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Office hours: Wednesdays 3:00 - 4:00 pm and by appointment. Also, feel free to stop by, call or e-mail, or to speak with me after class. I encourage you to ask questions about things that you did not understand in class or in the reading and to pursue ideas or topics that interest you.

This course focuses on the legal relationship between employer and individual employee. It is a survey course, covering topics including the common law understanding of the employment relationship, judicial modifications of that understanding, and statutes that govern employment. Because it is a survey course, some topics will be addressed only briefly or not at all. For example, the course does not address labor law or public sector employment, both of which are the subjects of other courses, and it provides only a general overview of employment discrimination law, rather than the detailed consideration of the subject provided in that class.

As the course will demonstrate, employment law is a mixture of state and federal law. The course cannot provide comprehensive information about state regulation of employment in all 50 states, or even in one. There will, however, be a special emphasis on Illinois law.

Your grade will be based primarily on a final examination. In addition, class participation can help you. It can also hurt you, if you regularly don’t come to class, can’t or won’t participate, or are consistently unprepared. Regular attendance is required. I will expect that you have done the assigned reading and are prepared for class. Finally, during the semester, I may give two or three small written assignments. These assignments will not be graded. They will, however, count towards your class participation. Failure to complete an assignment or to make a good faith effort on an assignment will be noted.

The final exam will be open book. I will determine later whether it will be in-class or take-home. For the final exam, you will be responsible for all assigned reading, whether or not we discussed it in class, and for all material covered in class discussion and lectures, even if it was not covered in the assigned reading. However, the exam will emphasize the material that I view as important, and you will be able to tell what I think is important by coming to class.

For course announcements and for other useful information please consult the course website accessible from the Chicago-Kent homepage.
The syllabus is divided by assignment, not by class. Some assignments will likely take more than one class period to cover; some will likely take less. I will announce assignments for each class either in class or by e-mail.

The texts for the class are: Rothstein & Liebman, Employment Law: Cases and Materials (5th ed. 2003), its 2006 Supplement, and its Statutory Supplement. There will also be assigned readings of some additional material available on my website or, occasionally, distributed as photocopied hand-outs. Not all of these additional readings are listed on the syllabus.

In the syllabus, R&L refers to the casebook, 2006 Supp. refers to the casebook supplement, and Stat.Supp refers to the statutory supplement. Where page numbers are followed by note numbers in parentheses – e.g., 489-492 (notes 4, 5-8) – read only notes 4, 5, 6, 7, and 8, all of which appear on pages 489-92. Where a page number is followed by a note number not in parentheses – e.g., 531-38 note 4 – read all the pages listed up to and including that note.

I. Introduction & Who Is An Employee?

Assignment 1:
R&L 2-4, 62-64, 19-24
Handout: Daughtrey v. Honeywell, Inc., 3 F.3d 1488 (11th Cir. 1993) (excerpts)

II. The Baseline: Employment at Will and Some Modifications

Assignment 2:
R&L 11-13, 24-31, 1007-13, 1090-98, 68-70

A. Public Policy Exception

Assignment 3:
R&L 989-998, 998-1005 (notes 3-6, 9, 11, 14-16)
2006 Supp. 81-84
Handout: Illinois Whistleblower Act, 740 ILCS 174/1 et seq.
B. Written Contracts

Assignment 4:
R&L 1013-19
2006 Supp. 84-85 (notes 6-7)

C. Employee Handbooks and Manuals

Assignment 5:
R&L 1026-1032, 1032-34 (notes 3 & 7)
Handout: Doyle v. Holy Cross Hospital, 186 Ill.2d 104, 708 N.E.2d 1140 (1999) (excerpts)

D. Implied Contracts

Assignment 6:
R&L 24-27, 1019-24

E. Good Faith and Fair Dealing

Assignment 7:
R&L 1052-58
Handout: Rao v. Rao, 718 F.2d 219 (7th Cir. 1983) (excerpts)

G. Intentional Infliction of Emotional Distress

Assignment 8:
R&L 1059-66, 1067 (notes 8-9)

H. Employee Breaches

Assignment 9:
R&L 1102-18
2006 Supp. 86-93

III. Overlapping Remedies/Preemption (Overview)

Assignment 10:
R&L 1077-84, 1084-85 note 2, 1086 (notes 7 & 8), 1088-90 (problems)
IV. Hiring

A. References & Defamation

Assignment 11:
R&L 161-165 note 1, 166 (notes 4-5), 167-73 note 3, 174 (notes 6-7)
2006 Supp. 5 (addition to note 5)

C. Negligent Hiring

Assignment 12:
R&L 174-78 notes 1-4, 179 note 12, 180-85
2006 Supp. 5-6 (note 9A)
Handout: Illinois Disclosure of Offenses Against Children Act, 820 ILCS 210/1;
Illinois Criminal Identification Act, 20 ILCS 2630/5, 2630/12 (excerpts)

D. Testing

1. Polygraph tests

Assignment 13:
R&L 188-90
2006 Supp. 6-9

2. Psychological testing

Assignment 14:
R&L 194-205
2006 Supp. 9-10 (note 1A)

3. Medical screening and exams

Assignment 15:
R&L 208-20, 245-48, 249-50 (note 6)
Handout: Right to Privacy in the Workplace Act, 820 ILCS 55/5, 55/20; Medical
Examination of Employees Act, 820 ILCS 235/1-4
IV. Discrimination

A. Overview and Remedies

Assignment 16:
R&L 254-69
Stat.Supp. as follows (all sections are from Title VII):
- Section 701 pp. 38-39
- Section 703(j) p. 43
- Section 704(a) p. 46
- Section 706(e) p. 49
- Section 706(g) p. 51

