

MERGER ANTITRUST LAW

LAWJ/G-1469-05
Georgetown University Law Center
Fall 2019

Tuesdays and Thursdays, 3:30-5:30 pm
Dale Collins
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CLASS 5 WRITTEN ASSIGNMENT

Instructions

Submit by email by 3:30 pm on Tuesday, September 17
Send to dale.collins@shearman.com
Subject line: Merger Antitrust Law: Assignment for Class 5

Assignment

Time: Early 2014
Calls for a memorandum to the client

Alice Smith, the general counsel of Safeway, has yet another request. Ms. Smith asks that you provide her with a brief memorandum describing the litigation process if the parties cannot either convince the FTC to close the merger review of Project Century without enforcement action or negotiate a divestiture package for a consent settlement that is acceptable to both the FTC and the parties and the FTC brings suit to challenge the transaction. Ms. Smith understands very generally that the FTC litigation process is likely to involve both a proceeding before a federal district court as well as an administrative trial, but she does not know how the two proceedings work or how they fit together, what is the burden of proof in the proceedings and who bears it, what relief can be ordered in each proceeding, and what avenues of appeal might be available in either proceeding in the event of an adverse outcome. Ms. Smith is also interested in how long the whole process is likely to take.

Ms. Smith is looking for something that is relatively short (two pages single spaced or less), both because she does not have the time to read anything much longer and because does not want to pay the law firm for an expensive tome. Finally, although this goes unsaid, Ms. Smith wants you to educate her so that she can look good in explaining the process to the CEO and the other senior business executives in the company.

If you have any questions, send me an e-mail. See you in class.