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Economics 515 Supplemental Material

***Section One-***      Labor Relations News

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# An Eclectic List of Events in U.S. Labor History

## **1806**

The union of Philadelphia Journeymen Cordwainers was convicted of and bankrupted by charges of criminal conspiracy after a strike for higher wages, setting a precedent by which the U.S. government would combat unions for years to come.

## **27 April 1825**

The first strike for the 10-hour work-day occurred by carpenters in Boston.

## **3 July 1835**

Children employed in the silk mills in Paterson, NJ went on strike for the 11 hour day/6 day week.

## **July 1851**

Two railroad strikers were shot dead and others injured by the state militia in Portage, New York.

## **1860**

800 women operatives and 4,000 workmen marched during a shoemaker's strike in Lynn, Massachusetts.

## **13 January 1874**

The original Tompkins Square Riot. As unemployed workers demonstrated in New York's Tompkins Square Park, a detachment of mounted police charged into the crowd, beating men, women and children indiscriminately with billy clubs and leaving hundreds of casualties in their wake. Commented Abram Duryee, the Commissioner of Police: "It was the most glorious sight I ever saw..."

## **12 February 1877**

U.S. railroad workers began strikes to protest wage cuts.

## **21 June 1877**

Ten coal-mining activists ("Molly Maguires") were hanged in Pennsylvania.

## **14 July 1877**

A general strike halted the movement of U.S. railroads. In the following days, strike riots spread across the United States. The next week, federal troops were called out to force an end to the nationwide strike. At the "Battle of the Viaduct" in Chicago, federal troops (recently returned from an Indian massacre) killed 30 workers and wounded over 100.

## **5 September 1882**

Thirty thousand workers marched in the first Labor Day parade in New York City.

## **1884**

The Federation of Organized Trades and Labor Unions, forerunner of the AFL, passed a

resolution stating that "8 hours shall constitute a legal day's work from and after May 1, 1886." Though the Federation did not intend to stimulate a mass insurgency, its resolution had precisely that effect.

### **Late 1885/Early 1886**

Hundreds of thousands of American workers, increasingly determined to resist subjugation to capitalist power, poured into a fledgling labor organization, the Knights of Labor. Beginning on May 1, 1886, they took to the streets to demand the universal adoption of the eight hour day.

Chicago was the center of the movement. Workers there had been agitating for an eight hour day for months, and on the eve of May 1, 50,000 workers were already on strike. 30,000 more swelled their ranks the next day, bringing most of Chicago manufacturing to a standstill. Fears of violent class conflict gripped the city. No violence occurred on May 1 -- a Saturday -- or May 2. But on Monday, May 3, a fight involving hundreds broke out at McCormick Reaper between locked-out unionists and the non-unionist workers McCormick hired to replace them. The Chicago police, swollen in number and heavily armed, quickly moved in with clubs and guns to restore order. They left four unionists dead and many others wounded.

Angered by the deadly force of the police, a group of anarchists, led by August Spies and Albert Parsons, called on workers to arm themselves and participate in a massive protest demonstration in Haymarket Square on Tuesday evening, May 4. The demonstration appeared to be a complete bust, with only 3,000 assembling. But near the end of the evening, an individual, whose identity is still in dispute, threw a bomb that killed seven policemen and injured 67 others. Hysterical city and state government officials rounded up eight anarchists, tried them for murder, and sentenced them to death.

On 11 November 1887, four of them, including Parsons and Spies, were executed. All of the executed advocated armed struggle and violence as revolutionary methods, but their prosecutors found no evidence that any had actually thrown the Haymarket bomb. They died for their words, not their deeds. A quarter of a million people lined Chicago's street during Parson's funeral procession to express their outrage at this gross miscarriage of justice.

For radicals and trade unionists everywhere, Haymarket became a symbol of the stark inequality and injustice of capitalist society. The May 1886 Chicago events figured prominently in the decision of the founding congress of the Second International (Paris, 1889) to make May 1, 1890 a demonstration of the solidarity and power of the international working class movement. May Day has been a celebration of international socialism and (after 1917) international communism ever since.

The Bayview Massacre also took place at this time, where seven people, including one child, were killed by state militia. On 1 May 1886 about 2,000 Polish workers walked off their jobs and gathered at Saint Stanislaus Church in Milwaukee, angrily denouncing the ten hour workday. They then marched through the city, calling on other workers to join them; as a result, all but one factory was closed down as sixteen thousand protesters gathered at Rolling Mills, prompting Wisconsin Governor Jeremiah Rusk to call the state

militia. The militia camped out at the mill while workers slept in nearby fields, and on the morning of May 5th, as protesters chanted for the eight hour workday, General Treauer ordered his men to shoot into the crowd, some of whom were carrying sticks, bricks, and scythes, leaving seven dead at the scene. The Milwaukee Journal reported that eight more would die within twenty four hours, and without hesitation added that Governor Rusk was to be commended for his quick action in the matter.

### **23 November 1887**

The Thibodaux Massacre. The Louisiana Militia, aided by bands of "prominent citizens," shot at least 35 unarmed black sugar workers striking to gain a dollar-per-day wage, and lynched two strike leaders.

### **25 July 1890**

New York garment workers won the right to unionize after a seven-month strike. They secured agreements for a closed shop, and firing of all scabs.

### **6 July 1892**

The Homestead Strike. Pinkerton Guards, trying to pave the way for the introduction of scabs, opened fire on striking Carnegie mill steel-workers in Homestead, Pennsylvania. In the ensuing battle, three Pinkertons surrendered; then, unarmed, they were set upon and beaten by a mob of townspeople, most of them women. Seven guards and eleven strikers and spectators were shot to death.

### **11 July 1892**

Striking miners in Coeur D'Alene, Idaho dynamited the Frisco Mill, leaving it in ruins.

### **1893**

The first of several bloody mining strikes at Cripple Creek, Colorado.

### **5 July 1893**

During a strike against the Pullman Palace Car Company, which had drastically reduced wages, the 1892 World's Columbian Exposition in Chicago's Jackson Park was set ablaze, and seven buildings were reduced to ashes. The mobs raged on, burning and looting railroad cars and fighting police in the streets, until 10 July, when 14,000 federal and state troops finally succeeded in putting down the strike.

### **1894**

Federal troops killed 34 American Railway Union members in the Chicago area attempting to break a strike, led by Eugene Debs, against the Pullman Company. Debs and several others were imprisoned for violating injunctions, causing disintegration of the union.

### **21 September 1896**

The state militia was sent to Leadville, Colorado to break a miner's strike.

### **10 September 1897**

19 unarmed striking coal miners and mine workers were killed and 36 wounded by a

posse organized by the Luzerne County sheriff for refusing to disperse near Lattimer, Pennsylvania. The strikers, most of whom were shot in the back, were originally brought in as strike-breakers, but later organized themselves.

### **1898**

A portion of the Erdman Act, which would have made it a criminal offense for railroads to dismiss employees or discriminate against prospective employees based on their union activities, was declared invalid by the United States Supreme Court.

