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**Employment Law**  
**Rutgers University, School of Management and Labor Relations**  
**37:575:315:02**  
**Fall 2020**

Instructor: Professor Patricia McHugh

Class Time and Place: Remote on Canvas, Mondays and Wednesdays 3:20-4:40 p.m.

Office Hours: Remote by appointment.

Email: pamchugh@scarletmail.rutgers.edu

**Course Overview:**

In this course we will investigate a variety of topics related to important concepts involving Employment Law. Throughout the semester you'll have the opportunity to study material on contemporary topics and perspectives related to:

- Understanding the Court System
- Constitutional Issues
- Title VII; EEOC
- Different discrimination and harassment issues
- Employment Related Torts
- Worker's Compensation

**Course Learning Objectives:**

**By the end of the course, as related to the following department/instructor learning objectives, you should be able to:**

- ***Labor Studies & Employment Relations Department***
  - Apply employment relations' legal concepts, and substantive institutional knowledge, to understanding contemporary developments related to work. (Goal 2)
- ***School of Management & Labor Relations***
  - Demonstrate an understanding of how to apply knowledge necessary for effective work performance. (Goal VI)
- ***Additional Course Objective(s) from the Instructor***
  - Demonstrate basic knowledge of employment-at-will and the various exceptions.
  - Demonstrate basic knowledge of the policies underlying common-law, constitutional, and statutory employment law principles.
  - Demonstrate ability to comprehend court decisions on employment law issues.
  - Apply employment law concepts to a given fact pattern.

Students will demonstrate their understanding of these concepts via class readings, discussions, assignments, and exams.

**Course Material(s):**

All the materials required for this course will be posted online on the course website on Canvas, which you may access at <https://canvas.rutgers.edu/>

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Once you are registered for the course, you will be granted access to the site. It is your responsibility to access course materials, including the reading assignments. Course reading materials are posted in the Modules section in the corresponding week.

The syllabus, schedule readings and assignments are subject to change as the course evolves. Please note that additional sets of readings that highlight contemporary issues that develop during the course of the semester may also be added to our activities.

### **Optional Books:**

If you so choose, you may decide to purchase the following book that contains overviews of some of the topics we will be discussing during the term.

- Robert N. Covington, *Employment Law in a Nutshell*. 4th Edition. West Nutshell Series.

### **Course Delivery Format:**

Although the course is listed as **remote synchronous**, as sitting and watching someone teach on-line may be quite tedious and the course material lends itself to asynchronous activities, many of the learning activities take place asynchronously online. There will, however, be **live/synchronous** sessions, usually twice a week on Mondays and Thursdays beginning at 3:20 p.m. (see Syllabus for specifics), depending on the topics of discussion for the week and work assigned. These sessions will be usually no more than 1 hour and are intended to help summarize some of the major themes in the readings, videos and learning activities for the week.

We will be utilizing the Canvas learning management system to access learning materials, post announcements, submit Assignments, post to Discussion Forums, communicate via the Inbox feature, attend live sessions through Zoom and take exams. Be sure to check this site frequently as there will be announcements and instructions.

**Note:** Whenever anything is posted to this site, you will automatically receive a notification to your **rutgers.edu** email account. Checking that email account frequently is highly recommended.

### ***Not a Self-Paced Course***

This is not a self paced course. Students are expected to follow the course calendar and instructions given on each week's course pages regarding reading and audio/visual assignments, attending synchronous lectures, as well as the uploading of course work and taking exams.

### ***Getting Help***

If you have any technical problems during the course, please contact the 24/7 toll free hotline. Your instructor cannot solve your problems.

- Read carefully through Course Tools to see if it has an answer to your question
- Click the "help" question mark icon at the bottom of the red global navigation menu on the far left of each Canvas page and either visit the [Online Support Center \(Links to an external site.\)](#) or "Report a Problem" with the Canvas help ticket system.
- Call or Email the Online Learning Help Desk directly

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- Email: [help@canvas.rutgers.edu](mailto:help@canvas.rutgers.edu)
- Online Learning Help Desk: (877) 361-1134

## **COURSE REQUIREMENTS**

### ***Student Technical Responsibilities***

Check the Canvas site for announcements, assignments, or other activities.

