

# THE THEORY OF LAW AND BUSINESS

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## I. INTRODUCTION

The theory of law and business explains the legal-business impact of common law and regulation on business disciplines and functions and legal-business nature of legal rules accompanied by analytics and methods applied within uses of business knowledge, analytics, and methodologies.<sup>1</sup> This legal-managerial impact and

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1. See James E. Holloway, *A Primer on the Theory, Practice, and Pedagogy Underpinning a School of Thought on Law and Business*, 38 U. MICH. J. L. REFORM 587, 595 (2005) [Hereinafter *Holloway-Primer*] (“The primer initiates debate on how a legal-managerial school of thought furthers the study, practice, and teaching of jurisprudence . . .”). Moreover, legal-business encompasses all legal and business disciplines, functions and applications, but throughout this Article, legal-business is referred to as legal-managerial without favoring management or any other discipline.

nature comprise a concept,<sup>2</sup> practicality,<sup>3</sup> and pedagogy<sup>4</sup> of the integration of law and business combining legal and business knowledge, analytics, and methodologies. Legal and business combinations are legal-managerial concepts and analytics explaining and declaring the effects, utility, and benefits of business, existing and operating under obligations and applications of common law and regulation. The integration of law and business is grounded on a jurisprudential foundation of legal texts; interests and rationality of common law and regulation existing alongside business principles; needs and thinking of acceptable business knowledge; and analytics and methodologies.<sup>5</sup> The theory of law and business and its managerial analysis with law are theoretical explanations and analytical applications, respectively, explaining, exposing, and examining theoryless, policyless, and lawless business decision-making, planning, and operations by business organizations and their well-educated managers, executives, and lawyers.<sup>6</sup>

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2. James E. Holloway, *A Concept-Sensitive Managerial Analysis with Law: Applying a Business Concept to a Legal Rule to Identify the Domain of Business Situations*, 6 WM. & MARY BUS. L. REV. 137, 157 (2015) [hereinafter *Holloway-Concept-Sensitive*] (“The concept-sensitive managerial analysis with law recognizes that statements or assertions of a legal rule and business concept show sensitivity to a similar situation or set of facts. Both law and business contain distinct bodies of knowledge. . . .”); see Appendix A (listing legal-managerial concepts and analytics formed by combinations of legal and business knowledge, legal and business analytics, and legal and business methodologies).

3. James E. Holloway, *The Practical Entry and Utility of a Legal-Managerial Framework without the Economic Analysis of Law*, 24 CAMPBELL L. REV. 131, 133 (2002) [hereinafter *Holloway-Practical Entry*] (“This practical framework that integrates legal analysis and business methodology on an analytic level is a legal-managerial framework. The legal-managerial framework delivers and uses legal-managerial (“L-M”) analysis and legal information in the process of business decision-making.”).

4. James E. Holloway et al., *Law and Business as a School of Thought: A Pedagogy to Teach the Theory and Practice of the School*, 18 U.C. DAVIS BUS. L. J. 215, 218 (2018) [hereinafter *Holloway-Pedagogy*] (“Of course, the school of thought needs a pedagogy to teach prospective managers who are graduate and advanced undergraduate business students a theory and practice to share, integrate and use business and legal knowledge, analytics and methodologies in the process of business decision-making.”).

5. James E. Holloway, *The Foundation of the Theory of Law and Business*, 12 AM. U. BUS. L. REV. 51, 54 (2023) [hereinafter *Holloway-Foundation*] (“The theory of law and business needs a jurisprudential foundation ensuring and enhancing fact sensitivity, analytical scrutiny, and methodological order in making lawful and examining unlawful decisions, plans and practices, recognizing unethical and other normative breaches of lawful decisions, and assessing the impact of law on business and its organizations and disciplines.”).

6. Holloway-*Primer*, *supra* note 1, at 593–94. The author explains that a need exists for a model or paradigm to explain the legal-business impact of common law and regulations on business disciplines, functions and applications, the author states the following: “Abstraction and assumptions are part of the process of theory and model building (footnote omitted), and abstraction based on various rational factors or realistic assumptions could

The theory of law and business sets forth assumptions, hypotheses, propositions, and explanations on the impact of, application of, and limits on common law and regulation affecting business and its disciplines, functions, and applications. Collectively, these statements state and demonstrate the formation, utility, and validity<sup>7</sup> of legal-managerial concepts and analytics<sup>8</sup> of combinations of legal and business knowledge, analytics, or methodologies.<sup>9</sup> Legal-managerial concepts and analytics rest on a legal foundation supporting *mutual* public and private interests, *operative* legal and business texts, and *relative* rational and logical thinking.<sup>10</sup> These texts, interests, and rationality add factual sensitivity, analytical scrutiny, and methodological order to forming and using legal-managerial concepts and analytics.<sup>11</sup> This sensitivity, scrutiny, and order guide and aid business managers, executives, and scholars in weighing the effects of law on business and its disciplines, functions, and applications.<sup>12</sup> In addition, this sensitivity, scrutiny and order cover applying common law and regulation, weighing normative values, and measuring rational thinking in making unlawful and lawful end results, such as feasible alternatives and practices of business decision-making, planning, and operations.<sup>13</sup> In its application, the theory of law and business uses a managerial analysis with law to understand the impact of law on business and

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be no worse than the theoryless, lawless, and policyless decisions defying both logic and rationality during the latter decades of the Twentieth Century." *Id.* at 594. In another article, the authors state that "[a]n approach must include business and legal knowledge, analytics and methodologies to show that unlawful decisions and decision-making are often theory-less, policy-less and lawless." Holloway-Pedagogy, *supra* note 4, at 228.

7. Holloway-Foundation, *supra* note 5, at 93, 96, 101 (hypothesizing that the managerial analysis with law supported by legal text, interests and rationality can form legal-managerial information, tools and methods); *see also* Holloway-Concept-Sensitive, *supra* note 2, at 160 (forming legal-managerial concepts and analytics to explain the impact of law on business).

8. Holloway-Foundation, *supra* note 5, at 89-101 (describing the formation and creation of legal-managerial concepts and analytics to aid business managers and executives needing to request, understand, and use legal advice accompanied by legal analytics and methods in business decision-making, planning, and operations); *see* Appendix B (describing the types of legal-managerial analytics and concepts and their applications and uses in business decision-making, planning, and operations).

9. Holloway-Foundation, *supra* note 5, at 66 (describing the nature of integration of law and business by combining legal and business principles, analysis, and methodologies).

10. *See id.* at 63-67 (describing the nature of the jurisprudential foundation of the theory of law and business).

11. *Id.* at 64-65.

12. *Id.* at 65.

13. *Id.*



its disciplines; ascertain the legality and illegality of decisions, plans, and matters; and recognize lawful decisions, plans, and matters not conforming to normative values and rational thinking.<sup>14</sup> Thus, the theory of law and business and its application as a managerial analysis with law inform and aid business managers, executives, and their lawyers in considering and applying common law and regulation in each stage of decision-making and planning, and on each practice or other matters of conducting business operations.

Five earlier law review articles introduced, outlined, and explained the existence of the theory of law and business and its application as a managerial analysis with law in business decision-making, planning, and operations.<sup>15</sup> This Article identifies, clarifies, and simplifies propositions, hypotheses, assumptions, and explanations establishing the theory of law and business. This Article also identifies and clarifies hypotheticals and examples demonstrating the application of managerial analysis with law in making a lawful decision, plan, and matter. Part I is the Introduction to the nature of the theory of law and business and its application as a managerial analysis with law. Part II explains the basis, nature, and structure of the integration of law and business as the theory of law and business. Part III explains

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14. The theory of law and business is not alone in seeking to explain uses of law to gain business opportunities and competitive advantages by business organizations engaging in business decision-making, planning, and operations. See Robert C. Bird & Justin W. Evans, *What is the Impact of Legal Strategy?*, 61 AM. BUS. L.J. 113 (2024); Robert C. Bird, *Law, Strategy, and Competitive Advantage*, 44 CONN. L. REV. 61 (2011); George J. Siedel & Helena Haapio, *Using Proactive Law for Competitive Advantage*, 47 AM. BUS. L.J. 641 (2010); Constance E. Bagley, *What's Law Got to Do with It?: Integrating Law and Strategy*, 47 AM. BUS. L.J. 587 (2010); Larry A. DiMatteo, *Strategic Contracting: Contract Law as a Source of Competitive Advantage*, 47 AM. BUS. L.J. 727 (2010); GERLINDE BERGER-WALLISER, THE PAST AND FUTURE OF PROACTIVE LAW: AN OVERVIEW OF THE DEVELOPMENT OF THE PROACTIVE LAW MOVEMENT 13–14 (Gerlinde Berger-Walliser & Kim Østergaard eds., DJØF Publishing 2012); Constance E. Bagley, *Winning Legally: The Value of Legal Astuteness*, 33 ACAD. OF MGMT. REV. 378 (2008); Robert C. Bird, *Pathways of Legal Strategy*, 14 STAN. J.L. BUS. & FIN. 1, 1–2 (2008); GEORGE J. SIEDEL, USING THE LAW FOR COMPETITIVE ADVANTAGE (Jossey-Bass Inc. Publisher, 1<sup>st</sup> ed. 2002); Helena Haapio & Annika Varjonen, *Quality Improvement Through Proactive Contracting: Contracts are too Important to be Left to Lawyers!*, 52 ASQ ANN. QUALITY CONG. PROC. 243 (1998).

15. Holloway-Primer, *supra* note 1, at 595 (initiating a debate on the need for a theory of law and business); Holloway-Concept-Sensitive, *supra* note 2, at 140 (introducing the sensitivity of legal rules and business principles to business situations, information and findings); Holloway-Practical Entry, *supra* note 3, at 133 (explaining the integration of legal and business knowledge, analytics and methodologies); Holloway-Pedagogy, *supra* note 4, at 218 (explaining the need to teach the theory of law and business to undergraduate and graduate business students); Holloway-Foundation, *supra* note 5, at 54 (explaining the jurisprudential foundation of the theory of law and business).

the scope and simplicity of the basis, nature, and structure of the theory of law and business. Part IV continues the discussion of the impact of modern legal and business education, effects of common law stability, and impact of legal and business professions on the existence of the theory of law and business. Notwithstanding Parts I-IV above, the theory of law and business is of little consequence if it cannot aid in understanding the impact of law on business disciplines and functions and uses of common law and regulation in making decisions, plans, and matters of business functions and applications.

