FINAL EXAMINATION
In
EMPLOYMENT DISCRIMINATION LAW
December 18, 1998
Professor Shanor

This 2½-hour exam contains seven short answer questions of approximately equal weight.

Please write all your answers in the space provided on the exam. I have been generous with writing space; you should attempt to be focused with your answers.

Write your exam number on each of the exam pages and in the space provided below for the Honor Code pledge.

The exam is open book; computers and assistance from other persons is prohibited; additionally, since the exam is being administered to different members of the class at different times, please be especially careful not to discuss anything about the exam in front of classmates who have not taken the exam.

If you believe you need additional information to analyze any questions, state what you think is needed and why it makes a difference!

Read, think, and organize before you write!

GOOD LUCK!

I acknowledge that in this, as in all other Law School activities, I am bound by the Honor Code.

Exam Number: [Redacted]
Seven short-answer fact patterns follow. Please analyze the legal issues posed by each fact pattern under the employment discrimination statutes we have studied. You are provided with one page of lines on which to analyze each fact pattern (each page is labeled by the name of an employee).

1. Nora Perkins was hired in December 1997 as associate director of a health maintenance organization (HMO) trade association for a 90-day probationary period. During Perkins' job interview, Director Lea Bennett told her that the annual HMO Convention in September would be a large time commitment. At the time of her interview, Perkins was pregnant, but did not inform Bennett of her condition until two weeks after she started work. When told of Perkins' planned eight week maternity leave, Bennett expressed concern about such an absence during the months before the convention, its likely effect on the other employee working on the convention, and that another candidate did not have "this issue." In February 1998, Bennett fired Perkins, saying that Perkins' lack of health care background required the rewriting of letters drafted by Perkins and that Perkins was having trouble finding speakers for the convention. After filing a charge and receiving a right-to-sue letter from EEOC, Perkins filed suit.

2. Angelo Rodriguez, a Roman Catholic police officer in Chicago, sought an exemption through internal complaint procedures from his scheduled assignment to guard an abortion clinic during anti-abortion demonstrations. He cited his religious belief that individuals should avoid participating in or facilitating elective abortions. Following a subsequent assignment to guard the clinic that occurred in the normal course of police beat rotations under the seniority-based job bidding system, Rodriguez filed a charge with the EEOC. The EEOC investigation disclosed that, if Rodriguez had sought a transfer to another precinct, he could have avoided guarding any abortion clinic. He had not sought such a transfer, however, because such a reassignment might have placed him in the line of fire between rival street gangs in the other precinct.
3. Anna Richardson, Mayor of a major American city recently acknowledged that, of 100 positions she had filled in city government since her election in November, 1996, 25 went to black males, 25 to black females, 25 to white males, and 25 to white females. The Mayor has a long history of support for affirmative action, contract set-asides for minorities, and “race and gender fairness.” In fact, the city over which she presides is comprised of almost equal numbers of residents in each of these demographic groups.

4. David Koresh, a 58-year-old California-based aeronautical engineer, was given two weeks notice of being laid off on New Year’s Day, 1995. The company for which he worked told him this layoff was due to a decline in military business, but Koresh suspected that the real reason was that his pension was scheduled to vest in February, his tenth anniversary with the company, and he had heard that the pension plan was under-funded. When a former colleague told Koresh in August that his job had been taken over by a newly-hired but experienced 50-year-old engineer, Koresh filed a charge of age discrimination with the EEOC. When EEOC processed his charge at what Koresh thought to be a “glacial pace,” Koresh obtained a right-to-sue letter in September 1998 and filed a private ADEA suit several weeks later.

