

Spring 2018

1st day class assignment

- a. You **MUST** Register for TWEN,
- b. You **MUST** update your e-mail address on TWEN
to your Ubalt.edu email address
- c. You **MUST** Register for this course on TWEN!!!

If you have not received the password by email, please contact my Administrative Assistant,
Shavaun O'Brien at sbrien@ubalt.edu

Developing a Paper Topic for the First day of Class

(Please anticipate that the First Class Assignment will take 4-5 hours of preparation.)
(It will pay off later in the semester)

(*Please read all instructions below—all 7 pages-very thoroughly well before the first day of class)

Your preparation in advance for the first day of class is to begin your research for coming up with a topic for your paper. We will be discussing people's first attempts at topics in class as well as having individual conferences right at the start of the semester to assure you have a doable and feasible topic that both interests you and can be completed by the end of the semester.

→For the first day of class, please come in with 1 potential paper topic developed according to the instructions below, with a written version of it submitted to TWEN by Monday, 6:00 PM, January 15, 2017 – the evening before the start of classes.

For our individual conferences, I recommend developing 3 topics but 2 is a minimum (but only 1 for the first day of class).

For your first topic, the one you need for the first day of class – you should anticipate about 4-5 hours of research time to develop it and write it up for submission.

Not every topic will prove to be doable so that is why more than one is necessary. We will decide together in individual conferences in the first couple of weeks what topics seem most interesting to you and doable to me.

You must have 3 Law Review or Law Journal Articles (not Bar journal articles nor Student

Comments or Notes – see discussion below) for each topic you are proposing -- with a written 1 paragraph statement as to what the article is about and how it relates to your topic.

You also must state

1. what journal each article is published in,
2. the institution that is publishing it (if the name of the journal does not make it obvious),
3. the name of the author,
4. the author's professorial position (e.g., Associate Professor),
5. the author's own institutional affiliation (which will be stated in the footnote associated with the author's name) and
6. the year the article was published (or if it is one on SSRN – see below—the last time it was revised.)

(Note: Student Notes and Comments – which are not permitted to be used *until after* your paper topic is finalized - can be determined by looking at the author's position and institutional affiliation in the author footnote. *Remember:* Student-written articles also may not be used for Scope Note Purposes.)

Below are some strategies to begin your search. What is being recommended here, for 3 topics, is about one long weekend of research. Though that seems a lot at the start, it will facilitate things greatly later and in the long run reduces the amount of work you ultimately do.

1. It is really important that you find a topic that interests you. That can't be emphasized enough. Finding a topic you are really interested in makes the whole writing experience so much easier and actually enjoyable.

Do not try to pick a topic you think I will like; I like all topics. What is important is that it engages you.

You are not required to pick a topic that is obviously business law.

With few exceptions, almost any topic can be approached in a manner that it touches on Business law issues. As a general rule, as long as money is involved somewhere, it will satisfy the requirement for this course.

So for example, in the past, students have written papers on

- international money laundering,
- the black-market for organ donations,
- the potential effect of a school voucher system,
- even the problems with regulating illegal down-loading and file-sharing,
 - particularly with regard to funding terrorist activities.
- One student wrote a paper on the illegal sex-trade and, a couple of years after graduation from law school, it was published in the FBI guidebook for its agents.

These kinds of topics have been done as well as more traditional ones such as issues of fiduciary duties in LLCs compared with corporations, executive compensation issues and so forth.

2. Unless you have taken a course in Antitrust, Securities Regulation or Tax, you should probably stay away from those areas. They are extremely technical and unless you have prior experience, you will spend the semester learning about the subject – on your own, instead of in a class – and you will not get to your actual paper topic.

3. One of the most interesting ways to find a topic is to look at recent Supreme Court cases. Scan the ones for the last couple or 3 years to see if there is a topic that interests you. There has been some business law cases decided over that time in particular. But again, an overtly business law topic is not required.

4. The core strategy for finding a topic for a paper is to start with the top 50 law journals. (See below for a suggestion for determining the top 50 journals.):

a. Go onto Westlaw, WestlawNext or Lexis (whichever you prefer) and look at the articles that have been published in the top 50 journals in the last 3 years. Below are instructions on how to determine the top 50 journals and an efficient way of searching through them in Westlaw. (These days, the top 10 journals tend to publish very abstract, theoretical analyses that tend to be of interest to very narrow groups; if you find your eyes glazing over – start with Journal #11)

b. Just look at the titles of the paper first and note the ones whose titles interest you. For those whose titles intrigue you, look at the introduction of the paper. If it still intrigues you, look at the conclusion. If it still intrigues you, scan (*do not read*) the rest of the article. See if anything in there catches your eye. If it does, stop and read the paragraph (or section or whatever) that interests you. Scan the rest of the article. If you still find it interesting -- you have potential topic number 1.

c. A good strategy to supplement your investigation by searching for a topic on the Social Sciences Research Network (SSRN). Legal scholars now post their papers on SSRN as soon as they are written, even before they are accepted by law journals let alone published by them. That way, the legal community can be exposed to these ideas as soon as possible and not have to wait until the articles appear in print.

