

Edans 2012

1. Andrea Santee/Windsor Court Hotel

a. Race or color?

Maybe EH was dark skinned

Even if not, blacks can discrimination v. blacks

Race or color + ["inappropriate hair"] Martin Marietta

703(m) as in Desert Palace?

Grooming code + Proud to be black

Is latter statement "a motivating factor"?

Was Exec Housekeeper the decision maker?

Even if not, was she the "cat's paw"? (Staub v. Prpctor Hospital)

MDC and pretext of grooming code? Comparators?

b. Sex discrimination? No facts, would need comparator(s)

c. Race +sex? Not enough info

2. Duke Study

a. ADA

Is obesity a disability?

"morbid obesity" yes, especially after ADA

maybe slightly overweight not a disability

If so, intentional discrimination (no need to look at accommodation)

Is there a defense?

"Voluntariness" won't work

ADA BFOQ? not reasonably necessary for job so irrelevant

Not "qualified"? no indications this is lacking

No business necessity because not impact (Johnson Controls)

b. ADEA

Age Impact? Need stats to see how strong correlation is

Assuming stats, is there an RFOA?

Uncertain if "reasonable" but weight is not age (Biggins)

3. Brandi Cochran/Bluto Bounties

a. Sexual Harassment Title VII claim

"Severe or pervasive"? facts unclear

Employer liability?

Was Jaundice a supervisor? Authority v. oversight/assignment

If yes, strict/vicarious liability w/Ellerth Defense?

Don't know Er policy, implementation, etc.

Sounds like she did not report it

If not a supervisor, negligence only; no knowledge = no liability

Timeliness: was last related episode w/in time (Morgan v. Amtrak)

b. Sex discrimination discharge Title VII claim

703(m) "drama of battered women" even if "no drama" = LNR for MDC

Good news for her with compensative and punitives

c. Lactation discrimination/PDA not at issue (no adverse action)