5. Phil Quick, a white heterosexual male working as a heavy equipment operator in a plant whose managers and line employees alike were predominantly male, complains of sexual harassment by other employees. First, he complains that he has been “bagged” several times by coworkers. “Bagging” consists of “the intentional grabbing or squeezing of another employee’s testicles.” Second, he complains that several employees have suggested orally and in writing that he is homosexual (for example, tags were placed on his forklift by various employees calling him a “pocket lizard lifter” and accusing him of deviant activities with a cucumber). Phil’s employer has no policy against sexual harassment.
6. Geneen Greenfield, a black part-time employee of Help for the Homeless, a small nonprofit organization which dispensed clothing and food to the homeless, found that she couldn't perform her duties within the 20 hours per week of her employment. Greenfield's boss stated that the organization's primary source of funds, the United Way, would not provide enough funds to hire Greenfield full-time. Irritated, Greenfield said "You won't upgrade my job because I'm black. You'll change your tune after I complain of this racism to United Way." Greenfield's boss said "If call the United Way, I'll have to fire you." Greenfield called United Way and was fired.

7. Fred Rogers, after five years on the job, was fired in July by his division supervisor for "poor performance." After his discharge, Rogers told his division supervisor that he had been diagnosed in May with clinical depression, that he had just begun taking medication, that all he really needed to do his job properly was time off for an adjustment period, and that he wanted his job back. Prior to discharge, Rogers had mentioned to both a co-worker and his immediate supervisor that he was "feeling kinda down." He had also, in February, undergone counseling with an Employee Assistance Program (EAP) psychiatrist. No report of that conversation was made to management, however, because of requirements that all employee communications with the EAP remain confidential.
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1. Nora Perkins, Tolan in the individual nature of this action, an individual (proprietary trademark case B.G.R.) will be allowed. Tolan I or (20th) product discrimination against individuals because it is not made that discrimination pregnancy, ethnicity and related medical conditions. Nora will First individually a person face, race of discrimination or the home a relative tuna [McClain magnifies (indolent outcome) or (see below) above, (short: exclusion of due) should be discriminatory if a requirement (Such Dawson) and that can be obtained from Beattie's comment and regulation B. Norris' pregnancy-related condition where a number will also be found in your comment (especially benefit) referred to "this issue." The difference between the B.G.R. and (PHH) pornography is in the balance, it is not required by the defendant. Under (BBCA) his defendant will only have to articulate a hypothesis based on discriminatory reason which would be Nora's inability to make the following "to recognize the substantial to the condition, because the only way the condition are associated must be remedied must be the substantial benefit of it must be made to show pretext [discrimination based on pregnancy (Sureדר)] unless. The same benefit would have the benefit of its part to show that, even though pregnancy and not during the week, the more employer believes would be believe because the Tolan (Centro, West Co.) and a (1992) Board opinion: because the plaintiff and the other benefit evidence would be excluded. Nora would have force which would make the time recorded by the Board. That would come with the benefit. Properly organize the (BBCA) four decisions properly guide the matter after the Board's decision. The same decision is made but it has been said as of the information. No Board would have faced what the plaintiff during the interview: by telling Board would have faced what the Board during the interview: by telling Board. Of course would not be the same accommodation in the organization that the conference would not have been able to be made accommodation in the organization that the conference sure that another bad everything could have been on by the third time to know if there was not accepted. We could have faced what the clear preference is clear. Because of pregnancy, accommodation, pregnancy and thinking under the BBCA must hold (not discrimination can be made by pregnant women). Nor really relies on right to accommodation but the fact that potential condition of pregnant woman (Gates). They cannot wait until there is a viable to do something at the time of pregnancy. (Pavone Controls) - Undecided.

I will try to study more about evidence in trying to push forward the alternative defense. Under anyting, these will be able to make allowing food and water until. It is not certain of the will take for not to make that, will still allow those which are still another.
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2. Angelo Rodriguez successfully brought a claim under the Pregnancy Discrimination Act. Rodriguez was employed by the company in question as a data entry clerk. Rodriguez claimed that the company discriminated against him because of his pregnancy. The company argued that Rodriguez was not qualified for the position he was hired for. Rodriguez claimed that his job duties were not affected by his pregnancy. The court agreed with Rodriguez and found that the company had discriminated against him because of his pregnancy. The court ordered the company to pay Rodriguez damages for his discrimination.
3. When a person is alleged to be subjected to unlawful discrimination on the basis of race, color, religion, sex, or national origin, the plaintiff must establish a prima facie case of discrimination. Typically, this involves demonstrating that:

- the plaintiff belongs to a protected class;
- the plaintiff suffered an adverse employment action;
- the plaintiff was qualified for the position;
- the adverse action occurred under circumstances that give rise to an inference of discriminatory intent.

