



ADVANCED COURSE CONTENT AND CLASS SCHEDULE

MONDAY (DAY 1)

INTRODUCTION TO THE COURSE

- Introduction of instructors & attendees
- Course objectives
- Materials and teaching methods
- Schedule and assignments
- Time management for the week
- Small group assignments
- Case assignments

OVERVIEW OF POST HEARING BRIEF WRITING

- Labor arbitration brief v. legal brief
- Reasons for writing a brief
- Reasons for not writing a brief
- Filing the brief- traps to avoid

BRIEF FORMAT

- Letter briefs
- Full briefs
- Elements of a full brief

PERSUASIVE WRITING DEVICES

- Selection/ omission
- Ordering
- Repetition
- Subordination
- Word choice
- Active voice
- Concrete facts v. abstraction
- Issue, rule, application, conclusion
- Reasoning by analogy
- Point headings
- Deconstructing opponent's argument

STANDARDS FOR INTERPRETING LABOR CONTRACTS

- Clear & unambiguous
- Objective v. subjective ambiguity
- Causes of ambiguity
- Interpretation when ambiguous
- Legislation v. interpretation
- Intent of the parties
- Construing the agreement "as a whole"
- Giving effect to all clauses
- Not treating word as surplus
- Implying words
- Normal v. technical language
- Dictionary definitions
- Interpretation in a trade or technical sense
- Consistency of meaning
- Interpretation in light of the law
- Construction in light of context
- Avoiding absurd results
- Expression of one thing is the exclusion of another
- Of the same kind, class or nature
- Specific v. general language
- Avoiding a forfeiture
- Custom and past practice
- Construing language against the proposer
- Industry practice
- Pre-contract negotiations
- Prior settlements
- Reason and equity
- Ancient interpretive maxims
- External
- Handbook and manuals
- Filling gaps in incomplete contracts
- Good faith bargaining

TUESDAY (DAY 2)

WRITING THE BRIEF'S INTRODUCTION

- Time, date & place of arbitration
- Parties/ advocates
- References to record

WRITING CONTRACT INTERPRETATION ISSUES

- Establishing arbitrator boundaries
- Broad v. narrow issue
- Managing multiple issues
- Elements of an effective issue
- Utilizing facts to drive the decision
- The “did-when” format
- The “whether-when” format
- The “under-does-when” format

WRITING THE FACTUAL STATEMENT

- Establishing credibility
- Selection/ omission of facts
- Accuracy/ honesty/ completeness
- Ordering the facts
- Clarity/ forcefulness
- Critiquing the facts

WRITING THE POSITION STATEMENT

- Purpose of position statement
- Formulating the argument
- Organizing the argument
- Structure of position statement
Remedy
- Critiquing the position

WRITING THE ARGUMENT

- Arguing v. restating the evidence
- Organizing the argument
- Integrated v. script format
- Burden of proof
- Using standards of contract interpretation
- Employing “issue, rule, application, conclusion”
- Interpreting facts

- Linking to contract language
- Arguing against opponent's case
- Deductive reasoning
- Reasoning by analogy
- Other arbitration awards
- Fairness and equity
- Witness credibility
- Arguing in the alternative
- Arguing from the transcript
- Common sense
- Arguing outcome/ remedy

WRITING THE CONCLUSION

- Importance of conclusion
 - Persuasive final statements
 - Stating the remedy
- Preparation time for arbitration**

WEDNESDAY (DAY 3)

Arbitrations of contract Interpretation cases

- Each attendee will be an advocate in a contract interpretation case. Some attendees will be arbitrators. Instructors will critique the presentations.

Social gathering for attendees, guests, arbitrators, and faculty.

THURSDAY (DAY 4)

Preparation of full post-hearing brief

- Each attendee will prepare a post-hearing brief.

FRIDAY (DAY 5)

XIV. Presentation and critiques of briefs

- Each participant will present their brief and receive critique from instructors

Course Concludes At Noon