



RUTGERS

SCHOOL OF MANAGEMENT AND LABOR RELATIONS
DEPARTMENT OF LABOR STUDIES & EMPLOYMENT RELATIONS

EMPLOYMENT LAW

PROFESSOR VIKRANT KISHIN ADVANI

COURSE NUMBER: 37:575:315

SPRING 2022, WEDNESDAYS 2 PM TO 5 PM

SYNCHRONOUS REMOTE INSTRUCTION UNTIL JANUARY 31, 2022

(JAN 19TH, 2022 AND JAN 26TH, 2022)

IN PERSON INSTRUCTION AS OF FEBRUARY 2, 2022

LUCY STONE HALL ROOM B-112

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COURSE OBJECTIVES

- To familiarize students with the structure of the federal and state court systems, and judicial legal process and reasoning;
- To study, in depth, the various state and federal laws and constitutions that protect workers from discrimination based on protected categories including race, color, sex, religion, national origin, age, disability, and sexual orientation;
- To introduce students to various forums and procedures for litigating employment discrimination claims.
- To introduce students to alternative dispute resolution mechanisms that were often utilized to resolve employment discrimination claims.

SCHOOL AND DEPARTMENT LEARNING OBJECTIVES

Labor Studies and Employment Relations Department: The student will be able to:

- Demonstrate an understanding of employment law as it intersects with the perspectives, theories and concepts in the field of labor and employment relations. (Goal 1).
- Apply those concepts, and substantive institutional knowledge, to understanding contemporary developments related to work. (Goal II).

School of Management and Labor Relations: The student will be able to:

- Demonstrate an understanding of relevant theories and apply them given the background context of a particular work situation. (Goal IV)
- Demonstrate an understanding of how to apply knowledge necessary for effective work performance. (Goal VI)

COURSE REQUIREMENTS

- This is an introductory undergraduate course in employment law. However, it emphasizes student participation and group discussion. Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

SYNCHRONOUS COURSE DESCRIPTION

The COVID-19 pandemic and its various variants have caused significant disharmony to our existence. As you know, the University will be virtual until at least Jan 31st. So, on Jan 19th and Jan 26th, we will have class as discussed below.

Thereafter, as of February 2nd, instruction will be in person UNLESS the University extends its virtual instruction period. If so, I will obviously be providing you with more information.

Regardless of live or virtual instruction, my requirements are the same:

First, unless previously adjusted, I will start class at 2 PM and end on or before 5 PM. We will aim to end class at 5:00 PM for those classes – However, I reserve the right to end class early or late depending on our workload.

Second, “physical, mental, and spiritual” attendance during the virtual or live classes is extremely important, since we will be reviewing many of the key concepts, and your class participation during these sessions is an important and large part of your overall grade. I will be paying close attention to attendance and participation.

Third, during the virtual classes, you will be required to activate both your audio and video during these sessions, so it’s important that you have these technical capabilities before the first class. Communication with students is key for success – Therefore, activating your video and your audio for purposes of communicating during class is not negotiable. If you cannot comply, feel free to find another professor who will accept your non-audio and video participation.

Fourth, please understand that conducting classes virtually makes us extremely dependent on superior and/or at least competent internet and technology. Please ensure that your devices are internet and Webex/Zoom-video/audio ready, and that you have a back-up device in the event of product failure. Not having appropriate technology and periphery like video-cameras and audio capability is not acceptable. Rutgers can assist you if you do not have the means to purchase technologically appropriate computers. I can provide you with more information if you need same.

Fifth, I will ATTEMPT to coordinate recording of each class with Rutgers University so that it is available for review for a reasonable time for students who run into technological problems or have to miss class due to a legitimate reason such as illness.

Finally, make sure you have signed up for Webex with your RU account before the first class. Contact the RU Help Desk (833-648-4357) if you need assistance or have questions on Webex. If you anticipate having any connectivity issues (i.e. access to internet, etc.) please contact me and I will work with you to make sure you can access the key course content. I MAY change over to Zoom if we continue to stay virtual past the first two classes.

COURSE REQUIREMENTS

This is an upper-level undergraduate course in employment discrimination law, and it heavily emphasizes student participation and group discussion. Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

GRADE CRITERION

Course grading is based on two examinations and class participation. The breakdown is as follows:

- | | |
|-------------------------|---------------------------------|
| 1. Exam 1: | 40% of your overall final grade |
| 2. Written Assignments: | 25% of your overall grade |
| 3. Exam 2: | 20% of your overall final grade |
| 4. Class Participation: | 15% of your overall final grade |

The specific format of the examinations will be discussed at the appropriate time but I generally give an in-class Multiple Choice, Fact Pattern and Definitions-styled Midterm and Final. Our exams will be held on Canvas and proctored.

