



# RUTGERS

SCHOOL OF MANAGEMENT AND LABOR RELATIONS  
DEPARTMENT OF LABOR STUDIES & EMPLOYMENT RELATIONS

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## EMPLOYMENT LAW

**PROFESSOR VIKRANT KISHIN ADVANI**

**COURSE NUMBER: 37:575:315**

**FALL 2022, WEDNESDAYS 10:20 AM TO 1:20 PM**

**IN PERSON INSTRUCTION  
LUCY STONE HALL ROOM B-117**

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## COURSE OBJECTIVES

- To familiarize students with the structure of the federal and state court systems, and judicial legal process and reasoning;
- To study, in depth, the various state and federal laws and constitutions that protect workers from discrimination based on protected categories including race, color, sex, religion, national origin, age, disability, and sexual orientation;
- To introduce students to various forums and procedures for litigating employment discrimination claims.
- To introduce students to alternative dispute resolution mechanisms that were often utilized to resolve employment discrimination claims.

## SCHOOL AND DEPARTMENT LEARNING OBJECTIVES

*Labor Studies and Employment Relations Department: The student will be able to:*

- Demonstrate an understanding of employment law as it intersects with the perspectives, theories and concepts in the field of labor and employment relations. (Goal 1).
- Apply those concepts, and substantive institutional knowledge, to understanding contemporary developments related to work. (Goal II).

*School of Management and Labor Relations: The student will be able to:*

- Demonstrate an understanding of relevant theories and apply them given the background context of a particular work situation. (Goal IV)
- Demonstrate an understanding of how to apply knowledge necessary for effective work performance. (Goal VI)

## **COURSE REQUIREMENTS**

- This is an introductory undergraduate course in employment law. However, it emphasizes student participation and group discussion. Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

## **COURSE DESCRIPTION**

The COVID-19 pandemic and its various variants have caused significant disharmony to our existence. However, the University will be offering in person instruction for this class UNLESS the University returns to COVID protocols and extends its virtual instruction period. If so, I will obviously be providing you with more information.

Regardless of live or virtual instruction, my requirements are the same:

**First**, unless previously adjusted, I will start class at 2 PM and end on or before 5 PM. We will aim to end class at 5:00 PM for those classes – However, I reserve the right to end class early or late depending on our workload. Those of you that yearn for more instruction on employment law are welcome to make an appointment with me.

**Second**, “physical, mental, and spiritual” attendance during in person or virtual classes is extremely important, since we will be reviewing many of the key concepts, and your class participation during these sessions is an important and large part of your overall grade. If participating in class and paying attention are not in your wheelhouse, feel free to find another professor who will accept your terms. I will do my best to keep you as involved as possible and I expect you to do the same. Repeated and/or willful failure or refusal to participate/attend class in a timely manner can be grounds for failure and/or receiving an incomplete grade for this class. I will be paying close attention to attendance and participation. See below for further instruction on your attendance and class participation grade.

**Third**, if applicable, you will be required to activate both your audio and video for virtual classes so it’s important that you have these technical capabilities before the first class. Communication with students is key for success – Therefore, activating your video and your audio for purposes of communicating during class is not negotiable. If you cannot comply, feel free to find another professor who will accept your non-audio and video participation.

**Fourth**, please understand that conducting classes virtually makes us extremely dependent on superior and/or at least competent internet and technology. Please ensure that your devices are internet and Webex/Zoom-video/audio ready, and that you have a back-up device in the event of product failure. Not having appropriate technology and periphery like video-cameras and audio capability is not acceptable. Rutgers can assist you if you do not have the means to purchase technologically appropriate computers. I can provide you with more information if you need same.

**Fifth**, if and when applicable, I will ATTEMPT to coordinate recording of each VIRTUAL class with Rutgers University so that it is available for review for a reasonable time for students who run into technological problems or have to miss class due to a legitimate reason such as illness.

**Sixth**, please understand that your failure to attend class for registration, personal or unexcused reasons does not require me to entirely reteach and/or recreate the substantive portions of the missed class - That said I will gladly provide you with all materials and instruction I can to get you on the right path. You should also ask for notes from a student in class so that you can catch up as smoothly as possible.

