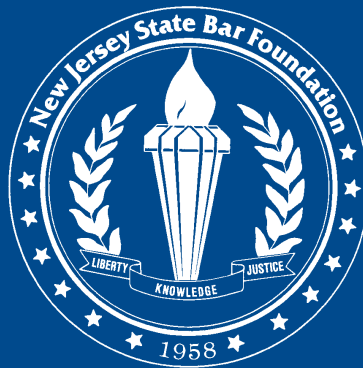




MOCK TRIAL EXERCISES

FOR GRADES 7–8



Featuring Winning Cases from the
New Jersey State Bar Foundation's Law Adventure 2009 Competition

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Preface

In 1995-96 the New Jersey State Bar Foundation launched a unique, law-related education program for middle school students – the Law Adventure Competition.

Students in grades seven and eight and their teachers are invited to create original mock trial cases. Each year the Foundation provides two themes for cases. The cases are judged on the basis of originality and educational value in teaching students about their legal rights and responsibilities. Winners are selected in each grade level. The trials are then conducted before student audiences at special Law Adventure programs in the spring. The seventh- and eighth-grade audiences serve as juries.

Following are the winning cases from the Law Adventure 2009 Competition. Themes for the 2009 contest were as follows: (1) Unlawful Discrimination – This can include, but is not limited to, age, gender or physical disability (2) Second Amendment Issues.

The cases may be used as a guide to prepare a submission to the Law Adventure Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purpose of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

These exercises were created by children and are intended for school use only. Any resemblances to characters, names, events and circumstances are intended only for the purpose of education, and all characters, names, events and circumstances described herein are fictitious.

This project is made possible by funding from the IOLTA Fund of the Bar of New Jersey.

Law Adventure won the Award of Excellence in the 2002 Associations Advance America Awards program, a national competition sponsored by the American Society of Association Executives in Washington, D.C. This prestigious award recognizes innovative projects that advance American society in education, skills training, community service and citizenship.

If you would like to participate in the Law Adventure Competition, please call 732-937-7519 or e-mail sboro@njsbf.org.

For information about other free, law-related education services available from the New Jersey State Bar Foundation, visit us online at www.njsbf.org.

Not So Cheerie School

SCHOOL

East Brook Middle
Paramus
Grade 7, First Place

TEACHER

Kathy Murray

STUDENTS

Erik Helstrom, Michelle Park, Danielle Villa,
Cindy Wu

FACTS

Scora G. Oal moved to the United States from her home country, Iraq. Her family wanted to create a safer life in America. There were many cases of shootings and terrorist attacks in Iraq when they were living there. She decided to attend Cheerie Public School, a mostly Caucasian magnet public school in Northern Bergen County. Even though the school required students to wear uniforms, they kindly made an exception for her so she would be able to wear her Islamic clothing. Scora has to wear a headdress and loose fitting clothes that cover her whole body, but her family is not as strict as many Muslims. Her parents allowed her to wear loose fitting pants and a tunic ever since they moved to United States, but she still has to wear her headdress. This clothing is very important for Scora G. Oal's family and their Iraqi culture.

In Iraq, she liked to play soccer and was the best player there. During her first week in Cheerie Public School, she decided to go to the soccer tryouts that were being held after school. The tryouts did not require her to wear any special soccer clothing. So, she wore loose fitting pants and her headdress. After seeing the other girls try out, she was confident that she would make the team. Some of the girls were pretty decent players, but many had poor coordination and frequently tripped over the ball, including her new best friend, Ava Ridge. Scora was the best player here, too.

On Friday, she rushed to see the soccer team tryout results. She didn't see her name on the list, and thought there must be some mistake because Ava had made the team. She and Ava went to see the soccer coach. The coach told Scora that her clothing was unsuitable for soccer because it was unsafe for her and other players. Unless she changed her clothing, she couldn't be accepted as a team member. They called down the principal, Iam Cheerie, but he wouldn't make another exception.

After a while of trying to convince the coach to let her on the team, Scora gave up. Feeling that the school could have made an exception for her, she is now taking the school to court for discriminating against her due to her need to wear certain types of clothing because of her religious beliefs.

ISSUE

Did the coach violate Scora G. Oal's Fourteenth Amendment right by not allowing her to play on the team because of her clothing, as required by her religious beliefs?

WITNESSES

For the Plaintiff

Scora G. Oal

Ava Ridge

For the Defense

Hatie Yoo

Iam Cheerie

WITNESS STATEMENTS

Testimony of Scora G. Oal

I am a new student here at Cheerie Public School. I am also an immigrant to the United States from my home country of Iraq. I am a Muslim and my family moved here with the hope that we would have a safer life, away from the war in Iraq. As a strict follower of Islam, I follow the Islamic dress code. My parents are allowing me to wear loose fitting pants and a tunic instead of the traditional dress I used to wear in Iraq, but I still have to wear the headdress. The principal of Cheerie Public School, Mr. Iam Cheerie, let me wear my Islamic clothing at school even though it went against the school's uniform requirement.

Back in Iraq, I loved soccer and I still do. I was the very best player and was the MVP when I was on the team that won the city's championship. During the first week of school at Cheerie Public School, I saw that soccer team tryouts were being held on Thursday. I was eager to go and couldn't wait. My new best friend, Ava Ridge, and I went to the tryouts. I think I did better than I ever did before. The other girls were pretty decent players, but they had some things to work on. I was given many positive comments from others, and I thought I would definitely make the team.

The next day, I looked at the notice board to see who had made the team. I saw that Ava had made the team, but I was upset that my name was not on the list! Ava and I agreed that there must be something wrong and we went to see the coach, Hatie Yoo.

When I went into her office, Coach Hatie Yoo told me that she thought I was an exceptional player, but the soccer rules had to be followed. She told me that unless I followed the dress code for soccer, I could not be on the team. I asked her to make an exception, but she told me that if I couldn't wear the jersey, then the players could not tell what team I was on. We ended up calling the principal, Mr. Iam Cheerie, but he explained that he had no power to change anything. He told me that we have to follow the rules of the game and that he had already made an exception for me.

I did my own research and found out that a soccer player in another league had been given a uniform exception. Now I have my doubts that the Coach's decision was completely about the dress code and that they couldn't make an exception. I am now suing the school for what I think is discrimination against my religion.

Testimony of Ava Ridge

My name is Ava Ridge. I have been a student at Cheerie Public School since kindergarten, and my sisters both graduated from this school.

On the first day of school this year, I saw a new girl in my homeroom. I saw that she was standing around without any friends. I went up to her and introduced myself. We instantly bonded and quickly became friends. We talked about our interests, and found out that we both love soccer. I watched her play after school at the soccer field behind our school - she is absolutely amazing at the sport! I bet a million bucks that she'll get a soccer scholarship after high school.

I suggested that we go try out for the school's soccer team. I was positive that Scora would make the team. But, I wasn't absolutely sure about me; I'm not the best, just average. Scora agreed to try out.

At the tryout, there were many girls there, hoping to make the team. Most of them weren't that good. And, as always, Scora was fantastic. The next day, she and I went up to the school's notice board and searched for our names. I only found my name, but not Scora's. We both knew something was wrong; Scora couldn't *not* be on the team. We then went to Coach Yoo's office and asked why Scora wasn't on

the team. She said that she was a good athlete, but her clothes were unacceptable for soccer. Scora asked if Mr. Cheerie could make an exception, but he said that was not possible. I was shocked. Scora and I kept trying to convince Coach Yoo but she was unmoved. Scora looked on the Internet and found that there were exceptions made before. I agree and get the feeling Coach Yoo could've let Scora on.

Testimony of Hatie Yoo

I'm a soccer coach for an all-girls soccer team at Cheerie Public School. I told Scora that she wasn't placed on the team because she follows the Muslim dress code at all times. Her headdress isn't allowed in this sport because it doesn't follow Cheerie Chipmunks' soccer dress code. She also has to wear long pants, and we require that all soccer players wear shorts. She is an exceptional player, but her clothing goes against the soccer league dress code.

On September 11, 2001, I lost my husband. My husband worked in the World Trade Center. One morning, after getting his breakfast, a plane crashed into the two towers. He didn't have time to escape. I was devastated when I found out from one of my friends that worked there that he died during the deadly fire trying to escape. Ever since losing my husband, I've been making sure that no one gets hurt, and that everything I do or decide is safe for everyone. If Scora plays and she gets hurt by wearing her clothing, I'm sure that the school would be in deep trouble, and Scora will have to spend a great amount of time trying to recover. That will be very sad, considering that Scora is a very talented soccer player.

I'm sorry, but how Scora dresses goes against the soccer dress code. If she continues to wear her clothing to play soccer, I'm sure that soon enough, she'll get badly hurt, and that would be horrible. Safety is my first priority, so I'm only trying to protect Scora. Please don't take my position the wrong way. I've seen her play, and she is incredible, but I would rather have her safe than having Cheerie Chipmunks win soccer games with her on our team.

Testimony of Iam Cheerie

I am the principal of Cheerie Public School. I was very delighted when Scora enrolled in our school, because I want a variety of students attending this school. There was only one problem; Scora was required to wear Islamic clothing and the school's rules required students to wear uniforms. I decided to make an exception so that she could wear her Islamic clothing to school. But when Scora requested that I let her play on the soccer team despite her clothing, I would absolutely not make another exception. It also seemed that Hatie Yoo had a reason to reject Miss Oal from the team: the girls' safety. When I found out that Scora was taking the school to court for discrimination against her religion, I was taken aback.

Before 9/11, Mrs. Yoo never discriminated against any religions or races. Since then I have seen her grieve over her husband's death. I realize she has never been able to forgive those people responsible for 9/11, but I don't think she blames all Muslims for his death. And since then, she has become very safety conscious. In order to prevent more accidents from happening, Mrs. Yoo has been more careful to have strict rules so that the Cheerie Chipmunks are accident free and safe. I can see why she wouldn't want Scora to play, for if she wore her clothing, she could get hurt really badly.

INSTRUCTIONS

The plaintiff must prove by preponderance of evidence that Scora's Fourteenth Amendment right was violated by Cheerie Public School for not allowing her to play on the team because of her religious clothing.

SUB-ISSUES

1. Is it possible that Scora could change her clothing?
2. Is Scora's clothing really dangerous for soccer?
3. Is Coach Hatie Yoo's safety precaution really necessary?

4. Who has the authority to decide whether Scora's clothing should be allowed, the principal or the soccer league?
5. Have exceptions been made for other students in other cases?
6. Could Coach Hatie Yoo's decision be based on her 9/11 experiences?
7. Is Coach Yoo discriminating against Muslims and confusing them with Middle Eastern terrorist groups?
8. Was Scora not allowed on the team for safety reasons or prejudice against her?

CONCEPTS

1. Credibility of witnesses.
2. Burden of proof.
3. Prejudice based on religion.
4. Responsibility of school to create a safe environment.
5. Illegal discrimination.

LAWS

1. The Fourteenth Amendment to the Constitution of the United States of America entitles everyone to equal protection under the law.
2. The Official Site of US Soccer (ussoccer.com)
2007/2008 Laws of the Game
 - a. Law 4 - The Players' Equipment
 - b. Basic Equipment lists that a player shall wear: "a jersey or a shirt, shorts, stockings, shinguards, and footwear."

The Night the Knight Was Banned from the Round Table

SCHOOL

Bloomfield Middle
Bloomfield
Grade 7, Second Place

TEACHER

John M. Shanagher

STUDENTS

Stefanie Augis, Jelani Bobcombe, Joshua Brown, Anthony Cafaro, Justin Chen, Dakota Dangler, Tiffany Dela Cruz, Giovanna Discepolo, Morgan Drucker, Sarah El Harmassi, Erin Fallert, Greyson Frazier, Andrew Gonzalez, Tala Ismail, Willow Kantrow, Gabriel Kliwinski, Ivan Medina, Matthew Medina, Dakota Nguyen, Samantha Nieve-Silva, Christopher O'Mullan, Katherine Rojas, Odalis Rojas, Matthew Song, Natalia Velazco, Ryan Wallace, Ezekiel White

FACTS

Swords and Shields is a live entertainment dinner/theater designed to provide customers with an authentic medieval tournament experience. While customers enjoy a medieval feast, a tournament takes place, which includes knights simulating jousting on horseback. Food, costumes, and special effects were designed to recreate exactly the atmosphere one would have found at a medieval banquet.

On June 12, 2008, tryouts were held to choose a new knight. Hsu Eng, a 27-year-old Asian man with many years experience as an equestrian, auditioned for the role of the knight. The company chose another man. Hsu Eng felt that his skills were far superior to those of the man chosen by *Swords and Shields*. Hsu approached the manager and asked the reason for her choice. The manager explained that *Swords and Shields* was committed to providing its customers with the most realistic experience possible. She explained that the company had spent a great deal of money to convince people that they had been transported back to the Middle Ages. She further explained that historically there is no evidence that Asian men participated in medieval tournaments. She agreed that Hsu Eng had given the best audition, but unfortunately his Asian features would not be historically accurate. Hsu Eng is suing *Swords and Shields* for illegal discrimination.

ISSUE

Did *Swords and Shields* illegally discriminate against Hsu Eng when they refused to hire him based on his appearance?

WITNESSES

For the Plaintiff

Hsu Eng
Marian Ivanhoe

For the Defense

Guinevere Song
Lancelot Gallup



WITNESS STATEMENTS

Testimony of Hsu Eng

I am Hsu Eng, and I am suing *Swords and Shields* for illegally discriminating against me. I have been a champion rider and trainer of horses for many years. As a child, I read everything I could find about King Arthur and his round table. When I read the ad in the newspaper saying that *Swords and Shields* was auditioning knights, it was like a dream come true.

At the auditions, each of us was tested to determine our riding and jousting skills. After each test, I was sure I had performed better than the other riders. So, I was shocked when I was not chosen. The man they picked was a decent rider but clearly did not perform up to my level. As a matter of fact, at one point he actually fell off his horse! I approached Mrs. Song, the manager, and asked why the other rider had been chosen over me. I couldn't believe her explanation. She actually said that even though I was the better rider, she hadn't hired me because of my physical appearance.

I believe that customers pay to see the best riders competing against each other. I don't believe they care about the riders' physical appearance. *Swords and Shields* discriminated against me based on my race.

Testimony of Marian Ivanhoe

My name is Marian Ivanhoe. I am currently the manager of *Middle Ages Tournaments*. Our dinner theater competes with *Swords and Shields*. Over the years, we have hired people of all races, and the audience has always been satisfied. Our customers say that they feel as if they had been transported back to the real Middle Ages. We have never had a complaint about our knights even though they represent different races. We hire knights based on their ability to ride a horse and their ability to interact with the audience. Had Hsu Eng auditioned for me, I would have hired him instantly.

Testimony of Guinevere Song

Hello my name is Guinevere Song. I am the manager of *Swords and Shields*, a restaurant which offers customers an opportunity to take part in a thrilling medieval tournament.

One of my duties is to interview and audition all potential employees. I have worked here for ten years and have seen a number of men try out for the position of knight. I know a good horseman when I see one, and Hsu Eng is a great horseman. Unfortunately, since our goal is to provide a completely realistic experience for our customers, I was unable to hire Mr. Eng.

As an Asian-American, I have always taken great pride in our long history of superior horsemanship. As a matter of fact, the management of *Swords and Shields* is planning to open a new dinner theater based on the annual Mongolian festival of Naadam. If our plan is successful, we would be anxious to hire Mr. Eng. For that dinner theater, we would not have hired the man that was chosen over Mr. Eng at the audition. Since our goal is to provide an accurate show for our audience, our performers have to actually look the part. After extensive research, we have been able to find no evidence that Asians took part in medieval tournaments.

Last year, I asked a company to collect polling data from the audience. We tried out a number of different versions of the show including one where a woman played the role of a knight. The audience overwhelmingly said that they were impressed with her skills, but didn't feel that having a woman in that role was authentic.

My job is to make sure that the customers are satisfied. The decision to not hire Mr. Eng was based purely on the preferences of our customers, not on any racial prejudice. How is this any different from the owner of an exclusive club picking the prettiest and wealthiest people from the rope line and leaving others outside because they weren't attractive or famous enough to maintain the club's exclusive status? And what about Hunks, that restaurant with the great buffalo wings which only hires men?

