AMERICAN LABOR LAW (Spring 2013)

Instructor: Carla A. Katz, Esq.
Rutgers University, Labor Studies & Employment Relations Department
Course #37:575:340:01 and 38:578:550:01
Monday 6:40-9:30 p.m.
Class Location: Busch Campus, Science & Engineering Resource Center, Rm. 203
Tel: 908-310-4747 E-mail: ckatz@work.rutgers.edu
Office Hours: Before & after class or by appointment

Course Description: The course will cover the historical development of American Labor Law, including the law relating to organizing, collective bargaining, protected union activity, election procedures, filing of unfair labor practices, strikes and lockouts, duty of fair representation, and relations between unions and their members.

Grading Criteria:*

(1) Mid-term Exam (35%)
(2) Final Exam (45%)
(3) Quizzes (10%)
(4) Participation and Attendance (10 %)

Course Materials: No textbook. Course reading materials will be made available online via Sakai. The Instructor reserves the right to supplement, substitute, and/or modify the reading selections by way of online postings, handouts, or otherwise.

Course Requirements: Students are expected to regularly attend class, read the course materials prior to class and come to class prepared to actively participate. Students are expected to come to class with case briefs for each of the cases assigned. Additionally, there will be 2-3 (to be determined) short quizzes on the reading materials, prior to covering the materials in class, on dates to be announced. If you arrive to class late or leave early, you will be charged with ½ of an absence.

Class Schedule:

JAN. 28: -Course Overview

READINGS:
-Orin S. Kerr, *How To Read A Legal Opinion*, 11 Green Bag 2d 51 (2007)
-Guide to Briefing Cases (Assorted readings on Sakai)
-Samuel Gompers, What Does Labor Want? A Paper Read before the International Labor Congress, Chicago, Ill., (September, 1893), available at The Samuel Gompers Papers Project
http://www.history.umd.edu/Gompers/1893%20more%20speech.htm

FEB 4: - -Introduction to Legal System and to the NLRA
-National Labor Relations Act-Administration, Procedures, Jurisdiction

-National Labor Relations Board

READINGS:
-National Labor Relations Act, Ch. 4, *Twomey, Labor and Employment Law*, pp. 51-81
NLRB v. Jones & Laughlin Steel Corp. 301 U.S. 1 (1937); *American League and Association of Umpires*, 180 NLRB No. 30 (1969); *NLRB v. Catholic Bishop of Chicago*, 440 U.S. 490 (1979); *Roadway Package System, Inc. and Teamsters Local 63*, 326 NLRB 842 (1998); *NLRB v. Town & Country Electric, Inc.*, 516 U.S. 85 (1995); *NLRB v. Yehsiva University*, 444 U.S. 671 (1980);
-*New Process Steel v. NLRB*, 130 S.Ct. 2635 (2010)
-*www.nlrb.gov/who-we-are*

FEB. 11: -Preemption

READINGS:
-National Labor Relations Act, Ch. 4, *Twomey, Labor and Employment Law*, pp. 82-88, including the following cases:
-*San Diego Union v. Garmon*, 359 U.S. 236 (1959): *Golden State Transit Corp. V. Los Angeles*, 475 U.S. 608 (1986); *Chamber of Commerce of the United States v. Brown*, 128 U.S. 2408 (2008)
-*www.nlrb.gov/who-we-are/conduct-elections*
-*NLRB v. Savair Mfg. Co.*, 414 U.S. 270 (1973)

FEB. 18: -Protected Activity
-Determining Employees' Choice of Majority Representative
-Social Media Cases

READINGS:
-National Labor Relations Act, Ch. 4, *Twomey, Labor and Employment Law*, pp. 88-93; 97-106
- *American District Telegraph*, 160 NLRB No. 82 (1966); *NLRB v. Hendricks Country Rural Electric Membership Corp*., 454 U.S. 170 (1981); *Caterair International v. NLRB*, 22 F.3D 114 (D.C. Cir. 1994); *Parkwood Developmental Center, Inc. v. NLRB*, 521 F.3D 404 (D.C. Cir. 2008); *NLRB v. Gissel Packing Co., Inc*, 395 U.S. 575 (1969).
-*Report of Acting NLRB General Counsel Concerning Social Media Cases*, (Memorandum OM-11-74, August 18, 2011)

FEB: 25: -FILM—NORMA RAE

NO READINGS
This is a good week to catch up on any missed readings.

