Course Description:

This course is intended to provide students with an in depth understanding of labor law in the United States, as well as to develop an appreciation for the application of labor law to the collective bargaining process. A major focus of this class will be to address statutory and administrative aspects of labor law, most specifically, as it is administered under the National Labor Relations Act. Practical exercises will be provided to the class as part of the course. In this labor climate, labor law and collective bargaining extend beyond the traditional labor/management arena, such as in the areas of employment discrimination and employee benefits law and social media. We will consider those areas.

Schedule permitting, representatives from the National Labor Relations Board, the New York State Attorney General's Office, Suffolk County District Attorneys' Office and/or labor/management practitioners will be invited to make presentations regarding labor practice in the twenty-first century.

Class times & location:

Tuesdays and Thursdays, 2:40 pm – 4:00 pm
Room 206

Contact Information:

Students may contact me at my e-mail address if they have any particular questions regarding an assignment or any thoughts relative to the class at rarcher@abgllaw.com.
Course Materials:

• ST. ANTOINE, CRAVER & CRAIN, LABOR RELATIONS LAW (12TH ED. 2011). Page numbers refer to this casebook.

• ST. ANTOINE, CRAVER & CRAIN, SELECTED FEDERAL STATUTES AND SAMPLE BARGAINING AGREEMENT (2011). Read sections as indicated in the casebook or discussed in class.

Since the St. Antoine text was published, there have been a number of cases and administrative policies issued that supplement the subject matter of textbook assignments. To the extent possible, I will include them in our course presentation. I will supply any supplemental materials / assigned cases well in advance of any class where these materials will be discussed.

Attendance & Lateness:

You are expected to arrive on time and be prepared for each class. If for some reason, you are compelled to leave the class prior to its close, please speak to me in advance of the class.

I am instructed to advise that the rules of the New York State Court of Appeals and the American Bar Association 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 85% of the regularly-scheduled classes in this course.

I will provide dated sign-in sheets for each regularly-scheduled class. Your signature (or lack thereof) on these sheets shall presumptively determine your attendance at (or absence from) any given class. Each student is individually responsible for signing the attendance sheet.

The Office of Student Affairs has authority to excuse class absences for religious reasons and in cases of truly compelling hardship. If you wish to claim a particular absence as excused, and thus not be counted against your maximum number of allowable absences, you must take that issue up with the Office of Student Affairs.
TWEN:

We shall endeavor to have this class use “TWEN” (The West Education Network), “an online extension of the law school classroom.” Important course information, materials, and announcements will be made available / communicated via TWEN. Please sign up for TWEN as soon as possible. Alternatively, I can also e-mail this information to you at your e-mail address.

Laptops in the Classroom:

According to colleagues, it is suggested that laptops in the classroom, for a variety of reasons, may impact on the educational experience of the class. For this reason, a growing number of professors at Hofstra and elsewhere have banned the use of laptops in the classroom. I am ambivalent on this issue, although different students learn in different ways. If you are like most students, you will follow a discussion better and get more out of the class by minimalizing your use of the laptop. In any case, insure that your use of the laptop does not distract other students, as well as the professor, (for example, monitoring sport scores, scheduling your social events during the class period, etc.).

E-mail and Office Hours:

My e-mail address and office hours are set forth above. If for some reason you wish to contact me by telephone, feel free to contact me, but I can assure you that if you forward me an e-mail, unless I am traveling or in a meeting, I will promptly respond.

Grading:

Your final grade will consist of 80% based on your final exam (which will be a closed book exam), and 20% will be based on your class participation.
Assignments

Read sections as indicated in casebook and any supplemental materials provided by Professor.

Introduction

1-19 Background
20-34 NLRA Coverage; NLRB Structure; NLRA 1, 7, 8, 9, 10, 13, 14

Right of Self-Organization; Employer Interference, Restraint and Coercion (NLRA 7, 8(a)(1))

35-54 Limiting Organizational Activities on the Employer’s Premises, including Social Media
54-68 Anti-Union Speeches and Publications
68-74 Unlawful Interrogation of Employees
74-78 Economic Coercion and Inducement
78-79 Violence, Intimidation, Espionage and Surveillance

Significant Recent NLRB Rulings
(No casebook readings - Professor will provide materials)

Employer Domination or Support (NLRA 8(a)(2))

80-88 Employer Domination or Support

Employer Discrimination

88-102 Introduction, Hiring Halls - NLRA 8(b)(1)A, 8(b)(2)
103-130 Union Security Arrangements - NLRA 8(a)(3), 14(b)
130-160 Protected Concerted Activities and Employer Response - NLRA 7, 8(a)(1)
172-201 Lockouts, Plan Closings, and Relocations, Significance of recent Boeing case – NLRB Case No. 19-CA-089374 (Professor will also supply materials on Boeing case)

Achieving and Maintaining Representative Status
210-235  NLRB Election Procedures
235-254  Forms of Union Recognition – NLRA 9 (Professor will provide materials)
254-277  Duration of Duty to Bargain

Picketing and Union Discipline – NLRA 8(b)(1)(A), 8(b)(7)
279-285  Background
285-306  Union Discipline – NLRA 8(b)(1)(A), 8(b)(1)(B)
307-325  Organizational and Recognition Picketing – NLRA 8(b)(7)

Secondary Pressure – NLRA 8(b)(4)(B)
325-332  Background
333-359  Common Situs Problems
359-363  The Ally Doctrine
364-372  Consumer Picketing
372-380  Coercion of Secondary Employers
-- Recent Union Initiatives and Strategies to avoid adverse NLRB
Rulings, use of rats, banners and other free speech approaches -
(No casebook reading, Professor will supply materials)

Analysis of Sample Collective Bargaining Agreement –
Refer to Supplemental Text 124-142
Collective Bargaining – NLRA 8(a)(5)
469-496  Nature of Duty to Bargain
514-523  Unilateral Employer Action
523-534  Supplying Information to Bargaining Parties – also
Stella D’Oro
Biscuit Inc., 355 NLRB No. 158, enf. denied 711 F3d 281
(2nd Cir. S013) and Coupled Products, 359 NLRB No. 152
(2013)
534-572  Subjects of Collective Bargaining

Enforcement of Collective Bargaining Agreement
584-595  Introduction
595-639  Judicial Enforcement, including enforcement of strike bans
666-718  Contract Rights and Statutory Rights – Overlapping Law and Forums
Contemporary Workplace Bargaining Issues

-- Professor will provide materials

Mock arbitration

With materials supplied by Professor, class will participate in mock arbitration of a labor dispute.

Mock Collective Bargaining Negotiations

With materials supplied by Professor, class will participate in collective bargaining exercise.