

## INSTRUCTIONS

This Questionnaire contains ten (10) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are 22 items (I to XXII) to be answered within/our (4) hours.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *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 the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, to reason logically in a lawyer-like manner, and to form a sound conclusion from the given premises.

A mere "Yes" or "No" answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. Make sure you do not write your *name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

**YOU CAN BRING HOME THIS QUESTIONNAIRE OR SUBMIT IT TOGETHER WITH YOUR NOTEBOOK**

JUSTICE TERESITA J. LEONARDO-DE CASTRO  
Chairperson  
2015 Bar Examinations

I

A. Rocket Corporation is a domestic corporation registered with the SEC, with 30% of its authorized capital stock owned by foreigners and 70% of its authorized capital stock owned by Filipinos. Is Rocket Corporation allowed to engage in the recruitment and placement of workers, locally and overseas? Briefly state the basis for your answer. (2%)

B. When does the recruitment of workers become an act of economic sabotage? (2%)

II

LKG Garments Inc. makes baby clothes for export. As part of its measures to meet its orders, LKG requires its employees to work beyond eight (8) hours everyday, from Monday to Saturday. It pays its employees an additional 35% of their regular hourly wage for work rendered in excess of eight (8) hours per day. Because of additional orders, LKG now requires two (2) shifts of workers with both shifts working beyond eight (8) hours but only up to a maximum of four (4) hours. Carding is an employee who used to render up to six (6) hours of overtime work before the change in schedule. He complains that the change adversely affected him because now he can only earn up to a maximum of four (4) hours' worth of overtime pay. Does Carding have a cause of action against the company? (4%)

III

Benito is the owner of an eponymous clothing brand that is a top seller. He employs a number of male and female models who wear Benito's clothes in promotional shoots and videos. His deal with the models is that Benito will pay them with 3 sets of free clothes per week. Is this arrangement allowed? (2%)

IV

Far East Bank (FEB) is one of the leading banks in the country. Its compensation and bonus packages are top of the industry. For the last 6 years, FEB had been providing the following bonuses across-the-board to all its employees:

(a) 13th month pay;

(b) 14th to 18th month pay;

(c) Christmas basket worth P6,000;

(d) Gift check worth P4,000; and

(e) Productivity-based incentive ranging from a 20% to 40% increase in gross monthly salary for all employees who would receive an evaluation of "Excellent" for 3 straight quarters in the same year.

Because of its poor performance over-all, FEB decided to cut back on the bonuses this year and limited itself to the following:

(a) 13th month pay;

(b) 14th month pay;

(c) Christmas basket worth P4,000; and

(d) Gift check worth P2,000

Katrina, an employee of FEB, who had gotten a rating of "Excellent" for the last 3 quarters was looking forward to the bonuses plus the productivity incentive bonus. After learning that FEB had modified the bonus scheme, she objected. Is Katrina's objection justified? Explain. (3%)

#### V

Soledad, a widowed school teacher, takes under her wing one of her students, Kiko, 13 years old, who was abandoned by his parents and has to do odd jobs in order to study. She allows Kiko to live in her house, provides him with clean clothes, food, and a daily allowance of 200 pesos. In exchange, Kiko does routine housework, consisting of cleaning the house and doing errands for Soledad. One day, a representative of the DOLE and the DSWD came to Soledad's house and charged her with violating the law that prohibits work by minors. Soledad objects and offers as a defense that she was not requiring Kiko to work as the chores were not hazardous. Further, she did not give him chores regularly but only intermittently as the need may arise. Is Soledad's defense meritorious? (4%)

#### VI

Ador is a student working on his master's degree in horticulture. To make ends meet, he takes on jobs to come up with flower arrangements for friends. His neighbor, Nico, is about to get married to Lucia and needs a floral arranger. Ador offers his services and Nico agrees. They shake hands on it, agreeing that Nico will pay Ador P20,000.00 for his services but that Ador will take care of everything. As Ador sets about to decorate the venue, Nico changes all of Ador's plans and ends up designing the arrangements himself with Ador simply executing Nico's instructions.

(a) Is there an employer-employee relationship between Nico and Ador? (4%)

(b) Will Nico need to register Ador with the Social Security System (SSS)? (2%)

#### VII

Don Don is hired as a contractual employee of CALLHELP, a call center. His contract is expressly for a term of 4 months. Don Don is hired for 3 straight contracts of 4 months each but at 2-week intervals between contracts. After the third contract ended, Don Don is told that he will no longer be given another contract because of "poor performance." Don Don files a suit for "regularization" and for illegal dismissal, claiming that he is a regular employee of CALLHELP and that he was dismissed without cause. You are the Labor Arbiter. How would you decide the case? (4%)

#### VIII

Star Crafts is a lantern maker based in Pampanga. It supplies Christmas lanterns to stores in Luzon, Metro Manila, and parts of Visayas, with the months of August to November being the busiest months. Its factory employs a workforce of 2,000 workers who make different lanterns daily for the whole year. Because of increased demand, Star Crafts entered into a contractual arrangement with People Plus, a service contractor, to supply the former with 100 workers for only 4 months, August to

November, at a rate different from what they pay their regular employees. The contract with People Plus stipulates that all equipment and raw materials will be supplied by Star Crafts with the express condition that the workers cannot take any of the designs home and must complete their tasks within the premises of Star Crafts.

