LIR 863

LAW OF LABOR-MANAGEMENT RELATIONS

Fall, 2003

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Office Hrs: By appointment with instructor

Course Objectives

1. To provide students with a working knowledge of the legal requirements on employers and labor organizations in the areas of establishment of representative status, negotiation of the collective agreement, contract administration, and union security, among others.

2. To provide students with an understanding of the relationship between labor law and practice in labor and industrial relations.

3. To provide students with an understanding of relevant policy issues in labor law.

4. To provide students with an understanding of the legal system, the process of adjudication and the process of legal reasoning, both in the general sense and as it applies to labor-management relations.

5. To provide students with the respective roles played by legislation, presidential appointments, administrative decisions, and judicial decisions in the evolution of law in general, and labor law in particular.

6. To permit students to obtain the ability to analyze orally and in writing legal issues in labor-management relations.

7. To familiarize students with the process of legal research.

8. To familiarize students with the workings of rule-based systems in employment.
Course Requirements and Grade Weights

Final Examination  40%
Take Home Problem  25%
Term Paper   30%
Class Participation      5%

Required Texts


Optional Text

The required cases that are not in OHN are assembled into a course supplement, entitled LIR 863, Fall, 2003 Supplement (hereinafter cited as Fall, 2003 Supplement). It is available for purchase at the Student Book Store (SBS), 417 E. Grand River Ave., East Lansing. The supplement is made available for your convenience. All U.S. Supreme Court and recent National Labor Relations Board and courts of appeals cases are available through the Worldwide Web, as discussed below. You may, if you wish, obtain and print the cases individually off the web, although older Supreme Court cases on the web do not always include dissenting and concurring opinions. Of course, you also may use print sources, discussed below. Regardless of how you obtain the cases (supplement, Web, print), you are responsible for reading and briefing them before class.

Class Materials and Other Readings

The course overheads and other course materials are available on the instructor’s website at www.msu.edu/user/block. Other required readings and assignments will be distributed in class.

Print Sources of Labor Law Cases

The important print sources of labor law cases are compiled by the Bureau of National Affairs (BNA) and Commerce Clearing House (CCH). A session in the Labor and Industrial Relations (LIR) Library will be scheduled to familiarize students with these legal reporting services. An excellent handbook and source for case citations in labor law is The Developing Labor Law, published by the Bureau of National Affairs. Although using print sources is slow and highly
labor-intensive, print sources are the best way to obtain labor law information that is up-to-date and indexed and annotated by detailed topic area.

**Electronic Sources on Labor Law**

Law resources are abundant on the Internet, although, generally, electronic law resources are not annotated or indexed at a level that is detailed for research. An excellent internet source for legal sites is FINDLAW at http://www.findlaw.com/index.html. FINDLAW can be also be accessed through the SLIR Home Page. Among the categories in the FINDLAW Legal Subject Index is “Labor and Employment Law” at http://www.findlaw.com/01topics/27labor/index.html. This will link you to a variety of sites.

Supreme Court decisions are available through FINDLAW at http://www.findlaw.com/casecode/supreme.html and at http://supct.law.cornell.edu/supct/index.html. Cases since 1990 are indexed by topic at http://supct.law.cornell.edu/supct/index.html. Courts of Appeals decisions are available at http://www.law.emory.edu/FEDCTS/, although most Courts of Appeals did not begin to make their opinions electronically available until 1995. The National Labor Relations Board also has an excellent website, www.nlrb.gov, which includes copies of Board forms and links to Board decisions back to 1984. All of these sites can also be accessed through the SLIR Home Page by clicking on “Hot Links.”

An employer perspective on developments under the NLRA can be found at the website of Labor Policy Association, a lobbying group - http://www.nlrbwatch.com/. A union perspective on the NLRA can be found at the UAW Community Action Program (CAP) website - http://www.uaw.org/cap/index.html.

If, while reading cases, you encounter legal terms with which you are unfamiliar, you might try http://dictionary.findlaw.com/ or http://www.nolo.com/dictionary/wordindex.cfm. These are decent legal dictionaries.

**Course Procedure**

1. Material should be read in the order in which it appears in the reading list.

2. Unless otherwise noted, the weekly assignment is three cases (along with the notes following the cases) per class session.

3. The cases required for each class session are to be read and briefed before class.

4. Students should be prepared to be "called on" for any case or note which has been assigned for that class session.

5. Discussion of current issues in labor law will be addressed in the context of the appropriate case(s).
There will be no deferred grades or incompletes given for the course. If you require accommodation for religious or disability purposes, please make an appointment to discuss the matter with me.

