documents. The email asked Hanwha to sign and return an unaltered version of the contract documents. While Cedar waited for a response to this last request, the parties worked out the necessary letter of credit for the transaction. Hanwha submitted a letter of credit unsatisfactory to Cedar on June 8, , and an acceptable letter of credit on June 10, However, the next day, June 11, , Cedar advised Hanwha that because of its failure to sign the version of the contract tendered by Cedar, there was no contract between the parties, and Cedar had the right to sell the Toluene to another party. Cedar removed the case to this court, and Hanwha thereafter moved unsuccessfully to remand. Order Denying Motion to Remand, 09 Civ. The parties now move and cross-move for summary judgment. Standard of Review Summary judgment is appropriate if "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. On cross motions for summary judgment, the district court is obligated to consider each motion on its own merits, "taking care in each instance to draw all reasonable inferences against the party whose motion is under consideration. In considering a motion for summary judgment, "the mere possibility that a factual dispute may exist, without more, is not sufficient to overcome a convincing

presentation by the moving party. Syracuse Model Neighborhood Corp. Further, "to defeat summary judgment Choice of Law Before deciding whether the parties formed a contract, I must establish which law governs the analysis. The question therefore arises whether the CISG, some other law, or both, governs the question of contract formation. The CISG is a self-executing treaty, binding on all signatory nations, that creates a private right of action in federal court under federal law. Delchi Carrier SpA v. As a treaty, the CISG is a source of federal law. Because caselaw interpreting the CISG is relatively sparse, this Court is authorized to interpret it in accordance with its general principles, "with a view towards the need to promote uniformity in its application and the observance of good faith in international trade. The intent to opt out of the CISG must be set forth in the contract clearly and unequivocally. Absent a clear choice of law, "the Convention governs all contracts between parties with places of business in different nations, so long as both nations are signatories to the Convention. Here, the parties never agreed to a substantive law to displace the CISG, and their competing choices must fall away, leaving the CISG to fill the void by its own self-executing force. Accordingly, in resolving these motions for summary judgment, I apply the terms of the CISG without regard to the law either party attempted to select when bargaining over the terms of the last contract. The Merits The issue in this case is whether Hanwha made a binding offer within the meaning of the CISG when it bid on the 1, metric tons of Toluene. Several articles of the CISG bear upon this issue. First, Article 14 of the CISG states, "[a] proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. It states in full: Finally, Article 19 1 modifies the analysis by providing that "[a] reply to an offer which purports to be an acceptance, but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer. Beyond this, however, Article 14 requires that Hanwha must also have intended to be bound when it made the bid. On this latter point, the undisputed facts make clear Hanwha did not possess this intent. Rather, the course of dealing between the parties makes clear that neither party was to be bound until they agreed on other material terms and conditions, namely the choice of law and forum-disputes provisions. Such declarations do nothing more than make out "the mere possibility of a factual dispute," Quinn, F. Turning to the objective analysis called for by Article 8 2 , it is clear from all the relevant circumstances that Hanwha did not intend to be bound by making its bid for the 1, metric tons of Toluene. In the twenty prior transactions, these parties had engaged in a familiar two-step process, whereby they first formed their firm bid and then negotiated the final terms and conditions of the contracts. On each of these twenty prior occasions, the parties did not perform until after they had achieved agreement, explicit or implicit, on all the final terms of the contract. The contract sheets reflect this, for each bears a provision stating, "[The] [f]ollowing sets forth the entire agreement of the parties. On this occasion, the undisputed facts show that the parties never worked out the final terms of the contract because they never formed an agreement on a term they deemed material, a choice of governing law. Previously, Hanwha had on several occasions proposed a different choice of law and Cedar had accepted the proposal, either implicitly or explicitly. The parties thereafter performed under the various contracts. These activities constitute a counter-offer, and a rejection of the counter-offer, within the meaning of Article 19 1. By objecting immediately and insisting on its own nomination, Cedar made clear that it regarded the change as material, thus rendering the different choice of law a material term under Article 19 2. As the parties thereafter failed to reconcile their views, it is apparent that they never formed a final contract. Hanwha argues that issues of fact exist regarding the norms of contracting practices in the Korean petrochemicals industry. Where the parties have established a course of dealing between themselves, industry norms that might otherwise apply are irrelevant. The Clerk shall terminate the motions Doc. Generally speaking, "Incoterms" is a set of standard trade terms, developed by the International Chamber of Commerce, meant to provide parties international contracts for the sale of goods with clear definitions of respective rights and liabilities with regard to the shipment of the goods. It is immaterial that both parties agreed upon using Incoterms to govern the contract. Each party desired Incoterms to govern jointly with other law; these differing medleys of authority constitute the choices each party tried to make. Hanwha urges that beyond its

declaration, it has provided proof of its subjective intent by pointing to other precontract activities, the acquisitions of the bill of lading and letter of credit. But these facts are just as consistent with an intent to contract as they are with pre-contracting activities undertaken in reliance on an imminent formation of a contract. Further, they do not bear upon the question whether Hanwha, in offering its bid for the Toluene, intended to be bound from the bid itself. In neither case did the courts consider the issue whether the offeror intended to be bound by its offer. See Chateau des Charmes Wines Ltd. Hanwha can take no comfort from such easily distinguishable cases.

