Fall 2017
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Class meets in Room 2-38

EMPLOYMENT LAW

COURSE OVERVIEW, GUIDELINES, AND SYLLABUS

Purpose of Course:

This course is designed to provide a survey of the current employment laws in the United States, It will cover such issues as hiring, job security, compensation, benefits, safety and health, employer rights, employee rights, privacy rights, collective bargaining and employment discrimination. Employment law embodies principles of contracts, torts, property law, constitutional, criminal law, labor law, immigration law, class action law, and dispute resolution among others. It is an essential course not only for labor and employment lawyers but for all who practice in corporate, business, criminal, immigration, public advocacy, international and other areas of the law. Employment issues touch upon the basic rights and protections for both employers and employees in a free market economic society as ours. This course will also provide the framework for the history and development of employment law in the United States.

Text: The main text for this course is Employment Law, Cases and Materials, Eighth Edition
By Rothstein, Liebman, and Yurako. In addition, you will be assigned to read certain statutory provisions, accessible through TWEN or WESTLAW.

Classes:
Our class will meet in room 2-38 on Monday and Wednesdays from 4:10-5:30.

Learning Objectives:

This course is designed to guide you in the following learning objectives:

1. To understand the roles and different characteristics of federal and state employment laws (e.g. statutory, common law, administrative rulings);
2. To understand the sources and evolution of employment law (including discrimination and labor laws);
3. To be aware of employer responsibilities in complying with statutory law and regulations relating to their relationship with their employees (e.g., compliance with wage and hour laws, employee benefit laws, etc.);
4. To recognize the scope of employment law, and how principles of employment law intersect with and impact other areas of the law;
5. To understand and apply the principles that determine the classification of workers, its importance, and the consequences of mis-classification;
6. To enhance research skills in researching and applying legal authority to employment issues.

7. To enhance problem solving skills in terms of meeting a client's objectives (both management side and employee side), anticipating consequences, and assessing risks;
8. To enhance communication skills, by making written and oral presentations about issues in employment law;
9. To better evaluate various methods of dispute resolution to meet a client's objectives.

Attendance and Class Participation:

The rules of the New York State Court of Appeals, the American Bar Association, and the Law School all require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 75% of your regularly scheduled classes for Employment Law, a three-credit course, that means you may miss no more than six class hours in a semester, the equivalent of four classes. If you exceed the permitted absences, you will be administratively withdrawn from the course. This may have serious ramifications for your financial aid, academic standing, and date of graduation.

I will provide sign-in sheets for each class and you are responsible for signing in.
If you believe you must be absent from class for more than the permitted number of hours, you should speak with me and the Senior Assistant Dean for Student Affairs or the Director of Student Affairs as soon as possible. Accomodations will be made for students who must be absent for health or religious reasons and in cases of truly compelling hardship.

You are responsible for all assignments due and all material covered during absence. You are expected to be fully prepared for each class.

This entails reading and understanding the assigned material so that you can participate in informed class discussions. Each student may utilize one pass during the semester but you need to notify me in advance via e-mail that you don't want to be called on that day.

Grades:

Grades will be based on the following criteria: final exam-65%; office memo-25% and class participation 10%. Your class participation grade will be based on preparedness when called upon, willingness to volunteer, the quality of comments in class, and attendance.

Final Exam:

The final exam will be a three-hour, in class, open book exam. You will be allowed to bring only your text and your notes taken in class or outline of notes.

Office Memo:

Each student will be required to research and write a short office memo (5-8 pages, double spaced) addressing a current issue in employment law. Or you can be creative and base your memo on a client's specific request for advice on an employment related matter they raise with you. (either employer or employee). Your memo must concern a topic that goes beyond what we have discussed in class and should include citations to at least three decided cases, statutes enacted or amended, or recently issued regulations.

The purpose of the memo is two-fold: to provide an opportunity to research an employment related topic of interest to you, and to provide practice in doing the type of research, analysis and writing, you will be expected to perform as a law associate.

The memo will be due Wed, November 8 and you should select your topic and submit a one-paragraph description of your topic no later than Wednesday, Oct 11. You can discuss with me in advance if you need guidance.

