

CURRENTS

INTERNATIONAL TRADE LAW JOURNAL

WRITE-ON COMPETITION PACKET

SPRING 2012

(IF ACCEPTED, YOU WILL START *CURRENTS* IN SPRING 2012)

Identification Number:

I. Introduction

Congratulations! Your commendable grade point average enables you to take part in the *Currents: International Trade Law Journal* write-on competition.¹ *Currents* membership is an outstanding opportunity for those interested in scholarly writing to participate in the production and publication of a student-run scholarly journal that focuses exclusively on international trade issues. The *Currents* experience will strengthen your research, writing, and editing skills, while adding a significant boost to your resume, as well as offer you with the opportunity to get published.

You should have gained a solid foundation in legal research and writing skills from completion of Legal Research and Writing I and II during your first year of law school. The note you will write for the competition will build upon these skills, while presenting some unique challenges. The format is new for everyone, so do not feel intimidated if it seems awkward at first. Take your time, and simply incorporate the skills you already possess into this new format. A good resource is *Scholarly Writing for Law Students: Seminar Papers, Law Review Notes and Law Review Competition Papers* by Elizabeth Fajans and Mary R. Falk (West Publishing Co. 2005). *Scholarly Writing* is available in the South Texas library at the reference desk and in the South Texas bookstore for purchase. Another source to assist you in taking a position is *Writing a Student Article* by Eugene Volokh of the UCLA Law School.² Back issues of *Currents* are also a valuable source and are available in the *Currents* office in room 219 located on the second floor next to the student organization offices.

A **HARD COPY** and **ELECTRONIC COPY** of your Note, printed research assignment, and this Write-On Competition Packet is due **no later than 5 p.m. (17:00 hrs) on Wednesday, January, 4**, in Sammy Miles' office, **room 224, and email smiles@stcl.edu**. You will be assigned an Identification Number when you submit your paper. **NO LATE PAPERS WILL BE ACCEPTED.** Good Luck!

¹ Please carefully review the *Currents: International Trade Law Journal* Section of the STCL Student Handbook for eligibility requirements. In addition, *Currents* candidates must have at least two remaining enrollment periods, which may include summers.

² This article is located at 48 J. LEGAL EDUC. 247 (1998).

II. Assignment

Part 1

In Subheading III, there are six endnotes that need to be properly Bluebooked. Please use what you have learned in your Legal Research and Writing courses, along with rules within the Nineteenth Edition Bluebook to complete the Citation portion of the write-on competition. To complete this section, you might have to research additional information that is not provided within the given citation to correctly Bluebook each citation. Be sure to also include the Bluebook Rule numbers that assisted you in creating the corrected citations.

Part 2

You must write a five to seven page note for the write-on competition. A note is a detailed analysis of a recent issue concerning international trade law and can be written from any angle. The position you take is irrelevant, provided that your position is well supported. Your note should include a table of contents, a brief background section, a section analyzing the topic presented with a suggestion and/or opinion of your own regarding the law on the subject, a conclusion, and proper Nineteenth Edition Bluebook endnotes. Finally, include a cover sheet with your identification number and title only.

Research for the write-on note is closed. You may cite only the materials included in the attached source list, although others may be considered in the course of your research. In selecting a write-on topic, we have attempted to select an interesting and controversial topic. As with many legal issues there is no “right” or “wrong” answer to the international topic selected. Feel free to analyze and develop your theme from any angle or approach you deem appropriate. Be creative in conceptualizing your note and its title. The idea is to find and write about a common thread that runs throughout the articles. Your job is to write a persuasive note that supports whatever position you take on the issue. The substance of your work is obviously critical, but so is the form. This is especially true in the law journal context where countless hours are spent ensuring that not one period or comma is out of place. Do not spend so much time trying to arrive at the “best” possible answer, only to turn in a note that contains less than perfect citations, spelling, and grammar.

Part 3

In subheading V, the research exercise provides three citations to be researched that must be completed by printing out the first page and corresponding page of the source you found the citation in and attaching it to your packet. Be sure to utilize any research skills you have obtained in Legal Research and Writing, as well as utilizing any research tools, i.e. the internet, electronic databases, STELLA, etc. A large portion of your responsibility in *Currents* is the ability to research obscure international articles and topics and be able to produce a physical copy of the source. There are no guidelines or restrictions for the research exercise.

III. Citations

The following are the citations for the Spring 2012 write-on competition that need to be properly corrected and Bluebooked (please remember to include the Bluebook Rule you used for the corrected citation, and please remember additional information may be needed to correctly Bluebook each citation):

CITATION #1

NAFTA Chapter 11 Investor-to-State Cases :Bankrupting Democracy. Lessons for Fast Track and the Free Trade Area of the Americas [HEREINAFTER NAFTA Chapter 11], PUBLIC CITIZEN Sep. 2001, at 27, available at <http://www.citizen.org/documents/ACF186.PDF>.

CITATION #2

See paragraphs 222-234 of Survey of *State Practice Relevant to International Liability for Injurious Consequences Arising out of Acts Not Prohibited by International Law*, U.N. Doc.A/CN.4/384, October 1984.

CITATION #3

See *Kloiber* at 517, (note 70)

CITATION #4

See also USA Today, RETAILERS, CONSUMERS HUNGRY FOR ORGANIC BEEF, [June 30, 2004], exemplifying the growth and demand for organic beef, http://www.usatoday.com/money/industries/food/2004-06-30-organic-beef_x.htm

CITATION #5

for an in depth explanation of the portfolio theory, see R.J.Gilson & R.H.Mnookin, at 313–97 (1985) *Sharing Among the Human Capitalist: An Economic Inquiry into the Corporate Law Firm and How Partners Split Profits*, 37 STANFORD LAW REVIEW 313.