The Article clarifies and simplifies the theory of law and business and its application, as managerial analysis with law, precisely identifying and using legal-managerial analytics and concepts affecting business disciplines, functions, and applications. Part V explains applications and uses of the managerial analysis with law to assess the impact of law on business; ascertain legality in business decision-making, planning, and operations; and recognize lawful decisions, plans, and matters not conforming to normative values and rational thinking. Part VI explains and demonstrates more detailed uses of legal-managerial analytics and concepts to ascertain and explain the impact of law on business disciplines, functions, and applications. Part VII concisely explains and demonstrates uses of legal-managerial analytics and concepts to form and use legal-managerial information, tools, and methods within processes of business decision-making, planning, practices, and other matters of conducting business operations. Part VIII explains and demonstrates precise uses of legal-managerial analytics and concepts to recognize the use of lawful decisions, plans, and matters conforming to normative values and demonstrating rational thinking. Part IX is the conclusion and states that the theory of law and business exists at the interstices of law and business and uses the managerial analysis with law to explain the impact of law on business disciplines and functions; ascertain legality of business decisions, plans, and matters; and recognize lawful decisions, plans, and matters not conforming to normative values and rational thinking.

## II. *INTEGRATION OF LAW AND BUSINESS*

The integration of law and business combines common law, regulation, their analytics and methods with uses and applications of business knowledge, analytics, and methodologies. Knowingly or unknowingly, the integration of law and business takes place in studying, teaching, and using legal and business knowledge, analytics, and methodologies within business and legal organizations and academic institutions. The integration of law and business includes a factual basis, analytical nature, and methodological structure derived from distinct combinations of legal and business knowledge, analytics, or methodologies. These combinations are legal-managerial analytics and concepts weighing the impact of law on business and its disciplines; applying common law and regulation in business decision-making, planning, and operations; and recognizing conformance of lawful decisions, plans, and matters to normative values and rational thinking.

### A. *Properties of Law and Business*

The integration of law and business creates distinct factual, analytical, and methodological properties enabling formations and uses of legal-managerial analytics and concepts. These properties aid business managers, executives, and their lawyers in beginning and completing decision-making, planning, and conducting business operations. Specifically, these properties aid in forming and using legal-managerial analytics and concepts to examine and understand the effects of common law and regulation in addressing business needs, problems, and market opportunities. Factual, analytical, and methodological properties support three distinct theoretical levels of the theory of law and business.

Each level of the theory of law and business and its application as a managerial analysis with law possesses a unique theoretical purpose and analytical use. These levels include the uses of unique legal-managerial concepts and analytics to aid in understanding legal rules and their effects, addressing legal issues and regulatory concerns, and recognizing nonconformance with normative value and rational thinking. Legal-managerial concepts and analytics exist in combining and using legal and business principles, analyses, or methodologies in making decisions, plans, and

matters.<sup>16</sup> Thus, these levels include knowing the impact of law on business, giving and receiving legal advice on the law, and considering normative values and rational thinking within processes of business decision-making and planning and matters of conducting business operations.

### B. Studying and Teaching Law and Business

The integration of law and business occurs in teaching business managers, executives, and their lawyers who study legal and business disciplines, functions, and applications. The theory of law and business and its application are present, either knowingly or unknowingly, where law and business occur jointly or individually in the curricula of law and business schools.<sup>17</sup> Thus, its application as a managerial analysis with law is learned by law and business students studying, and later, sharing and using legal and business knowledge, analytics, and methodologies in work and practice.<sup>18</sup>

Teaching and studying law and business can enable symbiotic combinations of comparable factual, analytical, or methodological properties of legal and business principles, analytics, and methods. These properties enable teaching and studying the theory of law and business and its application as a managerial analysis with law. This application forms and uses discrete legal-managerial concepts and analytics to aid business managers and executives in making decisions, plans, and practices and assist their lawyers in giving legal advice. Foremost, teaching, studying, and applying legal-managerial concepts and analytics and a business principle give greater insight into the impact of law on business and its disciplines, functions, and applications.<sup>19</sup> Next, teaching, studying,

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16. Holloway-*Foundation*, *supra* note 5, at 66–68 (“Thus, the legal foundation enables the theory of law and business to use amenable knowledge-, analytical-, and knowledge-based properties of legal and business knowledge, analytics and methodologies. . .”).

17. Holloway-*Pedagogy*, *supra* note 4, at 222 (“Managers and lawyers share and integrate legal rules and business concepts to verify or determine the legality and utility of actual situations that result in better solutions, opportunities, and advantages.”).

18. *Id.* at 221 (“The pedagogy of the managerial analysis with law rests on a two-level analytical framework to teach students to find and use lawful situations and provide and use legal information, findings and conclusions in the process of business decision-making.”).

19. Holloway-*Pedagogy*, *supra* note 4, at 223–224 (examining limits on business disciplines and functions, recognizing failures of business functions and applications, and identifying discipline-specific losses within business disciplines); *see infra* Part VI and

and forming legal-managerial concepts and analytics combine legal and business knowledge, analytics, or methodologies to aid managers, executives, and their lawyers in processes of business decision-making, planning, practices, and other matters of conducting business operations.<sup>20</sup> Lastly, teaching, studying, and recognizing the validity of decision-making, planning, and operation use legal-managerial concepts and analytics to weigh conformance of lawful decisions, plans, and matters to normative values and rational thinking.<sup>21</sup> Thus, the theory of law and business includes teaching, studying, and using legal and business principles, analyses, and methods to form legal-managerial analytics and concepts for use in business decision-making, planning, and operations.

### C. Basis, Nature, and Structure of Law and Business

The integration of law and business forms legal-managerial concepts and analytics that do not replace but aid the uses of legal and business analyses, methods, and rational thinking in business decision-making, planning, and operations. Legal and business analyses, methods, and rational thinking give legal-managerial analytics and concepts an overarching factual basis, analytical nature, and methodological structure. Legal-managerial analytics and concepts aid business managers, executives, and their lawyers to precisely use legal and business analyses and rational thinking in business decision-making, planning, and operations. Foremost, legal-managerial concepts and analytics ascertain and expose limits imposed by common law and regulation on business disciplines, functions, and applications used by business managers, executives, and their lawyers.<sup>22</sup> Next, legal-managerial

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accompanying notes (explaining an analytical approach to ascertain the impact of law on business and its disciplines, functions and applications).

20. Holloway-Pedagogy, *supra* note 4, at 229–231 (using legal-managerial information, analytics and methods to aid in recognizing and addressing legal issues and regulatory concerns arising in business applications and functions); *see infra* Part VIII and accompanying notes (explaining and demonstrating the formation and use of legal-managerial information, tools and methods).

21. Holloway-Foundation, *supra* note 5, at 68–69 (using legal-managerial analytics and methods to aid in recognize lawful decisions, plans, and matters breaching normative values placing unenforceable limits on business functions and applications); *see infra* Part VIII and accompanying notes (explaining how to recognize the effects of normative values and rational thinking on lawful decisions, plans, and matters).

22. Holloway-Foundation, *supra* note 5, at 63–64; *see infra* Part VI and accompanying notes.

concepts and analytics are combinations of business and legal principles, analytics, or methodologies that form and use discrete legal-managerial information, tools, and methods within business decision-making, planning, and operations.<sup>23</sup> Lastly, legal-managerial concepts and analytics aid in recognizing whether lawful decisions, plans, and matters are likely to conform to ethical standards and public interests, comply with organizational policy and directives, and demonstrate rational thinking by justifying the business need and furthering the appropriate objective for a decision.<sup>24</sup> Therefore, the integration of law and business aids business managers, executives, and their lawyers<sup>25</sup> in recognizing and addressing legal issues and regulatory concerns, recognizing conformance to normative values, and evaluating rational thinking of business decision-making, planning, and operations.

The theory of law and business must also be sensitive to the cost of legal advice in managing the budgets of corporate legal departments and law firms. The managerial analysis with law is a more precise request for legal advice within practice, especially when accompanied by legal analytics and methods, processes of decision-making and planning, and matters of conducting business operations. If a lawyer gives legal advice finding all decisional alternatives unlawful in decision-making, the decision-maker, a manager or executive, need not complete the process and could begin an entirely new process of decision-making. This legal advice causes a delay in implementing decisions but may save time and reduce the costs of legal services.

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23. Holloway-Foundation, *supra* note 5, at 64–65; *see infra* Part VII and accompanying notes.

24. Holloway-Foundation, *supra* note 5, at 65; *see infra* Part VIII and accompanying notes.

25. Holloway-Foundation, *supra* note 5, at 63–65; *see infra* Part III.B and accompanying notes. The conflict within and competition among business organizations require their managers and executives to eventually consider the costs of legal services in managing the organization. *See* Peggy Kubicz Hall, *I've Looked at Fees from Both Sides Now: A Perspective on Market-valued Pricing for Legal Services*, 39 WM. MITCHELL L. REV. 154, 161 (2012). Attorney Hall found that corporate in-house attorney were relying less on outside counsel in managing corporate legal affairs. *Id.*; *see* Lucy Muzzy, *Maximizing the Value of Outside Counsel*, 60 FED. LAW. 56, 57 (2013) (using case management to manage the legal services and costs of using outside counsel).

### III. THE THEORY OF LAW AND BUSINESS

The theory of law and business occurs in the interstices of legal and business knowledge, analytics, and methodologies, and can be used separately or jointly by business managers, executives, and their lawyers. The interstices of law and business occur in legal and business practices and works performed by legal and business professionals and practitioners. These practices and works include the applications of legal and business knowledge, analytics, and methodologies. The theory of law and business combines legal and business knowledge, analytics, or methodologies to form various legal-managerial concepts and analytics aiding business managers, executives, and their lawyers.