ATTENDANCE CRITERION

Vigorous Attendance & Class Participation Policy: As of Fall 2020, I am requiring each student to **vigorously** participate at least once in every class, in-person or otherwise. This means that you must attend every class in a timely manner.

Please note that using Webex or Zoom allows me the capability to lock out classes after a grace period. Due to hacking and other privacy concerns, I plan to lock out our classes 10 minutes into class – Therefore, please make sure you are in the Webex/Zoom

meeting no later than 2:10 PM. If you are inexcusably late to a virtual session, I reserve the right to refuse you entry and/or give you partial credit for attendance.

Unexcused absences are **not** encouraged. If you have two (2) unexcused absences, you will be docked a full grade (ex. B instead of an A). If you have three (3) unexcused absences, you will receive a failing grade for Class Participation. If you have four (4) or more unexcused absences, you will receive a failing grade for the class.

Also, you will not only be required to timely attend every class but you will be required to participate (see note above regarding “vigorous” participation) at least once in every class by engaging in substantive discussion about the discussed topic. It need not be scholarly and/or profound – However, it will require you to know your assigned materials.

Although I will be actively monitoring class attendance and participation, I will not be prompting you to participate – This is an undergraduate level class and your class participation grade, which accounts for 15% of your overall grade, should be motivation enough. Also, just to be clear, “I don’t understand Concept X” does not qualify as substantive discussion.

Leniency Policy: Finally, if you have any personal/health-related reasons for skipping class, kindly advise me immediately so I can excuse your absence and arrange for you to view recorded lectures and/or request a student to provide you with notes. You will find me sympathetic and reasonable. However, if you fail to or refuse to communicate with me in a timely manner regarding your health/personal issues, I will not be as accommodating after the fact. The key is communication. Kindly communicate so I can be reasonable in accommodating you.

ELECTRONIC DEVICE CRITERION

There are no electronic devices allowed in class other than to facilitate your learning. This includes computers, cell phones, laptops, or tablets. You are not to check social media, email and/or text during our class. Although I prefer you take notes by pen/pencil, electronic note taking is allowed.

- I reserve the right to penalize any student (including removal, expulsion with a failing grade) who refuses to comply with this simple request for mutual respect.
- Textbooks will need to be purchased; If electronic copies of textbooks are purchased or rented, they can be viewed on your electronic device.
- You are NOT authorized to record the lectures on your own end – I ask that you respect my privacy as I respect yours – Willful Failure to comply with this policy will be heavily penalized. To restate – you do not have permission to record me and/or my images and/or my lectures, and I reserve **all** rights permitted under law to prosecute any such violations.

STUDENT CONDUCT POLICY

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

Please be so advised.

STUDENT ACCOMMODATION POLICY

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>

COURSE MATERIALS

Textbook:

Principles of Employment Law, Smith, Hodges, Stabile, and Gely, **Second Edition**, Concise Hornbooks, ISBN: 978-1-68328-359-1. This textbook can be purchased online by searching for the ISBN#. Please buy this textbook as soon as possible so that we can hit the ground running. It is not expensive and there are download links – please do not procrastinate in getting this textbook. Here is an amazon link: https://www.amazon.com/Principles-Employment-Law-Concise-Hornbook/dp/031416877X/ref=sr_1_fkmr0_1?dchild=1&keywords=Principles+of+Employment+Law%2C+Smith%2C+Hodges%2C+Stabile%2C+and+Gely%2C+Second+Edition%2C+Concise+Hornbooks%2C+ISBN%3A+978-1-68328-359-1.&qid=1598892155&sr=8-1-fkmr0

No, you cannot purchase the first edition. Please buy the second edition. This is not negotiable.

In addition, course reading materials are found in the Canvas Resources section. I reserve the right to supplement, substitute, and/or modify the listed reading selections as I see fit.

WRITTEN ASSIGNMENTS

Your written assignments are to be submitted online. There are 3 assignments in total, and they total 25% of your overall grade. All three are “case briefs” where you are going to read a case, answer specific questions, and submit your answers on Canvas. The first and second

are worth 7% and 8 % respectively of your overall grade. The third assignment will be 10% of your overall grade.

