This course will cover fundamental issues of American employment law. Topics will include privacy, wage and hour laws, family and medical leave, OSHA, workers compensation, and discrimination, among others.

The objectives of the course are to help students: 1) Understand and think critically about the basic framework of employment law in the U.S; 2) Develop the ability to read, analyze, and evaluate statutes and legal decisions; and 3) Develop the ability to identify and articulate both sides of legal and policy arguments.

Required readings are available on-line at Sakai by following these steps:

Go to http://sakai.rutgers.edu
1. Enter your Rutgers ID and password in the upper right corner
2. Click on the tab that says “37:575:315:02 Sp14 Emp Law”
3. Click on “Resources” at the left
4. Click on the folder titled “37:575:315:02 Sp14 Emp Law Resources”
5. Click on the folder for the week you want, then the file you want to download. Many of the readings are in Adobe Acrobat format. If your computer doesn’t have it, you can download the reader for free at http://www.adobe.com/products/acrobat/readstep2.html

Submitting copies of the computer research assignment and the written brief or opinion to Sakai

You should submit hardcopies of the short computer research assignment and the longer written brief or opinion in class, and also upload these to Sakai so there is a permanent record. Follow the directions above to get onto the Sakai site, and click on “Assignments” on the left. You can submit your research assignment and the longer paper either by copying text into the “Submission” box or by attaching a file.

Also, please check “Announcements” on the left of the Sakai site each week for any updates on the class and assignments. All assignments are expected to be submitted on time. Late papers will be downgraded by a third of a grade (e.g., A to A-) for 1-2 days late, two-thirds of a grade (e.g., A to B+) for 3-4 days late, and a full grade for 5 or more days late.

Please bring hardcopies of the readings to class. Supplemental material will also be handed out.
in class and/or entered on Sakai. Also, if you find outside material that is relevant to our employment law discussions you can give it to me (in person or through email) and I will make sure that everyone in the class gets a copy.

Class attendance is mandatory and reading assignments are expected to be completed before class. Please turn off cell phones during class time, as they are distracting. If you have a health problem or other emergency that requires you to miss a class, please inform the professor of the situation before the class if possible, or as soon after the class as you can.

Course requirements (basis for final grade in parentheses):
1) Midterm (20%)
2) Participation in a mock trial, including writing a brief or opinion (30%)
3) Final exam (30%) (covers entire course)
4) Computer project (10%)
5) Class participation (10%)

Class 1 (Jan. 21)
Introduction
Review of employment laws, employment-at-will
How to read a case
Structure of the court system

Class 2 (Jan. 28)
Employment at will and exceptions, contractual and tort theories
Twomey pp. 597-628
Adams v. Uno Restaurants (public policy exception, whistleblowing)
Haddle v. Garrison (retaliation)
Semple v. Federal Express (public policy exception)
Brown v. Lockheed-Martin (whistleblowing)
Nike v. McCarthy (non-competition agreement)
Studebaker v. Nettie’s Flower Garden (employee vs. indep. contractor)
Bryant v. Livigni (negligent retention)
Additional readings:
“Contracts, Generally”
“What is Just Cause?”

Class 3 (Feb. 4)
Guest speaker: Julie Moscinski (SMLR Librarian), using Rutgers library system to access on-line legal material
Film: The Insider
Additional readings:
“Interview: Cynthia Cooper, Sherron Watkins, Coleen Rowley,” Time magazine, Dec. 20, 2002

Class 4 (Feb. 11)
Guest Speaker: George D’Annunzio
Whistleblowing, and employee vs. independent contractor
Additional readings:
  D’Annunzio v. Prudential (employee vs. indep. contractor)
  New Jersey Conscientious Employee Protection Act

Class 5 (Feb. 18)
Employee Privacy
Twomey pp. 633-662, 668-671
  O’Connor v. Ortega (property searches)
  Ortega v. O’Connor (property searches)
  Sanders v. American Broadcasting (intrusion on seclusion)
  Cramer v. Consolidated Freightways (employer surveillance)
  Deal v. Spears (monitoring telephone conversations)
  Jakubowicz v. Dittemore (drug testing)
  Employees Union v. Von Raab (drug testing)
  Brotherhood of Locomotive Engineers and Illinois Gulf Central Railroad (alcohol abuse)
  Gibson v. Overnight Transportation Co. (defamation)
Additional readings:
  Wendy Johnson Lario, “New Jersey’s new social media law blocks employers’ prying eyes,” September 6 2013

