



Republic of the Philippines
Supreme Court of the Philippines
Manila

2023 BAR EXAMINATIONS

LABOR LAW

September 20, 2023

(2:00 P.M. – 6:00 P.M.)

1. This is a 4-hour examination consisting of 20 essay-type questions worth five points each, for a total of 100 points. There are no sub-questions.
2. Read each question carefully.
3. Provide a clear and concise answer by demonstrating your ability to give a complete analysis of the facts, apply the correct legal basis, and arrive at a sound and logical conclusion. Always begin your answer with a “yes” or “no”, unless the question requires a different response. A mere “yes” or “no” answer will not be given credit.
4. Follow the prescribed format in the *Exemplify* Manual (font style Times New Roman and font size 14). Do not make any markings on your answers. Marking of submitted answers consists of writing your name, distinguishing marks, or extraneous words or phrases in any of the answers. This may be considered cheating and may disqualify you from the 2023 Bar Examinations.
5. Allocate your time efficiently. *Exemplify* allows you to skip items and move to items that you may find easier to answer. Use the “Flag” feature to return to the unanswered items.
6. Do not panic in the rare case that you experience technical issues during the exam. Do not attempt to submit your exam answers. Call the attention of your proctor for assistance.
7. If you need to step out of the room, use the “Hide Screen” feature to prevent anyone from seeing your answers.
8. Make sure you have completed and reviewed all of your answers before submitting the exam. When submitting, the system will ask you one more time

to confirm if you are ready to submit your answer file, giving you another opportunity to review your answers.

9. Once done, show your proctor the green screen confirming your submission. If the green screen does not appear, check with your proctor before leaving the room.

10. **You can do it.**

A handwritten signature in black ink, appearing to read 'R. Hernando', is written over a horizontal line.

RAMON PAUL L. HERNANDO

Associate Justice, Supreme Court of the Philippines

Chairperson, 2023 Bar Examinations

1. Santos Hauling Incorporated (SHI) dismissed its drivers and helpers after discovering that they were committing anomalous transactions involving the sale of excess broilers and crates, without the knowledge and consent of SHI. The drivers and helpers filed a complaint for illegal dismissal against SHI. In its defense, SHI presented as evidence the affidavits of co-employees narrating the alleged anomalous transactions in detail. **May the drivers and helpers be dismissed on the basis of these affidavits? Explain your answer.**
2. Maria met Ange, Louise, and Sam at a coffee shop one afternoon. Maria promised she could send the three of them to work as bartenders in Scotland in exchange for ₱100,000 each. Ange, Louise, and Sam immediately agreed and gave the money to Maria. Upon receipt of the placement fees, Maria used the money to buy a luxury bag and posted it on her Instagram page. Ange, Louise, and Sam followed up on their employment in Scotland, but Maria stopped replying to them. After six months of waiting, Ange, Louise, and Sam filed a complaint for Illegal Recruitment in Large Scale against Maria. During trial, Ange, Louise, and Sam testified and presented a certification from the Department of Migrant Workers stating that Maria was neither licensed nor authorized to recruit people for employment. On the other hand, Maria claimed that she was not the one who recruited them but a certain Rashid, the president of the placement agency where Maria supposedly worked. **Is Maria guilty of Illegal Recruitment in Large Scale? Explain.**
3. Lipad Pinoy (LP), a licensed local recruitment agency, deployed Mutya for its principal, Alab Construction (AC), for a two-year project in Dubai. Mutya had been on the job for one year when, for unknown reasons, AC and LP terminated their agency agreement. Thereafter, AC failed to pay the salary of Mutya. Upon her return to the Philippines, Mutya sued both LP and AC for unpaid salaries and damages. **May LP be held liable together with AC? Explain.**
4. Bangko Norte (BN) implemented an “Exogamy Policy”, which prohibits employees from marrying their co-employees. Specifically, the policy states that when two of its employees marry each other, one of them must sever his or her employment immediately. Clara, who was hired as an account specialist, married her co-worker Ibarra, a loan specialist. Subsequently, BN terminated the employment of Clara but retained Ibarra. Clara argued that the policy should not apply to her since she was employed prior to its effectivity, and that said policy violates the Labor Code. She also pointed out that BN did not explain why it was her, and not Ibarra, whose employment was terminated. Since BN refused to reinstate her, Clara filed a complaint for illegal dismissal. **Will the complaint of Clara prosper? Discuss.**
5. In computing the 13th month pay of its employees, Liwayway Company (LC) includes as basis not only the regular base pay but also the cash value of unused vacation and sick leaves. LC had been implementing this method for two years when it suddenly announced that the method was erroneous and would therefore be discontinued. **May LC lawfully discontinue using this method? Discuss.**

