

SYLLABUS (Fall 2018)
LABOR LAW, 3 credits (Law 6540, No. 17702)
Adjunct Professor Rochelle Kentov
Tuesdays 6:00 p.m. to 8:30 p.m., Room 355B
Cell Phone: (727) 463-1356
Email: rochelle.kentov@ufl.edu and csimon3@tampabay.rr.com

I. Course Description

The purpose of this course is to provide students with a practitioner's perspective of the most complex and dynamic areas of federal law governing labor relations. The lessons you will learn will have applications in many practice areas including labor and employment law, bankruptcy, mergers and acquisitions, and general corporate law.

II. Course Materials

A. Required Readings

1. Gorman, Finkin & Glynn, Labor Law (16th Edition, 2016, Foundation Press)
2. Court and NLRB decisions may be provided by the instructor, but students may be required to retrieve cases and other materials from time to time.

B. Suggested Readings

1. National Labor Relations Board website: <http://www.nlr.gov>
2. The Developing Labor Law, (John E. Higgins, editor, BNA)

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Labor Law has 3 "classroom hours" of in-class instruction each week, requiring at least 6 hours of preparation outside of class. It is anticipated that you will spend approximately 3 hours out of class reading and/or preparing for in class assignments for every 1 hour in class. Because the course includes cases and statutory and regulatory excerpts that require careful reading, you should allow enough time for the reading and preparation for class.

III. Method of Instruction, Course Goals and Objectives and Learning Outcomes

This course will be taught primarily through a lecture and discussion format. Your participation in the class is vital to its success. Labor law is an interesting and topical area of law practice. Each one of us can relate to the subject matter in a very personal and direct way. Most of us have been, or will be, employees and employers. You will learn a lot about your own rights in the workplace, and it is good preparation for practicing labor law. As you read about labor law, learn it and discuss it, you will learn to make good arguments from the points of view of employers, unions and employees, even if you may personally disagree with particular points of view. By working with both sides of labor law issues, you will be able to respond to labor law issues knowledgeably.

After completing this course, students should be able to:

1. Describe the historical context and statutory and case law that led to the National Labor Relations Act.
2. Demonstrate an understanding of employee rights under the National Labor Relations Act.
3. Explain the unfair labor practices covered in this course and apply them to new factual situations;
4. Explain the procedure for representation cases covered in this course and apply them to new factual situations; and
5. Provide basic advice to future clients on the National Labor Relations Act: to employees on their rights under the law and to employers and unions on their rights under the law and on how to comply with the law.

IV. Class Participation

You are expected to be prepared and ready to participate in each class. Students will be given an opportunity to sign up in advance to brief classes during class. If voluntary participation lags, students may be called upon at random.

V. Attendance

Class attendance is expected. Two or more unexcused absence will result in one letter grade reduction in the final grade for the course. (For example, from A to A-, from A- to B+, from B+ to B, etc.) Excused absences are consistent with University policies in the online catalog (<https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>), and require appropriate documentation. University recognized religious holidays are exempt. Please provide me with advance notification of such absences. A sign-in sheet will be circulated at or near the beginning of each class. Students are responsible for making sure they sign the sign in sheet, whether they arrive on time or late. Please be reminded that signing the sheet for another student who is not present is an Honor Code violation. If you are going to be absent or unprepared for any class, please let me know ahead of time, preferably by email.

VI. Grading

The grade in this course will be based on a final exam. The exam will be three hours and will test only material on the syllabus, as amended. The exam is graded on a mandatory curve established by the faculty. Students will be permitted to bring their notes prepared by themselves or in conjunction with other students, assigned reading, and their textbook to the final exam. You may take the exam either by writing your answers in blue books or by typing your answers on your computer using ExamSoft software provided by Student Affairs. I will increase exam grades based upon active and informed participation in class for those students who have reported on assigned cases in class to a significant degree. (For example, I may raise the exam grade one grade: from A- to A, from B+ to A-, from B to B+, etc.)

