

*****SAMPLE 2018 CASE COMMENT INSTRUCTIONS*****

*****DO NOT RELY ON FOR PETITION*****

**JOURNAL OF LAW AND INEQUALITY
JOURNAL OF INTERNATIONAL LAW
JOURNAL OF LAW, SCIENCE & TECHNOLOGY
MINNESOTA LAW REVIEW**

The main case should be the focus of your Case Comment. Petitions must follow the Case Comment Structure (see case comment instructions) and address the issues this case raises. We have tried to present a balanced array of viewpoints on issues pertinent to the main case. You may find that some of the materials in this packet express ideological or political points of view with which you disagree. We want to stress that we are not selecting staff based on the personal views expressed in the petition. Your chances of selection will not depend on the position you take but rather on how well you support that position.

I. GENERAL

- A. **Case Comments.** The main part of your petition (in addition to the Bluebook exercise and the personal statement, if any) will be comprised of a Case Comment. A Case Comment centers on analyzing the holding of a particular case (the “main case”) in the context of a variety of other sources, including other cases, journal and law review articles, scholarly works, and other forms of commentary and analysis such as internet blog posts.
- B. **There is no “right” answer.** We grade the Case Comment portion of your petition based on how well you make an argument, use the sources, and properly structure and bluebook your Comment. We do not grade based on what argument you make or whether we agree with it.
- C. **Only use the material in the packet.** The petition packet contains all of the research material you may use to write the Case Comment. **Additional research is prohibited; if it is discovered that you have done additional research, your petition will be immediately disqualified.** The cases and articles may have been edited to reduce the size of the packet or remove extraneous material; do not worry if a case or article is incomplete. **You may not look up any outside sources or the full text of any material that is in the packet.** While writing the petition, you may not consult any legal source outside of the petition packet (whether in electronic or paper form), even if the source is not related to the subject of the petition.

If a source within your petition packet cites to another source, **cite directly to the source included in the packet** and include a “quoting” or “citing” parenthetical to identify the external source. You may use a short citation for the “quoted” source if the full citation has been redacted.

Example: *See, e.g.,* David Hahn, *How To Write a Petition*, 102 MINN. L. REV. 199, 200 (2018) (quoting VEENA TRIPATHI ET AL., *THE BLUEBOOK IS YOUR FRIEND* 76 (2017)).

In this example, the Hahn article is in the petition packet, and the Tripathi book is not. A direct citation to Tripathi would be an improper citation to a source outside of the packet.

You also may not refer to any external sources for endnote and citation purposes. Your petition packet contains all of the information needed to complete citations for each source. If you believe you do not have enough information to accurately cite a source, do your best with the information that is provided.

The only outside references you may consult are the *Bluebook*, dictionaries (legal or otherwise), a thesaurus, and a grammar/writing manual; you may not, however, cite to any of these sources in your Comment.

- D. Do not talk to other people about your petition.** Petitions must represent your own work. **You may not discuss the petition or any aspect of the petitioning process with other people nor may you have anyone else proofread or comment on your work.** This includes the Case Comment, Bluebook exercise, and personal statements. “Discuss” includes electronic communication such as blog postings, social networking sites, instant messaging, text messaging, etc. It does not matter if one or both of you may have already completed your petition or decided not to petition at all—*do not discuss the petition*. Violation of these instructions may constitute an Honor Code violation. Exception: You may look at the petition samples posted on the *Minnesota Law Review* website. You may also reference any other petition materials provided on the MLR membership page or provided at petition information sessions. They also might contain errors or outdated material. Treat them as a resource, but not authoritative.