6. Roman, an employee of Baltazar Company (BC), was reported to have fallen asleep during work hours and that he smelled of marijuana. BC coordinated with Bibo Health Clinic, a facility accredited by the Department of Health, to conduct random drug testing on its employees. Roman tested positive during both the screening and confirmatory tests. BC asked Roman to explain why he should not be sanctioned and dismissed. Roman denied that he used drugs and claimed that a colleague who bore a grudge merely framed him. Unsatisfied with his explanation, BC sent Roman a notice of termination. **Was the dismissal of Roman valid? Explain briefly.**
7. Arnel, a 55-year-old seafarer who worked on board different foreign vessels, went to the office of the Social Security System (SSS) to avail of his retirement benefits. However, he found out that his contributions had not been paid by his principal employer, Pancho Lines (PL). When Arnel demanded an explanation from PL, the latter replied that it was not obligated to cover his SSS membership since he was hired abroad and covered by another insurance provider. **Is PL correct? Discuss your answer.**
8. Araro Federation applied for registration as a federation in the agricultural sector. It has under its membership a mix of five rank-and-file unions and five supervisory unions. One of the rank-and-file unions and one of the supervisory unions both belong to the same establishment, Ani Corporation (AC). AC opposed the application for registration citing the legal prohibition against the commingling of rank-and-file and supervisory employees. **Is the opposition of AC meritorious? Explain briefly.**
9. Lazara Corporation (LC) and Lazara Employees Union (LEU) forged a collective bargaining agreement (CBA). During the freedom period, a certification election was conducted where LEU lost to *Samahan ng Manggagawa sa Lazara* (SML), a rival union in the same establishment. SML then sent a letter to LC demanding for renegotiation of the existing CBA. LC refused to renegotiate the CBA claiming its validity for two more years. SML filed a notice of strike against LC on the ground of Unfair Labor Practice for the alleged refusal of the latter to comply with its duty to bargain collectively. **Is the notice of strike meritorious? Explain briefly.**
10. Adarna Manufacturing Company (AMC) and Adarna Employees Union (AEU) entered into collective bargaining negotiations but reached an impasse. AEU then filed a notice of strike before the National Conciliation and Mediation Board, which immediately conducted conciliation meetings to avert the strike. Fifteen days after the filing of the notice, and despite the conciliation proceedings, AEU staged a strike with the participation of 50% of its members. **Is the strike legal? Briefly explain.**
11. In 2011, Amer and Raj worked as welders on board the barges of Magiting Shipping Company (MSC), which later changed its corporate name to Perlas Corporation (PC). In 2018, PC verbally dismissed Amer and Raj from employment. Thus, they jointly filed a complaint for illegal dismissal against PC, which countered that it already had a separate and distinct personality from MSC.

It also alleged that both complainants were not its regular employees as they were merely helpers brought in by its own regular employees on certain occasions when urgent repairs were required for its barges. The Labor Arbiter (LA) held that there was an employer-employee relationship between the parties based on Article 295 [280] of the Labor Code since Amer and Raj: 1) were engaged to perform activities which are usually necessary or desirable in the usual business or trade of PC; and 2) have rendered at least one year of service. **Was the LA correct in using Article 295 [280] as the basis? Explain briefly.**

12. On May 15, 2022, Marina International Shipping (MIS) hired Felipe as a bosun on board its vessel for a period of nine months. On July 30, 2022, Felipe joined his vessel of assignment. On October 31, 2022, he was repatriated due to medical reasons and was immediately referred by MIS to its company-designated physician for treatment and monitoring. On May 31, 2023, the company-designated physician pronounced Felipe fit to resume sea duties. **Is MIS obligated to rehire Felipe? Explain briefly.**