B. Disparate Treatment

Assignment 17:
R&L 282-85, 303-05
2005 Supp.13-21
Stat.Supp. as follows (from Title VII):
- Section 703(m) p. 45
- Section 706(g)(2)(B) p. 51

Assignment 18:
R&L 124-30, 154-60
2006 Supp. 4 (notes 4A and 4B), 13-22
Handout: Law Review/Book excerpts

C. Disparate Impact and Statistics

Assignment 19:
R&L 269-74 note 4, 279-81, 314-15 (notes 2 & 4), 316-17

D. BFOQ Defense

Assignment 20:
R&L 318-24, 326 (notes 6-7), 336-37 (notes 1-2)
Stat.Supp. Section 703(e), pp. 41-42
E. Religion & National Origin

Assignment 21:
R&L 363-67 (notes 3-6 and 9-18), 375-76 (notes 6-12)
Handout: Illinois Human Rights Act, 775 ILCS 5/2-102

F. Age

Assignment 22:
R&L 384-87 (notes 3-5, 7-8, 10-13)
2006 Supp. 23-27 note 10
Stat.Supp. as follows (all sections from the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq.):
   Sections 621 & 623 pp. 62-65
   Section 626(b)-(d) pp. 66-67
   Section 630(b) & (f) pp. 68, 69-70,
   Sections 631 & 633 pp. 70-71

G. Disability

Assignment 23:
R&L 387-95, 396-401 (notes 5-7, 12-16, 18)
Stat.Supp.77-89 as follows: (all sections from the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq.)
   Sections 3, 101-102(b) pp.77-80
   Sections 103(a)-(b) & (d), 104 pp. 82-86
   Section 501 p. 87
   Section 503 p. 88
   Section 511 p. 89

H. Other Protected Groups

Assignment 24:
R&L 676-81
Handout: Chicago Human Rights Ordinance §§ 010, 020, 030, 050
VI. Undocumented Workers

Assignment 25
R&L 136-42, 144-51
2006 Supp. 34 (note)

VII. Terms and Conditions of Employment

A. Harassment

Assignment 26:
R&L 668 n.7 - 674, 675 note 4 - 676 note11
2006 Supp. pp. 50-51 (notes)
Handout: Harassment scenarios (Please be aware that these scenarios contain excerpts from real cases and include extremely offensive language.)
Handout: Speech by George Galland

B. Privacy, Autonomy, and Personnel Records

Assignment 27:
R&L 686-87 (notes 4-6), 692-93 (notes 2-5), 694-95, 710 (note 3), 721 notes 3-7, 729-30 (note 1), 739-40 (notes 6-9)
2006 Supp. 51-56
Handout: Illinois Personnel Record Review Act, 820 ILCS 40/0.01, et seq., available at
http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2395&ChapAct=820%A0IL%5CS%A040%2F&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Personnel+Record+Review+Act%2E&Print=True
Handout: Privacy scenarios
For much of the remainder of the course, we will be studying fairly lengthy and complicated statutes. In each case, I will list the statute in whole (or as it appears in the Statutory Supplement) on the syllabus. Please look the statute over well enough to understand its basic structure and purpose. In addition, as you read the other assigned material, refer back to the particular sections of the statute that are discussed and read them more carefully.

C. Work, Family, and Other Obligations


Assignment 28:
R&L 598-600, 606 note 3 - 608
Handout: Illinois Nursing Mothers in the Workplace Act, 820 ILCS 260, et seq.;
Illinois School Visitation Rights Act, 820 ILCS 147/1, et seq.;
Illinois Election Code, 10 ILCS 5/17-15;
Illinois Jury Act, 705 ILCS 305/4.1;
Illinois Service Member’s Employment Tenure Act, 330 ILCS 60/1, et seq.;
Illinois Family Military Leave Act, 820 ILCS 151/1, et seq.

VIII. Wages & Hours


A. Overview: History, Economic Policy, Some FLSA Basics

Assignment 29:
Handouts on minimum wage
R&L pp. 423 (bottom)- 430, 470-75
B. Covered Employees

Assignment 30:
R&L 430-31, 437-41 notes 1-8, 11
Handouts on FLSA regulations
Handout: Worksheet on FLSA regulations

C. Counting Wages and Hours

Assignment 31:
R&L 442-46 par. e, 450-56 note 13
Handout: Select FLSA provisions
Review: Illinois Minimum Wage Law: 820 ILCS 105/1, et seq. (especially sections 105/4 -4a)

D. Enforcement & Other Federal Laws

Assignment 32:
R&L 462-70, 475
Review: Illinois Minimum Wage Law: 820 ILCS 105/1, et seq. (especially sections 105/11-12)

E. State Laws

Assignment 33
R&L 423 n.4, 476-83
Handout: Illinois Wage Payment and Collection Act, 820 ILCS 115/1, et seq.
Handout: Illinois One Day Rest in Seven Act, 820 ILCS 140/1, et seq.

F. Equal Pay

Assignment 34:
R&L 488-89, 495 n.2-500, 506-08 (note 2)
IX . Health Benefits and ERISA


A. Introduction

Assignment 35:  
R&L 522-536  
2006 Supp. 34

B. ERISA Preemption

Assignment 36:  
R&L 544-53  
2006 Supp. 34-40 note 3  
Handout: *Retail Industry Leaders Ass’n v. Fielder*, 470 F.3d 180 (4th Cir. 2007)

C. Substantive Provisions

Assignment 37:  
R&L 560-66, 571 note 2 - 580, 625 n.3

D. COBRA and HIPAA


Assignment 38:  
R&L 580-86, 627-31

E. Retiree Health Benefits

Assignment 39:  
R&L 619-27  
Handout on retiree health benefits.