#### A. Recognizing Inseparable Uses of Law and Business

The theory of law and business recognizes that legal advice is almost unavoidable and can rarely be held constant across active stages of processes of business decision-making and planning, active practices, and other matters of continuous or ongoing business operations. Simply, business principles, analytics, and methods add, find, and use business, statistical, and other information, findings, and conclusions in multistage processes and numerous ongoing matters.<sup>26</sup> The uses of business and other information, findings, and conclusions in conjunction with business principles and analytics in methodological processes and operational matters may cause the need for legal advice that can be more precisely given. This exactness is caused by legal rules accompanied by legal analytics and methods. The theory of law and business does not conclude that legal advice is always go or no go. Rather, legal advice accompanied by legal analytics and methods can lead to meaningful choices in dynamic situations, environments, and matters occurring in markets and organizations.<sup>27</sup> Legal and business knowledge, analytics, or methods occur together at one decisional or planning stage or on an operational matter. This joint occurrence automatically forms and creates unique legal-managerial combinations, such as

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26. Holloway-Pedagogy, *supra* note 4, at 222.

27. See Holloway-Concept Sensitive, *supra* note 2, at 173–74; *infra* Part VII.A and accompanying notes.

discrete legal-managerial information, tools, and methods.<sup>28</sup> These combinations aid in creating, recognizing, and using lawful business and other information, findings, and conclusions more exactly<sup>29</sup> when business managers, executives, and their lawyers freely share explanations of legal rules, business principles, and uses of business facts and information.

The formation of legal-managerial information, tools, and methods occurs as business managers, executives, and their lawyers possess and share legal and business principles, analyses, or methods. These managers, executives, and their lawyers may not knowingly combine law and business. However, when legal and business knowledge, analytics, or methods occur together and are jointly used by these managers, executives, and their lawyers, they unknowingly form and use legal-managerial analytics and concepts.<sup>30</sup> This automatic use occurs when a legal rule or advice accompanied by legal analytics and methods is used to ascertain the legality of facts, findings, and information entering each stage or matter and its end result. This entry of legal advice or rule accompanied by legal analytics and methods in a decisional and planning stage or on an operational matter automatically forms legal-managerial information, tools, and methods. These automatic combinations aid managers and executives needing to make lawful decisions, plans, and matters by receiving and using legal advice or rules accompanied by analytics and methods. In addition, these automatic combinations assist lawyers in considering business principles, analysis, and methods, and reviewing business and other information, analytics, and facts. This consideration and review enable legal advice accompanied by legal analytics and methods in ascertaining the legality of each stage and matter. Thus, the theory of law and business and its application as the managerial analysis with law is formative, useful, and exact in any stage of process of decision-making and

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28. See Ian Weinstein, *Lawyering in the State of Nature: Instinct and Automaticity in Legal Problem Solving*, 23 VT. L. REV. 1, 2 (1998-1999) ("Although we certainly make conscious choices as we think about the law, our analysis is also controlled and limited by unconscious and automatic cognitive processes. Even our reflective choices are bound by the structure of legal problems and our physical makeup.").

29. Holloway-Pedagogy, *supra* note 4, at 222; see *Infra* Part VI and accompanying notes (discussing the uses of the managerial analysis with law to create and use legal-managerial information, tools and methods).

30. See Weinstein, *supra* note 28, at 2.



planning and on any practice or matter of conducting business operations.

B. Roles of Lawyers and Business Managers and Executives

The theory of law and business recognizes business managers, executives, and their lawyers serve different but mutually beneficial roles in the integration of law and business. These roles include making decisions, plans, conducting business operations, and finding and addressing legal issues and regulatory concerns affecting business and its disciplines, functions, and applications. Modern legal and business education complicates the professional roles of lawyers, managers, and executives who can possess and use small or large amounts of both legal and business knowledge, analytics, and methodologies.<sup>31</sup> Lawyers, business managers, and executives use their respective bodies of knowledge, analytics, and methodologies to understand and respond to business situations, environments, and matters. Fundamentally, the theory of law and business is dependent on business executives and managers using their business knowledge, analytics, and methodologies to solve problems, recognize opportunities, and adapt to environments. This dependence recognizes business executives and managers may also know and understand fundamental legal principles, analytics, and methodology taught in graduate and undergraduate courses or received with legal advice accompanied by legal analytics and methods. These managers and executives must share their business knowledge, analytics, and methodologies with their lawyers who may only have business experience but little business education.

This dependence on the theory of law and business requires lawyers to give legal advice on the purposes and limits of common law and regulation and their applications in decision-making, planning, and operations. Lawyers must use common law and regulation in giving precise legal advice accompanied by basic legal

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31. See George Siedel, *Law and the Business School Curriculum*, AACSB (Mar. 15, 2017), <https://www.aacsb.edu/insights/articles/2017/03/law-and-the-business-school-curriculum>; Howell E. Jackson, *Analytical Methods for Lawyers*, 53 J. LEGAL EDUC. 321, 321–22 (2003); see *Joint Degrees and Cooperative Programs/Law and Business*, STANFORD UNIVERSITY, <https://law.stanford.edu/education/degrees/joint-degrees-within-stanford-university/law-and-business/> (last visited Apr. 12, 2025); *JD/MBA Joint Degree with Harvard Law School*, HARVARD BUS. SCH., <https://www.hbs.edu/mba/academic-experience/joint-degree-programs/Pages/harvard-law-school.aspx> (last visited Apr. 12, 2025).

analytics and methods that can be understood and used by business managers and executives. The other side of this dependence recognizes lawyers may also know, understand, and use fundamental or complex business knowledge, analytics, and methodologies in giving more precise legal advice accompanied by legal analytics and methods.<sup>32</sup> Thus, the theory of law and business is an integration of law and business dependent on business managers, executives, and their lawyers using their respective knowledge and analytics to readily form and use legal-managerial analytics and concepts.

### C. Uses of Legal-Managerial Concepts and Analytics

The theory of law and business rests on fundamental legal-managerial concepts and analytics based on forming and using combinations of legal and business knowledge, analytics, or methodologies. Legal-managerial concepts and analytics affect the scope, nature, and benefits of using common law and regulation in processes of business decision-making and planning, ongoing practices, and other matters of business operations. Foremost, the legal-managerial concepts and analytics play roles in understanding the effects of law on business disciplines and functions; ascertaining the legality and illegality of business decisions, plans and matters; and weighing normative value and rationality of using lawful decisions, plans, and matters. Next, the legal-managerial concepts and analytics depend on business managers and executives recognizing the need for and using business knowledge, analytics, and methods to make or create and use statistical, financial, marketing, and other information, findings, and conclusions.<sup>33</sup> Lastly, legal-managerial concepts and analytics bolster predictability, continuity, and stability of conducting lawful decision-making, planning, and operations by enabling lawyers to give, whenever possible, business managers and executives legal advice (rules) accompanied by legal analytics and reasoning.<sup>34</sup> Therefore, business managers, executives, and their lawyers use and adhere to the theory of law and business and

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32. See *infra* Part IV.A and accompanying notes (explaining the impact of modern legal and business education on the theory of law and business).

33. Holloway-Pedagogy, *supra* note 4, at 251–52.

34. *Id.*

its application by using managerial analysis with law in works and practices of law and business.

IV.     *LEGAL ADVICE AND RULES ACCOMPANIED BY  
ANALYTICS AND METHODS*

The theory of law and business explains the use of legal rules or advice accompanied by legal analytics and methods to perform work and conduct practices of law and business. Modern legal and business education drives the development of the theory of law and business and its application as a managerial analysis of law. This education allows more managers and executives to timely consider and precisely use more common law and regulation in making business decisions and plans and conducting business operations. Moreover, judicial methodology and legal analysis and reasoning bolster predictability, stability, and continuity in making rational decisions, plans, and performing rational matters. Simply, the theory of law and business rests on the fact that law is rarely self-executing in its impact on business disciplines and functions and its application in business decision-making, planning, and operations.

A.     Business Education and Its Development in Law and  
Business

Modern legal and business education includes law and business in undergraduate and graduate curricula driving the development of the theory of law and business and its application as a managerial analysis of law. These curricula include combined and single uses of legal and business knowledge, analytics, and methodologies in studying law and business. Well-educated managers and executives may also be well-educated lawyers;<sup>35</sup> and well-educated lawyers and managers may have studied only one academic discipline but may have been taught sophomore or junior-level knowledge, analytics, and methods of another discipline.<sup>36</sup> Firstly, managers and lawyers who hold joint business and law degrees, such as Ph.D./JD, MBA/JD and BS/JD, possess legal and business knowledge, analytics, and methodologies.<sup>37</sup>

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35. See, e.g., STANFORD UNIVERSITY, *supra* note 31; HARVARD BUS. SCH., *supra* note 31.

36. See Siedel, *supra* note 31; Jackson, *supra* note 31, at 321–22.

37. See STANFORD UNIVERSITY, *supra* note 31; HARVARD BUS. SCH., *supra* note 31.

Secondly, lawyers who are business managers and executives and who possess no business or legal education will need some assistance or advice to use basic legal or business knowledge, analytics, and methodologies. Other business managers and executives may possess business degrees and have completed one or more undergraduate or graduate business law courses<sup>38</sup> but will still need assistance to use legal advice accompanied by legal analytics and methods. Thirdly, well-educated managers and executives may possess business experience and legal knowledge but little or no legal and business education. They may need counsel or assistance to understand sophomore or junior-level legal and business knowledge, analytics, and methodologies, and may also need to rely on the relationship between their disciplines and law, such as law-science or law-engineering.<sup>39</sup> Thus, business managers, executives, and their lawyers can often be well-educated professionals and practitioners who may possess both legal and business education.

The managerial analysis with law depends on legal and business education to aid business managers and executives in using legal advice that purposely includes legal analytics and methods. This legal advice or rule with legal analytics and methods can extend more readily across stages of planning, decision-making, and continuing matters of business operations. This education includes full to limited legal knowledge accompanied by legal analytics and methods at each stage of the processes of business decision-making, planning, and on each matter of conducting business operations. However, business managers and executives who possess a limited understanding of law and its application still need lawyers. These less knowledgeable managers and executives need and use lawyers who must give legal advice accompanied by appropriate legal analytics and methods addressing legal issues and regulatory concerns. Thus, the managerial analysis with law aids less knowledgeable managers, executives, and their lawyers by allowing them to combine or use combinations of legal and business knowledge, analytics, or methodologies.

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38. See Siedel, *supra* note 31; Jackson, *supra* note 31, at 321–22.

39. See Jerry L. Mashaw, *Law and Engineering: In Search of the Law-Science Problem*, 66 LAW & CONTEMP. PROBS. 135, 135–36 (2003) (explaining the relationship between law-science and law-engineering in a federal agency promulgating health and safety regulation).

