AMERICAN LABOR LAW
37:575:340:02 (3 Credits)

RUTGERS SCHOOL OF MANAGEMENT AND LABOR RELATIONS
FALL 2012

Professor Contact Information

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Most students will find me very accessible. I do not have set office hours. If a student wants to meet with me, please send me an email and we can make arrangements to meet either before or after class.

Class Location and Times

Monday evening from 7:40 pm-10:30 pm
College Avenue Campus-Scott Hall Room 203

September 10, 17, 24
October 1, 8, 15, 22, 29
November 5, 12, 19, 26
December 3, 10

Final Exam TBA

Required Text

1. **Patrick J. Cihon & James Ottavio Castagner, Employment & Labor Law (South-Western Cengage Learning 7th Edition 2011) ISBN-10: 1439037272 ISBN-13: 9781439037270**

   Students are required to bring the text to class in whatever format they decide to purchase the text. You can purchase the actual book, an e-book, or rent the book at a substantial savings from the publisher (your choice) http://www.cengage.com/search/productOverview.do?Ntt=labor+and+employment+law||9781439037270&N=16&Ns=P_CopyRight_Year%7C1&Ntk=all%7C%7CP_Isbn13 Of course, you might be able to find a used book online and I will encourage the bookstore to order used copies. Please make sure that you purchase the correct edition.

2. Cases and Materials cited herein available on Rutgers SAKAI, http://skai.rutgers.edu Students are required to bring these materials to class as well.

Course Overview

The course will cover the historical development of American Labor Law and provide a comprehensive analysis of areas of jurisdiction, election procedures, filing of unfair labor practices, discrimination due to union participation, strikes and lock-outs, duty of fair representation and public-sector labor law. The goal of the course is to educate students about the fundamentals of American Labor Law, to discuss the implications of the law in current events and to introduce students to the practice of law.

This class is designed to provide practical information which students should find useful if they decide upon a career in management and labor relations. Most importantly, I hope that students not only learn the material, but find the class enjoyable and the readings interesting.

Course Requirements

You are required to read the assigned material **before** class and to always be prepared. It goes without saying that you should not be absent or late. If you are late or leave early, you will be charged with ½ of an absence. It is my policy not to excuse any absences, except for an act of G-d.

Students are strongly encouraged to participate in class discussions. Your class participation as well as attendance are part of your final grade. Students are encouraged to take careful notes and are permitted, but not required, to share class notes with each other. If a student finds practicing on prior exams helpful there is an interactive quiz which you may take, but please do not email me your results as it will not be graded. http://www.wadsworth.com/cgi-wadsworth/course_products_wp.pl?fid=M20b&product_isbn_issn=9781439037270&token=AA70FD3D4455E5CD91C739DF2137790A14BD212E4AD46C16A3E94EE7F763483C4E4D7F58BBEA6DF900E97749884B6978CA04602213F33020 You are not required to take this interactive quiz. Another good way to prepare for the examinations is to answer the questions in back of each chapter. I suggest, but do not require, that you go over these questions with other classmates.

Evaluation and Grading

1. **Participation, Attendance and Current Events- 30**%. Labor Relations issues and important part of the political debate that is going on in this country. This is a particularly exciting time to take American Labor Law. Accordingly, I plan to incorporate current event topics from time to time into class. To that end, students

are strongly encouraged to voluntarily bring to the classes attention important developments that relate to labor law. The New York Times,www.nytimes.com (and specifically reporter Steven Greenhouse) often generates articles about important topics. Another way to find relevant material is to review some of the various blogs that are on the internet such as mine, Adjunct Law Prof Blog, http://lawprofessors.typepad.com/adjunctprofs/ or Workplace Prof Blog, http://lawprofessors.typepad.com/laborprof_blog/ Students interested in public sector labor law might be interested in reviewing New York Public Personnel Law, http://publicpersonnellaw.blogspot.com/. You can also find recent cases and Press Releases from the NLRB's web site, www.nlrb.gov.

If you want to help lead a discussion about a current events topic, please e-mail it to me 72 hours before class so I can incorporate it into the lesson. I recognize that it may not always be possible to give advance notice. There is no guarantee that we will be able to incorporate your topic or that it will be relevant to the class. You will, however, be given partial credit for proposing a relevant topic even if it is not used. In that e-mail, please briefly describe what you would like to say about the article or case. Some of the things you might discuss are whether you agree with the writer? Why is the topic important and how does it relate to what we are studying? It is doubtful that a student can get higher than a B without discussing at least one current event topic.

