PROF. BEN TRACHTENBERG
Brooklyn Law School
Environmental Law, Spring 2009

Comments Concerning Answers to the Final Examination

Having read all the answers to the final examination, I have written a few comments about them. The text below is not intended to serve as a "model answer." I spent more than three hours preparing this document, and I consulted whatever sources I pleased. Accordingly, there is no way that any exam taker could have addressed all of the issues that I discuss below.[1] Instead, this document exists to list some of the main points that students could have raised in response to the questions calling for narrative answers, and it also identifies a few common mistakes. The purpose is to enhance the exam's utility as a teaching tool.

Multiple Choice:

The number of multiple choice questions makes it impractical for me to provide commentary. Students should feel free to contact me if they have questions or comments about specific multiple choice questions.

For those who are wondering, I note that two students received credit for answers (one each) on the basis of comments. In other words, the scoring of a total of two multiple choice answers was changed from "incorrect" to "correct" because of the accompanying explanations. No answers were rescored from "correct" to "incorrect." The remainder of the comments had no effect on the status of answers, some correct, some incorrect.

Out of thirty multiple choice questions, the number answered correct ranged from 12 to 25. The mean raw score on this section was 19.5 correct answers (*i.e.*, 65 percent).

Short Answers:

Question 1: Lead—This question asked students to consider whether EPA should be "quite proud of its role in reducing the lead content of automotive fuel." In general, it is difficult to argue that EPA should not be at least a little proud. Some quibbling was made possible by the word "quite."

Respectable answers provided the basic background concerning EPA's promulgation of regulations that reduced, and then eliminated, the presence of lead in automotive fuel. In particular, points in EPA's favor included: (1) EPA enacted regulations over fierce industry opposition, and (2) these regulations resulted in tremendous benefits to the health of Americans. More subtle points included: (1) that the costs of compliance (by industry) were lower than initially predicted (because automakers developed good technology), and (2) that the benefits of the regulations (to human health) exceeded early predictions (because it turned out that lead was more dangerous at lower levels than expected, meaning reductions in blood levels caused great health gains). An additional

[1] That said, these comments are by no means exhaustive; my failure to address an issue in this document does not necessarily mean that a student was erroneous in discussing it on the exam. These comments are too brief to acknowledge every good point I read while grading.

good point was that after the imposition of the regulation, its success caused EPA to speed up the removal of lead from gasoline.

An interesting side point concerns the holding of *Ethyl Corp. v. EPA*, in which the EPA regulations were upheld despite the then-incomplete science concerning the relationship of lead in car fuel to human health. Good analogies could be drawn to the precautionary principle.[2] A few answers noted that Congress amended the Clean Air Act to explicitly endorse the D.C. Circuit's reading in *Ethyl Corp.* of the phrase "will endanger" in Clean Air Act § 211.

A minor point some raised against EPA was that after the success with car fuel, EPA nonetheless refused to list lead as a criteria pollutant requiring an NAAQS until it lost a citizen suit, *NRDC v. Train*.[3] The relevance is that EPA may have rested on its laurels following its success with automotive fuel, or at a minimum that it declined an opportunity to take related beneficial action. Another point against EPA is that gasoline's lead content has largely been replaced by MBTE, and the addition of MBTE creates new problems (such as contamination of water supplies); one could argue that EPA failed to adequately consider the effects of lead alternatives.

Other points some raised against EPA were to the effect that EPA could have acted sooner, could have done more, etc.

Question 2: greenhouse gases—This question asked about the significance of EPA's recent proposed endangerment finding.[4] Good answers addressed the legal relevance of the proposed finding, discussing how the finding (assuming it is adopted by EPA) would affect EPA's authority to regulate greenhouse gases (GHGs) under the Clean Air Act.

Careful answers noted that EPA's findings come under Section 202(a) of the CAA. This section authorizes the Administrator to regulate certain emissions of air pollutants from new motor vehicles and new motor vehicle engines. EPA's proposed finding follows the Supreme Court's 2007 decision in *Massachusetts v. EPA*, wherein the Court rejected arguments made by a prior EPA Administrator who wished to avoid regulating GHGs pursuant to Section 202(a).

