

**Thurgood Marshall School of Law**  
**Employment Law Syllabus– Fall 2017**

**Instructor:** Stephen Wm. Smith  
U.S. Magistrate Judge  
Southern District of Texas  
515 Rusk Ave, 7<sup>th</sup> Floor  
Houston, TX 77002  
[Stephen\\_smith@txs.uscourts.gov](mailto:Stephen_smith@txs.uscourts.gov)

**Office Hours:** TBD

**Day/Time:** Tues.-Thurs. 3:00 – 4:30 pm

**Location:** Room 211

**Required Text:** Employment Law Cases and Materials (8<sup>th</sup> 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**  
**Fall 2017**

<u>Date</u>	<u>Topic &amp; Assigned Cases</u>	<u>Readings<sup>1</sup></u>
<b>Week 1</b>	<b>Introduction</b>	
8/22	Overview and themes	Text, 1-3
8/24	Employment relationship <i>BFI of California, Inc.</i> , 362 NLRB No. 186 (2015) <i>O'Connor v. Uber Technologies, Inc.</i> 82 F.Supp.3d 1133	17-30
<b>Week 2</b>	<b>Employment at Will</b>	
8/29	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
8/31	Public policy exceptions <i>Sabine Pilot Serv., Inc. v. Hauck</i> , 687 S.W. 2d 733	915-31
<b>Week 3</b>	<b>Post-Employment</b>	
9/5	Tort claims <i>Creditwatch, Inc. v. Jackson</i> , 157 S.W.3d 814 <i>Sawyer v. E.I.DuPont de Nemours</i> , 689 F.3d 463	947-55
9/7	Non-compete & non-disclosure covenants <i>Marsh USA Inc. v. Cook</i> , 354 S.W.3d 764 <i>Johnson v. Brewer &amp; Pritchard</i> , 73 F.3d 193	991-1010
<b>Week 4</b>	<b>Hiring Process</b>	
9/12	Employment applications, references & interviews	102-11, 118-30
9/14	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
<b>Week 5</b>	<b>Testing on the Job</b>	
9/19	Polygraphs, personality tests, and medical screening	131-57
9/21	Drug testing & genetic discrimination	158-83
<b>Week 6</b>	<b>Terms and Conditions of Employment</b>	
9/26	Workplace privacy	620-40
9/28	Freedom of expression & social media <i>Lane v. Franks</i> , 134 S.Ct. 2369	642-59, 664

---

<sup>1</sup> Page cites are to Rothstein 8<sup>th</sup> ed. 2015 casebook.

<b>Week 7</b>	<b>Terms and Conditions of Employment (cont.)</b>	
10/3	National Labor Relations Act <i>Hispanics United</i> , 359 N.L.R.B. No.37	
10/5	Guest lecture	TBD
<b>Week 8</b>	<b>Terms and Conditions of Employment (cont.)</b>	
10/10	Big Data and the Digital Workplace <i>Houston Fed. of Teachers v. HISD</i> , 2017 WL 1831106	
10/12	Mid-term prep	
<b>Week 9</b>	<b>MIDTERM WEEK</b>	
10/17	Mid-term exam	
10/19	Implicit association test	220-22
	Mid-term review	
<b>Week 10</b>	<b>Discrimination</b>	
10/24	Overview/ disparate treatment <i>Sanchez v. Standard Brands</i> , 431 F.2d 455	191-98
	<i>Staub v. Proctor Hosp.</i> , 131 S.Ct. 1186	325-30
10/26	Adverse impact	283-312
<b>Week 11</b>	<b>Discrimination (cont.)</b>	
10/31	Harassment & retaliation	587-609, 299-311
11/2	Age	389-97
<b>Week 12</b>	<b>Wages and Hours</b>	
11/7	FLSA coverage	431-55
11/9	Guest lecture	TBD
<b>Week 13</b>	<b>Wages and Hours (cont.)</b>	
11/14	FLSA exemptions	455-76
11/16	FLSA enforcement and remedies <i>Givens v. Will Do Inc. Houston</i> , 2011 WL 1597309	482-86
<b>Week 14</b>	<b>Pay and Benefits</b>	
11/21	Pay discrimination (Equal Pay Act and Title VII)	500-09, 517-33
<b>11/23</b>	<b>Holiday</b>	
<b>Week 15</b>	<b>REVIEW</b>	
11/28	Family and medical leave <i>Myers v. Mothers Work, Inc.</i> , 2009 WL 513916	575-84
11/30	Final exam review	

SWS  
8/22/17

