

Thurgood Marshall School of Law
Employment Law Syllabus– Spring 2018

Instructor: Stephen Wm. Smith
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Office Hours: Thursday 4:30–5:00

Day/Time: Tues.-Thurs. 3:00 – 4:30 pm

Location: Room 211

Required Text: Employment Law Cases and Materials (8th ed. 2015) by Mark Rothstein, Lance Liebman & Kimberly Yuracko

Course

Description: Employment Law is a three-credit hour course designed to provide an overview of the statutory, constitutional, and common law governing the employment relationship. Covered topics will include the at-will employment doctrine, wrongful discharge, covenants not to compete, unemployment compensation, employee privacy and workplace freedom, collective action, discrimination in various forms (race, sex, & disability), harassment, retaliation, wage and hour regulation, family & medical leave, and employee benefits.

Grading: Final letter grade will be based on the following:

Class participation	10%
Midterm exam	40%
Final exam	50%

Attendance: Class attendance will be monitored.

Reading Assignments
Employment Law
Spring 2018

<u>Date</u>	<u>Topic & Assigned Cases</u>	<u>Readings¹</u>
Week 1	Introduction	
1/9	Overview and themes	Text, 1-3
1/11	Employment relationship <i>O'Connor v. Uber Technologies, Inc.</i> 82 F.Supp.3d 1133	17-30
Week 2	Employment at Will	
1/16	Statutory & contractual exceptions <i>Austin v. Healthtrust, Inc.</i> , 967 S.W.2d 400 <i>Matagorda Cty. Hosp. Dist. v. Burwell</i> , 189 S.W.3d 738	845-50, 865-72, 879-87
1/18	Public policy exceptions <i>Sabine Pilot Serv., Inc. v. Hauck</i> , 687 S.W. 2d 733	915-31
Week 3	Post-Employment	
1/23	Tort claims <i>Creditwatch, Inc. v. Jackson</i> , 157 S.W.3d 814 <i>Sawyer v. E.I.DuPont de Nemours</i> , 430 S.W.3d 396	947-55
1/25	Non-compete & non-disclosure covenants <i>Marsh USA Inc. v. Cook</i> , 354 S.W.3d 764 <i>Johnson v. Brewer & Pritchard</i> , 73 S.W.3d 193	991-1010
Week 4	Hiring Process	
1/30	Employment applications, references & interviews	102-11, 118-30
2/1	Defamation and negligent hiring <i>Conlay v. Baylor College of Medicine</i> , 688 F.Supp.2d 586 <i>Keen v. Miller Env. Group, Inc.</i> , 702 F.3d 239	183-89
Week 5	Testing on the Job	
2/6	Polygraphs, personality tests, and medical screening	131-57
2/8	Drug testing & genetic discrimination <i>Lowe v. Atlas Logistics</i> , 102 F.Supp.3d 1360	158-83
Week 6	Terms and Conditions of Employment	
2/13	Workplace privacy	620-40
2/15	Freedom of expression & social media <i>Lane v. Franks</i> , 134 S.Ct. 2369	642-59, 664

¹ Page cites are to Rothstein 8th ed. 2015 casebook.

Week 7	Terms and Conditions of Employment (cont.)	
2/20	National Labor Relations Act <i>Hispanics United</i> , 359 N.L.R.B. No.37	671-72
2/22	Big Data and the Digital Workplace <i>Houston Fed. of Teachers v. HISD</i> , 251 F.Supp.3d 1168	
Week 8	Terms and Conditions of Employment (cont.)	
2/27	Guest Lecture	TBD
3/1	Mid-term prep	
Week 9	Midterm Week	
3/6	Mid-term exam	
3/8	Implicit Association Test https://implicit.harvard.edu	220-22
SPRING BREAK		
Week 10	Discrimination	
3/20	Overview/ disparate treatment <i>Sanchez v. Standard Brands</i> , 431 F.2d 455	191-217, 220-22, 325-30
3/22	Adverse impact	283-312
Week 11	Discrimination (cont.)	
3/27	Harassment <i>Vance v. Ball State Univ.</i> , 570 U.S. 421	234-54
3/29	Retaliation <i>Thompson v. North American Stainless</i> , 562 U.S. 170	330-48
Week 12	Discrimination (cont.)	
4/3	Age <i>General Dynamics v. Cline</i> , 540 U.S. 581 <i>Sprint/United Mgmt Co. v. Mendelsohn</i> , 552 U.S. 379	389-97
4/5	FLSA coverage	431-55
Week 13	Wages and Hours	
4/10	FLSA exemptions & enforcement <i>Givens v. Will Do Inc. Houston</i> , 2011 WL 1597309	455-76, 482-86
4/12	Guest lecture	TBD
Week 14	Pay and Benefits	
4/17	Pay discrimination (Equal Pay Act and Title VII)	500-09, 517-33
4/19	Family and medical leave <i>Myers v. Mothers Work, Inc.</i> , 2009 WL 513916	575-84
4/24	Final exam review	

SWS
1/8/18