(45)

Management BLAW 3550
EXAM I

INSTRUCTIONS:

Following are six essay questions. You are to answer five of them. The format of your answer is very important! Each answer will be set up exactly like the case briefs you have prepared in class: facts, issue, court holding, legal reasons. Based upon the facts in the question, you should reach a conclusion about who wins and why and then forcefully argue that position in the legal reasons area. If there are counter arguments to your position that could be made, but which you have already decided are without merit, you may review them at the end of the legal reasons-pointing out that they are without merit. List important cases that support your legal reasons.

1. Skip Datruth, the manager of an apartment complex owned by Whiteside, Inc. uses his master key during his off-duty hours to enter a tenant's apartment and then rapes her at knife point. During the investigation of the incident, it is discovered that Whiteside, Inc. had not checked the manager's reference nor inquired about a lengthy gap in his employment history. The tenant brings a lawsuit against Whiteside, Inc. What result? Why?

2. The Fireside Company recruited new "over the road" (OTR) drivers predominantly by word-of-mouth solicitation and recommendations by current employees. Dale Jarrett, a black man who was rejected for the OTR positions, filed suit against the company on the basis that the company's word-of-mouth recruitment was excluding employment opportunities for blacks as evidenced by the all-white OTR driver workforce. The company claimed that the lack of blacks on the OTR driver workforce was due to the lack of interest on the part of blacks in these positions, not the recruitment methods. . There were other divisions in the company that utilized advertising and other recruitment alternatives and the workforces in these divisions were much more racially mixed. The company claims that each division needs to be treated differently and denies any intention of discrimination. Jarrett brings a lawsuit against Fireside for refusal to hire. What result? Why?

Fact:

Bill Acton is a police officer, but he has also been a licensed football official in Ohio for about 20 years. On the average, he officiates about 25 – 30 football games a year for various schools. On one occasion, he was hired by a school to officiate two specific games at $30.00 a game. During one of these games, Acton suffered an injury to his teeth, and he filed suit against the school for his dental injury. Is Acton considered an employee of the school, which would make the school responsible for his injury on the job, or is Acton an independent contractor? What result? Why?

4. Bill and Peggy White attend the annual office party at Smith Stamping, where Peggy works. Bill drinks too much and becomes loud and obnoxious (like many men do when they drink too much) which embarrasses everybody, including Peggy. Peggy's boss, Joe Smith, is quite offended by Bill's drunken antics and, making certain that this will never happen again, discharges Peggy the next day. Peggy has been an excellent employee for several years. Peggy has no written contract and the business is non-union. Peggy brings a lawsuit against Smith Stamping for unlawful discharge. What result? Why?

Irwin Company has 200 employees. 150 of the jobs are unskilled and 50 of the jobs require an apprenticeship and licensure. These 50 skilled jobs pay twice as much as the unskilled jobs. 3 women have skilled jobs and the other 47 are held by men. The local workforce is 40% women. Fearing trouble, the company establishes an in-house apprenticeship program with entry to be 60% women and 40% men until the skilled jobs percentage gets to be 40% women. Several men who have much more seniority than the women are furious when they are passed over and bring a lawsuit alleging discrimination. What result? Why?

Learning Miracles, a chain of day care centers, has a policy of hiring only females as teachers in the centers because management feels they are better nurturers. Kenny Boy Lay, a male who has experience working as a teacher at another day care center, applies for a job at one of the Learning Miracles centers, but is not hired. He brings a lawsuit for refusal to hire. What theory does he use? What result? Why?