**Finally**, even though we are in-person instruction mode, please ensure that you have signed up for Webex with your RU account before the first class. Contact the RU Help Desk (833-648-4357) if you need assistance or have questions on Webex.

## **COURSE REQUIREMENTS**

This is an upper-level undergraduate course in employment law, and it heavily emphasizes student participation and group discussion. Students will be held strictly responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

## **GRADE CRITERION**

Course grading is based on two examinations, written assignments, and class participation. The breakdown is as follows:

- |                         |                                 |
|-------------------------|---------------------------------|
| 1. Exam 1:              | 40% of your overall final grade |
| 2. Written Assignments: | 25% of your overall grade       |
| 3. Exam 2:              | 20% of your overall final grade |
| 4. Class Participation: | 15% of your overall final grade |

The specific format of the examinations will be discussed at the appropriate time but I generally give an in-class Multiple Choice, Fact Pattern and Definitions-styled Midterm and Final. Our exams will be held on Canvas and proctored.

## **ATTENDANCE CRITERION**

**Attendance & “Vigorous Class Participation” Policy:** I am requiring each student to **vigorously** participate at least once in every class, in-person or otherwise.

To begin with, this means that you must attend every class in a timely manner. Unexcused absences are not encouraged. If you have two (2) unexcused absences, you will be docked a full Class Participation grade (ex. B instead of an A). If you have three (3) unexcused absences, you will receive a failing grade for Class Participation. **If you have four (4) or more unexcused absences, you will receive a failing or incomplete grade for the class.**

In addition to timely attendance, you will be required to participate (see note above regarding “vigorous” participation) at least once in every class by engaging in substantive discussion about the discussed topic. It need not be scholarly and/or profound – However, it will require you to know your assigned materials. However, just to be clear, “I don’t understand Concept X” does not qualify as substantive discussion – I will prompt you to substantively explain why you don’t understand.

Although I will be actively monitoring class attendance and participation, I will not be prompting you to participate – This is an upper-level undergraduate level class and your class participation grade, which accounts for 15% of your overall grade, should be motivation enough.

**Leniency Policy:** If you have any personal/health-related reasons for skipping class, kindly advise me immediately so I can excuse your absence and arrange for you to view recorded lectures and/or help in any manner I can including requesting a student to provide you with notes. You will find me sympathetic and reasonable. However, if you fail to or refuse to communicate with me in a timely manner regarding your health/personal issues, I will not be as accommodating after the fact. The key is communication. Kindly communicate in a timely manner so I can be reasonable in accommodating you.

Unfortunately, due to past history, I have to define timely communication: I expect you to advise me immediately upon knowledge of a personal and/or medical situation that will impact your attendance/completion for class and/or examinations/assignments. Emailing me that you are unwell or are facing an irreconcilable personal situation minutes before your class, examination or submission of assignment is not acceptable under most circumstances. Using the school absence reporting system only advises me that you are not coming to class - it is not a substitute for sending me a well thought out email explaining your circumstances. Also, telling me you’re sorry for not communicating in a timely manner is not grounds for any significant accommodation. I repeat: The key is communication. Kindly communicate in a timely manner so I can be reasonable in accommodating you.

## **ELECTRONIC DEVICE CRITERION**

There are no electronic devices allowed in class other than to facilitate your learning. This includes computers, cell phones, laptops, or tablets. You are not to check social media, email and/or text during our class. Although I prefer you take notes by pen/pencil, electronic note taking on your laptop is allowed.

- I reserve the right to penalize any student (including removal, expulsion with a failing grade) who refuses to comply with this simple request for mutual respect.
- The textbook: [*Principles of Employment Law*, Smith, Hodges, Stabile, and Gely, **Second Edition**, Concise Hornbooks, ISBN: 978-1-68328-359-1] will need to be purchased;

If electronic copies of textbooks are purchased or rented, they can be viewed on your electronic device.

- You are NOT authorized to record the lectures on your own end – I ask that you respect my privacy as I respect yours – Willful Failure to comply with this policy will be heavily penalized. To restate – you do not have permission to record me and/or my images and/or my lectures, and I reserve all rights permitted under law to prosecute any such violations.

