

Employment Discrimination

Course Overview:

Survey Course- only statutory, no constitutional issues, or labor relations.

Case based course, no notes- exam will be based solely on cases and concepts contained therein. All cases in book will be covered unless excepted by Dean Jones.

Attendance: If a class is missed it must be excused and must give Dean Jones a written explanation- no e-mail. No more than 4 absences.

Office Hours: Prefer an appointment, but not necessary.

Grade based solely on final exam, no mid-term, assignments, or participation. Multiple choice exam @ 75 questions.

Outline

Central theme of employment discrimination law is the notion that similarly situated individuals should receive equal treatment by employers

- I. Discriminatory Intent w/Direct Evidence**
 - A. Employer may be fixed w/liability based on the statements of a supervisor.
 - i. Agency principle and USC 42: Discriminatory acts of agency can be imputed to employer.
 - ii. Also employer is subject to liability if it ratifies the act. (p.80).
 - B. Need Hazen holding
 - i. Disparate Treatment = E treats es differently based on membership in a protected category.** Pretty much everyone falls into a protected category, which we will see later! An essential element of proof is discriminatory intent/motive. **Disparate Impact = effect on e in a protected class is discriminatory.**
- II. Discriminatory Intent w/Circumstantial Evidence**
 - A. McDonald Douglas Corp. v. Green
 - i. Set out structure for establishing a prima facie case w/o direct evidence, i.e., circumstantial evidence. Order of proof = prima facie case, burden on P to prove: 1. P belongs to protected class...
 - B. D's Rebuttal and P's Proof of Pretext
 - i. Framework of proof to determine intent in disparate treatment cases.

P has initial burden of proving by a preponderance of the evidence a prima facie case of discrimination (that she