

## Ch01: First the Forest, Then the Trees: An Overview of Employment and Labor Law

### True / False

1. Early court cases concluded that labor organizations were criminal conspiracies.

a. True

b. False

**ANSWER:** True

2. Federal legislation such as the Federal Employers Liability Act (1908) and the Railway Labor Act (1926) allowed for alternative methods for dispute resolution, first in the railroad, and later in the airline industry.

a. True

b. False

**ANSWER:** True

3. John L. Lewis, president of the United Mine Workers, abided by the “gentlemen’s agreement” during World War II.

a. True

b. False

**ANSWER:** False

4. The Taft-Hartley Act was a federal statute, which enacted unfair labor practices for which unions might be charged or punished.

a. True

b. False

**ANSWER:** True

5. The new laws and common-law legal theories have often supplanted labor unions as the main source of legal protection for American workers.

a. True

b. False

**ANSWER:** True

6. In *Gilmer v. Interstate/Johnson Lane Corporation*, the Supreme Court held that an ADEA claim could be subjected to compulsory arbitration.

a. True

b. False

**ANSWER:** True

7. After the decision in *Gilmer v. Interstate/Johnson Lane Corporation*, U.S. trial and appellate courts extended the verdict’s reach to virtually all types of employment discrimination cases. Simultaneously, federal agencies also embraced alternative dispute

resolution (ADR).

a. True

b. False

**ANSWER:** True

8. National statutes do not require private employers to provide their employees with either health insurance or a pension plan.

a. True

b. False

**ANSWER:** True

9. Globalization has been a strong destructive force on organized labor.

a. True

b. False

**ANSWER:** True

10. The Black Death, a plague that first decimated Europe's population in the mid-14th century, actually benefited those workers who survived.

a. True

b. False

**ANSWER:** True

11. The Industrial Revolution in 19th century England and America witnessed the rise of the employment-at-will doctrine in the common law.

a. True

b. False

**ANSWER:** True

12. Common law includes statutes and ordinances enacted by legislative bodies.

a. True

b. False

**ANSWER:** False

13. The main issue in *Epic Systems Corp. v. Lewis* was whether or not employment contracts can legally bar employees from collective arbitration under the NLRA.

a. True

b. False

**ANSWER:** True

14. Occasionally, statutory protections and terms of collective bargaining agreements conflict.

a. True

b. False

**ANSWER:** True

**Multiple Choice**

15. A situation wherein either the employer or the worker could terminate their relationship at any time for any reason is known as:

- a. common law.
- b. employment-at-will.
- c. willful misconduct.
- d. employer's liability act.

**ANSWER:** b

16. The act which sets the ground rules for the give and take between labor unions and corporate managers is the:

- a. Social Security Act (1935).
- b. Walsh-Healy Act (1936).
- c. Fair Labor Standards Act (1938).
- d. National Labor Relations Act (1935).

**ANSWER:** d

17. The first of several statutes to set the terms and conditions of employment to be provided by government contractors is known as the:

- a. Merchant Marine (Jones) Act (1936).
- b. Fair Labor Standards Act (1938).
- c. Walsh-Healy Act (1936).
- d. Social Security Act (1935).

**ANSWER:** c

18. The Fair Labor Standards Act (1938):

- a. establishes the rules of give and take between labor unions and corporate managers.
- b. sets employment conditions for government contractors.
- c. sets minimum wages, mandates overtime pay, and regulates child labor.
- d. allows the termination of employment relationship at any time and for any reason.

**ANSWER:** c

19. Which Act provides remedies for injured sailors?

- a. Marine Labor Standards Act (1938)
- b. Merchant Marine (Jones) Act (1936)
- c. Navy Labor Relations Act (1935)
- d. Social Security Act (1935)

**ANSWER:** b

20. There should be set rules if there is a give and take policy between a labor union and corporate managers. The Act which provides these rules is the:

- a. Social Security Act.
- b. National Labor Relations Act.
- c. Walsh-Healey Act.
- d. Fair Labor Standards Act.

**ANSWER: b**

21. David hired John as an assistant in his art studio. After two months David discharged John from his position due to John's bad quality of work. Under which doctrine can we say David discharged John?

- a. Title VII
- b. Employment-at-will
- c. The Social Security Act
- d. Willful misconduct

**ANSWER: b**

22. The integration of national economies into a worldwide economy, due to trade, investment, and migration and information technology is known as:

- a. globalization.
- b. perennial revolution.
- c. amalgamation.
- d. assimilation.

