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Legal and Ethical Environment

Dropbox 7

Rick Saldona is an outside sales representative for Aimer Winery. He routinely worked over forty hours per week, typically averaging fifty or more. While Rick appears to be working overtime, the Fair Labor Standards Act, or FLSA, limits the application of overtime pay, at time and a half, to certain classifications of employees. As Rick is considered a sales person, and works in professional role, he then becomes ineligible for overtime.

Ricks’s wife, Venita, became ill while Rick was a full-time employee with Aimer Winery. Given that the employer is required to provide FMLA to its employees because of its employee size. Rick would be eligible to take time to care for his wife. Her physician certified her illness, by indicating her need for continuous care. As such, Rick would be eligible for twelve weeks of leave within a twelve-month period to care for Venita.

Rick’s manager, Caesar Braxton, accused Rick of inflating his reported sales calls and required Saldona submit to a lie detector test. The US Department of Labor prohibited Braxton from forcing Saldona to submit to the test. Only in certain situations are lie detectors tests allowable. If Saldona worked in the public sector, specifically federal or state government, for specific security firms, or for companies that create and distribute controlled substances such exams would be allowable. Otherwise, the tests may only be used by private sector employers in the testing related to theft, embezzlement, or the theft of trade secrets.

The key and primary benefit of FMLA is the job protection provided during the leave when the employee is caring for himself or herself or a qualified family member. The act requires that upon return from leave, they must reinstate the employee into the same position or a similar and equitable position. The exception to the rule relates to those key employees in the company. The definition of key employee is one whose pay falls in the top 10 percent of the organization. For Aimer to utilize the exception in refusing to reinstate Saldona, they would need to prove his position as a key employee, specifically his salary is higher than 90 percent of the organizations.