Employment and Labor Law 9th edition Cihon Test Bank

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Chapter 02 Employment Contracts and Wrongful Discharge

TRUEFALSE

1. Common law deals with issues of wrongful discharge.

(A) True

(B) False

Answer : (A)

2. If the statute itself provides the employee with a cause of action, the courts are reluctant to recognize an alternative remedy in the form of a lawsuit for wrongful discharge.

(A) True

(B) False

Answer : (A)

3. Employees cannot be terminated under the public policy exception.

(A) True

(B) False

Answer : (B)

4. Pennsylvania Human Relations Act provides that a person fired on the basis of gender or race discretion has to initially seek redress from the commission created under the Act and not with the court.

(A) True

(B) False

Answer : (A)

5. A tort is a private or civil wrong or injury that can be caused either intentionally or negligently.

(A) True

(B) False

Answer : (A)

6. The National Labor Relations Act (NLRA) forbids firing employees for engaging in protected

concerted activities.

(A) True

(B) False

Answer : (A)

7. An implied contract is a contract which is made either verbally or in writing.

(A) True

(B) False

Answer : (B)

8. Public Policy Exception is not a commonly adopted exception to the pure employment-at-will rule.

(A) True

(B) False

Answer : (B)

9. Section 10 of the Model Employment Termination Act forbids retaliation against employees who make claims or who testify under the procedural provisions of the META.

(A) True

(B) False

Answer : (A)

10. The Sarbanes-Oxley Act amended the Employee Retirement Income Security Act (ERISA).

(A) True

(B) False

Answer : (A)

11. Occupational Safety and Health Act (OSHA), does not offer protection to employees who cooperate during investigations or testify at hearings from employer retaliation, such as employment termination.

(A) True

(B) False

Answer : (B)

12. A whistleblower is an employee who reports his or her employer's illegal activities to the appropriate governmental entity.

(A) True

(B) False

Answer : (A)

13. Section 3(a) of the Model Employment Termination Act states "an employer may terminate the employment of an employee without good cause."

(A) True

(B) False

Answer : (B)

14. The drawback under Sarbanes-Oxley Act is criminal provision, which used to punish people who provided information to law enforcing agencies relating to commission of any federal offences.

(A) True

(B) False

Answer : (A)

15. Individuals found guilty under SOX's criminal provision can be imprisoned up to 15 years.

(A) True

(B) False

Answer : (B)

MULTICHOICE

16. The law that is created by judges opposed to statutes and legislation for the equity, justice and conscious is called:

(A) common law.

(B) codified law.

(C) statutory law.

(D) ordinance.

Answer : (A)

17. The freedom of employees to quit the employment relationship is an important issue underlying:

(A) the express contract doctrine.

(B) the employment-at-will doctrine.

(C) in independent employee doctrine.

(D) the legal doctrine of an implied employment.

Answer : (B)

18. An employee who has not been hired for more than a year can be fired by the employer for any reason or for no reason. This is the doctrine of:

(A) self employed.

(B) employment-at-will.

(C) contractual employed.

(D) whistleblowers.

Answer : (B)

19. Courts are reluctant to recognize an alternative remedy if the statute itself provides an employee with a cause of action in the form of a lawsuit for:

(A) willful misconduct.

(B) negligence.

(C) wrongful discharge.

(D) tort.

Answer : (C)

20. The exception under the employment-at-will rule, where the employer cannot fire an employee from employment for exercising a legal right or fulfilling that legal duty created by a statute, is called:

(A) court order.

(B) administrative action.

(C) public policy exception.

(D) statutory exception.

Answer : (C)

21. In Pennsylvania, if an employee is fired on the basis of gender or race discrimination, then State law remedy is provided under the Pennsylvania:

(A) Occupational Discrimination Act.

(B) Human Relations Act.

(C) Labor Relations Act.

(D) Gender and Race Discrimination Act.

Answer : (B)

22. A private or civil wrong or injury caused by one party to another, either intentionally or negligently is a(n):

(A) breach of contract.

(B) criminal act.

(C) tort.

(D) act of god.

Answer : (C)

23. Some employees have express contracts of employment, usually for a definite duration. Others fall within the coverage of a(n) _____ negotiated for them by their union.

(A) collective bargaining agreement

(B) employment bargaining agreement

(C) cooperative bargaining agreement

(D) negotiable agreement

Answer : (A)

24. Contracts that courts infer from company policies and the behavior of the parties are known as:

(A) implied contract.