#### **In case of computer failure**

Make sure you have an alternative plan of access to the Canvas course site in case your computer crashes (it happens). An extra computer at home, your employer's computer, or computer at your local library can be some alternatives. Additionally, be sure to backup your important documents and assignments on a flash drive or other external device.

#### ***Remote Attendance:***

Each week we will meet 1 or 2 times for a remote synchronous session. You are expected to attend each virtual class session, and to be on time. If you cannot attend, need to leave early, or are having technical issues; please contact me before the session, otherwise you are expected to remain until the class is over. Even though the class is scheduled to meet for 1 hour and 40 minutes, 2 times during the week, it is unlikely that we will meet synchronously for this entire time. Instead, the synchronous time will be supplemented by other learning activities. I will post the slides from these synchronous sessions after we have completed the week's lectures.

#### ***Participation:***

This class will utilize a variety of learning formats. It may be difficult to have a typical question and answer format remotely, but you are encouraged to ask questions during these sessions, most likely through a group chat function.

In addition, you will be asked to post **at least two** comments each week on the weekly *Student Led Question and Answer Discussion Forums* that have been created for you on Canvas. These comments can be questions you may have from the weeks readings/lectures or answers in response to other students questions. Your questions and/or answers must be substantive in order to receive credit for participation for the week. In order to properly participate in these forums you will need to have completed the readings assigned each week and attended (or reviewed) any virtual lectures for that week. You must post 2 substantive questions and/or answers to get credit for participation for the week by the date posted in the discussion forum. Credit will not be given for late posts. There are 13 opportunities for you to post in these discussion forums. You may miss posting in forums for 3 weeks and still receive full credit. However, posting one comment in 1 weekly forum and a second comment in another will not count as having completed 1 full forum.

#### ***Student Code of Conduct***

You are expected to conduct yourself in a professional, responsible, courteous, and respectful manner at all times during the course, in the classroom as well as online (Discussion Forums, when applicable). Offensive language, harassment, posting videos or other media that is not related to the

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course, and/or any other inappropriate behavior will not be tolerated; and will result in dire consequences, including dismissal from the course. Your responses to discussion posts, or any other communication with your classmates and/or your instructor must be of the highest professional and respectable standard. Refer to [Discussion Post Guidelines](#) when communicating in your Canvas class.

### ***Disability Statement:***

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) (<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](https://ods.rutgers.edu/students/registration-form) website (<https://ods.rutgers.edu/students/registration-form>)

Should you require my assistance in facilitating the process, I will be happy to do so. Just let me know. Below is the full contact information for the office of disability services:

**Lucy Stone Hall, Livingston Campus**, 54 Joyce Kilmer Avenue, Suite A145, Piscataway, NJ 08854-8045.

- E-mail Address: [dsoffice@rci.rutgers.edu](mailto:dsoffice@rci.rutgers.edu)
- Phone: (848) 445-6800 • Fax: (732) 445-3388
- <https://ods.rutgers.edu/>

### ***Cheating/plagiarism***

There are serious consequences, including expulsion, for cheating and taking someone else's work without attribution. The university has clear, strict policies on these matters. They include signing in for another student. I will report all violations. If you have not done so already, please familiarize yourself with the university's academic integrity policy by visiting <http://nbacademicintegrity.rutgers.edu/home-2/academic-integrity-policy/>  
The relevant parts are brief and straightforward. If you have any questions, please see me.

### ***Statement on Academic Freedom:***

Freedom to teach and freedom to learn are inseparable facets of academic freedom. This class will introduce an array of sometimes conflicting ideas and interpretations of U.S. history, and all who partake in the course should feel encouraged to express their views in an open, civic forum.

### ***Use of Class Materials:***

The materials used in this class, including, but not limited to, the syllabus, exams, lecture materials, and assignments are copyright protected works. Any unauthorized copying of the class materials is a violation of federal law and may result in disciplinary actions being taken against the student. Additionally, the sharing of class materials without the specific, express approval of the instructor may be a violation of the University's Code of Student Conduct and an act of academic

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dishonesty, which could result in further disciplinary action. This includes, among other things, uploading class materials to websites for the purpose of sharing those materials with other current or future students. You may not make audio or video recordings of any part of this class without my consent.