The law school's mean and mandatory distributions are posted on the College's website and I adhere to the College's posted grading policy. Below is the specific grading scale for this course:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

For more information, see: <http://www.isis.ufl.edu/minusgrades.html>]

VII. Office Hours

I will be available to meet with students before and after class and by appointment. I will also be available by email.

VIII. University Policy on Accommodating Students With Disabilities

Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

IX. Online Course Evaluation Process

Students are expected to provide feedback on the quality of instruction in this course. These evaluations are conducted online at <https://evaluation.ufl.edu>. Evaluations are typically open during the last two or three weeks of class, and students will be given specific times when they are open.

X. University Policy on Academic Misconduct

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

XI. Other resources are available at <http://www.distance.ufl.edu/getting-help> for:

- Counseling and Wellness resources
- Disability resources

- Resources for handling student concerns and complaints
- Library Help Desk support

Phone numbers and contact sites for university counseling services and wellness center: <http://www.counseling.ufl.edu/cwc/Default.aspx>; 392-1575. Phone number for University Police Department: 392-1111 or 9-1-1 for emergencies.

XII. Netiquette: Communication Courtesy

All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. During class, please silence your cell phones and please do not (a) sign onto the Internet or the school network for any reason, including web surfing, instant messaging or email; (b) send or receive messages on cell phones or any other electronic device; or (c) play any games on your computer, cell phone or any other device. All of these activities are a distraction to you and the students around you.

<http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf>

XIII. Web Site

There will be a course web page at <http://lawschool.westlaw.com/twen/>, which you can access with your Westlaw password.

XIV. Amendments to the Syllabus

This syllabus represents my current plans and objectives. As we go through the semester, those plans may need to change to enhance the class learning opportunity. Such changes, communicated clearly, are not unusual and should be expected.

XV. Assignments and Class Schedule

Please note that students are expected to have completed the reading assignments prior to the beginning of class. The assignments may be revised as circumstances dictate.

- A. The Development of the Regulation of the Labor-Management Relationship (August 14)
 1. Read for class:
 - a. NLRB webpage on protected concerted activity: <http://www.nlr.gov/concerted-activity>
 - b. Janus v. AFSCME, ___ U.S. ____ (June 27, 2018 [handout])
 - c. Vegeahn v. Guntner, 167 Mass. 92 (1896) [pages 7-13]¹
 - d. Plant v. Woods, 176 Mass. 492 (1900) [pages 13-15]
 - e. Loewe v. Lawlor, 208 U.S. 274 (1908) [pages 20-23]
 - f. Duplex Printing Press Co. v. Deering, 254 U.S. 443 (1921) [pages 26-27]
 - g. United States v. Hutcheson, 312 U.S. 219 (1941) [pages 32-33]
 - h. Thornhill v. Alabama, 310 U.S. 88 (1940) [pages 37-41]

¹ The numbers in brackets show the page numbers where the cases can be found in the book. Cases not found in the book will be distributed by the instructor.

