

LABOR AND EMPLOYMENT ARBITRATION [LAW 227.1]
UNIVERSITY OF CALIFORNIA SCHOOL OF LAW
SPRING 2012
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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 first third of the course. Portions of the *Arbitration Practice Guide* will be assigned, for the most part, in the balance of the course. Articles that are recommended for extra reading and reference will be designated throughout the semester. The instructors will be available for consultation by appointment or by phone. Barry Winograd can be reached at phone at (510)273-8755, and by email at "winmedarb@aol.com." Margaret Brogan can be reached by phone at (610) 668-4121, and by email at "margaret.brogan@verizon.net."

<u>Date</u>	<u>Subject/Reading</u>
<u>January 10</u>	Introduction to Labor and Employment Arbitration APG 1, 23
<u>January 17</u>	Judicial Enforcement 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 24

No class

January 31

Employment Arbitration

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

February 7

Labor Law and Employment Arbitration

Gardner-Denver
Northwest Airlines
Pyett

Duty of Fair Representation

Vaca

Deferral to Arbitration

Olin

February 14

Labor Arbitration - Discipline Cases

APG 2-3

February 21

Labor Arbitration - Contract Cases

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

February 28

Labor Arbitration - Procedural Issues

APG 6-9
AAA Labor Arbitration Rules

Code of Professional Responsibility
For Arbitrators for Labor-Management

March 6

Labor Arbitration -
Evidence and Witness Issues

APG 10-14
Evidence Debate Article, 1998

March 13

Case Preparation and Presentation

APG 15-20

March 20

Arbitration Practice and Decisions

Visiting speakers

March 27

No Class

April 3

Employment Arbitration Case Management

APG 21-22
AAA Employment Arbitration Rules

April 10

Mock Labor Arbitration
(Scenario handouts)

April 17

Mock Labor Arbitration
(Scenario handouts)

April 26

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, 561 U.S. _____, 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. 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)