
THE KRIZNER GROUP

— AN EMPLOYMENT LAW BOUTIQUE —

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The 2019 Employment Law Challenge: Fact Patterns That Will Make You Sweat!

The Danger Is Real: Active Shooter Standard Of Care

The Call: A man who is on a last chance agreement has allegedly mentioned to his coworker that he will kill every last one of the “motherfckxrs if they fire me.” When asked about such a statement, the man indicates the coworker who reported such statement is simply out to get him and he thinks he is a racist.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Sameness Vs Consistency: Discrimination Or Not?

The Call: A librarian has formally complained that she has been discriminated against by virtue of being addressed for poor personal hygiene. She cites to the fact that there are more than a few men working in the Roads Department that smell “like a locker room that hasn’t been cleaned in years” and therefore believes that the corrective action is discriminatory because of her gender.

The Answer: _____

My “Take Home:”

1. _____

2. _____

One Big Bucket Of Performance Problems

The Call: During the annual FACT audit, a personnel file is found that includes five separate corrective actions that were issued to the employee in the past twelve months. When questioned, the human resource professional indicates that they would love to terminate the employee, but he never seems to violate the same policy twice and are therefore simply stuck with a continually failing employee.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Leave After FMLA Exhaustion

The Call: Frank, who has cancer, will exhaust his FMLA in 2 weeks and is not ready to return. The supervisor wants to terminate so the position can be filled, and he can stop doing the work. Confidentially, the supervisor also indicates that he is afraid that Frank's weakened state greatly increases the chance of a workers' compensation claim.

The Answer: _____

My "Take Home:"

1. _____

2. _____

They Really Do Matter: Negligent Hiring

The Call: An Animal Control department head phoned and alerted you that she just learned a former employee who worked in that department for a decade was arrested for inappropriately touching a child. While the individual is no longer working for the County, the behaviors in question may have occurred during his employment. Upon reviewing the personnel file, you find that no reference screen was conducted and the criminal screen verification is missing.

The Answer: _____

My "Take Home:"

1. _____

2. _____

Negative Nellie: Goals That Work

The Call: An employee that is chiefly responsible to file and organize varying files is causing significant problems in the Office. She is talking poorly about employees behind their backs and is extremely negative about many of the members of the public that frequent the Office. Her filing is the best that the Department has ever had but the other behaviors are beginning to destroy the morale of the office. The supervisor now needs help in creating goals on such employee's evaluation...

The Answer: _____

My "Take Home:"

1. _____

2. _____

Hostile Work Environment: Think Before You Leap

The Call: Three employees have come forward to the County Administrator’s Office and alerted him that they are being forced to work in a “hostile work environment” because their Department Head is a bully. They explain that she is abrupt when speaking with them, refuses to show any kindness, and asks them to do work that is not in their respective job descriptions. The Administrator remembers “all of those FACT lawyers in Sandestin” and calls upon the human resource professional to jump into a legal investigation.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Forgetting To Get “Proper Credit” (ADA)

The Call: Sara is asking for an office space change for the fourth time in two months because of a lung condition. The staff is tired of having to repeatedly change their office areas to accommodate. You tell Sara that she will need to provide medical verification of such need. She objects and says that HIPPA prevents us from making such a request.

The Answer: _____

My “Take Home:”

1. _____

2. _____

The Single Most Confusing Topic Today: Medical Marijuana

The Call: The Department Head for finance has decided that she wants to subject all candidates to pre-employment drug screening. One of the finalists for a position disclosed that she has a medical marijuana prescription for her posttraumatic stress disorder. She then tests positive for tetrahydrocannabinol and her offer is rescinded. She suggests that her rights have been violated.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Organizational Inconsistency With Leave

The Call: Juanita, a librarian, has filed a complaint stating that she is being treated unfairly. She explains that her request for personal leave has been denied and that she knows that a friend, Bill, in the engineering department has been allowed twice as much time just last month.

The Answer: _____

My "Take Home:"

1. _____
2. _____

Candid Leadership: Two Tools Of Value

The Call: The County Administrator is questioning the value of the current disciplinary policy within the Policy and Procedure Manual. She wonders whether the use of tools that focus heavily upon discipline and suspension are reflective of what is found in other human resource systems elsewhere. She asks that you make inquiries and provide an executive report with suggestions.

The Answer: _____

My "Take Home:"

1. _____
2. _____

Rushed Hiring: Legal Consequences

The Call: A person calls human resources and reports he has been called a "stupid spic who was trying to get money" after he reported hurting his back while lifting a crate. The human resource professional is confused, as she has never heard of this employee before and has no documentation associated with his hiring.

