

August 25, 2014

To the University of Puerto Rico School of Law Student Body:

The University of Puerto Rico Business Law Journal (“the Journal”) is pleased to announce the recruitment of candidates for the Editorial Staff of its Sixth Volume. Each year, the Journal publishes a volume, comprising two issues (Winter/Spring). They encompass a diverse array of topics that attract not only the business sector and the legal profession, but other readers concerned with local and global economic development. Conceiving the law as instrumental for economic welfare, the Journal showcases the benefits of innovative legal pathways to solve business/economic challenges while also exposing points that call for attention.

Acknowledging its ranking in the category of student-edited, specialized, digital legal periodicals within the U.S., authors from Puerto Rico and abroad have addressed a wide range of subjects through the Journal, since its launch in AY 2009–2010.¹ Labor & Employment matters affecting the workplace, Intellectual Property aspects of trade and the regulation of economically significant industries are just a few of those.²

For its Sixth Volume, the Journal is looking for talented, enthusiastic law students willing to acquire a set of valuable skills in a collegiate and collaborative environment.³ To be considered for the editorial positions available, please submit the following:

1. An updated résumé, showcasing the assets you would bring to the Journal. It should also highlight any recognition that makes you stand out among your peers.
2. A cover letter (“CL”), not restating what your résumé should summarize, but expressing your interest in any of the area(s) of the law covered (or aimed to be covered) by the Journal, and what you expect to gain from your experience as one of our editors.⁴

¹ See *Law Journals: Submissions and Ranking, 2006–2013*, WASH. & LEE U. SCH. L., <http://lawlib.wlu.edu/LJ/index.aspx> (last visited Aug. 22, 2014).

² To browse the Journal’s previous issues, please go to: <http://www.uprblj.com>.

³ Our editors are entitled to one (1) academic credit for the work rendered for every volume, up to a maximum of two credits for their degree. Credits are graded upon the Editorial Board’s assessment of each editor’s work. Although 1Ls do not have this option, they should be aware that editorial experience is sought-for by prospective employers, both in the public and the private sectors.

⁴ Note: If you choose to submit your résumé in Spanish, your CL must be submitted in English, and vice versa.

3. A writing sample—either in English or Spanish—demonstrating your mastery of grammar, punctuation and style. It should reflect familiarity with legal, commercial and/or economic analysis as well.⁵
4. The attached English and Spanish fragments, properly edited in terms of grammar, punctuation, style and citation, in accordance with the rules set forth in *The Bluebook*.⁶ They should also show the use of the “Track Changes” feature.⁷

Special Note: Candidates with at least one year of experience as Editors in a legal periodical are encouraged to apply for the newly-minted position of Senior Editor. In exchange for their talent, the Editorial Board is willing to share with them some of the leadership and supervisory roles of this enterprise. Qualified applicants should submit the above-mentioned materials, specifying in their CLs their intent to become the Journal’s Sixth Volume Senior Editors.

Complete applications will be received until 11:59 PM of Monday, September 8th, 2014. They should be sent directly to the email address specified in our letterhead, under the subject: **Sixth Volume Editorial Staff Application**. That being said, we look forward to hear about your interest in joining the Journal. Send us an email with any question that may arise during the application process, but keep in mind your deadline.

With our best regards,

The Editorial Board
Sixth Volume
University of Puerto Rico Business Law Journal

⁵ 1Ls’ writing samples need not to circumscribe to legal, commercial or economic affairs.

⁶ See THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds., 19th ed. 2010).

⁷ Applicants should feel free to make all the changes deemed appropriate.

Editing Exercise (English):

