

1. A set of **interrogatories** to be served on each of the defendants you identified (e.g., the driver, NJARTS, Zippy Motors);
2. **Document requests** to be served on each of the defendants you identified (e.g., the driver, NJARTS, Zippy Motors);
3. A list of the people who you think should be **deposed** in the case.

Together, your submittal should be no more than three (3) pages in length.

### **ETHICS CASE STUDY**

Analyze the Coca-Cola Employee Case (Joya Williams) on page 172 of your textbook. Focus on the ethical issues raised by the case and use the following ethics checklist as a guide in discussing the case and what you think would be the ethical and right decision based on your values and ethics, not necessarily the Court's decision. Finally, analyze the Court's decision and discuss if you think it was fair and just and whether you feel that Williams deserved the punishment she received for the crime she committed. Would you have done the same thing Joya Williams did if you were in her situation? Use outside research and add any other thoughts or analysis that you think are relevant to a discussion of the case. Consider the checklist below very carefully as you formulate your response.

Your response should be a minimum of 500 words. Use APA format for citations.

#### **Ethics checklist:**

- What are the facts?
- What are the critical issues?
- Who are the stakeholders?
- What are the consequences?
- Does the conduct violate important values?
- Does it violate the Golden Rule?
- What were Ms. Williams' motives?
- What are the parties' alternatives?
- What are the ethical implications of each alternative?
- Is more than one alternative right?
- Has the process been fair?
- Is the punishment just?
- Which values are in conflict?
- Which of these values are most important?
- Can you find an alternative punishment that is consistent with your values?

*\*Please refer to the Ethics Case Study Rubric.*

### **LEGAL FORMATION CASE STUDIES--MEMOS**

Read the following fact patterns. Assume the role of consultant and prepare a brief memorandum for your clients that suggest the appropriate business structure for their needs. In doing so, **fully explain your reasoning and spell out the pros and cons of the suggested structure. Also, include the reasons why you excluded other forms of consideration.** If there is additional information you would need from the entrepreneurs, indicate the questions you would ask them. **Your response should be a minimum of 500 words.**

1. Green is a talented artist and he creates landscape paintings while working in the open air. Green originally started selling his works at flea markets and small craft fairs. The popular response encouraged him to create a website and start a mail-order business. He outsources some of the printing responsibilities, and hired someone part time to help him ship out his work to website-based customers. He does not currently own permanent retail space, but he has not ruled it out. What business structure(s) would you recommend to Green? Advise Green of the pros and cons of that structure.
2. Sue and Nancy have just patented a coffee-roasting procedure and have plans to open a small, storefront coffee-shop in suburban New Jersey that will be centered around that process. Both have substantial

## ETHICS CASE STUDY RUBRIC

| Assessment Criteria | Exceeds Expectations  | Meets Expectations  |   | Does Not Meet Expectations   |   | Did Not Do |
|---------------------|---|---|---|--|---|------------|
|                     | 5   | 4   | 3 | 2  | 1 | 0          |
| Case Study          | Audit instrument is fully used in evaluating the case   | Audit instrument is used somewhat in evaluating the case  |   | Audit instrument is not used in evaluating the case  |   | Missing    |
|                     | Analysis fully addresses all the required topics: <ul style="list-style-type: none"> <li>▪ Facts of what happened in the situation</li> <li>▪ Effects/results of the conflict in the case</li> <li>▪ Primary issues that led to this conflict</li> <li>▪ Hidden issues and why they exist</li> <li>▪ What should be done to improve the situation</li> <li>▪ The advantages/ disadvantages of your suggestions</li> <li>▪ What could have been done to avoid the conflict in the first place</li> </ul> | Analysis fully addresses most of the required topics: <ul style="list-style-type: none"> <li>▪ Facts of what happened in the situation</li> <li>▪ Effects/results of the conflict in the case</li> <li>▪ Primary issues that led to this conflict</li> <li>▪ Hidden issues and why they exist</li> <li>▪ What should be done to improve the situation</li> <li>▪ The advantages/ disadvantages of your suggestions</li> <li>▪ What could have been done to avoid the conflict in the first place</li> </ul> |   | Analysis does not address the required topics, or does not address them fully. <ul style="list-style-type: none"> <li>▪ Facts of what happened in the situation</li> <li>▪ Effects/results of the conflict in the case</li> <li>▪ Primary issues that led to this conflict</li> <li>▪ Hidden issues and why they exist</li> <li>▪ What should be done to improve the situation</li> <li>▪ The advantages/ disadvantages of your suggestions</li> <li>▪ What could have been done to avoid the conflict in the first place</li> </ul> |   | Missing    |
|                     | Analysis is thoughtful and thorough, linked to course concepts, and demonstrates critical thinking  | Most of the analysis is thoughtful and thorough, linked to course concepts, and demonstrates critical thinking  |   | Little of the analysis is thoughtful and thorough, linked to course concepts, or demonstrates critical thinking  |   | Missing    |
| References and APA  | A total of three or more additional peer-reviewed references are cited in support of the case study; they go beyond what is obvious in the course materials   | A total of two additional peer-reviewed references are cited in support of the case study, but no effort is made to find less obvious references  |   | One additional peer-reviewed references are included cited in support of the case study, or references cited are inappropriate or incorrect  |   | Missing    |
|                     | Paper and references are completely in APA format   | Paper and references are mostly in APA format   |   | Paper and references are not in APA format   |   | Missing    |
| Quality of Writing  | Outstanding quality; flawless presentation  | Good quality; minimal spelling, grammatical, and/or punctuation errors  |   | Poor quality; the frequency of spelling, grammatical, and/or punctuation errors is distracting to the reader   |   | Missing    |
| Overall Effort      | Written work clearly demonstrates exemplary effort; responses consistently show initiative, creativity, and original thought  | Written work demonstrates adequate effort; responses are consistently complete, thorough, and reflect original thought  |   | Written work demonstrates little effort; responses are consistently incomplete, and/or shallow   |   | Missing    |