B. Bolstering Predictability, Stability, and Continuity within Business

The factual basis, analytical nature, and methodological structure of the theory of law and business bolster predictability, stability, and continuity in making lawful and rational decisions, plans, and matters. In the application of the theory of law and business, the managerial analysis with law adds legal analytics and methods to uses of business principles, analytics, and methods bolstering predictability, stability, and continuity in making lawful decisions, plans, and matters. This predictability, stability, and continuity are added to business decision-making, planning, and operations when knowledgeable business managers and executives use legal advice accompanied by legal analytics and methods. In addition, this predictability, stability, and continuity also exist in business decision-making, planning, and operations when these managers and executives understand the effects of common law and regulation on business and its disciplines, functions, and applications.

These managers and executives are knowledgeable of legal rules and use legal rules or advice accompanied by legal analytics and methods in decision-making, planning, and conducting business operations. This knowledge includes recognizing the need for and use of legal advice or rules accompanied by legal analytics and methods to find and address legal issues and regulatory concerns.<sup>40</sup> This knowledge also includes using business facts, situations, information, and findings that need legal advice, accompanied by legal analytics and methods in recognizing legal issues and regulatory concerns. Thus, the theory of law and business bolsters predictability, stability, and continuity by aiding managers and executives needing, requesting, and using legal advice, accompanied by legal analytics and methods to make lawful decisions, plans, and matters.

C. Practices and Works of Business Managers and Lawyers

Business practices and works create the need for and use of legal advice accompanied by legal analytics and methods in business decision-making, planning, and conducting business

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40. See Siedel, *supra* note 31; Jackson, *supra* note 31, at 321–22.

operations. Business practices and works cover decision-making, planning, and conducting business operations, and furthering business goals and objectives. Legal practices and works include giving legal advice accompanied by legal analytics and methods to address legal issues and regulatory concerns. *Simply, the law follows business.* On the one hand, legal advice accompanied by legal analytics and methods is legal practices and works of lawyers responding or reacting at the behest of business managers and executives. Legal practices and works of lawyers find and address legal issues and regulatory concerns of *business* practices and works. On the other hand, managerial, financial, and other business practices and works are recognizing and solving problems, developing business opportunities, responding to market events, and addressing organizational needs. Business practices and works include employment and other decisions, strategic and other plans, retail sales practices, and other matters to advance organizational goals and objectives. In sum, business practices and works require legal advice accompanied by legal analytics and methods to recognize and address legal issues and regulatory concerns of decision-making, planning, and operations.

Business practices and works require lawyers to give and use legal advice that recognizes and addresses legal issues and regulatory concerns of processes of decision-making and planning and in one matter or a series of matters of conducting business operations. The completion of each stage and matter consists of a unique end result, such as a feasible alternative or banking practice, that is only one of the end results of decision-making and planning processes and operational matter or series.<sup>41</sup> Furthermore, these lawful decisions, plans, matters, and other end results must conform to normative values, namely public policy, ethics, and organizational policy.<sup>42</sup> Moreover, business managers, executives, and their lawyers need to ascertain whether lawful decisions, plans, matters, and other end results reflect rational

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41. See Holloway-Pedagogy, *supra* note 4, at 243–45 (discussing the managerial analysis of law in the process of decision-making process); Holloway-Foundation, *supra* note 5, at 102–08 (supporting use of the managerial analysis with law in conducting business operations); S. Trevis Certo et al., *Managers and Their Not-So Rational Decisions*, 51 BUS. HORIZONS 113, 114 (2008) (explaining the processes of formal and informal decision-making).

42. Holloway-Foundation, *supra* note 5, at 66-68; see *infra* Part VIII and accompanying notes (discussing the use of normative values and rationality in using lawful decisions, plans, and matters).

thinking by justifying a specific organizational need and advancing a specified organizational objective. Thus, a managerial analysis with law aids managers and executives performing practices and conducting works requiring legal advice accompanied by legal analytics and methods to comply with law, conform to normative values, and measure rational thinking.

## V. *THE MANAGERIAL ANALYSIS WITH LAW*

The theory of law and business is the integration of law and business using legal advice accompanied by legal analytics and methods in uses of business principles, analysis, and methods of business decision-making and planning and a matter or series of matters of conducting business operations. The managerial analysis with law applies the three levels of the theory of law and business by forming and using legal-managerial analytics and concepts. These levels include weighing the impact of law on business; ascertaining the legality and examining the illegality of decisions, plans, and matters; and recognizing likely breaches of normative values and irrational thinking of lawful decisions, plans, matters, and other end results.

### A. Fundamentals of the Managerial Analysis with Law

The application of the theory of law and business by managerial analysis with law addresses the effects of law on business and its disciplines and functions and is an aid to examining unlawful and making and using lawful decisions, plans, and matters. The theory of law and business shows the broader environmental, situational, and factual insight, and analytical and methodological support of managers, executives, scholars, and lawyers needing and using jointly law and business. On the one hand, the theory of law and business explains the effects on, applications of, and consequences of common law and regulation on business and its disciplines, functions, and applications. On the other hand, the managerial analysis with law is an aid to ascertaining the impact of common law and regulation on business and its disciplines and functions and in using legal rules or advice accompanied by legal analytics and methods in the application or use of common law and regulation. The theory of law and business and its application as a managerial analysis with law explains and

addresses legislative concerns, legal issues, ethical dilemmas, organizational conflicts, and irrational thinking within business and its disciplines, functions, and applications.

Business managers, executives, and their lawyers must know how to use managerial analysis with law at each level of the theory of law and business. Each level requires use of the managerial analysis with law by applying unique legal-managerial concepts and analytics at each level. Simply, assessing the impact of law on business and its disciplines<sup>43</sup> uses unique legal-managerial concepts and analytics that are used to evaluate the legality of decisional situations, planning environments, and factual matters of business decision-making, planning, and operations, respectively.<sup>44</sup> At the first level, managerial analysis with law assesses the impact of common law and regulation by identifying and explaining limits on and losses to business disciplines and functions using a legal-managerial classification.<sup>45</sup> At the second level, managerial analysis with law turns to business applications and forms legal-managerial information and tools to aid in ascertaining the legality and examining the illegality of each stage of the processes of decision-making and planning and on each matter of conducting ongoing business operations.<sup>46</sup> At the third level, the managerial analysis with law forms and uses legal-managerial concepts and analytics and legal and management principles to test normative values and rational thinking of lawful decisions, plans, and matters. Unlawful decisions, plans, and matters are without use or value under ethical standards, public policy, and organizational policy.<sup>47</sup> Consequently, business managers and executives use a managerial analysis with law to consider the impact of law, ascertain legality, and consider normative values and rationality within processes of business decision-making, planning, and conducting matters of business operations.

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43. See *infra* Part IV.B and accompanying notes (discussing assessing the impact of law on business and its disciplines and functions).

44. See *infra* Part IV.C and accompanying notes (discussing the formation and use of legal-managerial information, a managerial evaluation, in completing the first stage of decision-making and planning and weighing factual matters in business operations).

45. See *Holloway-Foundation*, *supra* note 5, at 63-64; *infra* Part VI and accompanying notes.

46. See *Holloway-Foundation*, *supra* note 5, at 66; *infra* Part VII and accompanying notes.

47. See *Holloway-Foundation*, *supra* note 5, at 65-66; *infra* Part VIII and accompanying notes.



B. Assessing the Impact of Law on Business and Its Disciplines

Business managers, executives, and their lawyers need to know and understand common law and regulation in the context of their impact of law on business and its disciplines and functions. This context identifies and exposes legal and regulatory restraints imposed on business disciplines and functions, limiting or denying uses of business principles, analyses, and methods. The theory of law and business sets forth a legal-managerial classification that uses legal-managerial concepts, analytics, and management theory to identify the nature and types of impact of law on business and its disciplines and functions.

In the first tier, managerial discretion theory establishes that common law and regulation limit the latitude of managers and executives to respond, address, and react to situations, environments, transactions, and activities.<sup>48</sup> Managerial discretion is the latitude of executives and managers and shows limitations on managers and executives to make decisions and plans and perform matters.<sup>49</sup>

In the second tier, a managerial failure is a class or series of decisions, plans, or matters causing public harm to a legitimate public interest, such as retirement security.<sup>50</sup> The managerial failure also recognizes that organizations and their management can make decisions and plans and perform practices undermining legislative policy, such as environmental protection.<sup>51</sup>

In the third tier, a managerial loss recognizes a partial or complete limit or restraint on uses of a business principle, analysis, or method under common law and regulation.<sup>52</sup> The managerial loss partially or totally limits uses of harmful or injurious business knowledge, analysis, or methods in making or implementing decisions, plans, and matters.<sup>53</sup> Thus, the legal-managerial concepts and analytics foretell probable legal restraints that could be imposed on business and both its disciplines and functions by

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48. See Holloway-Concept-Sensitive, *supra* note 2, at 161–63.

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

lawful, but unethical, irrational, or harmful business decisions, plans, and matters.

C. Addressing Legality, Rationality, and Normative Values

The managerial analysis with law is an aid to business managers, executives, and their lawyers in using common law and regulation in business decision-making, planning, and operations. This aid exposes conformance to normative values and measures rational thinking of lawful business decision-making, planning, and operations. Knowingly or unknowingly, the managerial analysis with law forms and uses legal-managerial concepts and analytics to review conformance to normative values and rational thinking and ensure and ascertain legality and illegality of decisions, plans, and practices.

The first level is the managerial evaluation that ascertains the legality and usability of the beginning situation and environment (first stage) of decision-making and planning, respectively, and factual patterns of ongoing business operations and other stages of decision-making and planning.<sup>54</sup> The managerial evaluation creates legal-managerial information by applying a relevant business principle to a legal rule to measure the breadth of the legality of the business principle under a rule of law.<sup>55</sup> The legal rule and business principle share similar factual patterns<sup>56</sup> that are the causes and needs for business decision-making, planning, and operations.<sup>57</sup> These factual patterns consist of lawful, unlawful, and gray area situations, environments, and factual matters.<sup>58</sup>

The second level consists of legal-managerial tools and methods that are formed by combining legal and business knowledge, analytics, and methodologies.<sup>59</sup> These tools and methods make precise uses within stages of processes and matters receiving and using common law and regulation<sup>60</sup> or legal advice

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54. Holloway-Pedagogy, *supra* note 4, at 232; see Holloway-Concept-Sensitive, *supra* note 2, at 173–74.

