April 18, 2022

Dear Members of the Classes of 2023 and 2024:

We are pleased to invite you to apply to join The University of Chicago Business Law Review (UChiBLR) through our Topic Access program. This packet provides a brief overview of the journal, the process for joining through the Topic Access program, Staffer responsibilities, and some helpful guidance to get you started.

The Topic Access program is a key component of UChiBLR’s Staff recruitment. We expect to have a robust Topic Access program this year in order to provide students with an additional, equitable opportunity to join the journal before the beginning of OCI.

This year’s Topic Access program has several features outlined below. Candidates will be paired with a Comments Editor who will guide them through the process. Candidates must self-generate at least one viable Comment topic that is not internally preempted by another Candidate or Staffer. Topics must be approved by the Executive Comments Editor. Following approval, Candidates must complete a Topic Proposal and a Topic Analysis by the requisite deadlines. A schedule of applicable deadlines is attached. In order to join the Topic Access program and submit a proposed topic idea, please submit the form linked here. Candidates who submit their Topic Proposal by June 26, 2022 will be on track to receive membership offers by July 22, 2022, over a week before the start of OCI interviews.

I. Overview of the Journal

UChiBLR is a student-run focus-area journal that aims to address the intersection of law and economics as well as associated fields generally associated with business and private sector academia. The journal focuses primarily on business, corporations, securities, tax policy, and bankruptcy law and publishes an annual issue in Spring quarter.

Staffers will have the opportunity to learn about cutting-edge topics in the field of business law through the Articles revision and contribute to the conversation through their editing work. Our Journal boasts an impressive slate of authors that have expressed interest in publishing with us, including Nobel-laureate Oliver Hart and former Chief Justice of the Delaware Supreme Court, Leo Strine. Staffers will also engage with business law topics that specifically intrigue them through the Comment process and have the opportunity to conduct independent research. Exceptional Comments will be published alongside the Articles selected for publication in the Spring of 2023. Finally, Staffers, including those that join the journal through the Topic Access program, will have the opportunity to run for board
positions and receive valuable leadership training as members of the next year’s Executive Board. UChiBLR is committed to providing its Staffers with valuable experiences.

II. Topic Access Program

UChiBLR’s Topic Access program is designed to provide a pathway to membership outside of the traditional writing competition. Improving journal membership access was one of UChiBLR’s founding values, and the Executive Board remains committed to providing students with opportunities to engage in journal experience.

A. Program Requirements:

In order to join UChiBLR through the Topic Access program, students must satisfactorily complete the following three steps: a preemption check with a self-generated topic, a Topic Proposal, and a Topic Analysis.

All Topic Proposal and Topic Analysis submissions must be written in Garamond 12-point font and single-spaced. Page numbers should be included. Citations should be done in footnotes and should comply with the Bluebook citation format. Footnotes should be in Garamond 10-point font.

1. **Preemption Check**: All candidates must request a preliminary internal preemption check from the Comments Editors that will ensure that a proposed topic has not already been selected by another staffer on UChiBLR. Please note that Topic Access editors will only check internal preemption. It is the candidates’ responsibility to conduct external preemption checks on their topics and make sure the topic has not been written about elsewhere. Please submit the following form to join the Topic Access program and Topic Access editors will reach out to you to begin the preliminary internal preemption check prior to drafting your Topic Proposal. Please reach out to your Comments Editor if you need additional support in selecting a topic. *A brief guide to Comment topic selection is attached at the end of this document.*

2. **Topic Proposal**: A TP is a 3–4 page single-spaced memo on a topic of your choice that provides (1) a simple statement of the issue you plan to address; (2) a discussion of that issue; (3) your proposal ideas for an original and useful solution; (4) existing commentary on your topic; (5) a bibliography with at least twelve sources; and, (6) a brief overview of your research path describing how you found the proposed topic. All candidates must submit an initial TP on a self-generated topic. If a candidate’s first TP is not approved, they will have the opportunity to submit a second proposal with a topic from UChiBLR’s topic bank. *A sample Topic Proposal is attached at the end of this document.*