Although an endangerment finding under Section 202(a) does not *by itself* create authority (much less a duty) to list GHGs as criteria pollutants under Section 108 (and then to announce NAAQSs under Section 109), the Section 202(a) finding is certainly relevant to any decision as to whether action under Sections 108 and 109 is appropriate (or perhaps even required). Indeed, the result of *NRDC v. Train*, the citizen suit that spurred EPA to list lead as a criteria pollutant, suggests that if certain

---

[2] The precautionary principle holds that where there are threats of irreversible or other serious damage to the environment, a lack of full scientific certainty does not justify postponing cost-effective measures to prevent environmental harms.

[3] If one chose to mention *Train*, it was important not to confuse the subject matter of the citizen suit. The suit concerned whether lead must be a criteria pollutant (*i.e.*, whether EPA had a non-discretionary duty under CAA § 109 to list lead), *not* whether EPA should regulate the addition of lead to automotive fuel. Indeed, the fact that EPA had *already* found lead to be dangerous (when regulating car fuel under CAA § 211) was a key fact considered by the *Train* Court. Similarly, *Lead Industries Assoc. v. EPA* also concerned the NAAQS (specifically, whether EPA had set too stringent a standard), *not* the regulation of automotive fuel.

[4] This question served, in part, to reward those students who paid attention during the last week of classes and read materials assigned for that week.

GHGs are sufficiently dangerous to merit regulation under Section 202(a), then it will be difficult for EPA to justify failing to act under Sections 108 and 109 too.

If one stated that regulation under Section 202(a)—and also perhaps under Sections 108 and 109—is now likely, it made sense to address briefly what this might entail. Some discussion of regulatory options, the process for implementing them (*e.g.*, will states curb carbon emissions through their SIPs?), and like matters was appropriate here. If desired, students could also address the global warming issue more generally (*e.g.*, would EPA's action affect how Congress decides to legislate on this issue, how might action by EPA or Congress affect the ability of the United States to convince other countries to reduce emissions, etc.), but these topics should not have been addressed at length at the expense of the direct legal significance of the endangerment finding.

Question 3: CERCLA liability—This question asked students to comment on criticisms made of CERCLA "on the ground that it unfairly subjects certain parties to liability far beyond what is justified by the malfeasance or negligence of those parties." Before pronouncing one's opinion of this critique, students were wise to devote some attention to explaining it. In other words, while the critique surely can be argued against, it is not without some basis, and a good answer developed the points in its favor before attacking it. (And, of course, students agreeing with the critique were wise to acknowledge some points tending to undermine it.)

The primary argument supporting the critique is that, in at least some cases, the CERCLA imposes liability—sometimes immense liability—on parties who have committed no crime, violated no regulation, and may not have even committed tortious conduct. (Also, for certain actors who have done *some* legal wrong, the CERCLA can be said to impose liability far greater than that which seems "to fit the crime.") A good example would be an "arranger" who manufactured legitimate products and then, *before CERCLA was even enacted*, disposed of its hazardous waste in a lawful and non-negligent manner, after which, *through no fault of the arranger*, a "release" occurred, causing damages for which the arranger is now on the hook. Because other PRPs may be defunct or judgment proof, this friendly arranger may pay a huge sum (*e.g.*, if it sent a small amount of waste to a large TSD that subsequently became a toxic site, and the other arrangers who sent far more of the offending waste, as well as the site's former owners and operators, are defunct). In response to the common refrain that "well, someone has to pay to clean up this mess, why not the manufacturer who made some profits while creating at least part of the problem?," the critique would say, "Sure, someone should pay. Someone like the government, which collects taxes to pay for all sorts of things we want funded, instead of picking random innocent entities with vague connections to whatever the Congress wants done that day."

The rebuttal goes somewhat like this: First, stories like the above are few and far between, especially decades after the enactment of CERCLA. Nowadays, nearly anyone sued under CERCLA was "on notice" when creating, transporting, or disposing of waste related to a "release." Second, prior to the CERCLA's enactment, extant law was utterly failing either (1) to deter the creation of toxic sites like Love Canal or (2) to promote the cleanups of existing toxic sites. The proof requirements of tort law presented too many hurdles, and statutes like RCRA might have told folks what to do but didn't have sufficient teeth to force compliance. Third, CERCLA addresses the massive externalities inherent in the production of hazardous waste. Now that PRPs know they face real penalties should a release occur, they will take preventive action, thereby reducing environmental harm (and, as it happens, sharply reducing sob stories like the one presented above). Fourth, CERCLA itself ameliorates its potential unfairness by offering escape hatches (*e.g.*, act of God, BFPP, *de micromis*),

and EPA policy (*e.g.*, settlements with *de minimus* polluters) add further protections. Fifth, in many cases wherein a PRP is theoretically exposed to massive "joint and several liability," it can receive contribution from other PRPs.[5] Specific examples that demonstrated knowledge of the statute and its amendments strengthened answers.

