Employment Relationships  
Spring 2008  
Professor Carolyn Shapiro

COURSE INFORMATION

Contact information:  
Office number 753  
(312) 906-5392  
cshapiro1@kentlaw.edu

Office hours: Wednesdays 10:30-11:30 am and by appointment. In addition, please 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 and in class. 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 through http://www.kentlaw.edu/faculty/classes.html/.
SYLLABUS

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 (6th ed. 2007), 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 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 (or beginning with that note, e.g. 531 note 4 - 538).

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)
   Handout: Illinois Employee Classification Act, Public Act 95-0026

II. Employment at Will and Some Modifications
   A. The Baseline
      Assignment 2:
      R&L 29-33, 57-59, 69-71, 878-84, 974-87
   B. Public Policy Exception and Whistleblowing
      Assignment 3:
      R&L 12-15, 867-70, 935-41 note 2, 942-44 note 2, 947 notes 1&2, 948 note 5 - 954
      Handout: Illinois Whistleblower Act, 740 ILCS 174/1 et seq.
      Handout: Different views of public policy in the Illinois courts
      Handout: Callahan v. Edgewater Care & Rehabilitation Center, Inc., 374 Ill.App.3d, 872 N.E.2d 551 (1st Dist. 2007)
C. Written Contracts
Assignment 4:
R&L 884-91

D. Employee Handbooks and Manuals
Assignment 5:
R&L 898-910
Handout: Doyle v. Holy Cross Hospital, 186 Ill.2d 104, 708 N.E.2d 1140 (1999)

E. Implied Contracts
Assignment 6:
R&L 29-31 (review), 892-96 note 2, 897 (notes 5-6)

F. Good Faith and Fair Dealing
Assignment 7:
R&L 915 (notes 1-2), 916-18, 927 note 1-935
Handout: Rao v. Rao, 718 F.2d 219 (7th Cir. 1983)

G. Intentional Infliction of Emotional Distress
Assignment 8:
R&L 965-73

H. Employee Breaches
Assignment 9:
R&L 988-1004

I. Arbitration
Assignment 10:
R&L 61-65
III. Hiring

A. References & Defamation
Assignment 11:
R&L 129-35

B. Negligent Hiring
Assignment 12:
R&L 205-09 note 1-5, 211 note 11 - 217 note 3
Handout: Illinois Disclosure of Offenses Against Children Act, 820 ILCS 210/1; Illinois Criminal Identification Act, 20 ILCS 2630/5, 2630/12

C. Testing and Screening

1. Polygraph tests
Assignment 13:
R&L 144-49

2. Psychological and “honesty” testing
Assignment 14:
R&L 149-55, 159-60

3. Medical screening and exams
Assignment 15:
R&L 162-75, 192-97, 198-200 (notes 3, 5-7)
Handout: Right to Privacy in the Workplace Act, 820 ILCS 55/5, 55/20; Medical Examination of Employees Act, 820 ILCS 235/1-4
Handout: Carter v. Tennant Co., 383 F.3d 673 (7th Cir. 2004)
IV. Discrimination

A. Overview and Remedies
Assignment 16:
R&L 220-25, 297-98, 301 note 1 - 306
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 226-32, 244-56
Stat.Supp. as follows (from Title VII):
  Section 703(m) p. 45
  Section 706(g)(2)(B) p. 51
Handout: Article on cognitive bias
Available at 2007 WLNR 19204531

Assignment 18:
R&L 86-91, 121 note 2 - 128, 313-18 note 1
Handout: Law Review/Book excerpts

C. Disparate Impact and Statistics
Assignment 19:
R&L 256-60, 263-67, 277-78
Stat.Supp. Section 703(k) p. 44

D. BFOQ Defense
Assignment 20:
R&L 278-85, 286-87 (notes 5-6), 296-97 (notes 1-3)
Stat.Supp. Section 703(e), pp. 41-42

E. Equal Pay Act
Assignment 21:
R&L 454-55, 461 n.2 - 465, 469-70, 475-78, 484-86 n.6, 488 (notes 11-12)
F. **Age**
Assignment 22:
R&L 347-54
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 354-76
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. **Religion, National Origin, and Immigration**
Assignment 24:
R&L 334 note 3 - 337 note 15, 345 note 5 - 347 (through note on IRCA), 95-109
Handout: Illinois Human Rights Act, 775 ILCS 5/2-102
Handout: Current issues in immigration and employment

I. **Other Protected Groups**
Assignment 25:
R&L 611-16
Handout: Chicago Human Rights Ordinance §§ 010, 020, 030, 050
V. Terms and Conditions of Employment

A. Harassment
Assignment 26:
R&L 594-96, 602 n.3 - 611
Handout: Harassment scenarios (Please be aware that these scenarios contain excerpts from real cases and include extremely offensive language.)
Handout: EEOC v. V&J Foods, Inc., 507 F.3d 575 (7th Cir. 2007)

B. Privacy, Autonomy, and Personnel Records
Assignment 27:
R&L 621-22 (notes 4-6), 627 note 2- 634, 642 note 3 - 657, 667-68 (notes 3-6), 676 (note 1), 685-86 (notes 5-6)
Handout: Illinois Personnel Record Review Act, 820 ILCS 40/0.01, et seq.
Handout: Privacy scenarios
Handout: Muick v. Glenayre Electronics, 280 F.3d 741 (7th Cir. 2002)

C. Collective Action
Assignment 28:
R&L 657-62