Testimony of Lancelot Gallup

Good morning, I am Lancelot Gallup, and recently I conducted several polls and surveys at *Swords and Shields*. Last year, I was asked by the manager, Guinevere Song, to poll the audience in order to measure their reaction to alternate versions of the show. The results showed that whenever we introduced something which would have been considered unusual during the Middle Ages, the audience reaction was negative. In one variation, we cast a woman in the role of knight. We also tried using knights of different races, but the audience reacted negatively. We asked the audience why they had a problem with the woman knight or the knights of different races. The audience responded that all performers did an excellent job, but they were not believable because they were historically inaccurate.

When I gave the results to the manager, she was disappointed. She instructed me to repeat the simulation with a different audience. I did as I was told, and the results were the same. In response to her concerns, I explained that if she wished her business to prosper, she would need to listen to the polling data. I also explained to her that according to my polling, customers who had also visited the competitor, *Middle Ages Tournaments*, were not as satisfied with the experience there because they felt it was not believable. Research also shows that *Middle Ages Tournaments'* profits are only a third of *Swords and Shields'* profits. This resulted in *Middle Ages Tournaments* cutting their performances from seven days a week to only weekends. I recommended that she only hire cast members who looked appropriate to the part. I believe that the phenomenal success of *Swords and Shields* proves that my recommendation was correct.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that *Swords and Shields* illegally discriminated against Hsu Eng.

SUB-ISSUES

1. Does Section 703 of the Civil Rights Act of 1964 which says, *Notwithstanding any other provision of this title, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees...on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise*, allow *Swords and Shields* to take Mr. Eng's physical appearance into account?
2. Does *Swords and Shields'* decision to not hire Hsu Eng based on his appearance differ from the decision of exclusive club owners to admit or exclude customers based on their appearance or that of restaurants to hire only men or only women to wait on customers?
3. Does *Swords and Shields* have the right to make hiring and firing decisions based on what is economically beneficial to their company?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Credibility of the witnesses.
3. Civil rights.

LAW

Civil Rights Act of 1964 which forbids discrimination based on race, color, religion, sex, or national origin.

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<http://www.2camels.com/naadam-festival.php>

Accept Me

SCHOOL

East Brook Middle
Paramus
Grade 7, Honorable Mention

TEACHER

Kathy Murray

STUDENTS

Daniel Choi, Veronique Falkovich, Cayla Gao,
Richard LaBarbiera, Kathryn Roque

FACTS

Ima Moozlim and Accepta Mee were both applying to the Smarty Pants Academy. Ima Moozlim was exceptionally intelligent, and passed the entrance exam easily. Accepta Mee participated in many extracurricular activities outside of school, and had many teacher recommendations, but scored lower than Ima Moozlim on her tests. The academy was known for only accepting 15% of students out of all of the students that applied. Those students were always among the smartest in the state. Ima Moozlim filed her entrance forms, and after her interview with Dean E. Meanie, thought she had been accepted into the academy. Dean E. Meanie, the dean of Smarty Pants Academy, had the final decision on who was accepted.

Accepta Mee and Ima Moozlim went to the same middle school, and weren't the closest of friends, but Accepta knew that Ima was applying to Smarty Pants Academy. Accepta Mee decided to find out more about Ima Moozlim on Facebook. On Facebook, she found a piece of information that stated Ima Moozlim had a Muslim background. She couldn't believe her luck, since she knew from her friend's brother that the dean particularly disliked Muslims due to the fact that his parents were killed in the terrorist attack on 9/11. Ima Moozlim claims that the next day, Accepta Mee told Dean E. Meanie, and Accepta Mee was accepted, while Ima Moozlim was rejected. She is now suing the academy for discriminating against her because of her religion.

ISSUE

Did the academy discriminate against Ima Moozlim because of her religion, or did the academy choose Accepta Mee because they thought she was the better candidate?

WITNESSES

For the Plaintiff

Ima Moozlim
Teechah Kidd

For the Defense

Accepta Mee
Dean E. Meanie

WITNESS STATEMENTS

Testimony of Ima Moozlim

My name is Ima Moozlim. I have lived in New Garden, New Jersey, for most of my life. I have always been at the top of my class. Even though I have always been in the most advanced classes, in the best schools, I have always gotten straight A's. The only thing that I am lacking is a lot of extracurricular activities, yet I still have a couple of those. I am in the tennis club varsity, soccer team, math counts and in the softball club. Though I have not started any clubs, like Accepta Mee, I am confident in my abilities. Smarty Pants Academy has

always been known for focusing more on academics as opposed to extracurricular activities anyway.

The dean of the school was very obviously leaning towards me. On one day he had told me what schoolbooks I would need and to come meet some of the teachers that I would have. I thought I was accepted because of this. I never thought that my religion would be a problem, but suddenly, they rejected me. Thinking that a bit fishy, I did some searching on Google. I found that the dean's parents had died in 9/11. Based on that information, I thought that the principal might be prejudiced against Muslims, because it was a group of Muslims who caused that attack. I am now convinced that I was denied entrance because of being Muslim. Now I'm suing the school for discriminating against me because of my religion.

Testimony Teechah Kidd

I have been a teacher at Smarty Pants Academy for eight years. In the beginning, I had no real problem with the dean. However, after 9/11 things seemed to change. His parents had died in the attack and after that I noticed he seemed different. I felt a lot of negativity from the dean directed toward me. The dean now seemed unhappy that he had hired me, and started looking for a way to get me fired. Fortunately, I am good at my job and I work very hard, so he had a hard time getting me fired.

At one time, though, a student got sick in my classroom. The principal tried to blame me and called me to his office to fire me. Knowing that I was not at fault, I explained the situation to the school board. They made sure that the principal was not able to fire me. When another student got sick in another teacher's classroom, and nothing happened, it seemed pretty obvious to me that the dean was targeting me because I'm a Muslim.

When Ima Moozlim applied to this school, and when the dean seemed to favor her, I thought that he had finally gotten over the feelings caused by 9/11. I assumed the dean knew Ima Moozlim's religion. I was surprised that, when he found out her religion, he decided to pick the other girl, when it had been so obvious that he had been leaning towards Ima. I talked to him in private, and he had told me that the ONLY reason he had picked the other girl was

because she had more recommendations and more extracurricular activities. Doubting that, I asked Ima Moozlim to tell her side of the story to me. Based on what I have experienced, I think she's right.

Testimony of Accepta Mee

I did not try to get Ima Moozlim rejected from Smarty Pants Academy. Like all of the people I have competed against, I looked at Ima Moozlim's Facebook page. She did not set her profile on private, so the information was open to anyone. I looked through her profile and saw her religion listed under the extra information. I thought that the dean should know all these details, so the next day, I told him, but I didn't think that this would affect anything.

The next day, the dean called me and told me that I got accepted. I thought they were going to accept Ima Moozlim, but they chose me because I had more recommendations from my teachers and I had more extracurricular activities. Ima Moozlim seemed upset and she blamed me for getting her rejected. It's not my fault that they chose me instead of her.

Then I heard that Ima Moozlim was suing the school for discriminating against her because of her religion. I think that the school made the right choice. Ima Moozlim could always apply to a different high school.

Testimony of Dean E. Meanie

My name is Dean E. Meanie. I am the dean at Smarty Pants Academy. I have been the dean for ten years. I am the head of the acceptance committee. I have the final say on who attends the school. It is always a tough decision. Someone will always be unhappy with the results. I do my best to focus on academic successes and other accomplishments. I look at other personal information such as family history and what schools were attended prior to middle school.

We did not discriminate against Ima Moozlim. We chose Accepta Mee because all her teachers recommended her. In addition, Accepta Mee had been involved in many extracurricular activities and has had many successes with them. We are looking

for smart young adults. We want our students to succeed in academics and also be well rounded.

We would have chosen Ima Muslim if she had more teacher recommendations, or if the recommendations she had were stronger.

Accepta Mee is very smart, but didn't score as high on her tests as Ima Moozlim. Both girls were in advanced classes and have many high school credits in algebra. I was willing to accept both of the students, but I was only allowed to accept one. It was a tough decision and took a good week to decide which one of them would be accepted. This was one of the hardest decisions I had to make in my career at Smarty Pants Academy.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the school and Dean E. Meanie discriminated against Ima Moozlim because of her religion.

SUB-ISSUES

1. Does Facebook reveal too much informaton? Should it be more limited?
2. Should the dean have had a meeting with the teachers of the school before announcing his final decision?
3. Could the school Board of Education have changed the dean's choice of accepting Accepta Mee? Should they have?
4. Have other employees or students been discriminated against during the dean's career?
5. Is Dean E. Meanie the only one on the acceptance committee that is allegedly discriminating against Ima Moozlim?
6. If the dean is found to be discriminating, whom should the school accept?

CONCEPTS

1. Illegal discrimination.
2. Violation of privacy.
3. Hearsay.

LAW

1. New Jersey LAD (Law Against Discrimination).
2. The Fourteenth Amendment: "No State shall... deny to any person within its jurisdiction the equal protection of the laws."

Kenny Cheer . . . Can He Cheer?

SCHOOL

Heritage Middle
Livingston
Grade 7, Honorable Mention

TEACHER

Helene M. Hinck

STUDENTS

Ben Gilman, Brian Lilien, Joe Lilien, David Santola,
Jay Schaefer, Jack Winograd, Paul Won

FACTS

On March 14, 2008, Kenny Cheer was denied a spot on the cheerleading squad at Davidson Middle School in Grednal, New Jersey. Kenny, a talented gymnast and cheerleader, wanted to join his school's cheerleading squad. In preparation, he spent over ten hours practicing cheerleading each week. He was the only male trying out. At practices Ivana Gall, the female cheerleading coach, observed Kenny's superior skills and commented to the assistant coach that he was talented. At tryouts Kenny was the only student that could land a double back flip. Even though his performance was spectacular, he was denied a spot on the cheerleading team.

Kenny was so disappointed that he was unjustly denied a spot that he quit cheerleading and gymnastics completely, despite the fact that his gymnastic teacher said Kenny had potential to win a gold medal in future Olympics. Kenny's parents are suing the Davidson Middle School and Coach Ivana Gall because they believe that Kenny did not make the team due to gender discrimination.

ISSUE

Was Kenny Cheer discriminated against by not being allowed on the Davidson Middle School team, just because he was a boy?

WITNESSES

For the Plaintiff

Mrs. Cheer
Ida Faires

For the Defense

Ivana Gall
Dr. Rules



WITNESS STATEMENTS

Testimony of Mrs. Cheer

My name is Mrs. Judy Cheer. One day, I was making homemade pizza for Kenny, who was due to come from his cheerleading tryouts. I know that he loves my pizzas. We lived very close to the school, so I knew he would come home soon. Suddenly, I heard the front door open, and a tearful voice had cried, "Mom! The tryout coach, she didn't let me ..." He broke down into a sob. I rushed to the foyer, to see him crumpled on the floor, tears streaming relentlessly down his face. The pizza was now forgotten and discarded on a plate in the kitchen.

I brought him to the living room, where he plopped down on one of the chairs. I asked him to explain what had exactly happened. I was surprised because I thought that Kenny would make the team. It was shocking to see him break down because of the sport he had practiced, enjoyed, and loved for so long. He tearfully explained his situation. He had obviously excelled above the other students who were trying out, but wasn't given the spot. I asked him why he thought he wasn't selected for the team, and he quickly replied that the coach hadn't picked him just because he was a boy. I was outraged to hear that the coach was exhibiting gender-based bias and therefore preventing Kenny from joining the team. I was very upset that the school system would have a coach as unfair as this one. I called the school and demanded an explanation.

When my husband came home, I discussed the problem with him. He was upset too. How could the school let this coach be biased against Kenny, or even other boys? When Kenny had first started cheerleading and gymnastics, I encouraged him to continue. I wasn't concerned about "girl's sport" or guy's sport." Nobody ever discriminated against Kenny. I was outraged and shocked to find that the coach had excluded Kenny from making the team.

Testimony of Ida Faires

My name is Ida Faires. I am the assistant coach for cheerleading at Davidson Middle School. I help Ivana Gall, the head coach of the team. Last week we held tryouts to see which students had the skills to make the team. Over forty girls were at the tryout along with only one boy. The boy was Kenny Cheer. From the start of tryouts and the practices we held before, it was obvious that Kenny had superior skills and was better than more than 95% of the girls. After Kenny performed one of his most difficult tricks, I overheard Ivana mutter, "Wow that kid is great." On top of that, he was marked with extremely high ratings in her personal coaching book.

When Ivana showed me the roster after the team was cut, I was extremely surprised to see Kenny's name not on the list. Then I questioned her why she made that decision.

She answered, "Look at that boy! How do you think he would ever make a cheerleading squad?" She walked away swiftly, not discussing the matter any further.

Testimony of Ivana Gall

I am Ivana Gall, coach of the Davidson Middle School cheerleading squad. I have been coaching for six years and I have won the county cheerleading title four times, won the states three times and finished second in the country last year.

Kenny does not deserve to be on the squad for our school. His skills and style are not what we are looking for, he has never been part of a squad. His selfish attitude does not fit our "team first" approach to cheering. We cut Kenny, not for his gender, but because we felt that he would not fit into our system. Also, there were only three spots from last year's silver medal team and he would change the cohesiveness of our team that carried over from last year. During tryouts, Kenny would argue with what we told him to do for routines and tricks and slowed down the tryout process. I feel that Kenny is not a good fit for our team and cutting him showed no sign of gender discrimination.

Testimony of Dr. Rules

My name is Dr. Rules and I am the principal of Davidson Middle School. On September 17 we had cheerleading tryouts after school, as we do every year. This year we had a boy tryout for the cheerleading team, although this was an unusual thing. Our coaching staff did not think this participant should be involved in our cheerleading program. We felt he was selfish, and his attitude toward the sport was not compatible with our team. Coach Ivana Gall directly stated to me that this player did not fit the “team first” cheering approach.

Mrs. and Mr. Cheer, we are incredibly sorry for your son not making the team, but as we have clearly stated, he was not compatible with our team. We do, however, suggest that your son Kenny journey on in his cheerleader career. This situation is very unfortunate but I can assure you that we cut Kenny solely for his attitude, not because of his gender.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Coach Ivana Gall discriminated against Kenny Cheer by excluding him from the Davidson Middle School Cheerleading Squad.

SUBISSUES

1. Was Kenny Cheer excluded from the team for another reason other than his sex?
2. Did Ivana Gall give Kenny Cheer high ratings in her coaching book?
3. Was the principal, Dr. Rules, aware that there might be a discrimination problem?
4. Does Davidson Middle School have a policy on discrimination?

CONCEPTS

1. Burden of proof.
2. Preponderance of the evidence.
3. Credibility of witnesses.
4. Personal rights.
5. Discrimination.

LAWS

NJ Law against Discrimination (LAD)

The New Jersey Law Against Discrimination (LAD) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status. The LAD prohibits unlawful discrimination in employment, housing, places of public accommodation, credit and business contracts. Not all of the foregoing prohibited bases for discrimination are protected in all of these areas of activity. For example, familial status is only protected with respect to housing.

C. Zure v. McPizza

SCHOOL

East Brook Middle
Paramus
Grade 7, Honorable Mention

TEACHER

Kathy Murray

STUDENTS

Gia Fuerte, Kellie Heom, Matthew Miller,
Kevin Oh

FACTS

Kevin C. Zure is an employee at Mr. McPizza's Pizza Palace. The old pizza delivery boy quit and Kevin asked for a promotion to that position. He thought he had a good chance to get this promotion. Mr. McPizza knows he is very responsible and a great employee, since he has worked there for three years as sweeper, busboy, and now cashier. However, Kevin has epilepsy, and Mr. McPizza didn't want to promote him because he didn't want to run the risk of having an unsafe delivery boy. Mr. McPizza keeps Kevin working as a cashier. Kevin's doctor put him on medication some time ago, and he hasn't had a seizure for three years. Dr. Pants has told Mr. McPizza that Kevin is perfectly safe behind the wheel, but he still rejected Kevin for the promotion. Kevin is now suing Mr. McPizza for illegal discrimination based on a medical condition.

ISSUE

Did Mr. McPizza illegally discriminate against Kevin C. Zure by not letting him have the delivery boy job?