See at the bottom how to search on SSRN.

Even if you found your topic through the Law Reviews, you should still search SSRN for the most articles written on your topic.

d. Before you come in for the individual conference, however, for each of the topics, look at the law review or SSRN article that brought you to it. Check out the footnotes. They will tell you the best articles written prior to this article to look at. Select 5 of the ones whose titles interest you the most. Scan them the same way you did the first articles. By that time you should

have a fair idea of a topic and whether it interests you.

Appendix A

How to determine and search the top 50 Journals for topics

a. Difficulty in determination of ranking of law journals

As many law professor there are, there are that many ways of ranking journals. However, though this approach is not without its criticisms, one way that tends to be most widely accepted is to rank a journal according to how frequently the articles it publishes are cited in other articles. That is an indicator of the importance of the article and how many such important articles is published in a law review is an indicator of the quality of judgment of the law review staff and the quality of articles sent to it for publication consideration.

b. One good source for determining ranking.

One of the best sites for ranking journals according to how frequently their articles are cited by others is the following:

<http://lawlib.wlu.edu/lj/>

On the upper left-hand side you will see a large box labeled “**1. Choose Journal Criteria**” Mid-way down, check off the following boxes: “Student-edited,” “Print,” “Ranked.” Right below “Ranked” is the phrase “Rank Journal Range (e.g. 15, 17-25)” with a white box to the right of that. Type in the white box 1-100. That will bring up the top 100 journals in their rank order.

At the top of this large box, there is a drop down box that is defaulted to “All Subjects.” If you click the drop down box – you will see the range of different subjects secondary journals are classified by. If you select “Corporations and Associations” you will get a list of the leading Business Law student-edited journals. If you unclick “student-edited” you will get more journals – but do note that student-edited journals are considered the best of the law reviews.

You should play around with the different options of how to come up with rankings with slightly different criteria.

c. Reasons for starting with the top 50 journals and the articles posted on SSRN in the last 3 years

The reason for looking at the top 50 journals is that those tend to publish the best and most current articles. They will be the best researched and best written by and large. (Not that there are not excellent articles in other journals as well. There are many and many are very famous. However, the articles in the top 50 journals will reference them in footnotes so that you don't have to do the work of figuring out which ones are worth looking at.)

The reason to stay within the last 3 years is that you want a current topic for which there is still something to say about and not one that has already been pretty much worked through. If you pick a topic that has pretty much been completely worked out, you won't think of much to say then because there will not be much left to say. And what is left is usually pretty boring.

Another reason to stay with articles from the last 3 years is that the recent articles will refer you to

best of the older ones. This saves you a lot of research work.

The reason for the requirement of finding 5 law review articles written by law professors (not students or practitioners) and published in law reviews (not Bar Journals, magazines and newspapers) is that you want to make sure that you develop a topic for which some groundwork has already been laid. Though you may have some really innovative ideas – if you are the first to write about those ideas – you do not have the time or the experience (at this point of your career) to develop a whole new area from scratch. So it is best to build on the work of other professionals at this point.

d. How to search among the top 50 journals.

These are the instructions for WestlawNext. You can call a Westlaw or Lexis representative for guidance for those data bases if you prefer that.

First, print out the page of the top 50 journals as per Washington & Lee Rankings at the link specified in **b.** so you have that with you.

Go into WestlawNext Research. (You can enter it from TWEN – there is always a link on the top of the page.) At the left most tab labeled “All Content” look down and click on a link called “Secondary Sources.” On the next page, under the first category “By Type” look in the middle column and click “Law Reviews and Journals.”

On the next page will be various categorizations – but you can ignore them and go directly to the search box at the top, center, of the page and type in the name of your first journal (e.g., “Harvard”). You will see a drop-down box with all the reviews that school publishes. Go to the school’s main one – usually designated by the school’s name followed by either “Law Review” or “Law Journal” – and click on that.

What automatically comes up are the 10 most recent documents. Before looking at those, go to the “advanced” button on the right of the search box – to the right of the search button.

