

Business Law 2 Final

Fact pattern 1:

Question 1: Please explain in detail why Mike is an employee and not an independent contractor.

The common law test, often known as the "right to control" test, is frequently used by the courts to assess whether Mike is an employee or an independent contractor. The focus of this test is on how much control an employer should have over how a worker performs their duties. Is Mike a worker for LawBus or an independent contractor? The worker's classification is established using the "right to control" criteria.

Several circumstances in Mike's situation point to the possibility that he should be classified as an employee rather than an independent contractor:

1. **Control over work hours:** For Mike, LawBus has established precise business hours of 9 am to 5 pm, Monday through Friday. He has thus much control over his schedule, which suggests a work connection.
2. **Supervision:** Jayce, LawBus' project manager, oversees Mike's work. Every day, Jayce inspects Mike's work and requests that he report any problems. This degree of direction and control denotes a working arrangement.
3. **Method of payment:** Mike receives payment from LawBus in weekly installments, which is the norm for employees as opposed to independent contractors who are often paid per project or upon reaching certain milestones.
4. **Tools and supplies:** Mike is using materials and equipment from LawBus to finish the project, demonstrating that LawBus is supplying him with what he needs to execute his job, which is typical of an employment relationship.

5. Integration into the business: Mike is not permitted to include any of his own staff in the project he is working on for LawBus. This implies that Mike is an essential employee of LawBus and not a freelancer running his own company.

However, there are some other elements that make it possible to classify Mike as an independent contractor:

1. Freedom in daily tasks: As long as the project is finished within six months, Mike is free to choose how to carry out his daily activities. This degree of independence can suggest a working arrangement between independent contractors.

Most of the factors suggest that Mike works for LawBus based on the "right to control" test. His working hours are under the company's control, and he receives regular income as well as tools and supplies. Mike has some liberty in his everyday activities, but the overall degree of control points to a work relationship.

Question 2: Please assume Mike and LawBus are suing each other for rightful title of the precious diamond. In order for LawBus to prevail what two (2) facts need to be true? Please explain.

What two circumstances must exist for LawBus to win in a legal battle with Mike over ownership of the priceless diamond?

The legal doctrine of finders-keepers and property law will be used to determine who is the diamond's true owner.

Two facts must be true for LawBus to be successful in a lawsuit against Mike:

1. As the present owner of Lot A, LawBus must demonstrate that it possessed superior ownership rights to the diamond. Property law states that due to the passage of time, death, and the absence of any recognizable heirs, the rights of the original owner who unintentionally left the diamond behind have likely been extinguished. LawBus could contend that it has acquired the rights to any unoccupied property on the property because it is the present owner of Lot A.
2. LawBus must show that when Mike found the diamond, he was behaving in accordance with his work obligations as an employee. The diamond may be deemed LawBus property under the respondeat superior concept if Mike is regarded as an employee and was carrying out his job obligations at the time of the discovery. According to this idea, an employer is responsible for the conduct of its employees when those behaviors are related to their employment.

Mike may have a different conclusion if he is regarded as an independent contractor, though. The idea of respondeat superior normally does not apply to independent contractors since they are not seen as agents of the businesses they work for. The legal principle of "finders-keepers," which grants possession of found property to the finder provided they make a reasonable effort to contact the original owner, may be used by the court in this situation. Mike can contend that he is entitled to the diamond as the finder because the original owner is no longer alive and there are no discernible heirs.

LawBus must prove that it has superior ownership rights as the current owner of Lot A and that Mike, as an employee, was acting within the limits of his work when he discovered the diamond in order to win a lawsuit against Mike for the legitimate possession of the priceless stone. If these two facts are accurate, the respondeat superior doctrine might allow LawBus to

claim ownership of the diamond. The "finders-keepers" principle would be applicable if Mike is regarded as an independent contractor, in which case Mike might have a legitimate claim to the diamond.

Fact pattern 2:

Question 3: Solely for this question, please assume that you are the prosecutor in the case against Michael. You are tasked with arguing that his statement of "maybe" should be used as evidence against him. Please provide your arguments for why the statement should not be precluded.

Whether Michael's "maybe" comment can be used against him in the court case. Defendants' statements may be used as evidence against them provided they are deemed pertinent and are not barred by any legal restrictions.

Officer Randle inquired about Michael's awareness of the graffiti in the restroom, and he responded with a "maybe" in this instance. According to the statement, he may have admitted to being involved in the crime. Although Michael did not openly admit to the crime, his comment can still be taken into account because it suggests that he might have known about the unlawful behavior.