WITNESSES

For the Plaintiff

Kevin C. Zure
Dr. Smart E. Pants

For the Defense

Mr. McPizza
Fellow M. Ployee

WITNESS STATEMENTS

Testimony of Kevin C. Zure

My name is Kevin C. Zure. I have been working for Mr. McPizza for three years as a cashier, busboy, and sweeper. One day, the old delivery boy walked out of the store, telling Fellow M. Ployee and me that he had found a better job. I took that opportunity to ask Mr. McPizza for a promotion. The pizza delivery boy job had a larger paycheck, plus you get tips. I had a very strong chance to be promoted, but Fellow M. Ployee told Mr. McPizza that I had epilepsy. Then I was denied the promotion and stuck as a cashier.

I met Dr. Pants 14 years ago when I had my first seizure, when I was 5 years old, and he had told me that I had epilepsy since I was born. I have only had a few seizures since my first one and that was only because I had forgotten my medication. Now I am older and more responsible, and I haven't had any seizures for three years in a row. Dr. Smart E. Pants has me on a highly effective medicine that I take

daily. It's not fair or right that Mr. McPizza denies me the promotion.

Testimony of Dr. Smart E. Pants

My name is Doctor Smart E. Pants. I have been an epilepsy specialist for over 30 years. I met Kevin C. Zure 14 years ago, when he experienced his first seizure. I diagnosed him with epilepsy and put him on medication that is proven to be very effective. Epilepsy is a disorder of the nervous system, and as a result people who have this disorder run the risk of having seizures. A victim becomes unconscious when he has a seizure. Kevin has only had a few seizures, and those were only because he had forgotten to take his medication. Now that he is older, he has taken his medication responsibly, and hasn't had a seizure for three years. His epilepsy is very controlled, as long as Kevin takes his medication. In other words, Kevin runs a very low risk of having a seizure again.

When I heard that Kevin was turned down for a promotion because he has epilepsy, I felt badly for him. I don't see why he shouldn't be promoted. He is very responsible.

Testimony of Mr. McPizza

I have been the manager of McPizza's Pizza Palace for 20 years, and have a reputation of getting pizza delivered in half an hour, without any accidents. Kevin C. Zure has worked for me for three years, as a sweeper, busboy, cashier, and now wants to be a delivery boy. He is a very hard worker, and I haven't had a problem with him. When Fellow M. Ployee informed me that Kevin had epilepsy, I had a tough choice, but I couldn't let Kevin have the delivery boy job. His epilepsy could easily be a hazard on the road. When I denied him the promotion, he got mad, but I thought that was the end of it, and he would be back on his cashier job. Two days later, I found out that Kevin was suing me on the grounds of discriminating against him for his medical condition.

Testimony of Fellow M. Ployee

My name is Fellow M. Ployee. I am a worker at Mr. McPizza's Pizza Palace and am a close friend of Kevin C. Zure's. In fact, we started working at the Pizza Palace at about the same time about three years ago. I have known for a while that Kevin has epilepsy, but I knew that Mr. McPizza didn't know. I help prepare the pizzas with the chef in the kitchen while Kevin works as a cashier. Since we began working, he had been promoted from sweeper, then to busboy, and now a cashier.

We spend a lot of time together during breaks and one day, we began talking about how we only get paid the minimum amount. About that same time, the old delivery boy quit. Kevin took that opportunity to ask Mr. McPizza for a promotion as the delivery boy. I can't blame Kevin, because it pays more than the cashier job, plus tips. Kevin has done a great job working for Mr. McPizza's Pizza Palace. But out of fear that Kevin might be a great danger to both himself and the people around him, I told Mr. McPizza that Kevin had epilepsy and he turned him down. I still feel Mr. McPizza did the right thing even though Kevin is now suing him. I'm sorry that I told Mr. McPizza that Kevin had epilepsy, but if I hadn't, then I would be responsible for letting Mr. McPizza hire Kevin as a delivery boy, and possibly causing an accident.

INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that Mr. McPizza illegally discriminated against Kevin C. Zure by not letting him have the delivery boy job because of his epilepsy.

SUB-ISSUES

1. Did Mr. McPizza think Kevin was a threat because of a stereotype, assumption or generalization?
2. Was three years long enough for Kevin to be trusted on the road?
3. Was it a violation of privacy for Fellow M. Ployee to share Kevin's medical history with Mr. McPizza?
4. How often has Kevin forgotten to take his medication, and what was the result of him forgetting his medication? Can he be trusted to never forget his medication?
5. Would Mr. McPizza still not hire him if he did not have epilepsy but was still a teenage driver?
6. Does it make a difference that Mr. McPizza still let him have a job?
7. Did Fellow M. Ployee tell Mr. McPizza in hopes of getting the promotion himself?
8. Would Mr. McPizza be responsible if Kevin had an accident while delivering pizza?

CONCEPTS

1. Credibility of witness.
2. Right to privacy of one's medical condition.
3. Interference with economic gain.
4. Doctor/patient confidentiality.
5. Responsibility for safety of citizens.
6. Reasonable accommodation in the workplace.
7. Negligence.

LAW

Americans with Disabilities Act of 1990

Hats Off!

SCHOOL

Emily C. Reynolds Memorial Middle
Hamilton
Grade 7, Honorable Mention

TEACHER

Nancy McKeen

STUDENTS

Nour Abraham, Courteney Faulkner,
Alyssa Flodmand, David Heether, Maeve McCann,
Shawn Mulvan, Max Wackerman

FACTS

The seventh-grade students in Mrs. Wood's English class had just won first place in the annual mock trial contest sponsored by the State Bar Association. Because she wanted her students to see how a real trial functioned, Mrs. Wood planned a trip to their county's courthouse where she and the students could sit in on a courtroom trial.

It was April 22, 2008, and Mrs. Wood and her 15 students were at Sharrington County Courthouse. Muhammad Hasan, who one day wanted to be a lawyer, was excited as he boarded the bus. Since he was a member of the Indian Sikh community, Muhammad wore the traditional turban that all Sikh men must wear. The wearing of his turban has never created a problem, and he has never been asked to remove it, even in gym class at Coleman Middle School.

Mrs. Wood and her 15 students went through the security check as they entered the Sharrington Country Courthouse, and Sheriff Officer Sarah Fischer immediately took them to Judge Maria Smith's Courtroom. Judge Smith had specifically invited them to her courtroom, as the topic for the case she was about to hear was very similar to the one the students had created for the mock trial contest. After going through another security check, Mrs. Wood and the students were seated in the courtroom.

Judge Smith entered the courtroom, recognized Mrs. Wood and the class, and then proceeded to speak quietly to Officer Fischer, who then approached Mrs. Wood to tell her that Muhammad would have to remove his turban if he wanted to remain in the courtroom. Mrs. Wood reminded Officer Fischer that Muhammad was a Sikh, who was not allowed to remove his turban. Officer Fischer then informed Mrs. Wood that Judge Smith did not allow anyone to wear hats in her courtroom, and, if he were not going to remove his turban, Muhammad would have to go with her and sit in the hallway while Mrs. Wood and the class watched the trial. Mrs. Wood was further told that she would have to stay with the rest of the class while they viewed Judge Smith's trial, which was about to begin. Officer Fischer led a very upset Muhammad out of the courtroom to a seat in the hallway.

While sitting on a bench in the hallway, Muhammad saw a group of prisoners approach the area where he was sitting. The prisoners, who were shackled together, began whispering when they saw Muhammad sitting there by himself. As they passed Muhammad, one of the prisoners made a discriminating comment and kicked the 12-year-old in the ankle, causing Muhammad to fall and fracture his foot. Mrs. Wood was summoned out of Judge Smith's courtroom, and she contacted Muhammad's parents, who quickly arrived at the courthouse. Muhammad was taken to St. Matthew's Hospital for the injury he sustained.

ISSUE

Did Judge Smith's rule against the wearing of hats in her courtroom discriminate against all males who were Sikh?

WITNESSES

For the Plaintiff

Muhammad Hasan

Dr. Natasha Jones

For the Defense

Officer Sarah Fischer

Judge Maria Smith

WITNESS STATEMENTS

Testimony of Muhammad Hasan

I was looking forward to my class's trip to the Sharrington County Courthouse. We had won the NJ contest for the best mock trial and our teacher, Mrs. Wood, was taking our class to the courthouse to see how a real trial was conducted. I was a little nervous about our trip, as I had never been to a real trial or courtroom before.

As soon as my class was seated in Judge Smith's courtroom, Officer Fischer told my teacher, Mrs. Wood, that I could not wear my turban in the courtroom because she was worried that it could conceal a weapon. I insisted that I would not dare do something like that; however, I do not take off my turban, as the wearing of my turban is a Sikh religious custom. The sheriff's officer showed me to a bench outside the courtroom, and I reluctantly followed.

Later, as I was anxiously waiting for the trial to end and my class to depart, a small group of prisoners walked past me. One of them happened to kick me, and I fell off the bench and onto the tile floor. Before being kicked, I overheard this prisoner say to another prisoner, "Look, it's Bin Laden's son!" I had a hard time getting up from the floor, as I found it difficult to stand on my ankle. My teacher was summoned from the courtroom, and

she immediately called my parents. I then went to St. Matthew's Hospital where an X-ray confirmed I had broken my ankle.

I do not understand why the judge did not realize that I couldn't remove my turban and that I could not have concealed a weapon under my turban. I had to go through two metal detectors, one when we initially entered the courthouse and a handheld one before we entered Judge Smith's courtroom. I think that my turban reminds people that I am of Middle Eastern ethnicity, although I was born in the USA. The turban is negatively associated with the terrorists who caused the deaths of so many Americans on September 11, 2001, and it angers people to see it.

Testimony of Dr. Natasha Jones

My name is Natasha Jones. I am an expert on hate crimes and discrimination. I have written two books on my work, and I have my doctoral degree in bias crimes. Hate crimes and acts of discrimination soared dramatically after the terrorist attacks on September 11, 2001, and the attacks have increased on people who are from the Middle East.

The FBI's annual statistical report showed that hate crimes in the United States increased 21 percent from 8,063 in 2000 to 9,730 in 2001. The Civil Rights Division, the Federal Bureau of Investigation, and the United States Attorneys' offices have investigated over 800 incidents since 9/11 involving violence, threats, vandalism, and arson against Arab-Americans, Muslims, Sikhs, South-Asian Americans, and other individuals perceived to be of the Middle Eastern origin. One of the most dramatic changes was a more than 1,600 percent increase in reported hate crimes against Muslims - a jump from 28 hate incidents in 2000 to 481 in 2001.

Anti-Muslim incidents were previously the second least reported, but in 2001, "presumably as a result of the incidents that occurred on September 11, 2001," they became the second highest among religious bias incidents.

Cases range from families being spat on and yelled at, "Go back to your country," to assaults on people, businesses, and places of worship. Indian

Sikh communities are now being targeted because their men, who wear turbans and have long beards, are easy to spot as being Middle Eastern. This is part of their religion's dress code, a tradition that has lasted for over 500 years.

On May 2, 2008, I was contacted by Mr. and Mrs. Muhammad Hasan who felt that their 12-year-old son, Muhammad, was a victim of discrimination. My office, which is the Bureau of Bias and Hate Crimes, handles all potential cases where ethnic discrimination is suspected.

Testimony of Officer Sarah Fischer

I have been a Sheriff's Officer at Sharrington County Courthouse for 15 years, and I have worked in Judge Smith's courtroom for ten of those years. I was Judge Smith's courtroom officer on May 25, 2000, when Judge Smith was shot inside her own courtroom. This incident became the reason why no one is now allowed to wear a hat in her chambers.

A defendant named Alfred Johnson was seated in Judge Smith's chamber on the morning of May 25, 2000. He had been out on bail so he had on regular, civilian clothing. He was wearing a Yankees baseball cap. The jury came into the courtroom, and, when the foreman gave the "Guilty" verdict, Mr. Johnson jumped up, screamed "NO!" and pulled a gun out from underneath his baseball cap. We then heard a gunshot, and realized that Judge Smith had been shot in the arm. She required surgery to remove the bullet and was on medical leave for two months. This is why Judge Smith does not allow anyone - no matter the age, sex, or race - to wear any type of hat whatsoever in her courtroom. This is why Muhammad Hasan was not allowed to sit in Judge Smith's courtroom on April 22, 2008, unless he removed his turban. Since the incident on May 25, 2000, no one has been allowed to sit in Judge Smith's courtroom if he or she is wearing any type of head covering. Maintaining a safe environment in Judge Smith's courtroom is our first priority.

Testimony of Judge Maria Smith

Judges must have rules in their courtrooms, and many judges have rules that specify that no one - and I mean absolutely no one - can wear any type of hat into the courtroom. As my Sheriff's Officer Fischer explained, I was hit by a bullet from a defendant who had concealed a gun under his baseball hat. Since then, I am extremely cautious about making sure all courtroom visitors and trial people are thoroughly checked with the metal detector before being seated.

However, today's weapons are smaller, lighter, and sometimes made of material that is not detected by a metal detector. We have actually had visitors conceal weapons in the bathroom ceiling tiles where prisoners then find them when they come to court and ask to use the bathroom.

Prisoners who are of the Sikh religion have a perfect place to conceal weapons - under their turbans. The case I was hearing on April 22, 2008, when Mrs. Wood and her class visited, involved a Sikh defendant. For all I knew, her Sikh student could have been the defendant's son. I am sorry but the safety of my courtroom and myself take priority over a 12- year-old boy wearing a turban who wants to observe a court case.

INSTRUCTIONS

The plaintiff must prove that Judge Smith is unlawfully discriminating against men of the Sikh religion when she stipulates that no one can wear a hat in her courtroom. The plaintiff will have to prove that Judge Smith is indirectly discriminating against men of the Sikh religion, as she knows that wearing a turban by the males who follow the Sikh religion is required. The plaintiff will have to prove that Judge Smith is setting a condition or requirement without reasonable justification.

SUB-ISSUES

1. Because Muhammad had undergone two checks by the metal detectors, couldn't Judge Smith have been assured that Muhammad did not have a weapon concealed under his turban?
2. Was Judge Smith biased against all Sikh men because of the terrorist attacks on September 11, 2001?
3. Did the prisoner attack Muhammad because the 12-year-old boy was not given adequate protection while waiting in the hall?

CONCEPTS

1. Information on acts of discrimination and hate crimes as a result of the terrorist attacks on September 11, 2001.
2. Information showing that there has been a rise in hate crimes against Sikh men since the terrorist attacks on September 11, 2001.
3. Preponderance of the evidence.
4. Credibility of the witnesses.

LAWS

1. New Jersey State law prohibits discrimination based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status.
2. Unlawful discrimination can be characterized as direct or subtle. Direct discrimination involves treating someone less favorably because of their possession of an attribute (e.g., sex, age, race, religion, family status, national origin, military status, sexual orientation, disability, body size/shape), compared with someone without that attribute in the same circumstances. Indirect or subtle discrimination involves setting a condition or requirement, which a smaller proportion of those with the attribute are able to comply with, without reasonable justification.

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Who Should Have Won D. Spot?

SCHOOL

George G. White Middle
Hillsdale
Grade 7, Honorable Mention

TEACHER

Suzanne Pausz

STUDENTS

Julia Abolafia, Keith Brodek, Tijana Canic,
Jeffrey Chen, Nick Dentato, Stephen Liang,
Keisha Lozano, Ashley Steimle, Alice Urbiel,
Dylan Whartenby

FACTS

Anita Johb, a Colombian woman, was interviewed for a sales position at Chen's Chinese Furnishings on November 4, 2008. She was hoping to get the job because her husband had been laid off. They were having a hard time paying their mortgage and supporting their son. Anita had a part-time job but was looking to secure a full-time position to earn more money and gain health benefits. After a pleasant interview with the store manager, she went home to her family.

A week later, she revisited the store and talked to the manager, Jack E. Chen. She was told that there had been another applicant that had gotten the job. When she inquired why, she was told that the other applicant had more qualifications and a better knowledge of Chinese history. The applicant, a Chinese man who could not speak English well, had lived in China and came to America at the age of 18. After speaking with the man, Won D. Spot, she realized that she had better credentials and a better grasp of English. She also noted that all of the employees were Asian. She is suing the store manager for racial discrimination.

ISSUE

Is Jack E. Chen guilty of ethnic discrimination because he hired Won D. Spot over Anita Johb?

WITNESSES

For the Plaintiff

Anita Johb
Professor X. Pert

For the Defense

Jack E. Chen
Won D. Spot

WITNESS STATEMENTS

Testimony of Anita Johb

My name is Anita Johb. I am a Colombian woman currently living in Aysaminor, California. On November 4, 2008, I interviewed for a job at Chen's Chinese Furnishings. I needed a full-time job to support my five-year-old son and husband who is currently out of work. I saw an opening at Chen's Chinese Furnishings as an opportunity to get my family back on track.