### **IN SUM: YOUR RESPONSIBILITIES**

- Read the syllabus and visit and use the canvas site for this course.
- Check your Rutgers email for announcements and emails relevant to the class.
- Do the readings.
- Attend synchronous lectures and post in online student led weekly forums.
- Turn in your assignments/participate in discussion forums on time.
- Make sure your assignments/discussion forum posts are submitted.
- Find out what you missed if you are unable to attend.

### **STUDENT EVALUATION**

- ***PARTICIPATION (15%)***

Class participation will be evaluated by a student's participation in student led question and answer forums. This grade will be based on posting 2 comments in our weekly lecture forums – which can be either a substantive question and/or answer to a topic raised in the weeks' lectures. You will be marked down accordingly if a post is missing or it is clear that you did not put thought behind your posts. Credit will not be given for late posts. There are 13 opportunities for you to post in these discussion forums. You may miss posting in forums for 3 weeks and still receive full credit. However, posting one comment in 1 weekly forum and a second comment in another will not count as having completed 1 full forum.

- ***POWERPOINT OF CASE BRIEFING (10%)***

Each student will be asked to prepare a power point slide(s) of a case briefing of one of the court opinions we will read during the semester. During our synchronous lectures the student will be asked to present the case to the class.

- ***2 FACT PATTERN LEGAL ANALYSES (15%)***

Two times during the semester each student will be asked to provide a legal analysis of a fact pattern based on previously reviewed legal concepts. They will demonstrate their ability to apply the legal concepts to the facts at hand to determine whether the facts presented would meet the legal criteria for the plaintiff to make a claim according to the law.

- ***2 TOPIC DISCUSSION FORUMS (20%)***

Twice during the semester students will be assigned a specific topic to post an initial response and 2 follow up comments to other students initial responses on a Canvas Discussion Forum. Students'

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initial posts and comments will be graded based on the substance of their initial posts and comments as they relate to the reading provided as well as the depth of their thinking and reasoning about the topic.

- ***EXAMS (40%):***

There will be 2 exams for this class. There will be a midterm exam and final exam that will be given during the scheduled exam period. The final exam will NOT be cumulative, but will only cover the material we cover from the midterm exam to the end of our class meetings. The exams will be a combination of multiple choice and short answers. These exams will be given online through Canvas. You must be able to synthesize the material we have covered to answer the questions on the exams.

***Missed Exams:***

All students are expected to take the scheduled on-line exams (midterm and final) at the designated times. However, a make-up exam will only be granted through an excused absence. Excused absences include documented medical situations or other approved absence due to a personal situation. The latter will be granted at my discretion.

**FINAL GRADE CALCULATION:**

Your final grade will be calculated as follows:

- Participation in Student Led Question/Answer Discussion Forums (15%)
- Powerpoint of Case Briefing (10%)
- 2 Fact Pattern Legal Analyses (15%)
- 2 Online Topic Forums (20%)
- Midterm Exam (20%)
- Final Exam (20%)

***NOTE: The Professor reserves the right to change the grading distribution, to offer extra credit assignments, to add or change readings or otherwise change the structure of the course.***

# Class Topics & Schedule

Week	Dates	Topic	Learning Activities
1	September 3	<ul style="list-style-type: none"> <li>• <i>Course Overview</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Understanding the Court Systems</li> <li>• How to Brief a Case</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Introduce yourself at <a href="#">Meet Your Learning Community Discussion Forum</a></li> <li>• Attend "Live/Synchronous" Lecture session</li> </ul>
2	September 8 and 10	<ul style="list-style-type: none"> <li>• <i>Anatomy of an Employment Lawsuit</i></li> <li>• <i>Remedies</i></li> <li>• <i>Employment at Will and Its Exceptions (Overview)</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Anatomy of a Lawsuit</li> <li>• How to Brief a Case</li> <li>• Employment at Will and Its Exceptions: Overview</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in <a href="#">Week 2 Lectures Discussion Forum: Student Led Questions and Answers</a></li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>
3	September 14 and 17	<ul style="list-style-type: none"> <li>• <i>Employment at Will and Its Exceptions</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Woolley v. Hoffman-LaRoche, Inc.</li> <li>• Pierce v. Ortho Pharmaceutical</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 3 Lectures Discussion Forum: Student Led Questions and Answers</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>
4	September 21 and 24	<ul style="list-style-type: none"> <li>• <i>Title VII of the Civil Rights Act of 1964</i></li> <li>• <i>Equal Employment Opportunity Commission</i></li> <li>• <i>Race Discrimination (Part 1): Disparate</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Title VII of the Civil Rights Act of 1964 and the EEOC</li> <li>• Title VII Statute</li> <li>• EEOC Website - Filing a Charge of Discrimination</li> <li>• McDonnell Douglas Corp. v. Green, 411 U.S. 792</li> </ul>

