LABOR AND EMPLOYMENT ARBITRATION [LAW 227.1]
UNIVERSITY OF CALIFORNIA SCHOOL OF LAW
SPRING 2011
BARRY WINOGRAD, LECTURER

COURSE SYLLABUS AND READINGS

Materials for this course are available in four parts. First, students will use a specially prepared *Arbitration Practice Guide* (APG) that contains subject area outlines and practice exercises that will be reviewed for class sessions and also used as a resource outside of class. Second, students will be assigned relevant cases by using citations to refer to the materials that are available on-line. A list of online readings accompanies the class schedule set forth below. Pertinent statutes and arbitration rules also are identified for online reference. Third, students can review several arbitration and practice articles that will be distributed in class or that are available online. The articles are provided as recommended reading for various topics during the semester. Last, materials to be used in mock arbitrations will be distributed in the final weeks of the class to the teams presenting the cases. Online reading assignments are largely in the second and third weeks of the course. Portions of the *Arbitration Practice Guide* will be assigned, for the most part, beginning in the fourth week. Articles that are recommended for extra reading and reference will be designated throughout the semester. The instructor will be available for consultation by appointment, and can be reached by phone at (510) 273-8755. Email communications can be sent to "winmedarb@aol.com."

Date	**Subject/Reading**
January 11	Introduction to Labor and Employment Arbitration APG 1, 23
January 18	Judicial Enfocement and Review of the Labor Arbitration Agreement: Lincoln Mills American Manufacturing Warrior & Gulf Enterprise Wheel

Garvey
Eastern Associated Coal
Murphy: Feller Interview, 1994
Feller Article, 1976

January 25 **No class**

February 1 Employment Arbitration

Gilmer
Armendariz
Circuit City v. Adams
Waffle House
Gentry
Rent-A-Center
Grodin Article, 2001

February 8 Labor Law and Employment Arbitration

Gardner-Denver
Northwest Airlines
Pyett

Duty of Fair Representation

Vaca

Deferral to Arbitration

Olin

February 15 Labor Arbitration - Discipline Cases

APG 2-3

February 22 Labor Arbitration - Contract Cases

APG 4-5
Mittenthal Article, 1961
St. Antoine Article, 2000

March 1 Labor Arbitration - Procedural Issues

APG 6-9
AAA Labor Arbitration Rules
Code of Professional Responsibility

For Arbitrators for Labor-Management

March 8 Labor Arbitration -
Evidence and Witness Issues

APG 10-14
Evidence Debate Article, 1998

March 15 Case Preparation and Presentation

APG 15-20

March 22 **No Class**

March 29 Arbitration Practice and Decisions

Visiting speakers

April 5 Employment Arbitration Case Management

APG 21-22
AAA Employment Arbitration Rules

April 12 Mock Labor Arbitration
(Scenario handouts)

April 19 Mock Labor Arbitration
(Scenario handouts)

April 28 The Future of Labor and Employment
Arbitration

COURSE READINGS

In addition to outlines and exercises in the *Arbitration Practice Guide* noted on the syllabus, readings from the following list will be assigned and recommended. All of these materials can be found online. Other material will be distributed at class sessions.

1. CASES

A. Supreme Court Decisions

1. Textile Workers Union v. Lincoln Mills, 353 U.S. 448 (1957)(dissent to p. 469)

2. Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960)

3. Steelworkers v. Warrior & Gulf Navigation, 363 U.S. 574 (1960)

4. Steelworkers v. Enterprise Wheel, 363 U.S. 593 (1960)

5. Vaca v. Sipes, 386 U.S. 171 (1967)

6. Alexander v. Gardner-Denver, 415 U.S. 36 (1974)

7. Gilmer v. Interstate/Johnson Lane, 500 U.S. 20 (1991)

8. 14 Penn Plaza v. Pyett, 556 U.S.____, 129 S.Ct. 1456 (2009)

9. Rent-A-Center v. Jackson, 130 S.Ct. 2772 (2009)

10. Eastern Associated Coal v. Mine Workers, 531 U.S. 57 (2000)

11. Circuit City Stores v. Adams, 532 U.S. 105 (2001)

12. Major League Baseball Players v. Garvey, 532 U.S. 504 (2001)

13. EEOC v. Waffle House, 534 U.S. 279 (2002)

B. Other Court and Agency Decisions

1. Airline Pilots Assn. v. Northwest Airlines, 199 F.3d 477 (D.C. Cir. 1999)

2. Armendariz v. Foundation Psychcare, 24 Cal.4th 83 (2000)

3. Gentry v. Superior Court, 42 Cal.4th 443 (2007)

4. Olin Corp., 268 NLRB 573 (1984)

2. ARTICLES AND COMMENTS (RECOMMENDED)

These articles can be found at www.naarb.org, by clicking

the tab for "Dispute Resolution in the Workplace," and then searching for the designated reading.

A. Mittenthal, Past Practice and the Administration of Collective Bargaining Agreements, in 14th NAA Proceedings, 1961, p. 30 (BNA)

B. Feller, The Coming End of Arbitration's Golden Age, in 29th NAA Proceedings, 1976, p. 97 (BNA)

C. Feller, Fireside Chat: How the Trilogy Was Made, in 47th NAA Proceedings, 1994, p. 327 (BNA)(Interview by Murphy)

D. A Debate: Should Labor Arbitrators Receive Evidence for "What It's Worth?", in 51st NAA Proceedings, 1998, p. 89 (BNA)

E. St. Antoine, Contract Reading Revisited, in 53rd NAA Proceedings, 2000, p. 1 (BNA)

F. Grodin, Arbitration Decisions of the U.S. Supreme Court, in 54th NAA Proceedings, 2001, p. 13 (BNA)

3. STATUTES, RULES AND GUIDELINES

A. Federal Arbitration Act (9 USC Sec. 1 et. seq.)

B. AAA Labor Arbitration Rules (www.adr.org)

C. AAA Employment Arbitration Rules (www.adr.org)

D. JAMS Employment Arbitration Rules (www.jamsadr.com)

E. NAA Guidelines Re: Employment Arbitration (www.naarb.org)

F. Code of Professional Responsibility for Arbitrators of Labor-Management Disputes (www.naarb.org)