My interview with Jack E. Chen, the store manager, was very pleasant as I discussed my situation with him. He was very understanding and I left the store with high hopes. A week later, I was called back to the store to find out I did not get the job. When I asked why, Mr. Chen informed me that another man had applied and was more qualified and had a better knowledge of Chinese history. He told me that this man had lived in China until he was

18. I was disappointed with his decision because I went to California University and took two courses in Chinese which included Chinese history and language. My husband is Chinese as well and has a vast knowledge of his culture. Plus, I have visited China numerous times and have made it a priority to visit as many landmarks as possible. I am a fast learner and an experienced sales person because I had worked at a furniture store for five years previously.

Later, I spoke with the man who got the job, Won D. Spot. I found he did not speak English very well and I definitely had better credentials than him. As I left the store, I noticed that all of the employees were Asian, yet most of the customers were American. I do not see why I did not get this job.

Testimony of Professor X. Pert

I am a professor at California University and have been teaching Chinese for 15 years. One of my best students was Anita Johb. She took two years of Chinese, and was at the top of the class. I am known as the most experienced teacher and my grading is very strict, but Anita was one of the few students to get an A in my class.

Anita can speak in Chinese well enough to be understood. She has also amazed me with her knowledge of Chinese history. On our college trip to Hong Kong, she felt comfortable speaking with the people and learned different aspects of Chinese culture.

In my opinion, Mrs. Johb is incredible at both speaking and understanding Chinese. Anita is a fast and eager learner, and I think she would be a great employee for any store.

Testimony of Jack E. Chen

I am the owner of Chen's Chinese Furnishings and I employed Won D. Spot over Anita Johb. I hired Won D. Spot on November 11, 2008. A week earlier, Anita Johb was interviewed for the same position, but I hired Won for professional reasons. I do have a history of employing only Asians, but they were hired only because they were, in my opinion, more qualified than the other applicants.

Many customers ask about the history of the furnishings. Since Anita knows only modern Chinese, she would not be able to help our customers if they ask for the meaning of ancient Chinese characters that only a fluent Chinese speaker would understand. Chinese furniture has a vast amount of history that Won would be able to explain better than Anita. Some of my employees can speak fluent English, but I needed someone who knows more of the Chinese language. Personally, I think that a small grasp of English would help more than just a small grasp of Chinese. It is preposterous that I am being sued for discrimination.

Testimony of Won D. Spot*

I am currently employed at Chen's Chinese Furnishings. I lived in China until I was 18. In China I learned many cultural beliefs and spoke the language fluently. History was one of my best subjects. When I moved to America, I took night classes at community college and picked up English quickly, but it was hard to learn. Although my English is not the best, I can understand what people say. After college I found a job at Furniture Palace. I was a hard worker and had excellent credentials. There, I was one of their best employees for packaging and shipping goods for two years until the store went out of business. After a while, I applied for a job at Chen's Chinese Furnishings on November 5 of this year. Because of my knowledge of Chinese culture, I got the job.

About a week later I heard about Anita Johb's lawsuit. She spoke to me the day she came in to the store. She didn't speak Chinese as well as I. Therefore, I think I am better qualified for this position.

** This testimony was written with the help of a translator.*

INSTRUCTIONS

The plaintiff, Anita Johb, must prove by a preponderance of evidence that the defendant, Jack E. Chen, is guilty of committing ethnic discrimination.

SUB-ISSUES

1. Does Anita Johb's prior education in Chinese language and culture prove her to be a better choice as an employee?
2. Does Won D. Spot know enough English to work effectively at the store?
3. Is there proof that Jack E. Chen hired his previous employees because of professional reasons?
4. Does it matter that Anita Johb has more experience in furniture sales?

CONCEPTS

1. Ethnic discrimination.
2. Preponderance of the evidence.
3. Credibility of witnesses.

LAW

California State Law - The Fair Employment and Housing Act

The Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.) is California's primary law prohibiting discrimination in employment, housing, and public accommodation. In enacting the FEHA, the Legislature declared that it is a civil right to seek, obtain, and hold employment without discrimination, and that it is the public policy of this state to protect and safeguard such rights and opportunities.

Sink or Swim

SCHOOL

St. Leo The Great
Lincroft
Grade 8, First Place

TEACHER

Cheryl M. Marzigliano

STUDENTS

Daniel Andree, James Arcidiacono, Alexander Berger, Stephen Brzozowski, Dylan Burns, Brianna Buzzanco, Tara Daniels, Bridget DeLuca, Anthony Falcone, Jenna Frain, John Gatens, Deana Gialanella, Kyle Gonis, Grace Heidelberger, Michael Kokolis, Jacqueline Morris, Caileigh Nerney, Lindsa Preece, Caitlin Romanczyk, Mariah Ruther, Isabella Textores, Laura Wickham

FACTS

On February 19, 2006, Will I. Dive was accepted into a specialized deep-sea diving program offered by Pacific Ocean University (POC). Will attended M.O.S.T. (Marine Oceanography Science Technology) high school, which focused its training on science and ocean studies. Will graduated as valedictorian of M.O.S.T. in June of 2006, and was captain of his school's undefeated swim team. In addition to his academic success, Will had distinguished himself as an exceptional scuba diver. He had been on numerous ocean expeditions that involved diving in treacherous and unexplored territories. Will received recognition as "Young Diver of the Year" from the Scuba Diving International Association, and was featured on the cover of *Diver's Illustrated* in 2005. With his acceptance to Pacific Ocean University, he was aspiring to become an outstanding contributor to the field of oceanography.

Over the summer of 2006, the diving community was alerted to a growing need for expert divers in the navy, due to new challenges in the Middle East. Our military became aware of underwater explosives being planted on the seafloor of the Persian Gulf, endangering our troopers there. The navy was not equipped with the diving expertise needed to address this situation, so they began recruiting in the expert diving community. Like his father who died serving in the Gulf War, Will



answered the navy's call to service. He decided to enlist, and made arrangements with Pacific Ocean University to defer his acceptance until his return.

Will led many marine excursions resulting in the successful removal of almost all of the buried weaponry. Tragically, a few days before his return, Will was seriously injured in a diving accident. While doing a finals sweep, Will noticed that his partner was trapped beneath the remains of a shipwreck. He went quickly for help, but discovered that his partner was surrounded by mines. Will tried to guide his partner through the mine field, but the partner panicked, triggering an explosive. Will's partner was killed, and Will became paralyzed in both legs.

Will was released from the hospital by Christmas 2007 with the diagnosis of total and permanent paralysis in both legs. Will was determined to return to the water and spent the next six months in rehabilitation with a special focus on upper body strength and water skills. By the summer, he had returned to diving with the Adaptive Scuba Diving Association, an organization that addresses the specific needs of a disabled individual, trains to that specific disability, and then prepares that individual to dive with mainstream open water divers. During this time, he remained in contact with Shelly Beaches, the admissions director at Pacific Ocean University. He continued to express his desire to begin the program as soon as possible.

After completing his therapy and becoming certified by the Adaptive Scuba Diving Association, Will contacted Pacific Ocean University requesting to begin school in the fall of 2008. The school indicated that he would have to be reassessed through an interview and various physical tests. Will completed these tests in the summer of 2008. On August 6, Will received a letter from POC confirming his acceptance to the university, but withdrawing his acceptance to the diving program. Will was informed that his spot in the program had been filled by a candidate without a physical disability. As a result, Will I. Dive brought a lawsuit against Pacific Ocean University claiming discrimination based upon his physical disability.

ISSUE

Did Pacific Coast University discriminate against Will I. Dive by denying him entrance into the university's specialized diving program?

WITNESSES

For the Plaintiff

Will I. Dive

Bobbi Builder

For the Defense

Sandy Beaches

Rocky Coral

WITNESS STATEMENTS

Testimony for Will I. Dive

My name is Will I. Dive and I am 20 years old. I graduated as valedictorian of M.O.S.T (Marine Oceanography Science Technology) High School. As a freshman, I made the varsity swim team and as a sophomore I became captain of our undefeated swim team. Throughout my four years at M.O.S.T, I broke multiple state records and I was touted as one of the best swimmers in the country. In addition, I was invited to the Junior Olympics to swim as the anchor in the 4x800 relay. My team was in fourth place before my leg of the race. My efforts helped us come back and win the gold medal.

Other than swimming, I was very involved in the sport of scuba diving. At the age of 13, I was accepted in the prestigious National Youth Scuba Club. In this club we would talk about our own diving experiences and go to three or four exotic, unexplored territories for our diving expeditions. Only a select few from the club were chosen to partake in these diving adventures. I was invited to go on each and every expedition and was recognized as "Young Diver of the Year" from the Scuba Diving International Association. I was also featured on the cover of *Diver's Illustrated* in 2005. My mother supported my love for ocean diving and allowed me to participate on the one condition that I keep my grades up, which I did, graduating from high school with a 4.2 average.

I've always loved scuba diving and my father (General I. Dive), an experienced and highly-honored Navy Seal, taught me how to scuba dive at a very young age. My mother and I always loved to visit my dad at his base in Texas and on his leaves and we often drove to the Cozumel Scuba Club Resort in Mexico, where he introduced me to scuba diving, and my love for the ocean began.

Although I was very young, I recall the last time I saw my father. We were scuba diving together and he got a call that he had to go on yet another call of duty. Three weeks later my mother received word that my father's battalion had been hit while on land by an RPG and the explosion left no survivors.

I was accepted on February 19, 2006 into a specialized diving program offered by Pacific Ocean University. It has been my dream to take

part in POC's special diving program. It is a very selective and highly competitive program and only seven people in the nation are selected to participate in it each year. I was very excited to begin this school, but several months before my first semester was to begin, the diving community was alerted to a growing need in the navy for expert divers due to new challenges in the Middle East. Specifically, the navy became aware of explosives on the seafloor of the Persian Gulf that were endangering our troops there. The navy was not equipped with the diving expertise needed to address this situation, so they began recruiting from the expert diving community. As a tribute to my father, I felt compelled to put my country before myself and take part even though I had to defer my acceptance to POC.

I was very proud to serve as a Navy Seal and, in spite of everything that happened, I would do it all over again. It has been very difficult to get that horrific day out of my head. I will never forget the terror in my diving partner's eyes as she was trapped beneath the wreckage. I did everything I could, but I just couldn't save her or stop the explosion. Her death still affects me, even more than my paralysis. I will not lie to you, I was very depressed when I found out I would never be able to use my legs again. I almost gave up on pursuing all of my life's goals, but then I recognized that at least I had my life, unlike my father, my partner and so many other soldiers, and as a tribute to them, I vowed that I would dedicate the rest of my life to overcoming my disability.

I worked harder than I ever had before to restore and increase my strength. Although I would never have the use of my legs, I worked to compensate for that by making my upper body stronger than it has ever been. I made quick progress and within two months, I began underwater exercises. I found that I had increased my lung capacity and was able to maneuver under water without the use of my legs. It became clear to me that I could return to ocean diving and I contacted the Adaptive Scuba Diving Association to help in my training. There I was inspired by the stories of divers, more handicapped than I, who successfully dive despite their disabilities. I began dive training and soon received my certification in advanced open-water diving.

I received the highest level of proficiency, which allows me to dive with only one other person, as is the case with non-handicapped divers. I received this rating after a determination was made that I am capable of rescuing another diver. I owe everything to my trainer, Bobbi Builder, who never gave up on me and challenged me to become stronger than I have ever been. I felt ready and was excited to begin my studies at POC.

I thought it was strange when the admissions director put me through new testing and interviews. I hoped that the school was not reconsidering my acceptance. I was never more devastated than the day I opened the letter telling me that my acceptance to the diving program had been withdrawn. When I heard that it was because of my physical condition, I was furious and hurt. After all I had been through and achieved, I could not believe that the school would do this to me. Then, when I heard that my spot in the program had been given to the son of a large contributor to the school, I felt the school was using my handicap as an excuse to just give my spot to someone else. That was too much to take and I decided to sue the school for discrimination, not for the money, but for all disabled people who are denied the same chances and opportunities that others receive simply because they are different.

Testimony of Bobbi Builder

My name is Bobbie Builder. I am a physical therapist and certified underwater dive trainer of the disabled. I graduated from Weightlifting Instructors Institute (WII) in 2005, with a degree in physical therapy, and am now pursuing my master's degree in physical science. I completed an internship involving strength training of the disabled and, being a scuba diver myself, I have been active with the Adaptive Scuba Diving Association (ASDA) for five years. The ASDA is an organization designed to train those with disabilities to adapt to their specific handicaps and eventually engage in mainstream open water diving.

I met Will I. Dive shortly after his injury occurred. Will was injured in an accident and, as a result, was diagnosed with total and permanent paralysis in both legs. What struck me about Will from the

beginning was his determination and positive attitude despite everything he had been through and the challenges ahead. After determining which muscle groups were still functional, we began to focus on the remaining muscle groups, particularly his upper body. Will responded immediately and was making great progress at an exceptionally fast rate. In all my years as a physical therapist, I have never seen anyone respond so quickly to physical therapy. Throughout this process, Will remained determined to return to scuba diving and, given his early progress, I could see he would achieve this goal.

We began pool training in depths no greater than 12 feet. With his great upper-arm strength, he had no difficulty navigating the deeper water. His lung capacity was much more than normal, allowing him to stay underwater longer without any difficulty. We quickly moved on to ocean diving, and unassisted, he was able to excel in each requirement. He was even able to pull me in a simulated rescue situation, an accomplishment that is rare among paralyzed divers. Will actually participated in an open water expedition and completed the tasks with minimal assistance. After several months of this type of training, Will became certified in advanced open water diving and received the highest proficiency level available to any diver. I have never seen an ounce of hesitation or distress in Will when he is in the water. I would have no fear diving along with him in even the most rigorous of conditions.

In my opinion, Will, even with his handicap, is capable of diving at the level at which he performed before his accident. Having been there with him when he dove, I am confident that he would have no problem fulfilling the requirement of the Pacific Ocean University program. I am horrified at the school's decision to reject Will's acceptance to the diving program and believe it was the result of discrimination. While it is fair to say that my relationship with Will now goes beyond trainer and patient, our close friendship does not affect my opinion in any way.

Testimony of Sandy Beaches

My name is Sandy Beaches and I am the admissions director of Pacific Coast University. I have held that position for 10 years and prior to that I was a professor of marine biology at the university. I am very familiar with the school's diving program as it is a very prestigious and a rare opportunity for only the most qualified candidates in the nation. Acceptance in the program is based on academic excellence, diving proficiency, and practical experience.

There was no question that Will Dive was a qualified candidate when he was first admitted in 2006. No one is disputing his intelligence or his experience. In fact, I approved his initial acceptance personally at the time. Sadly, much has changed since that first admission and his tragic accident caused us to reevaluate his acceptance.

To understand the school's decision, you must understand the nature of the program. It is extremely demanding and involves diving in the most challenging and rigorous conditions. There are diving expeditions to unexplored reefs and territories and divers are often placed in dangerous and life-threatening situations. The school must ensure the safety of all of the participants. While the school is concerned with Will Dive's safety, it is also concerned about all the other people who may accompany him on his expeditions. Although we don't dispute his great achievements in rehabilitation, the school has determined that Will's inability to utilize his lower limbs would create an unacceptable risk to his life and the lives of others in the program. Although the Adaptive Scuba Association suggested the use of a motorized scuba propeller, the school determined that such machinery would disturb the sensitive and rare marine life that is the subject of our studies. In addition, it would impair the ability to perform the underwater scientific experiments or, more seriously, render him incapable of helping a partner in need.

In the evaluation process, we subjected Will to testing. He freely admitted to suffering some form of post-traumatic stress after the explosion. Other than that, he was certainly an impressive individual in the interview. The greater concern came during the

physical testing under water. During the ocean dive portion of the testing, his diving party moved toward a dark area in the water. As the people he was with proceeded into the area, Will stopped. When his instructor, Rocky Coral, asked for a signal regarding whether Will was all right, Will signaled that he wanted to surface. The party returned to the surface, and questioned Will about what happened. Will gave no explanation, but said he was ready to go back down, which he did, completing the exercise. Rocky Coral determined that his surfacing was a result of panic, possibly related to his post-traumatic stress.