### **12 October 1898**

Fourteen were killed, 25 wounded in violence resulting when Virden, Illinois mine owners attempted to break a strike by importing 200 nonunion black workers.

### **29 April 1899**

When their demand that only union men be employed was refused, members of the Western Federation of Miners dynamited the \$250,000 mill of the Bunker Hill Company at Wardner, Idaho, destroying it completely. President McKinley responded by sending in black soldiers from Brownsville, Texas with orders to round up thousands of miners and confine them in specially built "bullpens."

### **1899 and 1901**

U.S. Army troops occupied the Coeur d'Alene mining region in Idaho.

### **12 October 1902**

Fourteen miners were killed and 22 wounded by scabherders at Pana, Illinois.

### **23 November 1903**

Troops were dispatched to Cripple Creek, Colorado to control rioting by striking coal miners.

### **July 1903**

Labor organizer Mary Harris ("Mother") Jones leads child workers in demanding a 55 hour work week.

### **23 February 1904**

William Randolph Hearst's San Francisco Chronicle began publishing articles on the menace of Japanese laborers, leading to a resolution of the California Legislature that action be taken against their immigration.

### **8 June 1904**

A battle between the Colorado Militia and striking miners at Dunnville ended with six union members dead and 15 taken prisoner. Seventy-nine of the strikers were deported to Kansas two days later.

### **17 April 1905**

The Supreme Court held that a maximum hours law for New York bakery workers was unconstitutional under the due process clause of the 14th amendment.

## **1908**

The Erdman Act was further weakened when Section 10 was declared unconstitutional. This section had made it illegal for railroad employers to fire employees for being involved in union activities.

## **22 November 1909**

The "Uprising of the 20,000." Female garment workers went on strike in New York; many were arrested. A judge told those arrested: "You are on strike against God."

## **25 December 1910**

A dynamite bomb destroyed a portion of the Llewellyn Ironworks in Los Angeles, where a bitter strike was in progress.

## **1911**

The Supreme Court ordered the AFL to cease its promotion of a boycott against the Bucks Stove and Range Company. A contempt charge against union leaders (including AFL President Samuel Gompers) was dismissed on technical grounds.

## **25 March 1911**

The Triangle Shirtwaist Company, occupying the top three floors of a ten-story building in New York City, was consumed by fire. One hundred and forty-seven people, mostly women and young girls working in sweatshop conditions, lost their lives. Approximately 50 died as they leapt from windows to the street; the others were burned or trampled to death as they desperately attempted to escape through stairway exits locked as a precaution against "the interruption of work". On 11 April the company's owners were indicted for manslaughter.

## **2 December 1911**

A Chicago "slugger," paid \$50 by labor unions for every scab he "discouraged," described his job in an interview: "Oh, there ain't nothin' to it. I gets my fifty, then I goes out and finds the guy they wanna have slugged. I goes up to `im and I says to `im, `My friend, by way of meaning no harm,' and then I gives it to `im -- biff! in the mug. Nothin' to it."

## **24 February 1912**

Women and children were beaten by police during a textile strike in Lawrence, Massachusetts.

## **18 April 1912**

The National Guard was called out against striking West Virginia coal miners.

## **11 June 1913**

Police shot three maritime workers (one of whom was killed) who were striking against the United Fruit Company in New Orleans.

### **5 January 1914**

The Ford Motor Company raised its basic wage from \$2.40 for a nine hour day to \$5 for an eight hour day.

### **20 April 1914**

The "Ludlow Massacre." In an attempt to persuade strikers at Colorado's Ludlow Mine Field to return to work, company "guards," engaged by John D. Rockefeller, Jr. and other mine operators and sworn into the State Militia just for the occasion, attacked a union tent camp with machine guns, then set it afire. Five men, two women and 12 children died as a result.

### **13 November 1914**

A Western Federation of Miners strike is crushed by the militia in Butte, Montana.

### **19 January 1915**

World famous labor leader Joe Hill was arrested in Salt Lake City. He was convicted on trumped up murder charges, and was executed 21 months later despite worldwide protests and two attempts to intervene by President Woodrow Wilson. In a letter to Bill Haywood shortly before his death he penned the famous words, "Don't mourn - organize!"

On this same day, twenty rioting strikers were shot by factory guards at Roosevelt, New Jersey.

### **25 January 1915**

The Supreme Court upholds "yellow dog" contracts, which forbid membership in labor unions.

### **22 July 1916**

A bomb was set off during a "Preparedness Day" parade in San Francisco, killing 10 and injuring 40 more. Thomas J. Mooney, a labor organizer and Warren K. Billings, a shoe worker, were convicted, but were both pardoned in 1939.

### **19 August 1916**

Strikebreakers hired by the Everett Mills owner Neil Jamison attacked and beat picketing strikers in Everett, Washington. Local police watched and refused to intervene, claiming that the waterfront where the incident took place was Federal land and therefore outside their jurisdiction. (When the picketers retaliated against the strikebreakers that evening, the local police intervened, claiming that they had crossed the line of jurisdiction.)

Three days later, twenty-two union men attempted to speak out at a local crossroads, but each was arrested; arrests and beatings of strikebreakers became common throughout the following months, and on 30 October vigilantes forced IWW speakers to run the gauntlet, subjecting them to whipping, tripping kicking, and impalement against a spiked cattle guard at the end of the gauntlet. In response, the IWW called for a meeting on 5 November. When the union men arrived, they were fired on; seven people were killed, 50 were wounded, and an indeterminate number wound up missing.

### **7 September 1916**

Federal employees win the right to receive Worker's Compensation insurance.

### **12 July 1917**

After seizing the local Western Union telegraph office in order to cut off outside communication, several thousand armed vigilantes forced 1,185 men in Bisbee, Arizona into manure-laden boxcars and "deported" them to the New Mexico desert. The action was precipitated by a strike when workers' demands (including improvements to safety and working conditions at the local copper mines, an end to discrimination against labor organizations and unequal treatment of foreign and minority workers, and the institution of a fair wage system) went unmet. The "deportation" was organized by Sheriff Harry Wheeler. The incident was investigated months later by a Federal Mediation Commission set up by President Woodrow Wilson; the Commission found that no federal law applied, and referred the case to the State of Arizona, which failed to take any action, citing patriotism and support for the war as justification for the vigilantes' action.

### **15 March 1917**

The Supreme Court approved the Eight-Hour Act under the threat of a national railway strike.

### **1 August 1917**

IWW organizer Frank Little was lynched in Butte, Montana.

### **5 September 1917**

Federal agents raided the IWW headquarters in 48 cities.

### **3 June 1918**

A Federal child labor law, enacted two years earlier, was declared unconstitutional. A new law was enacted 24 February 1919, but this one too was declared unconstitutional on 15 May 1922.

### **27 July 1918**

United Mine Workers organizer Ginger Goodwin was shot by a hired private policeman outside Cumberland, British Columbia.

### **26 August 1919**

United Mine Worker organizer Fannie Sellins was gunned down by company guards in Brackenridge, Pennsylvania.

