

2025 FALL - EMPLOYMENT LAW 38:533:566:01

RUTGERS UNIVERSITY

School of Management and Labor Relations

Professor: Vikrant Kishin Advani

Course #38:533:566:01

Synchronous "Live" In Person Classes: Tuesday, 7:20-10 PM

Janice Levin Building Room 106

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COURSE OBJECTIVES

- To acquaint students with the state and Federal framework of employment relations regulation (with the exception of collective bargaining);
- To familiarize students with the legal process, both judicial and administrative;
- To familiarize students with legal reasoning and methods of statutory interpretation;
- To instill in students an approach to employment relations which emphasizes good professional practice and preventive law;
- To provide students with the tools for further study of employment regulation.

SYNCHRONOUS LIVE IN- PERSON CLASS DESCRIPTION

Our class will be conducted live and in person. In the event that we are required to go back to virtual instruction, I will pivot back to live "virtual" Webex sessions.

I reserve the right to end class early or late depending on our workload. I also reserve the right to schedule virtual sessions in the event of poor weather, or any family/medical issues that I may face during the semester.

MASKING

There is no masking requirement. However, if desired, student may wear masks on campus and in buildings in non-private enclosed settings (e.g., common workspaces, workstations, meeting rooms, classrooms, etc.). Masks may be worn during class meetings and CDC guidelines suggest that said masks should completely cover the nose and mouth: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>Links to an external site.Links to an external site.

COURSE REQUIREMENTS

This is an introductory graduate course in employment law, and it heavily emphasizes student participation and group discussion. Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

GRADE CRITERION

Course grading is based on two examinations and class participation. The breakdown is as follows:

- | | |
|-------------------------|---------------------------------|
| 1. Midterm: | 40% of your overall final grade |
| 2. Final: | 45% of your overall final grade |
| 3. Class Participation: | 15% of your overall final grade |

The specific format of the examinations will be discussed at the appropriate time but I generally give a take home Fact Pattern and Definitions-styled Midterm and Final.

ATTENDANCE CRITERION

Vigorous Attendance & Class Participation Policy: I am requiring each student to **vigorously** participate in every in-person class, virtual or otherwise.

First, this means that you must attend every class in a timely manner. The below policy applies to excused absences.

Unexcused absences are highly discouraged. If you have two (2) unexcused absences, you will be docked a full grade (ex. B instead of an A). If you have three (3) unexcused absences, you will receive a failing grade for Class Participation. If you have four (4) or more unexcused absences, you will receive a failing grade for the class.

Second, you will not only be required to timely attend every class but you will be required to participate at least once in every class by engaging in substantive discussion about the discussed topic. It need not be scholarly and/or profound – However, it will require you to know your assigned materials.

Although I will be actively monitoring class attendance and participation, I will not be prompting you to participate – This is a graduate level class and your class participation grade, which accounts for 15% of your overall grade, should be motivation enough. Also, just to be clear, “I don’t understand Concept X” does not qualify as substantive discussion.

Leniency Policy: Finally, the COVID pandemic and resulting health concerns are causing havoc in our personal and professional lives. If you have any personal/health-related reasons for skipping class, kindly advise me immediately so I can excuse your absence and arrange for you to view recorded lectures and/or request a student to provide you with notes. You will find me sympathetic and reasonable. However, if you fail to or refuse to communicate with me in a timely manner regarding your health/personal issues, I will not be as accommodating after the fact. The key is communication. Kindly communicate so I can be reasonable in accommodating you.

ELECTRONIC DEVICE CRITERION & NO-RECORD POLICY

There are no electronic devices allowed in class other than to facilitate your learning. This includes computers, cell phones, laptops, or tablets. You are not to check social media, email and/or text during our class. Although I prefer you take notes by pen/pencil, electronic note taking is allowed.

- I reserve the right to penalize any student (including removal, expulsion with a failing grade) who refuses to comply with this simple request for mutual respect.
- Textbooks will need to be purchased; If electronic copies of textbooks are purchased or rented, they can be viewed on your electronic device.
- You are **NOT** authorized to record the lectures on your own end – I ask that you respect my privacy as I respect yours – Willful Failure to comply with this policy will be heavily penalized. To restate – you do not have permission to record me and/or my images and/or my lectures, and I reserve **all** rights permitted under law to prosecute any such violations. Please be advised that I will attempt (but will not commit) to record all lectures or any virtual sessions and place those recordings on Canvas.