## **EXAM COPYING/ONLINE SHARING**

- You are NOT authorized to copy any of my examinations or in-class assignments and/or share these online. There is a market for these examinations and former students will attempt to sell these for a few dollars.
- Fortunately, I know of all such websites and I routinely demand that they provide me with a copy of the submissions. As a consequence, I frequently make substantive changes in my examinations to keep ahead of the curve. My recommendation: Save your money and use the energy to study for the exams instead.

## **STUDENT CONDUCT POLICY**

The conduct of all students is governed by the Rutgers University Academic Integrity Policy: [http://academicintegrity.rutgers.edu/files/documents/AI\\_Policy\\_9\\_01\\_2011.pdf](http://academicintegrity.rutgers.edu/files/documents/AI_Policy_9_01_2011.pdf)

**Please be so advised.**

## **STUDENT ACCOMMODATION POLICY**

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation:

<https://ods.rutgers.edu/students/documentation-guidelines>

If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at:

<https://ods.rutgers.edu/students/registration-form>

## **COURSE MATERIALS**

**Textbook:**

*Principles of Employment Law*, Smith, Hodges, Stabile, and Gely, **Second Edition**, Concise Hornbooks, ISBN: 978-1-68328-359-1. This textbook can

be purchased online by searching for the ISBN#. Please buy this textbook as soon as possible so that we can hit the ground running. It is not expensive and there are download links – please do not procrastinate in getting this textbook.

No, you cannot purchase the first edition. Please buy the second edition. This is not negotiable.

In addition, course reading materials are found in the Canvas Resources section. I reserve the right to supplement, substitute, and/or modify the listed reading selections as I see fit.

## **WRITTEN ASSIGNMENTS**

Your written assignments are to be submitted online. There are 3 assignments in total, and they total 25% of your overall grade. All three are “case briefs” where you are going to read a case, answer specific questions, and submit your answers on Canvas. The first and second are worth 7% and 8 % respectively of your overall grade. The third assignment will be 10% of your overall grade.

While I will not be penalizing minute citation errors, I will check for typographical errors and copying/plagiarism and I expect you know the Rutgers policy against copying and plagiarism.

The written assignment due dates are in your syllabus. Each assignment will be due at 6:00 PM on the assigned day.

There are no exceptions or alternatives to completing these written assignments on a timely basis. If you fail to submit these assignments in a timely manner, you will be subject to grade reduction and/or a failing grade in any missed or late assignment.

## **READING ASSIGNMENTS**

Again, it pains me to write something so obvious, but history has taught me otherwise: Reading assignments must be done BEFORE coming to class. You cannot claim that you were going to read after the class to help understand the subject matter. To be clear, students must read the assigned materials before the class date so that they can then discuss the matter fully in class and request clarification. This is how classes run.

## **CLASS SCHEDULE:**

**CLASS 1: 9/7/22**

Course Overview  
The U.S. Court System  
Anatomy of a case

## HANDOUTS/VIDEO MATERIALS

The U.S. Legal System: Helpful YouTube Link  
[https://www.youtube.com/watch?v=\\_JNVwyNgndY](https://www.youtube.com/watch?v=_JNVwyNgndY)

The Federal Court System: Helpful YouTube link  
[https://www.youtube.com/watch?v=i\\_mbk0YhLa0](https://www.youtube.com/watch?v=i_mbk0YhLa0)

NJ State Court System: YouTube link  
[https://www.youtube.com/watch?v=agX\\_hxexhW0](https://www.youtube.com/watch?v=agX_hxexhW0)

Appealing to the U.S. Supreme Court: Helpful YouTube link  
<https://www.youtube.com/watch?v=Y1bXI9Uu1SE>

Appealing to the NJ Supreme Court: Helpful Web Link  
<https://www.hnwlaw.com/additional-practice-areas/new-jersey-appeals-lawyer/filing-an-appeal-with-the-nj-supreme-court/>

