**CHAPTER 18-EMPLOYMENT LAW**

**TRUE/FALSE**

1. During the hiring interview, Supervisor Staci told Henry that as long as he did his job as requested, he would have a job until he retired. Courts have been willing to enforce such an oral promise under the Truth in Hiring doctrine, even if the company’s top management did not approve the statement.

2. The prohibition against wrongful discharge prohibits an employer from firing a worker for a bad reason.

3. Prior to the Industrial Revolution, the primary law of employment was that, absent an agreement otherwise, a worker was hired for a year at a time.

4. Under the Family and Medical Leave Act, an employee can take up to 12 weeks of paid leave each year for certain personal and family illness situations.

5. If an employee is an employee at will, the common law allows the employer to fire the employee for a good reason, a bad reason, or no reason at all.

6. As a general rule, employers have a legal obligation to disclose information about former employees to potential future employers.

7. If a whistleblower successfully brings suit against a company that defrauds the government, the whistleblower can receive 30 percent of the damages awarded to the government.

8. Under the Electronic Communications Privacy Act an employer may under certain conditions monitor employee’s telephone calls and email messages.

9. It is legal for a private employer to use lie detector tests as part of its usual hiring process.

10. Firing an employee for her refusal to violate the law would raise a claim of wrongful discharge.

11. Since 1900, the number of workplace injuries and deaths has decreased, partly due to the OSHA, even though the size of the workforce has increased fivefold.

12. Some courts have held that employee handbooks create binding contract terms.

13. Whistleblower are employees who disclose illegal behavior on the part of their employers.

14. Generally, worker’s compensation statutes are voluntary and employers can elect to participate or not.

15. The Fair Labor Standards Act includes the minimum wage laws.

**MULTIPLE CHOICE**

1. The National Relations Labor Act of 1935 is also known as the:

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| a. | Wagner Act. |
| b. | Taft-Hartley Act. |
| c. | Robinson-Patman Act. |
| d. | Freedom to Work Act. |

2. The Family and Medical Leave Act applies to:

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| a. | companies with 15 or more full-time workers. |
| b. | companies with 50 or more employees. |
| c. | companies with 100 or more employees. |
| d. | any company engaged in interstate commerce. |

3. Megan was employed by a large company. Her supervisor told her to falsify government reports. She refused and was fired. She sued for wrongful discharge. Her employer claimed that, since Megan was an at-will employee, she had no legal right to claim the company was liable for damages. Is the employer right?

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| a. | Yes. An at-will employee does not have a legal right to claim wrongful discharge of employment. |
| b. | Yes. As an employee, Megan owes a duty of loyalty to her employer. If the company was found to have acted illegally by falsifying the reports, it (not Megan) would be liable. |
| c. | No. Even though Megan was an at-will employee, such employees may not be fired without just cause. |
| d. | No. Though at-will employees do not have extensive rights relative to job security, they may not be legally fired for refusing to perform an illegal act. |

4. Wrongful discharge claims are generally based upon all EXCEPT:

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| a. | public policy. |
| b. | criminal law. |
| c. | contract. |
| d. | tort law. |

5. Orson was fired from his job behind the ticket counter at the airport. He was loudly told to put his personal belongings into a plastic bag and was led out by security guards in front of his co-workers and customers. His supervisor told him not to return. Orson’s employer faces potential liability for:

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| a. | intentional infliction of emotional distress. |
| b. | whistleblowing. |
| c. | defamation. |
| d. | violation of the FLSA. |

6. Maxine lost her job as an electrical engineer with a large company which had provided health insurance benefits for Maxine and her family. She now:

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| a. | must try to find insurance on her own or try to find another job with health insurance benefits. |
| b. | is protected under COBRA, which allows her continued health insurance coverage for 18 months as long as she pays the cost. |
| c. | is protected under COBRA, which requires her employer to continue her health insurance coverage for six months under whatever copayment arrangements she had while she was employed. |
| d. | has some protection under the NLRA, which requires her employer to pay for continued health insurance for three months following her termination if she did not leave the company voluntarily. |

7. The Fair Labor Standards Act:

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| a. | wage provisions do not apply to professional or managerial employees. |
| b. | limits the number of hours an employer can require a person to work in any given week. |
| c. | does not apply to children. |
| d. | preempts any state wage regulation. |

8. Jessica was a former employee of Mark. When potential employers called Mark for a reference about Jessica, he stated she was not a very good worker and had been fired for excessive absences. He said he believed Jessica was on drugs, but he did not know for sure. Jessica learned what Mark was saying and sued him. In most states:

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| a. | it was legal for Mark to say what he said if it was true and Mark was not motivated by ill will. |
| b. | it was legal for Mark to say what he said, since courts have consistently ruled that former employers are immune from lawsuits for giving references. |
| c. | it was not proper for Mark to say what he said, since courts have consistently ruled that former employers should not give references over the telephone or in writing without the former employee's written authorization. |
| d. | though it was proper for Mark to talk about Jessica's work-related history, he acted improperly when he said he thought she was on drugs. |

9. Sharon fell while making an inspection of a machine at work and in the fall, she broke her arm. Can she collect workers' compensation for the time she had to be away from work as she recovered?