2. Class discussion
 - a. NLRB treatment of collective action
 - b. Early judicial treatment of collective action
 - c. The intersection of antitrust law and collective action
 - d. Early legislative responses to the labor problem
 - i. Clayton Act
 - ii. Norris-LaGuardia Act
 - e. Constitutional protections
- B. Wagner Act: Creation of the NLRB and its Structure and Procedure (August 21)
1. Read for class:
 - a. Casebook, pages 41-81 [Note: Questions for Discussion are not required reading], including:
 - b. NLRB v. Noel Canning, Inc., 134 S. Ct. 2550 (2014) [pages 49-50]
 - c. New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010) [pages 76-77]
 - d. NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937) [pages 47-48]
 - e. Wickard v. Filburn, 317 U.S. 111 (1942) [page 57]
 - f. Hoffman Plastic Compounds v. NLRB, 535 U.S. 137 (2002) [page 60]
 - g. Universal Camera v. NLRB, 340 U.S. 474 (1950) [pages 78-79]
 - h. Arvin Industries, 285 NLRB 753 (1987) [handout] (Read only Chairman Dotson's dissent and the majority's response on pages 757-758)
 2. Class discussion:
 - a. NLRB organization and procedure
 - b. NLRB jurisdiction
 - c. Judicial review
- C. Union Organization: The Establishment of the Bargaining Relationship Property Rights vs. The Right to Organize (August 28)
- Read for class:
- a. Republic Aviation Corp. v. NLRB, 324 U.S. 793 (1945) [pages 90-94]
 - b. Beth Israel Hospital v. NLRB, 437 U.S. 483 (1978) [pages 95-96]
 - c. A Note on Notice [pages 98-99]
 - d. Cintas Corp. v. NLRB, 482 F.3d 463 (D.C. Cir 2007) [pages 99-104]
 - e. The Boeing Company, 365 NLRB No. 154 (December 14, 2017) [handout]
 - f. A Note on Company Rules [pages 105-106]
 - g. Guardsmark LLC v. NLRB, 475 F.3d 369 (D.C. Cir. 2007) [handout]
 - h. Lechmere, Inc. v. NLRB, 502 U.S. 527 (1992) [pages 106-116]
 - i. A Note on "Salting" [pages 118-119]
 - j. Hillhaven Highland House, 336 NLRB 646 (2001) [handout]
 - k. The Register-Guard, 351 NLRB 1110 (2007) [page 122]
 - l. Purple Communications, Inc., 361 NLRB 126 (2014) [pages 123-138] and Board's invitation to file briefs in Caesars Entertainment Corporation d/b/a Rio All-Suites Hotel and Casino, 28-CA-060841(August 1, 2018) [handout]
 - m. A Note on Discriminatory Application [pages 139-140]
 - n. Waivers of Group Arbitration and Adjudication [pages 542-543]

- o. Murphy Oil USA, Inc., 361 NLRB 72 (2014) [pages 544-560] and NLRB v. Murphy Oil USA, Inc., No. 16-307, ____ U.S. ____ (May 21, 2018) [handout]
2. Class discussion:
- a. Employees' right to organize
 - b. Employers' property rights
 - c. Employer rules infringing on protected Section 7 activities
- D. Board Representation Case Procedures Under Section 9 of the Act (September 4)
1. Read for class:
- a. Casebook, pages 253-263
 - b. Casebook, pages 59-68 [Note: This was already assigned for class on August 22, but please review again]
 - d. Blue Man Vegas, LLC v. NLRB, 529 F.3d 417 (D.C. Cir. 2008) [pages 263-272]
 - e. American Hospital Ass'n v. NLRB, 499 U.S. 606 (1991) [pages 274-277]
 - f. Specialty Healthcare, 357 NLRB No. 83 (2011) [page 277]
 - g. PCC Structural, Inc., 365 NLRB No. 160 (December 15, 2017) [handout]
 - h. Casebook, pages 278-281 and pages 281-284
 - i. Charles D. Bonanno Linen Service, Inc. v. NLRB, 454 U.S. 404 (1982) [pages 284-291]
 - j. Browning Ferris Indus., 362 NLRB No. 186 (2015) [pages 292-301] and Notice that Board vacates Hy-Brand decision (February 26, 2018) [handout]
 - k. Hy-Brand Industrial Contractors, Ltd. and Brandt Construction Co., 365 NLRB No. 156 (2017) [optional reading, handout]
 - l. Notice that Board is considering rulemaking to address joint-employer standard (May 9, 2018) [handout]
 - m. Casebook pages 302-304
 - n. Miller & Anderson, Inc., 364 NLRB No. 39 (2016) [handout]
2. Class discussion:
- a. Types of petitions
 - b. Showing of interest
 - c. Representation case hearings and elections
 - d. Employee status
 - e. Appropriate unit
 - f. Single location vs. multi-location units
 - g. Multiemployer units
 - h. Joint employer status
- E. Representation Case Procedures (continued) (September 11)
1. Read for class:
- a. Excelsior Underwear Inc., 156 NLRB 1236 (1966) [pages 140-143]
 - b. NLRB v. Wyman-Gordon, 394 U.S. 759 (1969) [pages 144-145]
 - c. Casebook, pages 146-151
 - d. NLRB v. Gissel Packing Co., 395 U.S. 575 (1969) [pages 151-155]
 - e. Read Casebook, pages 157-158.