STUDENT CONDUCT POLICY

The conduct of all students is governed by the Rutgers University Academic Integrity

Policy: http://academicintegrity.rutgers.edu/files/documents/AI_Policy_9_01_2011.pdfLinks to an external site.Links to an external site.Open this document with ReadSpeaker docReader Open this document with ReadSpeaker docReaderLinks to an external site.Links to an external site.Open this document with ReadSpeaker docReader

Please be so advised.

STUDENT ACCOMMODATION POLICY

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a

disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation:

<https://ods.rutgers.edu/students/documentation-guidelines>Links to an external site.Links to an external site.

If the documentation supports your request for reasonable accommodations, your campus's disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at: <https://ods.rutgers.edu/students/registration-form>Links to an external site.Links to an external site.

COURSE MATERIALS

The required text is the 6th Edition of the Wilborn, Schwab, Burton & Lester's *Employment Law: Cases & Materials*. Please do not get the 5th edition or the 7th edition– Yes, it is expensive – No, there are no alternatives. Rent it if you must, BUT it must be the 6th edition!

Also, we will be using *Canvas* for handouts. If you do not know what *Canvas* is, please contact the appropriate staff at the Department or speak with a classmate.

- Class 1:

General Introductions/Opening Remarks

Introduction to the Legal System

Introduction to Regulation of Employment Relations

The Employment At Will Doctrine - A General Introduction & Discussion

HANDOUTS/VIDEO MATERIALS

The U.S. Legal System: Helpful YouTube Link

<https://www.youtube.com/watch?v=JNVwyNgndY>Links to an external site.Links to an external site.



The Federal Court System: Helpful YouTube link

https://www.youtube.com/watch?v=i_mbk0YhLa0Links to an external site.Links to an external site.



The State Court System: YouTube link

<https://www.youtube.com/watch?v=Oq3n8hf8EoU>*Links to an external site.*[Links to an external site.](#)



Appealing to the U.S. Supreme Court: Helpful YouTube link

<https://www.youtube.com/watch?v=Y1bXI9Uu1SE>*Links to an external site.*[Links to an external site.](#)



Appealing to the NJ Supreme Court: Helpful Web Link

<https://www.hnwlaw.com/additional-practice-areas/new-jersey-appeals-lawyer/filing-an-appeal-with-the-nj-supreme-court/>*Links to an external site.*[Links to an external site.](#)

How a Federal Law is Passed: Helpful YouTube Link

<https://www.youtube.com/watch?v=jYJOBBrgZ6U>*Links to an external site.*[Links to an external site.](#)



How a Law is Passed in NJ: Helpful YouTube Link

<https://www.youtube.com/watch?v=UkxX5O22euY>*Links to an external site.*[Links to an external site.](#)



Sources of Employment Law: Helpful YouTube link

<https://www.youtube.com/watch?v=msrMas7fZow>*Links to an external site.*[Links to an external site.](#)



Handout: How to Brief a Case: Writing a Student Brief

<https://www.lib.jjay.cuny.edu/how-to/brief-a-case>*Links to an external site.*[Links to an external site.](#)

Handout: U.S. Court System (Diagram)

http://www.columbia.edu/~mckeever/court_system.jpgLinks to an external site.Links to an external site.

Handout: U.S. Circuit Court Map (Diagram)

<https://www.uscourts.gov/about-federal-courts/federal-courts-public/court-website-links>Links to an external site.Links to an external site.

Handout: New Jersey Court Structure (Diagram)

[Scroll Down until you see New Jersey!]

https://staterecords.org/court/court_structureLinks to an external site.Links to an external site.

Handout: New Jersey Vicinages (Diagram)

<https://ballotpedia.org/Vicinage>Links to an external site.Links to an external site.

Handout: Supreme Court of New Jersey (Photo)

<https://www.njcourts.gov/courts/supreme/about>Links to an external site.Links to an external site.

Handout: Current U.S. Supreme Court Justices (Photos & Bios)

<https://www.supremecourt.gov/about/biographies.aspx>Links to an external site.Links to an external site.

Handout: Sources of Employment Law

[Virginia lawyer website, but very helpful]

<https://martinwrenlaw.com/blog/2012/sources-of-employment-law/>Links to an external site.Links to an external site.