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| a. | Yes, since the injury occurred while she was engaged in her job at work. |
| b. | Yes, if she can prove that the injury was caused by a fellow employee. |
| c. | No, she can only receive compensation for her medical expenses. |
| d. | No, since she should have been using a safety harness. |

10. Jim was a mechanic. One day when he attempted to weld a car's gasoline tank, it exploded and he was hurt. He filed to collect workers' compensation. His employer resisted on grounds that Jim had been negligent and had also violated the express regulations of the company when he attempted to weld a gasoline tank. Which statement is correct?

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| a. | Jim cannot recover if it is shown that his negligent conduct caused the explosion. |
| b. | Jim cannot recover if it is shown that he violated the express regulations of his employer. |
| c. | Workers' compensation doesn't apply in situations like this. |
| d. | Jim can recover even if he was negligent and violated the employer's rules. |

11. Roxanne was fired from her job when her employer instituted a new policy that prohibited employees from smoking cigarettes. This requirement applied to off-duty time as well as job-related time. Roxanne claimed that she could not quit smoking and that she was wrongfully fired since she did not smoke in the workplace -- only when she was outside the building and during off-duty time.

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| a. | The company has wrongfully fired Roxanne and is liable to her for damages. |
| b. | The company would be liable to Roxanne only if there is a state statute prohibiting employers from passing such job-related requirements. |
| c. | The company is not liable to Roxanne since the nonsmoking requirement is reasonable given the high cost of treating smoking-related illness. |
| d. | The company is not liable to Roxanne since the United States Supreme Court has expressly ruled such a company policy does not violate the worker's right to privacy. |

**Fact Pattern 30-1**

David has worked as a CPA for Accountants R Us for about eight months. When his wife had a baby, he requested to take some time off. He believes he is allowed to do so pursuant to the Family and Medical Leave Act.

12. How many weeks is David allowed to take off under the Family and Medical Leave Act in this situation?

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| a. | Six weeks. |
| b. | 12 weeks. |
| c. | 24 weeks. |
| d. | None. |

13. Does the Family and Medical Leave Act apply to professionals like CPAs?

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| a. | Yes, if they work for a company with at least 50 workers. |
| b. | Yes, but only if they are paid on an hourly basis. |
| c. | No, but the professional firm must provide adequate vacation and sick days. |
| d. | No, unless the employer specifically provides coverage. |

14. When may an employer require an employee to submit to a lie detector test?

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| a. | When the employee has been hired for less than 90 days |
| b. | When the test is part of an on-going investigation into crimes that have occurred. |
| c. | When the employer has reason to believe the employee is using illegal drugs on the job. |
| d. | When all employees are being questioned using a lie detector. |

15. Which of the following statements is correct?

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| a. | It is much easier for a government employer to test an employee for drugs or alcohol than it is for a private employer. |
| b. | Generally speaking, in most states, it is easier for a private employer than the government to test an employee for drugs or alcohol. |
| c. | Neither may test for drugs or alcohol. |
| d. | Both may test for drugs or alcohol without restriction. |

16. Under the federal legislation known as OSHA:

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| a. | employers must keep records of all workplace injuries. |
| b. | employers must keep records of positive results of workplace drug tests. |
| c. | employees must keep their work area free from recognized hazards. |
| d. | employers may monitor workers’ e-mail messages if the monitoring is done in the ordinary course of business and the employer provides the e-mail system. |

17. Abbott provided evidence of fraudulent financial reporting about his employer, a publicly traded company, to federal securities investigators. Abbott receives whistleblower protection under:

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| a. | the U.S. Constitution. |
| b. | The Sarbanes-Oxley Act. |
| c. | The Civil Service Reform Act. |
| d. | None of the above. |

18. An employee at a large factory tells his employer that he needs to stay home for a week to care for his sick child. Can the employer legally fire him?

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| a. | No, if the employee claims rights under the FMLA. |
| b. | Yes, because the employee is not entitled to receive sick leave. |
| c. | No, unless the employee expects to receive his usual compensation during his absence. |
| d. | Yes, an employee at will can be fired for any reason. |

19. Wanda is a teacher at a public school in New Jersey. At a press conference she complains that standardized tests are generally worthless, and nothing more than an economic scam on the public because the school board appropriates money for tests, pays a grading service, and buys “teaching guides.” The school board has an emergency meeting and votes to fire Wanda immediately. What, if true, is Wanda’s strongest argument in favor of her reinstatement?