While I will not be penalizing minute citation errors, I will check for typographical errors and copying/plagiarism and I expect you know the Rutgers policy against copying and plagiarism.

The written assignment due dates are in your syllabus. Each assignment will be due at 6:00 PM on the assigned day.

There are no exceptions or alternatives to completing these written assignments on a timely basis. If you fail to submit these assignments in a timely manner, you will be subject to grade reduction and/or a failing grade in any missed or late assignment.

CLASS SCHEDULE:

CLASS 1: 1/19/22

Course Overview
The U.S. Court System
Anatomy of a case

READINGS

How to Brief a Case: Writing a Student Brief
<https://www.lib.jjay.cuny.edu/how-to/brief-a-case>

Handout: *U.S. Court System (Diagram)*
http://www.columbia.edu/~mckeever/court_system.jpg

Handout: *New Jersey Court Structure (Diagram)*
https://staterrecords.org/court/court_structure

Handout: *Supreme Court of New Jersey (Photo)*
<https://www.njcourts.gov/courts/supreme/vm/scvirtual.html>

Handout: *Current U.S. Supreme Court Justices*
<https://www.supremecourt.gov/about/biographies.aspx>

Handout: *Sources of Employment Law*
<http://www.omvllaw.com/wp-content/uploads/2013/01/Origins-of-Employment-Law-United-States-State-and-Local-Jurisdictions.pdf>

CLASS 2: 1/26/22

Employment at Will, Just Cause & the Contract Exception

READINGS:

Pages 23-38 (Read up to § 2.4.3)

Handout: *What is Just Cause?*

<https://www.lexology.com/library/detail.aspx?g=1c2e14f1-4066-4755-a0be-884445198105>

Handout: *Contracts, generally.*

<https://www.nolo.com/legal-encyclopedia/contracts-basics-33367.html>

CLASS 3: 2/2/22

Employment at Will, Just Cause & the Contract Exception, cont'd
Promissory Estoppel
Covenant of Good Faith & Fair Dealing

READINGS

Handout: *Woolley v. Hoffman-LaRoche, Inc.*, 99 N.J. 284 (1985)

<https://law.justia.com/cases/new-jersey/supreme-court/1985/99-n-j-284-0.html>

Handout: *Savarese v. Pyrene*, 9 N.J. 595 (1952) (6 pages)

<https://www.courtlistener.com/opinion/1443595/savarese-v-pyrene-manufacturing-co/>

Pages 38-42 (Read from § 2.4.3 up to § 2.5)

CLASS 4: 2/9/22

Employment at Will & the Tort Exception

READINGS:

Pages 42-54 (Read from § 2.5 to § 2.5.1.5)

Handout: *Pierce v. Ortho*, 84 N.J. 58 (1990) (18 pages)

<https://law.justia.com/cases/new-jersey/supreme-court/1980/84-n-j-58-0.html>

CLASS 5: 2/16/22

WRITTEN ASSIGNMENT# 1 DUE at 10 AM:

(8% OF OVERALL GRADE):

Brief *Pierce v. Ortho*

<https://law.justia.com/cases/new-jersey/supreme-court/1980/84-n-j-58-0.html>

Employment at Will & the Tort Exception, cont'd
The Whistleblower Statutory Exception
Legislative Efforts to Erode the At-Will doctrine: Montana

READINGS:

Pages 42-54 (Read from § 2.5 to § 2.5.1.5)

Pages 67-70 (Read from § 2.6.1 to 2.6.3)

Handout: CEPA Law

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-3/>

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-5/>

CEPA Rights for those Employees Who Exercise Their Rights under the COVID Executive Order

<https://www.njlawblog.com/2020/03/articles/employment/employers-beware-retaliating-against-employees-covid-19/>

CLASS 6: 2/23/22

Intentional Infliction of Emotional Distress
Intentional Interference with Contractual Relations
Brief Review for Exam 1.

READINGS:

Pages 60-67 (Read from § 2.5.2 to § 2.6)

CLASS 7: 3/2/22

IN CLASS EXAM 1 – 40% OF OVERALL GRADE - CLOSED BOOK/NOTES, COVERING CLASSES 1-6

CLASS 8: 3/9/22

The New Jersey Law Against Discrimination
Title VII of the Civil Rights Act of 1964, ADA, ADEA

READINGS:

Handout: Discrimination Laws & Disparate Treatment (4 pages).