CITATION #6

Chile ARTICLE 2129, (Cód Civ) código civil

IV. Selected Topic and Sources

The topic for the Spring 2012 write-on competition concerns the following situation:

The Foreign Corrupt Practices Act (FCPA) was enacted in 1977 to deter American businesses and individuals from bribing foreign officials to obtain or retain business. One of the few exceptions to the FCPA can be found in the section allowing “facilitating payments,” which are payments made to “expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.” For purposes of illustration, paying an official to grant you a government contract would be a clear violation of the FCPA; paying to expedite a shipment through customs, however, would probably be considered a facilitating payment.

Prosecutions under the FCPA remained relatively sparse during the first twenty years of the FCPA’s existence, but after Enron and Sarbanes-Oxley the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) have devoted more resources to enforcement of the act. Compliance has become incredibly important to international businesses as they – and their executives – are increasingly targeted by enforcement agencies in costly and time-consuming investigations.

Your problem involves *U.S. v. Kay*, a recent case from the 5th Circuit that interpreted the FCPA as it relates to facilitating payments. If you were the general counsel of a company engaged in international trade, what advice would you give to your employer regarding these payments?

SOURCES

1. *United States v. Kay*, 359 F.3d 738
2. *United States v. Kay*, 200 F. Supp. 2d 681
3. 15 USCS § 78dd-1
4. 15 USCS § 78dd-2
5. 15 USCS § 78dd-3
6. 26 USC §162(c)(1)
7. 26 C.F.R. §1.162-18(a)
8. *Basics of the Foreign Corrupt Practices Act: What Every General Counsel, Transactional Lawyer, and White Collar Criminal Lawyer Should Know*, by Robert W. Tarun, found at: http://www.lw.com/resource/Publications/_pdf/pub1287_1.pdf#search=%22tarun%20fcpa%22
9. Stewart A. Deming, *THE FOREIGN CORRUPT PRACTICES ACT AND THE NEW INTERNATIONAL NORMS*, a book published by the ABA.

10. THE FOREIGN CORRUPT PRACTICES ACT: IT'S TIME TO CUT BACK THE GREASE AND ADD SOME GUIDANCE, 28 B.C. Int'l & Comp. L. Rev. 379

11. AVOIDING BRIBERY WHEN DOING BUSINESS OVERSEAS: A PRIMER ON THE FOREIGN CORRUPT PRACTICES ACT, 20 MAINE BAR J. 78.

12. LYNN J. COOK, Houston Chronicle, Several Pride managers put on leave; Company looks into allegations of irregular payments

13. The San Diego Union-Tribune, Bruce V. Bigelow, Titan ex-exec admits role in Benin bribery; \$2 million payment was made to candidate.

14. U.S. Sen. Paul Sarbanes, Rocky Mountain News, *Living up to its promise; Sarbanes-Oxley pays dividends by keeping companies honest*

15. Watson, Specialists help investors look before they leap, South China Morning Post April 28, 2006 Friday

**NOTE: You are not limited to using just the pin cites in the sources listed above.

V. Research Exercise

The following are the citations to research for the Spring 2012 write-on competition where the sources must be found and printed out (FIRST PAGE OF SOURCE AND CORRESPONDING PAGE ONLY):

CITATION #1

CHRISTOPHER STEVENS & JANE KENNAN, UNIV. OF SUSSEX INST. OF DEV. STUDIES, BOTSWANA BEEF EXPORTS AND TRADE POLICY IV (2005).

CITATION #2

ROSSELLA BREVETTI, Commerce Department Proposes Package Of Changes in Antidumping, CVD Practice, 27 ITR 1326 (2010)

CITATION #3

UNIDROIT Study LVIII-Doc. 25, at 25.

VI. Deadlines and Instructions

Notes are due **Wednesday, January 4, 2012 by 5:00 p.m. in person to Sammy Miles in room 224 and via email to smiles@stcl.edu. No late papers will be accepted.** If Ms. Miles is unavailable, attach a separate sheet with your name to your paper and slide it under the door. Your memorandum should be between 5 and 7 pages, double spaced, at 1 inch margins, 12 pt. font, Times New Roman, authenticated with adequate endnotes using the most recent edition of the Blue Book.

Page Limit – The page limit does not include the endnotes, title page, and the table of contents sections.

Do not place your name on the note; identify yourself only with the identification number assigned to you when you received your package (the last four digits of your social security number). The note you turn in must be your own work. You may not collaborate with other students or seek help from attorneys, professors, or anyone else. Any questions regarding the write-on competition should be directed to Sammy Miles.

Results will be posted by Monday, January 9, 2012 on the door of the Currents office (room 219) and on the cork board outside of room 224. If selected to be a member, you must attend a mandatory orientation meeting which will be announced with the posting. If you are unable to attend, please contact Chi-Ming Ling, Editor-in-Chief, at chiming.ling@gmail.com, or Adam J. Flood, Managing Editor, at adam.flood@stcl.edu. It is your responsibility to stop by and confirm your status; you will not be independently notified. Finally, be sure to complete the attached Write-On Competition Pledge Form and submit it with your note.

GOOD LUCK!

WRITE-ON COMPETITION PLEDGE

I hereby pledge that the note I have submitted for the write-on competition is exclusively my work and that I have not corroborated with nor received assistance from any other person in its preparation.

I have read and I understand the requirements for *Currents* eligibility and acknowledge that in the event I do not meet the requirements that I will not be eligible for *Currents* candidacy despite the fact that I have turned in a note for the write-on competition.

Signature

Print name

Identification Number: _____

Date: _____

Please provide the following contact information:

Telephone number	
Email address	
STCL student box number	