

EMPLOYMENT LAW
Law 6545-23353
UF Levin College of Law
Fall 2019
Syllabus – Part I

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Office Hours: Mondays, 4:30-6:30pm
& by appointment (email me to arrange)

OVERVIEW

This course provides an introduction to and survey of the principal statutes and common-law doctrines governing the workplace and the relationship between employers and employees. Among the topics we will cover are: the nature of the employment contract, the at-will rule and its exceptions, employee mobility issues (e.g., covenants not to compete), employee dignitary interests (e.g., privacy), employee speech, layoffs and unemployment insurance, workplace health and safety, and wage and hour law. The course will cover doctrine as well as policy and practical considerations.

Course Objectives & Student Learning Outcomes

After completing this course, students should be able to:

1. Describe the historical context and strains of work law that led to today's "individual rights model" of employment law;
2. Demonstrate an understanding of the at-will rule, exceptions to it, and the policy arguments involved in choosing an "at will" as opposed to "for cause" default rule for employment law;
3. Explain the various common law doctrines of employment law covered in this course and apply them to new factual situations;
4. Explain the major provisions of the federal employment statutes covered in this course and apply them to new factual situations; and
5. Provide basic advice to future clients on the employment laws covered in this course: to employees on their rights under the laws and to employers on how to comply with the laws.

Required Course Materials & Workload

Students are required to login to the course Canvas site and are responsible for downloading course-related materials posted there when listed in an assignment or announced in class.

The required casebook for this course (denoted as "CB" below) is Crain, Kim & Selmi, *Work Law: Cases and Materials* (3rd ed., 2015). Students must also download the free 2018 Supplement that updates the casebook (denoted as "CB Supp" below), posted as "2018 Casebook

Supplement” on the course Canvas site. Only selected pages from this supplement will be assigned, as indicated in the relevant class reading assignments below.

Please note that, if you plan to take the final exam on ExamSoft, you should get a hard copy rather than an electronic version of the casebook. Because you may bring your casebook into the final exam (see “Grades & Class Participation,” below), if you only have an electronic version of the casebook, you will be unable to access it on your computer while using ExamSoft.

For certain classes, I assign additional short readings to complement the casebook, denoted as “Class Handout” below. All Class Handouts will be available on the course Canvas site, posted by Friday of the week preceding the relevant class.

You are expected to read and be prepared to discuss all of the assigned reading each class, including all of the “Notes” assigned; doctrinal information and questions we will discuss in class often appear in the “Notes” section of the casebook. In accordance with Standard 310 of the American Bar Association’s (ABA) standards for law schools, students are expected to devote 2 hours of out-of-class preparation for every 1 credit hour of in-class instruction. Because this course has 3 credit hours of in-class instruction each week, you should expect to spend at least 6 hours outside of class reading and preparing for our class meetings each week.

Grades & Class Participation

Regular attendance, preparation, and active participation in classroom discussion are required. Your course in the grade will be based on a final exam and class participation.

Participation will be factored into your grade, with excellent participation potentially raising your final course grade by a third of a letter grade (e.g., from an A- to an A or a B to a B+). Excellent participation means offering a few thoughtful comments or questions in more than half of all classes, listening to and engaging with points raised by other students, and exercising judgment to foster others’ participation, too. Because the course must adhere to a mandatory mean grade, participation may also be used to differentiate among the course grades of students with equal final exam grades.

The final exam will be timed, during the regular exam period, and will be limited open book, for which you may use only: (1) your copy of the Casebook, 2018 Casebook Supplement, and Class Handout readings assigned, and (2) a class outline prepared in whole or substantial part by you. No other materials will be allowed. More information on the exam will be provided in class.

Attendance & Punctuality

Attendance is required and an essential part of the course. In accordance with ABA guidance on acceptable rates of classroom absences, you are allowed 5 absences from class total, for any reason (including for illness, medical appointments, job interviews, school activities, work tasks, family issues, and the like). For ease of administration and to respect your privacy, I do not make any differentiation between “excused” or “unexcused” absences; this means that there is no need to tell me why you will be or were absent from class, so long as you have 5 or fewer absences total.

Only observance of a University-recognized religious holiday does not count toward your 5 absences, so please do notify me in advance of such absences. Please also notify me should you have an emergency or a family or medical situation that will require missing more than 5 classes.

More than 5 absences may negatively affect your final course grade. Students who miss more than 25% of scheduled classes may be prohibited from sitting for the final examination and unable to pass the course.

As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but to your fellow students. After 2 late arrivals, each additional late arrival will be counted as a class absence.

Use of Laptops

Students are permitted to use laptops to take notes in class, however any other use of laptops during class is prohibited. Impermissible uses include, but are not limited to, using email or instant messaging programs, visiting social media sites, or any use of the Web, even if you believe it pertains to class. Misuse of laptops during class may result in you losing the privilege of using a laptop in the classroom and may negatively affect the class participation portion of your grade.

