



Proceedings

A monthly newsletter from McGraw-Hill



December 2014 Volume 6, Issue 5

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Dear Professor,

Happy Holidays! Welcome to McGraw-Hill's December 2014 issue of Proceedings, a newsletter designed specifically with you, the Business Law educator, in mind. Volume 6, Issue 5 of Proceedings incorporates "hot topics" in business law, video suggestions, an ethical dilemma, teaching tips, and a "chapter key" cross-referencing the December 2014 newsletter topics with the various McGraw-Hill business law textbooks.

You will find a wide range of topics/issues in this publication, including:

1. A debt collector who was arrested for unfair debt collection practices;
2. A House GOP lawsuit against President Obama for executive action related to the Affordable Care Act;
3. A negligence lawsuit against Malaysia Airlines related to Flight 370;
4. Videos related to a) the "Right to Die" in Oregon and b) the state of Maine's failed attempt to quarantine a nurse who treated Ebola patients in Sierra Leone;
5. An "ethical dilemma" related to the right to terminate an employee based on sexual orientation; and
6. "Teaching tips" related to Video 1 ("Brittany Maynard on Decision to Die: Now 'Doesn't Seem Like the Right Time'") and the Ethical Dilemma ("The 29 States Where You Can Still Be Fired for Being Gay") of the newsletter.

I wish all of you a safe, restful and enjoyable holiday season!

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Of Special Interest

This section of the newsletter covers three (3) topics:

- 1) A debt collector who was arrested for unfair debt collection practices;
- 2) A House GOP lawsuit against President Obama for executive action related to the Affordable Care Act; and
- 3) A negligence lawsuit against Malaysia Airlines related to Flight 370.

Hot Topics in Business Law

Article 1: "Federal Agents Arrest Debt Collectors in Crackdown"

http://money.cnn.com/2014/11/18/news/debt-collectors-arrest/index.html?hpt=hp_t5

Note: In addition to the article, please refer to the video included at the above-referenced web address.

According to the article, federal agents in Georgia arrested John Todd Williams, 48, founder of debt collection agency Williams, Scott & Associates along with six other employees recently for allegedly running a \$4.1 million debt collection scam that targeted more than 6,000 people across the United States.

The arrests stem from an investigation by the Federal Bureau of Investigation, the U.S. Attorney's Office, the Federal Trade Commission and the Consumer Financial Protection Bureau. It appears to be the first time federal authorities have taken coordinated action against debt collectors, and could be the beginning of a broader crackdown.

"We are far from finished looking at the seedy side of debt collection," said Preet Bharara, the U.S. Attorney in Manhattan. "It affects too many people."

Prosecutors say employees of the company would routinely bully, threaten and trick thousands of victims by falsely calling themselves a "detective" or an "investigator" for local law enforcement agencies. Typically, they would call borrowers and say they had committed a crime such as "check fraud" and that if they failed to make immediate payment, a warrant would be issued for their arrest.

The debt collectors would read from scripts to threaten people with lines such as: "Who are we? We are a government task force set up to investigate and collect info on individuals involved in Depository Account Fraud and theft by deception."

From 2009 until April of this year, the debt collectors claimed to be working with the U.S. Justice Department or the Marshals Service and used legal terms that sounded official but were actually meaningless to try and coerce consumers, according to the complaint.



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"This scheme took advantage of our poorest and most vulnerable citizens from all fifty states," said George Venizelos, the FBI assistant director in New York. "The defendants were nothing more than bullies with bogus badges."

Debt collectors have been using increasingly aggressive tactics in the years since the 2008 financial crisis.

Under federal law, debt collectors are barred from harassing consumers by repeatedly calling them or using threats to pressure them to pay.

In 2012, the Consumer Financial Protection Bureau was given authority to oversee and regulate the largest U.S. debt collection agencies.

The consumer agency's auditors can march into the offices of large debt collectors to ensure they're giving consumers a fair shake. They can evaluate debt collectors to make sure they are clearly and accurately identifying themselves, truthfully disclosing the amount of debt owed, and not attempting to collect debt that doesn't exist or has been paid off.

It's a big job.

An estimated 1 in 3 adults with a credit history -- or 77 million people -- are so far behind on some of their debt payments that their account has been put "in collections," according to a recent study by the Urban Institute.

The debt in collections ranged from as little as \$25 to a whopping \$125,000. But the average amount owed was \$5,200.