II. **FORMATTING**

A. **Fonts and Submission Formatting**

1. Petitions should be completed in Times New Roman (12 point) or the substantial equivalent (e.g. Times 12).
 2. Text **and** Endnotes of the Case Comment should be double spaced.
 3. Margins should be 1-inch on all sides.
 4. Petitions should be saved and submitted electronically in PDF format.
- B. Header and Footer.** The header on every page should contain your petition number in the upper, right-hand corner. The header should contain no other information. The footer on every page should include a page number in the middle of the page. The footer should contain no information other than the page number.
- C. Text and Endnotes.** Your petition should be roughly evenly split between text and endnotes. **Do not use footnotes.** Both text and endnotes sections should be double-spaced. The text section should be no more than 10 pages in length. The endnotes section should be no more than 10 pages in length. **If either section exceeds 10 pages in length, your petition may be disqualified.** Double check that your page lengths remain consistent after converting your Petition to PDF format.
- D. Citations.** Citations should be in endnotes only. All citations should conform to the rules in the *Bluebook, 20th Edition*. **You should use the “white pages” section of the *Bluebook*, not the “blue pages” section that you may have used in your Legal Writing course.** Do not use parallel citations unless the *Bluebook* calls for them.
- E. Cite Original Page Numbers Only.** All sources have been specially edited for the petition packet. Information concerning reporter/journal name and initial page number appears at the top of the first page for each source. When the source is paginated, subsequent page numbers are indicated by an asterisk (Ex. *545). These numbers correspond to those in the reporters/journals. **Do not cite to the petition packet page numbers in the bottom right of each page in the packet. Brackets indicate additions or omissions by petition editors.**

Example:

***500** Marty McFly awoke in a pool of sweat to Huey Lewis blaring over his clock radio. He quickly ran out of his house and got on his skateboard to meet Doc at the mall. It was in the middle of the night.

... [***514**] ...

When he awoke for the second time, ***515** Marty opened the door of his house and saw, to his astonishment, Biff waxing the family car.

If you wanted to cite Marty skateboarding to the mall in the middle of the night, that would be on page 500. If you wanted to cite Marty seeing Biff, that would be on page 515. Don't be alarmed that 14 pages are missing from the selection; again, the cases and articles in the packet have been edited.

Note that the page number 514 has been added to let you know what was omitted. This may not always be added for you. If no page number is added, you could still deduce that Marty awaking for the second time was found on page 514, by the fact that this information comes directly before page 515.

Note that footnotes pertaining to redacted portions of the source may also be omitted without designation.

- F. **Cross-References.** You may use *supra* cross-references in endnotes to refer to a source that you have cited previously in accordance with *Bluebook* rules. You may **not** use internal cross-references either in text or endnotes to refer forward (*infra*) or back (*supra*) to your own text.

III. ANALYTICAL PROCESS

- A. **Read the Main Case Thoroughly.** No matter what analytical approach you take and no matter what argument you make, the main case should be at the center of your Comment. Make sure you understand all the arguments and reasoning contained in the redacted version in your packet, including any concurrences and dissents.
- B. **Read the Entire Packet.** Make sure you understand the relevance and perspective of each source included. Think about what relationship it may have to the main case, what perspective and arguments each author contributes, and how you might use it in constructing your argument. You may conclude that a particular source is not relevant or useful. That's fine. But make sure you have a reason for which sources you choose to use or not use.
- C. **Synthesize.** Identify all of the relevant legal and policy issues raised or affected by the main case.
- D. **Choose a theme.** Identify the main argument you want to make. You can choose any analytical approach that appeals to you, including a discussion of the impact of the case on the law, what the Supreme Court (or other courts) should do in response

to the legal situation created by the main case, what policy actions should be taken to address the issues raised by the main case, a critical theoretical discussion of the assumptions underlying the main case, or any other approach that you feel you can support with the materials provided and with your own analysis. Remember, there is no “right answer” and this means there is also no single “correct” analytical framework. Your petition should reflect what *you* have to say about the main case.

E. **Organize and Outline.** Using the materials in the packet (and **only** those materials), organize and outline the argument you will make in your Comment and how you will support that argument.