**BASIC CONCEPTS**

(NOTE: THE MAJOR CASES TO BE READ IN OHN ARE LISTED IN BRACKETS NEXT TO THE PAGE NUMBERS)

**Constitutional Considerations**

OHN, pp. 99-114. [Jones and Laughlin]

**Judicial Review**

OHN, pp. 149-54. [Universal Camera]

**Exclusivity**

Emporium Capwell Co. v. Western Addition Community Organization, U.S. Supreme Court, 1981 (Fall, 2003 Supplement).

**ESTABLISHMENT OF REPRESENTATIVE STATUS**

**Statutory Coverage of the Act**


OHN, pp. 223-30 [Kentucky River].

Prill v. NLRB, 127 LRRM 2415, District of Columbia Circuit, 1987 (Fall, 2003 Supplement)

OHN, pp. 230-36 (exclusions from coverage; for additional reading, if interested, see also U.S. General Accounting Office, “Collective Bargaining Rights: Information on the Number of Workers With and Without Bargaining Rights, September 13, 2002 (link on website))

**The Bargaining Unit**

OHN, pp. 201-13  [Pacific Intermountain Express, National Tube]
American Hospital Association v. NLRB, U.S. Supreme Court, 1991 (Fall, 2003 Supplement)

M.B. Sturgis, Inc., 331 NLRB 1298, 2000 (Fall, 2003 Supplement) and OHN, pp. 217 (note on contingent workers).

**Employer Conduct: Discrimination, Interference, Restraint, and Coercion**


**Union Conduct: Restraint and Coercion**

NLRB v. Drivers Local 639 ("Curtis Bros.") U.S. Supreme Court, 1960 (Fall, 2003 Supplement)

OHN, pp. 338-42 (Zeigler’s Refuse)

**Union Conduct: Recognitional/Organizational Picketing**

OHN, pp. 379-81.

**Class Lecture**

**The Election Campaign**

Shopping Kart Food Market, Inc., 228 NLRB No. 1311, 1977 (Fall, 2003 Supplement).

OHN, pp. 342-45.

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**THE BARGAINING PROCESS: NEGOTIATING THE COLLECTIVE BARGAINING AGREEMENT**

**Secondary Activity**


**Bargaining: Pressures, Weapons, Subjects, Behavior**

OHN, pp. 507-16, 524-38 [Insurance Agents, Mackay Radio and Telegraph, Erie Resistor]
LABOR LAW AND THE COLLECTIVE BARGAINING AGREEMENT

Bargaining During the Life of the Agreement

OHN, pp. 602 (through Note 3, first paragraph).

Detroit Edison Co. v. NLRB, 100 LRRM 2728, U.S. Supreme Court, 1979 (Fall, 2003 Supplement).

The Duty of Fair Representation


Arbitration and the Enforcement of the Collective Agreement
OHN, pp. 763-72, 654-69. [Note: the two cases on pp. 656-69 will be treated as one case for purposes of the day's reading assignment.] [Collyer Insulated Wire, American Manufacturing, Warrior and Gulf]

United Paperworkers International Union v. Misco, U.S. Supreme Court, 1987 (Fall, 2003 Supplement)

OHN, pp. 683-92 [Eastern Associated Coal]

Wright v. Universal Maritime Service Corporation, U.S. Supreme Court, 1998 (Fall, 2003 Supplement)

Obligations after the Expiration of the Agreement

Litton Financial Printing Division v. NLRB, U. S. Supreme Court, 1991 (Fall, 2003 Supplement)

IMPORTANT ISSUES IN LABOR LAW

Remedies

OHN, pp. 627-35 [Ex-Cello]

Beverly California Corp. v. NLRB, 7th Cir, 2000 (Fall, 2003 Supplement)

The Right to Representation in the Disciplinary Process


Epilepsy Foundation of Northeast Ohio, 331 N.L.R.B. No 92, 2001 (Fall, 2003 Supplement)

Employee Participation Plans

Electromation, Inc. v. NLRB, 418 F.2d 731, 7th Cir., 1994 (Fall, 2003 Supplement)

Crown Cork and Seal Co., 334 N.L.R.B. No. 92, 2001 (Fall, 2003 Supplement)
Successorship

OHN, pp. 734-4 [Burns International Security Services]

Fall River Dyeing and Finishing Corp. v. NLRB, U.S. Supreme Court, 1987 (Fall, 2003 Supplement)

Withdrawal of Recognition

OHN, pp. 324-25.

Auciello Iron Works, Inc. v. NLRB, U.S. Supreme Court, 1996 (Fall, 2003 Supplement)

Allentown Mack Sales, Inc. v. NLRB, U.S. Supreme Court, 1998 (Fall, 2003 Supplement)

Union Security

Communications Workers of America v. Beck, U.S. Supreme Court, 1988 (Fall, 2003 Supplement)

Labor and the Anti-trust Laws


Illegal Workers


Work Preservation Agreements

OHN, pp. 453-75. [National Woodwork, Enterprise Association]

The Relationship between Federal Law and State Law