		<i>Treatment - McDonnell</i>	(1973)  <b>Learning Activities</b>  <ul style="list-style-type: none"> <li>Participate in <u>Week 4 Lectures Discussion Forum: Student Led Questions and Answers</u></li> <li>Attend "Live/Synchronous" lecture sessions</li> </ul>
5	September 28 and October 1	<ul style="list-style-type: none"> <li><i>Race and Discrimination (Part 2): Disparate Impact - Griggs</i></li> <li><i>Theories of Action</i></li> <li><i>National Origin Discrimination</i></li> </ul>	<b>Readings</b> <ul style="list-style-type: none"> <li>Griggs v. Duke Power</li> <li>Theories of Action in an Employment Discrimination Lawsuit</li> <li>National Origin Discrimination</li> <li>Garcia v. Spun Steak Company</li> </ul> <b>Learning Activities</b> <ul style="list-style-type: none"> <li>Participate in <u>Week 5 Lectures Discussion Forums: Student Led Questions and Answers</u></li> <li>Attend "Live/Synchronous" Lecture sessions</li> </ul>
6	October 5 and 8	<ul style="list-style-type: none"> <li><i>Sex Discrimination</i></li> <li><i>Sexual Harassment</i></li> </ul>	<b>Readings</b> <ul style="list-style-type: none"> <li>Sex Discrimination and Sexual Harassment</li> <li>Lehmann v. Toys ‘R’ Us, Inc.</li> <li>Bostock v. Clayton County, Georgia</li> <li>NY Times article re: Bostock</li> </ul> <b>Movie</b> <ul style="list-style-type: none"> <li>North Country</li> </ul> <b>Learning Activities</b> <ul style="list-style-type: none"> <li>Participate in <u>Week 6 Discussion Forum: Student Led Questions and Answers.</u></li> <li>Attend "Live/Synchronous" Lecture sessions</li> <li>Participate in Topic 1 Forum Discussion – Sex Discrimination – Bostock Decision</li> </ul>
7	October 12 and 15	<ul style="list-style-type: none"> <li><i>Sex Discrimination and Sexual Harassment (cont.)</i></li> <li><i>Review for Midterm Exam</i></li> </ul>	<b>Readings</b> <ul style="list-style-type: none"> <li>Sex Discrimination and Sexual Harassment</li> <li>Lehmann v. Toys ‘R’ Us, Inc.</li> <li>Bostock v. Clayton County, Georgia</li> </ul>

			<ul style="list-style-type: none"> <li>• NY Times article re: Bostock</li> </ul> <p><b>Movie</b></p> <ul style="list-style-type: none"> <li>• North Country</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in <u>Week 6 Discussion Forum: Student Led Questions and Answers.</u></li> <li>• Attend "Live/Synchronous" Lecture sessions</li> <li>• Participate in Topic 1 Forum Discussion – Sex Discrimination – Bostock Decision</li> </ul>
8	October 19 and 22	<ul style="list-style-type: none"> <li>• <i>Midterm Exam</i></li> </ul>	
9	October 26 and 29	<ul style="list-style-type: none"> <li>• <i>Disability Discrimination</i></li> <li>• <i>Religious Discrimination</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• <b>Disability Discrimination</b> <ul style="list-style-type: none"> <li>• Moorer v. Baptist Memorial</li> <li>• Karraker v. Rent Center Inc.</li> </ul> </li> <li>• <b>Religious Discrimination</b> <ul style="list-style-type: none"> <li>• Estate of Thornton v. Caldor</li> <li>• McCrory v. Rapides Regional Med. Cntr</li> </ul> </li> </ul> <p><b>Video:</b></p> <ul style="list-style-type: none"> <li>• Disability Myths</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 9 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>
10	November 2 and 5	<ul style="list-style-type: none"> <li>• <i>Constitutional Issues</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Constitutional Issues</li> <li>• Pickering v. Board of Education</li> <li>• City of Ontario v. Quon</li> </ul>

