

EMPLOYMENT LAW

Fall 2016

Course No. 37-575-315-80

Thursdays 6:00 p.m. – 8:40 p.m.

Professor Joyce M. Klein

Phone: (732) 775-5677

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 (15th Ed.) by David P. Twomey. ("Twomey"). **NOTE: This textbook 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 will be distributed and/or available on SAKAI 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, for 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.**

ACADEMIC INTEGRITY: The conduct of all students is governed by the Rutgers University Academic Integrity Policy:
[http://academicintegrity.rugters.edu/files/documents/AI](http://academicintegrity.rugters.edu/files/documents/AI%20Policy%209%2001%202011.pdf) Policy 9 01 2011.pdf

HOMEWORK: Each student is required to submit electronically through SAKAI 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 ten weeks. Students may select which case is briefed each week, so long as it is either a case provided on Sakai 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 20, 2016** which will account for **30%** of the final grade.

Students will complete a final midterm examination on **December 8, 2016** which will account for **30%** of the final grade.

September 1 Introduction
 The Courts and Administrative Agencies
 How to read a case
 Case reading exercise
 Employment at Will

September 8 Employment at Will; Exceptions to Employment at Will;
 Contract Theories

Twomey pp. 597-610 (In Chapter 16)

SAKAI:

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

September 15

Exceptions to Employment at Will
Tort Theories

Twomey pp. 619-628 (In Chapter 16)

SAKAI:

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

September 22

Whistleblower Protection (SOX, CEPA)/Non-Compete
Agreements

Twomey 610-619 (In Chapter 16)

SAKAI:

Hernandez v. Montville Board of Education

Dzwonar v. McDevitt

To Compete Better, States are Trying to Curb Non-Compete
Pacts, Steve Lohn, New York Times, June 28, 2016

September 29

Employee Privacy/Drug Testing

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

October 6

Employee Privacy/Electronic Privacy

Twomey 647-651 (In Chapter 17)

SAKAI:

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

Even If It Enrages Your Boss, Social Net Speech is
Protected, New York Times (January 22, 2013)

Ontario, California v. Quon, __ U.S. __ (June 17, 2010)

NJ Social Media Employment Law

October 13

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

Twomey 395-409; 411-423; 424-432 (In Chapter 12)

October 20

MIDTERM

October 27

Discrimination Laws continued
Sexual Harassment/Age

Twomey 432-437; 439-440; 442-446; 534-549 (In Chapters 12 & 14)

November 3

Workers Compensation; FMLA

Twomey 575-582; 584-589 (In Chapter 15)

SAKAI:

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

The Demolition of Workers' Compensation (ProPublica) (March 4, 2015)

November 10

Unemployment Insurance/Wage & Hour Laws

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

SAKAI:

Integrity Staffing Solutions, Inc. v. Busk et. al., 574 U.S. ____ (2014)

Fact Sheet: Final Rule to Update the Regulations Defining and Delimiting the Exemption for Executive, Administrative, and Professional Employees

Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA)

Overtime – Whiteboard Explainer – Youtube Video

<https://www.youtube.com/watch?v=KfINs8Fr9c8&feature=youtu.be>

November 17

Immigration; USEERA

Twomey 697-707; 589-593 (In Chapters 17 & 18)

SAKAI:

Pink Slips at Disney. But First, Training Foreign Replacements, The New York Times (June 3, 2105)

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

A Non-technical Resource Guide to USERRA “A Verification System for New Hires Backfires”, Businessweek, (November 2011)

December 1

Occupational Safety & Health

Twomey 361-390 (In Chapter 11)

December 8

FINAL EXAMINATION