- **Class 2**

The Contract Exception to the At Will Doctrine

Pages 74-133

Skagerberg v. Blandin

Chiodo v. General

Hetes v. Schiffman

Grouse v. Group

Veno v. Meredith

Pugh v. Sees Candies

Woolley v. Hoffman-La Roche

Demasse v. ITT

- **Class 3**

The Tort Exception to the At Will Doctrine

Pages 135-151; 161-167; 174-201

Nees v. Hocks

Wright v. Shriners

Johnston v. Del Mar

Agis v. Howard Johnson
Bodewig v. KMART
Fortune v. NCR
Murphy v. AHP

Handouts:

Pierce v. Ortho:

<https://law.justia.com/cases/new-jersey/supreme-court/1980/84-n-j-58-0.html>Links to an external site.
[Links to an external site.](#)

New Jersey Conscientious Employee Protection Act (CEPA) – Relevant Portions

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-3/>Links to an external site.
[Links to an external site.](#)

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-13/>Links to an external site.
[Links to an external site.](#)

<https://law.justia.com/codes/new-jersey/2009/title-34/34-19/34-19-5/>Links to an external site.
[Links to an external site.](#)

ADVANCED ISSUES IN NEW JERSEY RETALIATION LAW, by Alan H.

Schorr, <https://www.schorrlaw.com/articles/Advanced%20Issues%20In%20New%20Jersey%20Retaliation%20Law%20-%20March%202006.pdf>Links to an external site.
[Links to an external site.](#)Open this document with ReadSpeaker docReader
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[Links to an external site.](#)Open this document with ReadSpeaker docReader

- **Class 4 and Class 5**

Employee Privacy & Speech Rights in the Workplace

Pages 205-298 (read only up to “B. Statutory Claims” only); 308-313.

Enquist v. Oregon DOA
Rutan v. Republican Party
Garcetti v. Ceballos
Novosel v. Nationwide
Timekeeping Systems Inc.
3D LLC v. NLRB
Ontario v. Quon
KMART v. Trotti
Ehling v. Monmouth Ocean Hosp. Svc. Co.
Brunner v. Al Attar
Baughman v. Walmart
Soroka v. Dayton Hudson
Thatcher v. Brennan

Handout:

Hennessey v. Coastal Eagle

<https://law.justia.com/cases/new-jersey/supreme-court/1992/129-n-j-81-1.html>Links to an external site.
[Links to an external site.](#)

Safety-Sensitive Positions and Random Drug Testing by Private Employers in New Jersey, by Cory A. Rand, August 29, 2014

<https://www.njlawblog.com/2014/08/articles/employment/safety-sensitive-positions-and-random-drug-testing-by-private-employers-in-new-jersey/>Links to an external site.[Links to an external site.](#)

- **Class 6 - and Class 7**

Defamation, Trade Secrets, Covenants Not to Compete & Employee Inventions
Pages 315-397

Elbeshbeshy v. Franklin
Zinda v. Louisiana Pacific
Sigal v. Stansbury
Jet v. Mulei
Dicks v. Jensen
PepsiCo v. Redmund
REM Metals v. Logan
Karpinski v. Ingrasci
BDO v. Hirschberg
Francklyn v. Guilford
Ingersoll-Rand v. Ciavatta

NOTE: REVIEW OF MATERIAL TESTED IN MIDTERM TO BE DONE AT THIS CLASS
CLASS WILL RECEIVE A TAKE HOME CLASS EXAMINATION VIA CANVAS, WHICH STUDENTS WILL HAVE TO TURN IN THE NEXT CLASS IN PERSON BEFORE CLASS. FAILURE TO DO SO WILL RESULT IN GRADE REDUCTIONS. THE MIDTERM WILL COVER CLASSES 1 THROUGH 7.

- **Class 8 STUDENTS WILL HAVE TO TURN IN TAKE HOME EXAM BEFORE CLASS. FAILURE TO DO SO WILL RESULT IN GRADE REDUCTIONS.**

Status Discrimination - Disparate Treatment, BFOQ, Disparate Impact, Reasonable Accommodation;
Pages 401- 456

McDonnell Douglas v Green
Price Waterhouse v. Hopkins
Desert Place v. Costa
Gross v. FBL Financial
Jespersion v. Harrah
Hazelwood v. U.S.
Griggs v. Duke
Meacham v. Knolls

Handout:

Civil Rights Law Protects Gay and Transgender Workers, Supreme Court Rules

<https://www.nytimes.com/2020/06/15/us/gay-transgender-workers-supreme-court.html>Links to an external site.[Links to an external site.](#)

NJLAD Protected Classes: <https://www.nj.gov/oag/dcr/employ.html>Links to an external site.[Links to an external site.](#)

- **Class 9**

Sexual Harassment, Disability Discrimination; Affirmative Action

Pages 456 - 569

Harris v. Forklift Systems
Oncale v. Sundowner
Lyle v. Warner Brothers
Faragher v. City of Boca Raton
Jespersion v. Harah
Hively v. Ivy
Morris v. BNSF
US Airways v. Barnett
EEOC v. Picture People
Hoffman v. Carefirst
Johnson v. Transportation Agency
Taxman v. Board of Education

Handouts:

Supreme Court Holds that Sexual Orientation and Gender Identity Are Protected by Title VII
[SCOTUS: Sexual Orientation and Gender Identity Under Title VII](#)[Links to an external site.](#)[Links to an external site.](#)

Lehman v. Toys R'Us

<https://law.justia.com/cases/new-jersey/supreme-court/1993/132-n-j-587.html>[Links to an external site.](#)[Links to an external site.](#)

NJ Supreme Court Rules on Supervisor Liability in Hostile Work Environment Sexual Harassment Cases, Pepper Hamilton LLP

https://casetext.com/analysis/nj-supreme-court-rules-on-supervisor-liability-in-hostile-work-environment-sexual-harassment-cases?resultsNav=false&PHONE_NUMBER_GROUP=C&sort=relevance&q=[Links to an external site.](#)[Links to an external site.](#)

New Jersey Sexual Harassment Law: Revisiting Lehmann v. Toys 'R' Us

<https://www.newjerseyemploymentlawyersblog.com/new-jersey-sexual-harassment-law-revisiting-lehmann-v-toys-r-us/>[Links to an external site.](#)[Links to an external site.](#)

- **Class 10**

FLSA; Regulation of Compensation & Unemployment Compensation, WARN, FMLA

Pages 577-671; 688-720

Allen v. Chicago
Marshall v. Sam Dell's
Salinas v. Starjem
Flomo v. Firestone
Morgan v. Family Dollar
Robertson v. Opequon Motors
In re: Marriage of Suzanne Gulla
Brinker v. Superior Court
Whitaker v. Bosch

Byrne v. Avon
Serricchio v. Wachovia Securities
Knox v. Unemployment Compensation Board of Review
Wimberly v. Commission
MacGregor v. Appeals Board
Jones v. Review Board
McCourtney v. Imprimis
Roquet v. Arthur Andersen

- **Class 11**

Workers Compensation
Pages 891-958

NY Central RR Co. v. White
Millison v. Du Pont
Prows v. Industrial Commission
Santa Rosa College v. Appeals Board
Donahue v. Maryland
Katz v. Kadans
Hanson v. Reichelt
Nippert v. Shinn Farm

- **Class 12**

Occupational Safety & Health Act; General Duty Clause; Enforcement; State Legislation and Federal OSHA Standards; Criminal Prosecutions of Employers under OSHA
Pages 991 – 1000; 1032 - 1082

National v. OSHRC
Marshall v. Barlow's Inc.
Gade v. National
People v. Chicago Magnet

- **Class 13**

Employee Benefits – ERISA; Employer Provided Health Insurance/ACA;
Pages 731-804; 809

Nemeth v. Clark
Donovan v. Bierwirth
LaRue v. Dewolff
Lorenzen v. Retirement Plan
Beach v. Commonwealth
Metropolitan v. Glenn
Pension Benefit v. LTV
Metlife v. Massachusetts
Golden Gate Restaurant v. San Francisco
Corcoran v. United Healthcare
M & G Polymers v. Tackett
EEOC v. Orion Energy

- **Class 14**

- **REVIEW FOR FINAL EXAMINATION/CATCH-UP**
- **CLASS WILL RECEIVE A TAKE HOME CLASS EXAMINATION VIA CANVAS.**
- **FAILURE TO DO SO WILL RESULT IN GRADE REDUCTIONS. THE FINAL WILL COVER CLASSES 7 THROUGH 14.**
- **STUDENTS WILL HAVE TO TURN IN TAKE HOME EXAM VIA CANVAS.**
- **FAILURE TO DO SO WILL RESULT IN GRADE REDUCTIONS.**