Article 3 of the constitution of the United States, in granting power to the judiciary, extends judiciary power to various types of case (such as those arising under Federal law), but makes no comment as to whether a Legislative or Executive action could be struck down. The precedent for judicial review comes from the Supreme Court of the United States (hereinafter, "SCOTUS") itself, in the critical decision of *Marbury v Madison*, 5 US 1371803. It was the first time in S.C.O.T.U.S. history that a state was struck down as unconstitutional. Following *Marbury*, the Supreme Court has greatly expanded the power of judiciary reviewing. In *Martin v Hunters Lese*, 14 U.S.304-1816 the court ruled that it may review state court civil cases if they arise under Federal or Constitutional Law. 5 years later it determined the same for state court criminal cases (*Cohen v. VA*, 19 U.S. 264 (1821)). In 1958, the Supreme Court extended judicial review to mean that the Supreme Court was empowered to overrule any state action, executive, judicial or legislative, if it deems such to be unconstitutional, *Copper v. Aron*, 358 U.S. 1. Today, there is no serious position to the principle that all courts, not just the Supreme Court (and not just federal courts) are empowered to strike down legislation or executive actions that are inconsistent with the federal or applicable state Constitution. The Federal District of Puerto Rico and other federal courts have on occasion struck down Puerto Rico laws for being unconstitutional. In recent years, for example, Pathologists brought action against the Puerto Rico Medical Examining Board, seeking declaratory judgment that law which required a six month residency period in order to obtain a license to practice medicine in Puerto Rico was unconstitutional and judgment was granted *Ramos v. PR Medical Examining Board*, 491 F.Supp.2d. 238 (DPR-2007). Also in *Council of Insurance Agents & Brokers v. Juarbe-Jimenez*, 363 F Supp 2d 47 (DPR 2005), a trade organization representing commercial insurance agencies and brokerage firms based outside Puerto Rico brought action for declarative and injunctive relief against the Insurance Commissioner of Puerto Rico, challenging the constitutionality of Puerto Rico insurance statutes imposing countersignature requirements upon nonresident licensed insurance agents and brokers; statute was declared unconstitutional. Thus, federal courts power and authority to declare Puerto Rico state laws as unconstitutional exists and is opposed. When a law is struck down as unconstitutional, under the federal rules of civil procedure, a federal court need not issue any type of certification or writ to the Supreme Court of the State in question, due to the state's participation in constitutional question cases. 28 USCA § 2403(b) states that "in any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality". That is, a federal court need only certify to the Attorney General of the state pre-trial, a declaration of unconstitutionality is presumed notified as the State is a party to the action.

Editing Exercise (Spanish):

Procesalmente el “art. Once (11) establece una presunción rebatible de que todo despido es justificado.” *Sociedad Legal de Bien Ganancial Serrano Báez v. Fot Locker*, 182 DPR 824. Así que el patrono vendrá obligado a alegar en su contestación a la demanda los hechos que dieron origen al despido y probar que el mismo estuvo justificado para quedar eximido de satisfacer la indemnización” Carlos S. Quirós, Secretario del Trabajo y Recursos Humanos del Estado Libre Asociado de Puerto Rico en representación y para beneficio del obrero Bernard Braun v. I. T. T. Western Hemisphere Directories, Incorporado, 108 D.P.R. 536-543 [1979]; “para ello tiene que probar, mediante preponderancia de la evidencia, los hechos constitutivos de alguno de los fundamentos eximentes de responsabilidad según consignados en el Artículo 2 de la Ley 80: *Sociedad Legal de Gananciales ZapataRivera*, 2013 TSPR 95 a la pagina 6. Más “Para prevalecer en una causa de acción al amparo de la Ley 80, el empleado tiene que demostrar que sufrió un despido y que éste fue injustificado”; *S.L.G. Serrano Baez*, 182 DP.R. en la p 841. tocara al tribunal resolver si el despido injustificado ‘respondió al criterio del buen y normal funcionamiento de la empresa’ o si el patrono fue capricho

A tales fines, a pesar de que la Ley Núm. 80 no define que es un despido injustificado, el Artículo 2 de la Ley establece una serie de situaciones bajo las cuales se entendiera que un despido fue justificado. Éstas se dividen en dos áreas (las situaciones que son atribuibles al empleado y las que son atribuibles al patrono)

Reyes, 2013 TSPR 108, pág. 4. Las situaciones incluidas por el Art. 2 son:

- (a) Que el obrero siga un patrón de conducta impropia o desordenada.
- (b) “La actitud del empleado de no rendir su trabajo en forma eficiente o de hacerlo tardía y negligentemente o en violación de las normas de calidad del producto que se produce o maneja por el establecimiento.”
- (c) “Violación reiterada por el empleado de las reglas y reglamentos razonables establecidas (sic) para el funcionamiento del establecimiento siempre que copia escrita de los mismos se haya suministrado oportunamente al empleado”.
- (d) “Cierre total, temporero o parcial de las operaciones del establecimiento. Disponiéndose que en aquellos casos en que la empresa posea más de una oficina, fábrica, sucursal o planta, el cierre total, temporero o parcial de las operaciones de cualquiera de estos establecimientos, constituirá justa causa para el despido a tenor con este Artículo”.
- “(e) Los cambios tecnológicos o de reorganización, así como los de estilo, diseño o naturaleza del producto que se produce o maneja por el establecimiento y los cambios en los servicios rendidos al público.”
- “(f) Reducciones en empleo que se hacen necesarias debido a una reducción en el volumen de producción, ventas o ganancias, anticipadas o que prevalecen al ocurrir el despido.” 29 L.P.R.A seccion 185b.