MAR. 4 -Collective Bargaining
-Election Conduct and Free Speech

READINGS:
-National Labor Relations Act, Ch. 4, *Twomey, Labor and Employment Law*, pp. 106-116
-*NLRB v. Gissel Packing Co.,* 395 U.S. 575 (1969)
H.K. Porter Co., Inc. v. NLRB, 397 U.S. 99 (1970); Hoffman Plastic Compounds, Inc. v. NLRB, 122 S.Ct. 1275 (2002);
-*www.nlrb.gov/rights-we-protect/employerunion-rights-obligations*

MAR. 11: -MID-TERM EXAM

MAR. 18: SPRING BREAK—NO CLASS

MAR. 25 -Strikes, Lockouts, Permanent Replacements

READINGS:
-Legality of Strikes, Ch. 7, *Twomey, Labor and Employment Law*, pp. 235-256.
Mastro Plastic Corp. v. NLRB, 350 U.S. 270 (1956); *TWA v. IFFA*, 489 U.S. 426 (1989); *Ohio Power Co. v. NLRB*, 539 F.2D 575 (6th Cir. 1976); *Minnesota LPN Association v. NLRB*, 406 F.3D 1020 (8th Cir. 2005); *Standard Concrete Products, Inc. v. Teamsters Local 952*, 353 F3D 668 (9th Cir. 2003); *Boys Markets, Inc. v. Retail Clerks Union, Local 778*, 398 U.S. 235 (1970).
-*NLRB v. Mackay Radio,* 304 U.S. 333 (1938)
-*NLRB v. Fansteel Metallurgical Corp.,* 306 U.S. 240 (1939)
-*"The Right to Strike"* (www.nlrb.gov/strikes)

APR. 1: -Enforcement of Collective Bargaining Agreements
-Unfair Labor Practices

READINGS:
-Employer Unfair Labor Practices, Ch. 5, *Twomey, Labor and Employment Law*, pp. 135-145, 158-173
-*NLRB v. Great Dane Trailer, Inc.,* 388 U.S. 26 (1967); *NLRB v. Studio Transportation Drivers, Local 399*, 525 F.3D 898 (2008); *Fireboard Paper Products Corp. v. NLRB*, 379 U.S. 203 (1964); *First National Maintenance Corp. v. NLRB*, 452 U.S. 666 (1981); Southern Nuclear Operating Co. v. NLRB, 524 F.3D 1350 (2008).
-*NLRB v Weingarten, Inc.,* 420 U.S. 251 (U.S. 1975)

-*IBM Corp.*, 174 LRRM 1537 (BNA 2004)
-*Textile Workers v. Lincoln Mills*, 353 U.S. 448 (1957)
-*D.R. Horton, Inc.*, 357 NLRB No. 184 (2012)

APR. 8: -Duty of Fair Representation
-Agency Fee

READINGS:
-Regulating Internal Union Conduct. Ch. 9, *Twomey, Labor and Employment Law*, pp. 287-300
-*Ramey v. District 1411, IAM*, 378 F.3D 269 (2D Cir. 2004); *ALPA v. O'Neill*, 499 U.S. 65 (1991); *NLRB v. IBEW*, 481 U.S. 573 (1987).
-*Vaca v. Sipes*, 386 U.S. 171 (1967)
-*CWA v. Beck*, 487 U.S. 735 (1988)

APR. 15: -FILM--TBA

NO READINGS

APR. 22: -Public Sector Labor Law
-Right to Work Laws

READINGS:
-Public Employment and Labor Law, Ch. 10, *Twomey, Labor and Employment Law*, pp.321-330; 339-349
-*Professional Air Traffic Controllers Organization v. FLRA*, 110 LRRM 2676 (D.C. Cir. 1982); *City of New York v. DeLury*, 23 N.Y. 2D 175 (1968); *County Sanitation District No. 2 of Los Angeles County v. Local 660, SEIU*, 38 CAL 3D 564 (1985); *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986).
-*"Matters That Come Before the Commission"*
(www.state.nj.us./perc/htlm/publications.html)
-*Lincoln Union v. Northwestern Co.*, 335 U.S. 525 (1949)

APR. 29: -Proposed Labor Law Reforms
-Employee Free Choice Act

READINGS:
-*www.aflcio.org/joinunion/voiceatwork/efca/qna.cfn*
-*www.uschamber.com/issues/labor/employee-free-choice-act-card-check-bill*

MAY 6: FINAL EXAM (Cumulative)