Regardless of one's position on the critique, it was potentially useful to discuss the purpose of the CERCLA, after which one could evaluate the critique against those aims (*e.g.*, perhaps CERCLA's "unfairness" undermines its goal of reducing pollution, as Prof. Epstein has argued, or perhaps the broad scope of liability has caused massive benefits—in the form of accidents that never happened—that economists cannot measure and therefore unduly discount). One could also address whether the broad scope of liability lowers the costs of litigation (by encouraging settlement, eliminating costly factfinding, etc.) or increases it (because the stakes are higher).

Question 4: value of a statistical life—This question asked students to explain "the concept of the 'value of a statistical life,' including how a VSL is calculated and for what purpose." This question was quite unpopular; more than half of the students chose to skip it. Those who answered the question apparently found it difficult.

A good answer addressed how a VSL is determined and why. In general, agencies calculating a VSL for purposes of a cost-benefit analysis (CBA) base the VSL upon the average person's "willingness to pay" (WTP) to avoid a risk of death. If, for example, a food has a 1-in-10,000,000 risk of causing death,[6] and this food costs fifty cents less than a completely safe equivalent (*e.g.*, the same vegetable grown with a more expensive, safe pesticide), then the market price to avoid a 1-in-ten-million risk of death is fifty cents. Accordingly, the VSL based on that WTP would equal five million dollars (the $0.50 premium multiplied by ten million). Also, one could calculate a VSL based on the average person's "willingness to accept" (WTA) risks, that is, how much someone must be paid to tolerate a risk. If, for example, a job with a one-in-ten-thousand annual risk of death pays an employee three hundred dollars more per year than does an equivalent safe job, then the workers at the risky job seemingly are willing to accept a one-in-ten-thousand risk of death in exchange for the $300 "wage premium." The resulting VSL is equal to three million dollars ($300 x 10,000).

The VSL is then used to calculate the costs and benefits of proposed action, such as regulation. If an agency decides the VSL is $6 million, then it should (in theory) support a regulation that costs society (with "society" most likely meaning the regulated community) less than $6 million for every life saved.[7]

Once a student explained how a VSL is normally calculated, and for what purpose, it was then appropriate to devote some attention to the policy implications of using VSLs. For example, one might suggest that a VSL is often undervalued because WTP and WTA are not useful analogues for the valuation of life. Alternate methods of calculation might be proposed, such as the average of wrongful death verdicts, or use of survey data. One might also note that WTPs and WTAs are often determined on the basis of questionable data. For example, do workers have any idea of the "wage

[5] Then again, perhaps the apportionment of liability among joint PRPs is itself riddled with unfairness.
[6] Assume for simplicity that the food has no risk of non-fatal injury. If ten million people eat it, one of them will drop dead immediately, and the remaining 9,999,999 will be perfectly fine.
[7] Again, this is a simplification. A regulation that saves lives almost surely has other benefits, such as reducing the incidence of non-fatal injuries, not to mention reducing fear of death among those not killed.

premium" they receive? Do they know how dangerous their workplaces are? If the VSL concept depends on the "rational actor" postulated in Econ 101, perhaps it lacks a sound foundation.

In addition, some students discussed the thorny question of "discounting" as applied to a VSL.[8] Normally, it is smart to value a benefit conferred today more than the same benefit conferred in the future; consider the "present value" of future money. But is a life saved today more valuable than a life saved in ten years?

Only if a student thoroughly explained the "how" and "why" of the VSL did it make sense to expound on the general pros and cons of CBAs.

Question 5: health-based regulation v. technology-based regulation—This question asked for the "difference between health-based regulation and technology-based regulation" and asked students to provide "an example or two of each" while explaining why one form of regulation might be better than the other. It was generally best to begin with definitions of the two concepts, and many answers wove examples into the definitions.

