

## **EMPLOYMENT LAW**

Fall 2019

Course No. 37-575-315-80

Thursdays 6:00 p.m. to 8:40 p.m.

Professor Joyce M. Klein

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Office Hours Available Upon Request

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**Objectives:** Analysis of major issues in employment law, including laws protecting employees from discrimination, as well as wage and hour laws and laws covering employee privacy, workers' compensation, unemployment insurance, immigration and safety and health.

This course will help students to understand the basic framework of employment law in the United States and to develop the ability to think critically and to read, analyze and evaluate legal statutes and decisions. Students will learn to identify, understand, and explain conflicting views on legal and policy arguments.

Specifically, the learning objectives for this course include: (1) learning to make an argument about an employment law matter using contemporary and/or historical evidence; (2) learning to apply legal precedent to current issues in the workplace; (3) working productively in teams, in social networks, and on an individual basis (4) communicating effectively at a level and in modes appropriate to an entry level professional; and (5) demonstrating an ability to interact with and influence others in a professional manner and effectively presenting ideas and recommendations.

**Text:** Labor and Employment Law: Text and Cases (15<sup>th</sup> Ed.) by David P. Twomey ("Twomey"). **NOTE: This textbook may be rented and is also available from CENGAGE.com as an eBook or eChapters may be purchased individually. Readings are from Chapters 11 through 18 only.**

Supplemental Readings are available on CANVAS and/or will be distributed throughout the semester. Additional readings may be added during the course of the semester as the law evolves.

**Attendance and Grading Policies:** Students are expected to attend all classes and to actively participate in all exercises and discussions. **20%** of the final grade will be based upon attendance and participation. Participation includes contribution to discussions in class and full participation in classroom exercises.

Attendance will be taken for each class. I expect that all reading assigned for each class will be completed **BEFORE** class. Any student who must miss a class for illness

or other emergency is expected to contact me via e-mail or telephone prior to class explaining the reason for the absence.

**LAPTOP/RECORDING POLICY:** Students are permitted to bring and use laptop computers or tablets in class, solely for the purpose of viewing class readings. **Students are NOT permitted to use laptops or tablets to take notes, e-mail, or engage in other activities that may distract other students.** Students are NOT permitted to record, videotape, or photograph any classroom lecture or activity, absent prior express consent and authorization by the Instructor. **All other electronic devices including cell phones, beepers, PDA's, shall be silent and put away during class. Students using these devices in class for any purpose other than to access class readings may be considered absent for the class.**

**HOMEWORK:** Each student is required to submit electronically through Canvas before class begins, a case brief for one major case included in the reading each week for ten weeks of class. (See handout). There are eleven weeks of class that include case readings. Each student is free to skip one case brief, and is required to turn in the assigned case brief for each of the remaining nine weeks. Students may select which case is briefed each week, so long as it is either a case provided on Canvas or is a case with the case caption in bold face in the text. Failure to turn in the case briefs **ON TIME** will result in a loss of credit for the homework grade for that class. **THERE WILL BE NO EXTENSIONS FOR HOMEWORK ASSIGNMENTS.** Homework will count for **20%** of the final grade.

**Assignments and Examinations:** Students will complete a midterm examination on **October 17** which will account for **30%** of the final grade.

Students will complete a final midterm examination on **December 5** which will account for **30%** of the final grade.

**ACADEMIC INTEGRITY:** 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)

**POLICY ON DISABILITIES:** 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>.

**CLASS TOPICS AND ASSIGNED READINGS:**

September 5 Introduction  
The Courts and Administrative Agencies  
How to read a case  
Case reading exercise  
Employment at Will

September 12 Employment at Will; Exceptions to Employment at Will;  
Contract Theories

Twomey past practice. 597-610 (In Chapter 16)

**CANVAS:**

The Tractable Apostrophe, Eats, Shoots & Leaves, A Zero Tolerance Approach to Punctuation!, Lynne Truss (2003)  
Apostrophes Flow Chart (Optional)

September 19 Exceptions to Employment at Will  
Tort and Contract Theories continued;  
Scope of Employment