### **19 September 1919**

Looting, rioting and sporadic violence broke out in downtown Boston and South Boston for days after 1,117 Boston policemen declared a work stoppage due to their thwarted attempts to affiliate with the American Federation of Labor. Massachusetts Governor Calvin Coolidge put down the strike by calling out the entire state militia.

### **22 September 1919**

The "Great Steel Strike" began. Ultimately, 350,000 steel workers walked off their jobs

to demand union recognition. The AFL Iron and Steel Organizing Committee called off the strike on 8 January 1920, their goals unmet.

### **11 November 1919**

IWW organizer Wesley Everest was lynched after a Centralia, Washington IWW hall was attacked by Legionnaires.

### **22 December 1919**

Amid a strike for union recognition by 395,000 steelworkers (ultimately unsuccessful), approximately 250 "anarchists," "communists," and "labor agitators" were deported to Russia, marking the beginning of the so-called "Red Scare."

### **2 January 1920**

The U.S. Bureau of Investigation began carrying out the nationwide Palmer Raids. Federal agents seized labor leaders and literature in the hopes of discouraging labor activity. A number of citizens were turned over to state officials for prosecution under various anti-anarchy statutes.

### **19 May 1920**

The Battle of Matewan. Despite efforts by police chief (and former miner) Sid Hatfield and Mayor C. Testerman to protect miners from interference in their union drive in Matewan, West Virginia, Baldwin-Felts detectives hired by the local mining company and thirteen of the company's managers arrived to evict miners and their families from the Stone Mountain Mine camp. A gun battle ensued, resulting in the deaths of 7 detectives, Mayor Testerman, and 2 miners. Baldwin-Felts detectives assassinated Sid Hatfield 15 months later, sparking off an armed rebellion of 10,000 West Virginia coal miners at "The Battle of Blair Mountain," dubbed the largest insurrection this country has had since the Civil War.

### **1920 and 1921**

Army troops were used to intervene against striking mineworkers in West Virginia.

### **22 June 1922**

Violence erupted during a coal-mine strike at Herrin, Illinois. Thirty-six were killed, 21 of them non-union miners.

### **2 June 1924**

A child labor amendment to the U.S. Constitution was proposed; only 28 of the necessary 36 states ever ratified it.

### **14 June 1924**

A San Pedro, California IWW hall was raided; a number of children were scalded when the hall was demolished.

### **25 May 1925**

Two company houses occupied by nonunion coal miners were blown up and destroyed

by labor "racketeers" during a strike against the Glendale Gas and Coal Company in Wheeling, West Virginia.

### **1926**

Textile workers fought with police in Passaic, New Jersey. A year-long strike ensued.

### **21 November 1927**

Picketing miners were massacred in Columbine, Colorado.

### **3 February 1930**

"Chicagorillas" -- labor racketeers -- shot and killed contractor William Healy, with whom the Chicago Marble Setters Union had been having difficulties.

### **14 April 1930**

Over 100 farm workers were arrested for their unionizing activities in Imperial Valley, California. Eight were subsequently convicted of 'criminal syndicalism.'

### **4 May 1931**

Gun-toting vigilantes attack striking miners in Harlan County, Kentucky.

### **7 March 1932**

Police kill striking workers at Ford's Dearborn, Michigan plant.

### **10 October 1933**

18,000 cotton workers went on strike in Pixley, California. Four were killed before a pay-hike was finally won.

### **1934**

The Electric Auto-Lite Strike. In Toledo, OH, two strikers were killed and over two hundred wounded by National Guardsmen. Some 1300 National Guard troops, including included eight rifle companies and three machine gun companies, were called in to disperse the protestors.

### **1934**

International Longshoremen and Warehouse union strike of 1934. Two longshoremen, Nick Bordoise and Howard Sperry, were shot to death by the San Francisco Police.

### **May 1934**

Police stormed striking truck drivers in Minneapolis who were attempting to prevent truck movement in the market area.

### **1 September - 22 September 1934**

A strike in Woonsocket, RI, part of a national movement to obtain a minimum wage for textile workers, resulted in the deaths of three workers. Over 420,000 workers ultimately went on strike.

**9 November 1935**

The Committee for Industrial Organization (CIO) was formed to expand industrial unionism.

**11 February 1937**

General Motors recognizes the United Auto Workers union following a sit-down strike.

**26 May 1937**

The 'Battle of the Overpass'. Walter Reuther and a group of UAW supporters, fresh from having organized GM and Chrysler, attempting to distribute leaflets at Gate 4 of the Ford Motor Company's River Rouge plant, and were beaten up (together with bystanders) by Ford Service Department guards.

**30 May 1937**

Police killed 10 and wounded 30 during the "Memorial Day Massacre" at the Republic Steel plant in Chicago.

**25 June 1938**

The Wages and Hours (later Fair Labor Standards) Act is passed, banning child labor and setting the 40-hour work week. The Act went into effect in October 1940, and was upheld in the Supreme Court on 3 February 1941.

**27 February 1939**

The Supreme Court rules that sit-down strikes are illegal.

**20 June 1941**

Henry Ford recognizes the UAW.

**15 December 1941**

The AFL pledges that there will be no strikes in defense-related industry plants for the duration of the war.

**28 December 1944**

President Franklin D. Roosevelt ordered the Army to seize the executive offices of Montgomery Ward and Company after the corporation failed to comply with a National War Labor Board directive regarding union shops.

**1946**

Workers in packinghouses nation-wide went on strike.

**1 April 1946**

A strike by 400,000 mine workers in the U.S. began. U.S. troops seized railroads and coal mines the following month.

**4 October 1946**

The U.S. Navy seized oil refineries in order to break a 20-state post-war strike.

**20 June 1947**

The Taft-Hartley Labor Act, curbing strikes, was vetoed by President Truman. Congress overrode the veto.

**20 April 1948**

Labor leader Walter Reuther was shot and seriously wounded by would-be assassins.

**27 August 1950**

President Truman ordered the U.S. Army to seize all the nation's railroads to prevent a general strike. The railroads were not returned to their owners until two years later.

**8 April 1952**

President Truman ordered the U.S. Army to seize the nation's steel mills to avert a strike. The act was ruled to be illegal by the Supreme Court on 2 June.

**5 December 1955**

The two largest labor organizations in the U.S. merged to form the AFL-CIO, with a membership estimated at 15 million.

**5 April 1956**

Columnist Victor Riesel, a crusader against labor racketeers, was blinded in New York City when a hired assailant threw sulfuric acid in his face.

**14 September 1959**

The Landrum-Griffin Act passes, restricting union activity.

**7 November 1959**

The Taft-Hartley Act is invoked by the Supreme Court to break a steel strike.

**1 April 1963**

The longest newspaper strike in U.S. history ended. The 9 major newspapers in New York City had ceased publication over 100 days before.

**10 June 1963**

Congress passes a law mandating equal pay to women.