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| a. | The school board does not usually have emergency meetings. |
| b. | The school board cannot restrict the speech of its employees. |
| c. | The teacher handbook demands formal hearings prior to any suspension or firing. |
| d. | Wanda had a constitutional right to be a whistleblower. |

20. What is necessary for an employee to win a defamation suit against a former employer?

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| a. | The employer makes an unfavorable reference OR the employer makes an untrue statement about the employee. |
| b. | The employer makes an unfavorable reference AND the employer makes an untrue statement about the employee. |
| c. | The employer makes an untrue statement about the employee OR the employer reveals the former employee’s salary. |
| d. | The employer makes an untrue statement about the employee AND the employer reveals the former employee’s salary. |

21. Don works at the local gas station and garage. Don’s boss, Betsy, encourages Don to find brake problems with out of state cars that come to the station. Usually Don tells the driver that their brakes are leaking fluid, and offers to replace the brakes at a good price. The cost is low because Don does nothing more than remove the tires and look at the old brake pads. One day a woman with five kids comes to the station and Betsy tells Don to “do a brake job.” Don does not want to have five kids running around the station and tells the lady that they are out of gas and to go down the street to the next station. Can Betsy fire Don?

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| a. | Yes, unless the station really was out of gas.. |
| b. | Yes, because Betsy ordered him to perform a service and Don refused.. |
| c. | No, but Don is liable for any economic loss Betsy suffered. |
| d. | No, because Betsy ordered him to perform an illegal act. |

22. Don works at the local gas station and garage. He wants to support the general strike on May 1, in solidarity with immigrants, the working poor and students. His boss, Betsy tells him that she will fire him if he does not work on May 1. What is true?

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| a. | Betsy can fire Don, and Don has no legal recourse. |
| b. | Betsy can fire Don, but Don can recover damages against Betsy. |
| c. | Betsy can fire Don, unless he claims that 1 May is a religious holiday for him. |
| d. | Don has no recourse but to quit |

23. Donny fired Willie. If Willie is an at-will employee, what is true?

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| a. | Willie has no legal recourse, unless Donny committed a criminal act. |
| b. | Willie has no legal recourse because he is an employee at-will. |
| c. | Willie has no legal recourse, unless Donny violated public policy. |
| d. | Donny is immune from lawsuit because there is no contract. |

24. Xavier wants to work at the CIA. Xavier knows there is a federal law, the Employee Polygraph Protection Act, prohibits private employers from imposing or suggesting that employees take polygraph tests. Nonetheless, CIA officials tell Xavier that he must submit to a polygraph test or he cannot be considered for a position at the CIA. What must be true?

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| a. | The law exempts the CIA. |
| b. | The CIA considers applicants to be criminal suspects. |
| c. | The CIA considers Xavier to be a criminal suspect |
| d. | Xavier must take the test, but he has a remedy if he is refused employment based on the polygraph test results |

25. The Fair Labor Standards Act (FLSA) provides that hourly workers must:

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| a. | be paid a minimum wage of $7.25 per hour and time and a half for hours over 40 per week. |
| b. | be paid a minimum wage of $5.15 per hour |
| c. | not work more than 45 hours per week |
| d. | be given one hour each day for lunch break |

**ESSAY**

1. Discuss the requirements of the Family and Medical Leave Act.

2. Sandy worked for a small printing company. She found a new job that would pay much more. In accordance with company policy, she gave her employer a two-week notice that she would be leaving. Her employer was upset she was quitting, so he terminated her employment immediately. Sandy was upset because she thought she had acted properly by giving her employer two weeks' notice. Her new employer will not be able to employ her for two weeks. Sandy believes her employer has breached the employment agreement and she should be paid for the two weeks between jobs. Is she right? Explain.

3. Hanson Corporation is concerned that its employees are spending too much work time talking on the telephone, sending e-mails, and using the Internet for personal uses. Discuss what steps Hanson may legally pursue to protect its interests in productivity.

4. Alfred is a migrant farm worker. He and his family travel across the nation to harvest crops as various crops ripen. Alfred learned that the Fair Labor Standards Act requires that he and other workers get paid at least $5.15 per hour and overtime pay when they work over 40 hours per week. One employer, Ranch-One farms refuses to pay them the minimum wage. If Alfred sues, who will win?

5. DewDrop, Inc. has laid off 50 workers due to budget constraints. These employees were previously receiving health insurance benefits. What health insurance options are available to these laid-off workers?