Health-based regulations involve the establishment of a goal, a certain level of human health (or of environmental protection), with respect to a particular harm of class of harms. For example, when setting an NAAQS under the Clean Air Act, the Administrator must act "to protect the public health" "allowing an adequate margin of safety." In other words, after determining how much of a certain criteria pollutant can be in the air without threatening the public health, EPA announces an NAAQS that, should it be attained, would protect public health with a small cushion. Such standards do not explicitly consider the cost of implementation and attainment. Indeed, EPA is prohibited from considering costs when determining an NAAQS. Accordingly, a health-based regulation might (at least in theory) set a standard that the regulated community cannot achieve, at least not without shutting down major sectors of the national economy.

Technology-based regulations, on the other hand, are promulgated only after consideration of what can be accomplished. Under the Clean Water Act, for example, EPA announces various levels of technological sophistication that polluters must employ when emitting effluents. These levels are determined on the basis of actual technology available, and the requirements often consider whether certain existent technology is practical. Another example comes from the Clean Air Act. Although the NAAQS is set irrespective of cost, many air polluters (*e.g.*, in nonattainment areas) are regulated by technology-based standards.

The Safe Drinking Water Act, with its health-based MCLGs and technology-based MCLs, provided a good opportunity for students to illustrate the different concepts.

As for which form of regulation is better, a variety of arguments could be made. Some common ones in favor of health-based: They can be "technology forcing;" if enforced they actually achieve the underlying goal (protection of health and the environment), whereas a technology standard may

[8] Note that in the context of VSLs, the term "discounting" refers to the discounted valuation of lives in the future. It does not refer to placing different valuations on the lives of different persons in the present, nor does it refer to the use of VSLs generally. Accordingly, it is incorrect to write that VSLs "discount" the lives of poor persons (or the elderly, etc.), and it is also incorrect to write that all use of VSLs represents the "discounting" of human lives, which are of infinite value. Using VSLs may indeed contravene ethical systems that place infinite value on human life, but this issue is not addressed in the debate on "discounting."

not (*e.g.*, if polluters build more and more top-notch power plants, total emissions could increase); and when combined with technology-based implementation, they allow the determination of ultimate goals along with more practical immediate action.

Some common arguments in favor of technology-based: They can actually be implemented; they are often easier to monitor than are health-based goals (*e.g.*, one can inspect a pipe for CWA BAT compliance); they may be easier to set (if, for example, determining what's needed for protect health is complicated, but EPA already knows of a good form of technology).

A few examples of each form of regulation:

Health-based: establishment of NAAQS under the Clean Air Act, setting MCLGs under the Safe Drinking Water Act, the Food Quality Protection Act's treatment of pesticide residues on food (after the FQPA replaced the Delaney Clause on this issue), and the original Delaney Clauses.

Technology-based: the Clean Air Act's PSD and NA area programs, setting MCLs under the Safe Drinking Water Act, various technology standards under the Clean Water Act, "best demonstrated available treatment technology" under the RCRA.

Issue Spotter Essay:

This question presented far more issues than could be thoroughly analyzed in an hour. Accordingly, students had to pick and choose which issues to cover. As long as students made reasonable choices (*i.e.*, addressed most of the main issues at least somewhat), answers could merit high scores in various ways. For example, a student might sensibly decide to mention Proposition 65 quite briefly without delving deeply into Westside's potential violations of it. Then again, perhaps discussing Prop 65 was more interesting to some students than was the TSCA or the OSHA.

Regardless of which issues a student chose to cover, answer quality correlated strongly with organization. The answer could be organized in more than one way (*e.g.*, by location—California, Georgia, etc.—or by statute—all CERCLA liability, all CWA § 402 issues, all CWA § 404 issues, etc.); the key was to have some organizing principle allowing me to follow the student's reasoning.

Some of the main issues most worthy of discussion were these:

Westside:

RCRA/CWA violations: At least some of the used HC cleanser is almost certainly a "hazardous waste" under RCRA. Despite being a liquid, it counts as a "solid waste" under the statute. It is carcinogenic, making it hazardous because of its characteristic of toxicity. Westside is the generator (or "arranger") of that waste. The facts divide the HC into three categories: (1) the portion stored in drums out back, (2) the portion poured down the drain, and (3) the portion reused each month.

The deposition of drums almost certainly violates the RCRA because it is "disposal" of a hazardous waste, and Alpha[9] doesn't have a permit to run a TSD. The drainpipe is a point source of pollution under the Clean Water Act, making Westside's dumping of HC into a "nearby stream" a CWA violation. Recall that Westside had no Section 402 permit to emit this pollutant, and the stream is almost certainly a "water of the United States" if it can carry HC to downstream land. The portion reused each month might well be outside the scope of RCRA because it is recycled.