55. Holloway-Pedagogy, *supra* note 4, at 232.

56. *Id.* at 230.

57. *Id.* at 239.

58. *Id.*

59. *Id.* at 221–22.

60. Holloway-Practical Entry, *supra* note 3, at 134 (using the Employee Retirement Income Act of 1974 (ERISA), 29 U.S.C. §§ 1001 *et seq.* (2024), to explain the formation and application of legal-managerial analytics); Holloway-Concept-Sensitive, *supra* note 2, at 178

accompanied by legal analytics and methods. Therefore, the first and second levels determine the legality in starting and completing each stage of the processes of business decision-making and planning and each matter or series of matters of conducting business operations.

Unlawful decisions, plans, and matters are not usable end results, but lawful decisions, plans, and matters may not be usable if they breach normative values and defy rational thinking. The third level of the theory of law and business coexists with the first and second levels at each stage of business decision-making and planning and on each matter of conducting business operations.

However, the third level does not determine legality or illegality of end results of the operational matters, decision-making, and planning stages, such as selecting feasible alternatives. The third level focuses on the usability and validity of the lawful decision, plan, and matter. The theory of law and business does not give credence to immorality or irrationality. The third level uses legal-managerial tools to recognize and weigh conformance with ethical standards, public interests, and compliance with organizational policy<sup>61</sup> in determining the usability of lawful decisions, plans, and matters.<sup>62</sup> The third level also uses legal-managerial analytics and concepts to measure relationships between a situation and its organizational need and between the decision and its organizational objective.<sup>63</sup> Thus, breaches of normative values and lack of rational thinking may eventually render business decisions, plans, and matters unusable or less effective in accomplishing organizational goals and objectives.

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(using the Restatement (Second) of Agency § 220 (1958), listing factors or criteria for determining employee status, to explain the application of a managerial evaluation applying a business rule to a legal principle).

61. See Robbin Derry et al., *Nature's Place in Legal and Ethical Reasoning: An Interactive Commentary on William Frederick's Values, Nature and Culture in the American Corporation*, 36 AM. BUS. L.J. 633, 637 (1999).

62. See Holloway-Foundation, *supra* note 5, at 65–66; *infra* Part VIII.B and accompanying notes.

63. See Holloway-Foundation, *supra* note 5, at 65–66; *infra* Part VIII.A and accompanying notes.

## VI. ASSESSING THE IMPACT OF LAW ON BUSINESS AND ITS DISCIPLINES

The theory of law and business recognizes a subtle, impact-driven need to understand how common law and regulation affect the continuity and utility of business, its disciplines, and its functions. The managerial analysis with law assesses the impact of law on business and its disciplines, functions, and applications. This assessment uses uniquely legal-managerial analytics and concepts that recognize and explain these limits, failures, and losses to managers, executives, and their lawyers. These limits, failures, and losses are imposed on finance, management, and other disciplines and functions by legislators and courts that interpret and enact common law and legislation. Subsequently, this law and regulation terminate or limit a line or series of harmful or injurious decisions, plans, and matters. The nature of the impact of law on business and its disciplines and functions points to the need to make more creative and innovative decisions, plans, and matters embracing normative values and rational thinking.

### A. Managerial Discretion under Common Law and Regulation

Managerial discretion is a management theory working with legal-managerial concepts and analytics to conceptualize the impact of common law and regulation on the latitude of managers and organizations of business and their disciplines and functions. The managerial analysis with law uses managerial discretion theory and legal-managerial analytics to show limits and restraints on uses of business principles, analytics, and methodologies.<sup>64</sup> Our focus is managerial discretion of organizational behavior theory that “derives from environmental, organizational and individual sources, each of which can constrain or enable strategic action in organizations.”<sup>65</sup> Managerial

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64. Holloway-Foundation, *supra* note 5, at 79 (citing Craig Crossland & Donald C. Hambrick, *Differences in Managerial Discretion Across Countries: How Nation-Level Institutions Affect the Degree to Which CEOs Matter*, 32 STRATEGIC MGMT. J. 797, 803 (2011)) (explaining the nature of managerial discretion theory under regulation and common law imposing restrictions on business decision-making, planning, and operations).

65. Sydney Finkelstein & Margaret A. Peteraf, *Managerial Activities: A Missing Link in Managerial Discretion Theory*, 5 STRATEGIC ORG. 237, 237 (2007).

discretion or latitude exists under organizational, personal, and environmental sources<sup>66</sup> that are supported and explained by business research.<sup>67</sup> This latitude is managerial discretion,<sup>68</sup> and one scholar found that “the opportunity for discretion does have a systematic effect on resource-allocation decisions, and that regulatory constraints are apt to produce particularly strong manifestations of nonprofit behavior.”<sup>69</sup> Managerial discretion is similar to economic and business theories, and these theories “focus on the same core construct.”<sup>70</sup> Common law and regulation impose restraints on or cause losses of managerial discretion or latitude of business organizations and their managers and executives.

The breadth and nature of managerial discretion covers environmental, organizational, individual, and managerial activity.<sup>71</sup> Finkelstein and Peteraf define the managerial activity as “a discrete managerial function or task, involving a course of action that could be configured in a variety of ways.”<sup>72</sup> Managerial discretion helps managers recognize and understand limits or restraints on managing organizations, transactions, and situations that may also be explained by business theories and principles.<sup>73</sup> Business managers, executives, and their lawyers must recognize and understand the impact of common law and regulation on business principles, analytics, and methodologies.

An application of the managerial analysis with law includes uses of managerial discretion theory and legal-managerial analytics in recognizing, verifying, and examining both lawful and unlawful business situations.<sup>74</sup> Managerial discretion or latitude exists in the use of contract and part-time employment or

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66. *Id.*

67. See Craig Crossland & Donald C. Hambrick, *Differences in Managerial Discretion Across Countries: How Nation-Level Institutions Affect the Degree to Which CEOs Matter*, 32 STRATEGIC MGMT. J. 797, 797 (2011).

68. Donald C. Hambrick & Sydney Finkelstein, *Managerial Discretion: A Bridge Between Polar Views of Organizational Outcomes*, in 9 RESEARCH IN ORGANIZATIONAL BEHAVIOR: AN ANNUAL SERIES OF ANALYTICAL ESSAYS AND CRITICAL REVIEWS 369, 371 (L.L. Cummings & Barry M. Staw eds., 1987).

69. Oliver E. Williamson, *Managerial Discretion and Business Behavior*, 53 AM. ECON. REV. 1032, 1032–33 (1963).

70. Finkelstein & Peteraf, *supra* note 65, at 238.

71. *Id.* at 237.

72. *Id.* at 239.

73. *Id.* at 237–38.

74. Holloway-Concept-Sensitive, *supra* note 2, at 154–57.

contingent work relationships<sup>75</sup> that impose fewer employment duties under common law and regulation.<sup>76</sup> Notwithstanding the employment at will doctrine,<sup>77</sup> these duties may limit workforce flexibility in managing organizations, such as rapidly decreasing the workforce. Common law agency principles establish the traditional employer-employee relationship under criteria establishing the status of workers.<sup>78</sup> Independent contract work relationships do not comply with enough criteria to be employees so these contingent or contract workers are subject to fewer employment obligations, *creating* more flexible organizations under organizational flexibility, a business principle.<sup>79</sup> Thus, managerial discretion theory helps managers and executives internalize or make more recognizable likely restraints or effects of common law and regulation on using business principles, analytics, and methodologies to gain business opportunities, pursue situations, and respond to markets.

#### B. Managerial Failures of Organizations and Managers

Managerial failure is a legal-managerial concept, and analytics are used to identify and recognize the consequences of decision-making, planning, and operations that cause the reinterpretation of common law and the making of legislative acts and administrative regulations. The managerial analysis with law applies managerial failure to aid managers, executives, and their lawyers in recognizing the consequences of continuous, ill-advised business decisions, plans, and matters harmful or injurious to public interests or other normative concerns. Business managers, executives, and policymakers need foresight in identifying and

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75. See Martin R. Fellenz, *Flexibility in Management Theory: Towards Clarification of an Elusive Concept*, J. STRATEGIC MGMT. EDUC., at 65, 78 (2008) (explaining the use of organizational flexibility theory to create a flexible organization).

76. RESTATEMENT (SECOND) OF AGENCY § 220 (AM. L. INST. 1958) (listing criteria applied to determine whether workers are employees or independent contractors).

77. See Ed Sentell & Randall Robbins, *Employment At-Will*, J. LEGAL, ETHICAL & REGUL. ISSUES, 2008, at 1; Robert C. Bird, *Rethinking Wrongful Discharge: A Continuum Approach*, 73 U. CIN. L. REV. 517, 519 (2004).

78. RESTATEMENT (SECOND) OF AGENCY § 220 (AM. L. INST. 1958).

79. See Stephen F. Befort, *Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work*, 24 BERKELEY J. EMP. & LAB. L. 153, 172–73 (2003); Andre Andoyan, Comment, *Independent Contractor or Employee: I'm Uber Confused! Why California Should Create an Exception for Uber Drivers and the "On-Demand Economy"*, 47 GOLDEN GATE U. L. REV. 153, 154–55 (2017) (discussing the use of automobile drivers as independent contractors by the ride sharing industry).

understanding the impact of unethical and harmful, or injurious decisions, plans, and matters on creating new or expanding old limitations or obligations of common law and creating restrictions of regulation.

The managerial failure is made most consequential by its operational and strategic impact on ending a most noticeable line or series of publicly harmful decisions, plans, and matters. The consequence of a line or series is a government regulatory response or judicial mandate, or both. This response or mandate creates new or additional limits on the latitude of managers and executives. On success in the legal environment, the benefits to managers, executives, and their lawyers are learning and demonstrating uses of creativity or innovation in decision-making, planning, and operations. Simply, this mandate does not cover an entire business system, transaction, or relationship of a business discipline or function, such as the employment field of management.<sup>80</sup> The coverage of reinterpreted common law and new regulation limits decision-making, planning, and operations within a single area or part of a system, transaction, and relationship. Thus, the new restrictions, limitations, and subsequent obligations demand that managers, executives, and their lawyers use creativity and innovation to avoid making unlawful decisions, plans, and matters, breaching normative values, and defying rational thinking of a business system, transaction, and relationship, such as employee-employer relations.