**5 January 1970**

Joseph A. Yablonski, unsuccessful reform candidate to unseat "Tough Tony" Boyle as President of the United Mine Workers, was murdered, along with his wife and daughter, in their Clarksville, Pennsylvania home by assassins acting on Boyle's orders. Boyle was later convicted of the killing. West Virginia miners went on strike the following day in protest.

**18 March 1970**

The first mass work stoppage in the 195-year history of the Post Office Department began with a walkout of letter carriers in Brooklyn and Manhattan, soon involving 210,000 of the nation's 750,000 postal employees. With mail service virtually paralyzed in New

York, Detroit, and Philadelphia, President Nixon declared a state of national emergency and assigned military units to New York City post offices. The stand-off culminated two weeks later.

### **29 July 1970**

United Farm Workers forced California grape growers to sign an agreement after a five-year strike.

### **3 August 1981**

Federal air traffic controllers began a nationwide strike after their union rejected the government's final offer for a new contract. Most of the 13,000 striking controllers defied the back-to-work order, and were dismissed by President Reagan on 5 August.

### **October 1982**

A boycott was initiated by the Industrial Association of Machinists against Brown & Sharpe, a machine, precision, measuring and cutting tool manufacturer, headquartered in Rhode Island. The boycott was called after the firm refused to bargain in good faith (withdrawing previously negotiated clauses in the contract), and forced the union into an unwanted and bitter strike during which police sprayed pepper gas on some 800 IAM pickets at the company's North Kingston plant in early 1982. Three weeks later, a machinist narrowly escaped serious injury when a shot fired into the picket line hit his belt buckle. The National Labor Relations Board subsequently charged Brown & Sharpe with regressive bargaining, and of entering into negotiations with the express purpose of not reaching an agreement with the union.

### **6 October 1986**

1,700 female flight attendants won an 18-year lawsuit (which included \$37 million in damages) against United Airlines, which had fired them for getting married.

### **24 October 1987**

The 35-member executive council of the AFL-CIO decided unanimously to readmit the 1.6-million member Teamsters Union to its ranks. The scandal-ridden union had been expelled from the federation in 1957. President Jackie Presser was awaiting trial at the time, and the U.S. Justice Department was considering removal of the union's leadership because of possible links to organized crime.

### **17 September 1989**

Ninety-eight miners and a minister occupied the the Pittston Coal Company's Moss 3 preparation plant in Carbo, Virginia, beginning a year-long strike against Pittston Coal. While a month-long Soviet coal strike dominated U.S. news broadcasts, the year-long Pittston strike garnered almost no mainstream press coverage whatsoever.

## A Positive Approach To Remaining Union Free

All employers who do not enjoy the prospect of negotiating labor contracts need to focus on how to stay union-free. Your union-free status is a privilege granted to the company by your workforce that must be earned by management. Further, your employees have the legal right to bargain with you on a collective basis. Where an employer fails to take action, or makes idle promises, employees will become more interested in what labor unions promise. Therefore, develop your own union-free action plan by first considering the following items:

### 1) Progressive Leadership

Supervisors should be good communicators who are well-respected by their co-workers and subordinates. They must be able to inspire enthusiasm, dedication, and loyalty among all employees. Fundamental Knowledge of basic employment laws and management techniques is required; a positive attitude toward people, change, and human relations issues is critical.

### 2) Communications

Be open to employee suggestions, complaints, and solicitations for your help. When employees have a chance to have a voice in company decisions, the work environment improves and employee morale will improve. In survey after survey, workers rank the following items as their own high priorities (and usually want them more than higher wages):

- a) Dignity & respect.
- b) Appreciation for good work.
- c) Recognition as a person.
- d) Help from management on personal problems.

Consider scheduling monthly employee meetings, supervisor training, recognition & suggestion programs, and be truly objective about how you would feel in a typical worker's communication situation.

## 2) Job Security

“At-will” language is substantially over-valued because most plaintiffs can convince judges to allow juries to decide the effectiveness of the language. Further, civil rights, handicap, ERISA claims, and many other claims will survive wrongful discharge cases. This policy is especially problematic during union drives where unions offer job security provided by an arbitration clause .

- a) Modify your employee handbook to read that employees will only be terminated for specific, serious, or repeated examples of misconduct.
- b) State in writing that supervisors only have the power to recommend a dismissal. Reserve the final decision on a termination for the Company President.
- c) Train supervisors on direction, delegation, performance evaluations, and employee discipline.

## 3) Just Cause Employment

“At-Will” language is over-valued because most plaintiffs convince judges to allow juries to decide the effectiveness of the language. Most juries are sympathetic to terminated employees who want to rule against employers. Further, civil rights, handicap, ERISA claims, and many other claims will survive wrongful discharge cases.

“At-Will” language is especially problematic during union drives. Unions offer the job security of arbitration and say that the company wants to fire employees for foolish reasons.

- a) Modify your employee handbook to read that employees will only be terminated for specific, serious, or repeated examples of misconduct.



- b) State in writing that supervisors only have the power to recommend a dismissal. Reserve the final decision on a termination for the Company President.
- c) Train supervisors regarding direction, delegation, performance evaluations, and employee discipline.

#### **4) Employee Health & Safety**

The company safety record, corporate safety program, and results are a direct reflection of the company attitude toward workers. If you tolerate are do not care about safety problems, you are inviting a labor union to fix those problems. I have personally observed several union drives that started over messy rest rooms and muddy parking lots. If you choose to disagree with my summation here, please re-visit the items workers want most from their jobs as identified in "Communications," above.

#### **5) Peer Review**

Install a grievance, complaint, and dispute resolution program. Ideally, have employees decide important issues such as discharge matters. Peer review programs tend to infrequently used. However, having them on paper and within your employee handbook: they are powerful union avoidance mechanisms.

A few observations here:

- In Michigan, employee IDR (Internal Dispute Resolution) committees can serve to keep you entirely out of court- provided the committee is comprised of workers.
- Peer review committees tend to support management decisions over 90% of the time.
- This concept forces supervisors who might otherwise abuse their power to operate in concert with the company's positive employee relations policy.

- I have experienced a case during labor negotiations where a UAW facility de-certified their union to have peer review instead of arbitration.

## **6) Turnover**

Keep monthly statistics. Conduct exit interviews with departing employees to determine why they are leaving. Key items:

- Supervisor conduct.
- Discovering the wage structure of your competition.
- Identify specific workplace issues (that if allowed to continue) serve to “demotivate” and encourage people to leave their employment.

## **7) Compensation**

Conduct wage surveys. Wages should be competitive. Team incentive programs, merit increases, and productivity bonuses are programs generally well received by workers and disliked by labor unions. Unions promote seniority-based compensation programs; you should be more competitive!

## **8) Education**

Corporate education & training benefits are not used enough. Promote career path planning and educational assistance. Job posting programs and formal performance evaluations are terrific for showing how you are concerned for your employees. Unions charge employers with favoritism and cronyism. You can offer a positive influence against turnover, reward excellent workers, and recognize how hard work and determination can prevail through education.

