

[Opening Assignment]

Don Hoffman, who was employed by the Gatestone Company, beat up the company's industrial manager in a bowling alley. They had argued in the men's room prior to the fight. The company only supported the bowling team to the extent of buying shirts for them. Participation on the bowling team was completely optional. Should Hoffman be fired from his job? Explain.



EMPLOYMENT LAW

[Right to Work v. Employment at Will]

- ‘Right to Work’ states – Employer must have legitimate reason – good cause – to fire an employee
- ‘Employment at Will’ states – Employee can be fired at any time for no reason at all – but not for a wrongful reason

[Employment Without Contract]

- Terminable at Will of Employer
- Exceptions
 - Discrimination
 - Whistleblower
 - Worker's Compensation Claim
 - Union Activity

[Express v. Implied Contract]

- Express – specifically discussed terms governing the employment relationship
 - Can be oral or in writing
- Implied – contract terms implied by law into the employment relationship
 - You get paid for the work you do

[Government Employees]

- Many additional protections at work
- Requires ***due process*** before discharge
 - Notice of Reasons
 - Hearing

[Legal Duties of Employee]

- Obedience
 - Follow reasonable rules and requests

[Video](#)

[Legal Duties of Employee]

- Reasonable Skill

[Video](#)

[Legal Duties of Employee]

- Reasonable Performance

[Video](#)

[Legal Duties of Employee]

- Loyalty and Honesty

[Video](#)

[Legal Duties of Employee]

- Confidentiality

[Legal Duties of Employer]

- Reasonable Treatment
- Safe Working Conditions
- Fair Labor Standards
 - 40 hour week or overtime pay
 - Minimum Wage
- Payroll Deduction

[Employment of Minors]

- Most states have laws that:
 - Set maximum work hours
 - Prohibit night work
 - Set minimum age for hazardous work
 - Require employed minors to attend school

Employment of Minors

Reason for Laws

- Person's early years best used for education
- Certain work is harmful or dangerous for young people
- Child labor at low wages takes jobs from adults

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[Opening Assignment]

In the movie *Philadelphia* why was Andrew Beckett really fired? How did they go about proving that he was fired for a discriminatory reason? What evidence did they use?



Employment Discrimination

[Discrimination]

- Race
- Religion
- National Origin
- Gender
- Pregnancy
- Age
- Disability

Civil Rights Act of 1964

- Prohibits discrimination (race, religion, national origin, gender)
- Prohibits sexual harassment
- Created the Equal Employment Opportunity Commission (EEOC)

[Other Laws]

- Age Discrimination in Employment Act (1967)
- Vocational Rehabilitation Act of (1973)
- Pregnancy Discrimination Act (1978)
- Americans with Disabilities Act (1990)

[Scope of Protection]

- Protection extends to
 - Hiring/Firing Decisions
 - Conditions of Employment
- Applies to Employers:
 - With 15 or more employees
 - Engaged in Interstate Commerce

[Proving Unequal Treatment]

- Direct Evidence

- Open and intentional
 - Example: “no Irish”