How a Federal Law is Passed: Helpful YouTube Link  
<https://www.youtube.com/watch?v=jYJOBBrgZ6U>

How a Law is Passed in NJ: Helpful YouTube Link  
<https://www.youtube.com/watch?v=UkxX5O22euY>

Sources of Employment Law: Helpful YouTube link  
<https://www.youtube.com/watch?v=msrMas7fZow>

Handout: How to Brief a Case: Writing a Student Brief  
<https://www.lib.jjay.cuny.edu/how-to/brief-a-case>

Handout: *U.S. Court System (Diagram)*  
[http://www.columbia.edu/~mckeever/court\\_system.jpg](http://www.columbia.edu/~mckeever/court_system.jpg)

Handout: *New Jersey Court Structure (Diagram)*  
[Scroll Down until you see New Jersey!]  
[https://staterecords.org/court/court\\_structure](https://staterecords.org/court/court_structure)

Handout: *Supreme Court of New Jersey (Photo)*  
<https://www.njcourts.gov/courts/supreme/vm/scvirtual.html>

Handout: *Current U.S. Supreme Court Justices (Photos & Bios)*  
<https://www.supremecourt.gov/about/biographies.aspx>

Handout: *Sources of Employment Law*  
[Virginia lawyer website, but very helpful]  
<https://martinnrenlaw.com/blog/2012/sources-of-employment-law/>

**CLASS 2:** 9/14/22

Employment at Will, Just Cause & the Contract Exception

## **HANDOUTS/VIDEO MATERIALS**

Pages 23-38 (Read up to § 2.4.3)

Handout: *What is Just Cause?*

<https://www.lexology.com/library/detail.aspx?g=1c2e14f1-4066-4755-a0be-884445198105>

Handout: *Contracts, generally.*

<https://www.nolo.com/legal-encyclopedia/contracts-basics-33367.html>

Elements of a Contract: Helpful Youtube Link

<https://www.youtube.com/watch?v=5sYHuHmGCTw>

At-Will Employment: Helpful YouTube Link

[https://www.youtube.com/watch?v=vMfT\\_hd41JA](https://www.youtube.com/watch?v=vMfT_hd41JA)

What is Just Cause: Helpful YouTube link

<https://www.youtube.com/watch?v=6dleW2wKRCs>

Just Cause Termination Examples! Helpful YouTube Link

[https://www.youtube.com/watch?v=J-3oqGF\\_Vco](https://www.youtube.com/watch?v=J-3oqGF_Vco)

### **CLASS 3: 9/21/22**

Employment at Will, Just Cause & the Contract Exception, cont'd  
Promissory Estoppel  
Covenant of Good Faith & Fair Dealing

#### **READINGS**

Handout: *Woolley v. Hoffman-LaRoche, Inc.*, 99 N.J. 284 (1985)

<https://law.justia.com/cases/new-jersey/supreme-court/1985/99-n-j-284-0.html>

Handout: *Savarese v. Pyrene*, 9 N.J. 595 (1952) (6 pages)

<https://www.courtlistener.com/opinion/1443595/savarese-v-pyrene-manufacturing-co/>

Text Pages 38-42 (Read from § 2.4.3 up to § 2.5)

### **CLASS 4: 9/28/22**

Employment at Will & the Tort Exception

#### **READINGS:**

Text Pages 42-54 (Read from § 2.5 to § 2.5.1.5)

Handout: *Pierce v. Ortho*, 84 N.J. 58 (1990) (18 pages)



<https://law.justia.com/cases/new-jersey/supreme-court/1980/84-n-j-58-0.html>

**CLASS 5:** 10/5/22

**WRITTEN ASSIGNMENT# 1 DUE at 10 AM:  
(8% OF OVERALL GRADE):**

**Brief *Pierce v. Ortho***

<https://law.justia.com/cases/new-jersey/supreme-court/1980/84-n-j-58-0.html>

Employment at Will & the Tort Exception, cont'd  
The Whistleblower Statutory Exception  
Legislative Efforts to Erode the At-Will doctrine: Montana

**HANDOUTS/VIDEO MATERIALS:**

Text Pages 42-54 (Read from § 2.5 to § 2.5.1.5)

