

Radio Glencoe Podcast

It's the Law

Episode 3: Employee Rights

ANNOUNCER

Welcome to Glencoe's *Business and Personal Law* podcast series. This is *It's the Law*.

SETH

Hello, and welcome to *It's the Law*. I'm Seth Abrams. Today's show deals with an area of the law which all of us need to be knowledgeable about because it affects us all – *Employee Rights*. Whether we work for a large corporation or a small business we all have rights as employees. Knowing the laws that protect our health and safety, guarantee fair wages, provide benefits, protect our privacy, and protect us from discrimination – is everybody's responsibility. As the saying goes – "Knowledge is Power" – so knowing and understanding your rights as an employee is invaluable.

Joining me today to take your calls and e-mails on this important topic is employee rights advocate, Julian Camacho, and attorney, Lisa Lee, who specializes in employment law. Thank you both for being here.

LISA

Thank you for inviting us.

JULIAN

Pleasure to be here.

SETH

Julian, let me start with you. What is the single most important thing young people just entering the workforce need to know in terms of their rights as employees?

JULIAN

Well, just knowing that you *have* them is very important. For many years workers were exploited in this country, and the fact that today, the vast majority of workers are protected by the law, is something we as a country should all be proud of. That said, there are still far too many employers who try to take advantage of their employees. The best way to combat that problem, and avoid being treated unfairly, is for employees to know their rights. In other words, you have to know what your rights are in order to know when you are being deprived of them.

SETH

Also important for those who will one day be in a supervisory or management position is to know what the law requires of them when dealing with employees.

LISA

That is absolutely true. And I think what's also important to know, especially for young people going into the workforce today, is that in a global economy, we may be dealing more and more with companies in other countries which have very different employment laws. You may even find yourself working in a foreign country where U.S. laws do not apply, even when working for an American company.

JULIAN

And if we're being honest, there are employment laws abroad that are far more protective of employees than even we are in the U.S. – like Western Europe for instance. But of course there are many countries that still exploit their workers terribly, as you'll find in many parts of Asia.

SETH

What rights are we talking about exactly, when we're talking about employee rights? Julian?

JULIAN

In the U.S., we're really talking about four different categories: First, the right to health and safety protections, meaning an employer is, by law, not permitted to put your health or safety at risk while you're at work. Second, the right to fair wages and benefits. This is why we have what's known as the minimum wage. When it comes to benefits, however, there are some variations as far as what employees are entitled to, such as health insurance. That may have to do with the number of hours worked per week, the size of the company, and so on. Third, we as employees have a right to privacy. Our employer cannot spy on us or force us to do things like take a lie detector test. And finally, the right to equal opportunity in the workplace and protection from discrimination.

SETH

I want to talk about health and safety, and how exactly the laws protect us in that regard. I happen to have an e-mail that deals with that topic from Travis in Portland, Maine, who writes: "I just started my first job in a metal working shop last week, and I keep hearing talk about OSHA and safety regulations. I'm too embarrassed to ask anybody what OSHA is because I get the feeling I'm supposed to know that already." Lisa why don't you take this one.

LISA

Well the first thing I would say to Travis is don't be afraid to ask questions. If you're only a week into a new job, I would guess there are lots of things you don't know and wouldn't be expected to know. And the only way to learn is to ask questions. OSHA stands for the Occupational Safety and Health Administration. This is a federal agency that regulates health and safety standards for U.S. companies. OSHA is the reason you are required to wear safety goggles in your metal working shop. OSHA randomly inspects workplaces, investigates employee complaints about safety and health conditions, and also protects employees who *make* such complaints. The agency investigates deaths and injuries in the workplace, as well as workplace disasters, such as fires. And finally, OSHA has the authority to fine companies for any violations, or even shut them down if they fail to comply.

SETH

I hope that answers your question Travis. Okay, we have a call from Sam in Milwaukee, Wisconsin. Sam go ahead, you're on *It's the Law*.

SAM

Thanks for taking my call. I just graduated from high school and I'm working in a hospital right now while I save up money for tech school. My question is – how do I know what my rights are, as far as wages and benefits?

JULIAN

Sam? Are you working at an hourly rate?

SAM

Yes I am.

JULIAN

There is something called the Fair Labor Standards Act which requires certain employers – which include hospitals, along with restaurants, schools and retail businesses – to pay their workers a minimum hourly wage, and overtime for anything over 40 hours a week. Because you're working in a hospital, it's safe to assume you are being paid according to the law. If you're still concerned, talk to your supervisor about how your hospital compares to neighboring hospitals as far as the wage they pay for somebody doing the same job as you.

LISA

There is also an amendment to the Fair Labor Standards Act called the Equal Pay Act, which requires businesses dealing in interstate commerce to pay women the same wage as men who are doing the same type of job.