- f. Midland National Life Insurance Co., 263 NLRB 127 (1982) [pages 158-168]
 - g. Sewell Mfg. Co., 138 NLRB 66 (1962) [pages 169-170]
 - h. Leedom v. Kyne, 358 U.S. 184 (1958) [pages 309-313]
 - i. Dana Corp., 351 NLRB 434 (2007) [page 342]
 - j. Lamons Gasket, 357 NLRB No. 72 (2011) [page 343]
 - k. Shaw's Supermarkets, 343NLRB 963 (2004) [pages 343-344]
3. Class discussion:
- a. Post-election procedures
 - b. Challenges
 - c. Objections
 - d. Enforcement of representation cases
 - e. Voluntary recognition by employer
- F. Interference with, restraint or coercion of, Section 7 rights and employer domination/assistance (September 18)
1. Read for class:
- a. Sections 7 and 8(a)(1) of the Act [handout]
 - b. NLRB v. Gissel Packing, 395 U.S. 575 (1969) [pages 151-155]
[Note: This case was assigned for class on September 13 but please read again.]
 - c. NLRB v. Exchange Parts, 375 U.S. 405 (1964) [pages 179-181]
 - d. Rossmore House, 269 NLRB 1176 (1984) [handout] (Board decision only)
 - e. IUOE, Local 49 v. NLRB (Struksnes Construction Co.), 353 F.2d 852 (D.C. Cir. 1965) [pages 175-178]
 - f. Casebook, pages 526-527
 - g. IBM, 341 NLRB 1288 (2004) [pages 528-535]
 - h. Casebook, pages 182-185
 - i. Casebook, pages 187-191
 - j. Electromation, 309 NLRB 990 (1992) [pages 191-199]
 - k. ILGWU v. NLRB (Bernhard-Altmann Texas Corp.), 366 U.S. 731 (1961) [pages 199-202]
 - l. BE & K Construction Co. v. NLRB, 536 U.S. 516 (2002) [pages 1055-1058]
 - m. Board's invitation to file briefs in Velox Express Inc., (15-CA-184006) (February 15, 2018) [handout]
 - n. Casebook, pages 202-204 and 205-207.
2. Class discussion:
- a. Threats
 - b. Promises
 - c. Interrogation
 - d. Surveillance
 - e. Access
 - f. Employee rights to representation at an investigatory interview
 - g. Wrongful litigation
 - h. Union misconduct
 - i. Unlawful recognition
- G. Discrimination under the Act (September 25)
1. Read for class:
- a. Casebook, pages 212-215

- b. Edward G. Budd Mfg. v. NLRB, 138 F.2d 86 (3d Cir. 1943) [pages 209-211]
- c. Nichols Aluminum, LLC v. NLRB, 797 F.3d 548 (8th Cir. 2015) [pages 216-225]
- d. Universal Camera Corp. v. NLRB, 340 U.S. 474 (1951) [page 227]
- d. NLRB v. Adkins Transfer Co., 226 F.2d 324 (6th Cir. 1955) [pages 228-232]
- e. NLRB v. Burnup & Sims, 379 U.S. 21 (1964) [handout]
- f. Textile Workers Union v. Darlington Mfg. Co., 380 U.S. 263 (1965) [pages 234-239]
- g. Casebook, pages 240-241, 245-248, 249-253
- h. Wright Line, 251 NLRB 1083 (1980) [handout] (Board decision only)
- i. Phelps Dodge Corp. v. NLRB, 313 U.S. 177 (1941) [pages 242-245]

2. Class discussion:

- a. Types of Discipline
- b. Plant closure
- c. Relocation
- d. Remedies for unfair labor practices
- e. Hiring halls
- f. Judicial review of Board findings
- g. Interim injunctive relief