Text Pages 67-70 (Read from § 2.6.1 to 2.6.3)

Handout: CEPA Law

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-3/>

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-5/>

Handout: CEPA Poster

[https://www.nj.gov/labor/forms\\_pdfs/lwdhome/CEPA270.1.pdf](https://www.nj.gov/labor/forms_pdfs/lwdhome/CEPA270.1.pdf)

Handout: CEPA Rights for those Employees Who Exercise Their Rights  
under the COVID Executive Order

<https://www.njlawblog.com/2020/03/articles/employment/employers-beware-retaliating-against-employees-covid-19/>

What is CEPA? Helpful YouTube Link

<https://www.youtube.com/watch?v=1dbj2sf2QnY>

**CLASS 6:** 10/12/22

Intentional Infliction of Emotional Distress  
Intentional Interference with Contractual Relations  
Brief Review for Exam 1.

**HANDOUTS:**

Text Pages 60-67 (Read from § 2.5.2 to § 2.6)

**CLASS 7:** 10/19/22

**IN CLASS EXAM 1 – 40% OF OVERALL GRADE - CLOSED BOOK/NOTES, COVERING CLASSES 1-6**

**CLASS 8:** 10/26/22

The New Jersey Law Against Discrimination  
Title VII of the Civil Rights Act of 1964, ADA, ADEA

**HANDOUTS:**

Handout: *Discrimination Laws & Disparate Treatment (4 pages).*

NJLAD Poster:

[https://www.nj.gov/oag/dcr/downloads/posters/8x11\\_employementposter.pdf](https://www.nj.gov/oag/dcr/downloads/posters/8x11_employementposter.pdf)

*Federal Discrimination Laws*

<https://www.eeoc.gov/statutes/laws-enforced-eeoc>

*EEOC: How to File a Charge/Time Limitations*

<https://www.eeoc.gov/time-limits-filing-charge>

<https://www.eeoc.gov/filing-charge-discrimination>

*McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)

<https://supreme.justia.com/cases/federal/us/411/792/>

**CLASS 9:** 11/2/22

**WRITTEN ASSIGNMENT# 2 DUE at 10 AM:  
(7% OF OVERALL GRADE)**

**Brief *Bostock v. Clayton County***

[https://www.law.cornell.edu/supremecourt/text/17-1618#writing-17-1618\\_OPINION\\_3](https://www.law.cornell.edu/supremecourt/text/17-1618#writing-17-1618_OPINION_3)

Equal Employment Opportunity Commission (“EEOC”)

The New Jersey Division on Civil Rights (“NJDCR”)

National Origin Discrimination

English only” cases

**HANDOUTS/VIDEO MATERIALS:**

Handout: *Equal Employment Opportunity Commission & The New Jersey Division On Civil Rights – Procedures & Filing Issues (2 pages)*

<https://www.nj.gov/lps/dcr/filing.html>

*Garcia v. Spun Steak Company*, 998 F.2d 1480 (1993)

<https://www.leagle.com/decision/199330913f3d2961248>

*EEOC v. Premier*, 113 F.Supp. 1066 (N.D.Texas 2000)

<https://law.justia.com/cases/federal/district-courts/FSupp2/113/1066/2577121/>

**CLASS 10: 11/9/22**

Sex Discrimination and Harassment

**HANDOUTS/VIDEO MATERIALS:**

Handout: *Sexual Harassment (2 pages)*

*Lebmann v. Toys 'R' Us, Inc.*, 132 N.J. 587 (1993)