Federal Discrimination Laws

<https://www.eeoc.gov/statutes/laws-enforced-eeoc>

EEOC: How to File a Charge/Time Limitations

<https://www.eeoc.gov/time-limits-filing-charge>

<https://www.eeoc.gov/filing-charge-discrimination>

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)

<https://supreme.justia.com/cases/federal/us/411/792/>

CLASS 9: 3/23/22

**WRITTEN ASSIGNMENT# 2 DUE at 10 AM:
(7% OF OVERALL GRADE)**

Brief *Bostock v. Clayton County*

https://www.law.cornell.edu/supremecourt/text/17-1618#writing-17-1618_OPINION_3

Equal Employment Opportunity Commission (“EEOC”)
The New Jersey Division on Civil Rights (“NJDCR”)
National Origin Discrimination
English only” cases

READINGS:

Handout: *Equal Employment Opportunity Commission & The New Jersey Division On Civil Rights – Procedures & Filing Issues (2 pages)*

<https://www.nj.gov/lps/dcr/filing.html>

Garcia v. Spun Steak Company, 998 F.2d 1480 (1993)

<https://www.leagle.com/decision/199330913f3d2961248>

EEOC v. Premier, 113 F.Supp. 1066 (N.D.Texas 2000)

<https://law.justia.com/cases/federal/district-courts/FSupp2/113/1066/2577121/>

CLASS 10: 3/30/22

Sex Discrimination and Harassment

READINGS:

Handout: *Sexual Harassment (2 pages)*

Lehmann v. Toys ‘R’ Us, Inc., 132 N.J. 587 (1993)

<https://law.justia.com/cases/new-jersey/supreme-court/1993/132-n-j-587.html>

CLASS 11: 4/6/22

Family Medical Leave Act (“FMLA”)
NJ Family Leave Act (“FLA”)

READINGS:

Handout: Leave Options under FMLA and NJFLA
<https://www.njea.org/your-leave-options-under-njfla-and-fmla/>

Handout: The Family & Medical Leave Act (
<https://www.dol.gov/agencies/wbd/fmla>

Pages 210 – 220 (§ 5.2 to § 5.2.3)

CLASS 12: 4/13/22

Fair Labor Standards Act/Equal Pay Act
Rights of Undocumented Workers

READINGS:

Pages 181 - 210 (§ 5.1.2 to § 5.2)

Handout: Undocumented Workers May Sue for Overtime Under Fair Labor Standards Act, Federal Court Rules
<https://www.jacksonlewis.com/resources-publication/undocumented-workers-may-sue-overtime-under-fair-labor-standards-act-federal-court-rules>

Handout: Undocumented Foreign Workers May Recover Unpaid Wages under FLSA Despite Hoffman: Eleventh Circuit
[https://content.next.westlaw.com/Document/Ibb0a875aef0511e28578f7ccc38dcbef/View/FullText.html?contextData=\(sc.Default\)&transitionType=Default&firstPage=true](https://content.next.westlaw.com/Document/Ibb0a875aef0511e28578f7ccc38dcbef/View/FullText.html?contextData=(sc.Default)&transitionType=Default&firstPage=true)

Handout: Do Undocumented Workers have Rights to Sue for Unpaid Wages
<https://hkm.com/employment-blog/undocumented-workers-right-to-sue-unpaid-wages/>

CLASS 13: 4/20/22

**WRITTEN ASSIGNMENT# 3 DUE at 10 AM:
(10% OF YOUR OVERALL GRADE)**

Brief *Aguas v. State of New Jersey*

<https://caselaw.findlaw.com/nj-supreme-court/1692580.html>

Unemployment Compensation
Workers Compensation
OSHA

READINGS:

Pages 257 - 273 (§ 5.4 to § 5.5)

Pages 282 - 305 (§ 6.1 to § 6.2)

Handout: New Jersey Unemployment Law

<https://nj.gov/labor/handbook/content/QandABenefits.html>

Handout: NJ Unemployment Law & COVID

<https://www.nolo.com/legal-encyclopedia/collecting-unemployment-benefits-new-jersey.html>

<https://www.northjersey.com/story/news/new-jersey/2020/08/27/300-unemployment-nj-everything-you-need-know/5643356002/>

Pages 305 - 323 (§ 6.2 to end of chapter)

CLASS 14: 4/27/22

IN CLASS EXAM 2 – 20% OF OVERALL GRADE - CLOSED BOOK/NOTES, COVERING CLASSES 8-13