**ANSWER: a**

23. If Harry is acting as a neutral adjudicator in a settlement between James and Paul, then the settlement can be considered a(n):

- a. whistleblowing practice.
- b. arbitration.
- c. election of remedies.
- d. writ of certiorari.

**ANSWER: b**

24. A litigant's choice of solutions for a perceived wrong can be employed as a(n):

- a. choice of cause.
- b. writ of certiorari.
- c. election of remedies.
- d. arbitration.

**ANSWER: c**

25. Under Title VII, an employee alleging illegal discrimination has the right to file a complaint with the:

- a. Equal Employment Opportunity Commission (EEOC).
- b. American Federation of Labor/Congress of Industrial Organizations (AFL-CIO).
- c. National Labor Relations Board.
- d. Election of remedies.

**ANSWER: a**

26. Epic Systems Corp. v. Lewis consolidated three cases involving:

- a. The Federal Arbitration Act (FAA).
- b. The Fair Labor Standards Act (FLSA).
- c. The National Labor Relations Act (NLRA).
- d. All of these answers.

**ANSWER:** d

27. Employment discrimination based on race, sex, religion, and such other groups is considered to be illegal under:

- a. Fair Labor Standards Act.
- b. Title VII of the Civil Rights Act.
- c. National Labor Relations Act.
- d. Social Security Act.

**ANSWER:** b

28. A plaintiff has a choice between money damages and a court order of restitution for a perceived wrong. Which is the best remedy the plaintiff can use?

- a. Plaintiff may exercise an election of remedies.
- b. Plaintiff may appeal for a writ of certiorari.
- c. Plaintiff may take the matter to arbitration.
- d. Plaintiff may seek remedy for whistleblowers.

**ANSWER:** a

29. Elvera, an employee working in a bistro, resigned her job since her supervisor overtly suggested sexual favors in exchange for better pay, and threatened to fire her if she did not comply. She filed a charge with Equal Employment Opportunity Commission (EEOC) against her supervisor and the organization for sexual harassment. Under what law can she file a suit?

- a. Title VII of the Civil Rights Act
- b. The Social Security Act
- c. The Fair Labor Act
- d. Employee Free Choice Act

**ANSWER:** a

30. Butler was an employee at Auto, an automobile assembling plant. The plant hired a large number of male and female employees but provided deplorable working conditions including unhygienic restrooms and poor ventilation. Despite several complaints and requests, the plant manager did not make any changes. Butler decided to bring this to the attention of the local government authorities through an official complaint. In the above scenario, Butler's role can be described as:

- a. willful misconduct.
- b. insubordination.
- c. whistleblowing.
- d. contributory negligence.

**ANSWER: c**

31. An employee who informs the wrong doing of an employer to a government agency is called:

- a. espionage.
- b. conductor.
- c. whistleblower.
- d. opportunist.

**ANSWER: c**

32. In the Applebee's and Samuel Y. Rodriguez case, Rodriguez alleged in his complaint that Applebee's enforced a mandatory arbitration agreement that unlawfully restricts employees' statutory right to pursue class or collective actions in violation of:

- a. The Social Security Act.
- b. Section 8(a)(1) of the NLRA.
- c. The Civil Rights Act.
- d. The Employee Retirement Income Security Act.

**ANSWER: b**

33. If Peter is engaged in illegal activities as part of an organized criminal outfit, the law designed to criminally penalize Peter is the:

- a. Employee Retirement Income Security Act (ERISA).
- b. Worker Adjustment and Retraining (WARN) Act.
- c. Federal Occupational Safety and Health Act (OSHA).
- d. Racketeer Influenced and Corrupt Organizations Act (RICO).

**ANSWER: d**

34. Epic Systems Corp. v. Lewis is a good example of:

- a. the pro-employer impact Republicans have had on the Supreme Court,
- b. the pro-employee impact Republicans have had on the Supreme Court,
- c. the pro-employer impact Democrats have had on the Supreme Court,
- d. None of these answers.

**ANSWER: a**

35. Employees who report or attempt to report employer wrongdoing or actions threatening public health or safety to government authorities are called:

- a. witnesses.
- b. whistleblowers.
- c. good Samaritans.
- d. None of these answers.

**ANSWER: b**

36. The Act which is aimed at letting employees know when a plant closing or mass layoff is in the offing is the:

- a. Employee Retirement Income Security Act (ERISA).
- b. Family and Medical Leave Act (FMLA).
- c. Worker Adjustment and Retraining (WARN) Acts.
- d. Federal Occupational Safety and Health Act (OSHA).