The Answer: _____

My "Take Home:"

1. _____
2. _____

The Forgotten Tool: Evaluative Probationary Status

The Call: A supervisor swallows hard when he receives the reminder email from human resources notifying him that evaluations are overdue for his team. He knows that one of his employees, Clark, should have been terminated six months earlier because of an utter lack of performance. However, he never found time to address Clark because of the consequences of the hurricane. He now has no idea how to address Clark in the pending evaluation.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Deciding When To Designate Leave

The Call: An employee who has seven weeks of accrued vacation time notifies her supervisor that she will be taking a month off for treatments associated with her cancer. The supervisor attempts to give her a FMLA designation form but the employee indicates that she does not need or want to use FMLA leave since she has plenty of accrued time.

The Answer: _____

My “Take Home:”

1. _____

2. _____

If The Tide Is Turning...

The Call: The County has struggled to procure and retain entry level talent over the last several years. As a result, supervisors have come to accept that their departments have to operate with “mediocre” employees or instead be faced with the impact of turnover and retraining. Moreover, they feel compelled to provide wholly satisfactory annual evaluations and avoid issuing any critical feedback.

The Answer: _____

My “Take Home:”

1. _____

2. _____

Consistency Even Amongst Crazyness

The Call: A Commissioner has caught an employee asleep at her desk. After waking the employee, the Commissioner asks the County Administrator to come out of her office to witness the termination. Six weeks later, a charge of discrimination arrives claiming race discrimination. The charge alludes to another employee, who is of a different race, in the Roads Department who was caught sleeping behind the wheel of large machinery. The Roads Department employee received only a corrective action for such behavior.

The Answer: _____

My "Take Home:"

1. _____

2. _____

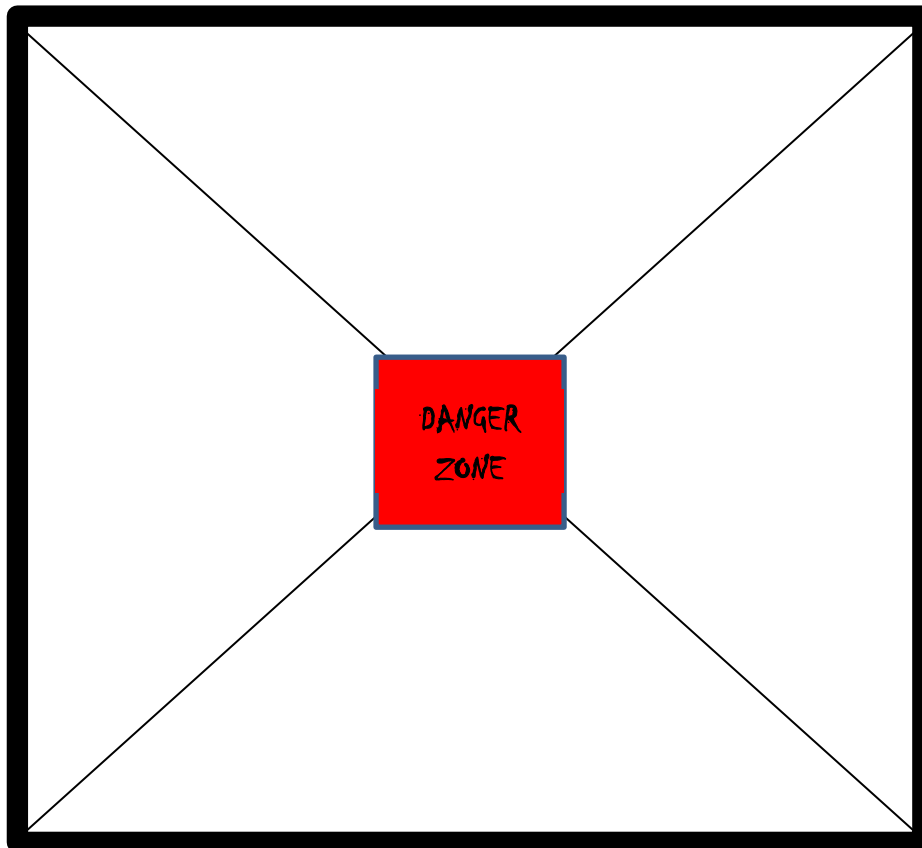
THE BERMUDA SQUARE

FAMILY & MEDICAL LEAVE ACT

Has the employee worked twelve total months, worked 1,250 hours in the past twelve months, and now experienced a qualifying event related to the arrival of a new child in the family, the employee or an immediate family member's serious health condition, the care of a family member injured while on active duty, or to tend to a qualifying exigency related to an immediate family service member?

WORKERS COMPENSATION

Has another employee in the same or similar position ever been provided with a greater amount of leave than that which is currently being requested?



DISPARITY LAWS

What is the greatest amount of leave time that I have provided to another employee in the same or similar position that was not on a worker's compensation related absence?

AMERICANS WITH DISABILITIES ACT

Can the person with the disability perform the essential functions of the position with or without reasonable accommodation?