THE LAW AT WORK
EMPLOYMENT LAW FOR MANAGERS

UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LGST 208-401/MGT 247-401 FALL 2015
Location: JMHH 370
Wednesday: 3:00 P.M. – 6:00 P.M.

Professor: Deborah Weinstein, Esquire
Jon M. Huntsman Hall, Legal Studies and Business Ethics Department
Office hours: Wednesday, 2:00-3:00 P.M., after class or by appointment,
JMHH, 6th Floor, Room 618, or at
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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 policies 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 and other governmental regulation 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, pregnancy, veterans’ status and other characteristics protected by laws; work-related security, safety and privacy including investigations, employment-at-will, drug testing, social media and electronic communications; worker misclassification; affirmative action; and the legal and regulatory environment regarding immigration, wage and hour, leaves of absence, hiring, the non-employee workforce, labor/management relations and collective bargaining.
**Assigned Readings**

Course materials will be posted on Canvas throughout the semester. Readings are court opinions, laws and regulations, articles from various 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 and successful completion of the course.

**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  Aug. 26  Introduction: The New American Workplace
Course Introduction and Expectations, Employment at Will Rule, Sources of Employment Law, Employee/Employer Relationship & The Changing Legal Landscape - 2015.
READING: Woodson v. AMF Leisureland Ctrs., Inc., 842 F.2d 699 (3d Cir. 1988) (bartender fired for refusing to serve visibly intoxicated patron); “Interns Sue NBC Universal,” Philadelphia Inquirer, July 9, 2013; “You Have a New Right to Complain about Your Job on Facebook,” Slate, Jan. 3, 2012 (NLRB ruling on firing employees for online complaints); “Gigs With Benefits” by James Surowiecki, The New Yorker, July 6, 2015 (are Uber drivers employees or independent contractors?).

Session #2  Sept. 2  Who is Working Here?

Session #3  Sept. 9
Part I. Help Wanted: Filling that Job
Recruiting, Advertising, Applications, References, Credit and Criminal Background Checks, Discriminatory Hiring, Use of Social Media, 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 in job advertising); “Prohibited Employment Policies/Practices,” EEOC, Dec. 31, 2010; “Employer

1 Readings for each session will be selected from the materials listed herein.
2 For Session #1, the only court opinion reading assignment is Woodson v. AMF Leisureland Ctrs., Inc., http://scholar.google.com/scholar_case?case=5345229437303352235&q=%22woodson+v.+amf+leisureland%22&hl=en&as_sdt=2003.

Part II. Immigration Laws and Employment
Stepped-up Enforcement, Unauthorized Workers, Non-immigrant Status, Temporary Visas, Green Cards, Citizenship, I-9s, E-Verify and Social Security No Match Letters).
Guest Lecturer: Jennifer Hermansky, Esquire, Immigration Attorney, Greenberg Trauig
Readings to be announced.

Session #4  Sept. 16  Civil Rights in Employment

Session #5  Sept. 23  Civil Rights in Employment (Continued)

Older Workers Against Discrimination Act (to amend ADEA to clarify standards of proof).

**Session #6  Sept. 30  Other Discrimination & Duty to Accommodate**


**Session #7  Oct. 7  Being a Jerk is Not Unlawful Harassment: What Is?**


**Session #8  Oct. 14**

**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)

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(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 subject to OFCCP jurisdiction).

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

**READING:** Lilly Ledbetter v. Goodyear Tire & Rubber Co., 127 S. Ct. 2162 (2007); Lilly Ledbetter Fair Pay Restoration Act of 2009; Jespersen v. Harrah’s Operating Co., 444 F.3d 1104 (9th Cir. 2006)(requiring female employees to wear makeup).

**Midterm Examination Handed Out During October 14 Class**

**Session #9 Oct. 21 When the Employment Relationship Ends**
To be announced.

**Midterm Examination Due During October 21 Class**

**Session #10 Oct. 28 What If Following Management and Customer Preferences Would Cause a Disparate Impact on a Protected Class?**


**Guest Lecturer:** Marie Barbich, Esquire, Labor and Employment Law Attorney, Christie Pabarue

**Session #11 Nov. 4 The Wired World at Work**

Employee Privacy, Employer Security, Surveillance and Monitoring (phone, email and Internet Use), Facebook, Blogging, Texting; Employer’s Social Media Policies
Guest Lecturer: Margaret DiBianca, Esquire, Labor and Employment Law Attorney, Young, Conway, Stargatt & Taylor LLP

Session #12 Nov. 11  The Organized Workforce: Unions in America
Overview of Collective Bargaining and Unionized Employees
Guest Lecturer: Robert J. Haurin, Esquire, Labor and Employment Law Attorney, Nachmias Morris & Alt, PC

Session #13 Nov. 18 More Laws Regulating Employers/Protecting Workers
Part I  Fair Labor Standards Act and Pay Issues
READING: Department of Labor (DOL) FLSA Summary; DOL Fair Pay Fact Sheet #17A: Exemptions for Executive, Administrative, Professional, Computer and Outside Sales Employees; DOL Fair Pay Fact Sheet #17M: Financial Services Industry Employees and Part 541 Exemptions; IBP, Inc. v. Alvarez, 126 S. Ct. 514 (2005)(when does work begin and end?)

Session #14 Dec. 2 More Laws Regulating Employers/Protecting Workers
Part II  Leaves of Absence, Pregnancy Discrimination and Employees with Caregiving Responsibilities