Class 6 (Feb. 25)
One-page paper due on computer search regarding state laws on privacy and social media

Wage and Hour Law—Fair Labor Standards Act, Overtime, Child Labor
Twomey pp. 677-689
  Singh v. Jutla and C.D. and R’s Oil Inc. (FLSA coverage of undocumented workers)
  Rivera v. Brickman Group (minimum wage)
  Dinges v. Sacred Heart St. Mary’s Hospitals (FLSA “working time”)
Additional readings:
  Reich v. Shiloh True Light Church of Christ (FLSA child labor)
Plant Closings
Twomey pp. 689-692

UPIU v. Alden Corrugated Container Corp. (plant closing notification)

Unemployment Compensation
Twomey pp. 693-697

Umbarger v. Virginia Employment Commission (unemployment compensation)
Additional readings:
   Pagan v. Board of Review (unemployment compensation)

The Family and Medical Leave Act, Military Leave
Twomey pp. 584-593

Drew v. Waffle House (FMLA)
Serricchio v. Wachovia (military leave)
Additional readings:
   Rutgers Center for Women and Work, “CWW’s Study Finds Paid Family Leave Leads to Positive Economic Outcomes,” January 19, 2012

Class 7 (March 4)
   Occupational Safety and Health Acct (OSHA)
Twomey pp. 361-390

American Textile Manufacturers v. Donovan (safety standards)
UAW v. General Dynamics (specific and general duty of employers)
Whirlpool Corp. v. Marshall (protection from retaliation)
Marshall v. Barlow’s (inspections)
John Carlo v. Secretary of Labor (willful violations)
Additional readings:

Review for midterm

Class 8 (March 11)

Midterm

SPRING BREAK
Class 9 (March 25)
Discrimination laws: Race, religion, national origin
Twomey pp. 759-762 (Title VII excerpts), 395-409, 411-424, 448-451
Griggs v. Duke Power Company (race)
U.S. v. Villages of Elmwood Park and Melrose Park (race)
Feldstein v. The Christian Science Monitor (religion)
Mormon Church v. Amos (religion)
Fragrante v. City and County of Honolulu (national origin)

Additional readings:
U.S. Constitution, Section 8 ("Commerce Clause") and First Amendment
“Discrimination laws and disparate treatment”
“Burden of proof in disparate treatment and disparate impact cases”
TWA v. Hardison (religion, standard of undue hardship)
Garcia v. Spun Steak (national origin/English only rules)

Class 10 (April 1)
Discrimination laws: Sex, sexual orientation, sexual harassment, transgender status
Twomey pp. 424-448
Audra Sommers v. Budget Marketing (transexuality)
Glenn v. Brumby (transexuality)
Oncale v. Sundowner Offshore Services (sexual harassment)
Burlington Industries v. Ellerth (sexual harassment)

Additional readings:
EEOC v. Sage Realty (sexual harassment)
Daniel Goleman, "Sexual Harassment: About Power, Not Lust"

Class 11 (April 8)
Disability discrimination: Rehabilitation Act, Americans with Disabilities Act, ADA Amendments Act, definition of disability, “otherwise-qualified” for employment position, reasonable accommodations, employer defenses
Twomey pp. 553-574, 783-792
Cook v. State of Rhode Island (obesity)
School Board of Nassau County, Florida v. Arline (contagious diseases)
Horgan v. Simmons (HIV positive)
U.S. Airways v. Barnett (seniority systems)
Huber v. Wal-Mart (reasonable accommodation)

Additional readings:
Wallace v. Veterans Administration (former drug addiction)
Palmer v. Circuit Court (direct threat defense)
Lyons v. Legal Aid Society (reasonable accommodations, undue hardship defense)
with Disabilities”

Class 12 (April 15)
Guest speaker: Prof. John Burton, Rutgers University (Emeritus)
Workers compensation
Twomey pp. 575-582
  Halliman v. Los Angeles Unified School District (exclusive remedy)
  Quaker Oats v. Ciha (special errand exception)
  Gacioch v. Stroh Brewery (scope of coverage)
Additional readings:
  To be provided

Class 13 (April 22)
Movie: “North Country”
Preparation for mock trial

Class 14 (April 29)
Mock trials
Briefs/opinions due
Review for final exam