CERCLA: The illegally dumped HC has resulted in multiple "releases" causing EPA to incur cleanup costs. Because HC is a hazardous waste under the RCRA (and thus a "hazardous substance" under the CERCLA), and Westside operated the plant from which it entered the stream, Westside is liable under the CERCLA[10] for the downstream cleanup. In addition, Westside is likely on the hook for the upstream cleanup too, unless it can use the "act of God" exemption.[11] Because at least one person who visited the Modesto site has contracted a rare cancer linked to HC, Westside may have to pay for health monitoring studies. The CERCLA does not impose liability for personal injuries, however.[12] Note that because the upstream and downstream property owners are

---

[9] By calling Westside and Eastside "divisions" of Alpha, I was hoping to spare you corporate law quandaries. Certain students treated the divisions as subsidiaries and considered whether Alpha is liable for their actions. I probably could have made the question more clear.

[10] Note the terminology: The company is "liable under the CERCLA;" it did not "violate the CERCLA." The CERCLA provides that certain parties can be held liable, and one need not "violate" any law (the CERCLA or otherwise) to be such a party.

[11] This is by no means a slam dunk. Westside's irresponsible (and unlawful) storage of the drums may place the company outside the scope of the exemption. *See* CERCLA § 101(1) (requiring that one use "due care or foresight").

[12] State tort law could apply. That issue is beyond the scope of this examination.

completely innocent, as far as we know, they almost certainly cannot by held liable for releases of HC on their land. *See, e.g.*, CERCLA §§ 107(b) & 107(q).

OSHA/Prop 65: Because no employees were hurt by HC, the company's OSHA liability is limited, although there may have been failures to provide proper notice of dangers and to satisfy other requirements. Speaking of notice, Westside exposed school children to HC, and Proposition 65 requires business owners to provide warning before exposing persons to substances known to cause cancer. In addition, the dumping of HC into the stream may violate another Prop. 65 provision if the stream is linked with drinking water. Finally, Prop. 65 may require warnings on cans of paint containing recycled HC.

Other Laws: If time allowed, one could discuss whether Westside was required to take precautions under the TSCA. For example, perhaps selling paint containing HC violates the Act, or at least requires Alpha to notify EPA about the existence of the chemical, and the EPCRA may have required certain reports about releases (which Westside likely failed to provide). Westside violated a lot of laws, and they cannot all be mentioned here.

Eastside:

Clean Water Act jurisdiction: A key issue for the Eastside properties concerned whether the three parcels were within the scope of the Clean Water Act. If so, then Eastside likely violated Section 404 by filling wetlands without a permit. The Tennessee site is a classic wetland covered by the act; it has a navigable river (people canoe on it) going right through it. The deposition of dredged dirt from one side of the river onto the other constitutes "filling," which requires a permit from the Army Corps of Engineers (state permits are not sufficient).[13] The Georgia site is almost certainly not covered by the CWA. The pond is "small" and "far from any rivers or lakes." Absent unstated facts establishing a substantial nexus to waters of the United States, Eastside was free to fill the pond. The close call was in Florida. The Transit River is certainly navigable, but the site does not touch the river. Then again, the material buried on the site "somehow traveled" to the Transit, suggesting a hydrological link. This could go either way.

RCRA/CERCLA: MetalMelter "MM" is corrosive, making it appear to be a hazardous waste under the RCRA. Then again, it may fall under the *in situ* mining waste exemption. Either way, Eastside tried to limit its corrosive effects, and the "mixture rule" does not apply to characteristic wastes.[14] Accordingly, Eastside has decent defenses concerning RCRA.

But the efforts to contain MM failed. The substance is causing problems in the Transit River, which may need to be cleaned. CERCLA does not require that Eastside have been negligent in its disposal (or that it violated RCRA or any other law), only that it have owned or operated the site when the MM was buried there. Fortunately for Eastside, the current owner of the Florida site is likely also liable under CERCLA for the releases of MM, which seem to have occurred after Eastside sold the land. Unless MOC fits into an exemption, which would be difficult,[15] Eastside need not bear all of

[13] Yes, two states have received authority from EPA to grant Section 404 permits, but Tennessee is not among them.
[14] Recall that EPA did not "list" MM until after Eastside had built a mall above the MM-dirt mixture and sold the land.
[15] For example, consider whether MOC could satisfy the requirements set forth at CERCLA § 101(40) concerning "bona fide prospective purchasers" or those of an "innocent owner," *see* CERCLA §§ 101(35)(A) & 107(b)(3).

the costs. In addition, perhaps the owners and operators of the old mine could be sued, if they are still around and have money.