**ANSWER:** c

37. Janus v. AFSCME originated as a public employee's challenge to:

- a. employment contracts that bar collective arbitration.
- b. employers charging more for health insurance under the Patient Protection and Affordable Care Act.
- c. the practice of unions in the public sector charging "agency fees."
- d. None of these answers.

**ANSWER:** c

38. In Janus v. AFSCME, the Supreme Court ruled that the state's extraction of agency fees from public-sector employees:

- a. violates the First Amendment.
- b. does not violate the First Amendment.
- c. violates the Fair Labor Standards Act (FLSA).
- d. does not violate the Fair Labor Standards Act (FLSA).

**ANSWER:** a

39. New Deal Legislation passed at the urging of:

- a. the Supreme Court of the United States.
- b. Franklin D. Roosevelt.
- c. Herbert Hoover.
- d. Harry S. Truman.

**ANSWER:** b

40. To solve the problems of high cost and limited coverage of the US health insurance system, the Obama Administration and Congress have concentrated on:

- a. Civil Rights Act.
- b. Employee Free Choice Act.
- c. Health Insurance Reform.
- d. The federal Occupational Safety and Health Act (OSHA).

**ANSWER:** c

41. After the November 2010 elections, the switch from liberal Democrats to conservative Republicans in power saw several states move toward ending:

- a. collective bargaining by public employees.
- b. the Employee Free Choice Act.
- c. the Worker Adjustment and Retraining (WARN) Acts.
- d. the Workers' compensation Act.

**ANSWER:** a

42. Which case held that unions cannot contract away the individual employee's statutory rights?

- a. West Coast Hotel Company v. Parrish
- b. Epic Systems Corp. v. Lewis
- c. Gilmer v. Interstate/Johnson Lane Corporation
- d. Alexander v. Gardner-Denver Company

**ANSWER: d**

43. The Social Security Act (1935):

- a. sets the ground rules for the give and take between labor unions and corporate managers.
- b. provides modest pensions to retired workers.
- c. sets the terms and conditions of employment to be provided by government contractors.
- d. provides remedies for injured sailors.

**ANSWER: b**

44. The Fair Labor Standards Act (1938):

- a. sets the ground rules for the give and take between labor unions and corporate managers.
- b. provides modest pensions to retired workers.
- c. sets the terms and conditions of employment to be provided by government contractors.
- d. sets minimum wages, mandates overtime pay, and regulates child labor.

**ANSWER: d**

45. The National Labor Relations Act (1935):

- a. sets the ground rules for the give and take between labor unions and corporate managers.
- b. provides modest pensions to retired workers.
- c. sets the terms and conditions of employment to be provided by government contractors.
- d. sets minimum wages, mandates overtime pay, and regulates child labor.

**ANSWER: a**

46. The Walsh-Healy Act (1936):

- a. sets the ground rules for the give and take between labor unions and corporate managers.
- b. provides modest pensions to retired workers.
- c. sets the terms and conditions of employment to be provided by government contractors.
- d. sets minimum wages, mandates overtime pay, and regulates child labor.

**ANSWER: c**

47. The Merchant Marine (Jones) Act (1936):

- a. provides remedies for injured sailors.
- b. provides modest pensions to retired workers.
- c. sets the terms and conditions of employment to be provided by government contractors.
- d. sets minimum wages, mandates overtime pay, and regulates child labor.

**ANSWER:** a

48. In *West Coast Hotel Company v. Parrish*, the Washington Supreme Court reasoned:

- a. it is in the public interest to safeguard women's health and protect them from unscrupulous employers.
- b. the protection of women is a legitimate end of the exercise of state power.
- c. the requirement of a fair minimum wage designed so the woman can meet the "very necessities of existence" is a means of protection.
- d. All of these answers.

**ANSWER:** d

49. Which of the following issues or trends contributed to the gradual decline of organized labor?

- a. Union abuse of power
- b. Political scrutiny of illegal and unethical activity
- c. Globalization
- d. All of these answers.

**ANSWER:** d

### **Subjective Short Answer**

50. Which statute provides pensions to retired workers?

**ANSWER:** The Social Security Act of 1935 deals with provisions on pensions that are to be provided to retired workers.

51. Briefly describe the doctrine of employment-at-will.

**ANSWER:** The doctrine of employment-at-will was established in the 19th century in the common law. It states that both the employee and the employer are free to unilaterally terminate the relationship at any time and for any legally permissible reason, or for no reason at all.