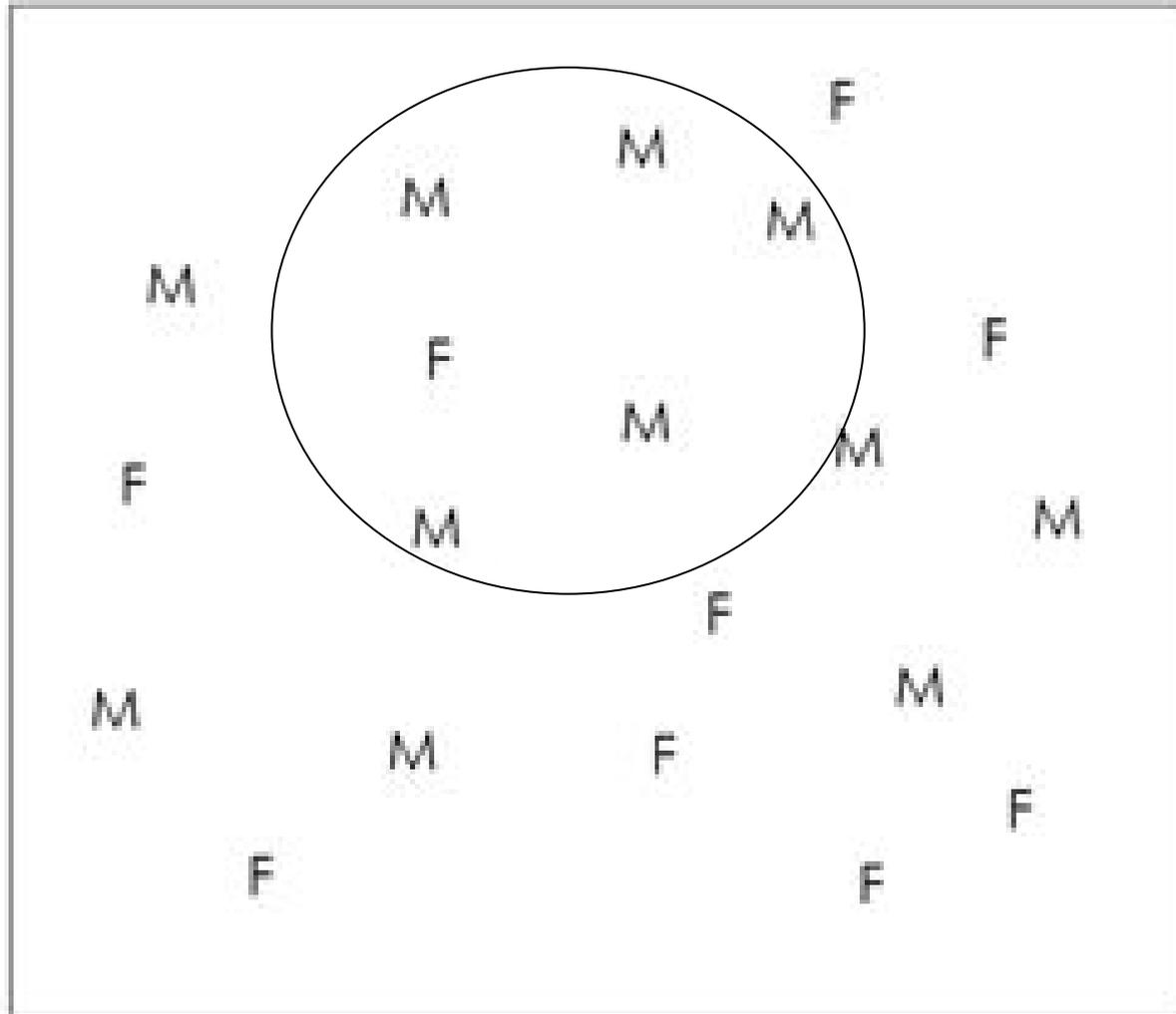
- Indirect Evidence

- Protected person received unequal treatment
- Employer held job open for other persons with similar qualifications

[Equal treatment can be illegal?]

- Examples
 - Employees must be 6'2" or taller
 - Employees must be able to lift 150 lbs
- Proof: Compare job qualifications to characteristics of the general workforce
- Disparate (unequal) impact

[Disparate Impact]



[Defenses of Employer]

- Bona Fide Occupational Qualification
 - Business Necessity - based on certifications, skills or work history
- Seniority

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[Quick Response]

Blue Schroeder umpired adult slow-pitch softball games. One night a batter assaulted Blue with his bat after being called out on strikes. Blue suffered contusions to his pelvis and cranium and incurred \$500 in medical bills. Blue is paid by the Metropolitan Softball Association. He goes to Association sponsored training one day each year and has one game a year observed by an Association representative, but he is generally not supervised otherwise. Argue whether or not the Association should pay Blue's medical bills.



Pseudo-Employment Law

[Employee]

- One who works for another (the Employer) for pay
- Under the direction and control of the employer
- Employer responsible for acts of the employee while acting in the scope of employment

[Independent Contractor]

- One who agrees to produce a finished job
- Without supervision - controls details of own work

[IRS 20 Factor Test]

- **Required to comply with others' instructions about when, where, and how they are to work**
- **Training workers**
- **The success or continuation of a business depends on the performance of certain services**
- **Services rendered personally**
- **Continuing relationships**
- **Doing work on employers' premises**
- **Oral or written reports**
- **Payment by hour, week, or month**
- **Furnishing tools and materials**
- **Right to discharge**

[Agent]

- Person authorized to act on behalf of another (the Principal)
- Can alter the principal's legal relationships with third parties – enter into contracts, etc.

LIMITED POWER OF ATTORNEY

I, [NAME] of [ADDRESS, COUNTY, STATE], appoint [NAME], of _____ [ADDRESS, COUNTY, STATE], my true and lawful attorney-in-fact for me, in my name and on my behalf:

1. To exercise or perform any act, power, duty, right or obligation whatsoever that I now have, or may subsequently acquire the legal right, power or capacity to exercise or perform, in connection with, arising from or relating to the lease of the property located at [ADDRESS], including the execution of all closing documents necessary to the completion of the lease of the premises,
2. I grant to my attorney-in-fact full power and authority to do, take, and perform each and every act or thing whatsoever necessary or proper to be done, in the exercise of any of the rights and powers granted in this instrument, as fully to all intents and purposes as I might or could do if personally present, with full power of substitution or revocation, and by this instrument I ratify and confirm whatever act or thing that my attorney-in-fact shall lawfully do or cause to be done by virtue of this power of attorney and the rights and powers granted by this instrument.
3. The rights, powers and authority of my attorney-in-fact as granted in this power of attorney shall commence and be in full force on the date of this instrument and such rights, powers and authority shall remain in full force and effect thereafter until completion of the lease of the property described above.