Chapter 3 : racedaydvl.com: Detlev F. Vagts: Books, Biography, Blogs, Audiobooks, Kindle

Detlev F. Vagts is the author of Transnational Business Problems (avg rating, 3 ratings, 0 reviews, published), Vagts' Basic Corporation Law Ma.

Corporations were only thought to be legitimate in specific industries such as insurance or banking that could not be managed efficiently through partnerships. The First Bank of the United States was chartered in by the US Congress to raise money for the government and create a common currency alongside a federal excise tax and the US Mint. It had private investors not government owned , but faced opposition from southern politicians who feared federal power overtaking state power. State governments could and did also incorporate corporations through special legislation. In , New York became the first state to have a simple public registration procedure to start corporations not specific permission from the legislature for manufacturing business. An early US Supreme Court case, Trustees of Dartmouth College v Woodward , [4] went so far as to say that once a corporation was established a state legislature in this case, New Hampshire could not amend it. States quickly reacted by reserving the right to regulate future dealings by corporations. Corporations were the subject of legal rights and duties: However, the dominant trend led towards immense corporate groups where the standard rule was one-share, one-vote. In response, the Sherman Antitrust Act of was created to break up big business conglomerates, and the Clayton Act of gave the government power to halt mergers and acquisitions that could damage the public interest. By the end of the First World War , it was increasingly perceived that ordinary people had little voice compared to the "financial oligarchy" of bankers and industrial magnates. This practice was halted in by public pressure and the New York Stock Exchange refusing to list non-voting shares. New shareholders had no power to bargain against large corporate issuers, but still needed a place to save. Before the Wall Street Crash of , people were being sold shares in corporations with fake businesses, as accounts and business reports were not made available to the investing public. At the same time he bears no responsibility with respect to the enterprise or its physical property. It has often been said that the owner of a horse is responsible. If the horse lives he must feed it. If the horse dies he must bury it. No such responsibility attaches to a share of stock. The owner is practically powerless through his own efforts to affect the underlying property Physical property capable of being shaped by its owner could bring to him direct satisfaction apart from the income it yielded in more concrete form. It represented an extension of his own personality. With the corporate revolution, this quality has been lost to the property owner much as it has been lost to the worker through the industrial revolution. They sold shares en masse, meaning meant companies found it hard to get finance. The result was that thousands of businesses were forced to close, and they laid off workers. Because workers had less money to spend, businesses received less income, leading to more closures and lay-offs. This downward spiral began the Great Depression. Berle and Means argued that under-regulation was the primary cause in their foundational book in , The Modern Corporation and Private Property. They said directors had become too unaccountable, and the markets lacked basic transparency rules. A new Securities and Exchange Commission was empowered to require corporations disclose all material information about their business to the investing public. Because many shareholders were physically distant from corporate headquarters where meetings would take place, new rights were made to allow people to cast votes via proxies, on the view that this and other measures would make directors more accountable. Given these reforms, a major controversy still remained about the duties that corporations also owed to employees, other stakeholders , and the rest of society. To increase revenue from corporate tax , individual states had an incentive to lower their standards in a " race to the bottom " to attract corporations to set up their headquarters in the state, particularly where directors controlled the decision to incorporate. This meant that the case law of the Delaware Chancery and Supreme Court became increasingly influential. To fend off a takeover, courts allowed boards to institute " poison pills " or " shareholder rights plans ", which allowed directors to veto any bid â€” and probably get a payout for letting a takeover happen. This resulted in a vast growth in the asset

management industry, which tended to take control of voting rights. The Enron scandal of led to some reforms in the Sarbanes-Oxley Act on separating auditors from consultancy work. The global financial crisis of led to minor changes in the Dodd-Frank Act on soft regulation of pay, alongside derivative markets. However, the basic shape of corporate law in the United States has remained the same since the s. Corporations and civil law[edit] See also: UK company law , Canadian corporate law , South African company law , German company law , and European company law The state of Delaware is the place of incorporation for over 60 per cent of Fortune corporations. So, for example, consider a corporation which sets up a concert in Hawaii, where its headquarters are in Minnesota, and it is chartered in Colorado, if it is sued over its actions involving the concert, whether it was sued in Hawaii where the concert is located , or Minnesota where its headquarters are located , the court in that state will still use Colorado law to determine how its corporate dealings are to be performed. All major public corporations are also characterized by holding limited liability and having a centralized management. The federal government does not charter corporations except National Banks, Federal Savings Banks, and Federal Credit Unions although it does regulate them. Each of the 50 states plus DC has its own corporation law. Most large corporations have historically chosen to incorporate in Delaware, even though they operate nationally, and may have little or no business in Delaware itself. The extent to which corporations should have the same rights as real people is controversial, particularly when it comes to the fundamental rights found in the United States Bill of Rights. As a matter of law, a corporation acts through real people that form its board of directors, and then through the officers and employees who are appointed on its behalf. If a corporation goes bankrupt, and is unable to pay debts to commercial creditors as they fall due, then in some circumstances state courts allow the so-called "veil of incorporation" to be pierced, and so to hold the people behind the corporation liable. This is usually rare and in almost all cases involves non-payment of trust fund taxes or willful misconduct, essentially amounting to fraud. Incorporation and charter competition[edit].

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