(B) void contract.

(C) express contract.

(D) voidable contract.

Answer : (A)

25. Section 3(a) of the Model Employment Termination Act (META) protects employees from wrongful termination from employment and states that:

(A) an employer may not terminate employment of an employee without good cause.

(B) an employer can terminate employment of an employee with perverse reason.

(C) an employer cannot terminate an employee without government consent.

(D) an employer may not terminate an employee from work without court order.

Answer : (A)

26. The provision of Uniform Employment Termination Act deals with protection of employees from:

(A) misdemeanors.

(B) wrongful discharge.

(C) government order.

(D) court order.

Answer : (B)

27. An employee who makes complaints against his or her employer pertaining to fraud and corruption is protected under the provision of:

(A) Occupational Discrimination Act.

(B) Model Employment Termination Act.

(C) Sarbanes-Oxley Act.

(D) Wage Act.

Answer : (C)

28. An act that contains anti-retaliation provisions is:

(A) the Equal wage Act.

(B) the Civil Procedure Act.

(C) the Gender Discrimination Act.

(D) the Occupational Safety and Health Act.

Answer : (D)

29. Which Act was passed by Congress on July 30, 2002 and signed by the president for the protection of whistleblowers?

(A) Sarbanes-Oxley Act

(B) National Labor Relation Board

(C) Occupational Safety and Health Act

(D) Wage Act

Answer : (A)

30. An Act which makes it illegal to fire an employee in retaliation for filing a safety complaint is covered under the provision of:

(A) Title VII of Civil Rights Act.

(B) National Labor Relations Act.

(C) Occupational Safety and Health Act.

(D) Public Policy Exception.

Answer : (C)

31. Employees of public companies are protected from retaliation for engaging in certain whistleblowing activities under:

(A) the Occupational Safety and Health Act.

(B) the Workers' Compensation Act.

(C) the National Labor Relations Act.

(D) the Sarbanes-Oxley Act.

Answer : (D)

32. Many federal and state statutes seek to protect whistleblowers from the employer's retaliation by declaring such retaliation as:

(A) illegal acts.

(B) defenses.

(C) legal rights.

(D) improper conduct.

Answer : (A)

33. Identify the case in which the Supreme Court upheld the dismissal of a lawsuit brought by a salesman who was fired for refusing to sell what he insisted to management was an unsafe product?

(A) *Knox v. Board of School Directors of Susquenita School District*

(B) *Geary v. United State Steel Corporation*

(C) *Asmus v. Pacific Bell*

(D) *Marcus v. KFG Employment Services, Inc.*

Answer : (B)

34. An express contract is a contract in which:

(A) the terms are explicitly stated.

(B) the terms are generally written, but sometimes only verbal.

(C) are expressed in great detail.

(D) All of these answers.

Answer : (D)

35. Kelly was an employee of a retail outlet. Although the nature of the work and duties performed by both male and female workers were comparable, the remuneration paid to male workers was significantly higher compared to the female employees. When Kelly brought this to the attention of the management and objected to the difference in pay, her services were terminated without good cause. Under which law can she challenge her termination?

(A) Sarbanes-Oxley Act

(B) National Labor Relation Board

(C) Occupational Safety and Health Act

(D) Model Employment Termination Act

Answer : (D)

36. Muriel is the owner of a garment factory in New York City. Ten months back she hired 20 employees to work in his factory, but due to the economic downturn she decided to let go of the new hires in order to save her business. All 20 employees were fired and no explanation was provided.

This action is perfectly legal and covered by the doctrine of:

(A) implied contract.

(B) good faith and fair dealing.

(C) employment-at-will.

(D) necessity.

Answer : (C)

37. Steven is the Executive Director at a telecom company in Texas. He regularly misappropriated company funds that belonged to the employee benefit plan and several clients. Robert, his corporate secretary was aware of his superior's illegal activities. He brought this to the attention of law enforcing agencies. What is Robert's role in the above scenario?

(A) Spokesperson

(B) Whistleblower

(C) Gatekeeper

(D) Outworker

Answer : (B)

38. Robert is a respected member of the Santa Clara community and works with a local architectural firm. He was selected by the court to perform jury duty on a case. The case went on for several days and caused Robert to miss work for the entire duration. Upon his return, he discovered that his team member had replaced him and his services were abruptly terminated. In this scenario Robert can challenge his termination under:

(A) the public policy exception.