## **9) The Selection & Hiring Process**

Identify positive high producing employees before you make the employment offer. Screen out people who cannot fill out an

application, spell, follow instructions, or do arithmetic. Have a selection process that allows you to talk to only those qualified to do the job. Only hire the best qualified. Once an employee starts:

- Assign one of your best employees to mentor the new employee. Truly, a recognition program for your good employee, you also insure against having a poorly motivated employee (with plenty of time on his hands) to have a negative influence on the employee's attitude toward the company.
- Conduct regular orientation meetings to promote company philosophies and focus new employees on products, quality, and safety.
- Provide regular feedback on employee performance.

### **10) Supervisor Training**

Supervisors need to know about the National Labor Relations Act, unfair labor practices, Section 7 rights, and NLRB practices to avoid corporate legal liability.

For example: unions often try to avoid having an election by calling on a plant to meet with a supervisor. The organizer says that "he represents plant employees." If the supervisor questions the organizer's claim, the organizer will invite the supervisor to "inspect his union cards" to show those who have signed up with the union. Once the supervisor looks at those cards, the company commits an unfair labor practice charge that could certify the union's representative status without the need for an NLRB election.

In conclusion, be sure to act now to draft and implement your own plant's union-free action plan. Warm weather and prime union drive season will soon be upon us. All ten of the above items are carefully crafted to address issues commonly addressed by labor unions during union drives. I recommend that you talk to your people soon about these and additional issues of local concern.

Thomas S. Fredericks

# **NO SOLICITATION RULE**

**In the interest of the efficiency, convenience and the continued goodwill of our customers, and for the protection of our employees, there shall be no solicitation or distribution of literature of any kind by any employee during actual working time of the employee soliciting or the employee being solicited. This does not apply to rest periods or meal periods.**

**Persons who are not employees may not solicit or distribute literature for any purpose in any customer service area, working area, or any area restricted to employees only.**

**There shall be no solicitation or distribution of literature of any kind by any person in customer service areas or shopping areas of the store during those hours when the store is open for business.**

**Any employee who violates any provision of this notice shall be subject to employee counseling and disciplinary action up to and including discharge.**

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
PETITION

DO NOT WRITE IN THIS SPACE

Case No. <b>7-RC-20655</b>	Date Filed <b>7-13-95</b>
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**INSTRUCTIONS:** Submit an original and 4 copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located. If more space is required for any one item, attach additional sheets, numbering them accordingly.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

1. PURPOSE OF THIS PETITION (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.) (Check One)
- RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
  - RM-REPRESENTATION (EMPLOYER PETITION)** - One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
  - RD-DECERTIFICATION** - A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
  - UD-WITHDRAWAL OF UNION SHOP AUTHORITY** - Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
  - UC-UNIT CLARIFICATION** - A labor organization is currently recognized by Employer, but Petitioner seeks clarification of placement of certain employees: (Check one)  In unit not previously certified.  In unit previously certified in Case No. \_\_\_\_\_
  - AC-AMENDMENT OF CERTIFICATION** - Petitioner seeks amendment of certification issued in Case No. \_\_\_\_\_. Attach statement describing the specific amendment sought.

2. Name of Employer <b>Legren Corporation</b>	Employer Representative to contact <b>Chris [redacted]</b>	Telephone Number <b>[redacted]</b>
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3. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)  
**6362 W. [redacted] Rd., [redacted] Creek, MI [redacted]**

4a. Type of Establishment (Factory, mine, wholesaler, etc.) <b>millworks</b>	4b. Identify principal product or service <b>millworks</b>
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5. Unit Involved (In UC petition, describe present bargaining unit and attach description of proposed clarification.) Included <b>All millworkers, molders-operators, knife operators, and sawyer (saw operators).</b>	6a. Number of Employees in Unit: Present <b>6</b>
	Proposed (By UC/AC)
Excluded <b>Clerical, management, supervision, guards, and all others as defined under the act.</b>	6b. Is this petition supported by 30% or more of the employees in the unit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No *Not applicable in RM, UC, and AC

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)

- 7a.  Request for recognition as Bargaining Representative was made on (Date) **n/a** and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state).
- 7b.  Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8. Name of Recognized or Certified Bargaining Agent (If none, so state) <b>n/a</b>	Affiliation <b>n/a</b>
Address and Telephone Number <b>n/a</b>	Date of Recognition or Certification <b>n/a</b>

9. Expiration Date of Current Contract, if any (Month, Day, Year) <b>n/a</b>	10. If you have checked box UD in 1 above, show here the date of execution of agreement granting union shop (Month, Day, and Year) <b>n/a</b>
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11a. Is there now a strike or picketing at the Employer's establishment(s) involved? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	11b. If so, approximately how many employees are participating? <b>n/a</b>
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11c. The Employer has been picketed by or on behalf of (Insert Name) **n/a**, a labor organization, of (Insert Address) \_\_\_\_\_ Since (Month, Day, Year) \_\_\_\_\_

12. Organizations or individuals other than Petitioner (and other than those named in items 8 and 11c), which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in unit described in item 5 above. (If none, so state)

Name	Affiliation	Address	Date of Claim (Required only if Petition is filed by Employer)
<b>n/a</b>			

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

**General Drivers and Helpers, Teamsters Local Union 332, Affiliate of the International Brotherhood of Teamsters**  
By **Rod Eaton** (Signature of Representative or person filing petition) **Business Agent** (Title, if any)

Address **1502 S. Dort Hwy., Flint, Mi 48503** **810-767-7330**  
(Street and number, city, State, and ZIP Code) (Telephone Number)

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**CHARGE AGAINST EMPLOYER**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

**INSTRUCTIONS:**

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer	b. Number of Workers Employed	
c. Address (street, city, State, ZIP, Code)	d. Employer Representative	e. Telephone No.
		Fax No.
f. Type of Establishment (factory, mine, wholesaler, etc.)	g. Identify Principal Product or Service	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a), subsections (1) and (list subsections) _____ of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices.)

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)	
4a. Address (street and number, city, State, and ZIP Code)	4b. Telephone No.
	Fax No.
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	

**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By \_\_\_\_\_ (Signature of representative or person making charge) \_\_\_\_\_ (Title, if any)

Fax No. \_\_\_\_\_

Address \_\_\_\_\_ (Telephone No.) \_\_\_\_\_ Date \_\_\_\_\_

ON FEBRUARY 11, 1937, WE WON . . . We had a Union . . . Our Union, the UAW-CIO! And we won recognition as a Union from the General Motors Corporation. We also won representation rights for our Union members. The UAW-CIO was our bargaining agent—for members of the Union only. The first Contract covered just one page—but it made history!

# The First UAW-GM Agreement

## February 11, 1937

Agreement entered into on this 11th day of February, 1937, between the General Motors Corporation (hereinafter referred to as the Corporation) and the International Union, United Automobile Workers of America (hereinafter referred to as the Union).

### RECOGNITION

The Corporation hereby recognizes the Union as the Collective Bargaining agency for those employes of the Corporation who are members of the Union. The Corporation recognizes and will not interfere with the right of its employes to be members of the Union. There shall be no discrimination, interference, restraint or coercion by the Corporation or any of its agents against any employe because of membership in the Union.

