# Business Law

## April 15, 2013

* Focus on Memorizing Pg. 147 & 148
* Emphasize on
  + State Workers’ Comp Statutes
    - State run insurance scheme. If employer has workers comp, the employee is entitled to wages if hurt. No fault is given and employee can’t sue for negligence.
  + National Labor Relations Act (NLRA)
    - Protects any employee, union or not, from protective concerted activity.
    - concerted – Mutual aid or benefit for employee.
    - Social media policies can not prohibit activity that prevents protective concerted activity.
  + Whistleblower Protection Act
    - Retaliation is not simply termination. Prohibits retaliation on whistleblower.
    - Requirements
      * Must be federal employee, must report activity to appropriate law enforcement.
  + Texas Whistleblower
    - Employee of state of Texas & report to appropriate authority.
  + Sarbanes-Oxley (Fraud Only)
    - Provision that prohibits retaliation if employee of publicly traded company. Must report to authority such as SEC or internally like comptroller. Protects those who cooperate with investigation.
  + Dod-Frank Act (Dod Frank Wall St Reform)
    - Covers a myriad of things. If a whistleblower provides original information to SEC or CFTC agencies and they recover over $1M, 10-30% of amount in excess of $1M goes to whistleblower. Does not require you report it internally first instead of going directly to authorities.
* Equal Employment Opportunity
  + Title VII of the Civil Rights Act of 1964
    - Prohibits discrimination of people who have a disability
    - You cannot discriminate and must provide reasonable accommodation, reasonable qualified, and does not provide an undue hardship.
    - Undue Hardship – Cost is too high, or accommodation of one employee adversely effects the other employees/
  + Age Discrimination in Employment Act (ADEA)
    - Only protects employees over 40.
  + Title VII Of the Civil Rights Act of 1964
    - Applies to employers or labor unions who have 15 or more employees (independent contracts do not count)
    - Protects applicants as well
    - Basis of discrimination:
      * Sex, Color, National Origin, Race, or Religion
      * No decision should be made with that considered in mind.
    - Must file with EEOC, federal unit.
    - If they find the employer at fault they may file a lawsuit on behalf of the employees. EEOC cannot sue but give a right to sue to employee, employee or applicant can sue if they want.
    - Theories of Discrimination (ADA, AEDA, or Title VII)
      * Disprat Treatment (Intentional Discrimination)
        + Intent to discriminate, plaintiff has to establish intent. The motive must be a bias on SCORR.
        + Evidence of Employers Intent

McDonnell Douglas Analysis (Raises Presumptions of Discrimination)

He is a member of a protected class

He was qualified for the position at issue

He suffered an adverse employment decision, and;

Others not in the same protected class did not suffer adverse employment decisions

Defendant can then offer legitimate business reason for why the decision was made. Non-discriminatory basis.

The plaintiff can rebut it and say it was a pretext to the decision but it really was because of SCORR.

* + - * Disprat Impact (Unintentional Discrimination)

Policies or employment procedure that is implied on everyone. The test has a negative impact of a certain group. No discriminatory intent, rather an effect.