

MGT 434-Final Examination

Choose 5 out of the 9 questions.

On a separate sheet of paper, turn in the answers only in this format (note: these are only sample answers)

01. A

02. C

03. D

04. B

(etc.)

The question number on your answer sheet must correspond to the question number on the examination (e.g. if you choose to skip number 4, the answers numbers would be 01, 02, 03, 05, etc.)

Each answer is worth 30 points.

You may answer the bonus question if you wish for a possible additional 5 points credit for a correct answer. Indicate on your answer sheet “Bonus Question”

IMPORTANT: YOU WILL NOT RECEIVE EXTRA CREDIT FOR ANSWERING MORE THAN THE 5 REQUIRED QUESTIONS (WITH THE EXCEPTION OF THE BONUS QUESTION). IF YOU ANSWER MORE THAN 5 QUESTIONS, I WILL MERELY GRADE THE FIRST 5 AND IGNORE THE REMAINDER.

Keep in mind my discussion in class as to the weight of this exam.

01. (This question is based on the hours of a driver prior to January 1, 2004, at which time a new law went into effect with regard to driver's hours. However, the change will have no effect on the answer.) Daylight Trucking owns a large fleet of tractor-trailer units that carries goods throughout Florida and the Southeast U.S. Operating from the terminal in greater Yulee, Florida, Daylight sets schedules for trips North and West based on the U.S. Department of Transportation regulation that permits a driver to operate for 10 continuous hours before taking a mandatory 8-hour break before resuming driving. For trips "down the peninsula" to lower Florida, Daylight allows drivers to drive the full 12-hour trip to the Keys without an 8-hour break. This is permitted by the State of Florida for trips that originate and end exclusively within Florida. Pike, a driver for Daylight, claims that his acknowledged macular degeneration disability requires that he stop driving after 10 hours, and while he gets some driving work for trips that go North and West, he is barred from trips to the Keys because he can't stay at the wheel for 12 continuous hours. Pike brings an action in U.S. District Court to require Daylight to permit Pike to drive the Keys run, and to allow him to stop

the trip and sleep for 8 hours before completing the drive to Key West. Which of the following is true about this case?

(a) Because Pike has claimed a disability that can be reasonably accommodated by Daylight, Daylight will likely have to allow Pike to take the Yulee-to-Key West run as an assignment, and take an 8-hour rest break during the drive to Key West;

(b) Because the origin, destination, and transit of the Yulee-to-Key West trip occurs exclusively in Florida, it is not subject to any discrimination claim for disability;

(c) Pike will be allowed a reasonable accommodation in recognition of the disability, but only if the disability is one that is covered by the law, and only if the accommodation is deemed to be "reasonable"

(d) The State of Florida regulation that allows drivers to drive the full 12-hour trip to the Keys without an 8-hour rest break will be overturned, and that trip will be subject to the same regulations as are the trips North and West.

02. The Merit Systems Protection Board (MSPB) heard the case of Pike, a federal employee who was discharged by the Department of State for inefficiency. In the hearing, both parties presented evidence, and the MSPB ruled that Pike was properly discharged for just cause. There was, however, compelling evidence that suggests that Pike was not guilty of an infraction sufficiently serious to warrant discharge, and Pike brings that evidence to U.S. District Court. The judge in the U.S. District Court reviews the evidence and believes that the MSPB was unduly harsh in upholding the termination. Which of the following is true?

(a) Pike can prevail if he can demonstrate that the discharge was premature, and was not preceded by progressive discipline that provided procedural due process consistent with a notice, a written warning, a suspension, and then discharge.

(b) To prevail, the MSPB need not show that its determination is the best decision, but only that it is a reasonable outcome based on the evidence presented.

(c) Pike can prevail if he convinces the judge that the discharge is too harsh for the infraction that Pike committed, and that a lesser penalty is available under current regulations.

(d) The MSPB will prevail if a preponderance of the evidence supports its decision as the best alternative.

03. McFerrin is injured on the job. His boss told him not to file a claim for worker's compensation benefits, because the company would pay "off the record" to avoid an increase in the insurance rates they would have to pay. McFerrin files anyway, and is discharged for doing so. McFerrin's best claim for wrongful termination against his employer is based on:

(a) breach of the implied covenant of good faith and fair dealing exception to the at-will rule;

(b) a material breach of the implied contract exception to the at-will rule;

(c) a public policy exception to the at-will rule;

(d) there is no violation, because McFerrin had no reason to believe he was not going to be compensated by the employer, and his violation of instructions is not protected.

04. Romulus and Remus worked at the local zoo and were responsible for maintaining and caring for the wolf exhibit and the 8 wolves in the enclosure. One evening, while Romulus was home, he logged on the zoo's e-mail system and sent a message to Remus, who was also at home. The content of the message first covered official business regarding what needed to be done at the exhibit the next morning. At the end of the message, Romulus commented that he would actually prefer to lock the Zoo's Curator in the exhibit for several days and "not feed the puppies" so that they would get hungry and attack the Curator. Remus replied that he agreed and that "for five bucks I'd do it!" During routine e-mail system maintenance the next day, the messages were discovered by a system administrator, who reported the messages to the Curator. The curator discharged the employees for unprofessional conduct. Romulus and Remus sued the Zoo for wrongful termination, citing violation of their privacy rights. Which of the following is most correct:

(a) Romulus and Remus will most likely lose their suit.

