

## **Employment Law Seminar Prof. Travis**

### **Paper Commentator Assignments**

As you know, each of you will be doing an in-class presentation on your paper during the last portion of the semester. We will spend approximately 30 minutes on each student. This will include a formal presentation by you of approximately 15 minutes, followed by a period of discussion with the entire class for approximately 15 minutes. You may do your presentation in any way that you think will be effective, as long as you clearly convey your thesis and primary arguments. This is intended to be a “workshop” setting, in which we work together as a group to help each other find ways to improve your works-in-progress before the final version is due at the end of the semester.

As explained in the syllabus, part of your participation grade will be based on the feedback that you provide on others’ draft papers and in-class presentations. Each of you will be giving me an electronic version of your Polished Draft Paper on your various due dates. I will forward the draft papers to the entire class via email before each author does his or her in-class presentation. Each of you will be assigned to be an official “commentator” on two other students’ draft papers. In your role as commentator, you will read the other student’s paper and provide oral feedback after that student gives his or her in-class presentation. Commentators are not required to provide any written feedback. Additional suggestions for commentators are included below. (I strongly encourage all of you to read everyone’s draft papers before the presentations, but you will only be assigned as an official commentator on two occasions.)

The commentator assignments are provided below. I have arbitrarily assigned each of you to two other students’ papers. I have not assigned anyone to be a commentator on the same day in which you are doing your own presentation. Please note that because I wanted to give folks as much time as possible to work on their draft papers, the deadlines for turning in the drafts are often only two days before the corresponding presentation. That means that the commentators often will only have two days in which to read and prepare their feedback. However, there will be no other assigned reading during this period.

If you would like to switch your commentator assignment with another student in the class because an assigned date does not work well for you, or because you are particularly interested in another student’s topic, or for any other reason, you may do so. Just arrange the “switch” amongst yourselves, and send me an email letting me know of the change. If you would like to know in advance what the paper topics will be, I have attached a list that describes the topics in very general terms. I have not attempted to restate each student’s individual thesis; I have just provided a basic idea of the area that the paper will be addressing.

If you have any questions, please feel free to send me an email ([matravis@usfca.edu](mailto:matravis@usfca.edu)) or stop by my office hours on Wednesday mornings from 9:15am to 12:00pm.

**Thursday, March 22nd**

(The Polished Drafts for these presenters will be available during the afternoon on Tuesday, March 20th.)

Presenters

Sam Kang  
Amy Lifson-Leu  
Juliana Poindexter  
Heather Thurgood

Commentators

Eric Wiesner, Mythily Sivarajah  
Bill Dolan, Kate Solodky  
Alex Edmondson, Matt Freeman  
Lauren Horowitz, Ryan Cardema

**Thursday, March 29th**

(The Polished Drafts for these presenters will be available during the afternoon on Tuesday, March 27th.)

Presenters

Bill Dolan  
Janelle Leong  
Ryan McHugh  
Kate Solodky

Commentators

Brooke Sikora, Ryan Blackhart  
Mythily Sivarajah, Eunice Hahn  
Danielle Tizol, Alex Edmondson  
Brooke Sikora, Lauren Horowitz

**Thursday, April 5th**

(The Polished Drafts for these presenters will be available during the afternoon on Tuesday, April 3rd.)

Presenters

Ryan Cardema  
Matt Freeman  
Brooke Sikora  
Mythily Sivarajah

Commentators

Sam Kang, Danielle Tizol  
Juliana Poindexter, Eunice Hahn  
Ryan Blackhart, Amy Lifson-Leu  
Heather Thurgood, Eric Wiesner

**Thursday, April 12th**

(The Polished Drafts for these presenters are due on Tuesday, April 3rd, and I will make them available sometime prior to the 12th.)

Presenters

Ryan Blackhart  
Eunice Hahn  
Danielle Tizol  
Eric Wiesner

Commentators

Sam Kang, Janelle Leong  
Amy Lifson-Leu, Bill Dolan  
Juliana Poindexter, Ryan McHugh  
Heather Thurgood, Kate Solodky

**Thursday, April 19th**

(The Polished Drafts for these presenters are due on Tuesday, April 3rd, and I will make them available sometime prior to the 19th.)

