This seminar is based on the principle that knowledge and understanding of employment law facilitate (1) promotion of a workforce with a high degree of commitment to reaching business goals, (2) the development of practical business solutions to problems arising in the workplace, (3) effective human resources policy and procedures that comply with applicable laws. This course provides future business owners, entrepreneurs, executives, managers and students interested in going to law school or intending to enter the workforce with an introduction to the law of the workplace. The course examines the various employment laws with which businesses must comply and the legal rights and responsibilities of employees and employers. The emphasis is on laws concerning equal employment opportunity with respect to discrimination and harassment because of sex, race, national origin, religion, sexual orientation, age, disability and other characteristics protected by workplace laws; workplace security and privacy including workplace drug testing and electronic communications; affirmative action, the regulatory environment including wage and

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1 Students who are from other schools at Penn [non-Wharton students] or who are new to the University may not initially have the Wharton computing account necessary to use webCafé. Students who are enrolled in the class but who do not yet have a Wharton computing account may create one using this site: http://accounts.wharton.upenn.edu.
hour laws, leave of absence laws, hiring regulations, the non-employee workforce, workers compensation, Sarbanes Oxley; and labor/management relations.

Assigned Readings


Exams and Grading

Class participation counts for 15% of your grade. There will be one midterm examination counting 30% and a final examination counting 30% of your grade. In addition, you will be responsible for a presentation to the class, either individually or as a group assignment, concerning a court opinion that addresses an employment law issue (counting 25% of your grade). A list of opinions from which you may choose will be distributed in class.

Class Preparation

The readings listed on the syllabus are subject to change. MANY of the readings listed will NOT be assigned. Final assignments will be announced prior to the class for which they are assigned. Final reading assignments for each class are mandatory. Any handout provided before class must be read before class because the discussion will focus on this material. Class preparation is crucial to meaningful class participation.

Topical Assignments

The assignments listed for each date are also subject to change as a result of course pacing and/or schedule changes.

Examination Schedule

All examinations are take-home. A midterm examination will be handed out in class on a Wednesday for return during the next scheduled class. The final examination is to be handed out on the last day of class and must be returned to the Office of the Department of Legal Studies and Business Ethics on or before the date of the regularly scheduled final examination time.
COURSE SYLLABUS

Session #1  Jan. 14  The New American Workplace
Course Introduction and Expectations, Employment at Will Rule and Sources of Employment Law. Increased Congressional and U.S. Supreme Court Activity and Controversies over Employment Laws; Current (Un)Employment; The Changing Landscape in 2008-9.

Session #2  Jan. 21  Who is Working Here?

Session #3  Jan. 28  Help Wanted: Filling that Job
Recruiting, Interviews, Job Applications, Job References, Background Checks, Medical Exams, I-9s, Applying on the Internet, Drug Testing and Polygraph Tests.
READING: EEOC v. Consolidated Service Systems, 989 F.2d 233 (7th Cir. 1993) (recruiting by word-of-mouth); Section 704(b) of Title VII (nondiscrimination protections for applicants); EEOC hiring regulations; OFCCP Internet Applicant Rule; Interviewing Dos and Don’ts; I-9 Employment Eligibility Verification Form; PA Statute - Employer Immunity from Liability for Disclosure of Employee Information (job references), 42 Pa.C.S. § 8340.1 (2006); NY Law “Unfair Discrimination Against Persons Previously Convicted,” N.Y. CLS Correc § 752 (2006); Section 102(d)(2) of ADA (post-offer medical

2 Session #1 “Reading” is listed merely because the lecture and discussion during the first class will include these topics. These are assigned for student reading later in the semester.
Session #4  Feb. 4  Civil Rights in Employment
Introduction to EEO and Disparate Treatment Analysis: Proving and Defending Against Claims of Employment Discrimination.

Session #5  Feb. 11  Macro-Discrimination: Disparate Impact & Class Actions
The Burdens of Plaintiff and Defendant in Disparate Impact Analysis, Class Actions and the Bona Fide Occupational Qualification and other Exceptions

Session #6  Feb. 18  Other Discrimination and Duty to Accommodate

Session #7  Feb. 25  Being a Jerk is Not Unlawful Harassment: What Is?

**Midterm Examination Handed Out in Class.**

Session #8  March 4

**Part I: Beyond Equality: Affirmative Action**

**READING:** Kohlbek, City of Omaha, Nebraska, 447 F.3d 552 (8th Circuit); Taxman v. Board of Ed. of Tnshp of Piscataway, 91 F.3d 1547 (3d Cir. 1996); Business Law, pp. 820-821; “Desperately Seeking Diversity,” Deborah Weinstein, Philadelphia Lawyer Magazine, Summer 2003; Executive Order 11246, Moran, pp. 193-2000, 216[Summary].

**Part II: Equal Pay for Equal Work**

**READING:** Ledbetter v. Goodyear Tire & Rubber, 127 S.Ct. 2162 (2007); Proposed Lilly Ledbetter Act; Moran, pp. 248[Equal Pay Act], 252[Comparable Worth].

**Midterm Examination Due in Class.**

March 11  No Class [vacation].

Session #9  March 18  To be announced.

Session #10  March 25  **So, Sex Sells…That Doesn’t Make It Legal**


Session #11  April 1  **The Wired World at Work**

Employee Privacy, Employer Security, Surveillance and Monitoring (phone, email, blogging, telephone, IMing, videos, photos and other Internet use)

Session #12  April 8    **The Organized Workforce: Unions in America**
*Overview of Collective Bargaining and Unionized Employees.***
*Guest Lecturer: Robert J. Haurin, Esquire*
READING:  Employee Free Choice Act. Other readings to be announced.

Session #13  April 15  **Laws Protecting Workers**
*Part II:  Leaves of Absence, Pregnancy Discrimination and Employees with Caregiving Responsibilities.*

Session #22  April 22  **What Sarbanes-Oxley Means to the Worker**

**Final Take-Home Exam Handed Out**

**Final Exam Due Date [Tentative] – May 6, 2009**