This expanded common law obligation or regulatory mandate requires compliance by organizations and their managers. This obligation or mandate imposes a limit or restriction on the discretion or latitude of these managers and executives to make decisions, plans, and matters. As a result of a new interpretation or legislation, the limit on discretion curtails uses of business principles and renders analytics and methodologies useless or less useful to advance business disciplines and functions.<sup>81</sup> In an earlier article, the author explains the cause of a managerial failure by stating the following:

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80. See Employee Retirement Income Security Act (ERISA) of 1974, 29 U.S.C. § 1003 (2024) (imposing obligations on employers voluntarily granting employee welfare or retirement benefits to their employees).

81. See 29 U.S.C. § 1001(a) (“[T]hat disclosure be made and safeguards be provided with respect to the establishment, operation, and administration of such plans. . . .”).

[O]rganizational flexibility theory applies to the criteria for determining employee status in order to identify employment situations that contain employer opportunities using independent contract workers. Gaining greater organizational flexibility by severely denying employment and labor rights, concurrently, may undermine employee welfare and other public interests and point to a managerial failure. Moreover, new employment regulation that would impose a legal obligation on the use of these workers denies broader use of contingent workers and causes a full or partial loss of the organizational flexibility concept.<sup>82</sup>

The managerial failure shows business managers and executives the discipline-specific consequences of inadequate and ill-advised decision-making, planning, and operations to address situations, environments, and matters, respectively. These consequences are justified by harm or injury to important public interests needing protection by common law or regulation. This protection by common law and regulation limits uses of business principles and theories, stating results and consequences of situations, happenings, methods, and processes using data and information and making findings and conclusions. Thus, these managers and executives must decide whether they should discontinue making harmful or injurious decisions, plans, and matters or find a more innovative or creative means that causes less harm to society.

### C. Managerial Losses by Disciplines, Functions, and Applications

The managerial loss is a legal-managerial concept, and analytics are used to identify and recognize the loss of business principles, analytics, and methodologies that are inherently flawed by uses of unlawful or lawful but harmful decisions, plans, and matters. Business managers and executives know the losses of profits and revenues caused by the effects of common law and regulation, and business and its applications. Specifically, business scholars and commentators must recognize and know losses or severe limits on legitimate, useful business principles, analyses, and methods caused by common law and regulation.

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82. Holloway-Concept-Sensitive, *supra* note 2, at 175 (footnote omitted).



These losses and limits include restrictions on or denials of uses of discipline-specific subjects and processes by limiting or prohibiting business applications, such as analysis and methods.

The managerial loss goes to the heart of business disciplines and functions by prohibiting or limiting uses of business knowledge, analytics, or methodologies. The managerial loss focuses on the causes and consequences of unlawful decisions, plans, and matters on business disciplines and functions. Notwithstanding, the successful implementation of a lawful business decision, plan, or matter can still harm or undermine a legitimate public interest, thereby causing federal or state policymakers to make legislation reducing or preventing the harm. For example, the use of modern portfolio theory manages employee benefit plan assets under the Employee Retirement Income Security Act<sup>83</sup> (ERISA) but imposes limits on the “prudent man rule.”<sup>84</sup> The managerial loss is prohibiting plan administrators, who are fiduciaries, from relying solely on the “prudent man rule” to manage employee pension plan assets. Managerial losses may also point out that “federal criminal and civil attorneys . . . [are] cull[ing] outdated business concepts by removing business situations and [limiting] managerial discretion.”<sup>85</sup> Beyond practices, decisions, and plans, managerial losses focus mostly on academics, or perhaps scholarship, by showing the impact of common law and regulation by identifying and classifying actual losses of or severe limits on business principles, analytics, and methodologies.

## VII. APPLYING LEGAL-MANAGERIAL INFORMATION, TOOLS, AND METHODS

The theory of law and business explains uses of common law and regulation in business applications that include the substance of business knowledge and applications of business analytics and methodologies. These applications and substances include making

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83. 29 U.S.C. §§ 1001 *et seq.*

84. Holloway-Concept-Sensitive, *supra* note 2, at 160 (first citing W. Scott Simon, *Illuminating the “Broad Range” Requirement of ERISA Section 404(c) with the Language of Modern Portfolio Theory Found in the Uniform Prudent Investor Act and the Restatement 3rd of Trusts (Prudent Investor Rule)*, J. PENSION BENEFITS, Autumn 2005, at 87, 88; then citing David Schaengold, *Decade of Change: Revising Trust Investment Law to Coordinate with Modern Portfolio Theory*, 26 TAX MGMT. EST. GIFTS & TR. J. 258, 260 (2001)).

85. *Id.* at 163.

lawful and examining unlawful business decisions and plans and conducting lawful and examining unlawful business practices and other matters. Managerial analysis with law uses legal-managerial concepts and analytics by forming and using legal-managerial information, tools, and methods. The formation and use of this information, tools, and methods take place within each stage of processes of business decision-making and planning, and on each practice or matter of conducting business operations. Legal-managerial information, tools, and methods aid managers, executives, and their lawyers in making lawful and usable decisions, plans, and matters using managerial analysis with law. Consequently, business executives and managers need to apply legal rules or use legal advice accompanied by legal analytics and methods in stages of processes of business decision-making and planning and ongoing matters of conducting business operations.

A. Formation and Application of Legal-Managerial Information

The theory of law and business postulates that a legal rule and business principle may identify or cover the same facts, circumstances, or happenings of situations in beginning decision-making, environments in beginning planning, and factual matters in conducting operations. A managerial analysis with law applies a business principle to a legal rule, forming a managerial evaluation that is legal-managerial information.<sup>86</sup> The managerial evaluation is the use of a legal-managerial concept and analytics to evaluate the legality and usefulness of situations, environments, and factual happenings under a legal rule and business principle. In an earlier article, the author hypothesizes the following:

One could easily hypothesize that a managerial analysis with law supported by legal interests and text can apply a business principle to a legal rule to create a domain of lawful, unlawful and gray-area business situations. This application of business principles to legal rules occurs at the beginning of business decision-making and planning and addressing factual matters of ongoing business operations. As an example, a managerial analysis with law supported by legal text and interests would enable a manager to apply a business principle to a legal rule

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86. Holloway-Foundation, *supra* note 5, at 102–08.

to identify a domain of employment situations that would allow a manager to identify lawful, unlawful and risky gray area situations. This can in turn verify whether a manager's recognized situation or factual matter or practice is lawful and the most effective situation to begin decision-making and planning and most productive matter to continue ongoing business operations.<sup>87</sup>

The business principle must contain more situations, environments, or factual patterns than the factual range or basis of the legal rule. When the business principle is factually broader than the rule, the application of a business principle to a legal rule includes the domain of lawful, unlawful, and gray area situations, environments, or factual happenings.

The managerial evaluation is the application of a business principle to a legal rule, and this application yields a domain of situations that are lawful, unlawful, and gray area. In fact, the nature of the domain signifies that legal advice accompanied by legal analytics and methods is not entirely "go" and "no go" for decision-making, planning, and operations. Unlawful situations are never usable to make decisions, plans, and matters. Lawful situations may be usable, and gray area situations may be usable, but include a greater risk of illegality and utility. An example that was used in an earlier article demonstrates the application of a business principle to a legal rule to evaluate or verify the legality and usability of a situation states the following:

[N]ational economic conditions slow the growth of the economy and threaten Corporation A's productivity, profits, market share, and workforce structure. Corporation A's management must determine whether a market or business need exists, among others, to change or adjust its workforce structure to respond to these conditions. Corporation A finds an employment or labor workforce need or problem and wants to know more about the workforce need under the relevant legal rule and business concept. In a current analysis, Corporation A applies the organizational flexibility concept to the criteria for determining employee status to identify and analyze workforce structure situations that contain workforce opportunities to

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87. *Id.* at 93–94 (footnote omitted).

design or create a flexible workforce and are subject to or free of employment law obligations.<sup>88</sup>

The application of the organizational flexibility concept to the criteria for determining employee status is a managerial evaluation that evaluates the legality and usability of the workforce structure situation that caused the need for decision-making. The managerial evaluation of the workforce structure situation demands that managers and executives consider a flexible workforce under the organizational flexibility concept and that lawyers consider legality under the criteria for employee status. "Normally, applied business concepts should be broader than the legal rule in a free enterprise system."<sup>89</sup> The application of the organizational flexibility concept to the criteria for determining employees creates a domain of situations. The size of the domain is determined by factual and substantive *parameters that include or cover* purposes, elements, precedents and other characteristics of the legal rule and business principle.<sup>90</sup> Thus, the recognized situation is lawful and usable if the recognized situation is among the lawful or low-risk gray area situations and does not offend normative values and rational thinking within the overlapping parameters of the domain of all retrievable situations.

The overlapping parameters are factual and substantive characteristics of legal rules and business concepts that include happenings, facts, elements, precedents, criteria, exceptions, relationships, functions, precedents, uses, and others.<sup>91</sup> These parameters determine the numbers and types of situations within the domain of lawful, unlawful, and gray area situations.<sup>92</sup> Within the domain, the *recognized situation* must be similar or identical to one or more retrieval situations to be lawful and usable. In addition, this recognized situation still may not be the most useful situation to begin decision-making, the environment to start planning, or the factual matter to begin or continue operations.<sup>93</sup> Business managers, executives, and their lawyers can review the domain of lawful and gray area situations for a more effective

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88. Holloway-*Concept-Sensitive*, *supra* note 2, at 177.

89. *Id.* at 164.

90. *Id.* at 164, 173–74 (discussing the parameters that identify and restrict the size of the domain of lawful, unlawful and gray-area situations).

91. *Id.* at 173–74.

92. *Id.* at 177.

93. *Id.* at 173–74.

situation to achieve organizational goals and objectives that create the most flexible workforce. Why? These managers and executives may be defining the situation, environment, and matter too narrowly or broadly under regulation or common law and not finding the best situation, environment, or matter to achieve organizational objectives. When the application of the business principle to a legal rule yields a domain of only unlawful situations or extremely risky gray area situations, this business principle offers little to no lawful guidance or direction to business managers, executives, and their lawyers. Thus, this business principle would be a managerial loss in that the legal rule renders the business principle invalid or lacking lawful uses in making decisions, plans, and matters.

