

Fully answer the questions associated with each case below and upload your completed document in the dropbox below. There are 6 cases, with 10 questions spread among them. Each question is worth 10 points for a total of 100 points.

Scenario: You are a paralegal with the Weyland-Yutani Corporation. Your boss attorney, Sharon Ripley, has asked you do answer some questions about some HR legal issues that have arisen.

Case 1

The first case involves Joe Stromboli. Joe is a delivery driver for Weyland, and after an accident, Joe became 100% deaf in both ears. The doctors were unable to restore any of Joe's hearing. Joe's manager, Stephanie, believes that communication with employees and the recipients of the deliveries is an essential function of the job. Additionally, Joe needs to be able to participate in the team meetings. Joe's manager was unsure whether to proceed, so she referred the case to the Weyland-Wutani medical staff. The medical employee took one look at Joe and said no accommodation is possible. When asked why, the doctor said "Joe's deaf." Joe was terminated, and he has now filed a suit for failure to reasonably accommodate.

The job description for a Weyland-Yutani delivery driver states that the employee must be able to maintain a Commercial driver's license. Additionally, delivery drivers are expected to take orders from various employees. This is ordinarily done via hand radio. However, Joe has a cell phone capable of receiving text messages and emails that could allow him to take orders. Furthermore, Joe has offered to carry a pen and paper around so that communication could also be done this way. Joe's deafness had no effect on maintaining his CDL, and the firm expects it would make these accommodations fairly cheaply.

1. Can Joe establish a claim for failure to reasonably accommodate disability? Be sure to list the elements of the claim and to show how you reached your conclusion.
2. What mistakes—if any—were made? How can these be corrected in the future?

Case 2

The second case involves Johnson. Johnson is a floor supervisor in the plant. 55% of the time he is engaged with ordinary production. However, 45% of the time he is engaged with supervising his zone, preparing schedules, and dealing with personnel disputes. If there is a problem, he is responsible for mobilizing his zone to resolve equitable. He also spends times meeting with his superiors in order to provide reports on efficiency of employees and on any other problems that have arisen. For this, he receives 10% more money than his subordinates. He had earlier been classified as an FLSA exempt employee. Now, he is challenging that designation. Although Weyland has a strict no-overtime policy, Johnson has been showing up to work early to drink a cup of coffee, smoke a cigarette, make sure schedules are prepared, doors are unlocked, and preparing workstations for the day ahead. He typically arrives an hour early to perform these tasks. Weyland knew that Johnson was coming in early, and working 45 hours a week.

3. Is Johnson an exempt employee? Be sure to list and discuss the applicable legal standards as well as some of the factors the court will consider.
4. Was Johnson's pre-shift work preliminary?
5. Was Johnson's work de minimis?
6. Does Weyland's policy against overtime mean they don't have to pay?

Case 3

Weyland wishes to modify their pension plan. The current plan allows employees to either receive \$500 a month or \$100,000 upfront upon retirement. Both plans also offer a annual ticket to the company retreat cruise. Seeking to incentives people to accept \$500 a month, Weyland wishes to tie the ticket to employees receiving \$500 a month only to apply retroactively to \$100,000 lump sum plan.

7. Does this violate ERISA? Why or why not?

Case 4

Weyland became aware that a union organizing campaign was underway in one of its plants. A union supporter was called in to a meeting with plant managers. At the end of the meeting, when the employee asked what he was supposed to do if others wanted to talk with him about unionizing, he was told “[Y]ou’re to just work and not talk about the Union.” After union supporters posted material on company bulletin boards, the flyers were repeatedly taken down. The company then issued a policy requiring all employees to obtain approval before placing any material on the boards. Subsequently, the company’s practice was to refuse to post material of any kind from employees.

A few months later, several off-duty employees attempted to distribute prounion flyers in the company parking lot but were stopped by company officials. They were warned that they were in violation of company policy. Around the same time, employees passed out union buttons in the plant and left some of them near a time clock for other employees to pick up.

When company officials learned of this activity, they quickly called a meeting and warned one union advocate that “I don’t want to catch you passing [buttons] out, Okay, I don’t want to see them laying around. You can pass them out when you’re outside, on your own time, but when you’re here working, you, you, need to be working.” The officials said that this action was taken to keep the plant free of clutter and trash.

8. Has Weyland engaged in unfair labor practices in its response to the union organizing activity?

Case 5

At the end of her shift, a 19 year old salesperson at Weyland was questioned by two store security officers. She was questioned in a small room for three hours. One of the security officers sat behind her on the right side where she could not see him (she was blind in the right eye). She was asked to sign a document stating that she was voluntarily waiving her “rights,” including the right to remain silent. When she asked for further explanation of the document before she signed it, she was told that it “doesn’t mean anything” unless you’ve “done something wrong.” A security officer threatened to call the police and have her jailed unless she signed a confession. She was told that the interrogation could last all night and that if she signed a confession she could probably keep her job. Under these circumstances she signed. She was fired two days later. The employee claims that she is agitated and finding it increasingly difficult to sleep.

9. Does the sales person have a claim for intentional infliction of emotional distress?

Case 6

A female crane operator was told it was Weyland policy that crane operators urinate over the side of their cranes rather than stop work to take bathroom breaks. Management justified the policy by saying that there was a shortage of staff and that it was necessary for the cranes to operate continuously in that area of the plant. Shifts for crane operators were typically twelve hours. There was evidence that the same policy was applied to male crane operators and that they routinely urinated over the side or back of their cranes in lieu of bathroom breaks.

10. Does the female crane operator have a valid sex discrimination claim under disparate impact? What about disparate treatment?