THE LAW AT WORK
EMPLOYMENT LAW FOR
MANAGERS

UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LGST 208-401/MGT 247-401
Location: 345 JMHH
Wednesday: 3:00 P.M. – 6:00 P.M.
https://webcafe.wharton.upenn.edu/eRoom/lgst/208-sp12-1

Professor: Deborah Weinstein, Esquire
John M. Huntsman Hall, Legal Studies and Business Ethics Dept.
Office hours: Wednesday, 2:00-3:00 P.M., after class or by appointment,
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Description
This course 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. Balancing employer legal compliance and equal employment opportunity imperatives with dynamics conducive to a successful enterprise is a significant theme throughout the course. 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 workforce laws; work-related security and privacy including investigations, drug testing, violence, safety and electronic communications; employee misclassification; affirmative action; and the legal
and regulatory environment regarding immigration, wage and hour, leaves of absence, hiring, the non-employee workforce, whistle blower concerns, labor/management relations and collective bargaining.

**Assigned Readings**

Course materials will be posted on the webCafé throughout the semester. Readings are court opinions, laws and regulations, articles from the media and outlines of particular topics in employment law for managers. **Many of the Readings listed on the Syllabus will not be assigned.** There is no textbook for the course.

**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, schedule changes or developments in the law. Some topics may not be covered.
COURSE SYLLABUS

Session #1  Jan. 11    Introduction: The New American Workplace
Course Introduction and Expectations, Employment at Will Rule, Sources of Employment Law, Employee/Employer Relationship, (Un)employment & The Changing Legal Landscape - 2012.

Session #2  Jan. 18    Who is Working Here?

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1 Readings for each session will be selected from the materials listed herein.
2 For Session #1, the only reading assignment is the court opinion in Woodson v. AMF Leisureland Ctrs., Inc., 842 F.2d 699 (3d Cir. 1988). This opinion can be found at http://scholar.google.com/scholar_case?case=5345229437303352235&q=%22woodson+v.+amf+leisureland%22&hl=en&as_sdt=2003.
Session #3  Jan. 25

Part I. Help Wanted: Filling that Job

Job Applications, References, Background Checks, Investigation of Applicants, Discriminatory Hiring, Use of Internet/Social Networking Sites, Medical Exams and Drug Testing.

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; 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); ADA Section 102(d)(2) (post-offer medical exams); EEOC v. Freeman Companies, No. 09-02573 (Nov. 2009) (EEOC suit over using credit and criminal histories in hiring); “Scrub, Inc. To Pay 3 Million to Settle EEOC Racial Discrimination Suit,” EEOC Press Release, Nov. 9, 2010 (alleging janitorial service failed to recruit/hire African Americans).

Part II. Immigration Laws and Employment

Stepped up enforcement, unauthorized workers, non-immigrant/temporary visas, green cards, citizenship, H-18 labor conditions, application and worksite compliance (I-9s.E-Verify and Social Security no match letters).

Guest Lecturer: Jen Hermansky, Esquire, Klasko, Rulon, Stock & Seltzer, LLP

Readings to be announced.

Session #4  Feb. 1

Civil Rights in Employment


Session #5  Feb. 8

Civil Rights in Employment (Continued)


Session #6  Feb. 15  Other Discrimination and Duty to Accommodate

Session #7  Feb. 22  Being a Jerk is Not Unlawful Harassment: What Is?

Midterm Examination Handed Out in Class.

4 http://www.hrc.org/12973.htm
5 http://www.eeoc.gov/policy/docs/harassment.html
Session #8  Feb. 29

Part I: Beyond Equality: Affirmative Action and Reverse Discrimination

READING: Taxman v. Board of Ed. of Tnshp of Piscataway, 91 F.3d 1547 (3d Cir. 1996); “Desperately Seeking Diversity,” Deborah Weinstein, Philadelphia Lawyer Magazine, Summer 2003; Executive Order 11246; Ricci v. DeStefano, 120 S. Ct. 2658 (2009) (prohibiting New Haven from setting aside firefighters’ test results where all earning promotions were Caucasian); OFCCP v. O’Melveny & Myers LLP, DOL AOLJ, No. 2011-OFC-00007 (October 31, 2011) (DOL administrative law judge concludes law firm is federal contractor judge to OFCCP jurisdiction).

Part II: Equal Pay for Equal Work and other Gender-Related Issues


Midterm Examination Due in Class.

March 7   No Class [vacation]

Session #9  March 14  When the Employment Relationship Ends

To be announced.

Session #10  March 21  What If Following Management and Customer Preferences Would Cause a Disparate Impact on a Protected Class?

Session #11 March 28  The Wired World at Work
Employee Privacy, Employer Security, Surveillance and Monitoring (phone, email, Facebook, blogging, Utube, videos, photos, etc.); Employer’s social media policies
Guest Speaker: Margaret DiBianca, Esquire, Young, Conway, Stargatt & Taylor LLP

Session #12 April 4  The Organized Workforce: Unions in America
Overview of Collective Bargaining and Unionized Employees
Guest Lecturer: Robert J. Haurin, Esquire, The Weinstein Firm

Session #13 April 11  Laws Protecting Workers
Part I: Fair Labor Standards Act and Pay Issues
Guest Lecturer: Pete Winebrake, Esquire, The Winebrake Law Firm, LLC
Part II: Leaves of Absence, Pregnancy Discrimination and Employees with Caregiving Responsibilities

Session #14 April 20  Whistle Blower Laws. READING: To be announced.