3. **Topic Analysis**: A TA is a 7–8 page single-spaced memo analyzing the viability of another student’s proposed topic, including a thorough preemption check. TAs will be anonymized prior to exchange. The memo should include (1) an introduction; (2) an analysis of the current
relevant law; (3) a thorough preemption check discussing existing commentary; (4) an evaluation of the various angles the author could take in addressing the topic; and, (5) a bibliography. Topic Access candidates will have access to the TA feedback about their proposal. Due to the multiple application schedules, a candidate may have the option to write an analysis on his or her own topic if there are no other applicants with whom to swap topics on the same schedule. A candidate may also have the opportunity to submit a second TA on their own topic if their first TA submission is not approved. *A sample Topic Analysis is attached at the end of this document.*

4. **Upon Completion:** After a candidate has one TP and one TA successfully approved, they will be extended an offer of membership from *UCbiBLR*, join the Staffer class, and continue the Comment drafting process with the guidance and resources of the Comments team.

**B. Program Deadlines:**

Candidates may complete the Topic Access process through any one of the following schedules. In order to submit a Topic Proposal or a Topic Analysis, **please email it by 11:59pm CT** on the date listed to your assigned Comments Editor.

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<th>Schedule</th>
<th>Topic Proposal Due</th>
<th>Topic Analysis Due</th>
<th>Response from <em>UCbiBLR</em></th>
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<tr>
<td>Schedule A</td>
<td>June 5th</td>
<td>June 26th</td>
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<td>Schedule B</td>
<td>June 19th</td>
<td>July 10th</td>
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<td>Schedule C</td>
<td>June 26th</td>
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**III. Staffer Responsibilities**

*UCbiBLR* Staffers are critical to the journal’s success and have several key responsibilities, briefly outlined below:

1. **Comment:** Staffers must complete a Comment that is 10,000–12,000 words in length, **excluding** citations. Every assertion or argument made within a Comment must be adequately supported by footnote citations, which are not part of the total word count. The Comment must be of sufficient quality to be eligible for SRP credit. Comments will be written under the guidance of a faculty advisor and with feedback and edits from the Managing Board. As part of this process, staffers will be responsible for writing two topic proposals, two topic analyses, a Comment outline, and two Comment drafts throughout their first year on *UCbiBLR*. Topic Proposals and Analyses written through the Topic Access program count towards this requirement. Staffers may also choose to submit their completed Comments to be considered for publication.
2. **Editing Responsibilities:** Staffers must also complete editing and publication checks on Articles and Comments published in the journal’s annual edition. This process is invaluable for preparing the journal’s print edition for publication. Staffers will not only have the opportunity to edit the work of well-known legal scholars, but they will also edit each other’s work and provide vital feedback to their peers.

3. **Blog Contribution:** Staffers are expected to contribute to *UChiBLR*’s online blog. Each staffer is responsible for researching and writing short posts for online publication.

4. **Additional Responsibilities:** Staffers will attend in-depth training sessions in legal research provided by staff of D’Angelow Law Library to improve their legal research and writing skills. Furthermore, Staffers must also attend Quarterly Orientation sessions on the Comments and Articles processes. Staffers will be provided an Orientation packet upon signing their staffer contract with all key dates for training, as well as social and professional development opportunities the Journal will provide with leading firms across the industry.

IV. **Why the Work Is Worth It**

As *UChiBLR* Staffers, students will be able to contribute to business law scholarship at a law school famed for its economic analysis of legal issues and will gain experience in an area of law that is vital for professional development.

Further, this experience will allow Staffers to forge lifelong connections with each other and to form friendships that will extend beyond Hyde Park. Journal membership is a social as well as academic experience and the journal will hold a number of social events and profession development events with law firms and experts in the field throughout the year. Finally, the Law School rewards journal membership with transcript recognition, three pass/fail credits, and SRP credit upon successful completion of a Staffer Comment.

Thank you for your interest in *The University of Chicago Business Law Review*. Please feel free to reach out to Laryssa Bedley at lbedley@uchicago.edu if you have any questions about the journal, the Topic Access process, or staffer responsibilities. We look forward to working with you.