52. What are individual employee rights?

**ANSWER:** Individual employee rights are those rights that are enjoyed by workers as individuals, as against collective rights secured by unionization.

53. Who violated the "gentlemen's agreement" with the Roosevelt Administration during

WWII?

**ANSWER:** John L. Lewis, president of the United Mine Workers had violated the “gentlemen’s agreement” with the Roosevelt Administration during WWII.

54. Briefly describe the Taft-Hartley Act.

**ANSWER:** The Taft-Hartley Act is a federal statute which enacted unfair labor practices for which unions might be charged and punished, such as coercing workers to join against their will.

55. Explain the phenomenon of globalization.

**ANSWER:** Globalization is the integration of national economies into a worldwide economy, due to trade, investment, migration and information technology.

56. What rights does an employee have under Title VII of the Civil Rights Act if he or she faces illegal discrimination at work?

**ANSWER:** Under Title VII, an employee alleging illegal discrimination has the right to file a complaint with the Equal Employment Opportunity Commission (EEOC) for remedy.

57. What impact did the ruling in *West Coast Hotel Company v. Parrish* have on employers, employees, and labor unions?

**ANSWER:** The Court voted to validate state legislation that required employers to pay women a minimum wage. The case’s broad impact was to sweep away judicial opposition to the flood of legislation at both federal and state levels, which was overwhelmingly favorable to workers and their labor organizations. Subsequently, there was a rush by workers to join labor unions, which organized largely with impunity. Corporations that resisted were charged with unfair labor practices under the NLRA and compelled by the National Labor Relations Board (NLRB) to recognize and bargain with organized labor.

## Essay

58. Explain how sitting presidents have affected the evolution of the arbitration remedy in the courts.

**ANSWER:** During President Obama’s time in office, his appointees dominated the NLRB, and therefore, the EEOC and NLRB appeared to be of one mind in regard to substitution of private ADR remedies for statutory rights and recourse to federal courts and agencies. In 2017, however, President Donald Trump nominated Justice Neil Gorsuch for the Supreme Court. Once Gorsuch was confirmed, conservative justices were in the majority and began drastically changing the expected course for these types of arbitration cases.

59. What are the reasons for the decline of the Post-War Organized Labor?

**ANSWER:** Several significant issues and trends combined to cause the gradual decline of organized labor in America. This included incidents like the violation of a “gentlemen’s agreement” between John L. Lewis, president of the United Mine Workers, and the Roosevelt Administration during WWII. Further, critics believed that the combined

American Federation of Labor/Congress of Industrial Organizations (AFL-CIO) had grown far too powerful. Resistance by so-called "Red Hunters," such as the infamous Senator Joseph McCarthy, to perceived Communist influences in large unions at the advent of Cold War also contributed to the decline. Similarly, alleged organized-crime ties of other huge unions attracted the attention and wrath of politicians and government.

60. What led to decline and the resurrection of the arbitration remedy?

**ANSWER:** The proliferation of individual employee rights led to swamping of the state and federal courts. However, the decline of organized labor combined with the Supreme Court's ruling that individual rights could not be automatically ceded to the labor-management dispute-resolution process contributed significantly to the litigation deluge. Then in 1991, the Supreme Court revisited the issue and held in the case of *Gilmer v. Interstate/Johnson Lane Corporation* 500 U.S. 20 (1991), that out-of-court dispute resolution is consistent with the statutory scheme.

61. What are the major statutory aspects of Employee Health, Safety, and Welfare?

**ANSWER:** The major aspects of employee health, safety, and welfare, as they are embodied in our federal and state laws include• The federal Occupational Safety and Health Act (OSHA) and its many state-law counterparts• Workers' compensation and unemployment insurance statutes, which are a part of virtually every state's statutory safety net for injured and out-of-work workers• The U.S. Social Security system, which includes both pensions and support payments for permanently disabled workers who are still too young to retire• The Employee Retirement Income Security Act (ERISA), which is intended to protect and preserve employee pensions• The Family and Medical Leave Act (FMLA) and its numerous state and local counterparts, which increasingly require employers to grant paid leaves of absence for an ever-increasing range of personal issues• Worker Adjustment and Retraining (WARN) Acts, both federal and state, which are aimed at letting employees know when a plant closing or mass layoff is in the offingHowever, no national statute requires private employers to provide their employees with either health insurance or a pension plan.