Is there an employer-employee relationship between Star Crafts and the 100 workers from People Plus? Explain. (4%)

## IX

Din Din is a single mother with one child. She is employed as a sales executive at a prominent supermarket. She and her child live in Quezon City and her residence and workplace are a 15-minute drive apart. One day, Din Din is informed by her boss that she is being promoted to a managerial position but she is now being transferred to the Visayas. Din Din does not want to uproot her family and refuses the offer. Her boss is so humiliated by Din Din's refusal of the offer that she gives Din Din successive unsatisfactory evaluations that result in Din Din being removed from the supermarket.

Din Din approaches you, as counsel, for legal advice. What would you advise her? (4%)

## X

Karina Santos is a famous news anchor appearing nightly in the country's most watched newscast. She is surprised, after one newscast, to receive a notice of hearing before the station's Vice-President for Human Resources and calls the VP immediately to ask what was wrong. Karina is told over the phone that one of her crew filed a complaint against her for verbal abuse and that management is duty-bound to investigate and give her a chance to air her side. Karina objects and denies that she had ever verbally assaulted her crew. The VP then informed her that pending the investigation she will be placed on a 30-day preventive suspension without pay and that she will not be allowed to appear in the newscast during this time.

Is the preventive suspension of Karina valid? Discuss the reasons for your answer. (4%)

## XI

Rico has a temper and, in his work as Division Manager of Matatag Insurance, frequently loses his temper with his staff. One day, he physically assaults his staff member by slapping him. The staff member sues him for physical injuries. Matatag Insurance decides to terminate Rico, after notice and hearing, on the ground of loss of trust and confidence. Rico claims that he is entitled to the presumption of innocence because he has not yet been convicted. Comment on Matatag's action in relation to Rico's argument. (4%)

## XII

Blank Garments, Inc. (BLANK), a clothing manufacturer, employs more than 200 employees in its manufacturing business. Because of its high overhead, BLANK decided to sell its manufacturing business to Bleach Garments, Inc. (BLEACH) lock, stock and barrel which included goodwill, equipment, and personnel. After taking on BLANK's business, BLEACH reduces the workforce by not hiring half the workers specifically the ones with seniority. BLANK and BLEACH are still discerned to be sister companies with identical incorporators. The laid-off employees sue both BLANK and BLEACH for unlawful termination.

(a) How would you decide this case? (4%)

(b) What is the "successor employer" doctrine? (2%)

### XIII

Luisa is an unwed mother with 3 children from different fathers. In 2004, she became a member of the Social Security System (SSS). That same year, she suffered a miscarriage of a baby out of wedlock from the father of her third child. She wants to claim maternity benefits under the SSS Act. Is she entitled to claim? (3%)

### XIV

Luis, a PNP officer, was off duty and resting at home when he heard a scuffle outside his house. He saw two of his neighbors fighting and he rushed out to pacify them. One of the neighbors shot Luis by mistake, which resulted in Luis's death. Marian, Luis's widow, filed a claim with the GSIS seeking death benefits. The GSIS denied the claim on the ground that the death of Luis was not service-related as he was off duty when the incident happened. Is the GSIS correct? (3%)

### XV

Victor was hired by a local manning agency as a seafarer cook on board a luxury vessel for an eight-month cruise. While on board, Victor complained of chronic coughing, intermittent fever, and joint pains. He was advised by the ship's doctor to take complete bed rest but was not given any other medication. His condition persisted but the degree varied from day to day. At the end of the cruise, Victor went home to Iloilo and there had himself examined. The examination revealed that he had tuberculosis.

(a) Victor sued for medical reimbursement, damages and attorney's fees, claiming that tuberculosis was a compensable illness. Do you agree with Victor? Why or why not? (2%)

(b) Due to his prolonged illness, Victor was unable to work for more than 120 days. Will this entitle him to claim total permanent disability benefits? (2%)

### XVI

The Alliance of Independent Labor Unions (AILU) is a legitimate labor federation which represents a majority of the appropriate bargaining unit at the Lumens Brewery (LB). While negotiations were ongoing for a renewal of the collective bargaining agreement (CBA), LB handed down a decision in a disciplinary case that was pending which resulted in the termination of the AILU's treasurer and two other members for cause. AILU protested the decision, claiming that LB acted in bad faith and asked that LB reconsider. LB refused to reconsider. AILU then walked out of the negotiation and declared a strike without a notice of strike or a strike vote. AILU members locked in the LB management panel by barricading the doors and possible exits (including windows and fire escapes). LB requested the DOLE to assume jurisdiction over the dispute and to certify it for compulsory arbitration.

