

**QUESTION 6 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II**

Bob claims his manager, Linda, discharged him from his sales job with Jack's Auto Supply because she is biased against older people like him. Linda asserts that she discharged Bob based on instructions from Jack's owners to discharge salespersons who had been the subject of customer complaints of surly or slow service and/or had been evaluated as "below average" performers on their most recent performance reviews. The critical issue at the age discrimination trial is whether Linda acted with a discriminatory bias or for legitimate, non-discriminatory reasons. When Linda takes the stand at the age discrimination trial, she begins to testify that she made her discharge decision based on (1) written complaints about Bob submitted by some of his customers; and (2) Bob's last two performance reviews prepared by Bob's former manager, Gloria. Before Linda is allowed to testify to the specific content of the complaints and reviews, however, Bob's attorney elicits the following information on voir dire:

- Linda did not try to verify the content of the customer complaints as it was not feasible to do so;
- Linda did not have an opportunity to discuss the prior reviews with Gloria, who had to leave abruptly to care for her mother in another state;
- The complaints and reviews were consistent with what Linda had observed in the relatively short time she managed Bob; and
- After Bob's discharge, Jack's developed a procedure for following up with customers who complain about Jack's salespersons, from which it learned that a small portion of complaints lodged against other salespersons (not Bob) had been fabricated.

Based on voir dire, Bob's attorney objected that Linda should not be allowed to testify concerning the content of the complaints or performance reviews because the content is hearsay. Bob's attorney also argued that if Linda is permitted to testify to content, he should be permitted to introduce evidence that at least some customer complaints had been fabricated.

**How should the court rule on Bob's attorney's objections? Explain your answer.**

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