It is true that Will's spot in the program was given to Manny T. Bucks and that is father is a generous donor to the university. Let me put an end to the suggestion that we used Will's disability as an excuse to admitting Manny to the program. The sad reality is that the circumstances changed and Will can no longer participate without presenting a risk. He can still pursue all the other scientific studies in the university, but we simply cannot accept him into the diving program.

Testimony of Rocky Coral

My name is Rocky Coral. I am a graduate of the Pacific Ocean University. I'm 32 years old and I am currently a professor in the oceanography department at POC. As a student at POC, I was fortunate to participate in the diving program. So I know all of the difficulties and requirements first hand.

The diving program at Pacific Ocean University is rigorous. All of the candidates have to be in exceptional physical condition. Most of our dives take place in dangerous, unexplored territory. The divers usually go out in groups of two or three. They encounter rare and sometimes threatening marine life and experience dangerous underwater conditions that are not typical of the average open water dive. The program is challenging even to the most experienced and fit of divers. I do not believe it will be safe for someone in Will Dive's condition to participate.

The habitats we study in this program are extraordinarily delicate. They are sensitive and can be altered or destroyed by changes in light,

sound, temperature, and chemical makeup of the water. When diving in this environment, we cannot introduce any foreign elements into the sea life or underwater community.

I was a member of the committee to evaluate Will and to reassess his ability to reapply to this specialized diving program. I took Will out into the ocean to go diving and when we started to gear and put on our tanks, Will stared at the ocean and I noticed Will seemed apprehensive. I asked him if he was all right and he said he was ready to go. We lowered him into the water and everything was going well. As we submerged to the seafloor, we began to swim into dark waters towards the coral reef. I noticed Will stopped and gave me the thumbs up indicating he wanted to go to the surface. We went back to the top of the ocean to make sure everything was okay. I questioned Will about what had happened but Will gave no explanation. I suggested we go back to the boat but Will refused and said he wanted to give it another try. On our second dive Will seemed much more confident and was able to complete the evaluation.

My decision not to accept Will into this specialized diving program includes many different reasons. The main reason is due to his anxiety/panic attack that he exhibited in the ocean during his evaluation. I am aware that Will suffers from post-traumatic stress disorder due to his injury while in the navy. My fear is that if he exhibits another anxiety/panic attack while scuba diving with a team in unexplored territories, he may endanger not only his life, but the lives of the other team members.

While I certainly understand Will's love of the ocean and his desire to return to advanced diving, disabled diving requires certain accommodations that cannot be made in our program. First of all, our diving teachers and other members are not trained in disabled diving or to assist a handicapped diver in an emergency. Second, we do not have the necessary equipment to transport and help him move through the water. Next, even if we could acquire such equipment, it is our opinion that the use of such devices has the potential to disturb marine life and their natural surroundings. This would undermine our scientific efforts or purpose.

INSTRUCTIONS

The plaintiff, Will I. Dive, must prove by a preponderance of the evidence, the greater weight of credible evidence, that he was qualified to participate in the POC scuba diving program with the help of minimal and reasonable accommodations for his handicap. He must show that the school could have taken such measures but failed to do so, and therefore discriminated against him because of his handicap. To successfully counter the claim of discrimination, the school must show that no accommodation could be made to integrate Will into the program and/or any accommodations would place an undue burden on the school and/or that the decision to withdraw its offer was based on a non-discriminatory purpose.

SUB-ISSUES

1. Was Will I. Dive otherwise qualified for admission to the program or was there a separate and non-discriminatory reason for the school's decision?
2. Could the school have made allowances and changes to the program to accommodate for Will's disability without endangering him or others and without changing the very nature of the diving program?
3. Would the purchase and use of special equipment and the adoption of new procedures and training requirements place an undue burden on the school and the program?

CONCEPTS

1. Burden of proof - preponderance of the evidence.
2. Credibility of witnesses.
3. Discriminatory v. non-discriminatory purpose.
4. Balancing interests.
5. Extent of accommodation that must be made for the handicapped.

LAW

The Americans with Disabilities Act (ADA) provides: No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations, is discrimination.

A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered or would result in an undue burden, is discrimination.

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Handicapped Scuba International: www.hsascuba.com

Adaptive Scuba Diving Program

(New Mexico Scuba Center): www.nmscuba.com

Reincarnation of Discrimination

SCHOOL

Haddonfield Friends
Haddonfield
Grade 8, Second Place

TEACHER

Tanitra Rogers

STUDENTS

Jacob Barger, Aviana Duca, Joseph J. Kiernen,
Paul Mattio, Daecia-Jame' Smith,
Alethia Wright-Levels

FACTS

James Linden is a seventh-grade science teacher at Lexington Charter Middle School, a public charter school located in Ellisburg, New Jersey. Mr. Linden is a practicing Buddhist. During the summer break of 2006, Mr. Linden decided to get a tattoo of a swastika placed on his right palm. In the Buddhist religion, body ornamentation is an expression of one's faith.

After receiving a phone call from a parent, the administration of Lexington Charter Middle School found out that Mr. Linden had a swastika tattooed on his palm. The principal paged Mr. Linden to the main office and told him that the symbol of the swastika was highly offensive and distracting to the student body, parents, and faculty. Soon thereafter, Mr. Linden received a letter explaining that he must conceal the tattoo, and the principal gave Mr. Linden a copy of the school policy on conduct and dress.

A week passed and Mr. Linden hadn't concealed the tattoo. Then he received a letter of reprimand from Mr. Fleming, the principal. Mr. Linden responded with a letter stating that he felt that the school had no right to interfere with his religious beliefs. The principal then responded by stating in a letter to Mr. Linden that if he refused to conceal the tattoo, his employment would be terminated.

Mr. Linden went to the administration to explain that in the Buddhist faith body ornamentation is a way of illustrating and exercising one's faith much like Christians who wear crucifixes, Jews who wear the Star of David, or Muslims who wear the hijab. To

Buddhists, the symbol of a swastika is a symbol of peace and it is a sign of respect for their religion. Mr. Linden showed the administration the Tipitaka, a Buddhist holy book, which illustrates images of the swastika as being relevant to the Buddhist religion. Though the principal listened to what Mr. Linden had to say, he was not persuaded by the argument.

Shortly thereafter, the principal decided that Mr. Linden's failure to remove, cover up, or alter the tattoo was grounds for his dismissal due to unprofessional conduct. Mr. Linden filed a lawsuit against the Lexington Charter Middle School claiming that he was discriminated against because of his religious beliefs.

ISSUE

Did the defendant, Lexington Charter Middle School, discriminate against the plaintiff, James Linden, on the basis of his religion?

WITNESSES

For the Plaintiff

James Linden
Dr. Gerald Yu

For the Defense

Dr. Frank Fleming
Frances Katz

WITNESS STATEMENTS

Testimony of James Linden

My name is James Linden and I am a third-year teacher at Lexington Charter Middle School. I consider myself a very religious man, and after attending a Buddhist service over the summer, I was motivated to get a tattoo. I wanted to get a tattoo that was sentimental to my beliefs. So, I decided to get a swastika on my palm. The swastika is important to me because it means “let good prevail,” which is something I strongly believe. Since I’ve been working at the school, I have never been aware of any rules regarding tattoos. I have also seen teachers in the past who have displayed tattoos, and they have never been questioned about the meanings of their tattoos.

On the morning of Tuesday, September 12, 2006, Mr. Fleming called me into his office. He explained to me that he had been receiving complaints from parents, students, and faculty concerning my tattoo. He asked me to conceal my tattoo. He thought this action would be in the best interest of the school. I was offended and I tried to explain what my tattoo symbolized, but he wasn’t convinced. The next day, September 13, I was checking my school mailbox when I found a letter from Mr. Fleming stating that I should cover up my tattoo by September 15. I wasn’t going to surrender my beliefs. On September 15, I showed up to school with my tattoo uncovered because I was trying to prove my point. At the end of the day, I received another letter from Mr. Fleming restating what he had already explained. This time he gave me an extension of the deadline for concealing the tattoo until the 20th of September. He also stated my tattoo was a distraction to the students.

Over the weekend, I had a lot of time to think about it, and I decided to respond by writing a letter to Mr. Fleming on September 18. I explained how I understood where the concern was coming from, but the symbol meant too much to me to cover it up. I also mentioned that the gym teacher, Mr. Lopez, has a cross on his arm and that he was never given any trouble about it. On September 20, I still refused to give in, and by the end of the day I had received a notice in my mailbox stating this was my last deadline to conceal the tattoo. This notice included

the fact that my employment would be terminated on September 22 if I didn’t cover my tattoo and that I was in violation of the school policy on conduct and dress. On Friday, September 22, I was walking out of school when I saw Mr. Fleming in the hall and he asked me to collect my things and to leave.

In the Buddhist religion the swastika is a positive solar symbol that brings protection, prosperity, and good luck. I believe I was let go because I refused to cover up my tattoo. I feel Principal Fleming, Mrs. Katz, and the school faculty need to understand my religion before judging. I’m suing because the school discriminated against me on the basis of my religion.

Testimony of Dr. Gerald Yu

My name is Gerald Yu and I am a professor of World Religion at Ellisburg Community College and a practicing Buddhist. The swastika that Mr. Linden displays on his palm is not a symbol of hate. It is a symbol of good luck, the sun and life. The swastika has existed as a symbol for over three thousand years. Many ancient cultures including the Greeks, the Indians, and the Celts revered the swastika as a symbol of good and they used it on various mediums for religious purposes and other reasons. I know for a fact that the swastika is a Buddhist symbol that means, “Let good prevail.” It is also a symbol of harmony and peace. It is an expression of Buddhist belief. Mr. Linden, a practicing Buddhist, clearly understands the religious significance of his tattoo. He was merely expressing his faith. The principal, clearly not knowledgeable in the Buddhist faith or beliefs of the swastika, misinterpreted the swastika as the Nazi symbol of hate. Mr. Fleming’s ignorance about different faiths is no reason for Mr. Linden’s position to be jeopardized.

Testimony of Dr. Frank Fleming

My name is Frank Fleming and I have been the principal of Lexington Charter Middle School in Ellisburg, New Jersey for seven years. When classes resumed this September, everything seemed to be going well for both students and teachers. That was until September 11 when I received a call from Mrs. Frances Katz, a mother of a seventh-grade student in Mr. Linden’s class.

Mrs. Katz said that her son's science teacher, Mr. Linden, had a swastika tattoo on the palm of his right hand. I was immediately shocked by this news and in disbelief because I had never noticed the tattoo on Mr. Linden's hand.

The following morning I paged Mr. Linden to the main office. He told me that the tattoo was a sign of his Buddhist faith, and that it wasn't related to the Nazi Party. I had informed Mr. Linden that the swastika is extremely offensive, and that I had received a complaint from a parent the night before. I also informed him that our school had a large Jewish population that would find his tattoo very offensive. I asked Mr. Linden to remove, alter, or hide the tattoo, or I would be forced to take action. Mr. Linden stated that his swastika was an expression of his religious beliefs and that he has as much right to display his iconography as any other person.

Up to this point Mr. Linden has made a good impression on his students for his knowledge of science. Nevertheless, I feel that this tattoo is not a good symbol for young students to be exposed to every day during class; it serves as a distraction. Students do not see it as a Buddhist symbol but a Nazi symbol. Therefore, I asked Mr. Linden to remove or cover his tattoo while he teaches but he refused. It is my job to look out for the interests of my students and to ensure that their learning environment is safe and free of distractions to the educational process.

Testimony of Frances Katz

My name is Frances Katz. I am the parent of Brian Katz, who is a student in Mr. Linden's seventh-grade science class. I am also a member of the Lexington Charter Middle School's Parent Teacher Association. On Monday September 11, my son came home from school and told me about Mr. Linden's swastika tattoo. I was very concerned about Mr. Linden's iconography. I worried about my son's and other students' exposure to Mr. Linden's offensive body ornamentation. I was particularly offended by the tattoo. It was all too reminiscent of the horror and murders of innocents during the Holocaust and the Nazi's reign of terror - the Third Reich. I called Mr. Fleming, the principal of Lexington Charter Middle

School, and told him about the swastika tattoo and stated my concerns. Mr. Fleming, who has always been an effective and responsible administrator, listened to my concerns. He told me that he was worried about Mr. Linden's tattoo. He said that he would speak to Mr. Linden to find out why he displayed this abhorrent image.

INSTRUCTIONS

The plaintiff, Mr. Linden, must prove by a preponderance of the evidence that the defendant, the Lexington Charter Middle School, discriminated against him on the basis of his religious beliefs.

SUB-ISSUES

1. Were there any other reasons for the plaintiff's termination?
2. Were other teachers with tattoos treated differently than Mr. Linden?
3. Was the school selectively enforcing a prohibition against tattoos?
4. Was the tattoo distracting to others, or was there just a single complaint (especially considering that the principal had not even noticed it)?

CONCEPTS

1. Rights of students in a charter school.
2. Credibility of witnesses.
3. Prejudice and bias based on appearance.
4. Preponderance of evidence.
5. Freedom of expression.
6. Freedom of religion.
7. Freedom of speech.
8. Rights of individual.
9. Reasonable accommodation vs. undue hardship.

LAW

1. Title VII of the Civil Rights Act of 1964 prohibits an employer from discriminating against any individual because of, among other things, religion. Additionally, an employer must make reasonable accommodations for its employees' religious beliefs and practices unless doing so would create an undue hardship for the employer.
2. First Amendment to the United States Constitution: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

EXHIBIT FOR THE DEFENSE

Lexington Charter Middle School Dress Code

The board expects all staff members to be neatly groomed and dressed in clothing suitable for the subject of instruction.

The board retains the authority to specify the following dress and grooming guidelines for staff, within law, that will prevent such matters from having an adverse impact on the educational process:

- A. Be physically clean, neat and well groomed;
- B. Dress in a manner reflecting their assignments;
- C. Dress in a manner that does not cause distraction to the educational process;
- D. Dress and be groomed in such a way so as not to cause a health or safety hazard.

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Special thanks to parents of Haddonfield Friends School, William Helmsbrecht, Charter Coordinator and Co-founder of Camden's Promise, Camden's Promise, and Camden Academy Charter Schools and Rutgers Camden Law School Librarians.

Mr. Hugh Normus v. Fairweigh Airlines

SCHOOL

Gretta R. Ostrovsky Middle
Wood-Ridge
Grade 8, Honorable Mention

TEACHER

Debra Schweiger

STUDENTS

Emma Flynn, Anthony Gadaleta, Klara Lacson,
Dylan O'Byrne, Dyonna Pagliocca, Arsh Patel,
Daniel Picinich, Kyle Tayaba

FACTS

As of January 1, 2009, Fairweigh Airlines implemented a new policy, XL360, which states, "Any person wider than 18 inches and heavier than 300 pounds must purchase an additional adjacent seat. Passengers may not occupy more than one seat, or invade the space of the passenger seated beside him or her. Therefore, passengers exceeding the size limits are required to purchase two seats."

On January 6, 2009, Hugh Normus checked in for his flight on Fairweigh Airlines. He was refused a boarding pass and was told to refer to policy XL360 regarding passenger size.

Although he opposed this policy, he agreed to purchase a second ticket because he could not delay his travel. However, since his flight was fully booked, Mr. Normus was delayed six hours until the next flight. As a result, he arrived late to his sister's wedding.

Mr. Normus is suing Fairweigh Airlines for discriminating against him due to his size.

ISSUE

Did Fairweigh Airlines discriminate against Mr. Hugh Normus due to his size?

