

Labor Law (CRN: 76582, Sec. # 256-001)
Mondays and Wednesdays, 6:15pm—7:30pm
Fall Term 2006

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- **Text & Materials:** (A) *LABOR Law: cases and comments (2nd edition)*—Stanley D. Henderson and (B) *Labor Law: Statutory Supplement*—Stanley D. Henderson
- This course will critically consider the National Labor Relations Act. Where relevant, the course will consider the history of the labor movement (its objectives, its successes and failures), The Railway Labor Act, Fair Labor Standards Act, Public Sector Labor cases and Title 7 of the Civil Rights Act.
- Please be prepared to discuss the purpose of the Wagner Act and the Taft-Hartley Act (which was passed over President Truman's veto). Please be prepared to dispute Board decision making, as well as judicial opinion and scholarly opinion. Please continue to ask yourself whether compulsory unionism (outside of right-to-work law jurisdictions) provides economic or other benefits to the economy, to women, men, members of minority groups. Consider whether the law should be changed or remain the same. Why or why not?
- According to the Law School Calendar, the Final exam is scheduled for December 6, 2006 and will likely consist of 1 or 2 essay questions plus 10-15 multiple choice questions.

Reading Assignment.

Please note that what follows is a tentative reading assignment. Variations should be expected. I hope to cover between 35 and 50 pages per week. I expect to either provide a handout or provide citations to additional materials such as law review articles.

Method of Instruction.

I hope to encourage vigorous class participation. In general I will ask for volunteers to help lead the discussion but I will be happy to supplement that approach with a random call-on procedure. Please read the assigned readings carefully and please be prepared to question the underlying premises connected to the conclusions reached by the courts and the NLRB.

Grading.

- Grading will primarily be a function of one's performance on the final exam. That being said, I reserve the right to supplement final exam grades with oral adjustments equal to a plus or minus one-third of a grade.
- Positive adjustments are a function of excellence. An excellent performance is one that adds substantial value to the course.
- Negative adjustments are a function of unsatisfactory oral performance during the course. Negative is defined as a failure to have read and understood the material or alternatively a failure to communicate one's knowledge satisfactorily. If a student is unprepared for the class that counts as an unsatisfactory class performance.
- Students will be allowed one *pass* during the fall term, meaning that if they are unprepared that can inform me in writing of their desire to take a pass before the class period commences. Otherwise, students are better off not coming to class when they are unprepared.
- Absences: Pursuant to ABA guidelines, students are allowed to miss up to 20% of the class meetings. Absences in excess of 20% will result in exclusion from the final exam. I will pass around a sign-in sheet. If you have not be able to reach the classroom before the sign-in sheet has been collected that will count as an absence.

Office Hours.

In general I will be available to answer questions during the period after class. I will also be available on Wednesdays from 3:30 to 4:30. I will also schedule some office hours on some Saturdays during the term. Lastly, I will be pleased to schedule appointments.

Week	Reading assignment	Questions to consider
Week 1—Introduction August 21, 2005	Please read pages 1-55 (casebook)	Why has union density declined? Should we be concerned? Why or not?
Week 2	Please read pages 55-74 Please read McUsic & Selmi, Postmodern Unions, 82 Iowa Law Review 1339 (1997).	Are unions harmful? Do unions improve the social welfare calculus? Should membership be compulsory w/n unions?
Week 3	Please read pages 74-116	
Week 4	Please read pages 116--145	Should we have categories of bargaining (mandatory versus permissive)? Should we look to the RLA for guidance? Do rules affecting the employer's ability to contract out benefit workers?
Week 5	Please read pages 145-174 (casebook) and Jennifer	What is the duty of fair representation? If a union

	Friesen, The Costs of “Fee Speech”, Volume 15 Hastings Constitutional Law Quarterly 604 (1988)	violates the DFR does that mean the union has committed an unfair labor practice?
Week 6	Please read pages 175-215	Can we apply to the first amendment to invalidate judicial and NLRB decision-making w/r to the regulation of campaign practices?
Week 7	Please read pages 216-263	Should employers have an unconstrained right to confer benefits on workers before a certification election? Why or why not?
Week 8	Please read pages 264-311	Should protection against discrimination be seen as an absolute or contingent rule? – Why or why not?
Week 9	Please read pages 311-358	When employers violate the rules are effective remedies available? What remedies might you suggest if any? –
Week 10	Catch-up	
Week 11	Please read pages 358-409	
Week 12	Please read pages 409-465	
Week 13	Please read pages 465-501	
Week 14	Please read pages 501-534 & 618-627	From a social welfare perspective, was the creation of the NLRA a success or failure? Why or why not? Is there evidence of government failure?