THE LAW AT WORK
EMPLOYMENT LAW FOR MANAGERS

UNIVERSITY OF PENNSYLVANIA
THE WHARTON SCHOOL
LGST 208-401/MGT 247-401 FALL 2016
Location: JMHH F55
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, gender identity, 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 (including attendance) 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 and others may be added due to ongoing developments in the law.
COURSE SYLLABUS

Session #1 Aug. 31 Introduction: The New American Workplace
Course Introduction and Expectations, Employment at Will Rule, Sources of Employment Law, Employee/Employer Relationship & The Changing Legal Landscape - 2016.

READING:

Session #2 Sept. 7 Who is Working Here?

READING:
1 “Independent Contractor or Employee,” IRS Pub. 1779, Rev. 3-2012;

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.
Session #3  Sept. 14

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.


Session #4  Sept. 21

Civil Rights in Employment


Session #5  Sept. 28

Civil Rights in Employment (Continued)


Cal. 4th 512 (Cal. 2010) (stray remarks, alleged discriminatory comments made by non-decision makers and coworkers, as admissible evidence); Proposed H.R. 3721, Protecting Older Workers Against Discrimination Act (to amend ADEA to clarify standards of proof).

**Session #6  Oct. 5  Other Discrimination & Duty to Accommodate**


**Session #7  Oct. 12**

**Being a Jerk is Not Unlawful Harassment: What Is?**


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Midterm Examination Handed Out During October 12 Class

Session #8  Oct. 19

**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)(diversity is not required by any employment law); “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).

**Part II: Equal Pay for Equal Work, Gender and Gender Identity Related Issues**


Midterm Examination Due During October 19 Class

Session #9  Oct. 26  **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).

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7 [https://www.eeoc.gov/eeoc/newsroom/wysk/proposal_pay_data.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/proposal_pay_data.cfm)


Guest Lecturer: Shaun Staller, Esquire, Immigration Attorney, Greenberg Trauig
Readings to be announced.

Session #10 Nov. 2  **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 & Young, PC

Session #11 Nov. 9  **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. 16  **The Organized Workforce: Unions in America**

**Overview of Collective Bargaining and Unionized Employees**

General Counsel Concerning Recent Employer Rule Cases, March 18, 2015 (NLRB Guidance”). Other readings to be announced.

Guest Lecturer: Robert J. Haurin, Esquire, Labor and Employment Law Attorney, Nachmias Morris & Alt, PC

**Wednesday, November 23—NO CLASS—THANKSGIVING HOLIDAY!**

**Session #13 Nov. 30 More Laws Regulating Employers/Protecting Workers**
**Part I Fair Labor Standards Act (FLSA) and Pay Issues**

Guest Lecturer: Julie Uebler, Esquire, Employment Law Attorney, Uebler Law LLC

**Session #14 Dec. 7 Even More Laws Regulating Employers/Protecting Workers: Being Human While Working**
**Part II Time-Off, Leaves of Absence, Pregnancy Discrimination and Accommodation**

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10 [https://www.dol.gov/whd/overtime/final2016/](https://www.dol.gov/whd/overtime/final2016/)