(B) Title VII.

(C) the National Labor Relation Act.

(D) the U.S. Constitution.

Answer : (A)

39. Brett (defendant) entered into employment contract with Krista (plaintiff). Brett had hired Krista as a staff assistant at a pay rate of $20 per hour. Krista's duties consisted of driving trucks and making deliveries. Although Krista worked for 120 hours in total, she was paid only for part of her services which did not abide by the terms and conditions agreed in the employment contract. Krista has most likely instituted a suit against Brett for:

(A) breach of trust.

(B) breach of contract.

(C) gender discrimination.

(D) wrongful discharge.

Answer : (B)

40. Linda was employed with General Mills in Minnesota for over three years. She was a highly productive employee and was known as the star performer on her team. Due to the economic recession the company had to lay off a large number of employees, and she was one of the employees who was asked to leave without being provided good cause or an explanation. In this scenario, Linda is protected under Section 3(a) of META which says that an:

(A) employee can be fired without any reason.

(B) employee may not be terminated without good cause.

(C) employee can be terminated in financial crises.

(D) employee may not be terminated with good cause.

Answer : (B)

41. Peter, an employee of Light Ware was terminated from his job without wages and benefits for a period of three months. This was in violation of META. Under META his claim is subject to:

(A) Court.

(B) Administration.

(C) Employer.

(D) Arbitration.

Answer : (D)

42. Adam was an employee of ABC Corporation and he discovered the management was hiring illegal immigrants in most of its factories. He raised objection against the employer's practices and provided information to the law enforcing agencies regarding the illegal activities. The employer retaliated against Adam by terminating his employment. In this scenario, Adam is protected under:

(A) Pennsylvania Human Relation Act which prohibits employee retaliation.

(B) Section 203 and Section 806 of the Sarbanes-Oxley Act for illegal strikes.

(C) OSHA and Title VII which protect employees who blow the whistle on illegal practice.

(D) Section 203 of Title VII for breach of contract.

Answer : (C)

43. Watson, a Director of a telecom company in Florida, entered into a written contract with Carter Telecon. The contract outlined the services his company would provide in exchange for a fixed monthly rate. This is an example of:

(A) an implied contract.

(B) an express contract.

(C) a specification of contract.

(D) a breach of contract.

Answer : (B)

44. Brandy and Matthew are neighbors and live in Texas. Matthew was renovating his house, which caused dust and debris to collect in Brandy's front yard. Unfortunately her son was highly allergic to these particulates and fell grievously ill. In this case, Matthew violates:

(A) the U.S. Constitution.

(B) the Labor Act.

(C) tort laws.

(D) breach of trust.

Answer : (C)

45. Lionel, an African American resident of Pennsylvania was employed in a garment factory. He had a public fallout with his white male co-worker, Tom. Following this, Lionel was fired from his job while Tom was let off with a warning. Lionel contended that he was fired because of his race. In this scenario, Lionel is most likely to file his case under:

(A) the Gender Discrimination Act.

(B) tort laws.

(C) the Labor Act.

(D) the Pennsylvania Human Relations Act.

Answer : (D)

46. Unions provide employees:

(A) increased bargaining power.

(B) decreased bargaining power.

(C) a pay raise.

(D) None of these answers.

Answer : (A)

47. The Sarbanes Oxley Act (SOX) was passed in the wake of

(A) September 11, 2001.

(B) *Mendoza v. Western Medical Center Santa Ana.*

(C) the Enron and Worldcom scandals.

(D) None of these answers.

Answer : (C)

48. Advocates of employment-at-will point out that:

(A) employees can use bargaining power to attempt to demand an employment contract covering a specific term.

(B) the employee is free to sever employment at any time.

(C) Both of these answers.

(D) None of these answers.

Answer : (C)

49. A tort is:

(A) an agreement that both an employee and an employer are free to terminate the relationship at any time and for any legally permissible reason.

(B) an employee who reports employer wrongdoing.

(C) a private or civil wrong or injury, caused either intentionally or negligently.

(D) None of these answers.

Answer : (C)

50. SOX protects employees of:

(A) private companies.

(B) publically traded companies.

(C) Both of these answers.

(D) None of these answers.