### NEGOTIATE

The Corporation and the Union agree to commence collective bargaining negotiations on February 16th with regard to the issues specified in the letter of January 4th, 1937, from the Union to the Corporation, for the purpose of entering into a collective bargaining agreement, or agreements, covering such issues, looking to a final and complete settlement of all matters in dispute.

### NO STRIKE

The Union agrees to forthwith terminate the present strike against the Corporation, and to evacuate all plants now occupied by strikers.

The Corporation agrees that all of its plants, which are on strike, or otherwise idle shall resume operations as rapidly as possible.

It is understood that all employes now on strike or otherwise idle will return to their usual work when called and that no discrimination shall be made or prejudices exercised by the Corpor-

ation against any employe because of his former affiliation with, or activities in, the Union or the present strike.

The Union agrees that pending the negotiations referred to in Paragraph Two, there shall be no strikes called or any other interruption to or interference with production, by the Union or its members.

During the existence of the collective bargaining agreement contemplated pursuant to Paragraph Two, all opportunities to achieve a satisfactory settlement of any grievance or enforcement of any demands by negotiations shall be exhausted before there shall be any strikes or other interruption to or interference with production by the Union or its members. There shall be no attempts to intimidate or coerce any employes by the Union and there shall not be any solicitation or signing up of members by the Union on the premises of the Company. This is not to preclude individual discussion.

### LAW SUITS

After the evacuation of its plants and the termination of the strike the Corporation agrees to consent to the entry of orders, dismissing the injunction proceedings which have been started by the Corporation against the Union, or any of its members, or officers or any of its locals, including those pending in Flint, Michigan and Cleveland, Ohio, and subject to the approval of the Court to discontinue all contempt proceedings which it has instituted thereunder.

#### GENERAL MOTORS CORPORATION

/s/ William S. Knudsen

/s/ J. T. Smith

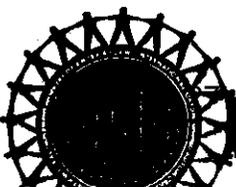
/s/ D. Brown

#### UNITED AUTOMOBILE WORKERS

/s/ Wyndham Mortimer, First Vice President

/s/ Lee Pressman, General Counsel, CIO

/s/ John L. Lewis, Chairman, CIO



# **THE HORSEPOWER CORPORATION**

## **Facts**

**Your firm has built big V-8 engines for the automotive industry. These engines are noted for their high performance, speed, and notorious lack of efficiency. Unfortunately for your firm, the new President just signed into law a requirement that all cars get at least 40 miles per gallon.**

**The EPA tells you that all V-8 engines will be illegal within two years.**

**You currently are making money hand over fist, have a three shift operation going seven days per week, and sell everything you build.**

**Attendance is a big problem, and you need to get tough with the union on this. The Chairman wants to fire anyone who is absent more than 6 days each year.**

**You need concessions from the union in order to compete in new markets. Most of your competitors are located in the Pacific rim and pay employees one dollar an hour. Your employees make \$10 per hour, and you need a roll back to get new work.**

**Your company is owned by the public, and has received great media attention as a company that has not been receptive to new ideas.**

### **Your objective:**

- **Get the best deal possible.**
- **Concessions on attendance.**
- **A five dollar per hour wage cut so you can bid on new business.**
- **A positive public relations image.**

## **UAW LOCAL 219**

### **Facts**

**You represent a group of factory workers that possess a wage package of \$10 per hour plus the best fringe benefits outside of governmental service.**

**Three years ago, at the start of the recession, you agreed to a wage freeze to help out the company. The recession had no effect on company sales because the big engines produced by the company were installed in luxury cars drive by rich people who never really care about recessions.**

**The local union members are furious. They have worked excessive hours with no raise, and want to go on strike to get even.**

**Many of your members are working parents who want to spend more time with their kids. They want a four day work week with no loss in pay, and the power to pick their own work schedule.**

**Also, the union members want the company to hire more workers to give the current workforce a break.**

**You must get the following from the company:**

- **Best deal possible.**
- **Flexible attendance rules and work schedules.**
- **An immediate 8% pay increase.**
- **Prepaid legal benefits.**
- **A five year contract.**
- **A \$1,000 per employee ratification bonus.**
- **Early retirement golden parachute deals for members that want them.**
- **Profit sharing plan.**

## **PINEWOOD LUMBER CORPORATION**

### **Facts**

**Your company has a labor force represented by the Teamsters.**

**All of your employees are within 10 years of retirement.**

**None of your competitors are union companies.**

**You need to expand your business, but have exhausted all acreage available to you in your downtown location.**

**Your wage rates are OK, but your top of the line benefit package with the Teamsters (especially Pension costs) are rapidly making you less competitive with the competition, many of whom offer zero benefits.**

### **Company Strengths**

- **No outstanding debt service**
- **A capable and dedicated workforce.**
- **Ownership of 400 acres in the country accessible to rail and expressway.**

### **Company Weaknesses**

- **Family owned-business that cannot incur heavy debt.**
- **Mature local market, need to expand marketing scope.**
- **President is 65, in ill health, and does not like conflict.**

### **Objective**

**Get best deal possible to continue the company into the next generation and century. The owner wants pension and wage roll backs to help get the company in line with the competition.**

## **TEAMSTERS LOCAL 99**

### **Facts**

**You represent the employees of an old lumber yard. Your union used to represent many other companies like this one. Most are now either out of business or non-union. You do not want to lose this bargaining unit; in fact, your boss has told you to “get out there and get more union members.”**

**Your lumber yard’s workforce is primarily concerned about their pension, and other related retirement benefits.**

**The contract has been expired for about a year, and the employees you represent want action now.**

**You know the company is making good money, and rumor has it that the company has stashed much of it in the bank to build a new lumber yard out in the country.**

**Your members want the following demands met right now:**

- **A \$1,000 increase in their monthly defined benefit pension from \$1,000 to \$2,000.**
- **A one dollar per hour increase during each year of any new contract.**
- **A three year deal.**
- **Immediate discharge of the owner’s son, who is the incompetent yard superintendent.**
- **Back pay for one year in the amount of one dollar extra for each hour previously worked.**

## ARBITRATION CASE STUDY - LABOR

On May 1, a company truck driver completed his work in Flint, and then intended to drive back to company headquarters in Detroit. Southbound on I-75, the truck driver and his 10 ton rig had a duty to stop at a Michigan State Police Weigh Station located just south of Clarkston. The truck driver admits to deliberately by-passing the weigh station. The State Police retrieved the driver/rig and after weighing the vehicle, discovered it to be 1,000 pounds overweight, and fined the company \$250. Upon closer inspection, the truck had the following safety defects:

- 1) Two worn tires with sidewall cuts.
- 2) No tail and side marker lights.
- 3) No certificate of insurance.
- 4) No spare tire.

The State Police issued citations for the above five violations of state law, and confiscated the truck's license plate. The truck driver called the company to report, and was ordered to stay put until help arrived. It was getting late in the day, so the truck driver decided to return to the plant anyhow, parked his rig, and went home. The next day, he saw his doctor, and filed a worker's compensation claim.

