

Workplace Legislation
Final Exam Question 1
Nance
Fall 2001

Connetta Coleman, a 42 year old former postal worker with a positive 8 year work record was laid off from the Harrison, Arkansas post office. She immediately began to look for work in surrounding communities. In the meantime she applied for unemployment. Eventually, Coleman successfully responded to an ad for an associate at Home Mart, a national hardware store chain. Miguel Lopez, the Home Mart Manager, told Coleman during her interview that her former postmaster had faxed him a copy of Coleman's work records which were very favorable. The postmaster also informed Lopez of Coleman's involvement with ACLU.

Lopez also contacted another of Coleman's previous employers, Robert Smith. Smith told Lopez that Coleman was rabidly anti-union, and provided Coleman's previous job description, duties and pay rate, as well as information concerning her attendance, and the results of a drug test administered while she worked for Smith. Smith also informed Lopez that Coleman left under favorable conditions, although she had been part of a major sexual harassment investigation. Smith forwarded a redacted copy of the report to Lopez.

Satisfied with Coleman's references, Lopez asked Coleman her height and weight, explaining that the job required someone with a "little meat on 'em." He then required Coleman to perform some lifting and stacking tasks in order to determine whether, since she had a prosthetic arm, she would be able to perform the duties of an stocking associate, (although he had in mind to place her as a cashier). After she successfully completed the tasks, Lopez had Coleman fill out a medical history form and told her to get a physical examination. In the meantime he ran a credit check on Coleman, since she would likely be handling money. He also ran a credit report on Coleman's husband.

When Lopez saw that Coleman's husband had terrible credit he questioned her about it, but was satisfied when Coleman explained that they were divorced. Coleman told Lopez that she was under a support order and she had gotten a "little behind while she was unemployed." Although he did not like it, Lopez was concerned that he could not refuse to hire Coleman on the basis of the support payments, so he gave her a job. Coleman then claimed that her 1st 60 days wages were exempt from garnishment because all she owned was "her paycheck and the clothes on her back." Given all the complications, Lopez wondered if Home Mart would get anything for its trouble.

A little more than a year later, things deteriorated for Coleman. She was ill for two weeks due to the flu for two weeks, and was off work without pay. She lost her health insurance. Lopez questioned the legitimacy of her absences and put her on 2nd shift. The clunker she bought to get her to and from work broke down. She wrote the mechanic a check which bounced and he obtained a judgement against her and garnished her paycheck. Coleman then filed for bankruptcy. Lopez fired her for absenteeism, the garnishment and for being bankrupt.

Discuss all the issues raised by this scenario, including the rights and responsibilities of the parties, and any potential claims as well as liabilities.

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Bo Liu is the owner of We Clean Best (WCB), a 72 employee office cleaning service. WCB has a contract to clean several federal facilities located throughout the state of Arkansas. In addition to providing the labor, WCB provides all the supplies and equipment needed to perform the cleaning. Liu includes all bonuses and holiday pay in his calculations of the hourly rate employees receive. Employees are expected to prepare all their equipment and supplies before clocking in.

Liu employs several disabled workers. She believes in giving everyone willing to work hard the chance to do so. Because the building she cleans needs to be maintained on the outside as well, several employees of Liu's employees cut the grass, trim the hedges and lay sod when needed. She does not pay these employees overtime as she deems them to be agricultural workers. She pays her disabled workers the FLSA sub-minimum wage. Liu pays all her workers the value of their fringe benefits in cash.

In addition to the cleaning crews, Liu employs several supervisors and two managers to oversee the work. She also employs an accountant and 2 office managers. These employees are paid salaries from which Liu deducts pay for late or missed days. The office manager regularly works alongside the cleaning staff when there is a shortage of employees in her area. Liu also pays her less than her male counterpart, because she feels men need to provide for their families. In fact, the women in Liu's workforce are generally compensated less than the men.

Liu also employs high school students part-time in the evenings. The students strip, wax and buff the floors, and run the trash compactors. They generally work from 5:00 until 11:00 p.m., 4 nights a week.

Liu carefully screens her employees before hiring them. All applicants are fingerprinted. She is particularly sensitive to immigration issues. She requires certain applicants to provide a passport, drivers license and social security card. Liu keeps copies of the documents for 6 months.

All the chemicals the employees use are conveniently labeled according to their use, for example floor product 1 (meaning this product should be applied first). Liu suggests but does not require employees working with stripper and other strong solvents to wear the proper protective equipment. Several employees suffered fainting spells after accidentally inhaling various chemicals.

Liu has hired you as an employment consultant to her firm. Evaluate her current practices. Advise her of any needed changes, as well as any potential liability she may be facing.