

Newcorp legal scenarios essay sample

[Business](#), [Employment](#)



NewCorp Legal Scenarios

Companies that have employees are continually challenged with legal encounters involving employee performance, termination, harassment, and employee working environments. In this paper, I will review three legal encounters that involve NewCorp, which is my employer. I will address key questions and provide an assessment for each scenario to my supervisor for review and further action. Legal Encounter 1

Pat is hired as a property manager in Vermont supervising 51 employees and is experienced in dealing with tenants who leased commercial space. Pat relocated his family 300 miles for this job, bought a home, and his wife quit her job to seek employment in Vermont. After working for NewCorp for three months, the company informed Pat that things were not working out and that he would be discharged with 30 days severance pay. Pat is surprised because the employee manual states that if an employee is not performing, the employee will be notified and put on a corrective action plan. If performance does not improve per the plan, then termination follows. Pat was not given any warning before termination. Pat was hired as an at-will employee and acknowledges this fact. Pat states that senior management had been unfriendly because he had been vocal at a local school board meeting when his views on an issue were not popular. Even though no one at the meeting identified Pat as a NewCorp employee, Pat believes that this contributed to the decision to discharge him.

What liabilities and rights do NewCorp and pat have in this situation? Pat's case could present some liability to NewCorp for not following documented performance and correction action plan procedure documented in the

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employee manual. Pat is an at-will employee which, according to Kaiser (2005), is an employee that “ can be terminated at any time and for any reason, or for no reason at all, with or without notice”. Pat could have a case for unjust termination because of the steps outlined for the termination process in the employee manual if performance is not acceptable. In addition, Pat believes that the opinion he expressed at the school board meeting contributed to his dismissal.

This could be seen as the company retaliating against Pat, which is an act of discrimination according to Title VII of the Civil Rights Act of 1964. The provision in the act expressly prohibits employers from retaliating against an employee (Cheeseman, 2010). However, Pat indicated that no one at the meeting identified Pat as a NewCorp employee, so it is unlikely that Pat can link the behavior of management following the school board meeting to his dismissal without substantial proof. In this case, Pat did not file a charge against the company. If Pat was dismissed for the words at the school board meeting, the act could be viewed as discrimination and retaliation in a court of law if Pat could prove his dismissal was linked to his comments. The fact that Pat relocated his family and his wife quit her job to move probably has no bearing on this case.

If no documentation exists concerning Pat’s performance and the company had no proof that Pat was not discriminated against for the comments he made at the school board meeting, my recommendation would be to both reinstate Pat and clearly document performance if the desire is to terminate, or seek mediation for a resolution. Legal Encounter 2

Sam is a supervisor of electric manufacturing for automotive under-dash wiring harnesses at NewCorp. The department employees about 100 men and women who assemble the wire harnesses sent to the assembly plant for installation. Sam is in a relationship with Paula, who is one of his employees. Paula later ended the relationship and Sam began to exhibit unwelcome behaviors toward Paula, even though she told Sam to stop. Sam suggests that Paula's work might be suffering from lack of interest. Paula could no longer work for Sam and applied for a transfer to the wire-coating department that was not supervised by Sam. Sam blocked the transfer, citing evidence that chemicals used in wire-coating could harm an early state fetus.

Paula is of the age when she could become pregnant and Sam argued that NewCorp could not take the chance of being liable for causing a birth defect. Paula believes that Sam's behavior was illegal discrimination. What liabilities does NewCorp have in this situation? NewCorp could be faced with several liabilities in this scenario. First, Sam is exhibiting unwanted behaviors to Paula after their relationship is ended, even though Paula has told Sam no, which could be seen as a violation to Title VII by creating a hostile work environment and sexual harassment (Cheeseman, 2010). The behavior Sam is exhibiting against Paula is not defined, but it can be assumed that it is some sort of harassment because Paula has asked him to stop and, the behavior continues.

Next NewCorp could be discriminating against Paula for not granting her to the wire-coating department because of the "liability" of a birth defect. The

company could argue that they have a bona fide occupational qualification (BFOQ) defense for not allowing Paula to transfer. In the case of International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, *UAW v. Johnson Controls, Inc.*, 499 U. S. 187, 111 S. Ct. 1196, 113 L. Ed. 2d 158, Web 1991 U. S. Lexis 1715 (1991), the company was sued because they would not allow female workers not sterilized to work in their lead battery manufacturing plant because of potential harm to an unborn fetus. The women sued the company for sex discrimination in violation of Title VII. The court ruled that the fetal-protection policy was not an BFOQ and was sex discrimination in violation of Title VII because “ decisions about welfare of future children must be left to the parents who conceive, bear, support, and raise them rather than the employers who hire those parents” (Cheeseman, p. 519, 2010).