H. Protected and Unprotected Activity (October 2)

1. Read for class:

- a. Casebook, pages 511-513
- b. NLRB v. City Disposal, 465 U.S. 822 (1984) [pages 514-524]
- c. Eastex v. NLRB, 437 U.S. 556 (1978) [pages 536-540]
- d. "Unprotected" Concerted Activity, pages 562-566
- e. NLRB v. IBEW Local 1229 (Jefferson Standard Broadcasting Co.), 346 U.S. 464 (1953) [pages 566-573]
- f. Casebook, pages 573-574
- g. NLRB v. Mackay Radio and Telegraph, 304 U.S. 333 (1938) [pages 580-582]
- h. NLRB v. Erie Resistor, 373 U.S. 221 (1963) [pages 583-587]
- i. American Ship Building Co. v. NLRB, 380 U.S. 300 (1965) [pages 589-597]
- j. NLRB v. Great Dane Trailer, 388 U.S. 26 (1967) [pages 597-600]
- k. IBEW Local 15 v. NLRB, 429 F.3d 651 (7th Cir. 2005) [pages 602-608]
- l. Laidlaw Corp., 171 NLRB 1366 (1968) [pages 609-613]
- m. Read Employee Refusals to Cross Picket Lines, pages 616-618
- n. Metropolitan Edison Co. v. NLRB, 460 U.S. 693 (1983) [pages 618-623]
- o. Unfair Labor Practice Strikes, pages 624-628
- p. Contractor's Labor Pool Inc. v. NLRB, 323 F.3d 1051 (D.C. Cir. 2003) [problem 3 on pages 608-609]

2. Class discussion:

- a. Strikes
- b. Lockouts

- c. Protected and unprotected activities
- d. Status of strikers

I. Recognition without election and withdrawal of recognition (October 9)

1. Read for class:
 - a. NLRB v. Gissel Packing, 395 U.S. 575 (1969) [pages 316-328]
 - b. Fall River Dyeing and Finishing v. NLRB, 482 U.S. 27 (1987) [pages 912-925]
 - c. Nexeo Solutions, LLC, 364 NLRB No. 44 (2016) [handout] [Note: Read Majority Board Decision only]
 - d. Howard Johnson Co. v. Detroit Local Joint Executive Board, 417 U.S. 249 (1974) [pages 928-934]
 - e. Casebook, pages 329-332, 339-344, 345, 909-912, 925-926, 926-928.
 - f. Linden Lumber v. NLRB, 419 U.S. 301 (1974) [pages 333-336]
 - g. Brooks v. NLRB, 348 U.S. 96 (1954) [pages 337-339]
 - h. Allentown Mack v. NLRB, 522 U.S. 359 (1998) [pages 346-353]
 - i. Levitz Furniture Co., 333 NLRB 717 (2001) [pages 353-355] and Memorandum GC 16-03, Seeking Board Reconsideration of the Levitz Framework (May 9, 2016) [handout]
2. Class discussion:
 - a. Bargaining orders
 - b. Successorship
 - c. Recognition
 - d. Withdrawal of recognition

J. Negotiation of the Collective-Bargaining Agreement and the Duty to Bargain in Good Faith (October 16)

1. Read for class:
 - a. J.I. Case Co. v. NLRB, 321 U.S. 332 (1944) [pages 359-362]
 - b. Emporium Capwell Co., v. Western Addition Community Organization, 420 U.S. 50 (1975) [pages 364-372]
 - c. NLRB v. A-1 King Size Sandwiches, 732 F.2d 872 (11th Cir. 1984) [pages 385-392]
 - d. Detroit Edison v. NLRB, 440 U.S. 301 (1973) [pages 399-405]
 - e. NLRB v. Insurance Agents Union, 361 U.S. 477 (1960) [pages 407-414]
 - f. NLRB v. Katz, 369 U.S. 736 (1962) [pages 414-418]
 - g. Raytheon Network Centric Systems, 365 NLRB No. 161 (December 15, 2017) [handout]
 - h. Total Security Management Illinois 1, LLC, 364 NLRB No. 106 (August 26, 2016) [handout]
 - i. The Limits of Majority Rule, [pages 373-375]
 - j. The Duty to Bargain in Good Faith, [pages 382-383]
 - k. Casebook, pages 392-393
 - l. The Duty to Disclose Information, [pages 395-398]
2. Class discussion:
 - a. Surface bargaining vs. hard bargaining
 - b. The duty to provide information
 - c. Direct dealing
 - d. Decisional and effects bargaining