The Agreement between the company and the Teamsters union states that employees may:

"only be discharged for just cause, and must receive at least one written reprimand prior to discharge except for violations of safety rules and insubordination."

The truck driver has a relatively poor work record including one recent written warning for insubordination, and two traffic accidents more than three years ago.

The company President fired the truck driver for violation of its safety rules. Later, during the company's preparation for the arbitration hearing, it was discovered that the truck driver left the weigh station without permission, did not even have a license plate on the truck at that time, and violated state law by not properly inspecting his truck before leaving company premises in the first place.

The Teamsters union represents the truck driver and contends that the truck driver was fired for unjust reasons, and should be reinstated with back pay. The company wants the discharge upheld for safety violation, insubordination, and public policy reasons.

Only one arbitration case interpreting the safety provisions of this particular contract can be found: a case where a truck driver overturned his rig while driving a double shift in conflict with company policy. The arbitrator in that case upheld the discharge. Arbitrate and decide this case.

## Management Case Study

### **Attendance Management**

You are an assistant office manager with the desire to move up in your company's organization. Your company recently conducted an employee opinion survey . Employees demanded to know more about how raises and discipline were decided. More specifically, the employees were curious about how some lazy souls got away with routine poor attendance; especially tardiness. In fact, the survey reported that maybe we need a union around here "to fix up the mess!"

Further, the company's top management has focussed its attention on the office's poor productivity, performance, and profitability. Both drastic and immediate change is required for this office to remain open.

The office manager suddenly left the company to accept "greater professional challenges elsewhere." Top management has appointed you to be temporary manager while the search for a permanent replacement takes place. You are a candidate.

On the first day of your new assignment, you discover that yesterday, Mary Q. Contrary, an environmental engineer, and Joe Golfer, analyst, had called in to say they would be out the entire day. Also, Pete, the engineer, was absent, and did not call in. Harry, another analyst, was over 2 hours late, and did not call in.

What's a temporary manager to do?

By: 

**APPEALING ARBITRATION AWARDS:**  
**CASE LAW AND DISCUSSION**

In the *Steelworker's Trilogy* (1960), Justice Douglas articulated why, under federal labor law principles, judges should avoid replacing an arbitrator's judgment as to both facts and law with their own. However, more recently, the United States Supreme Court renewed the importance of the Trilogy and set forth a very limited standard of review applicable to arbitration awards in United Paperworkers International Union v Misco, Inc., 484 US 29 (1987). Justice White defined that standard of review as follows:

“As long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority, that a court is convinced he committed serious error does not suffice to overturn his decision. Of course, decisions procured by the parties through fraud or through the arbitrator's dishonesty need not be enforced”.

In Misco, the court did point out that if a violation of an important public policy could be “properly framed” and “clearly shown,” an arbitration award would not be enforceable. However, such a demonstration is a rare statistical exception to the general rule against having arbitrator's decisions reviewed by the courts on a routine basis.

Likewise, in Michigan, our Supreme Court has focused on the review of arbitration awards. Relevant to this analysis is whether Arbitrator Brown exceeded his contractual authority. In Port Huron Area School District v Port Huron Ed Ass'n, 426 Mich 143 (1986), the Supreme Court stated as follows:

“Judicial review of an arbitrator's decision is very limited. A court may not review an arbitrator's factual findings or decisions on the merits...The court must be careful to appropriately limit its review to whether the arbitrator exceeded his contractual jurisdiction and authority.”

Judicial review of arbitration decisions is limited to whether the award “draws its essence” from the contract. A further question is whether the arbitrator has stayed within the authority conferred upon the arbitrator by the collective bargaining agreement. It is clear that the UAW and the Department have substantially different views regarding obligations to bargain under the agreement.

**Important Points About Arbitrator's decisions:**

- 1) The arbitrator's decision is final and binding but must be limited to the interpretation or application of the terms contained in the agreement itself.
- 2) The decision must draw its essence from the Agreement.

## *Federal Employment Law*

Americans With Disabilities Act (ADA), 42 U.S.C. Section 12101.

Protects (from illegal discrimination) those disabled with a physical or mental impairment that substantially limits a major life activity of the individual. Employers are required to make reasonable accommodations for the disabled unless the accommodation would impose an undue hardship. Must have 15 or more employees.

Family and Medical Leave Act (FMLA), 29 U.S.C. Section 2611.

Applies to all public sector employers and private sector employers with 50 or more employees. Employees have the right to take up to 12 work weeks of unpaid leave in a 12 month period for: a serious health condition, birth of a child, to care for a close family member, or placement of a child for adoption or foster care. Employers must continue health care insurance and administer seniority-related policies as if the employee was at work.

Fair Labor Standards Act (FLSA)

Prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by: the Wage and Hour Division. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. For nonagricultural operations, it restricts the hours that children under age 16 can work and forbids the employment of children under age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the employment of children under age 16 during school hours and in certain jobs deemed too dangerous.

The Occupational Safety And Health Act (OSH)

Administered by the Occupational Safety and Health Administration (OSHA). Safety and health conditions in most private industries are regulated by OSHA or OSHA-approved state systems, which also cover public sector employers. Employers covered by the OSH Act must comply with the regulations and the safety and health standards promulgated by OSHA. Employers also have a general duty under the OSH Act to provide work and a workplace free from recognized, serious hazards. OSHA enforces the Act through workplace inspections and investigations. Compliance assistance and other cooperative programs are also available.

Employee Retirement Income Security Act (ERISA)

Regulates employers who offer pension or welfare benefit plans for their employees. Title I of ERISA is administered by the Pension and Welfare Benefits

Administration (PWBA) and imposes a wide range of fiduciary, disclosure and reporting requirements on fiduciaries of pension and welfare benefit plans and on others having dealings with these plans. These provisions preempt many similar state laws. Under Title IV, certain employers and plan administrators must fund an insurance system to protect certain kinds of retirement benefits, with premiums paid to the federal government's Pension Benefit Guaranty Corporation (PBGC). PWBA also administers reporting requirements for continuation of health-care provisions, required under the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA).

#### Uniformed Services Employment and Reemployment Rights Act

Certain persons who serve in the armed forces have a right to reemployment with the employer they were with when they entered service. This includes those called up from the reserves or National Guard. The Veterans' Employment and Training Service (VETS) administer these rights.

#### Employee Polygraph Protection Act

This law bars most employers from using lie detectors on employees, but permits polygraph tests only in limited circumstances. It is administered by the Wage and Hour Division.

#### Worker Adjustment and Retraining Notification Act (WARN)

WARN offers employees early warning of impending layoffs or plant closings. The Employment and Training Administration (ETA) provides information to the public on WARN, though neither ETA nor the Department of Labor has administrative responsibility for the statute, which is enforced through the federal courts.

#### Consumer Credit Protection Act

Garnishment of employee wages by employers is administered by the Wage and Hour Division.

