

Employment Discrimination Syllabus

Spring 2009

Contact Information:

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Class Information:

Tuesdays
4:00 p.m. to 5:50 p.m.
Room 225

Casebook:

Cases and Materials on Employment Discrimination by Zimmer, Sullivan, and White (7th ed. 2008)

Recommended Secondary Sources:

There are many excellent secondary sources of information on employment discrimination and civil rights in the workplace. However, because the case law in this area constantly changes (best estimates indicate that over half the federal court civil docket is employment law related), sources quickly become dated. The best thing you can do to familiarize yourself with this exciting and complex area of the law is to thoroughly review the relevant statutes and their annotations.

Although the statutes are available online through Lexis and Westlaw, in my practice, I find it extremely helpful to have a single volume of the relevant statutes at my desk. I use *O'Connor's Federal Employment Codes Plus* (Jeffrey C. Londa ed. 2008), published by Jones McClure Publishing. There is no need for you to purchase a statutory supplement like this or any other for class, but it makes referring to the statutes easier. I leave it to your discretion.

Grading:

The final exam will form 80% of a student's grade. My evaluation of your class participation will determine the remaining 20%. Class participation is a crucial element to truly learning this subject. Discrimination is a polarizing topic, and it seems almost everyone has a different idea about what kind of discrimination meets the legal definition of *unlawful* discrimination. I find this area of the law both fun and frustrating, and hope each of you will leave my class with a love for this subject.

Note About Offensive Language:

We will be reading cases where offensive language is used, including racial and ethnic slurs, sexual stereotypes, and crude and vulgar language. I may occasionally use such language in class in an effort to explore this subject properly (such as in hypothetical problems). Students must be willing to both read and listen to this material and discuss the offensive language in an academic and respectful setting.

Reading Assignments:

On the following pages is a proposed reading assignment schedule. As the class progresses, I may modify the assignments as needed.

Please keep in mind that each student will be responsible for reading **any statute or regulation** mentioned in your casebook or case readings, as well as those listed in the assignments below.

	<u>General Subject of Class</u>	<u>Assignment</u>
Class 1 13 Jan 2009	DEFINITIONS OF DISCRIMINATION; STATUTES (Title VII, Equal Pay Act, ADA, ADEA) Overview of Three Main Proof Schemes Individual Disparate Treatment Systemic Disparate Treatment Systemic Disparate Impact INDIVIDUAL DISPARATE TREATMENT <i>Prima Facie</i> Case <i>Hazen Paper; Hisbon; Desert Palace; Price Waterhouse</i>	p. 1-50 <u>Review:</u> 29 USC §§ 206(d)(1), 623, & 2614-15 42 USC §§ 1981, 2000e-2 & 12112
Class 2 20 Jan 2009	INDIVIDUAL DISPARATE TREATMENT (cont.) Evidence of Discriminatory Intent <i>McDonnell Douglas; Patterson; Ash; Reeves</i> 42 USC § 1981 & Reverse Discrimination <i>Santa Fe Trail; General Dynamics ... v. Cline</i>	p. 50-94 42 USC §§ 1981 & 2000e-2
Class 3 27 Jan 2009	SYSTEMIC DISPARATE TREATMENT Formal Policies <i>Manhart</i> Patterns & Practices <i>Teamsters; Hazelwood</i>	p. 95-111, 115-140 <i>Mendelsohn</i> & notes (to be emailed) Prepare Problem 1.1, p. 111
Class 4 03 Feb 2009	SYSTEMIC DISPARATE TREATMENT (cont.) Defenses, BFOQ, Affirmative Action <i>Feeney; Johnson Controls; Weber; Johnson</i>	p. 155-204
Class 5 10 Feb 2009	SYSTEMIC DISPARATE IMPACT <i>Griggs v. Duke Power; Wards Cove; City of Jackson; Meacham; Watson; Teal</i>	p. 207-46 <i>Meacham</i> & notes (to be emailed)
Class 6 17 Feb 2009	SYSTEMIC DISPARATE IMPACT (cont.) <i>Dothard; Albemarle Paper;</i> SPECIFIC TYPES OF DISCRIMINATION Because of Sex <i>Oncale</i>	p. 246-51, 255-67, 275-87, 329-47 Prepare Problem 3.2, p. 251

<u>(cont.)</u>	<u>General Subject of Class</u>	<u>Assignment</u>
Class 7 24 Feb 2009	SPECIFIC TYPES OF DISCRIMINATION Because of Sex Sex Stereotyping Pregnancy <i>Newport News; Guerra</i> Harassment <i>Meritor; Harris; Oncale</i>	p. 347-94
Class 8 03 Mar 2009	SPECIFIC TYPES OF DISCRIMINATION Because of Sex Harassment Vicarious Liability <i>Ellertb/Faragher; Suders</i> SPECIFIC TYPES OF DISCRIMINATION Because of Religion	p. 394-442
Class 9 10 Mar 2009	SPECIFIC TYPES OF DISCRIMINATION Retaliation <i>Breedon; Burlington Northern</i> Disability ADA Amendments of 2008; Rehabilitation Act of 1973 <i>Arline; Bragdon; Toyota Motor Manufacturing</i>	p. 461-81, 487-509 CBOCS & notes (to be emailed)
Class 10 24 Mar 2009	SPECIFIC TYPES OF DISCRIMINATION Disability Meaning of "Disability" <i>Sutton</i> Reasonable Accommodations Qualified Individual <i>Barnett</i>	p. 509-27, 533-57
Class 11 31 Mar 2009	SPECIFIC TYPES OF DISCRIMINATION Disability Defenses <i>Echazabal; Albertson's</i> Unique Issues Drug and Alcohol Abuse Family and Medical Leave Act	p. 563-87
Class 12 07 Apr 2009	ADMINISTRATIVE PROCEDURES: FILING A CLAIM <i>Ledbetter</i> DAMAGES & RELIEF Equitable	p. 595-616, 745-76

<u>(cont.)</u>	<u>General Subject of Class</u>	<u>Assignment</u>
Class 13 14 Apr 2009	DAMAGES & RELIEF Legal Attorneys' Fees	p. 792-803, 821-824, 947-58, 963-70
Class 14 21 Apr 2009	DAMAGES & RELIEF (cont.) QUESTIONS & ANSWERS	Review