Issues relevant to both divisions:

Personal liability: If Amos Alpha had sufficient control over his company's activities, he might be liable under CERCLA as an "operator." *See Shore Realty*. Alpha Corp. would want to consider whether he can be sued for contribution.

Not-yet-leaked waste: In addition to the waste that has leaked from Alpha's properties, the waste still present at those sites could subject Alpha to CERCLA liability. Even if there has not been a "release" with respect to certain containers (already a difficult argument), the releases that have already occurred provide strong evidence that the remaining materials constitute a "threatened release." Alpha has an incentive to initiate cleanup efforts as soon as possible to reduce the threat of future harm (and to keep its ultimate costs down).

NEPA: Alpha is not a federal agency. Absent facts not provided, its failure to produce EISs (or EAs, etc.) did not violate NEPA.

Definitions: In an open-book examination, it is often useful to consult the definition of a defined term (*e.g.*, BFPP, act of God) before using it. Even if a student decides not to quote or cite the provision, knowing the correct definition can only help.

General Comments on the Examination:

Many students, especially in the short answer section, seem to have occasionally forgotten that this examination was for a law school class. When a law school exam question asks for the "significance" of an event, a student should nearly always begin with the *legal* significance, not the political or social significance. For example, the EPA endangerment finding may well represent a major difference between President Obama and President Bush, but for purposes of this class, it represents even more clearly the potential for regulation pursuant to Section 202(a) of the Clean Air Act. In addition, if a question provides an opportunity to demonstrate mastery of key details (*e.g.*, the difference between Section 202(a) and those sections of the CAA that concern NAAQSs), students are wise to show what they've got.

A great many answers could have benefited from proof reading. Of course, time is short, and minutes devoted to proofing text cannot be spent writing. I understand that and did not dock points for typos and the like. Nonetheless, I strongly encourage students to devote greater attention to the clarity of their examination answers. Readers cannot help but appreciate an answer written in correct English with limited errors in spelling and grammar. Also, small things like headings, capital letters, paragraph breaks, and introductory sentences can boost clarity without consuming much exam time. For example, a short answer on the CERCLA critique might sensibly begin with a sentence announcing what position the student intends to take on the critique.

Answer the question! Law school exam questions, whether short answers or longer essays, usually conclude with a pithy "call" for a certain response. A question might ask whether a certain actor could be convicted of various crimes, or it might ask whether a certain statute is effective. Regardless of whether a question is good, students should force themselves to answer it on its terms. The person who wrote the question, after all, is the same person who will grade the answers. For example, if a question on health-based and technology-based regulation asks for an example or two of each, a student lowers his score by omitting examples. Similarly, if a question concerning VSLs asks how they are calculated, an answer devoted entirely to discussing when they are used (and the implications of their use) cannot receive full credit.

Look out for the interests of your client (and your boss). Clients hire lawyers to solve problems. Although clients cannot always get everything they desire, lawyers should remember why they have been retained (hint: it's not for the sake of teaching the lawyer about a fun statute). In the case of Alpha Corp., the CEO is seriously considering an outside offer to buy the company; why else prepare a letter for the would-be buyer? The worse the report, the worse Alpha's chances of a sale (at least at a good price) become. Accordingly, while students of course should not have recommended dishonesty, such as concealing potential liability, they should have thought hard about any potential tactic available to reduce Alpha's potentially grave CERCLA liability. In real life, a good memorandum to Alpha's CEO would have raised the possibility of suing Amos Alpha and Mall Operator Corporation. Even if an associate assigned to write the first draft lacked key facts (*e.g.*, is Amos Alpha judgment proof, is MOC still a going concern, how much day-to-day control did Amos have when he ran the company), the draft could have flagged the issues for further attention. Supervisors will appreciate efforts by new lawyers to propose practical solutions for clients, in addition to providing careful analysis of relevant law.

Thank you all for your hard work this semester.