LABOR LAW (LAW 227)
UNIVERSITY OF CALIFORNIA SCHOOL OF LAW
SPRING 2011
BARRY WINOGRAD, LECTURER

COURSE SYLLABUS AND READINGS

Reading assignments with page designations are contained in Cox, Bok, Gorman & Finkin, Cases and Materials on Labor Law (14th ed.). Principal cases and text notes are identified. Students also should review the secondary case discussions and related problems that are found on the listed pages. Additional reading is contained in the Case and Statutory Supplement ("Supp"). Recent decisions also may be identified for additional reading. The instructor will be available for consultation by appointment, and can be reached by phone at (510) 273-8755. Email communications can be sent to "winmedarb@aol.com."

January 11

Part One: The Evolution of Labor Relations Laws

73-111	The Wagner Act The Taft-Hartley Act The Landrum-Griffin Act NLRB Jurisdiction, Organization and Procedure
Supp	N-LG Sec. 2; NLRA Secs. 1 - 6; LMRA Sec. 1; LMRDA Sec. 2

January 18

Part Two: The Establishment of the Collective Bargaining Relationship

I. Protection of the Right of Self-Organization

A. Interference, Restraint and Coercion

Supp	NLRA Secs. 7, 8(a)(1)-(5), 8(b)(1)-(3), 8(c)
112-124	Republic Aviation
132-180	Lechmere The Union's Quest for Equal Access Elections - Threats of Reprisal Gissel Packing

	Midland National Life Insurance
	Inflammatory Appeals
188-200	Exchange Parts
	Union Misconduct
	Empirical Postscript

<u>January 25</u> **No class**

<u>February 1</u>

B. Company Domination and Assistance

201-229	Report of Senate Comm.
	Electromation
	ILGWU (Bernhard-Altmann)
	Bruckner Nursing

C. Discrimination

229-235	Budd Mfg.
243-260	Judicial Review of Board Factfindings
	Adkins Transfer
	Darlington Mfg.
	Note on Supervisors

D. Remedies for Unfair Labor Practices

Supp	NLRA Secs. 10(a)-(j), (m), 11, 12
260-273	Phelps Dodge
	Remedies for Coercion and Discrimination

<u>February 8</u>

II. Selection of the Bargaining Representative

A. Grounds for not Proceeding

Supp	NLRA Secs. 9, 14(c)
273-280	Text

B. Representation and Unit Issues

280-287,	Notes on Significance, Criteria, Location
290-293	
299-302	Multiemployer Bargaining
309-315	Joint Employer Comment
	General Electric

III. Securing Bargaining Rights in ULP Proceedings

323-346	Gissel Packing
	Linden Lumber
Supp 39-59	Dana

February 15

Part Three: Negotiation of the Bargaining Agreement

I. Exclusive Representation and Majority Rule

Supp	NLRA Sec. 9(a)
374-391	J.I. Case
	Emporium Capwell

II. The Duty to Bargain in Good Faith

Supp	NLRA Sec. 8(d)
397-433	A-1 King Size Sandwiches
	Duty to Disclose Information
	Detroit Edison
	Insurance Agents
	Katz
440-442	Boulwarism

February 22

III. Subjects of Collective Bargaining

442-486	Cox and Dunlop on Regulation
	American National Insurance
	Borg-Warner
	Mandatory-Permissive Distinction
	Fibreboard
	Waiver by Contract or Past Practice
	First National Maintenance

IV. Bargaining Remedies

516-530	H.K. Porter
	Ex-Cell-O

March 1

Part Four: Strikes, Picketing and Boycotts

I. Rights of Employee Protesters Under the NLRA

A. Protected and Unprotected Concerted Activity

531-546	City Disposal Systems
564-584	Eastex
	Unprotected Concerted Activity
	Local 1229, IBEW (Jefferson-Standard)

B. Employer Responses to Concerted Activity

Supp	NLRA Secs. 8(g),13
585-588	Mackay Radio & Telegraph
593-605	American Shipbuilding
	Great Dane Trailers
619-637	Laidlaw
	Refusals to Cross Picket Lines
	Metropolitan Edison
	Unfair Labor Practice Strikes

March 8

II. Constitutional Limitations on Government Regulation

A. Fifth and Fourteenth Amendments

638-641	Text

B. Picketing and Freedom of Communication

68-72	Thornhill
641-647	Vogt

III. The National Labor Relations Act

A. Organization and Recognitional Picketing

Supp	NLRA Sec. 8(b)(7)
671-675	Organization and Recognitional Picketing

B. Secondary Pressure

1. Under Taft-Hartley

Supp	NLRA Sec. 8(b)(4), 8(e)
691-699	Text
	Denver Bldg. & Const. Trades Council
702-715	Douds
	Local 761, IUE (General Electric)

2. Consumer Appeals

715-732	Fruit & Vegetable Packers (Tree Fruits)
647-654	DeBartolo

C. Union Unfair Labor Practices

768-772	Text re: Violence, Remedies
Supp	NLRA Secs. 10(k)-(l)

March 15

Part Five: Administration of the Collective Bargaining Agreement

I. Judicial Enforcement of Agreements

Supp	LMRA Secs. 301, 303; N-LG Secs. 4, 7
773-784	The Collective Agreement and Grievance Arbitration
809-873	Lincoln Mills
	American Mfg.
	Warrior & Gulf
	Litton Financial Printing
	Enterprise Wheel
	Eastern Associated Coal
	Judicial Enforcement of the No-Strike Clause
	Boys Markets
	Individual and Union Liability

March 22 **No Class**

March 29

II. Role of the NLRB and the Arbitrator

A. Alleged Violations of the Contract and the Act

873-894 Concurrent Jurisdiction
NLRB Deference to Arbitration
Olin
NLRB Deference in Representation Cases
Judicial Deference under Title VII
Pyett (556 US____, 129 Sct 1456 (2009))
896-903 United Technologies

B. Mid-Term Duty to Bargain

914-933 Jacobs Mfg.
Johnson-Bateman
Milwaukee Spring

Part Six: Successorship

938-941 Gorman, Basic Text

April 3

Part Eight: Federalism and Labor Relations

I. Preemption of State Labor Law: Overview

1001-1032 Garmon
Farmer
Lodge 76, IAM
Supp 76-84 Chamber of Commerce

II. Specific Applications - Bargaining and Contract Enforcement

B. Collective Bargaining

1041-1049 Metropolitan Life

C. Enforcement of Collective Agreements

1070-1083 Lingle
The Retaliatory Lawsuit

April 12

Part Nine: The Individual and the Union

I. The Right to Fair Representation

A. Source and Enforcement of the Union's Duty

1105-1115 Text
391-397 Limits of Majority Rule
Steele

B. The Duty in Contract-Making

1115-1127 Air Line Pilots

C. The Individual Grievant

1127-1152 Vaca

April 19

II. Union Security

A. Union Security and Dues

Supp NLRA Secs. 8(a)(3), 8(b)(2), 14(b)
1159-1178 General Motors
Street
1185-1197 Ellis
State Right to Work Laws

B. Special Benefits for Union Officials

1205-1212 Local 900, IUE (Gulton Electro-Voice)

III. Discipline of Union Members

A. Effect of the NLRA

1220-1236 Scofield
Pattern Makers

B. LMRDA Provisions

Supp LMRDA Secs. 101 - 102, 401 - 403

April 28

1087-1104 Reconsidering the Labor Act (Recommended)

Course Review