Sincerely,
Laryssa Bedley, *Executive Comments Editor*
Spencer Caro, *Comments Editor*
Nathaniel Pollack, *Comments Editor*
Rebecca Zhu, *Comments Editor*
EXHIBIT A: Guide to Topic Selection

I. What is a Comment?

A Comment is a piece of legal scholarship that identifies and examines a specific, unresolved legal issue and offers a comprehensive, thoughtful solution. A Comment should:

1. analyze or evaluate a specific area of law from all sides of the legal issue;
2. take a clear position on the issues they address while remaining objective;
3. provide an innovative solution grounded in legal analysis and accounting for counterarguments; and
4. consist of well-balanced, creative reasoning that has not been preempted.

As described above, Comments should be between 10,000 and 12,000 words, excluding citations. **Every assertion or argument made within a Comment must be adequately supported by footnote citations, which are not part of the total word count.** There are several types of Comments that have been outlined below. This non-exhaustive list should serve as a jumping-off point in selecting a Comment topic, as well as a framework for the types of legal issues that should be addressed by your Comment.

II. Standard Comment Types

The Case Comment

A Case Comment typically outlines the impact of a recent or proposed case or statute on existing business law. Such Comments may rely on federal or state law. Case Comments that rely on state law often examine Delaware, New York, or California state law, as those states have particularly developed business law structures. Though Case Comments are reactive in nature, they can be useful by including evaluations of the legal history leading to such a decision, an explanation of questions created or left open by the decision, or a discussion of changes to come as a result of the decision. However, please note that such Comments do carry some risks—if the case is particularly noteworthy, the Comment may be preempted, and if the proposed legislation is abandoned, the Comment may no longer be publishable.


The Scope Comment

A Scope Comment discusses a single legal issue and analyzes the various legal approaches to this question. A Scope Comment might compare and contrast various solutions utilized by state courts in

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1 Many thanks to the wonderful editors at the *Cornell Law Review* and *The Georgetown Law Journal* for their substantive Note and Comment guides.
response to the problem, discuss the effect of court decisions concerning a particular type of corporate entity, address impacts of current events on a business sector, or provide a statistical analysis of a large sample of cases. While this type of Comment provides an infinite range of possible topics, be forewarned that it involves mastery of the selected topic and extensive research.


**The Circuit Split Comment**

When two or more federal courts disagree on a legal question, often the Supreme Court grants certiorari to review the issue at hand and provide a uniform answer. A Circuit Split Comment analyzes the disagreement among the courts, often grouping courts together who have held similarly, and then proposes its own novel resolution of the split. A Circuit Split Comment should go further than stating a certain court or courts is correct while others are incorrect. The Comment should instead strive to propose a novel solution, possibly one that none of the courts have considered. Circuit Split Comments are extremely common, and preemption is a concern as other students may choose to write their Comment on a particularly prominent circuit split. However, choosing a niche area of business law or focusing on district or state courts may alleviate these concerns.


**The Multi-Disciplinary Comment:**

Comments that draw on other academic disciplines provide great insight into legal thinking. A Multi-Disciplinary Comment analyzes business law in relation to other schools of thought, such as economics, finance, accounting, marketing, and more. For example, this Comment might discuss the economic impact of a statute or analyze a legal question in relation to GAAP standards. Here, if the author has a strong background in another field, they have the ability to adopt a proactive stance than in more traditional Comment forms. As a reminder, a Comment topic must ultimately bear relation to the study of business law.

The Historical Comment

A Historical Comment will evaluate the history of a business law issue and will discuss the ways in which that history impacts the modern relevant legal issue. A legal history Comment must be sure to address current concerns and pull from the past to address a novel, live legal issue. These Comments can be particularly useful insofar as they may shape discussions of legal precedent, but Staffers seeking to write such Comments should be sure they do not produce a Comment that is not too broad in scope and does ultimately contribute new analysis rather than just a literature review.


The Empirical Research Comment

An Empirical Research Comment directly addresses the methodology and research tools used by other scholars to answer difficult questions of corporate law. Such a Comment should include an analysis of the data and methodology used in previous studies or Comments, and then an analysis of how the results of that study may impact the larger legal debate. This type of Comment involves a considerable amount of legal research but is unlikely to be preempted given the novelty of the empirical study.


