

INSTRUCTIONS

This questionnaire consists of fifteen (15) numbers contained in seven (7) pages. Read each question very carefully. Answer *legibly, clearly, and concisely*. Start each number on a separate page; an answer to a sub-question under the same number may be written continuously on the same page and immediately succeeding pages until completed. Do not repeat the question. A mere "Yes" or "No" answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

Signed **ANGELINA S. GUTIERREZ**

Chairperson

20006 Bar Examination Committee

PLEASE CHECK THE NUMBER OF PAGES IN THIS SET

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LABOR AND SOCIAL LEGISLATION

- I -

1. What is the purpose of labor legislation? 2.5%
2. What is the concept of liberal approach in interpreting the Labor Code and its Implementing Rules and Regulations in favor of labor? 2.5%
3. What property right is conferred upon an employee once there is an employer-employee relationship? Discuss briefly. 5%

- II -

Wonder Travel and Tours Agency (WTTA) is a well known travel agency and an authorized sales agent of the Philippine Air Lines. Since majority of its passengers are overseas workers, WTTA applied for a license for recruitment and placement activities. It stated in its application that its purpose is not for profit but to help Filipinos find employment abroad.

Should the application be approved? 5%

- III -

Can an overseas worker refuse to remit his earnings to his dependents and deposit the same in the country where he works to gain more interests? Explain. 5%

- IV -

For humanitarian reasons, a bank hired several handicapped workers to count and sort out

currencies. Their employment contract was for six (6) months. The bank terminated their employment on the ground that their contract has expired prompting them to file with the Labor Arbiter a complaint for illegal dismissal. Will their action prosper? 5%

- V -

Can an employer and an employee enter into an agreement reducing or increasing the minimum percentage provided for night differential pay, overtime pay, and premium pay? 5%

- VI -

1. When is there a wage distortion ?
2. How should a wage distortion be settled?
3. Can the issue of wage distortion be raised in a notice of strike? Explain. 10%

- VII -

Inday was employed by Herrera Home Improvements, Inc. (Herrera Home) as interior decorator. During the first year of her employment, she did not report for work for one month. Hence, her employer dismissed her from the service. She filed with the Labor Arbiter a complaint for illegal dismissal alleging she did not abandon her work and that in terminating her employment, Herrera Home deprived her of her right to due process. She thus prayed that she be reinstated to her position.

Inday hired you as her counsel. In preparing the position paper to be submitted to the Labor Arbiter, explain the standards of due process which should have been observed by Herrera Home in terminating your client's employment. 5%

- VIII -

The modes of determining an exclusive bargaining agreement are:

- a. voluntary recognition
- b. certification election
- c. consent election

Explain briefly how they differ from one another. 5%

- IX -

Armstrong Corporation, a foreign corporation, intends to engage in the exploration of Philippine natural resources. Mr. Antonio Reyes offered the forest land he owns to the president of the corporation. May Armstrong Corporation enter into a financial and technical assistance agreement (FTAA) with Mr. Reyes to explore, develop, and utilize the land? Explain. 5%

- X -

ABC Tomato Corporation, owned and managed by three (3) elderly brothers and two (2) sisters, has been in business for 40 years. Due to serious business losses and financial reverses during the last five (5) years, they decided to close the business.

1. As counsel for the corporation, what steps will you take prior to its closure? 2.5%
2. Are the employees entitled to separation pay? 2.5%

If the reason for the closure is due to old age of the brothers and sisters:

1. Is the closure allowed by law? 2.5%
2. Are the employees entitled to separation benefits? 2.5%

- XI -

As a result of bargaining deadlock between ROSE Corporation and ROSE Employees Union, its members staged a strike. During the strike, several employees committed illegal acts. The company refused to give in to the union's demands. Eventually, its members informed the company of their intention to return to work. 10%

1. Can ROSE Corporation refuse to admit all the strikers?
2. Assuming the company admits all the strikers, can it later on dismiss those employees who committed illegal acts?
3. If due to the prolonged strike, ROSE Corporation hired replacements, can it refuse to admit the replaced strikers?

- XII -

During their probationary employment, eight (8) employees were berated and insulted by their supervisor. In protest, they walked out. The supervisor shouted at them to go home and never to report back to work. Later, the personnel manager required them to explain why they should not be dismissed from employment for abandonment and failure to qualify for the positions applied for. They filed a complaint for illegal dismissal against their employer.

As a Labor Arbiter, how will you resolve the case? 10%

- XIII -

1. Can a "no-union" win in a certification election? 2.5%
2. When does a "run-off" election occur? 2.5%

Determine whether the following minors should be prohibited from being hired and from performing their respective duties indicated hereunder: 5%

1. A 17-year old boy working as a miner at the Walwaldi Mining Corporation.
2. An 11-year old boy who is an accomplished singer and performer in different parts of the country.
3. A 15-year old girl working as a library assistant in a girls' high school.
4. A 16-year old girl working as a model promoting alcoholic beverages.
5. A 17-year old boy working as a dealer in a casino.

As a condition for her employment, Josephine signed an agreement with her employer that she will not get married, otherwise, she will be considered resigned or separated from the service.

Josephine got married. She asked Owen, the personnel manager, if the company can reconsider the agreement. He told Josephine he can do something about it, insinuating some sexual favors. She complained to higher authorities but to no avail. She hires you as her counsel. What action or actions will you take? Explain. 5%

NOTHING FOLLOWS.