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Professor Angel Gomez

BUS335: Business Law I: NO

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Final Exam

Fact Pattern # 1

1. Steven now seeks monetary damages and is suing Air Transport for Pedro's actions, in Civil Court. There is no dispute that Pedro is an agent of Air Transport.

a. What standard(s) will the court consider in its evaluation? Will Steven prevail (win) in his claims against Air Transport for Pedro's actions? Why yes or why not? Please explain your conclusion(s) by analyzing the applicable standard(s), if any. (20 points)

No, Steven will win in civil court on his claims against Air Transport for Pedro's actions. There is no dispute that Pedro should go to jail, but Air Transport will not have to answer for his actions in this case. Pedro attempted to pass Steven in no passing zones, which nearly resulted in a collision. He also followed Steven at an unsafe distance. He then got out of the car and attacked Steven with a blunt object, causing Steven to suffer serious injuries to multiple body parts. That Pedro must go to jail is therefore undisputed. The question that now arises is whether the employer is liable for the employee. The employer is liable if he acts intentionally or negligently. If the employee physically injures the customer during the performance of his task, the employer is only liable for the damages incurred if he is at fault for his own selection and supervision. Private liability of the employee, on the other hand, can be considered if gross negligence can be proven.

2. Mr. Lane is concerned that Pedro may hurt Steven again. Mr. Lane has contemplated letting the court know about his conference with Pedro where Pedro said he wants to "finish the job." Please assume that Mr. Lane is located in a jurisdiction where the American Bar Association Model Rules of Professional Conduct have been adopted.

a. Will Mr. Lane be authorized in sharing his conversations with Pedro with the Court? Why yes or why not? Please explain your conclusion(s) by analyzing the applicable standard(s), if any. (10 points)

Mr. Lane is an attorney and has a duty of confidentiality for everything said in the conversations between him and Pedro. However, this is a matter of life and death after Pedro threatened to "finish the job." So in this case, it must be said, while the lawyer is bound to secrecy. This duty, as already mentioned, refers to everything that has become known to him in the exercise of his profession. This does not apply to facts which are obvious or which, according to their importance, do not require secrecy. Meaning, then, that Mr. Lane is authorized to disclose his conversations with Pedro to the court.

Fact Pattern #2

3. What affirmative defense(s) would you raise in defense of Jackson, and why? Please explain your conclusion(s) by analyzing the applicable standard(s), if any. (20 points)

First, as a defense, I would say that Dilia was facing Domingo and was holding her back against the upward movement of the stairs. That is grossly negligent and arguably could cause injury. Also, I would assert the statute of limitations on this offense as a defense in Jackson's favor. Niko waited 4 years to post the edited footage all over social media and only after he posted it and then Dilia and Domingo were embarrassed because it was all over social media did, they decide to sue Jackson for negligence.

4. Solely for this question and without influencing any other questions/answers, please assume these additional facts: Niko immediately contacted Domingo and Dilia after their fall. Niko promised Domingo and Dilia that he would delete the video as long as Domingo and Dilia stop posting content on their social media accounts for 1 year. Niko created several copies of the video. Domingo and Dilia agreed to this arrangement and an agreement was signed with terms as described above. Niko sent Domingo and Dilia a photo of a destroyed copy of the video at the time of signing the agreement to show good faith. 9 months after said agreement, Domingo and Dilia posted a video visiting a new mall. Niko now wants to sue Domingo and Dilia for breach of contract. (10 points)

a. Please assume that the Court, during discovery, finds out that Niko still has several copies of the video. Will the Court enforce Niko's agreement with Domingo and Dilia? Why yes or why not? Please explain your conclusion(s) by analyzing the applicable standard(s), if any. (Worth 10 points)

No, the court will enforce Niko's agreement with Domingo and Dilia because, for one thing, this is extortion. Also, a contract was signed with the following conditions: Domingo and Dilia are not allowed to publish any more content on their social media accounts for one year and in return Niko promised to delete the video. After Domingo and Dilia have broken the contract after 9 months, by publishing a video, that is content, Niko wants to sue the two for breach of contract. However, this will not work, because he has already broken the contract by making several copies of the video.

Fact Pattern #3

5. Please assume that you are an attorney hired by "Independents for Paula Win."

a. If you appeal the FEC's decision, will you prevail? Why yes or why not? Please explain by analyzing the pertinent section(s) of the Citizens United v FEC decision and the facts of this case. (20 points)

Me, as retained counsel for Independents for Paula Win, if I were to appeal the FEC's decision, I would prevail. The FEC is referring to the Bipartisan Campaign Reform Act. (BCRA) of 2002, which prohibits companies from funding television broadcasts Fund broadcasts to influence election campaigns. However, Lindsey Robinson is not a corporation, but a private individual. I would win if I appealed the FEC's decision because this law restricts our human rights. In addition, funding television broadcasts to influence election campaigns is classified as political speech and thus falls within the protections of the

1st Amendment to the United States Constitution. Further, I would argue that in 1791 an article was passed prohibiting Congress from enacting laws restricting freedom of speech and freedom of the press. Everyone has the right to freedom of speech and expression.

6. Solely for this question and without influencing any other questions/answers, please assume these additional facts: Please assume that the facts above occurred prior to the decision in Citizens United v FEC.

a. Would “Independents for Paula Win’s” ad be considered acceptable under the first amendment’s freedom of speech? Why yes or why not? Please explain by analyzing the pertinent section(s) of the Citizens United v FEC decision to the facts of this case. (20 points)

Yes, the "Independents for Paula Win" ad would be acceptable under the First Amendment freedom of speech because since 1791, the U.S. Constitution has protected free speech. The ad by "Independents for Paula Win" that she ran against George Lose reflect her own views and Constitution of the United States of America is known for particularly strong protection of political speech and freedom of expression. Article 19 of the 1948 Universal Declaration of Human Rights states that everyone has the right to freedom of opinion and expression. This right is also of great importance in the present case, as it includes the freedom to hold opinions without interference and to disseminate information and ideas through any media and regardless of frontiers.