#### B. Formation of Legal-Managerial Tools and Methods

The theory of law and business postulates combinations of legal methods of judicial decision-making methodology and decisional methods of business decision-making, planning methods of business planning, or operational matters of business operations. These combinations create or form legal-managerial tools and methods that are aids to lawyers in giving legal advice to managers and executives who, in turn, should use this advice accompanied by legal analytics and methods to make decisions, plans, and matters. Legal advice accompanied by legal analytics and methods is not legal-managerial but enables the creation of legal-managerial concepts and analytics to affect decision-making, planning, and operations that rely on and use business analytics and methods. Likewise, the applications and uses of business knowledge, analytics, and methodologies are not legal-managerial and always remain business. Thus, legal-managerial tools and methods aid lawyers giving legal advice and business managers and executives using legal advice or rules accompanied by legal analytics and methods for more precise use within business decision-making, planning, and operations.

Legal-managerial tools and methods are unique combinations of legal and business knowledge, legal and business analytics, and legal and business methodologies. Business analytics and methods are in the nature and utility of each stage of the processes of business decision-making and planning and on each matter of conducting business operations. In addition, each stage or matter

accepts entry of business, statistical and other analytics and methods. However, legal advice accompanied by legal analytics and methods must be requested from lawyers who also need to participate in or play an active role in decision-making, planning, and operations. An earlier hypothesis on forming and using legal-managerial tools and methods by the author states the following:

One could easily hypothesize that a managerial analysis with law supported by legal text and rationality of legal and business knowledge and analytics in stages of business decision-making and planning and matters of ongoing business operations form legal-managerial tools and methods. The creation and formation of these tools and methods analyze the legality of business and other information, findings and conclusions in making lawful and valid end results at each stage and matter. As an example, a managerial analysis with law combines finding the legal issues with selecting feasible alternatives to analyze and find legal issues raised by information and data to identify one or more lawful and valid feasible employment alternatives in making a human resources decision to expand the workforce.<sup>94</sup>

The combinations of legal and business analytics and methods form unique legal-managerial tools and methods in decision-making, planning, and operations to aid in making the requisite end result of each stage or matter, such as feasible alternatives. Consequently, business managers, executives, and their lawyers enter and use the legal method of finding the legal issue in the decisional method or stage of selecting feasible alternatives. The entry of this legal method (step) within this decisional method (stage) creates a legal-managerial concept and analytics that are patently unavoidable and definitely usable in making an end result, namely a lawful alternative. These executives and managers use finding the legal issue, a legal method, to create a legal-managerial tool to aid in determining the legality of feasible alternatives needed to choose the best alternative as the decision.

The completion of the stages of business decision-making and planning and each practice and series of matters of conducting business operations routinely need and use business and other findings, information and conclusions to make end results. Each stage or matter possesses unique analytical and methodological

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94. Holloway-Foundation, *supra* note 5, at 96.

needs for and uses of business information and findings to make an end result, such as selecting feasible alternatives.<sup>95</sup> Business and other information and findings create the need to consider legal advice accompanied by legal analytics and methods to find and address any legal issues in selecting lawful feasible alternatives. Thus, the combination of the legal method of finding the legal issue with the decisional method of selecting feasible alternatives forms a legal-managerial method aiding in a more precise use of a legal rule, accompanied by legal analytics and methods throughout business decision-making as well as planning and operations.

### C. Application of Legal-Managerial Tools and Methods

Legal-managerial concepts and analytics are knowingly or unknowingly created and used by business managers, executives, and their lawyers at stages of decision-making and planning and matters of conducting business operations. These combinations are legal-managerial tools and methods to determine the legality and examine the illegality of business, statistics, algorithms and other information, findings, and conclusions. Appendix A, Table 2 lists the various combinations of business and legal knowledge, business and legal analyses, and business and legal methods creating or forming legal-managerial information, tools, and methods.

Business managers, executives, and their lawyers need to know the legality of findings and information entered in and used at each stage of processes of business decision-making and planning and each matter of conducting business operations. The selection of the best alternative (BSBA), the fourth stage in decision-making, can be combined with finding the legal rule (LFLR), a legal method, to form a legal-managerial tool. Specifically, this tool aids managers, executives, and their lawyers in ascertaining the legality of findings, data, and information provided to select the best alternative. This tool points out that unlawful statistics, business or other findings, data and information must be found or recognized in the selection of the best alternative. In addition, this tool is necessary in moving to the next stage of the reiterative process of lawful business decision-making.

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95. Holloway-*Concept-Sensitive*, *supra* note 2, at 166–68.

Once managers, executives, and their lawyers determine the legality of findings, data and information, they can use this legal-managerial tool to aid in ascertaining the legality of the best alternative, an end result.<sup>96</sup> An example ascertaining the legality of the best alternative in an earlier article states the following:

Corporation A uses business opportunities and other information and findings to identify feasible decisional alternatives to continue decision making on the decisional situation. Next, it evaluates the decisional alternatives by using legal and other information and findings and dismisses those alternatives that do not further labor or workforce objectives. Corporation A selects one alternative as the decision. This alternative is a workforce structure that consists of specific criteria to establish an independent contract worker's classification and considers various combinations of numbers, kinds, and compositions of these workers. Finally, Corporation A implements the decision and follows up on the results of the decision.<sup>97</sup>

The combination of the selection of the best alternative (BSBA) and finding the legal rule (LFLR) of judicial decision-making is an aid to managers and executives using legal advice or rule to complete a lawful stage and move to the next stage. The legal rule is accompanied by legal analytics and methods to combine with business principles, analytics, and methods. Thus, the combinations of legal and business principles, analyses, or methods are legal-managerial concepts and analytics of the processes of business decision-making and planning and a matter or series of matters of conducting business operations.

#### VIII. ASCERTAINING USABILITY AND RATIONALITY OF LAWFUL END RESULTS

The theory of law and business proffers unlawful decisions, plans, and matters should not be implemented by business managers, executives, and their lawyers to address business situations, environments, and factual matters. However, when

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96. *Id.* at 181–82; see *infra* Appendix A and accompanying notes (showing the combinations of the first step in decision-making, recognition of the situation, with legal method of judicial decision-making, factual analysis, to form unique legal-analytical methods to gain better understanding of situation).

97. Holloway-Concept-Sensitive, *supra* note 2, at 181.



lawful decisions, plans, and matters do not conform to normative values or reasonably relate to organizational needs and objectives, these decisions, plans, and matters may undermine organizational standing and strategies, respectively. Normative values include ethical values, public interests and organizational policies, and organizational needs and objectives must justify and advance, respectively, a lawful, usable decision, plan, or matter. Thus, the theory of law and business postulates lawful, usable decisions, plans, and matters must conform to normative values and demonstrate rational thinking.

A. Rationality of Lawful Decision, Plans, and Matters

The theory of law and business postulates that lawful decisions, plans, and matters should be justified by the business situation, environment and matter, and demonstrated by a reasonable connection to a specific organizational need for and objective of decision-making, planning, and operations. The managerial analysis with law uses a legal-managerial method, which is actually a means-ends test, to measure fundamental rational thinking of managers, executives, and their lawyers. The first measure is the connection between the decision, plan, or matter and its need, such as situation or practice. Simply, the method ascertains whether the decision, plan, or matter is justified by the need, namely a problem or opportunity. Next, the second measure is the connection between the decision, plan, or matter and its organizational objective. Simply, the method ascertains whether the decision advances the desired organizational objective, such as increasing profits. In an earlier article, the author explains the need for rationality in decision-making, planning, and operations using a legal-managerial method by stating the following:

One could easily hypothesize that a managerial analysis with law supported by legal text and rationality continues business decision-making, planning and operations by forming legal-managerial tools and methods. These tools and methods use legal text to determine or understand the legality of information and findings and measure rational thinking by connecting each end result to the decision objective and need. Broadly, the relationship between an end result and organizational need and objective determines whether an end result justifies the need

and furthers the objective for beginning and continuing decision-making and planning and continuing business operations. As an example, a managerial analysis with law uses a legal-managerial (means-ends) analysis to measure the connection between one or more feasible employment alternatives and the decision need and objective to identify lawful and valid feasible employment alternatives in making a workforce expansion decision.<sup>98</sup>

The managerial analysis with law includes a legal-managerial method measuring fundamental rationality or rational thinking of lawful decisions, plans, and matters. The legal-managerial method measures rationality by measuring the need for decision-making, planning, or operations and subsequently, determining the level of connection between the decision, plan, and matter and its objective. Thus, rational decision-making, planning, and operations by business managers, executives, and their lawyers include the organizational need for making the decision, plan, or matter that includes a reasonable relationship to an organizational objective.

B. Usability of Lawful End Results Conflicting with Normative Values

Although a business decision, plan, or matter is lawful and justified by its business need and advance its business objective, this end result still may not be usable under one or more normative values. Lawful decisions, plans, and matters are usable to accomplish needs and further objectives when these decisions, plans, and matters conform to normative values. As stated above, these values include ethics, public policy, and organizational policy. Thus, one could easily hypothesize that a managerial analysis with law using legal interests and rationality, and management discretion theory can recognize dilemmas, conflicts, and concerns arising under normative values.

The application of managerial discretion theory and legal-managerial analytics can recognize the usability of a lawful decision, plan, and matter as well as alternatives, forecasts, and other end results. This recognition is identifying the need to consider whether the decision, plan, matter, or end result conforms

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98. Holloway-*Foundation*, *supra* note 5, at 101.

to ethical standards and public interests and complies with organizational directives. This recognition does not include the use of managerial discretion and legal-managerial tools to make definitive conclusions on the outcomes of ethical dilemmas, public policy concerns, and organizational policy conflicts. Simply, a lawful decision, plan, matter, or another end result must be recognized so that managers and executives can determine whether any end result tends to undermine an important public interest, breach an ethical standard, or violate an organizational directive. The managerial analysis with law uses organizational, business, and other limits on exercises of authority by managers and executives to recognize whether a lawful decision, plan, matter, or another end result could breach an ethical standard, undermine a public interest, or violate an organizational directive.<sup>99</sup> Thus, legal-managerial concepts and analytics are appropriate to recognize dilemmas, conflicts, and concerns regarding whether lawful decisions, plans, and matters conform or comply with normative values.