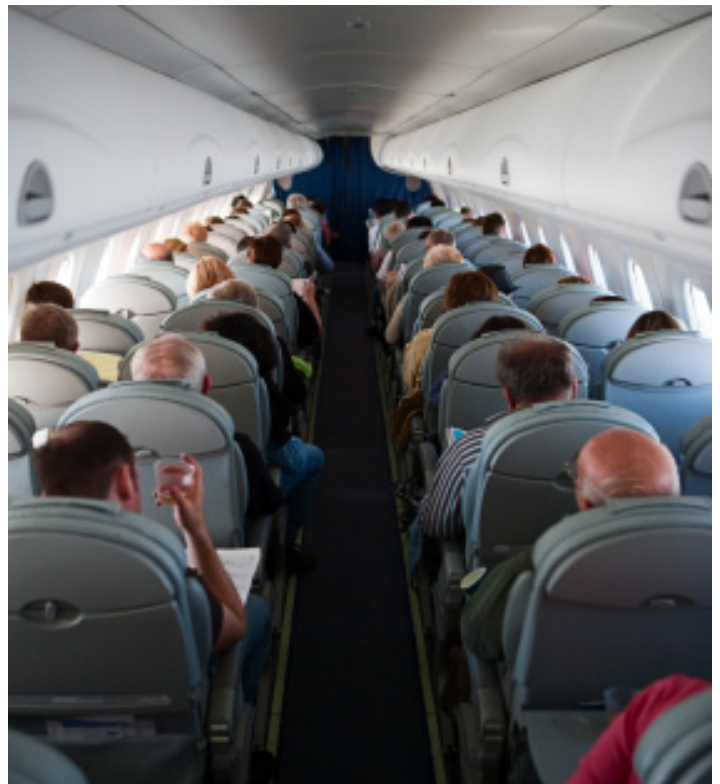
WITNESSES

For the Plaintiff

Hugh Normus
Stan Tistics

For the Defense

Sally Smalls
Justin Fare



WITNESS STATEMENTS

Testimony of Hugh Normus

Fairweigh Airlines discriminated against me because of my weight, which I cannot control. I have a chronic medical condition and take a maintenance medication to control it. The side effects of the medication include weight gain. On January 6, I was denied a boarding pass and told to refer to the new policy XL360. When I referred to this new policy, I was outraged. I am a frequent flyer and had never been previously charged for an additional seat. I would never have agreed to this charge if I did not have to attend an important event. Because I had to wait for a later flight, I was late to my sister's wedding.

The issue is not if I can or cannot afford a second seat, but rather the airline's discriminatory pricing. Since 60% of the population is overweight according to the National Institutes of Health, airlines should have increased the size of their seats as their customers increased in size. Airlines should be obligated to satisfy their customers' needs. However, the size of an airline seat has not increased in the past 50 years. Fairweigh Airline's policy XL360 discriminates against people with disabilities like mine.

Testimony of Stan Tistics

I am Stan Tistics from the Centers for Disease Control and Prevention (CDC). Average adult Americans are about one inch taller, but nearly 25 pounds heavier than they were in 1960. The average weight for men aged 20-74 years rose dramatically from 166.3 pounds in 1960 to 191 pounds in 2002, while the average weight for women the same age increased from 140.2 pounds in 1962 to 164.3 pounds in 2002.

The increased weight trend continues. Americans are getting heavier. More than 60% of the population is classified as overweight according to the National Institutes of Health. Many industries that serve Americans are slow in adjusting to meet their larger consumers' needs. Airline seat sizes are no larger today than they were 40 years ago. If the airlines want to serve the majority of passengers, they should be making their seats wider to provide comfort.

Testimony of Sally Smalls

I am a frequent flyer because of my occupation. I weigh 110 pounds and measure 15 inches wide, which is smaller than the average American female. I fit between the airplane seat armrests with room to spare. Unfortunately, larger people have passed the armrest boundaries and infringed upon my space. I shouldn't have to share the seat I paid for. Sometimes, when the bigger people invade my seat, I end up with severe bruises up and down my upper arms. In the photographs marked Exhibit A, you can see the painful injuries that I have suffered while on a long flight. Furthermore, there is even less room when there are larger people on both sides of me.

Small and average-sized people should not suffer to accommodate oversized people. Fairweigh Airline's new policy, XL360, has restored my right to a comfortable flight. I greatly appreciate policy XL360. Finally, a fair and just policy is in place for all passengers.

Testimony of Justin Fare

My name is Justin Fare. I am the CEO of Fairweigh Airlines. We initiated a new policy, XL360, on January 1, 2009. We have received many complaints from our passengers that overweight passengers would lift the armrests before sitting so that they occupied their own seat and part of the adjacent seat, thereby infringing upon the space of the person seated beside them. At times they have caused injury, such as bruises on the arms of the smaller passengers. We could not ignore the fact that larger passengers were indeed inflicting injury upon and invading the space of fellow passengers.

Furthermore, Fairweigh Airlines couldn't remain in business if we left seats between passengers unsold. In addition, fuel consumption, which increases costs, directly correlates to weight. Just as we charge for extra baggage or usage of space by freight, we must charge more for overweight passengers. Policy XL360 is not discriminatory, but completely necessary to restore comfort to all passengers on every flight, as well as to compensate fairly for additional space and weight.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Fairweigh Airlines discriminated against him when they required him to purchase two airline seats.

SUB-ISSUES

1. Does Hugh Normus have a physical disability?
2. Is it Fairweigh Airline's responsibility to make its seats bigger?
3. Does Fairweigh Airlines have the right and responsibility to institute a policy to assure passenger comfort?
4. Was Sally Smalls bruised by a larger passenger or as a result of turbulence?
5. Was policy XL360 in place before or after Hugh Normus booked his flight?

CONCEPTS

1. Discrimination based on size.
2. Credibility of the witnesses.
3. Preponderance of the evidence.
4. The rights of the individual versus the rights of the group.

LAWS

1. Title VII of the Civil Rights Act of 1964 declares that all persons within the United States have a right to employment free from discrimination based on race, color, religion, sex, or national origin. It has been used in weight discrimination cases where weight standards are applied differently to different protected classes, and where weight standards have an adverse impact on a protected class.
2. The Americans with Disabilities Act of 1990 (ADA) extends the protection against discrimination on the basis of disability to the private sector.

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Exhibit A

Photographs of Sally Small's Bruised Arm



Food Fight

SCHOOL

Valley Middle
Oakland
Grade 8, Honorable Mention

TEACHER

Jeanne Schulze

STUDENTS

Annie Elfers, Nikki Felice, Dan Hysell,
Ryan Kennelly, Hayeon Kim, Sara Kiter,
Megan McPhee, Alexandra Piano

FACTS

On September 8, 2002, New Jersey City Department of Health Inspector Bea A. Ware inspected the International House of Falafels, also known as IHOF, owned by Pete A. Bread, a man of Middle Eastern descent. IHOF is one of two adjoining restaurants that share the same building, including the water lines, water heater, and basement storage area. The other restaurant, Bacon's Beautiful Burgers, owned by Chris P. Bacon, is an American grill that advertises cooked-to-order food. Both restaurants have been inspected periodically by Bea A. Ware for the past three years. Previously, both popular restaurants had always passed inspection; they were well trusted by customers and always received a satisfactory rating. The restaurants are located in New Jersey City, across the Hudson River from Ground Zero, the spot where the tragic events happened on September 11, 2001. After 9/11, many customers, restaurant owners, and inspectors were negatively affected. Business for the restaurants severely decreased after September 11, 2001.

On September 8, 2002, Inspector Bea A. Ware inspected the Middle Eastern restaurant, IHOF. She placed a yellow card, which is a conditionally satisfactory rating (the second lowest possible), in the window of IHOF for the public to see. The water in the handwashing sink was not hot enough to properly kill all bacteria that could lead to disease. The American grill, Bacon's Beautiful Burgers, was not inspected by Bea A. Ware to

check the water temperature at that time although the two restaurants did share the same water line and water heater. Inspector Ware did not check Bacon's Beautiful Burgers because it was not on her schedule to be inspected for another four months.

Upon returning to IHOF for a follow-up inspection, Inspector Bea A. Ware closed down the restaurant due to an infestation of roaches in the basement food storage area. Although Bacon's Beautiful Burgers, the American grill, possibly had the same roach infestation because it shared the building with IHOF, Bacon's Beautiful Burgers was not inspected. Thus, the owner, Chris P. Bacon, was still able to operate his restaurant and continue making money.

The Middle Eastern restaurant owner, Pete A. Bread, is suing the New Jersey City Department of Health and Inspector Bea A. Ware because he believes he has been discriminated against due to his ethnicity. Adding to Mr. Bread's accusations, there have been an inordinate number of Middle Eastern owned restaurants in New Jersey City that have failed inspection since September 11, 2001. He is seeking reimbursement for the fines and loss of business because of bad publicity and having to close his business.

Inspector Bea A. Ware denies the accusations that she discriminated against the restaurant owner on the basis that she is following health department regulations. She is also the sponsor of an underprivileged Middle Eastern child in Afghanistan through the Doris Open Global Children's Charity.

ISSUE

Did Inspector Bea A. Ware discriminate against Pete A. Bread, owner of a Middle Eastern restaurant, on the basis of ethnicity?

WITNESSES

For the Plaintiff

Pete A. Bread

Ann Spector-Gadget

For the Defendant

Inspector Bea A. Ware

Jen R. Ous

WITNESS STATEMENTS

Testimony of Pete A. Bread

My name is Pete A. Bread, and I have been the owner of the International House of Falafels (IHOF) for 12 years. IHOF is a Middle Eastern restaurant that serves specialties such as falafel and shish kebab. My restaurant is located in New Jersey City, across the Hudson River from Ground Zero. It had been a very popular eating establishment for years prior to 9/11.

My parents escaped the poverty of Afghanistan, with a dream to come to America and open up their own Middle Eastern restaurant, which they successfully accomplished. Upon their retirement 12 years ago, they handed down the ownership of the restaurant to me. Prior to 9/11, my restaurant had always passed inspection.

On September 8, 2002, the New Jersey City Department of Health Inspector Bea A. Ware inspected my restaurant, IHOF. She first gave me a conditionally satisfactory rating, which required a yellow card to be displayed in my window, for not having the correct water temperature at the handwashing station. Although the same water line and water heater is shared between IHOF and Bacon's Beautiful Burgers, the inspector neglected to check the American grill's water temperature. I find this unfair because I have no control over the

water temperature in my restaurant; the owner of the building regulates it.

Upon re-inspection of IHOF, it was found that there was a roach infestation in the basement food storage area. Inspector Bea A. Ware shut down the restaurant immediately. Bacon's Beautiful Burgers, located in the same building and sharing the same food storage area, is still in business. I lost business because my conditional health rating and subsequent unsatisfactory rating and closure were published in the newspaper. I was fined and closed down, unable to make any profit.

Testimony of Ann Spector-Gadget

My name is Ann Spector-Gadget. I was an inspector for the New Jersey City Department of Health from March 1969 to January 2002. I retired because Bea A. Ware was promoted to be my supervisor, and I did not desire to work under her. In New Jersey City it was common for many of the restaurants to have a satisfactory rating, and most Middle Eastern restaurants passed inspection with flying colors. During my tenure, many of the minor problems that the restaurants had were quickly corrected either during the inspection or afterward.

After the tragic terrorist attack on September 11, 2001, an inordinate amount of restaurants owned by people of Middle Eastern descent failed inspection. I was ashamed of the path that my co-workers were taking. I would have liked to fix this problem, but I had already submitted my retirement papers.

Testimony of Bea A. Ware

My name is Bea A. Ware. I am a New Jersey City health inspector. I have been inspecting various restaurants for 10 years. I always try to be reasonable with my inspections while still adhering to the New Jersey State regulations. These regulations protect the health and safety of the customers. Never in my career have I been accused of being unfair or unlawful, let alone discriminatory. Upon inspection of IHOF, I found that the water temperature was not up to code. I gave the restaurant a conditional rating, and told them I would be back in a week. I was not scheduled to inspect Bacon's Beautiful Burgers for another four

months. Therefore, it was not my responsibility to check if the same problem with the water also had occurred there.

I returned to IHOF to make sure that the water problem was corrected. While I was there, I rechecked the restaurant for any other possible infractions. In the basement I found an infestation of roaches in the food storage area. Because an infestation warrants an immediate closure, I closed the restaurant. Again, I was not supposed to inspect the neighboring restaurant for four more months.

The owner of IHOF is now accusing me of discrimination. However, I think that this is preposterous. I am utterly disgusted by this accusation. How could I be accused of discriminating against those of Middle Eastern descent when I sponsor a child in Afghanistan through the Doris Open Global Children's Charity? Clearly, I believe that these accusations should be dismissed.

Testimony of Jen R. Ous

My name is Jen R. Ous. I am the coordinator of the Doris Open Global Children's Charity. Inspector Bea A. Ware is a part of this wonderful program. She supports a child in Afghanistan whose family does not have a sufficient amount of money for food and other necessities. Bea A. Ware provides more than enough money for this family and is one of our most generous donors. Records show that she has continually participated in this program for six years and actively recruits other sponsors.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Inspector Bea A. Ware discriminated against Pete A. Bread on the basis of his ethnicity.

SUB-ISSUES

1. If the roaches warranted the immediate closure of IHOF, did the inspector have an obligation to inspect Bacon's Beautiful Burgers, the restaurant that shared the basement storage area with IHOF?

2. Is a restaurant owner responsible for conditions within his or her restaurant which are not under his or her control, but are under the control of the owner of the building, such as water temperature and roach infestation?
3. Is Ann Spector-Gadget biased against Bea A. Ware because Bea A. Ware was promoted over her?

CONCEPTS

1. Health inspectors have an obligation to protect the health and safety of the public.
2. A restaurant owner is responsible for the health and safety of his or her customers.
3. Is a biased witness credible?
4. Ethnicity is a protected category under the New Jersey Law Against Discrimination.
5. The burden of proof in a civil case belongs to the plaintiff, who must prove the case by a preponderance of the evidence.

LAWS

1. New Jersey Law Against Discrimination.
2. New Jersey Sanitary Code - Chapter 24.
3. Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Special thanks to Mrs. Carol Russek, Esq.

Is Getinold Getting Too Old?

SCHOOL

Wanaque Elementary School
Wanaque
Grade 8, Honorable Mention

TEACHER

Paula Basedow

STUDENTS

Jake Burke, Lindsay Bruno, Jessica Chirichello,
Natasha Darwish, Melissa Dean,
Cheyenne Gensel, Emily Henning, Jared Holm,
Marissa Pacelli, Audrey Russelman,
Alanna Sachse, Samantha Six, Kelly Sullivan,
Kelsie Wardlaw

FACTS

On Tuesday, July 26, 2008, James Getinold, 64, was fired from his job at Teacko Corporation. For the last 30 years, Mr. Getinold has handled the company's finances and investments. Mr. Getinold has filed an age discrimination lawsuit against Teacko Corporation. Teacko executives deny the fact that Mr. Getinold's age had anything to do with his getting laid off. Mr. I. Ownya, president of Teacko Corporation, further acknowledges the fact that Mr. Getinold was a very loyal and hard-working employee, but states that his ineffective performance in recent months has produced a marked drain on Teacko's finances. The inability of Mr. Getinold to regain financial stability for Teacko has warranted replacing him with an employee possessing the type of varied background in finance that Teacko Corporation requires to stay solvent in today's challenging global market.

ISSUE

Did Teacko Corporation fire its employee, Mr. James Getinold, because of his age?

WITNESSES

For the Plaintiff

James Getinold
Friend Lee

For the Defense

I. Ownya
Sue Pervisor

WITNESS STATEMENTS

Testimony of James Getinold

My name is James Getinold, I am 64 years old, and I have worked for the Teacko Corporation for over 30 years. My job is to handle the files and finances for Teacko. I am suing the Teacko Corporation for firing me this past July on the grounds of age discrimination. I find it very suspicious that after I was fired, a young lad, maybe 25, was hired and took my job. I mean, I was one year from retirement; the lad has years until then. I made so much money for this company and the thank-you I get is, "You're fired!"

That's not right, but I'm not the only one who has gotten fired lately. Many of the senior co-workers that I have known for years have been fired and replaced with a younger generation as well. The only logical explanation is that we are being fired for our age. Age discrimination is illegal and this lawsuit will reaffirm our legal right to retire when

we choose and with the dignity and benefits we deserve after a lifetime of dedicated service.

Testimony of Friend Lee

My name is Friend Lee. I have been an employee for Teacko Corporation for the last 24 years. I have been with James Getinold through the hard times, such as the passing of his sister. Mr. Getinold and I are victims of age discrimination. Years of dedicated service to Teacko are no longer rewarded with a good salary and the dream of a comfortable retirement. I was laid off a few weeks prior to James without so much as an explanation. I worked in Teacko's publicity and public relations department and although the economy has been bad, it is not the reason we were fired. Revenues have been down due to the fact that our company's image does not appeal to the ever increasing younger generation of consumers.

Mr. Getinold has pulled his fair share of work just like everyone else; he has gone above and beyond in his work for Teacko. But how were we repaid? Teacko is promoting a new ad campaign to promote a younger image and thus attract younger consumers. We were "replaced" by a younger generation of employees who lack the experience and dedication to ensure that Teacko Corporation remains a strong company, but who possess the youthful image Teacko desires. Admit the truth, Teacko Corporation, old age in a beauty industry is a deterrent. Mr. Getinold and I were simply casualties in Teacko's new youth-driven ad campaign.