			<p><b>Internet Resource</b></p> <ul style="list-style-type: none"> <li>• Can Bosses Do That?</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 10 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>
11	November 9 and 12	<ul style="list-style-type: none"> <li>• <i>Privacy in the Workplace</i></li> <li>• <i>Drug Testing</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Smith v. Pillsbury</li> <li>• O'Connor v. Ortega</li> <li>• Treasury Employees v. Von Raab</li> <li>• Jeff John Roberts, The Boss in Your Bedroom: As Workplace Surveillance Spreads, What are your Rights?" <i>Fortune</i>, May 20, 2020.</li> <li>• Adam Satarano, How My Boss Monitors Me While I Work from Home," <i>The New York Times</i>, May 6, 2020.</li> <li>• Dave Zielinski, Know the Risks When Monitoring Remote workers, <i>SHRM</i>, May 11, 2020.</li> </ul> <p><b>Internet Resources:</b></p> <ul style="list-style-type: none"> <li>• Drug Free Workplace Advisor</li> <li>• Urine Drug Screening</li> <li>• The Decline in Drug Testing.docx</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 11 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> <li>• Participate in Topic 2 Discussion Forum: Privacy in the Workplace – Computer Monitoring</li> </ul>
12	November 16 and 19	<ul style="list-style-type: none"> <li>• <i>Whistleblower Protection</i></li> <li>• <i>Employment Related Torts</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Abbamont v. Piscataway Twp</li> <li>• Taylor v. Metzger</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 12 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>

<p>13</p>	<p><b>November 23 and 26</b></p>	<ul style="list-style-type: none"> <li>• <i>Happy Thanksgiving!</i></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Have a nice holiday!</b></li> </ul>
<p>14</p>	<p><b>November 30 and December 3</b></p>	<ul style="list-style-type: none"> <li>• <i>Polygraph Testing</i></li> <li>• <i>Family Medical Leave (FMLA and NJFLA)</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Department of Labor: Employee Polygraph Protection Act</li> <li>• Department of Labor: Employee Polygraph Protection Act Poster</li> <li>• Polkey v. Trane</li> <li>• Family &amp; Medical Leave</li> <li>• Department of Labor Summary of the Family Medical Leave Act (Federal)</li> <li>• Department of Labor Family Medical Leave Act Fact Sheet #28             <ul style="list-style-type: none"> <li>○ Note: You may want to review some of the other DOL Fact Sheets regarding FMLA - they are very informative for both employers and employees</li> <li>○ <b>**Need to add Link to NJFLA**</b></li> </ul> </li> <li>• NJ Family Medical Paid Leave Insurance</li> <li>• Gerety v. Hilton</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 14 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture sessions</li> </ul>
<p>15</p>	<p><b>December 7 and 10</b></p>	<ul style="list-style-type: none"> <li>• <i>Non-compete and Confidentiality Agreements</i></li> <li>• <i>Workers Compensation</i></li> </ul>	<p><b>Readings</b></p> <ul style="list-style-type: none"> <li>• Non-Compete and Confidentiality Agreements</li> <li>• Nike, Inc. v. McCarthy</li> <li>• Workers' Compensation</li> <li>• Guyton, Gregory, P., "A Brief History of Workers' Compensation" (Iowa Orthop. J., 1999, 19:106-110 (Links to an external site.))</li> </ul> <p><b>Learning Activities</b></p> <ul style="list-style-type: none"> <li>• Participate in Week 15 Lectures Discussion Forum: Student Led Questions and Answers.</li> <li>• Attend "Live/Synchronous" Lecture session via BigBlueButton.</li> </ul>

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16	TBD	• <i>Final Exam</i>	
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