

1. A citizen of India was hired through an international recruitment firm to work in the U.S. as a computer analyst at a salary of \$42,000 per year. He received a H-1B visa, left his old job and family and came to the U.S. Upon his arrival, he was informed that the position had already been filled and that he would be employed as a gas station cashier and paid at less than the minimum wage. The employee worked for a period of time and then sued.
  - a) What are the employee's legal claims?
  - b) What are the employer's defenses?
  - c) If the computer analyst position was already filled by the time the employee had arrived, what could the employer have done to avoid the situation?
2. You're the principal of Edgemont High School and have a serious issue. You've just learned that a new employee whom you hired a few weeks ago has an unacceptable past. These are the facts: Ten years ago, the employee was a school janitor for a different school district, when he received a disciplinary warning for inappropriate verbal conduct toward students (discussing his marijuana usage). He was subsequently arrested by the police and charged with several counts of child molestation (not involving students). At a court hearing, the judge dropped the molestation charges in exchange for an agreement that the employee would resign, which he did. However, the employee was subsequently re-hired by the same school district as a substitute bus driver, a position that he performed without incident. When he applied for a full-time custodian position at your school, the school superintendent where he had worked as a bus driver provided a very positive letter of recommendation. The letter made no reference to the reprimands or criminal charges. After the facts about the employee's past record come to light, the school committee of your district wants to terminate the custodian. They also want your guidance on whether or not to sue the employee's former school district.
  - a) Should you terminate the employee? If so, on what grounds? If not, what are the alternatives?
  - b) If the School Committee decides to bring suit in this matter on behalf of the school district, what claims can the school district assert in this matter and against whom? What are the defenses each defendant can raise?
  - c) What should you advise the School Committee regarding bringing a lawsuit: Describe the risks versus benefits of taking such an action
3. Your company sells health insurance policies. The company has a large sales force comprised of independent contractors. Some of its sales agents, usually after a significant period of service, are promoted to the position of "sales leader." Sales leaders sign an agreement, consenting to remain as independent contractors when they are promoted. Sales leaders do little selling of policies; instead, their main responsibilities are recruiting, training, and managing sales agents. The income of sales leaders is mainly derived from overwrite commissions on their subordinates' sales. The company retains control over the

hiring, firing, assignment, and promotion of sales agents. The company determines sales leaders' territories and does not permit them to sell other insurance products or operate other businesses. Sales leaders set their own hours and conduct their day-to-day activities largely free from supervision. Attendance at company meetings and training sessions is generally considered optional for sales leaders. Sales leaders receive no benefits and the company does not withhold any of their pay for tax purposes. Several sales leaders are threatening to sue for overtime pay under the Fair Labor Standards Act.

- a)** Are the sales leaders employees or independent contractors? Describe the analysis you will conduct to determine their appropriate classification