Testimony of I. Ownya

My name is Mr. I. Ownya, and I'm the boss of Teacko Corporation. I'm speaking to you today in regards to the recent firing of Mr. James Getinold. I understand that Mr. Getinold feels that we fired him due to age discrimination, but I beg to differ. Mr. Getinold was a very loyal and hard-working employee. That's undeniable. His age has nothing to do with his getting laid off. His performance at work has been showing a marked drain on Teacko's finances. Financial statistics show that the company's financial portfolio of investments

has shown a marked drop in company stocks and revenue. It is Mr. Getinold's responsibility to ensure that Teacko Corporation remains solvent. Given today's economy and the drastic changes in the world market, the Board of Directors at Teacko reached the decision that we needed someone with a fresh outlook and new ideas to help Teacko Corporation regain its place in the market.

Mr. Getinold has been using old methods that worked well in the past, but simply don't work with today's economy. We really didn't want to let go of Mr. Getinold, but our first priority must be to our investors and stockholders. The time for a change in financial strategies warranted hiring someone better equipped to help us survive this global recession. It is for this financial reason alone that Mr. Getinold has been replaced by another employee. This new employee is a recent graduate from Harvard with the type of varied background in finance that Teacko Corporation requires to stay afloat in today's economically difficult time.

Teacko's Board of Directors wrote up a very generous severance package for Mr. Getinold to thank him for his years of dedicated service. Firing Mr. Getinold was purely a business decision that we were forced to make. There was no other choice. I was dumbfounded when I heard that Mr. Getinold accused the Teacko Corporation of age discrimination. The idea of being fired due to his age is just absurd! We are not that type of a corporation, but like every business, we must reduce our expenses by downsizing and changing our strategies, and in this case, employees, in order to weather difficult times. I was personally very saddened to see James leave; however, it is in the best interest of our company.

Testimony of Sue Pervisor

My name is Sue Pervisor. I am the overseer of the finance department for Teacko Corporation. Part of my job is to supervise the employees in my department. I have, therefore, observed Mr. Getinold's work performance for many years. He was formerly one of our top performers, but in recent years his work has been slightly under par. I felt compelled to bring this to our company president's attention. Mr. I. Ownya and I both

agreed to give Mr. Getinold a chance to take night courses at the community college to advance his knowledge and skills in modern economics, but Mr. Getinold refused by arguing that “he was up-to-date with modern economic strategies.” He continued to argue that he didn’t need a “book-trained, inexperienced, college professor” to tell him how to do the work he’d been successfully doing for over 30 years.

Despite our urging him to comply, James stormed out of the room in a rage. What more can we do after giving him so many opportunities? Don’t get me wrong, I’ve seen Mr. Getinold working overtime many nights, but Teacko Corporation’s financial statistics continue to worsen. We cannot hold on to someone because of their performance in the past. We need to think of today and the future of Teacko Corporation. It’s what our stockholders expect.

INSTRUCTIONS

The jury must decide by a preponderance of the evidence if Mr. I. Ownya and the Board of Directors at Teacko Corporation fired James Getinold because of his age and that Mr. Getinold’s rights were violated because of this discriminatory practice.

SUB-ISSUES

1. Was James Getinold able to effectively fulfill the requirements of his job at Teacko Corporation?
2. Does Teacko Corporation have the right to replace an employee with someone they feel is better equipped for the position in their company?
3. Does Teacko Corporation’s new ad campaign promote age discrimination in the workplace?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Credibility of the witnesses.
3. Circumstantial evidence v. direct proof.
4. Reasonableness of actions taken.

LAWS

1. The Age Discrimination in Employment Act of 1967

SEC. 623. [Section 4]

(a) It shall be unlawful for an employer -

- (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his/her compensation, terms, conditions, or privileges of employment, because of such individual’s age.

Kieran Aid v. Hearingston Middle School

SCHOOL

Bloomfield Middle
Bloomfield
Grade 8, Honorable Mention

TEACHER

Erin Marmara

STUDENTS

Stephanie Chasi, Samantha DeRisi, Gabrielle Falco, Ivan Garcia, Ryan Gonzalez, Maya Harris, Kelli Hayes, Michael Hiel, Melyssa Laycock, John Lopez, Timothy Montano, Kristen Norton, Christopher Ong, Eric Ore, Mae Orejola, Joshua Richey, Anthony Rodriguez, Tessa Rush, Ashley Russoman, Justin White

FACTS

Kieran Aid is a 26-year-old aspiring teacher. He attended Pennsylvania State University and graduated in the top 5% of his class. He then went on to earn a master's degree in teaching. Kieran was a student teacher at Defferson Middle School. He recently applied for a job as the new eighth grade history teacher at Hearingston Middle School. Kieran was born deaf and is able to communicate using sign language and lip reading. The principal had to decide between two candidates for the position – Kieran and another young lady. The other candidate did not have any disabilities. Kieran was not hired for the position, and feels he was discriminated against because he is deaf.

Although Kieran can perform all of the jobs associated with the teaching position, he would need some special accommodations. He would need his classroom to be rewired. He would be notified about fire alarms, changing classes, and school announcements through a system of flashing lights instead of alarms or bells. He would also need a special type of phone to communicate with parents and the main office. The principal of Hearingston Middle School, Ivana Hyre, said that she did not hire Kieran Aid because it would be too expensive to prepare a classroom for him to use. Ms. Hyre claims that under the Americans with Disabilities Act, the school can choose not to hire him if accommodating his disability creates a financial hardship for the school.

ISSUE

Did Hearingston Middle School illegally discriminate against Kieran Aid in violation of the Americans with Disabilities Act by refusing to hire him?

WITNESSES

For the Plaintiff

Kieran Aid
Lauren A. Lotte

For the Defense

Ivana Hyre
Noah Boutdoe

WITNESS STATEMENTS

Testimony of Kieran Aid

Hello, my name is Kieran Aid. The reason I am here today is because I was denied a teaching position at Hearingston Middle School. I know that I was the most qualified candidate for the opening. I would need some accommodations for my classroom, but I don't think that the school looked into how little this would cost. When I was interviewed, they never asked me what things I would need to accommodate my disabilities. They never spoke to me about anything involving the budget. If they had talked to me, they would have

realized that the things I would need aren't very expensive. I think the school didn't hire me because I am deaf.

When I was student teaching, I was successful. My students' standardized test scores improved after being in my class. I received an A for my student teaching, and both my cooperating teacher and my professor were very impressed by my performance. They also wrote me wonderful letters of recommendation. Unfortunately, they didn't have an open position for me at Defferson Middle School or I would have stayed there. Although I'm sure the person they hired was qualified, she doesn't have a master's degree like I do. I know that I was the best candidate for the job. The school is missing out on a great opportunity to have a teacher such as myself who could show students how to overcome obstacles.

Testimony of Lauren A. Lotte

My name is Lauren A. Lotte. I was a student of Mr. Kieran Aid when he was a student-teacher at Defferson Middle School. He wasn't your average teacher. At first, I was a little nervous to have a deaf teacher. I wasn't sure I would be able to learn from someone who couldn't hear me. I was sure the class would take advantage of him.

Soon I learned my first impression was wrong. Mr. Aid was a fantastic teacher and he was able to understand us by reading our lips. He was capable of talking to us. His voice was a little different, but we could understand him perfectly. We learned from him that once a person loses a certain sense, their other senses are heightened. He was actually better at controlling the class because he noticed every disruption. He even taught us some sign language. By the end of the year, we were all more tolerant of people with disabilities.

He had a different way of teaching us things. He had us write a lot of notes and essays so my writing got a lot better. My test scores went up, and lots of my classmates' scores went up, too. We played review games and he showed us how to use the smart board.

He made learning fun and showed us that even though you're disabled, you can still accomplish a

lot. I was shocked when I heard that Mr. Aid wasn't hired at Hearingston Middle School, and I think they're making a huge mistake.

Testimony of Ivana Hyre

My name is Ivana Hyre and I am the principal of Hearingston Middle School. Recently I interviewed two candidates for a teaching position at my school. I really liked Kieran Aid when I met him. His resume was impressive, and he came highly recommended from the principal of Defferson Middle School.

Of course, I noticed that Kieran Aid was deaf, but I knew he was a good choice for the position. I decided to hire the other candidate for several reasons. Kieran Aid's classroom would require accommodations that were too expensive for our school. Defferson Middle School was not required to make these accommodations during Mr. Aid's student teaching assignment due to the fact that his cooperating teacher was present at all times.

Our budget was decided upon in April and Kieran applied for the job in June. It was too late to make changes. I spoke to Mr. Boutdoe, the treasurer of the Board of Education, but we already made the decisions about how we would spend the money for the coming school year. I couldn't justify taking such a significant amount of money away from much needed school projects to spend it on an employee who would be non-tenured and not necessarily a permanent member of the staff. We just didn't have the money or the resources to accommodate him at the time. The teacher I chose to hire also came highly recommended and is a less expensive choice for our school.

Testimony of Noah Boutdoe

My name is Noah Boutdoe and my son attends Hearingston Middle School. I am currently the treasurer of the Board of Education for our school district. Recently I discussed the school budget with Ivana Hyre. Ms. Hyre had recently interviewed Kieran Aid for a teaching position at the middle school. Ms. Hyre and I briefly discussed the possibility of preparing a classroom that would accommodate Mr. Aid's disabilities. The school would need to invest a great deal of money to

provide for these accommodations. I feel this would cause financial problems for our school.

I looked at some of the special requirements that would have to be made for Mr. Aid if he were to teach at Hearingston. Revising the budget to allow for this expense would mean decreasing the allotted funds for such items as textbooks, desks and chairs, gym equipment, and repairing existing building problems in the school. Mr. Aid is a very well educated teacher but, as the treasurer, I cannot justify modifications to the budget to provide for individual needs at this time. Instead, I have based my recommendation on choices that have already been approved by the Board.

INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that the school's decision not to hire Kieran Aid violated the Americans with Disabilities Act.

SUB-ISSUES

1. Would it cause Hearingston Middle School significant difficulty or expense to employ Kieran Aid?
2. Should the school have asked Kieran Aid what he would need for his teaching?
3. Did the school turn down Mr. Aid only because he was deaf?
4. Were both candidates equally qualified for the job?

CONCEPTS

1. Preponderance of evidence.
2. Burden of proof.
3. Unlawful discrimination.

LAW

The Americans with Disabilities Act (1990)

1. Title I of the Americans with Disabilities Act of 1990 prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. An individual with a disability is a person who:
 - Has a physical or mental impairment that substantially limits one or more major life activities.
2. A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:
 - Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
3. An employer does not have to provide a reasonable accommodation if it imposes an "undue hardship." Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and in the nature and structure of its operation.

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Were Luna Nightingale's Rights Eclipsed?

SCHOOL

East Amwell Township
Ringo
Grade 8, Honorable Mention

TEACHER

Janet Higgins

STUDENTS

Alyssa Applegate, Deena Marie Cahill,
Chris Cosma, Brett Durborow,
Vincent Paul Harnett, Cassidy Hubert,
Kristina Nicole Lachaga, Sean Palen,
Sean Ryan, Ryan Thomas, Emily Zengel

FACTS

On January 2, 2009, Luna Nightingale was interested in continuing her career in real estate after she lost her old job at Lateville Real Estate Agency. She went on a job interview with Bethlehem Real Estate Agency, a small agency in New Jersey. Christian B. Liever, the agency's owner, was the one who conducted the interview. Though the interview was long, Luna had no trouble with the questions, so it went very smoothly. Christian even congratulated Luna on her impressive résumé and interview before she left. He assured Luna that she did a great job and was very well qualified for the position. He told Luna that he would get back to her soon. Luna Nightingale went home confident and excited that she would get the job.

Meanwhile, Christian B. Liever brought Luna's résumé to Caleb B. Ible, the company's human resource manager. Caleb checked the internet for any Web pages such as MySpace and Facebook that belonged to Luna. First, he searched Facebook, found Luna's account, and was able to get access to Luna's page. One of her pictures showed her and others sitting in a circle in the grass at night, with a full moon overhead, wearing robes with moons on them and smoking a pipe filled with what looked like an illegal substance. He found information and other pictures like this one proving that Luna Nightingale belongs to the Eclipsian Religious Fountain. This is something Caleb had never heard of before so he did further research. He found out that The Eclipsian Religious Fountain is a group that

supports the Eclipsian religion, which has several holidays, including one every month, that requires a week off of work to fast and worship the full moon.

Next, Caleb looked up the real estate company Luna used to work at, Lateville Real Estate Agency. He spoke with her former boss, who told Caleb that Luna was frequently late to work. She would tell him it was because she lived so far away, but it still wasn't acceptable. He gave her several warnings, but she ignored all of them. She was also often tired at work. Caleb B. Ible brought this information back to Christian B. Liever. Christian decided this would be an extreme inconvenience for his small agency and would cost them a lot of money so Luna Nightingale was not hired.

On January 4, 2009 Luna Nightingale received a phone call from Christian B. Liever letting her know that she did not get the job. Luna was confused and questioned Christian about his decision. Christian told her that his agency needed someone who was hard-working, always available, and dependable. Luna reminded Christian that she showed him during the interview that she was all of those things, but it did not change his mind. She thought about it for a while and then decided to check her Facebook for any posts about the upcoming Eclipsian holiday. There she saw that someone unknown to her had accessed her page on the day of the interview. She concluded that it was someone from Bethlehem Real Estate Agency. She believes that Christian B. Liever is using the information he obtained from her Facebook to discriminate against her because of her religious beliefs. Luna consulted a lawyer, who told

her to file a civil suit against Bethlehem Real Estate Agency for unlawful discrimination.

ISSUE

The plaintiff must prove by a preponderance of the evidence that Bethlehem Real Estate Agency violated the rights of Luna Nightingale by not hiring her based on unlawful discrimination.

WITNESSES

For the Plaintiff

Luna Nightingale
John Crescent

For the Defense

Christian B. Liever
Caleb B. Ible

WITNESS STATEMENTS

Testimony of Luna Nightingale

I was a realtor at Lateville Real Estate Agency and recently lost my job. Afterward, I went to the Bethlehem Real Estate Agency in search of a better job that was closer to my home. I went in for my interview, received excellent feedback, and left feeling very confident that I would get the job. Two days later, I got a phone call from Mr. Christian B. Liever of the Bethlehem Real Estate Agency saying I didn't get the job. I asked why and was told that the agency needed someone who could be relied on to always be in the office and they said it was clear that I could not do that. I have always been a good worker and I have sold a lot of property.

After the phone call, I went on my Facebook page and saw that an unknown user had accessed my information. I am sure that the company looked on my Facebook page and is not hiring me because of my religion. I am proud of my beliefs and my Facebook page makes it very clear that I am Eclipsian. Also, if anyone from the Bethlehem Real Estate Agency spoke to my former employer, he/she could have heard only bad things about Eclipsians.

There were some very small-minded people there who believed in every stereotype they ever heard. I am suing the company because I know my rights and I was wrongly discriminated against due to my religion.

Testimony of John Crescent

My name is John Crescent and I am 25 years old. I used to work for Lateville Real Estate Agency. I was a top salesman, second only to the plaintiff, Luna Nightingale. She was an exceptional real estate agent and a great person who was always very respectful and kind to everyone. Luna and I practice the same religion and belong to the same group. She is a great volunteer in our religious community and is constantly helping others. I have nothing negative to say about her. Luna should have been hired by Bethlehem Real Estate Agency. I agree with Luna that she is being discriminated against because of her religion.

Testimony of Christian B. Liever

I am the owner and president of the company, Bethlehem Real Estate Agency. I interviewed Luna Nightingale for a job as a real estate agent. The interview went well and Luna seemed qualified for the job, although during the interview I noted that she seemed very tired.

After the interview, I called my human resources manager, Caleb B. Ible, to check into Luna's background and employment history. When Caleb got back to me, the report was not positive. He learned that Luna practices the Eclipsian religion and that she missed one week of work per month to worship the full moon. Being religious is not a problem, but missing that much work is a disaster for a small company like mine.

Also, her former employer said that sometimes customers complained that when Luna came to work, she was very sluggish and tired. It is common knowledge that some Eclipsian followers use illegal drugs during their religious ceremonies. Putting all of this into consideration, I made an informed decision that we should not hire Luna Nightingale for the job.