### C. Limits on the Latitude of Managers and Organizations

Business organizations and their managers, executives, and lawyers can make lawful decisions, plans, and matters undermining important public interests and ethical standards. These decisions, plans, and matters cause injury to the public, persons, and organizations. A managerial analysis with law uses legal-managerial tools and managerial discretion theory to recognize whether a lawful decision, plan, or matter could raise an ethical dilemma, public policy concern, or organizational policy concern. An example by the author in an earlier article uses compliance with common law to show a lawful decision that may exceed the limits of managerial discretion by causing substantial injury to or undermining important public interests. This example states the following:

[O]rganizational flexibility theory applies to the criteria for determining employee status in order to identify employment situations that contain employer opportunities using independent contract workers. Gaining greater organizational flexibility by severely denying employment and labor rights,

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99. *Id.* at 108–12.

concurrently, may undermine employee welfare and other public interests and point to a managerial failure. Moreover, new employment regulation that would impose a legal obligation on the use of these workers denies broader use of contingent workers and causes a full or partial loss of the organizational flexibility concept. Business organizations may need to limit the use of some business situations that a business concept identified, but harm important public interests.<sup>100</sup>

Legal-managerial concepts and analytics and managerial discretion theory can recognize when managers, executives, and their lawyers make decisions, plans, matters, and other end results exceeding managerial discretion or latitude by causing harm to public interests, such as employee welfare. Thus, the managerial analysis with law recognizes whether a lawful decision, plan, matter, or another end result, such as a feasible alternative, conform to ethical standards, public interests, or organizational directives by avoiding harm to the public, persons, organizations, and injury to public and private interests.

## IX. CONCLUSION

The theory of law and business is the integration of law and business by combining legal and business knowledge, analytics, or methodologies to form legal-managerial concepts and analytics aiding business managers, executives, and their lawyers. The theory of law and business and its application as a managerial analysis with law aid business managers, executives, and their lawyers in making business decisions and plans and conduct business operations. Uninhibited by the purpose of law, the theory of law and business rests on the fact that the use of law in business is not so different from using statistical, financial, psychological, and other types of knowledge, analytics, and methodologies in business decision-making, planning, and operations. One substantial difference is civil and criminal remedies for failing to consider, request, or use legal advice or legal rules, which include legal analytics and methods, to know, understand, and use common law and regulation. Next, the theory of law and business rests on the assumption that business managers and executives know, understand, and use business knowledge, analytics, and

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100. Holloway-Concept-Sensitive, *supra* note 2, at 175 (footnote omitted).

methodologies. Well-educated managers and executives also request and use legal advice or know sufficient legal rules accompanied by basic legal analytics and methods. Finally, the theory of law and business adds predictability, continuity, and stability to the use of legal advice or rules accompanied by legal analytics and methods in stages of business decision-making and planning as well as practices and other matters of business operations. Thus, the theory of law and business is the integration of law and business using the managerial analysis with law to aid in understanding and using common law and regulation with uses of business principles, analytics, and methods in business decision-making, planning, and operations.

The managerial analysis with law measures the effects of law on business and its disciplines and functions by creating and using legal-managerial concepts and analytics. First, the managerial analysis with law ascertains and explains the impact of law on business by identifying managerial losses, limits, and failures of business and its disciplines, functions, and applications. Second, the managerial analysis with law forms and uses legal-managerial information, analytics, and methods to make lawful and examine unlawful decisions, plans, and matters. Third, the managerial analysis with law uses legal-managerial concepts and analytics to recognize lawful decisions, plans, and matters not conforming to ethical standards, public interests, and organizational policies and not justified by an organizational need or furthering legitimate organizational objective. Thus, a managerial analysis with law ascertains lawful and examines unlawful business decisions, plans, and operations by determining the impact of law on business, recognizing breaches of normative values, and forming and using legal-managerial information, tools, and methods.

#### *APPENDIX A: COMBINATIONS OF LEGAL AND BUSINESS KNOWLEDGE, ANALYTICS, OR METHODOLOGIES*

The integration of law and business combines legal and business knowledge, legal and business analytics, and legal and business methodologies. Business decision-making methodology consists of a process of five or more stages, and the process of planning consists of seven stages. The legal decision-making methodology consists of five steps in making judicial decisions. The combinations of legal and business knowledge, analytics, or

methodologies form legal-managerial information, methods, and tools. These combinations occur at specific decision-making and planning stages and on business practices that need and use specific legal methods to determine the legality of information and findings. This combination of a decision stage and legal method includes legal and business analyses to form a legal-managerial method and make and use findings and information. Lastly, business operations consist of sales and other practices and matters combining with legal rules, analysis and methods to form legal-managerial information, tools, and methods.

<b>Legal and Business Methodologies</b>	<b>Abbreviation</b>	<b>Uses of Legal and Business Methods</b>
<b>Business Decision-Making Methodology</b>		<b>Business Methods</b>
Recognizing the Situation	<b>BRS</b>	Understanding the Situation
Identify Possible Alternatives	<b>BIPA</b>	Weighing Possible Solutions
Finding the Feasible Alternatives	<b>BFFA</b>	Identifying Workable Solutions
Select the Best Alternative (Decision)	<b>BSBA</b>	Making the Decision
Implement the Best Decisions	<b>BID</b>	Putting the Decision in Place
Follow-up to Decision	<b>BFID</b>	Evaluating the Decision
<b>Legal Decision-Making Methodology</b>		<b>Legal Methods</b>
Factual Analysis	<b>LFA</b>	Understanding the Dispute
Recognizing the Legal Issue	<b>LRLI</b>	Considering Legal of End Results
Finding the Legal Rule	<b>LFLR</b>	Identifying the Law to Apply
Making the Legal Decision (Conclusion)	<b>LMLD</b>	Applying Law to Findings and Information
Making a Legal Rationale (Reasons)	<b>LMLR</b>	Reason for Legal Conclusion
<b>Business Operations</b>		<b>Operational Tools and Methods</b>

Banking	<b>LFA + Matter</b>	Understanding Banking Practices
Industrial Sales	<b>LRLI + Matter</b>	Legal Issues in Sales Practice
Retail Sales	<b>LFLR + Matter</b>	Legal Rules in Retail Store Practices
Manufacturing	<b>LMLD + Matter</b>	Legal Decisions for Manufacturing Policies
<b>Kinds of Legal-Managerial Analytics</b>	<b>Combinations</b>	<b>Uses of Legal-Managerial Analytics</b>
<b>Legal-Managerial Information</b>		<b>Legality of Business Situations</b>
Recognizing Situation	<b>LFA + BRS</b>	Understanding the Situations
Applying Business Principle to Legal Rule	<b>LFLR+ BRS</b>	Finding the Domain of Situations
Use Legal and Business Analyses	<b>LFA + BRS</b>	Usability of the Lawful Situations
<b>Legal-Managerial Tools and Methods</b>		<b>Legality of Information and End Results</b>
Recognizing the Situation	<b>LFA + BRS</b>	Finding and Verifying Legality of Situation
Identifying All Possible Alternatives	<b>LRLI + BIPA</b>	Determining Legality of All Alternatives
Finding Feasible Alternatives	<b>LRLI + BFFA</b>	Verifying Legality of Feasible Alternatives
Selecting the Best Alternative	<b>LRLI + BSBA</b>	Verifying Legality of the Decision
Implementing the Decision	<b>LEA + BBID</b>	Determining Legality of Implementation
Follow-up to the Decision	<b>LFA + BFID</b>	Evaluating Lawful Decision

#### *APPENDIX B: NATURE, STRUCTURE, AND APPLICATION OF THE MANAGERIAL ANALYSIS WITH LAW*

The managerial analysis with law is three levels of legal-managerial concepts and analytics aiding in understanding and using common law and regulation. The first level is the use of legal-managerial concepts and analytics to ascertain and explain the

impact of law on business by using a legal-managerial classification. The second level ascertains the legality and usability of the first stage or situation of business decision-making, the environment of business planning, and factual matters of business operations. The third level ascertains the legality of the other stages of the processes of decision-making and planning and factual and nonfactual matters of business operations, recognizes the conformance of end results to normative values, and uses a means-ends analysis to determine the rationality of the decision.

<b>The First Level</b>	
<b>Legal-Managerial Concepts and Analytics</b>	<b>Business Functions and Applications</b>
<b>Legal-Managerial Classification</b>	<b>Impact of Law on Business</b>
Managerial Discretion ( <u>Usefulness</u> )	Identifying Latitude of Organizations and Managers
Managerial Failure (Cause)	Avoiding Lines of Harmful Decisions and End Results
Managerial Loss (Effect)	Limiting Uses of Business Knowledge and Analytics
<b>The Second Level</b>	
<b>Legal and Business Knowledges</b>	<b>Legality of Business Situations</b>
<b>Legal-Managerial Information</b>	<b>Application to the Situation</b>
Legal-managerial information is the combination of legal and business knowledge by applying a business principle to a legal rule to evaluate situations, environments and factual matters.	This application determines the <i>legality</i> of business situations of decision-making, environments of planning and factual matters of operations. The application evaluates and verifies the usability of lawful and gray-area situations, environments and matters.
<b>The Third Level</b>	
<b>Legal and Business Analytic and Methodologies</b>	<b>Legality, Rationality and Normative Values</b>
<b>Legal-Managerial Tools and Methods</b>	<b>Applications to Stages and Matters</b>
Legal-managerial tools and methods are combinations of business and legal analyses and methods in processes of business decision-making and planning and matters of business operations.	The applications determine the <i>legality</i> of information, findings, and end results of stages of processes of decision-making and planning and in matters of conducting operations.



<b>Legal-Managerial Method</b>	<b>Application of Need for and Objectives</b>
The legal-managerial method is a means-ends analysis to determine the nature of the relationship between a lawful situation and decision and the connection between the decision, plan, plan and matter and a specified organizational objective.	The application determines <i>rationality</i> by measuring whether the situation, environment or factual justifies the decision, plan or matter, respectively, and whether the decision, plan or matter advances the specified organizational objective.
<b>Legal-Managerial Tool</b>	<b>Application to Lawful Decisions</b>
The legal-managerial tool uses a business theory and analysis and legal-managerial analytics to recognize the conformance of lawful decisions, plans, and matters to ethical standards, organizational directives, and public policy.	The application recognizes conformance or nonconformance of lawful decision, plan and matters with ethical standards, organizational directives, and public interests of a lawful decision, plan or matter.