JULIAN

It's important to know however that both the Fair Labor Standards Act and the Equal Pay Act apply only to hourly workers. Executives, administrators, professional employees, or salespeople who work for a salary or commission are *not* covered.

SETH

We have a call from Julia in River Bend, Oregon. Julia go ahead, you're on *It's the Law*.

JULIA

Hi. I have a job I really like, but recently my mom found out she has to have major surgery and I want to take time off from work to take care of her when she gets home from the hospital. She won't let me though because she doesn't want me to lose my job. What can I do?

LISA

Hi Julia. I have a couple questions. How many people work for the company and how long have you been there?

JULIA

There are probably about 100 full-time people, and I've been there a year and a half.

LISA

Then you and your mom can both relax and concentrate on her getting better. The Family and Medical Leave Act entitles anyone who works for a company with 50 or more employees and has been there a year or more to take up to 12 weeks off, without pay, in any 12-month period, to care for a new baby, or family member with a serious medical condition. You're also entitled to return to the same job, or a similar one, and with the same pay and benefits.

SETH

So there's your answer Julia. Hope everything goes well and we hope your mom gets well soon so you can get back to work.

JULIA

I'm so relieved! Thank you *so* much.

SETH

Okay, we need to take a quick break. We'll be right back with more important information about your employee rights. Keep listening.

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SETH

Okay, we're back. I'd like to talk a little bit about labor unions and the role they play in protecting employee rights. Julian tell us about how labor unions came into existence and the purpose they serve today.

JULIAN

Well, during the Industrial Revolution most factory workers had no rights and essentially worked at the mercy of their employers. They weren't paid fairly, they worked in unsafe conditions, and they were forced to work as many hours as they were told to. If anybody objected – they were simply fired. So workers decided to band together into unions and demand fair pay and better working conditions.

SETH

Safety in numbers.

JULIAN

Exactly. And security. In the beginning, the government made unions illegal because they thought they were bad for the economy. But when the economy virtually collapsed after the Stock Market Crash of 1929, the government began to recognize labor unions and allowed them to negotiate their contracts through a process called *collective bargaining*.

SETH

What does *collective bargaining* involve?

LISA

That consists of workers and management getting together as a group, *collectively*, and *bargaining* with each other over things like wages, working conditions, and hiring and firing policies until they all come to an agreement.

JULIAN

Unions won a lot of rights and benefits that permanently improved the conditions of workers in the U.S.

LISA

On the other hand unions also have to follow certain government laws and guidelines. They are subject to checks and balances.

SETH

Like what?

LISA

The Taft-Hartley Act of 1947 is a good example. It forbids union workers from going on strike if the strike might harm the national welfare. It also requires unions to give a 60-day notice before calling a strike.

JULIAN

And there's the Landrum-Griffin Act of 1959, which was designed to prevent corruption within unions. It requires unions to register with the Secretary of Labor, to have bylaws that govern their members, and to file yearly financial reports showing their sources of income.

SETH

Okay, we have time for one last e-mail from Isabel in Kalamazoo, Michigan. Isabel writes: "We hear a lot about equal employment opportunity, but what laws are actually in place to insure that workers are not being discriminated against?" Who wants to take this?

LISA

I'll take this one. The federal government has passed six major acts in the past 40 years or so to prevent discrimination, and to demand ethical behavior and fairness. The most important is the Civil Rights Act of 1964, which prohibits discrimination in employment based on race, religion, gender, or national origin. Under Title VII of the act, it's against the law for an employer to ask job applicants about their religion, race, age, or marital status.

SETH

You mentioned there were other acts designed to prevent discrimination? Can you give us a couple of others?

LISA

There's the Americans with Disabilities Act of 1990. That forbids discriminating on the basis of a disability if the disabled person can still do the essential functions of a job. There's also the Pregnancy Discrimination Act, which makes it against the law to discriminate against a woman because of pregnancy or childbirth.

SETH

And what can you do if you feel you've been discriminated against?

JULIAN

You can file a complaint with the EEOC – The Equal Employment Opportunity Commission. The EEOC can seek a court injunction or sue the employer for damages if a case of discrimination has been established. You can also file a claim in court directly.

SETH

I'm afraid we are just about out of time. Thank you both for doing such a great job of highlighting the fact that, as we mentioned at the top of the show, there are plenty of laws and regulations in place to protect us all as employees. But we have to know what they are, and understand them, in order to fully benefit from them. Thank you both for being here, and sharing this important information with our listeners.

JULIAN/LISA

Thank *you*. / A pleasure being here.

SETH

And as always, thank you for listening. Join us next time on *It's the Law*.

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