Twen:
This course will use TWEN (the West Educational Network), an on-line means of communicating course information and announcements and extending discussion about employment law. Please sign up for TWEN at www.lawschool.westlaw.com. This course will be accessed under my name as Employment Law.

Computer Use During Class:
The use of your lap top will be permitted provided that it is used during class time for note-taking and other work related to the employment law class. It is distracting and rude to surf the web, do instant messaging , etc. during class time. If you are found to violate this policy, you will lose the right to bring your lap top to class. Also, please turn off your cell phone and any other electronic devices as a matter of professional courtesy.

Communications:
My office is located in Room 103B and my office number is 516-463-5241 ext. 35241. The best way to reach me is by e-mail at Karen.P.Fernbach@hofstra.edu or kpfernbach@gmail.com.
I will be in my office generally from 1:30-3:30 on Mondays and Wednesdays and by appointments. I encourage you to stop by if you need my assistance or have any questions.

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Course Coverage and Assignments:

Unless otherwise instructed, you are responsible for all assigned readings in the syllabus. The syllabus includes dates for each assignment, but depending on the pace of the class discussion, it is only a projection. At the end of each class, I will indicate the material that needs to be covered for the next class meeting. As this is a Survey Course, I have endeavored to introduce you to a broad range of the relevant employment laws. As we progress through the syllabus, if I need to make modifications they will be announced in class or posted in TWEN.

READING ASSIGNMENTS
EMPLOYMENT LAW-FALL, 2017
(Subject to Modification as noted above)

Session 1 - Monday, August 21
Overview and Development of Employment Law
Pages 3-42

Session 2 - Wednesday, August 23
Pages 42-65

Session 3 - Monday, August 28
Establishing the Employment Relationship
Hiring Process
Pages 69-130

Session 4 – Wednesday, August 30

Pages 131-189

Session 5 - Monday, September 6 &
Session 6 - Wednesday, September 11

Discrimination – Pages 191-234

Session 7 - Monday, September 13
Session 8 - Wednesday, September 18

Pages 234-321

Session 9 - Monday, September 25
Procedure & Retaliation
Pages 322-330
Pages 330-346

Session 10 - Wednesday, September 28
Affirmative Action and Reverse Discrimination
Pages 348-362

Session 11 - Monday, October 2 &
Session 12 - Wednesday, October 4
Discrimination for Factors other than Race or Sex
Pages 363-427

Session 13 - Monday, October 9
Wage & Hour Law
Pages 431-476

Session 14 - Wednesday, October 11

Enforcement of FLSA (Fair Labor Standards Act)
Pages 482-495

Session 15 - Monday October 16
Equal Pay Act
Pages 500-533

Session 16 – Wednesday, October 18
Health Benefits
Pages 535-575
Family Medical Leave Act (FMLA)
Pages 575-584
Non-Discrimination in Benefits
Pages 584-597

Session 17 - Monday, October 23
Employee Liberty-Pages 601-619
Privacy – Pages 620-632
Electronic Privacy–Pages 633-640
Freedom of Expression-Pages 642-664
Bullying – Pages 665-668

Session 18 - Wednesday, October 25
Collective Action & Regulation of Off Duty Work
Pages 670-696

Session 19 - Monday, October 30
OSHA
Pages 697-715; Pages 729-751
Enforcement & Adjudication
Pages 751-768

Session 20 - Wednesday, November 1
Disabling Injury/Illness
Workers Comp-Pages 769-812

Session 21 - Monday, November 6
Tort Actions – Pages 812-840

Session 22 - Wednesday, November 8
Terminating the Relationship
Pages 845-896
Rethinking Employment at Will
Pages 956-966

Session 23 - Monday, November 13
Employee's Duty to the Employer
Pages 971-1012

Session 24 - Wednesday, November 15
Unemployment - Pages 1017-1031
Plant Closures-Pages 1032-1056
Unemployment Insurance – Pages 1056-1070

Session 25 - Monday, November 20
Retirement –Pages 1123-1134
ERISA – Pages 1137-1164

Session 26 - Wednesday, November 22

Social Security – Pages 1179-1194

Session 27 - Monday, November 27
CATCH UP and Review

Session 28 - Wednesday, November 29
Review and Preparation for Final