When you click the “advance” button on the new page, scroll half way down to see the broad category “Document Fields (Boolean Terms & Connectors Only).” Right below that title on the left, in smaller print is the term “Date.” There is a drop down box immediately to the left of it that defaults to “All.” Press the down arrow and it will give you more options. Pick the option “Last 3 years” and then go up to the very top and center of the page – to the search box – and click on the “Search” button. Up will come all the articles published in that review for the last 3 years.

There is a “Sort by:” option at the top of the list that defaults to “Relevance.” I prefer to hit the down arrow and chose “Date”. It automatically sorts the articles form the most recently published on back.

BE SURE, AS YOU LOOK THROUGH THE ARTICLES, THAT YOU CHECK WHO THE AUTHOR IS. FOR THE PURPOSE OF YOUR INITIAL 5 ARTICLES TO SUPPORT YOUR TOPIC – YOU MUST BE SURE THE ARTICLE HAS BEEN PUBLISHED BY A LAW PROFESSOR.

WHEN YOU LIST THE ARTICLE FOR PURPOSES OF SUPPORTING YOUR IDEA – YOU MUST STATE

1. THE NAME OF THE ARTICLE,

2. THE NAME OF THE INSTITUTION PUBLISHING IT (e.g., Loyola Law School)
3. THE NAME OF THE AUTHOR
4. THE AUTHOR'S PROFESSORIAL RANK AND
5. THE NAME OF THE INSTITUTION WITH WHICH THE AUTHOR IS AFFILIATED (e.g., University of Baltimore School of Law).

You can use other articles to help you think about your topic but for your initial proposal both for the purposes of your first class assignment and for our individual conference, you must have 5 law review articles, published in law reviews and written by law professors.

Once we have agreed on a topic, the restriction on published sources is lifted.

e. Business Law Journals

For business law, in addition to the top 50 journals, you should also look at certain specialty journals:

The Business Lawyer
Journal of Corporation Law
Yale Journal of Regulation
American Business Law Journal
Delaware Journal of Corporate Law
Columbia Business Law Review

You do not need to restrict yourself to the above journals, indeed you are expected to go beyond them. This is just an efficient way to start.

First Important Note:

Note that your research should involve *Law Reviews and Journals,* not Bar Journals, the Daily Record, Business Week, the Economist or other such publications.

One exception is the Business Lawyer which is a Bar Journal, but it publishes high quality scholarly articles from scholars around the country. The other exception is the Antitrust Law Journal, for similar reasons.

You may use non-law review sources as a stimulus and to supplement minimally but not as your main source for developing a topic.

The reason for these initial requirements is that you have to write a paper that is of academic publishable quality. The articles in these secondary sources do not reach that level. It does not mean they are not interesting, important or contribute significantly to the legal community. It just means they do not constitute scholarly research. One thinks at the level one reads. So it is important to read scholarly research so your thoughts are at that level and the topics you come up with are at that level, to generate a substantive paper.

For similar reasons, even though they may be published in Law Reviews or Journals, student Notes or Comments may not be used for this first round of developing your topic.

These restraints are removed once you have decided – during our individual conferences – what topic you will in fact write on for this semester.

Second Important Note:

Do *NOT* print out a copy of every paper you find interesting. It is not possible to read every article related to your paper topic. If you try – you will *never* get to writing your paper and you will feel overwhelmed and paralyzed.

So you should only print out those articles you feel are *extremely* interesting and integrally related to your paper. If you have more than 5 papers printed out – that almost certainly will be too many.

I will discuss in class “tricks” to use to develop good reading habits and writing habits so that you will in fact write your paper. The most important one is the “Thoughts Page.”

Appendix B

How to Search for the Latest Articles Not Yet in Print on SSRN

1. Go to <http://www.ssrn.com/lrn/index.html>
2. Follow the instructions in the upper left hand corner for a new registration.
3. **You must register with your ubalt.edu email address.** (I am not sure if this is still necessary to access articles, but I believe it is necessary to download articles.)
4. Search for articles through Search eLibrary
5. Put in a key word for the topic you are interested in along with a word related to law: e.g., legal, law, etc. This is to assist in bringing up law review articles as SSRN stands for Social Science Research Network and posts articles in a myriad of fields, such as finance, history, etc.
6. Pick a date restriction of Last 3 Years.
7. ***Once your search results come up, choose the Sort option to Sort by Date Posted Descending. That way you will get the most recent articles first, for the most part. The default is to sort by # of Downloads, descending – the idea being that they will be the most popular articles – but in fact, that sort method largely brings up the oldest articles, the ones that have been up the longest and not the ones that are the best.