Comment Types to Avoid:

- Comments that list various observations or conclusions about specific corporate legal topics, but neglect to identify and elucidate a viable solution.
- Comments that provide a summary of a current legal doctrine but fail to engage in any analysis with the information or to offer new insights or solutions.
- Comments that address broad, well-known, and well-debated issues without narrowing their focus to a single legal issue that can be evaluated in-depth.
- Comments that only make declarations about how a court should have come out on a certain issue rather than analyzing that issue across the legal field or making a normative.
Helpful Resources:

When searching for a topic, you may find legal topics of interest on various blogs or websites, including *Concurring Opinions*, *How Appealing*, *PrawfsBlawg*, *The Volokh Conspiracy*, *FourthAmendment.com*, *Empirical Legal Studies*, and *Final Decisions*. For a helpful list of additional blogs, see: lawprofessorblogs.com. However, be careful when using legal blogs for topic selection as a Comment may not be original or useful if students at other journals are using the same online sites to choose a topic.

III. Preemption

What is Preemption?

As you research your topic, you must remember preemption. In general, a Comment is considered preempted if a previously published work discusses the topic so thoroughly that there’s nothing new to contribute or more recent events have resolved the legal controversy. The goal is to produce a Comment that makes an original and useful contribution to legal scholarship. Moreover, if you hope to publish your Comment, many journals, including *UChiBLR*, will disqualify preempted pieces from publication.

However, do not fret because it is possible to “write around” preempted authority. Think of preemption as a matter of degree. For example, imagine that the Supreme Court has announced a resolution to a circuit split. Here, a Comment which analyzes the legal controversy which spurred the split is now of little interest to scholars and practitioners. It is clearly preempted. Similarly, a Comment analyzing a particular statute could be preempted if the statute is amended by legislatures. Both of these instances are difficult to write around and so it is recommended to avoid issues that likely will be resolved soon. However, in the case that another professor student publishes an Article on your topic, you are likely able to shift your focus to keep the work original.

Preemption Checking

It is critical that you perform periodic, thorough preemption checks while writing and researching your Comment. Consider it your goal to locate and review every published source on your topic. Additionally, please remember that Topic Access editors will only check a Comment topic for internal preemption—that another Staffer or Topic Access candidate has not begun writing on the same topic—and not for external preemption by other sources. Use the following sources in your searches (note: this is not an exhaustive list):

- **Westlaw**: Please see Westlaw’s Guide to Law Review Research for information on using the site to perform preemption searches:

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2 Thank you to NYU School of Law for their thorough guidance on preemption.
Within Westlaw, these databases are often useful:
- Current Index to Legal Periodicals (CILP)
- Index to Legal Periodicals (ILP)
- Journals and Law Reviews (JLR)
- Practice Area Databases

- **Lexis**: As you know by this point, often Lexis and Westlaw yield different results for the same query and so we ask you to use both.
- **JSTOR**, www.jstor.org
- **Google** and **Google Scholar**
- **The University of Chicago Preemption Check Checklist**, available at www.lib.uchicago.edu/e/law/db/ej/preemption.html, lists additional sources that you may find useful.

### What To Do If You Think You Are Preempted

Students often fear that they are preempted after initial research but later discover that they can formulate an original thesis with the work that they’ve already done. Please consider asking:

- Can you distinguish your work from the preempting source, or reframe your Comment? You might try to redirect your research towards a more niche question that brings a Comment outside the scope of the preempting Comment or utilize your work to solve a different problem or within a different application than the one presented by the new source. There are always creative ways to evaluate a problem, and sometimes being preempted can even help clarify your work.

- Does this newly discovered publication or case leave any new questions unresolved? With some creative work, you can incorporate the new source into your prior analysis by adjusting your thesis. In doing so, you create a new piece of scholarship that builds on existing works. Do you disagree with the arguments presented by the new source? Possibly you can contribute to the debate by offering another perspective or additional empirical research. Good scholarship is intended to produce debate, we invite you to join the discourse.
EXHIBIT B: Examples

Sample TP

Sample TA