Answer : (B)

ESSAY

51. Explain the meaning of the term whistleblower.

Graders Info :

An employee who reports his/her employer's illegal activities to the appropriate governmental entity or, under some state statutes, to the board of directors or senior management of the firm is known as a whistleblower.

52. What is employment-at-will?

Graders Info :

A kind of employment wherein 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.

53. What is the exception under employment-at-will?

Graders Info :

The most common exception to the employment-at-will rule is the public policy exception. Under this although the employee is employed at-will, termination is illegal if a clear and significant mandate of law (statutory or common) is damaged if the firing is permitted to stand unchallenged.

54. When did the employment-at-will doctrine become the norm in American common law?

Graders Info :

The employment-at-will doctrine became the norm in 19th century American common law.

55. What is a tort?

Graders Info :

Tort is a private or civil wrong or injury, caused by one party to another, either intentionally or negligently.

56. What are the two most common types of contracts?

Graders Info :

Two kinds of contract are:
a. Express contract which has terms spelled out by the parties, usually in writing.
b. Implied contracts are contracts that the courts infer from company policies and the behavior of the parties or that are implied from the law.

57. What is META? Explain the importance of Section 3(a) of META.

Graders Info :

META stands for Model Employment Termination Act and Section 3(a) of META prohibits the employers from terminating the employees from employment without having good reasons.

58. Identify two Acts that protect whistleblowers from employer retaliation.

Graders Info :

Occupational Safety and Health Act (OSHA) and Title VII provide protection to whistleblowing employees.

59. What is SOX?

Graders Info :

SOX is the Sarbanes-Oxley Act. It protects employees who report improper conduct by corporate officials concerning securities fraud and corruption.

60. What does Title VII of the NRLA deal with?

Graders Info :

Title VII forbids discharge on the basis of race, color, gender, creed, or national origin.

61. Define the doctrine of employment-at-will? Explain its exceptions?

Graders Info :

Employment-at-will holds that an employee who has not been hired for an express period of a year can be fired from his/her job by employer at any time with or without any reason. Both the employer and the employee are free unilaterally to terminate their relationship any stage without any compulsion or force. However there are exceptions under the doctrine. The most commonly adopted

exceptions under employment-at-will is Public Policy exception. If a statute creates a right or a duty for the employee, he or she may not be fired for exercising that legal right or fulfilling that legal duty.

62. What is a contract? Explain the differences between express and implied contracts?

Graders Info :

Contract is an agreement between two persons that is enforceable by law. The object must be legal in contract.
Express contract: A contract in which the terms are explicitly stated, usually in writing but perhaps only verbally, and often in great detail. In interpreting such a contract, the judge and/ or the jury is asked only to determine what the explicit terms are and to interpret them according to their plain meaning.
Implied contract: A contractual relationship, the terms and conditions of which must be inferred from the contracting parties' behavior toward one another.

63. Describe the Model Employment Termination Act.

Graders Info :

Model Employment Termination Act (META) relates to laws pertaining to termination of an employee. The heart and soul of META in its present form is Section 3(a), which states that "an employer may not terminate the employment of an employee without good cause." Section 3(b) limits application of the "good cause" limitation on employment-at-will to workers who have been with the particular employer for at least one year. The META suggests that claims under it be subject to binding arbitration with arbitral awards being issued within thirty days of hearings. Section 10 forbids retaliation against employees who make claims or who testify under the procedural provisions of the META.

64. What are the protections for corporate whistleblowers under law?

Graders Info :

Sarbanes-Oxley Act provides the protection for the corporate whistleblowers. SOX protects the employees who report for improper misconduct by corporate officials pertaining to fraud and corruption. Apart from SOX, OSHA and Title VII also protects employees who blow the whistle on illegal practices or who cooperate in investigations and testify at hearings from employer retaliation, such as employment termination.

65. Define a whistleblower and describe the protection offered to whistleblower employees.

Graders Info :

A whistleblower is an employee who calls attention to the employer's illegal or unethical activities.

Many federal and state statutes such as SOX, OSHA and Title VII seek to protect whistleblowers by making retaliation an illegal act. The most significant whistleblower-protection law of the 21st century is the federal Sarbanes-Oxley Act (SOX), which protects employees who blow the whistle on illegal financial transactions. However, whistleblowers' rights may conflict with the privacy rights of others.