If the plaintiff establishes a prima facie case, the employer must then provide a legitimate, nondiscriminatory reason for the adverse action. If the employer's reason is found to be pretextual, the plaintiff may still prevail in the case. The burden then shifts to the employer to prove that the reason given for the adverse action is true.
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Professor Shanor

a. David Korem

The 420 (res. 366) principles distinguish board as age but other
health benefit in 'good cause' and legitimate non-discriminatory factor. When broad age, here
we have a discriminatory issue at discrimination. The question is a younger (but does so
potential group) plan was approved by Branda's state to evidence at least or on
August 2,000 to various to the discrimination was 'benefit of age' or
'benefit to group plan was similar to what'. The basis of age or the benefit is not
allowable under the ADA even it is a violation because it is not
allowable under ADA. The guarantee of at least or it is also a legitimate non-discriminatory reason because
determined being good under the ADA. The question on how can however is
a potential one even in a case of age issue (and in need of because the younger person
was employed, is dealt in more with this action). The ADA follows that is made
right to the guarantee for withholding denying. A charge should be filed within (a
week if state agency needs) filed the occurrence of a violation. In terms of
state (August 2000 onwards) the time of occurrence in is done it has
action at the decision (which is more very the second before the end of this 1998)
The year could be regarded as an ongoing violation (as of November - December 2000)
but the charge not is still charge in basically. Time 2000 before the end of this 1998
in August 1998 so 2,000 charge - presumably where an state agency exists -
and significant changes will not be timely to the state where the significant
change the state people to 2000 and this changes will in that case be timely.
Then if a specific time limit, which the ADA should make a determination -
would would however, have been submitted to either right to see file may since
true nothing means we the ADA. And must whether the action is the request to cor-
plete within 120 days of filing the claims will have the advantage of state files
provided may eliminated mythologies. Today's hearing is Zepp's (TAM) the cases are
not full during permitted to grievance procedures (Ride) and it will fill whom
the ADA will fail in a local office is filed to forward it (unlinking and question
when the ADA state agency exists) based does not have a strong case on the
issue.
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5. Phill Quick's boss, Mr. Bower, is a lawyer. In Mr. Bower's opinion, discrimination on the basis of sex and race has no basis in law today. All sex and race-based discrimination is a violation of civil rights and must be stopped. If someone violated a civil right, Mr. Bower would take the necessary action to have the person arrested. He would even go to jail if necessary. Mr. Bower believes that the government does not have the right to prevent discrimination. He thinks that discrimination is a private matter, and the government should not interfere. He believes that the government should stay out of people's lives and let them make their own decisions. He thinks that the government is the cause of discrimination, not the solution.

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Employment Discrimination Law

December 18, 1998

Professor Shanor

State of New York

County of Allegany

In the Supreme Court of the State of New York, County of Allegany

Civil Action No. 98-1234

Plaintiff

v.

Defendant

On behalf of the Plaintiff,

By counsel for Plaintiff,

Defendant

By counsel for Defendant,

Plaintiff hereby moves for judgment on the pleadings against the Defendant.

Plaintiff alleges that the Defendant engaged in unlawful discrimination in violation of the Civil Rights Law of the State of New York.

Plaintiff asserts that Defendant engaged in a pattern of discrimination against the Plaintiff by failing to provide equal employment opportunities.

Plaintiff further alleges that Defendant engaged in a policy of discrimination against the Plaintiff, resulting in the Plaintiff being denied advancement opportunities and being subjected to harassment.

Plaintiff seeks an order compelling Defendant to cease and desist from such discriminatory practices and to provide back pay and other damages.

Plaintiff respectfully requests that this Court grant Plaintiff's motion for judgment on the pleadings.
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December 14, 1998

Professor Shanor

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