In witness, by signing this instrument I affirm all that is written above.

Dated: [DATE]

[Scope of Agency]

- Express authority
 - Duties specifically communicated to agent
 - Can be oral or in writing
 - Written authority is called “Power of Attorney”
- Implied authority
 - Anything reasonably necessary to carry out expressed duties

[Agent Duties]

- Agent must act within the scope of authority
- Fiduciary Duties:
 - Loyalty
 - Reasonable Care and Skill
 - Confidentiality
 - Accounting

[Potential Problems of Agency]

- Communication – The agent must let the principal know anything that would affect the principal's decisions
- Comingling funds – The agent should keep the principal's funds separate from the agent's funds
- Conflict of interest – The agent should always act in the principal's best interest, never for the agent's own benefit

[Apparent Authority]

- Principal leads a third party to reasonably believe that another person has agency authority
- No agreement between agent and principal

[Ratification]

- When an agent acts outside the scope of authority
- Principal knowingly accepts the benefits of the transaction
- Binds the principal and the third party

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[Case 1]

Jane Craig was absent one Monday without notifying the company in advance or calling in. When she showed up on Tuesday, she was asked where she had been and why. "It was personal," said Jane, "and I don't want to tell you why." When she was given a direct order to answer, Jane insisted her reason was highly personal and did not have to be disclosed. The personnel manager said, "This is insubordination and the penalty for insubordination is getting fired." Must an employee state her reason for being absent from work? Explain.

[Case 2]

Several clerks and secretaries at a small college in Wisconsin had their working time in June, July, and August reduced from seven hours per day to six and one-half. One of the clauses of the union agreement was that a normal work week would be 35 hours. "If there isn't enough work," said the union, "it's OK to let them go home at 4 p.m. but you'll have to pay them for seven hours a day. Thirty-five hours a week are normal during the regular academic session but not during the summer." Must the secretaries be paid for 35 hours? Explain.

[Case 3]

Rod Hiser liked to work outside, and when he was hired by the Big Cat Building Company, he was very excited. He was trained to drive dump trucks, graders, backhoes, and bulldozers. One day, while operating a backhoe on Mason Street, Rod was a bit careless and backed the piece of machinery he was operating into the side of Theresa Adams's car. Theresa yelled, "You're going to pay for this!" May Big Cat Building Company be held responsible? Explain.

[Case 4]

The word was: GET TOUGH WITH EMPLOYEES WHO VIOLATE SAFETY RULES. The management of Overbaugh Company had been drilling its supervisors to be extra vigilant and crack down hard on workers who played it loose and easy with safety rules. No more "slap on the wrist" penalties for violators. One day a supervisor spied two employees shooting peas at each other through a peashooter. After watching for about a minute, the supervisor stepped in and put both employees on report. The next day the two employees were each handed three-day suspensions.

[Case 5]

The Magadan Company had a long-standing rule: "Should any two employees marry, either the husband or wife must resign within 30 days." Tito Frank and Cindy Baker moved in together without formally getting married." One of you will have to resign," said the company president. "Your relationship is tantamount to being married. Your status is very much like that of husband and wife." "Our relationship is not equivalent to marriage," retorted Tito. "You cannot arbitrarily create a marriage where none exists." Should be able to force one of them to resign? Explain.

[Case 6]

During working hours, Stella Wingate's and Rhonda West's coats were slashed with a knife by an unknown person. Stella, acting on behalf of both women, reported to her supervisor, "Some #!?!#?!?!# cut my coat to shreds. What kind of #!*% is going on here? Mine was a \$200 coat. Some #!#!#?? is going to pay for this." She then presented her same argument to the company president. The following day Stella was suspended for using foul and abusive language. When she reported back to work after her suspension, she was discharged. Was the discharge valid? Explain.

[Case 7]

Domino Ramo, a young state highway trooper, was promoted to sergeant for "bravery in the line of duty." He learned that every sergeant in the state highway patrol had a quota of 75 speeding tickets to give out per week. "What is this?" inquired Domino. "I refuse to comply. This is completely unfair." Ramo was demoted to his previous rank, whereupon he promptly sued the department for loss of wages and for punitive damages. Should Ramo win his suit? Explain.

[Case 8]

Phil Erickson was a married man who lived with his family in the suburbs. Phil worked in the accounting department of the local city government. His superior, Ruth Ann Ford, discovered that Erickson had rented an apartment downtown and was having an affair there with one of the secretaries. "You're history," said his supervisor. "I know what you've been doing during your lunch hours. This type of conduct is disgraceful." "What I do on my own time is my own business," countered Phil. "I do my job. I work hard and my private life is none of the city's business." Should Erickson be fired? Explain.