F. **General Advice.**

1. Avoid passive voice.
2. Try to stick to one idea per paragraph.
3. Keep your sentences crisp. Avoid long, complex sentences.
4. Speak in plain language. Avoid “legalese.”
5. Write in the third person.
6. Use “pincites” where appropriate to direct the reader to specific material within a source that supports your point.
7. Check the *Bluebook* for how to format each and every citation you make.
8. Look at old petitions (available at <http://www.minnesotalawreview.org/about/membership/>) for insights into formatting and structure.

IV. WRITING THE COMMENT.

A. **Title.** The title should identify broadly your thesis about the main case that you will discuss in your Comment. It should include the case name. The title should be at the top of your Comment, in all caps, and centered.

B. **Introduction**

1. ***First paragraph:*** A brief statement of the facts, the procedural posture, and the holding of the main case, in that order. Use endnotes to elaborate. Do not detail the holding yet. Save this for the case description.
2. ***Second paragraph:*** A description of the important issues raised in the main case and the reason why the case and those issues are important.
3. ***Third paragraph:*** An outline of your Comment. First, state the goal of your Comment; second, tell the reader what you will do in each section of your Comment; and third, conclude with your thesis.

Use the device “this Comment” in the third paragraph and whenever you wish to address the reader to map out what you plan to do. After the third paragraph, however, you should keep such intrusions to a minimum.

C. **Part I: Background Section.** The background section introduces the cases and principles that place the main case and your analysis in perspective.

1. ***Economy of Information.*** Your goal is only to introduce the information necessary for the reader to understand the main case and the basis for your argument about it. Do not actually discuss the details of the main case unless they are *directly* relevant to your analysis. Use broad statements of the law in the text, then support with citations and parenthetical summaries of key cases and arguments in endnotes.
2. ***Introductions.*** Your other goal here is to introduce other cases and important journal articles that you will use. Do not discuss them in detail, but make the reader aware of where they fit in the overall framework of law and policy addressed by your Comment.
3. ***Relevance.*** Everything in the background section should relate directly to the analysis you will give in Section E, below. Omit or endnote collateral matters.

CI. **Part II: Case Description Section.** The case description follows the background section. This section should describe the holding and reasoning of the main case in detail.

1. ***First paragraph:*** Link the main case into the overall state of the law as you described it in your background section.
2. ***Next:*** Describe each holding in the main case and summarize the reasoning of the court. Support your statements with citations in endnotes.

Resist the urge to analyze or critique the court’s holdings and arguments. You will do that in the next section.

E. **Part III: Analysis Section.** Analyze and critique the main case in detail. Use any intellectual framework or analytical bent you choose, provided that you feel you can use the materials in the packet to adequately support it. Remember:

1. **There is no “right answer” or “wrong answer.”** Your Comment will be scored on how well you structure and support your argument. Your Comment will not be scored on the substance of your argument.

2. **Avoid introducing new material.** Most of what you use should have been introduced, albeit briefly, in the background section. You may refer to material you discussed previously in the text (e.g. “As discussed in Part I . . .”), but you should avoid using internal cross-references in endnotes (e.g. “*See supra*, note X and accompanying text.”).
 3. **Support your arguments.** Precedent does not bind you as it does a court, but when you are critiquing any court’s holding, you should support your argument with appropriate reasoning and, where possible, citations in endnotes. Avoid making merely conclusory statements. Analyze; don’t just assert.
 4. **Consider counterarguments.** Likewise, make sure to explicitly discuss arguments that disagree with your arguments and explain why your arguments are better. Again, support these points with citations in endnotes.
 5. **Avoid repetition.** Your space is very limited. Make each point, support it with analysis in text and citations in endnotes. Then move on.
- F. Conclusion.** The conclusion is a very brief two-part summary of your comment. The first part should outline the problem posed in the main case. The second part should state and defend your analysis. After the reader skims your introduction and your conclusion, she or he should be able to understand the issues raised in the main case, the court’s holding, and your analysis.