Presenters

Alex Edmondson  
Lauren Horowitz

Commentators

Ryan Cardema, Janelle Leong  
Ryan McHugh, Matt Freeman

## General Paper Topics

- Ryan Blackhart: Federal legislation of drug-testing in professional sports leagues.
- Ryan Cardema: How Title VII's sex discrimination doctrine applies to actions that employers take ostensibly to assist employees, but that actually perpetuate gender stereotypes.
- Bill Dolan: Whether an employer's decision to fire or refuse to hire a worker for off-duty use of medical marijuana violates state disability discrimination statutes in states that have legalized medical marijuana use.
- Alex Edmondson: Application of the ADA's reasonable accommodation provisions to individuals with mental disabilities who request the use of a companion animal in the workplace.
- Matt Freeman: A proposed alternative to the "white collar" exemptions to the FLSA's overtime rules.
- Eunice Hahn: The treatment of an employee's criminal conviction in the professional licensing process.
- Lauren Horowitz: Whether the ADEA's disparate impact theory adequately protects vulnerable late-career employees.
- Sam Kang: Whether the "Greengrocer" program in New York may be adapted to the Chinese restaurant industry in San Francisco to more effectively increase compliance with wage and benefit laws.
- Janelle Leong: The ADA's treatment of employer inquiries regarding an employee's medication use.
- Amy Lifson-Leu: A critique of the Ninth Circuit's application of Title VII's sex stereotyping doctrine in *Jespersen v. Harrah's Operating Company*, in which the court upheld the employer's policy requiring female bartenders to wear make-up.
- Ryan McHugh: How lifestyle discrimination statutes (i.e., state statutes that limit an employer's ability to make employment decisions based on workers' lawful off-duty activities) should apply to employees' moonlighting activities.
- Juliana Poindexter: A critique of certain aspects of the "white-collar" exemptions from the FLSA's overtime rules.

- Brooke Sikora: The application of workers' compensation benefits to undocumented workers.
- Mythily Sivarajah: The use of Title VII's religious employer exemptions as a defense to sex discrimination claims.
- Kate Solodky: Application of the FLSA's "joint employer" doctrine to the janitorial services industry.
- Heather Thurgood: How to adapt Title VII to reflect an understanding of workplace appearance policies and English language policies as proxies for race, national origin, sex, and religious discrimination in the workplace.
- Danielle Tizol: Whether the ADA's reasonable accommodation mandate requires employers to accommodate individuals with disabilities in ways that require changing the behavior of nondisabled coworkers.
- Eric Wiesner: A critique of the NLRB's interpretation of the NLRA's definition of "supervisor" in the *Oakwood Healthcare* case.

## Advice for Commentators

The objectives of our in-class workshops include, among others:

- Practicing the skill of articulating complex arguments in a limited amount of time.
- Getting a chance to share your ideas and test out your arguments before they are set in stone.
- Obtaining feedback on your arguments to help focus your revision process.
- Practicing critical analysis skills by assisting others in thinking through their arguments.
- Learning about effective writing techniques by identifying them in others' work.
- Being exposed to new issues in employment law.

These objectives will be met, in part, through the effective use of commentators. As an assigned commentator, you should come prepared to provide some specific feedback after the author's presentation. In preparing your feedback, please begin by identifying at least one thing that you think the author has done very effectively and that the author should *not* change during the revision process. While a paper is still "in-progress," it is just as valuable to help the author identify the strengths of the draft as it is the weaknesses, so that the strengths do not get lost in the revision process.

In addition, identify at least two specific things that the author might consider when undertaking revisions. Your comments might involve identifying arguments or parts of the paper that you do not understand, suggesting a counter-argument that you do not believe is fully addressed, pointing out leaps in logic that should be filled in, suggesting a "test suite" example to help test the application of the author's thesis, suggesting organizational changes, identifying places needing greater clarity, better transitions, etc., or anything else that you think might make the paper stronger. Your suggestions should be constructive and need not be "monumental"—often the most useful comments are narrow, concrete suggestions that the author can meaningfully address during the revision process. Please keep in mind that you will be on the receiving end of the comments during this process as well, and that all of the papers are still works-in-progress.

Of course, all of you should feel free to ask questions and provide feedback on all of the presentations, even when you are not an official commentator.