- K. The Bargaining Process (October 23)
1. Read for class:
 - a. NLRB v. American National Insurance, 343 U.S. 395 (1952) [pages 426-431]
 - b. NLRB v. Borg-Warner, 356 U.S. 342 (1958) [pages 432-437]
 - c. Fibreboard Paper Products v. NLRB, 379 U.S. 203 (1964) [pages 443-450]
 - d. First National Maintenance, 452 U.S. 686 (1981) [pages 456-467]
 - e. UFCW Local 150-A v. NLRB (Dubuque Packing), 1 F.3d 24 (D.C. Cir. 1993) [pages 468-477]
 - f. Allied Chemical and Alkali Workers, 404 U.S. 157 (1971) [pages 480-485]
 - g. H.K. Porter Co. v. NLRB, 397 U.S. 99 (1970) [pages 497-500]
 - h. Ex-Cell-O Corporation, 185 NLRB 107 (1970) [pages 501-508]
 - i. Subjects of Collective Bargaining [pages 420-426]
 - j. The Mandatory-Permissive Distinction [pages 438-442]
 - k. "Waiver" By Contract or Past Practice [pages 451-455]
 2. Class discussion:
 - a. Mandatory subjects
 - b. Permissive subjects
 - c. Bargaining remedies
- L. Union Duty of Fair Representation (October 30)
1. Read for class:
 - a. Steele v. Louisville & Nashville R. Co., 323 U.S. 192 (1944) [pages 376-380]
 - b. Casebook, pages 380-381, 1063-1071
 - c. Air Line Pilots Ass'n v. O'Neill, 499 U.S. 65 (1991) [pages 1073-1079]
 - d. Vaca v. Sipes, 386 U.S. 171 (1967) [pages 1083-1092]
 - e. Bowen v. United States Postal Service, 459 U.S. 212 (1983) [pages 1105-1110]
 - f. NLRB v. General Motors Corp., 373 U.S. 734 (1963) [pages 1114-1117]
 - g. CWA v. Beck, 487 U.S. 735 (1987) [pages 1128-1129]
 - h. Marquez v. Screen Actors Guild, 525 U.S. 33 (1998) [pages 1132-1137]
 - i. Ellis v. Brotherhood of Railway, Airline and S.S. Clerks, 466 U.S. 435 (1984) [pages 1138-1141]
 - j. California Saw & Knife Works, 320 NLRB 224 (1995) [pages 1143-1148]
 2. Class discussion:
 - a. Grievance processing
 - b. Union security
 - c. Right to work states
 - d. Financial core membership
- M. Administration of the Collective Bargaining Agreement and Deferral (October 31)
1. Read for class:
 - a. Casebook, pages 763-774

- b. Textile Workers Union v. Lincoln Mills of Alabama, 353 U.S. 448 (1957) [pages 775-779]
- c. United Steelworkers of America v. American Mfg. Co., 363 U.S. 564 (1960) [pages 781-783]
- d. United Steelworkers of America v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960) [pages 784-791]
- e. Litton Financial Printing Div. v. NLRB, 501 U.S. 190 (1991) [pages 795-802]
- f. United Steelworkers of America v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960) [pages 804-807]
- g. Casebook, pages 837-844
- h. Babcock & Wilcox, 361 NLRB 844 (2014) [pages 844-857]
- i. United Technologies Corp., 268 NLRB 768 (1984) [pages 866-874]

2. Class discussion:

- a. Grievance arbitration
- b. Judicial enforcement of collective bargaining agreements
- c. Deferral to arbitration

N. Wrap Up and Review (November 13)²

O. Final Exam (December 4, 2018, at 1:00 p.m.)

² There is no class on November 20, 2018, because Friday classes meet on that date and Tuesday classes are cancelled.