

## [ 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

### [ Government Employees ]

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

### [ 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

## Legal Duties of Employee

- Obedience
  - Follow reasonable rules and requests

[Video](#)

## Legal Duties of Employee

- Reasonable Skill
- Reasonable Performance

[Video](#)

## Legal Duties of Employee

- Loyalty and Honesty
- Confidentiality

## Legal Duties of Employer

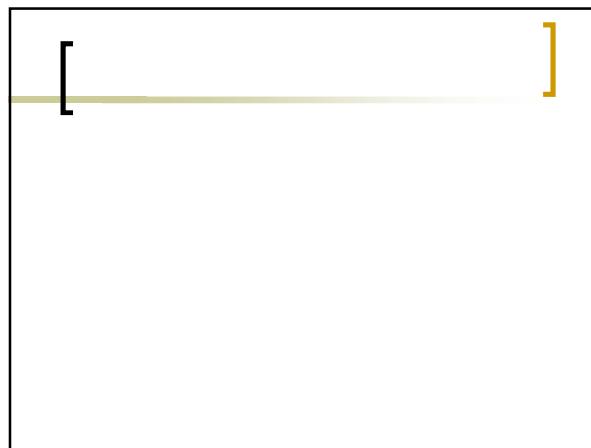
- Reasonable Treatment
- Safe Working Conditions
- Fair Labor Standards
  - 40 hour week or overtime pay
  - Minimum Wage
- Payroll Deduction

## 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



### 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?

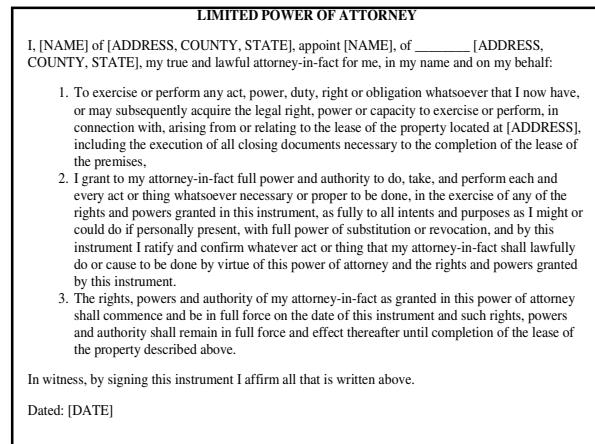
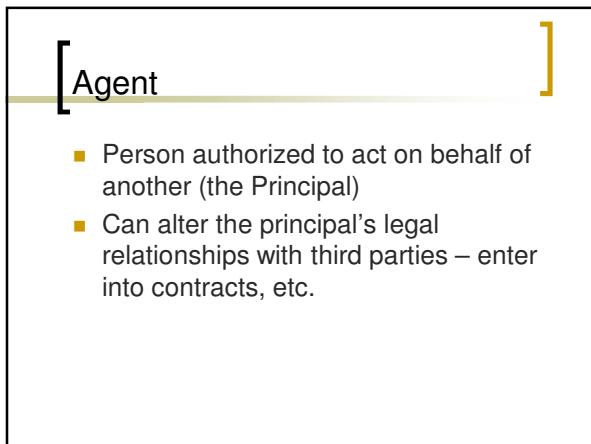
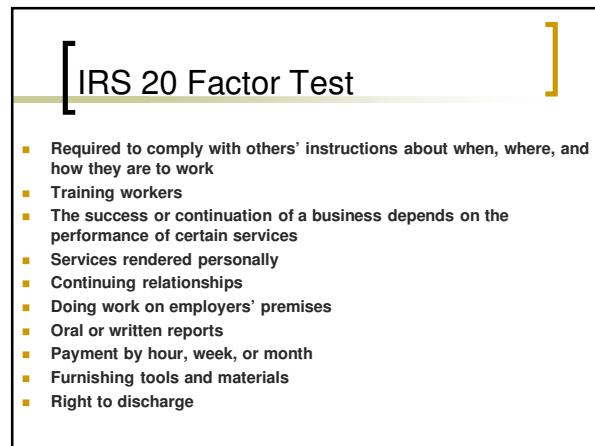
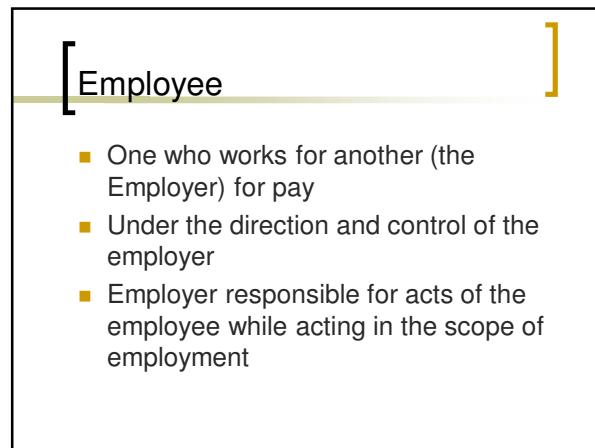
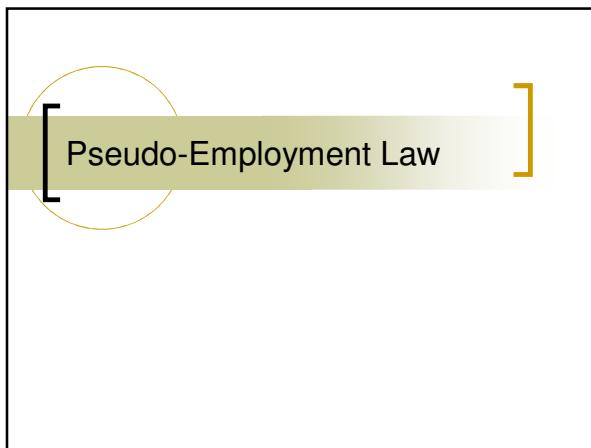
- Examples
  - Employees must be 6'2" or taller
  - Employees must be able to lift 150 lbs
- Proof: Compare job qualifications to characteristics of the general workforce
- Disparate (unequal) impact
- Legitimate requirements for the job?

## Defenses of Employer

- Business Necessity
  - Decision based on skills or work history
- Bona Fide Occupational Qualification
  - Legitimate requirements for the job
- Seniority

## 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.



## 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