13. Sampaguita University (SU) hired Farah as Instructor I in the College of Education on a contractual or part-time basis beginning the first semester of school year 2015-2016. In 2018, SU appointed Farah as Instructor II. SU informed her that she will attain regular status on the condition that she obtain a master's degree by May 31, 2022, otherwise, her employment will either be terminated or considered as contractual or part-time. When Farah failed to secure the required educational qualification within the allotted time, SU classified her as a part-time faculty effective June 1, 2022. On April 30, 2023, SU notified Farah that they will no longer be renewing or extending her contract as part-time faculty upon its expiration. Farah thus filed a complaint for illegal dismissal. **Will her complaint prosper? Discuss your answer.**

14. Eduardo owns a licensed company that supplies janitorial and messengerial aides to various businesses, including Gloria Restaurant (GR). The tools and supplies used by the janitors and messengers are supplied by the clients who also train the workers and monitor their performance. Their minimum wages are paid by the clients through Eduardo. After two years of working in GR, the janitors and messengers joined the union there to receive the same benefits as the directly hired employees of GR. **Can the janitors and messengers legally join the union? Discuss.**

15. Ulap Airlines (UA) hired Salve as a cabin crew in 2010. Due to her hard work and spotless service record, she was eventually promoted to senior purser, a position imbued with trust and confidence. In 2023, after a flight from Sydney to Manila, management received a report that Salve and other cabin crew alighted from the aircraft with two cups of instant noodles and a can of soda, which were part of the in-flight provisions for passengers. The items were confiscated and the cabin crew were required to explain why those items were in their possession. In her written explanation, Salve claimed that the cups of instant noodles were purchased with her own money and that it was another flight attendant who admitted to taking the can of soda. After investigation, UA still terminated her

employment on the grounds of serious misconduct and loss of trust and confidence. **Was Salve validly dismissed? Discuss briefly.**

16. Rajah Management (RM), the authorized local placement agency of Sultan Group (SG), posted a job listing for project manager based in Qatar. Silang applied for the position. After RM forwarded the documents of Silang to SG for the processing of her work visa, SG sent a tourist visa notice instead of a work visa. Six months into her two-year contract, Silang was repatriated by SG with instructions to apply anew for deployment under a work visa. RM directed Silang to undergo a pre-employment medical examination. When it was discovered that she has uncontrolled diabetes, SG terminated her employment. Thus, Silang filed a complaint for illegal dismissal against SG and RM. SG argued that the disease of Silang was a valid cause for dismissal. **Is the contention of SG correct? Discuss.**
17. University of San Lazaro (USL) hired Dolores to work as a credit and collection officer in its accounting department. Based on its audit reports, USL found several anomalous transactions within the accounting department, resulting in a shortage of ₱2 million. Dolores went on leave during the audit, but later tendered her resignation. After its investigation, USL terminated the employment of Dolores and filed a criminal case against her. Dolores subsequently filed a complaint for illegal dismissal against USL, which claimed that Dolores had voluntarily resigned. **Will the complaint of Dolores prosper? Explain.**
18. In 2012, Magbanua Hotel (MH) hired Josefa and assigned her to the food and beverage department. For six consecutive years, Josefa worked five days a week. However, in 2018, MH, suddenly and without explanation, reduced the regular workdays of Josefa to two days per week, resulting in the reduction of her take-home pay. Josefa thus filed a complaint for constructive dismissal. In belying her claim, MH insisted that there could be no constructive dismissal because Josefa still continued reporting for work even during the pendency of the case. **Was Josefa constructively dismissed? Decide with reasons.**
19. Consolacion is a Hong Kong-based, Filipino flight attendant of Hiroshi Airlines (HA), a Japanese airline licensed to do business in the Philippines. She was dismissed from employment as she was accused of stealing wine bottles and cheese from the Melbourne-bound aircraft of HA. Consolacion then instituted a complaint for illegal dismissal and money claims against HA with the Labor Arbiter (LA). In its defense, HA asserted that the LA had no jurisdiction to hear the dispute as the incident occurred in a foreign jurisdiction and involved a foreign entity. **Does the LA have jurisdiction over the case? Explain.**
20. The employees of Bonifacio Memorial Hospital (BMH), who are union officers and members of BMH Nurses Association, staged a strike to protest the failure of BMH to provide them with adequate personal protective equipment and sufficient hazard pay. **What legal remedy can BMH avail of to immediately enjoin the strike as well as ensure the proper protection of the life and health of its patients? Explain your answer.**