

Hofstra School of Law

Advanced Labor Law *
Spring, 2018

Professor Karen Fernbach
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Syllabus: This course is a seminar for students interested in acquiring a more in depth understanding of labor and employment law in the United States. We will address advanced labor issues including current hot topics such as the use of social media in the work place, non-traditional organizing methods; legality of employer works councils in United States, sexual harassment in the workplace and the #metoomovement, employee versus independent contractor status, use of technology and robots in the work place, and other labor topics that arise in the context of a global economy and the current political climate in our country. Students will prepare a research paper on a topic they are most interested in which they will have the opportunity to present to the class for discussion. They will also be divided up in groups to orally present the labor/employment laws of another industrialized country and a comparison of those laws to the labor/employment laws of the United States. The course is designed to be interactive and to provoke discussion and debate over current labor and employment issues.

Administrative Information: Class meets every Tues morning from 10:10 to 12:00 PM in Room 243. Attendance will be taken but if you are unable to attend a class, you must notify me by e-mail prior to the class with the reasons for your absence. If there is a change in schedule, I will notify the class through Hofstra e-mail via TWEN.

Materials: The primary text is Cox, Bok, Gorman, and Finkin, Labor Law Cases and Materials, (16th Edition, 2016 (Foundation Press), with 2017 statutory appendix and case supplement. Bring 2017 Statutory Appendix to each class as we will be reviewing NLRA Statute.

Also the omnibus resource, the multi-volume International Labor and Employment Laws (Editor in Chief William L Keller) (ABA Section of Labor and Employment Law, BNA) will be available in library for group project relating to a comparison of our labor laws to those of other nations. <http://libweb.hofstra.edu/record=b1966721~S1>

Grading: The final grade will be determined by class participation, class presentations, and a research paper.

Class participation is 10% of the final grade

Class presentations are 25% of the final grade.

The research paper is 65% of the final grade. It should be 20 typed pages, double spaced at 12 point Times New Roman and must be supported with legal research and appropriate citations. The research paper is due at the beginning of the final class on April 24, 2017. Late papers generally receive grades no higher than the lowest grade of the papers submitted on time.

The research paper must address a topic of interest to you including any of the following: the labor and employment ramifications of globalization; secondary boycotts; internal union governance; social justice aspects of labor and employment law policy; effective use of social media in labor/employment context, worker centers or social advocacy groups or other non-traditional methods in union organizing; current labor pre-emption issues; anti-trust laws in labor context; employee versus student or independent contractor status in sports, medicine, university, taxi drivers (Uber or Lyft for example), sexual harassment in the workplace, use of technology in the workplace, or any other topics discussed in class and approved by Professor.

You need to obtain prior approval of your topic. You can discuss your topic with me before or after class or contact me during my regular office hours by phone or e-mail at my contact information listed above.

Class 1 (Jan 16) - Introduction to Course
Movie Presentation of documentary “The Hands that Feeds”

General Review of NLRA law with emphasis on unions' constitutional rights to picket, strike, or engage in secondary boycotts as limited by statutory framework covered by 8(b)(7), 8(b)(4) and 10(l) of National Labor Relations Act.

Class 2 (Jan 23) - Constitutional Limitations on Government Regulation – Readings from text: pages 628-661.

Class 3 (Jan 30) - Organizational/Recognitional Picketing – Readings from text: pages 662-682, Secondary Boycotts readings from text pages 682-719.

Class 4 (Feb 6) - Hot Cargo Clauses, Work Assignment Disputes, Featherbedding, Remedies for Union Unfair Labor Practices – Readings from text: pages 720-761.

Class 5 (Feb 13) - Preemption of State Labor Laws and Specific Applications – Readings from text: pages 977-1046, 1055-1058

Class 6 (Feb 20) - Labor and Anti-Trust Laws – Readings from text: pages 937-976.

Class 7 and Class 8 (Feb 27 and March 6)
Student Group Presentations and Class Discussion

Class 9 and Class 10 (March 13 and March 20)-HOT TOPICS

Discussion of numerous hot topics in labor/employment law including but not limited to Social Media Restrictions in Employment Context; NLRB Regulation of Employer Handbook Rules and Civility Rules in the Workplace; Restrictions on Class Action Law Suits, Rule Making on Representation Election Rules, Employee use of Employer E-mail for non-work related purposes for union organizing or other protected concerted activities; classification of employer as joint employer, status of workers as employee versus independent contractor and ramifications, #metoomovement and effect on sexual harassment in the work place in a union or non-union setting, widening the wage gap between the 1% and the rest of U.S. workers and any remedial suggestions, mandatory union

membership fees in the public sector as constitutional abridgment of free speech.

Class 11 (April 3) – Research Paper Presentations by Students

Class 12 (April 10) – Research Paper Presentations by Students

Class 13 (April 17) - Research Paper Presentations by Students

Class 14 (April 24) – Research Presentations by Students

RESEARCH PAPERS to be handed in by all students at last class

*Any changes in the syllabus will be announced during class or posted in advance of class.