theft, bribery, or industrial espionage. Generally, a successful plaintiff in a misappropriation of a trade secret action can (1) recover the *profits* made by the offender from the use of the trade secret, (2) recover for *damages*, and (3) obtain an *injunction* prohibiting the offender from divulging or using the trade secret.

### Economic Espionage Act

#### Economic Espionage Act

A federal statute that makes it a crime for any person to convert a trade secret for his or her own or another's benefit, knowing or intending to cause injury to the owners of the trade secret.

Congress enacted the federal **Economic Espionage Act (EEA)**,<sup>1</sup> which makes it a federal *crime* to steal another's trade secrets. Under the EEA, it is a federal crime for any person to convert a trade secret to his or her benefit or for the benefit of others, knowing or intending that the act would cause injury to the owner of the trade secret. The definition of *trade secret* under the EEA is very broad and parallels the definition used under the civil laws of misappropriating a trade secret.

One of the major reasons for the passage of the EEA was to address the ease of stealing trade secrets through computer espionage and use of the Internet. Confidential information can be downloaded onto a flash drive, placed in a pocket, and taken from the legal owner. Computer hackers can crack into a company's computers and steal customer lists, databases, formulas, and other trade secrets. The EEA is a very important weapon in addressing computer and Internet espionage and penalizing those who commit it.

The EEA provides severe criminal penalties. The act imposes prison terms on individuals of up to 15 years per criminal violation. An organization can be fined up to \$10 million per criminal act. The criminal prison term for individuals and the criminal fine for organizations can be increased if the theft of a trade secret was made to benefit a foreign government.

The following ethics feature discusses the misappropriation of a trade secret.



## Ethics

### Coca-Cola Employee Tries to Sell Trade Secrets to Pepsi-Cola

"What if you knew the markets Coca-Cola was going to move into and out of and beat them to the punch."

—Letter to PepsiCo

PepsiCo received a letter sent to the company by an employee of Coca-Cola Company that offered to sell PepsiCo trade secrets of Coca-Cola. The letter stated, "What if you knew the markets Coca-Cola was going to move into and out of and beat them to the punch." The letter proposed selling trade secrets regarding a proposed Coke product code-named Project Lancelot for \$1.5 million.

PepsiCo notified Coca-Cola officials and federal authorities. The Federal Bureau of Investigation (FBI) initiated an investigation into the matter. The federal government brought criminal charges against Coca-Cola secretary Joya Williams. During trial, prosecutors produced

the letter as well as a video-recording of Williams putting confidential documents and samples of Coke products that were still in development into her bag.

Williams was convicted by a federal jury of conspiring to steal Coca-Cola trade secrets and attempting to sell them to archrival PepsiCo. The trial court judge sentenced Williams to 8 years in jail. The U.S. court of appeals upheld the decision. Two other co-conspirators were arrested and pled guilty. *United States v. Williams*, 526 F.3d 1312, 2008 U.S. App. Lexis 6073 (United States Court of Appeals for the Eleventh Circuit, 2008)

**Ethics Question** Did Williams act loyally in this case? Did PepsiCo do what it was supposed to do in this case? How likely is it that PepsiCo would have paid Williams and her co-conspirators the money they demanded?

### Critical Legal Thinking

Why did the founders of the United States place protections for inventors and writers in Article I of the U.S. Constitution? Have these protections become even more important in the current digital age?

### Patent

When drafting the Constitution of the United States of America, the founders of the United States provided for protection of the work of inventors and writers. Article I, Section 8 of the Constitution provides, "The Congress shall have Power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Pursuant to the express authority granted in the U.S. Constitution,