Paula more than likely has a case against NewCorp for sexual harassment against Sam as well as sex discrimination for not being allowed to transfer to the wire-coatings department. My recommendation in this case would be to investigate Sam’s behavior and handle appropriately before it turns into a harassment case, and to allow Paula to transfer into the wire-coating department if she is qualified for the job and wants to make the move. Legal Encounter

Paul is a senior maintenance technician for NewCorp. The position requires Paul to work in confined spaces to repair equipment. The space was very narrow to repair a pulp shredder and made the work difficult. An employee was injured after working on the machine and NewCorp attempted to

relocate the machine to create more working space, but the nearby building support beams did not permit for the relocation. Paul refused to work on the machine citing that the work space was too confining and dangerous.

NewCorp managers deemed the area safe, but Paul claims he became claustrophobic as a result of working in such confined spaces and that the condition arose because of his employment. Paul called the Occupational Safety and Health Administration (OSHA) to complain about being required to work in a dangerous situation and he also threatened to sue NewCorp.

What specific regulatory compliance issues arise in this scenario?

How should NewCorp address those issues and how should NewCorp manage the legal risk associated with those issues? Paul is being subject to work in a condition that he deems to be unsafe, although the company managers have deemed the area safe even though they attempted to relocate the pulp shredder machine to allow for more space. Paul also claims that he has become claustrophobic as a result of working in confined spaces in his employment. Paul refuses to work on the machine and calls OSHA. Paul's case is similar to *Whirlpool Corporation v. Marshall, Secretary of Labor*, 445 U. S. 1 (1980). In this case, two employees deem their work environment on a wire mesh protecting from falling debris is unsafe because an employee working in the environment fell to his death by breaking through the mesh. The employees in *Whirlpool Corporation v. Marshall* refused to work in the area like Paul refused to work in the confined space and were docked pay and received reprimands in their employment files.

In this case, Section 11 (c)(1) of the OSHA Act prohibits an employer from discharging or discriminating against an employee who exercises “ any right afforded by” the act (“ Whirlpool Corp. V. Marshall – 445 U. s. 1 (1980)”, n. d.). An employee has the right to refuse to work in conditions that they deem unsafe, thus in this case, with case law to support Paul, he could win a legal battle if forced to continue to work in the confined dangerous environment. In addition, Paul claims that he is claustrophobic as a result of working in such a confined space. This claim could consist of a workers compensation claim because Paul has developed a condition that has been directly caused by his work environment, and it could require medical or psychiatric treatment to resolve.

Because NewCorp already made an attempt to relocate the pulp shredder machine, this would indicate that the company has admitted that the space surrounding the machine was not sufficient to support a safe working environment and could be seen as contradictory to the claim as being a safe working environment. NewCorp should manage the legal risks by making every attempt to make the work environment safer, which could alleviate the claustrophobic condition that Paul is claiming, thus potentially avoiding a workers compensation claim and potential litigation that could involve OSHA and discrimination charges. Conclusion

NewCorp has been presented with three employment scenarios that could present liabilities to the company if not handled properly by management. The cases present issues, including potential discrimination, sexual harassment, retaliation against an employee, unsafe working conditions, and

sex discrimination. The cases have been reviewed and recommendations have been made to management to lesson liability and mitigate risk in each situation.

References

Cheeseman, H. R. (2010). Business law: Legal environment, online commerce, business ethics, and international issues (7th ed.). Upper Saddle River, NJ: Pearson Prentice Hall.

Kaiser, D. M. (2005). The implications of at-will versus just-cause employment. Allied Academies International Conference. Academy of Organizational Culture, Communications and Conflict. Proceedings, 10(2), 33-36. Retrieved from <http://search.proquest.com/docview/192410888?accountid=35812>

Whirlpool corp. v. marshall - 445 U. S. 1 (1980). (n. d.). Retrieved from <http://supreme.justia.com/cases/federal/us/445/1/>