Twomey pp. 619-628 (In Chapter 16)

**CANVAS:**

Carter v. Reynolds, 175 N.J. 402 (2003)

September 26 Whistleblower Protection (SOX, Dodd-Frank, CEPA)/Non-Compete  
Agreements

Twomey 610-619 (In Chapter 16)

**CANVAS:**

Digital Realty Trust, Inc. v. Somers  
Hernandez v. Montville Board of Education  
To Compete Better, States are Trying to Curb Non-Compete Pacts,  
Steve Lohn, New York Times (June 28, 2016)  
Noncompete Pacts, Under Siege, Find Haven in Idaho, New York Times (July 14, 2017)  
States Must Act to Protect Workers from Exploitative Non-Compete  
and No Poach Agreements, Karla Walter, Center for American  
Progress, April 2, 2019

October 3 Employee Privacy/Drug Testing/Defamation

Twomey 633-647; 652-662; 668-670 (In Chapter 17)

October 10 Employee Privacy/Electronic Privacy

Twomey 647-651 (In Chapter 17)

**CANVAS:**

Ontario, California v. Quon

Should Companies Monitor Their Employees' Social Media?, Wall Street Journal (October 22, 2014)

NJ Social Media Employment Law

Employee Privacy in the U.S. is at Stake as Corporate Surveillance Technology Monitors Workers' Every Move, CNBC, April 15 2019

**October 17 MIDTERM**

October 24 Discrimination Laws  
(Race, Religion, Sex, Sexual Orientation)

Twomey 395-426; (In Chapter 12)

October 31 Discrimination Laws continued  
Sexual Harassment/Age/USERRA

Twomey 432-446; 534-545; 589-593 (In Chapters 12, 14 & 18)

**CANVAS:**

U.S. Department of Labor VETS USERRA Fact Sheet 3

A Non-Technical Resource Guide to USERRA

November 7 Workers Compensation; FMLA, Paid Sick Leave

Twomey 575-589 (In Chapter 15)

**CANVAS:**

N.J.S.A. 34:15.1-3

Sager v. O.A. Peterson Construction Co.

The Demolition of Workers' Compensation (ProPublica) (03/04/15)

U.S. Labor Department: States are Failing Injured Workers

(ProPublica) (10/5/16)

U.S. Dept of Labor Fact Sheet #28 – the Family and Medical Leave Act

New Jersey Paid Sick Leave Act

Nearly All New Jersey Workers Will Be Entitled to Paid

Sick Leave Very Soon, NJ.Com (10/2/18)

Lawmakers Move to Improve Paid Family Leave Program in New Jersey, NJ Spotlight, (02/11/19)

Murphy to Sign Bill Expanding N.J.'s Paid Family Leave Program, NJ.Com (02/19/19)

November 14 Unemployment Insurance/Wage & Hour Laws

Twomey 677-689; 693-697 (In Chapter 18)

**CANVAS:**

Cottman v. Board of Review, Department of Labor and Workforce Development

Christensen v. Harris County

Employment Law In A Nutshell, Fair Labor Standards Act

New York State Just Dealt Another Blow to Uber's Business Model, (Quartz) (June 13, 2017)

U.S. Department of Labor Fact Sheets #17B, C, D & E

McClain v. Board of Review, New Jersey Supreme Court, April 29, 2019

NJ's Minimum Wages Rises to \$10 Today in First Step Toward \$15, Colleen O'Dea, NJ Spotlight, July 1, 2019

Raising the Federal Minimum Wage to \$15 by 2025 Would Lift Wages for Over 33 Million Workers, David Cooper, Economic Policy Institute, July 17, 2019

November 21 Immigration

Twomey 697-707 (In Chapter 17)

**CANVAS:**

Pink Slips at Disney. But First, Training Foreign Replacements, The New York Times (June 3, 2015)

"A Verification System for New Hires Backfires", Businessweek, (November 2011)

U.S. Department of Labor Fact Sheet #78 – General Requirements For Employers Participating in the H2B Program

November 26 Occupational Safety & Health

Twomey 361-390 (In Chapter 11)

**December 5 FINAL MIDTERM**