2. Midterm Examination- 30%
3. Final Examination- 40%

ASSIGNMENTS (Subject To Change and Adjustment)

Important! You need to stay current on the readings. While I will strive to complete the readings as indicated, please do not assume that each number represents a week's worth of reading as variances are likely to take place, particularly when we discuss current events. Please also pace yourself so you have a reasonable amount of reading to do each week.

1. INTRODUCTION

-Introduction to Legal System and to the NLRA (Lecture)
-Guide to Briefing Cases, Text xxv-xxvii (2 pages)
-Overview of Employment and Labor Law, Text 3-8,10 (5 pages){Skip *Alexander v. Gardner-Denver & Gilmer v. Interstate*}

2. THE RISE OF ORGANIZED LABOR AND INTRODUCTION TO NATIONAL LABOR RELATIONS ACT

- Text 333-348 (13 pages) {Skip *Utilities Service* case}
-includes *Loewe v. Lawlor,* 208 U.S. 274 (1908) (a.k.a. Danbury Hatters' case) (Text p. 340) (1/2 page)

-includes *Duplex Printing v. Deering*, 254 U.S. 443 (1921) (Text p. 341) (1/2 page).

-Steven Greenhouse, *Union Membership Rate Fell Again In 2011*, New York Times (Jan. 27, 2012)
http://www.nytimes.com/2012/01/28/business/union-membership-rate-fell-again-in-2011.html?_r=1&pagewanted=print{also available on **SAKAI}**

-**Independent Contractors,** *Lancaster Symphony Orchestra*, 357 NLRB No. 152 (Dec. 27, 2011) (9 pages) {available on **SAKAI}**

3. INTRODUCTION TO THE NATIONAL LABOR RELATIONS ACT CONTINUED

-**NLRA**, Text pp. 774-786, 792 (13 pages) (pay particular attention to Sections 1, 2(2), 2(11),7, 8(a), 8(b) & 9) & Text, 348-368 (20 pages).
-includes **Supervisory Status,** *NLRB v. Kentucky River*, 532 U.S. 706 (2001) (Text 362-364) (3 pages); **Confidential Employees,** *NLRB v. Meenan Oil Co.*, 139 F. 3d 311 (2d. Cir. 1998) (Text 366-368) (2 pages).

4. THE NATIONAL LABOR RELATIONS ACT

-Text 368-374 (6 pages)
-includes **Employee Status and Union Salts,** *NLRB v. Town & Country Electric*, 516 U.S. 85 (1995) (Text 369-370) (2 pages).

-**Students,** *Brown University*, 342 NLRB 483 (2004) (18 pages){available on **SAKAI**}

5. THE UNIONIZATION PROCESS

-Text 379-402 (23 pages)
-includes, **Community Of Interest Test**, *Buckhorn, Inc.*, 343 NLRB 201 (2004). (Text 387-389) (3 pages).

6. UNFAIR LABOR PRACTICES

-Text 407-430 (23 pages)

-Doreen Hemlock, *Orange-Shirted Employees Fired At Law Firm, Workers Report*, Orlando Sun Sentinel (March 16, 2012) {available on **SAKAI**}
http://www.sun-sentinel.com/business/fl-elizabeth-wellborn-orange-firing-20120316,0,4495649,print.story

-includes, **Concerted Activities,** *NLRB v. City Disposal Systems,* 465 U.S. 822 (1984) (Text 409-411) (3 pages); **Non-Employee Access,** *Lechmere, Inc. v. NLRB,* 502 U.S. 527 (1992) (Text 416-417) (3 pages); **Use of Company Equipment,** *Guard Co.,* 571 F.3d 53 (D.C. Cir. 2009) (419-420) (2 pages); **Quality of Work Life Committees,** *Electromation, Inc.v. NLRB,* 35 F.3d 1148 (7th Cir. 1994) (427-430) (3 pages).

7. MIDTERM EXAMINATION

8. UNFAIR LABOR PRACTICES, STRIKES AND LOCKOUTS

-Text 431-450 and 491-493 (21 pages)
-includes **Mixed Motive Cases,** *NLRB v. Transportation Mgt.,* 462 U.S. 393 (1983) (Text 431-433) (3 pages); **Reinstatement of Strikers,** *Diamond Walnut Growers v. NLRB,* 113 F.3d 1259 (D.C. Cir. 1997) (*enc banc*) (Text 438-439) (2 pages); **Lockouts,** *NLRB v. Brown,* 380 U.S. 278 (1965) (Text 440-441) (1 page); **Reinstatement Issues,** *ABF Freight Systems, Inc. v. NLRB,* 510 U.S. 317 (1994) (445-447) (2 pages).

