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# The Document Package Exam as a Teaching Tool

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# The document package exam as a teaching

By Eric J. Gouvin

Two facts seem obvious about law school exams: Professors dread preparing them and students dread taking them. These propositions seem like incontrovertible facts, but as Cole Porter once said, “It ain’t necessarily so . . .” For instance, when I was a new teacher I did not dread writing exams. I found them to be a somewhat fun, if obscure, genre of short story writing. Nevertheless, even if I did not dread writing exams, my students dreaded taking my exams, especially when I got carried away and made my fact patterns too rich in detail.

Then 10 years ago, when I was first assigned to teach Corporate Finance, it dawned on me that my penchant for writing detailed exams could be put to good use by creating realistic hypothetical corporations to illustrate the concepts in the course and to test on the material. My fact scenarios developed into mini-simulations in which my students could participate. These mini-simulations are fun for me to create and more enjoyable for the students to complete. In addition, the technique helps me achieve important pedagogical goals.

In Corporate Finance, an upper-level elective, students generally come to the class without having had any exposure to the transactions discussed in the cases or to the documentation at the heart of the legal controversies. When I planned my course, it occurred to me that my students’ understanding of the subject would likely be highly distorted and abstracted if they learned it solely through the medium of appellate cases. To counter the inherent problem of teaching a transaction-based subject through a litigation-based book, I supplemented my casebook heavily with financial material, articles, and documents.

Because many of my students are “hands-on” learners, I decided to address their lack of context by creating and using hypothetical corporations throughout the course. I use those hypothetical corporations to illustrate the accounting, valuation, and financial aspects of the course. The class’s contact with the hypothetical companies culminates in an exam that I have conceived to be a simulation of an actual corporate finance matter that an associate attorney in a law firm might be assigned to work on.

The simulation starts with a detailed fact pattern about two businesses that were originally family owned but that merged and went public. I call the resulting corporation Consolidated Corn and Tobacco, Inc. (COCOTO). The fact pattern is based on a company my firm once represented, which has since been merged out of existence, but is strongly spiced with facts from RJRNabisco. Toward the

end of the term I give my students a document package composed of corporate articles of incorporation, bylaws, SEC filings, a Standard & Poors Company report, financial statements, and a trust indenture. They have a few weeks before the end of the term to digest the material. They understand that in order to answer the take-home exam questions completely they will have to master the documents.

Obviously, before I distribute the document package, I know what I am going to ask the students on the exam.

The exam questions almost always turn on some corporate finance development that has been in the news during the term. I plant appropriate language and numbers in the documents to raise the issues that will be on the exam.

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I give students about two weeks to review the documents and to ask questions either in class or during office hours. This serves at least two purposes: (1) it allows the students to learn about the documents and (2) it ferrets out the mistakes I made in preparing the document package (I have discovered that the most enthusiastic students quickly focus on inconsistencies in the presentation). I once tried this testing technique without the two-week review period and the students felt overwhelmed. It is an essential part of the learning experience that the students have a chance to digest this information and ask questions in class. I encourage the students to work together during this phase of the project.

On the last day of class, I give the students the “exam,” which consists of additional facts that supplement the already well-developed story of COCOTO, along with perhaps some additional documents or newspaper articles and the questions that need to be addressed. Usually the students will not be able to answer the questions fully without using some data from every included document—including the financial statements. Once the exam questions have been distributed the students must work on their own.

This examination technique appeals to many students. Although I started using this technique in Corporate Finance, an upper-level elective, I have since used it in Secured Transactions (a widely subscribed elective) and Contracts (a first-year course). Even though this method of testing makes the students work hard, I have had positive feedback about it every time—except one time in Contracts. That time I did not give the students the two-week period to digest the materials but instead handed out the document package on the last day of class with the examination questions to be administered 10 days later in a timed

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# The document package exam

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examination setting. I solicited feedback from the exam takers and realized that I had not prepared them adequately for the new type of testing and had scared them when they saw the casefiles. I learned from that unsuccessful experience to make the file more manageable when testing first-year students and to give the students more information about the examination technique and the goals I am trying to achieve.

The year following the unsuccessful Contracts exam, I administered a casefile exam as part of the Contracts midterm. I simplified the transaction significantly. I gave the students three weeks before the end of the term to digest the documents. When I polled the students about the exam it received overwhelmingly positive reviews. After the exam I used the same examination materials as an ongoing hypothetical in the second semester of Contracts to illustrate the ideas that are presented.

***There are pros and cons to this testing approach. On the positive side, I perceive the following benefits:***

- An involved, role-playing exam can be a lot of fun to prepare and, I believe, to answer.
- It allows students to engage the problem in a manner more like the way in which lawyers work to solve problems.
- If given as a take-home exam, the document package format allows testing on detailed technical subjects, such as accounting and valuation, that might otherwise be inappropriate for timed traditional exams.
- It gives the students the incentive to read and digest deal documents in a way that merely assigning sample documents as a part of a reading assignment never will.
- It allows a degree of collaboration, but ultimately it produces a work product specific to the individual student.
- It permits testing on how well students separate the wheat from the chaff.
- For students interested in the real world of lawyering, the simulation aspect helps them place the material in

context and makes it more intelligible. Some students have informed me that applying the law to the information in the exam and the document package allowed them to pull all the course material together and really understand it.

***On the down side I see the following:***

- It takes a lot of energy and creativity to prepare the document package.
- The level of detail involved invites some mistakes that can cause trouble—e.g., the financials must all work out and be consistent with the other documents in the document package.
- The technique works best in upper-level electives where the students are self-selected and will enjoy being put through the paces in a simulated transaction. I have used this technique in first-year Contracts, but it must be done with a much lighter touch.
- Of course, if given as a take-home exam there will be concerns about honor code violations.
- The exam materials can be recycled, but they require extensive reworking every year to avoid the possibility that students hand down the answers from year to year.

As mentioned above, I have used this testing technique in Corporate Finance, Secured Transactions, and Contracts. Anyone who would like a complete package of one of my exams should contact me at [egouvin@law.wnec.edu](mailto:egouvin@law.wnec.edu), and I will send you a hard copy of a recent exam and document package.

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