LAW 631-001

Workplace Law

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Fall 2018 | TR 10:45 – 12 pm | A245
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This course will examine the employment relationship from entry through exit and beyond, covering the major statutes, regulations, and common law doctrines affecting that relationship. You have a near guarantee that this course will be relevant to your post-law school life. Not only is employment law a booming area for litigation and policy making, but today work occupies a large part of our waking hours. Most if not all of you will go on to be employees, independent contractors, and/or employers. The subjects covered in this class will be relevant to your personal and professional lives.

Topics may include the origins of at-will employment; the legal definitions of the employer-employee relationship; workers' rights in the workplace, including the rights to privacy and to a minimum wage; employers' rights, including the rights to alter employment terms and to terminate employment; the laws providing for workers' welfare, including laws governing workers' compensation and unemployment benefits, and the restraints that persist after employment ends. Throughout, we will also analyze how well the existing legal regimes address the needs of our changing workforce and economy. You will be challenged not only to learn what current workplace law is, but also to think critically about what workplace law should be.

We will cover several of the main federal statutes, including the Fair Labor Standards Act, the Family and Medical Leave Act, and the Occupational Health and Safety Act, and also consider state law approaches from around the country. However, the course will not overlap with more specialized courses in the labor and employment law field, such as Employment Discrimination, Labor Law, and Employee Benefits Law.

The casebook ("CB") for this course is:

Steven Willborn et al., Employment Law: Cases and Materials (6th edition, 2017)

Additional readings may be posted on TWEN.

GRADING

Participation

Students should come to class prepared to be called on. Learning to respond to questions clearly and concisely is a crucial skill in just about any career you pursue after law school. The level and quality of participation will be factored into your final grade.

If you are absent without prior excuse and I call on you it will affect your participation grade. Any student who misses more than 4 class sessions for any reason will have to drop the class.

Exam

The grade for this course will be based on an exam. There will most likely be a mix of essay and short answer questions. The exam will be open book/notes and will cover material from the assigned readings as well as class lectures and discussions.

Electronics & Absences

Electronics are not prohibited but should be silenced and used for class purposes only; failure to do so will affect your grade.

PROVISIONAL SCHEDULE OF READINGS

Any changes to the readings will be announced via email and materials will be made available to you.

Items are listed in recommended reading order.

#1 / Tue / Aug 14 — *Who is an Employee?*

- CB 13–36
- CB 47–48 (Notes 4–6 *only*)
- CB 38–39 (Notes 5 & 6 *only*)

#2 / Thu / Aug 16 — *Who is the Employee's Employer?*

- Zheng v. Liberty Apparel, 355 F3d 61 (2d Cir. 2003) [TWEN] [63–71]
- NLRB v. Browning-Ferris Indus. of Pa., 691 F3d 1117 (1982) [TWEN] [1119–24 (to end of IIB)]
- Patterson v. Domino's Pizza, 60 Cal. 4th 474 (2014) [TWEN] [477–79 (to end of Intro), § II (Discussion)]
- CB: 57–61 (Notes 1 & 3–7)

#3 / Tue / Aug 21 — *At-will Employment & Employment as Contract*

- CB 69–70
- CB 72 –73 (Note 7)
- CB 74–79 (including Notes 1–3)
- Franklin G. Snyder, *The Pernicious Effects of Employment Relationships on the Law of Contracts*, 10 TEX. WESLEYAN L. REV. 33 (2003) [TWEN] [33–47 (Parts I & II)]

#4 / Thu / Aug 23 — *Contract Limitations of At-will (Part I)*

- CB 81–85 (including Notes 4 & 5) ***)***
- Pauline T. Kim, *Bargaining With Imperfect Information: A Study of Worker Perceptions of Legal Protections in an At-Will World*, 83 CORNELL L. REV. 105 (1997–98) [TWEN] [read 105–111 ("Introduction"), 133–36 (up to "Figure 1"), and skim the following tables: Table 2 (p.137), Table 3 (p. 138), Table 5 (p.144), Table 6 (p.144), Table 7 (p.146)]
- CB 88–90 (read Notes 1, 2, 4, skip Notes 3 & 5)
- CB 90–99