Overarching Theme: Private Ordering versus Public Mandates

Employment Law I

- Who Employment Law Applies To
  - The Employee (Servant) = ∑
    - The Right to Control Test
    - Economic Reality Test
  - The Independent Contractor
  - The Employer (Master) = Œ
    - Individuals
    - Business Entities
- Risk Management
  - Internal Resolution & Employer Investigations
  - Layoffs & Release Agreements
  - Employment Practices Liability Insurance
  - Bankruptcy
- Workplace Property Rights (Œ Protection, not ∑)
  - Fiduciary Duties of ∑s
  - Noncompete Agreements
  - Information Disputes
    - Trade Secrets
    - Copyright
    - Patents
- Workplace Speech & Assn.
  - Public Workplaces
    - Pickering-Public Affairs Test
    - Balancing Test
  - Private Workplaces
- At-Will Employment: Default Ω
- Exceptions to the At-Will Ω
  - Contract Exceptions
    - Oral & Implied K
    - Written K
      - Just Cause Provisions
  - Tort (Public Policy) Exceptions
    - AKA "Wrongful Discharge
  - Antidiscrimination
    - Disparate Treatment
      - Proving: McDonnell Douglas Test
    - Sexual, Religious, & Other Discrimination
    - Retaliation
    - Disability Discrimination
      - Definition
- Workplace Torts
  - Workers' Compensation Laws
    - Intentional Torts (8)
    - Exclusivity Provisions Limit Torts
    - Preemption of State Tort Suits by Federal Laws
- Workplace Privacy
  - U.S. Constitution (Govt. as Employer)
    - 4th Æ: Search & Seizure
    - 5th & 14th Æ: Due Process Clauses
  - Tort Protections
    - Intrusion Upon Seclusion
  - Statutes
    - GINA
    - EPPA
    - SCA
    - HIPAA
    - FCRA