Students are strongly encouraged to listen, participate in the discussion, process the material, and take notes accordingly, rather than to try to transcribe everything that is said in class.

Office Hours

Office hours are Mondays from 4:30-6:30pm and by appointment. My office is HOL 310, on the third floor of Holland Hall. If you are unable to meet during these hours, please do not hesitate to email me to set up an appointment. I am happy to meet as needed at other times.

Syllabus

The syllabus will be distributed in two parts to allow for flexibility in course pace and coverage. The first part contains reading assignments for weeks 1-5 of class, followed by a list of topics for possible coverage in the remainder of the course. The second part of the syllabus covering weeks 6-13 will be posted on the class Canvas site and distributed in class during week 5. In addition, reading assignments may be subject to change.

Other General Information

Policy related to make-up exams or other work

The law school policy on delay in taking exams is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12>.

Statement related to accommodations for students with disabilities

Students requesting accommodation for disabilities must first register with the UF Disability Resources Center, <https://drc.dso.ufl.edu/>. Once registered, students will receive an accommodation letter, which the student must then present to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting an accommodation. Students with disabilities should follow this procedure as early as possible in the semester to ensure that you can be accommodated promptly.

Information on UF Law grading policies

The law school grading policy is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. Students receive grade points according to the following scale:

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.00	B-	2.67	D+	1.33
A-	3.67	C+	2.33	D (Poor)	1.00
B+	3.33	C (Satisfactory)	2.00	D-	0.67
B (Good)	3.00	C-	1.67	E (Failure)	0.00

Student course evaluations

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email you receive from GatorEvals in your Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

Compliance with UF Honor Code

Academic honesty and integrity are fundamental values of the UF Law School community. Students are expected to understand and comply with the UF Student Honor Code, available at <https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>, and the Law School's application of it, information available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

SCHEDULE OF CLASS TOPICS AND ASSIGNMENTS

Week 1

1. Tuesday, August 27, 2019

The meaning of work; Historical contexts

CB pp. 3-6 (through n.4 1st parag); 8 n.5 only; 9(B.)-17; 19-20 n.5 only; 21(C.)-22; 28(2.)-30 (through n.2)

2. Wednesday, August 28, 2019

20th-Century legal developments; Individual rights model

Who is an “employee”?; Who is an “employer”?

CB pp. 33; 38(D.)-41; 49(B.)-52; 58-59 n.2-4; 74(2.)-89

Week 2

3. Tuesday, September 3, 2019

The at-will presumption; Alternative models

CB pp. 101-122 (up to 3.)

4. Wednesday, September 4, 2019

Exceptions to the at-will rule: Express agreements; Implied agreements

CB pp. 122(3.)-144 (up to *Asmus* case)

Class 4 Handout: Florida state law on employment contracts [posted on Canvas]

Week 3

5. Tuesday, September 10, 2019

Exceptions to the at-will rule: Implied agreements (cont’d); Defining “cause”; Promissory Estoppel

The public policy exception

CB pp. 144 (from *Asmus* case)-154 (up to *Cotran* case); 161-167 (through n.4.); 179-187 (through n.5)

6. Wednesday, September 11, 2019

The public policy exception (cont’d); What constitutes public policy?; Constructive discharge; Statutory vs. common law remedies

CB pp. 187(n.6)-197; 199 (from *Gantt* case)-206 (through n.3); 212(C.)-219 (up to E.)

Week 4

7. Tuesday, September 17, 2019

The at-will presumption revisited

CB pp. 230-239

Class 7 Handout: Montana Wrongful Discharge from Employment Act (Mont. Stat. § 39-2-901 et. seq.) [posted on Canvas]

Review your notes and outline material from weeks 1-3, to prepare for an in-class group exercise.

8. Wednesday, September 18, 2019

Collective job security: The WARN Act; Unemployment insurance

CB pp. 261(B.)-279 (through n.3); 281 n.5 only; 294(D.)-299 (through n.6)

Week 5

9. Tuesday, September 24, 2019

Employee mobility: Covenants not to compete; Nondisclosure agreements

CB pp. 303-320 (up to B.)

CB Supp pp. 10-12

Class 9 Handout: Florida state law on covenants not to compete [posted on Canvas]

10. Wednesday, September 25, 2019

Employee mobility: Trade secrets; The duty of loyalty

CB pp. 320(B.)-343 (through n.5)

Possible topics to be covered in Weeks 6-13

Employer torts

Employee privacy and reputation

Employee voice and speech

Employment leave law (the Family and Medical Leave Act)

Wage and hour law (the Fair Labor Standards Act)

Health and safety law (the Occupational Safety and Health Act; workers compensation)

Overview of arbitration of employment disputes