-includes **State Trespass Laws,** *Hudgens v. NLRB,* 424 U.S. 507 (1976) (Text 491-493) (2 pages).

9. COLLECTIVE BARGAINING

-Text 455-481 (Skip pp. 478-480) (24 paages)
-includes **Exclusivity,** *Emporium Capwell Co. v. Western Addition Community Organization,* 420 U.S. 50 (1975) (Text 457-459) (2 pages); **Majority Status,** *Auciello Iron Works, Inc. v.NLRB,* 571 U.S. 781 (1996) (Text 463-464) (1 page); **Mandatory Subjects,** *First National Maintenance Corp. v. NLRB,* 452 U.S. 666 (1981) (Text 467-469) (3 pages) (1.5 pages); **Unilateral Changes,** *Visiting Nurse Services v. NLRB,* 177 F. 3d 52 (1st Cir. 1999) (470-471) (1 page); **NLRB Remedies,** *H.K. Portor v. NLRB,* 397 U.S. 99 (1970) (Text 476-478) (2 pages).

10. THE ENFORCEMENT AND ADMINSTRATION OF THE COLLECTIVE BARGAINING AGREEMENT

-Text 521-535, 551 (15 pages)
-includes **Federal Law,** *Textile Workers v. Lincoln Mills,* 353 U.S. 448 (1957) (Text 525) (1 page);**Arbitration and Public Policy,** *Eastern Associated Coal Corp. v. United Mine Workers,* 531 U.S. 57 (2000) (Text 527-528) (2 pages); **NLRB Deferral,** *United Technologies,* 268 NLRB No. 83 (1984) (Text 532) (1 page) ; **Post-Arbitration Deferral,** *Olin Corp.,* 268 NLRB No. 86 (1984)(Text 533) (1.5 pages).

-**Just Cause,** *In Re Kansas City,* 129 Lab. Arb. (BNA) 1089 (Russell C. Neas 2011) (6 pages) {available on **SAKAI**}

11. THE RIGHTS OF UNION MEMEBERS

-Text 557-563 & 568-570 & 580 (10 pages)
-includes **Duty of Fair Representation,** *Steele v. Louisville & Nashville R.R.,* 323 U.S. 192 (1944) (Text 558-559) (2 pages); **Duty of Fair Representation & Arbitration,** *Hines v. Anchor Motor Freight, Inc.,* 424 U.S. 554 (1976) (Text 561-562) (2 pages).

12. SUCCESSORSHIP; INTRODUCTION-PUBLIC SECTOR LABOR RELATIONS-FEDERAL GOVERNMENT EMPLOYEES

-Text 536-540 (4 pages)
-includes **Successorship,** *Fall River Dyeing v. NLRB,* 482 U.S. 27 (1987) (4 pages).

-Text 589-590, 592-601 (9 pages) and Text 609-611, 612-613) (4 pages) {Skip *City of Bethany*}
-includes **Strikes,** *PATCO v. FLRA,* 685 F. 2d 547 (D.C. Cir. 1982) (Text 600-601) (1 page); **Regulations,** *National Treasury Employees Union v. Chertoff,* 452 F. 3d 838 (D.C. Cir. 2006) (Text 606-607) (1.5 pages); **National Security,** *AFGE v. Gates,* 486 F. 3d 1316 (D.C. Cir 2007) (Text 607-609) (2 pages).

-Text 606-611, 612-613 (7 pages).

13. PUBLIC SECTOR LABOR RELATIONS-STATE GOVERNMENT EMPLOYEES

-Paul M. Secunda, *The Perceptible Disconnect Between the Global Economic Crisis and The Wisconsin Public Sector Labor Dispute of 2011,* ____A.B.A. Journal of Labor and Employment Law ___(forthcoming 2012) (18 pages). {available on **SAKAI**}

-**Right to Strike-California,** *County Sanitation District v. LA County Employees' Assn.,* 214 Cal. Rptr. 424 (1985) (20 pages-edited) {available on **SAKAI**}

-**Right to Strike-New Jersey,** *Passaic Township Board of Education v. Passaic National Education Assoc.,* 222 N.J. Super. 298 (App. Div. 1987) (5 pages) {available on **SAKAI**}

14. TBA

15. FINAL EXAMINATION [Cumulative]

Last Revised March 30, 2012