#### The Labor-Management Reporting and Disclosure Act of 1959

(Also known as the Landrum-Griffin Act) deals with the relationship between a union and its members. It protects union funds and promotes union democracy by requiring labor organizations to file annual financial reports, by requiring union officials, employers, and labor consultants to file reports regarding certain labor relations practices, and by establishing standards for the election of union officers. The Office of Labor-Management Standards (OLMS) administers the act, which is part of ESA.

### The Age Discrimination in Employment Act of 1967

The ADEA prohibits employment discrimination against persons 40 years of age or older. The Older Workers Benefit Protection Act (Pub. L. 101-433) amends several sections of the ADEA. In addition, section 115 of the Civil Rights Act of 1991 (P.L. 102-166) amends section 7(e) of the ADEA (29 U.S.C. 626(e)).

### Civil Rights Act of 1964, Title VII

Prohibits discrimination based on race, color, religion, sex, and national origin.

### Pregnancy Discrimination Act of 1978

Amended Title VII of the Civil Rights Act of 1964. Prevents employment discrimination on the basis of pregnancy, childbirth, or related medical conditions.

### Consolidated Omnibus Budget Reconciliation Act (COBRA)

Employers with 20 or more employees must extend health care benefits (at the employee's expense) for former employees and dependents. Length: either 18 or 36 months depending on the circumstances.

### Federal Fair Debt Collection Act

Generally covers the activities of debt collection agencies, attorneys, the financial industry, and others involved in the lending and collecting of money. However, where employers choose to use employee and applicant credit reports to make employment-related decisions, the FFDCA may apply.

### Polygraph Protection Act

Prohibits employers from using or merely suggesting that an employee take a polygraph test.

### Qui Tam, False Claims Act "Lincoln's Law"

Qui tam allows a citizen of the U.S. to file a suit on behalf of the government against an agent or agency using government funds in a fraudulent manner.

## *Michigan Employment Law*

Michigan Persons With Disabilities Civil Rights Act (PWDCRA), MCLA 37.1101.

Provides individuals "the opportunity to obtain employment, housing, and other real estate and full and equal utilization of public accommodations, public services, and educational facilities without discrimination because of a disability is guaranteed by this act and is a civil right."

### Elliott-Larsen Civil Rights Act

Prohibits "discrimination practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, or marital status." The Michigan Department of Civil Rights is the agency assigned to handle complaints of discrimination.

### MIOSHA

Michigan's legislature passed the Michigan Occupational Safety and Health Act, Public Act 154 of 1974, in order to better prevent workplace injuries, illnesses and fatalities in Michigan by: setting and enforcing occupational safety and health standards; promoting safety and health training and education; and working with partners to develop innovative programs to prevent workplace hazards.

The MIOSHA Act established the General Industry Safety Standards Commission, the Construction Safety Standards Commission, and the Occupational Health Commission. The commissions are responsible for developing standards in consultation with advisory committees whose members represent the major interests affected by the proposed standard. The standards are intended to protect the health and safety of Michigan's employees.

### Michigan Minimum Wage Law

Covers small businesses that are not covered by the FLSA. Also, special regulations apply to minors. Additional payroll-related requirements beyond FLSA requirements.

### Michigan Fringe Benefit Act

Protects vacation pay, fringe benefits, and other promises made by management to workers. Usually need a written promise or policy.

Bullard-Plawecki Right To Know Act MCL 423.501

Guarantees your right to see your own personnel file. Employers who do not comply may be assessed a \$ 200 fine, plaintiff attorneys fees, and actual damages.

Whistleblower's Protection Act

Protects employees who report statutory violations and certain important public policy violations.

Michigan Public Employment Relations Act, Act 336 of 1947.

Prohibits strikes by public employees. Established the authority of the Michigan Employment Relations Commission over union elections, ULP's, and grievances.

Michigan Public Act 312 of 1969

Provides for compulsory arbitration of police and fire department disputes. Sets forth criteria for the selection of arbitrators (through the MERC), and provides for the enforcement of arbitration awards.

▷

Supreme Court of the United States

CLEVELAND BOARD OF EDUCATION,  
Petitioner,

v.

James LOUDERMILL et al.

PARMA BOARD OF EDUCATION, Petitioner,

v.

Richard DONNELLY et al.

James LOUDERMILL, Petitioner,

v.

CLEVELAND BOARD OF EDUCATION et al.

Nos. 83-1362, 83-1363 and 83-6392.

Argued Dec. 3, 1984.

Decided March 19, 1985.

Terminated school district employees brought action against boards of education challenging propriety of their discharges. The District Court for the Northern District of Ohio, John M. Manos, J., dismissed the actions for failure to state claims on which relief could be granted, and the Court of Appeals affirmed in part and vacated and remanded in part. 721 F.2d 550. On certiorari, the Supreme Court, Justice White, held that process due to the terminated employees was pretermination opportunity to respond, coupled with posttermination administrative procedures as provided by Ohio statute and, because the employees alleged that they had no chance to respond, their complaints against boards of education sufficiently stated a claim.

Judgment of Court of Appeals affirmed; case remanded.

Justice Marshall filed opinion concurring in part and concurring in judgment.

Justice Brennan filed opinion concurring in part and dissenting in part.

Justice Rehnquist filed dissenting opinion.

Order on remand, 763 F.2d 202.

## West Headnotes

[1] Constitutional Law  278.4(3)  
92k278.4(3) Most Cited Cases

Public employees having property right in continued employment cannot be deprived of that property right by the state without due process. U.S.C.A. Const.Amends. 5, 14.

[2] Constitutional Law  277(1)  
92k277(1) Most Cited Cases

Property interests protected by due process are not created by the Constitution but, rather, are created, and their dimensions defined, by existing rules or understandings that stem from an independent source such as state law. U.S.C.A. Const.Amends. 5, 14.

[3] Constitutional Law  251.5  
92k251.5 Most Cited Cases

As relating to due process clause provision that substantive rights of life, liberty and property cannot be deprived except pursuant to constitutionally adequate procedures, categories of substance and procedure are distinct; once it is determined that the due process clause applies, question remains what process is due. U.S.C.A. Const.Amends. 5, 14.

[4] Constitutional Law  251.6  
92k251.6 Most Cited Cases

An essential principle of due process is that a deprivation of life, liberty or property be preceded by notice and opportunity for hearing appropriate to the nature of the case. U.S.C.A. Const.Amends. 5, 14.

[5] Constitutional Law  275(2.1)  
92k275(2.1) Most Cited Cases  
(Formerly 92k275(2))

Due process clause requires some kind of a hearing prior to discharge of employee who has a constitutionally protected property interest in his employment. U.S.C.A. Const.Amends. 5, 14.

[6] Constitutional Law  251.6  
92k251.6 Most Cited Cases

Right to a hearing under the due process clause does not depend on a demonstration of certain success. U.S.C.A. Const.Amends. 5, 14.

[7] Constitutional Law  278.5(4)  
92k278.5(4) Most Cited Cases

[7] Schools  147.51  
345k147.51 Most Cited Cases