<https://law.justia.com/cases/new-jersey/supreme-court/1993/132-n-j-587.html>

Harris v. Forklift Systems: Helpful YouTube Link

<https://www.youtube.com/watch?v=qIjpTPGHIRQ>

Oncale v. Sundowner: Helpful YouTube Link

<https://www.youtube.com/watch?v=Yuqo5FBFo9Y>

What is Hostile Work Environment: Helpful YouTube Link

<https://www.youtube.com/watch?v=AocOxolSEuc>

Hostile Work Environment or Just Mean: Helpful YouTube Link

<https://www.youtube.com/watch?v=CqLRpCdD3kk>

Quid Pro Quo Sexual Harassment: Helpful YouTube Link

<https://www.youtube.com/watch?v=BN3DgbdMEhk>

Avoiding Liability for Harassment – NJLAD : Helpful YouTube Link

<https://www.youtube.com/watch?v=kW4cOtzngiU>

Avoiding Harassment Liability – Title VII : Helpful YouTube Link

<https://www.youtube.com/watch?v=8k0wPLNKiks>

**CLASS 11: 11/16/22**

Family Medical Leave Act (“FMLA”)

NJ Family Leave Act (“FLA”)

**HANDOUTS/VIDEO MATERIALS:**

Handout: FMLA v. NJFLA

<https://www.workforcehub.com/blog/new-jersey-family-leave-act-vs-fmla-guide-for-hr/>

Handout: NJFLA Poster

[https://www.njoag.gov/wpcontent/uploads/2021/10/36x24\\_Family-Leave-Act.pdf](https://www.njoag.gov/wpcontent/uploads/2021/10/36x24_Family-Leave-Act.pdf)

Handout: The Family & Medical Leave Act

<https://www.dol.gov/agencies/wbd/fmla>

Handout: The Family & Medical Leave Act Poster

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fmlaen.pdf>

Handout: Helpful poster to show how FMLA/NJFLA work together

[https://www.nccp.org/wp-content/uploads/2020/05/nj\\_leave\\_program\\_appendix\\_a.pdf](https://www.nccp.org/wp-content/uploads/2020/05/nj_leave_program_appendix_a.pdf)

Text Pages 210 – 220 (§ 5.2 to § 5.2.3)

**CLASS 12: 11/30/22**

Fair Labor Standards Act/Equal Pay Act  
Rights of Undocumented Workers

**HANDOUTS:**

Pages 181 - 210 (§ 5.1.2 to § 5.2)

Handout: Undocumented Workers May Sue for Overtime Under Fair Labor Standards Act, Federal Court Rules

<https://www.jacksonlewis.com/resources-publication/undocumented-workers-may-sue-overtime-under-fair-labor-standards-act-federal-court-rules>

Handout: Undocumented Foreign Workers May Recover Unpaid Wages under FLSA Despite Hoffman: Eleventh Circuit

[https://content.next.westlaw.com/Document/Ibb0a875aef0511e28578f7ccc38dcbee/View/FullText.html?contextData=\(sc.Default\)&trnsitionType=Default&firstPage=true](https://content.next.westlaw.com/Document/Ibb0a875aef0511e28578f7ccc38dcbee/View/FullText.html?contextData=(sc.Default)&trnsitionType=Default&firstPage=true)

Handout: Do Undocumented Workers have Rights to Sue for Unpaid Wages?

<https://hkm.com/employment-blog/undocumented-workers-right-to-sue-unpaid-wages/>

**CLASS 13: 12/7/22**

**WRITTEN ASSIGNMENT# 3 DUE at 10 AM:**

**(10% OF YOUR OVERALL GRADE)**

**Brief *Aguiar v. State of New Jersey***

<https://caselaw.findlaw.com/nj-supreme-court/1692580.html>

Unemployment Compensation

Workers Compensation

OSHA

**HANDOUTS:**

Pages 257 - 273 (§ 5.4 to § 5.5)

Pages 282 - 305 (§ 6.1 to § 6.2)

Handout: New Jersey Unemployment Law

<https://nj.gov/labor/handbook/content/QandABenefits.html>

Handout: NJ Unemployment Law & COVID

<https://www.nolo.com/legal-encyclopedia/collecting-unemployment-benefits-new-jersey.html>

<https://www.northjersey.com/story/news/new-jersey/2020/08/27/300-unemployment-nj-everything-you-need-know/5643356002/>

Pages 305 - 323 (§ 6.2 to end of chapter)

Brief Review of Final Exam

**CLASS 14: 12/14/22**

**IN CLASS EXAM 2 – 20% OF OVERALL GRADE - CLOSED BOOK/NOTES, COVERING CLASSES 8-13**