

The University of Arizona Rogers College of Law
Advanced Legal Research
Project 2: State Project – Assigning Memo

Instructor:

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Attached you will find the information you will need to complete this assignment. This project is designed to assess your ability to accurately and completely research legal issues. You do NOT need to write a brief to complete this assignment successfully; you just need to find primary and secondary sources that provide you the information you would need to write a brief or office memo. **See the “Project Grading Rubric” in the Assignment Drop Box for information on grading criteria.**

As noted on the syllabus, this assignment is worth 25% of your final grade in this course. It is due by 11:59 p.m. Friday evening, April 13. In order to assess your abilities on this project, **please work independently on this assignment. Group work or conferring with other students, Westlaw or Lexis reps, etc., is NOT allowed.** If you have questions as you are working on this, please check with me.

Please complete the State Research Project Worksheet available in the Assignment Drop Box on the TWEN page. The electronic version is in Word format, so you should easily be able to insert your answers in the appropriate sections. Please submit your completed Research Project Worksheets to the drop box on TWEN. Be sure to save a copy for yourself, and don't forget to put your name on the project you submit.

Assigning Memo

To: New Associate
From: Managing Partner
Date:
RE: Case of the Disappearing Dog

As you know my area of practice is federal tax law. It has been years since I have handled a case in state court here in Pima County, Arizona. One of my most important tax clients has come to me for advice on a state law question, and I need your help in doing some background research.

Our client's elderly mother, Vernita Veritas, is in profound distress over the loss of her beloved dog, Lupe, at the hands of the Waggin' Tails Veterinary Clinic in rural Pima County. Mrs. Veritas adopted Lupe, a small mixed breed dog, from the Humane Society over eight years ago and Lupe has been her constant companion ever since. Lately Lupe has had trouble getting around so last week she took Lupe to the clinic to have some X-Rays done to check for arthritis. To do this, the vet at the clinic, Dr. Harry Wolfe, needed to sedate Lupe with a light general anesthetic. Assisting him in the procedure was Sheri Shepherd, Dr. Wolfe's most experienced and reliable veterinary technician. After the X-Ray procedure finished, Lupe was allowed to rest in a dog crate in the X-Ray room. By that time, it was just after 4:30 p.m. and Ms. Shepherd's regular work shift was set to end at 4:45 p.m. Dr. Wolfe did not want to pay Ms. Shepherd overtime that day so he told Ms. Shepherd to straighten up the X-Ray room and clock out at her normal time. Ms. Shepherd clocked out right at the end of her shift thereby avoiding overtime. Dr. Wolfe smiled and waved goodbye to Ms. Shepherd, happy that she had clocked out before earning any overtime pay.

Dr. Wolfe had a lot on his mind that day as he was preparing for a presentation to the Pima County Veterinary Medical Society the next day. He wanted to relax and to go into his office for awhile to work on his presentation. First, he went out the back door to get a bottle of cognac he had left in his car. Back in his office, as he sipped on a glass of cognac, Dr. Wolfe got wrapped up in his preparations and thought he had plenty of time until Lupe's anesthetic wore off. Now relaxed from the cognac and his eyes strained from editing his remarks for the presentation the next day, Dr. Wolfe closed his eyes to give them a rest. The next thing he knew, Dr. Wolfe heard some whining from the X-Ray room and when he went in to look he found the door to Lupe's crate open and the back door to the clinic slightly ajar and when he looked out Lupe was headed over a nearby hill out into the open desert. Dr. Wolfe climbed the hill and saw Lupe running out in the desert, being chased by a coyote. Dr. Wolfe searched for Lupe and could find nothing but some bloody fur in a wash in the nearby desert. The next day his vet tech, Ms. Shepherd, found Lupe's partial remains under a mesquite tree.

Although Ms. Shepherd was Dr. Wolfe's longest term employee and had never had any problems at work before, he decided that Ms. Shepherd must have left the crate unsecured, allowing Lupe to get out of the crate. He fired Ms. Shepherd the next day.

Ms. Shepherd then filed for unemployment benefits. Dr. Wolfe objected, claiming that Ms. Shepherd had been discharged for misconduct. Ms. Shepherd has requested an administrative hearing on her claim for unemployment benefits.

Mrs. Veritas was and remains devastated by the news of Lupe's demise. Her son, our important tax client, wants to make Dr. Wolfe pay for his actions in allowing Lupe to escape and be killed and has come to me for advice on a possible lawsuit against Dr. Wolfe and the Waggin' Tails Veterinary Clinic. Our client thinks that Dr. Wolfe has a drinking problem and that he probably left the clinic door open and was responsible for Lupe's escape. In addition, what I have not told you is that Ms. Shepherd is our client's niece (granddaughter of Ms. Veritas). So our important tax client wants us to represent Sheri Shepherd at her unemployment hearing.

Before I delve too deeply into the specific facts of this sad tale, I want to know the Arizona law concerning recovery for emotional distress and loss of companionship for the death of a pet and about eligibility for unemployment benefits. As I am unfamiliar with the specifics of Arizona law, I also need you to do some research on the precedential value of Arizona cases. Specifically, I want to know what precedential value a case from one panel of the Arizona Court of Appeals has for another panel of the Court of Appeals addressing the same issue, particularly whether the decision from one division of the Court of Appeals is binding on another division or the lower courts within that other division.

I need you to do some background research on the specific questions I have as they relate to the facts of this case: (1) what is the Arizona law on recovery for emotional distress and loss of companionship for the death of a pet; (2) for the unemployment claim, look for any cases, statutes, regulations relevant to Ms. Shepherd's case dealing with disqualification from receipt of unemployment benefits for misconduct connected with employment; in addition to whatever else you find about the definition of misconduct and the application of the disqualification to the facts of this case, see if you can find which party bears the burden of proof on the misconduct issue and (3) what is the precedential value of a Court of Appeals decision from one division of the court on later cases decided by courts in another division?

Our tax client is coming back in the middle of April, so I need you to submit your research to me by 11:59 p.m. Friday evening, April 13. Since I will be handing your results to one of the senior associates who will follow up with the client, you need to provide the following information so that the associate does not have to retrace your steps.

[Please complete the State Research Project Worksheet available in the assignment drop box on TWEN to submit your assignment.]