The Secretary of Labor declined to assume jurisdiction, finding that the dispute was not one that involved national interest. LB then proceeds to terminate all of the members of the bargaining agent on the ground that it was unlawful to:

(1) barricade the management panel in the building, and (2) participate in an illegal strike.

(a) Was AILU justified in declaring a strike without a strike vote and a notice of strike? Why or why not? (3%)

(b) Was the Secretary of Labor correct in declining to assume jurisdiction over the dispute? (2%)

(c) Was LB justified in terminating all those who were members of AILU on the two grounds cited? (3%)

## XVII

The Collective Bargaining Agreement (CBA) between Libra Films and its union, Libra Films Employees' Union (LFEU), contains the following standard clauses:

1. Maintenance of membership;
2. Check off for union dues and agency fees; and
3. No strike, no lock-out.

While Libra Films and LFEU are in re-negotiations for an extension of the CBA, LFEU discovers that some of its members have resigned from the union, citing their constitutional right to organize (which includes the right NOT to organize). LFEU demands that Libra Films institute administrative proceedings to terminate those union members who resigned in violation of the CBA's maintenance of membership clause. Libra Films refuses, citing its obligation to remain a neutral party. As a result, LFEU declares a strike and after filing a notice of strike and taking a strike vote, goes on strike. The union claims that Libra Films grossly violated the terms of the CBA and engaged in unfair labor practice.

(a) Are LFEU's claims correct? Explain. (4%)

(b) Distinguish between a "closed shop" clause and a "maintenance of membership" clause. (2%)

(c) Distinguish between "union dues" and "agency fees." (2%)

## XVIII

George is an American who is working as a consultant for a local IT company. The company has a union and George wants to support the union. How far can George go in terms of his support for the union? (3%)

## XIX

What is the rule on the "equity of the incumbent"? (2%)

## XX

A. XYZ Company and Mr. AB, a terminated employee who also happens to be the President of XYZ Employees Union, agree in writing to submit Mr. AB's illegal dismissal case to voluntary arbitration. Is

this agreement a valid one? (3%)

B. XYZ Company and XYZ Employees Union (XYZEU) reach a deadlock in their negotiation for a new collective bargaining agreement (CBA). XYZEU files a notice of strike; XYZ Company proposes to XYZEU that the deadlock be submitted instead to voluntary arbitration. If you are counsel for XYZEU, what advice would you give the union as to the: (1) propriety of the request of XYZ Company, and (2) the relative advantages/disadvantages between voluntary arbitration and compulsory arbitration? (4%)

## XXI

Philippine News Network (PNN) engages the services of Anya, a prominent news anchor from a rival station, National News Network (NNN). NNN objects to the transfer of Anya claiming that she is barred from working in a competing company for a period of three years from the expiration of her contract. Anya proceeds to sign with PNN which then asks her to anchor their nightly newscast. NNN sues Anya and PNN before the National Labor Relations Commission (NLRC), asking for a labor injunction. Anya and PNN object claiming that it is a matter cognizable by a regular court and not the NLRC.

(a) Is NNN's remedy correct? Why or why not? (3%)

(b) What are the grounds for a labor injunction to issue? (2%)

(c) Distinguish the jurisdiction of a Labor Arbiter from that of the NLRC. (3%)

## XXII

Mario comes from a family of coffee bean growers. Deciding to incorporate his fledgling coffee venture, he invites his best friend, Carlo, to join him. Carlo is hesitant because he does not have money to invest but Mario suggests a scheme where Carlo can be the Chief Marketing Agent of the company, earning a salary and commissions. Carlo agrees and the venture is formed. After one year, the business is so successful that they were able to declare dividends. Mario is so happy with Carlo's work that he assigns 100 shares of stock to Carlo as part of the latter's bonus.

Much later on, it is discovered that Carlo had engaged in unethical conduct which caused embarrassment to the company. Mario is forced to terminate Carlo but he does so without giving Carlo the opportunity to explain.

Carlo filed a case against Mario and the company for illegal dismissal. Mario objected on the ground that the Labor Arbiter had no jurisdiction over the case as it would properly be considered as an intra-corporate controversy cognizable by the RTC. Further, Mario claimed that because Carlo's dismissal was a corporate act, he cannot be held personally liable.

(a) As the Labor Arbiter assigned to this case, how would you resolve the jurisdiction question. (3%)

(b) What is the rule on personal liability of corporate officers for a corporate act declared to be unlawful? (2%)

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