

# Mastering Labor Law

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*Dedicated to—*

*Izzy, Jake & Mindy, with an assist to the Goldens, Bailey & Brie  
(pms)*

*Jim & Giorgi  
(aml)*

*My majestic son Isaac and my fabulous wife, Krista  
(jes)*

*Lynn, Noah & Naomi  
(jmh)*

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# Series Editor's Foreword

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We hope that you will enjoy studying with, and learning from, the Mastering Series.

Russell L. Weaver  
Professor of Law & Distinguished University Scholar  
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# Preface

The field of American labor law faces uncertain times in 2014. In the private sector, almost eighty years after the passage of the National Labor Relations Act, labor and management are stuck in a legislative stalemate—neither side having the ability to push their agendas forward for the last fifty-five years. As a result, students and practitioners of labor law are left wondering how an early 20th century piece of New Deal legislation can continue to have a meaningful role to play in the global and service-oriented economy of the 21st century. The ever-changing decisions of the National Labor Relations Board only adds to the unpredictability frequently encountered by parties to labor disputes.

In the public sector, labor is under attack, ostensibly for providing too generous benefits to their members and not being fiscally responsible in this age of austerity. While these claims are controversial and contested, they did inspire a dozen states, most famously Wisconsin, to enact laws that curtailed or even eliminated the rights of public-sector unions in 2011 (although two such laws were later reversed by voter referendum). Political battles over the rights of public-sector unions continue.

With both private- and public-sector labor law, commentators continue to seek new ways forward in finding a workable accommodation between the interests of labor and management. The American system of labor law continues to struggle to determine how best to divide the profits of capitalism among workers, shareholders, and corporate executives in the private sector, and how to divvy out tax dollars in the public sector. This book does not seek to delve into these policies debates, but merely seeks to present law students, legal practitioners, and other interested parties, with a basic understanding of private-sector and public-sector labor law as it currently exists so that they can critically weigh in on the on-going debate over the best way to structure the future American workplace.

This book covers the major points that are normally discussed and analyzed in most labor law courses, plus it provides additional coverage of public-sector topics that are sometimes covered in a separate, advanced course or seminar.

Although in a book this size it is not possible to capture all facets of American labor law, we do cover the primary procedural and substantive issues occurring under the National Labor Relations Act, related federal statutes (such as the Norris-LaGuardia Act), and various state public-sector collective bargaining statutes. It is our hope that this book will provide an instructive overview of labor law, and offer an easier method for mastering this often-times complex subject matter area.

There are many to thank, including Series Editor Russ Weaver, Marquette University Law School, the University of Toledo College of Law, the University of North Carolina School of Law, the West Virginia University College of Law, and Deans Joseph D. Kearney and Joyce McConnell. Many thanks also go to research assistants, including Myriem Bennani and Matthew Tobin of the Marquette University Class of 2014, Jacob Whately of the University of Toledo College of Law, and Patrick Callahan and Ryan Orbe of the West Virginia University College of Law Class of 2014. Additionally, the authors would like to acknowledge the assistance of the West Virginia University Bloom Faculty Research Grant, the Marquette University Summer Research Grant, and the Eugene N. Balk Professorship Fund.

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