(b) Romulus and Remus will win their suit under the "implied contract" exception to employment at will.

(c) Romulus and Remus will win their suit under the "good faith and fair dealing" exception to employment at will.

(d) Romulus and Remus will win their suit under the Model Uniform Employment Termination Act (MUETA).

05. Ms. White decided that she would hire seven employees for her business. From among the applicants, she hired the seven, but didn't choose to interview one, known as "Doc". Doc brought an action with the National Labor Relations Board against Ms. White when he was told by witnesses that Ms. White said "I'll never hire person who has started unions at other businesses. I'd be crazy to hire him knowing that!" Doc brought the action alleging that Ms. Smith committed an unfair labor practice. Which of the following is most correct:

- (a) Doc will lose the Unfair Labor Practice because he is a job applicant who does not yet have bargaining rights with the employer.
- (b) Doc will lose because even if Ms. White declined to hire him because of his prior union activity, Doc's right to claim an Unfair Labor Practice does not have legal standing.
- (c) Doc will lose because declining to hire because of union activity is not an Unfair Labor Practice.
- (d) Doc will prevail in the Unfair Labor Practice.

06. Lucy applied to be a data analyst at Gutcheck Securities, a stock brokerage firm, at the same time that Ethel, a manager, applied for a promotion in the same organization. Lucy had to take an objective qualifying exam that demonstrates her ability to work with numbers efficiently, and she didn't pass. Lucy was upset, but felt better when she discovered that the exam was very difficult. In fact, while only 50% of all men who take the test pass it, the situation for women is worse: only 35% of all females pass the exam! Lucy was complaining about it to her friend Ethel, who had encouraged Lucy to apply for a job with the company. "You think you have it bad?" said Ethel. "In the last five promotions, all have been men! I didn't get this job either! Us women don't stand a chance!" Lucy and Ethel decide to bring legal actions claiming sex discrimination, and the cases end up in court. Which of the following is most correct?

- (a) Both Lucy and Ethel will likely lose, because an objective test is not discriminatory against Lucy, and absent any specific proof, Ethel can't demonstrate that there was in fact an illegal discriminatory act in the subjective selection of a manager for promotion.
- (b) Lucy will lose and Ethel may win, because while the *objective* test that Lucy took is *per se* nondiscriminatory, the fact that no women have been promoted establishes the *prima facie* case of discrimination in management selection.
- (c) Lucy may win and Ethel will likely lose, because while females pass the data analyst exam at a rate that is only 70% of the rate that men do, the selection

method used in the management promotion process is subjective and therefore not subject to a claim of discrimination.

(d) Both Lucy and Ethel have cases that present prima facie discrimination, and both may win.

07. Maria is a lesbian, working as a sales clerk in the shoe department of Banks Department Store. Her supervisor, Frank, refuses to give Maria a raise unless Maria agrees to have sex with Frank. Maria refuses and is denied the raise. She thereafter brings a claim of sex discrimination against Frank. Maria's claim:

(a) is not actionable because harassment of a lesbian by a male is regarded, in the eyes of the law, as same-sex harassment, which is not recognized as a filing claim with legal standing.

(b) is actionable, because the causal nexus of the violate act is a supervisor seeking sex without regard to the affinity orientation of the object of the act.

(c) is actionable, because the basis of the complaint is discrimination on the basis of gender, not on the basis of her sexual orientation.

(d) does not state sufficient information to know whether it is actionable or not.

08. Last Coast Construction recognizes that it has a problem in employment. While 51% of the local civilian labor force (CLF) is female, only 8% of the construction workers are female, presenting a liability for the company. The President of Last Coast, John Last, decides to initiate a voluntary Affirmative Action program to increase the number of females in the construction trades within his company. He decides that at least 50% of construction trades hire will be female until women reach at least 40% of the total construction trades workforce. Which of the following is **NOT** true:

(a) A plan like this will probably be held permissible as a temporary measure to close the gap of women in the construction trades.

(b) There is no requirement that Last Coast Construction link the plan to prior discriminatory action or impact in order to implement this plan.

(c) To maintain permissible status, the sole factor for selection must be gender, at least until the 40% target is reached.

(d) All three preceding statements are true.

09. Robert Ironsides (Hint: he was a television detective who was wheelchair-bound) applied for the position of regional sales manager at Court Systems, Inc. He was interviewed by Perry Mason, the Vice President of Sales. The position requires that the regional sales manager travel by commercial aircraft to various cities, and visit many businesses in each metro area to present the company products. Which of the following is most correct?

(a) It is permissible for Mason to ask Ironsides if he can meet the travel requirement of the position.

(b) If Ironsides can perform the job with accommodation, he will be given the job for which he is interviewing.

(c) If Ironsides can perform the job with reasonable accommodation, he will be given the job for which he is interviewing.

(d) It is permissible to not give Ironsides the position for which he is interviewing so long as Mason makes a good faith offer of employment in a job of equal or higher compensation that doesn't require bipedal mobility.

Bonus Question

Title VII of the Civil Rights Act prohibits discriminatory practices based on race or color that involve:

- a. recruiting employees
- b. hiring employees
- c. promotion of employees
- d. all of the above

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