The defense can claim that the statement should be excluded because of the ambiguity of the term "maybe." As the prosecution, it is important to stress that the statement is pertinent and helpful in proving a link between Michael and the crime when taken along with circumstantial evidence like the gold paint on his shirt and his presence in the restroom.

No apparent legal exception also appears to forbid the assertion. Michael wasn't being held or being arrested at the time he made the statement, therefore his Miranda rights weren't

being violated. Furthermore, there is no evidence that the statement was forced or unintentionally made.

As a result, Michael's "maybe" remark should not be discounted and can be used against him in court.

Question 4: Solely for this question, please assume that Michael, Tom and Jerry were not found guilty of a crime for the graffiti in the restroom. However, the movie theaters owners have gone to you to ask you about other forms of recourse. Please explain whether or not the movie theaters can pursue a claim against Michael, Tom and Jerry. If so, what type of claim can be pursued and what would be the burden of proof?

If the movie theater can file a lawsuit against Michael, Tom, and Jerry, what kind of lawsuit can be filed, and what is the burden of proof in such a case?

In civil proceedings, plaintiffs may seek compensation for losses brought on by the defendants' conduct. The preponderance of the evidence typically carries the burden of proof in civil cases.

The movie theater may still file a civil lawsuit against Michael, Tom, and Jerry even though they were not found criminally responsible for the graffiti in the lavatory. One such claim is for graffiti-related property damage. The theater may contend that by damaging its property, Michael, Tom, and Jerry damaged the company and that the theater had to pay to have the damage fixed.

Michael, Tom, and Jerry would need to be implicated in the graffiti by a preponderance of the evidence, according to the movie theater. The plaintiff must demonstrate that it is more likely than not that the defendants were the ones who caused the injury under this standard of

proof. Evidence that can be utilized to prove the defendants' guilt includes things like the security camera footage, the gold paint on Michael's shirt, and the fact that all three people were in the restroom when the crime was committed.

The movie theater has the right to file a civil lawsuit for property damage against Michael, Tom, and Jerry. Preponderance of the evidence would be required to meet the burden of proof in this situation.

Fact pattern 3:

Question 5: What claim (s) can Sam reasonably raise against Melo and what is the likely outcome? Please explain

What defenses Sam may have against Melo, and what is the most likely result?

The main legal claim Sam can make against Melo in this situation is negligence. Sam, the plaintiff, must demonstrate four elements—duty, breach, causation, and damages—in order to establish negligence.

Melo had a responsibility to drive safely and abide by the law. Melo violated this obligation by driving too fast (at 35 mph in a 30 mph zone) and swerving into oncoming traffic. Melo's actions were a reaction to Bill abruptly backing out of his driveway, yet his speed still had a role in the collision. It is possible to prove causation because Sam's injuries were caused by the collision with Peter's automobile, which was directly caused by Melo's negligence. Sam also had major injuries as a result of the collision, proving damages.

Sam has a compelling negligence claim against Melo based on the evidence. It seems possible that Melo will be held accountable for Sam's injuries as a result of his duty violation in speeding and violating the yellow line.

Question 6: Can Sam successfully sue AlliancePizza for the damages caused by Melo? What would be the outcome? Please explain

Will Sam be able to hold AlliancePizza accountable for the harm Melo caused, and what would be the implication?

According to the respondent superior doctrine, if an employee commits a negligent conduct while acting in the course of their employment, their employer may be held vicariously accountable. Sam may also contend that Melo was not properly hired, trained, or supervised by AlliancePizza.

While making a delivery for his employer, AlliancePizza, Melo was involved in an accident. This makes a connection between Melo's deeds and the fact that he works for AlliancePizza. However, Melo consented in writing to AlliancePizza's delivery policies, which prioritized safe driving over expedient delivery. According to these rules, Melo's speeding was not supported or encouraged by AlliancePizza.

If Melo's speeding was within the course of his work, the court will evaluate AlliancePizza's liability. AlliancePizza may be held vicariously liable for Sam's injuries if the court decides that Melo's speeding was caused by the bonus program and was a predictable result of his employment.

In comparison to his claim against Melo, Sam's claim against AlliancePizza has a less clear conclusion. Sam may be successful in suing AlliancePizza for the harm Melo caused if the court determines that his speeding was both within the scope of his employment and a foreseeably result of the bonus schedule. AlliancePizza's delivery guidelines, which place a

strong emphasis on safety, could be used as a defense to demonstrate that they did not support Melo's careless behavior.