Testimony of Caleb B. Ible

I am the human resources manager for the Bethlehem Real Estate Agency. My boss told me to gather information about a possible new employee named Luna Nightingale. I used the internet and through Luna's page on Facebook, I learned that she was a believer of the Eclipsian religion. I was curious about the religion, so I researched their beliefs. They have several holidays, including one a month, which requires the followers to limit work, to fast, and to worship the moon. I also noted that Luna's Facebook page had pictures of her with members of her religion smoking something that looked illegal.

Then I called Luna's previous employer at Lateville Real Estate Agency, and I discovered that she was sluggish and tired when she returned to work after her religious holiday. Everyone has heard rumors that some followers of the Eclipsian religion are involved in illegal activity including smoking illegal drugs. I reported back to my boss, Christian B. Liever, and he decided that hiring Luna Nightingale would be a burden and an extreme inconvenience to the agency and that she would cause the agency to suffer major monetary losses.

INSTRUCTIONS

The plaintiff must prove that Bethlehem Real Estate Agency violated the Federal Equal Employment Law that prohibits employment discrimination based on religion by not hiring Luna Nightingale because of her religion. The burden of proof is a preponderance of the evidence and must be established by the plaintiff.

SUB ISSUES

1. Did Caleb B. Ible have the right to look for information about Luna on the internet?
2. Can information from Facebook be used to decide whether to hire a possible employee?
3. What exactly happens during an Eclipsian religious ceremony?
4. Are illegal substances used by the Eclipsians?
5. How many days per month are "frequently"?
6. What was Luna's sales record like at Lateville Real Estate Agency?
7. Did Christian base his decision on Luna's sales record or her religion?

CONCEPTS

1. Burden of proof: preponderance of the evidence.
2. Civil rights.
3. Freedom of religion.
4. Job discrimination.
5. Hiring practices.
6. Breach of data protection.

LAWS

1. Federal Equal Employment Opportunity Laws:
Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on religion. It also states it is illegal to discriminate in any aspect of employment including hiring. Any decisions in employment based on stereotypes including religion are illegal.
2. Use of Facebook/MySpace:
 - a.) Looking at someone's publicly displayed information is not illegal. A potential employer or university looking at a possible student or employee's profile on a social networking site will not be a breach of data protection.
 - b.) Using information retrieved from social internet sites processed or used to make discriminatory decisions is illegal.

Taylor Punt v. Nadafare High School

SCHOOL

Clinton Township Middle
Clinton
Grade 8, Honorable Mention

TEACHER

Diane Cormican

STUDENTS

Adam Brown, Andy Dopp, Kelly Gallagher,
Cameron Harris-Browne, Tiara Lawson,
Shane Pierson, Desta Pulley, David Rivera,
Phoebe Roth, Kirstin Wu, Alyson Yu, Laura Zaugg

FACTS

Taylor Punt is a senior student at Nadafare Public High School in suburban New Jersey. She tried out for the school's varsity football team in August, 2008 and was not selected. She has been playing football for seven years with her five older brothers, and is an accomplished player.

Taylor was a punter for her previous school, Fairfield High in rural Indiana. They won the state championship and five other championship games last year. Taylor played with the team for the last three years prior to moving to New Jersey in the summer prior to her senior year.

Nadafare, a public high school in suburban New Jersey, has done well in state tournaments in the past. Nadafare High School is a public school, and they have never had a girl on the football team.

Taylor claims that she was ignored by the five coaches during the tryouts. The coaches have kept records from the tryouts, and give each player points for each skill being observed. Taylor scored well in the skills section of the tryouts.

ISSUE

Taylor Punt claims that she is much better than many of the boys selected for the team. The plaintiff claims that she was not chosen based on the fact that she is a girl, which constitutes sexual discrimination.

WITNESSES

For the Plaintiff

Taylor Punt

Matt Ball

For the Defense

Jeff Fields

Patricia Atleet

WITNESS STATEMENTS

Testimony of Taylor Punt

My name is Taylor Punt and I am 18 years old. I am currently enrolled as a senior at Nadafare High School. I have been playing football for seven years, playing on school teams as well as with my five older brothers. I grew up watching, practicing, and playing football, and I was a punter on the team at Fairfield High, my former school.

When my family moved here in the summer before my senior year, I was really mad but excited because of the good reputation of the school's football team. I found out that they never had any girls, but that didn't stop me from trying out.

I was the only girl at the tryouts. On the field during tryouts, many of the boys were making offensive comments about me. I tried to ignore them and concentrated on doing my best at all the skill sets. I know I did well. I can run just as fast as any of

the other boys and have strong and consistent punts. My former coach always said my accuracy was outstanding.

Even though my skills matched those of the other players, I could tell the coaches were ignoring me. I was getting frustrated because it was unfair for me to be treated like that. The way the coaches were ignoring me was just wrong.

When I didn't make the team, my parents and brothers were shocked. We were trying to figure out what went wrong, but we weren't given any specific reason from the coaches why I wasn't chosen. Coach Fields said he already had two punters. That made me really mad.

I have watched the team practices, especially the punters, and know that I am a much better player. I am sure that I was overlooked because I am a girl.

Testimony of Matt Ball

I am the head coach at Fairfield High. Taylor is the sixth child of the Punt Family to go through Fairfield High, and let me tell you, that family is full of great athletes. Don't think she is any less athletic than her brothers, just because she is a girl. She grew up practicing, watching, and playing football. Her dad was even a Pee Wee Football coach for a few years, and her mom was the head of our Boosters Club.

I was shocked that Taylor didn't make the team at Nadafare. Taylor played on our team as punter for the last three years. She was a little nervous at first, but soon became aggressive and outspoken. Taylor was instrumental in the success of Fairfield High last year. And that girl is fast! Her punting is consistent and accurate, and she really understands the strategy of the game.

Taylor was admired by all the guys on our team, and I considered her a great team player. I would even say that she was a source of motivation for our team, our school, and our community. Even kids who are not into sports look up to her as proof that hard work and practice will enable you to accomplish your goals.

Testimony of Jeff Fields

My name is Jeff Fields, and I have been coaching football for 23 years. I have been at Nadafare for seven years. Taylor Punt, a new senior, tried out for our team last summer.

I had heard about Taylor before tryouts started, and she made herself known on the first day. She showed up late, and joined us for the last part of warm-ups. I noted some rude interactions, both verbal and non-verbal, with one of the other players, but nothing out of the ordinary. I would not have interfered if that had happened between two boys, so I was not going to give her any special treatment.

After warm-ups, I noted on my checklist the details of her performance. Her kicking was pretty good; 16 out of 20 recorded kicks over 40 yards. Her best kick was 62 yards.

Taylor is a fast runner. I was impressed with her speed. However, I noted that she was rather inconsistent with her effort.

In the several days of tryouts, I noticed an increasing bad attitude. She was rude and arrogant to the guys, and some of them have been with my team for three years. I don't want any problems with my players.

Taylor was trying out for the position of punter. Our chosen punter was more consistent in strength and accuracy. He has been on the team for the last two years, and he is a team player. Taylor did not make the team simply because she was not the best candidate. It had nothing to do with her being a girl.

Testimony of Patricia Atleet

My name is Pat Atleet, and I am the Nadafare High School Athletic Director. We have a football team that ranks 7th in the state and has won the regional championships in our division five times in the last eight years. Our program also has soccer, lacrosse, basketball, track, swimming and volleyball, which I oversee. We have both girls' and boys' teams in all our other sports, but only a boys' football team. There has not been adequate interest in the sport to support a girls' team at this point.

My coaches use a careful evaluating process to observe all the students who try out for each

sport. The checklists that the coaches' use must meet my approval before tryouts begin. Coach Jeff has copies of all the charts used in the evaluation of the students, which reward points for each skill and quality that they are looking for. These include speed, distance and accuracy in throwing, kicking, and running, as well as sportsmanship and knowledge of strategy.

Our school has a history of allowing students to pursue their dreams, even if they cross traditional gender boundaries. This situation is clearly not about discrimination based on sex, but is a natural selection process to find our best athletes for a championship level team.

INSTRUCTIONS

The plaintiff's lawyers must prove by a preponderance of evidence that the school coaches discriminated against Taylor based on her sex, not on her skills.

SUB-ISSUES

1. What criteria did the coaches use?
2. Were the recorded statistics accurate?
3. Is the coach sexist?
4. Is her former coach biased in any way?
5. What were the details of the interactions that the coach witnessed?

CONCEPTS

1. Discrimination vs. skill assessment.
2. Credibility or bias of witnesses.
3. Burden of proof.

LAWS

1. Education Amendments of 1972, Title IX
No person in the United States shall on the basis of sex, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
2. School Code 16B:
A.4 Under the Sex Discrimination Act of 1975, authorities must not discriminate between boys and girls in the way they admit them to a school or any school activities.

The Troubling Turmoil of Trendy Teens

SCHOOL

Harrington Park
Harrington Park
Grade 8, Honorable Mention

TEACHER

Joan Dever

STUDENTS

Christina de Lescinskis, Hannah Johnson,
Brian Kang, Joanne Kim, Sam Kim, Iman LaVine

FACTS

Trendy Teens is a large and very popular clothing chain spreading from coast-to-coast of the United States. Amber Kromby is a 19-year-old female who has worked with dedication for Trendy Teens for two years. Despite her loyal, hard and conscientious work, she is still at the entry level position of the sales clerk. In the two years that Amber has been working at this store, she has noticed that the trend at Trendy Teens is to promote the male employees. Her male peers, who are of similar age and ethnicity, have moved from sales clerk to higher level jobs such as night managers, floor mangers and inventory supervisors. Amber's performance evaluations at Trendy Teens have all been satisfactory and she was named employee of the month once. Despite her commendable record and reputation, she is overlooked when the company hands out promotions.

On June 19, 2008, Amber Kromby filed an unlawful discrimination suit against Trendy Teens. In her suit, Amber stated that the chain's practice of promoting male employees discriminates against females. Amber's work ethic and dedication were not recognized by Trendy Teens and did not allow her or any other females a fair chance for advancement in the company. Amber is seeking monetary compensation for Trendy Teens' discriminatory practices as well as a corporate review of their promotional processes.



ISSUE

Do the promotional practices of Trendy Teens Corporation discriminate against its female employees?

WITNESSES

For the Plaintiff

Amber Kromby
Laurence Ralph

For the Defense

Manny Jerr
Holly Phishstix

WITNESS STATEMENTS

Testimony of Amber Kromby

I, Amber Kromby, have been an employee of Trendy Teens Clothing Store™ for two years. I am here today to share with you the discrimination that I have been subjected to during my time at Trendy Teens. I have been working in an environment that is unjust. These injustices are due to that fact that I am a woman. It is clear that this company recognizes male employees over females. The men are getting promoted and therefore, they are getting better pay. I have been just as hard working as the male employees. I am reliable, efficient and productive.

I am a valuable employee who has been overlooked time and time again. I have made no advancement in this store. I am still at the lowly starting position of salesclerk. Male employees who were hired after me have become floor managers, night managers and supervisors. Trendy Teens has not recognized my potential and ability because they have chosen to not see it. They have a history of overlooking females for males, and the management statistics for the company reflect this injustice. I have filed an unlawful discrimination suit against this national chain so that I and other female employees may be recognized for our dedication and hard work. Trendy Teens has discriminated against the wrong woman. I will not sit back quietly while my rights are violated.

Testimony of Laurence Ralph

My name is Laurence Ralph. I used to work at Trendy Teens Clothing Store™, but I left some time ago to work for another chain. I am currently a student at Montclair University. I decided to stop working at Trendy Teens Clothing Store™ because I needed to find employment closer to my school.

I met Amber Kromby at Trendy Teens. She and I started working there at the same time. In my short time at Trendy Teens, I rose to the position of a night manager. As a manager in this store, I can attest to the fact that Amber Kromby was as good an employee as any company could hope for. Yet, Amber was never recognized for her abilities or her dedication to this company. Time and time again I noted to upper management that she was

an employee that could handle more responsibility. And time and time again I watched as she was overlooked for a promotion. I would recommend her for a higher position and then was told that someone else, usually a male, would be getting the opportunity for advancement and a raise.

I left Trendy Teens one year after I started working there. Amber was still a salesclerk. There is no question that male employees who did not have the work ethic of Amber were moving up in Trendy Teens while she and other reliable females were not. I am here today to defend this enterprising young lady. There is no question that this company's promotional practices are suspect. I, as a young, attractive male, probably benefited from this practice, but it is wrong. Amber Kromby deserves recognition after two dedicated years of service. It is time that Trendy Teens was called to task for its preference in promoting male employees over females.

Testimony of Manny Jerr

Hello, I am Manny Jerr. I am the manager of the Trendy Teens location that Amber Kromby is currently working at. At our store, our motto is "Experience and Effort Expensed Result in Extra Earnings." Ms. Amber Kromby had no prior work experience before being hired by Trendy Teens. Other employees have been coming in with work experience and recommendations from previous employers. Hence, they move up in the company quicker. It seems that some of those other employees happen to be male. We are not going to deny well-qualified young men the opportunity to advance in the company just because we would be at risk of looking "biased."

Ms. Amber Kromby is a hard worker, rarely takes days off, and is overall a good employee. With that said, Amber lacks the confidence and ability to be able to manage more challenging tasks. She's a timid girl as well. She doesn't stand out to be one who could manage multiple people when she is afraid of confronting the few that she works with today. Perhaps if Amber had the ability to communicate with us, we could have explained to her what we were looking for when promoting from within the company. The fact that she did not

approach us supports management's assessment that she lacks vital skills. Now, out of nowhere, she hits us with an unlawful discrimination suit! This is a false claim. We have every right to promote the employees that we feel are the best qualified and Amber Kromby is not one of them. Instead of falsely crying discrimination, maybe the first step would have been to find out why she was being passed over for promotions.

Testimony of Holly Phishtix

I am Holly Phishtix. Right now I am the Northeastern Regional Manager of Trendy Teens. I have only been working for the company for four years! In my region, 53% of all managerial positions are held by females, while the ratio of all employees is basically 50-50. I am proof positive that females in the company are not overlooked.

I came to Trendy Teens with some experience in the industry, and I found that the door to a promotion was always open. The reason why I and other females have moved forward in the company is because we know that at Trendy Teens, "Experience and Effort Expensed Result in Extra Earnings!" I will agree that when we are looking within the company to advance an employee, we look for confident and outgoing workers. Happy employees lead to happy customers. Happy customers lead to more sales. More sales lead to more profit and after all, Trendy Teens is a business. When our business is successful, all of our employees benefit.

When you meet Amber Kromby, you do not get that self-assured, outgoing personality that we are looking for. It may be true that she has not advanced within this company, but that is not because she is female. Using her gender as an excuse for not being successful reflects poorly on all women. This is not a case of discrimination; it is a case of hiding behind the law for your own shortcomings. The fact that I have advanced to the position of regional manager is proof that Trendy Teens does not discriminate against women.

INSTRUCTIONS

The plaintiff must show by a preponderance of the evidence that Amber Kromby was unlawfully discriminated against at her job at Trendy Teens based on gender.

SUB-ISSUES

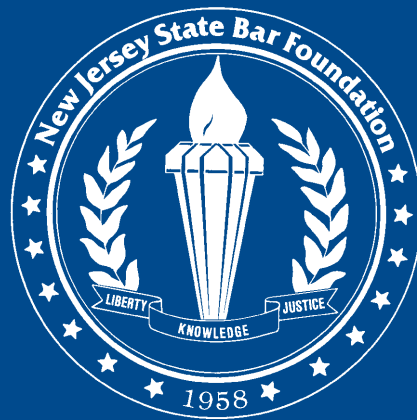
1. Does Amber show the same determination and display of hard work as her fellow male employees at Trendy Teens?
2. Was Amber qualified for a managerial position?
3. Is Holly Phishtix a rare exception at Trendy Teens?
4. Is the national representation of male managers relevant to this case?

CONCEPTS

1. Preponderance of the evidence.
2. Credibility of witnesses.
3. Liability.

LAW

The New Jersey law Against Discrimination (LAD) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, domestic partnership status, affectional or sexual orientation, atypical hereditary cellular or blood trait, genetic information, liability for military service, and mental or physical disability, perceived disability, and AIDS and HIV status. The LAD prohibits unlawful discrimination in employment, housing, places of public accommodation, credit and business contracts.



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