Discussion Questions

1. Describe the Fair Debt Collection Practices Act (FDCPA).

The Fair Debt Collection Practices Act (FDCPA) broadly prohibits a debt collector from using 'any false, deceptive, or misleading representation or means in connection with the collection of any debt.' The statute enumerates several examples of such practices, as well as several examples of unfair practices. The FDCPA also provides that debt collectors may not harass or annoy debtors, may not threaten debtors with arrest, and may not threaten legal action unless litigation actually is being contemplated. Additionally, in their first communication with the consumer, debt collectors are required to notify debtors about their ability to challenge the validity of a debt and to provide other basic information. This includes informing the debtor of his or her right to ask the collection agency to "validate" the debt.



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2. Review the video associated with this article at the above-referenced web address. In your opinion, did the statements of the debt collector violate the Fair Debt Collection Practices Act? Why or why not?

This is an opinion question, so student responses may vary. In your author's opinion, the statements of the debt collector in the video did violate the Fair Debt Collection Practices Act. As mentioned in response to Article 1, Discussion Question Number 1 above, the FDCPA provides that debt collectors may not harass or annoy debtors, and may not threaten debtors with arrest. The debt collector clearly threatened the debtor with arrest.

3. In your reasoned opinion, should the government regulate the debt collection efforts of creditors? Why or why not?

This is an opinion question, so student responses may vary. In your author's opinion, the government serves as a necessary intermediary in creditor-debtor relationships. Student should be mindful that despite government regulation regarding debt collection, creditors still have full legal rights to pursue debt recovery through civil litigation.

Article 2: "House Republicans Sue Obama Administration over Obamacare"

<http://www.washingtonpost.com/blogs/post-politics/wp/2014/11/21/house-republicans-sue-obama-administration-over-obamacare/>

According to the article, House Republicans recently announced that they have filed a long-awaited legal suit challenging President Obama's "unilateral actions" on the Affordable Care Act's implementation.

Speaker John Boehner announced the lawsuit's filing minutes after he publicly denounced another of the president's executive moves, this on the decision that will provide relief to millions of illegal immigrants here, part of what Republicans have labeled the "imperial presidency."

"If this president can get away with making his own laws, future presidents will have the ability to do as well. The House has an obligation to stand up for the Constitution, and that is exactly why we are pursuing this course of action," Boehner said in a statement.

The suit is filed in the U.S. District Court for the District of Columbia, the federal courthouse where most battles between the executive and legislative branches get resolved. It will be led by Jonathan Turley, the law professor at the George Washington University Law School, who is the third legal adviser to handle the case.

Two other law firms had been hired to take the case but then later dropped the case, with Republicans saying they had received political pressure from partners to bow out and Democrats charging the case has no constitutional merits.



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The House passed a resolution in July that paved the way for this legal challenge. The suit focuses specifically on the administration's decision to delay the health-care law's employer mandate and cost-sharing payments made to insurance companies. Regarding the cost-sharing payments, the house GOP accuses the administration of "unlawfully and unconstitutionally" using a Treasury Department account to transfer funds to insurance companies.

The lawsuit was filed specifically against the secretaries of the Treasury and the department of Health and Human Services.

The focus of the case has some legal irony. Republicans are focusing on Obama's move to delaying portions of the law that mandated individuals must purchase health insurance or else face certain tax penalties. As the rollout of the law became increasingly chaotic in 2013, Obama issued an order to delay portions of the mandate.

Republicans contend that he could not manipulate that portion of the law without congressional input. However, the individual mandate, as it is known, is the cornerstone of the Affordable Care Act and Republicans had tried previously to get legal rulings that it was unconstitutional, losing a 2012 case before the Supreme Court on the matter.

Now, in their challenge on executive actions, the House GOP is confronting Obama for altering that portion of the law.

In recent weeks, some Republicans have pushed for including the immigration order in the lawsuit against the president, but that is not the case for now.

Discussion Questions

1. Describe the constitutional powers and duties of the United States government's legislative and executive branches.

According to the United States Constitution, the U.S. Congress (the legislative branch of government) has the power and responsibility to make law through the enactment of legislation, while the U.S. president (the executive branch of government) has the power and responsibility to enforce the law (See Articles I and II of the U.S. Constitution, respectively).

2. In the House GOP's lawsuit against President Obama, what are the specific challenges to President Obama's exercise of executive power?

As the article indicates, the lawsuit suit focuses specifically on a) the Obama administration's decision to delay the health-care law's employer mandate and b) cost-sharing payments made by the government to insurance companies as subsidies for low-income Americans.



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3. In your reasoned opinion, did President Obama act unconstitutionally in his exercise of executive power related to the Affordable Care Act? Why or why not?

This is an opinion question, so student responses will likely vary. In your author's opinion, the first issue, whether the Obama administration's decision to delay the health care law's employer mandate was unconstitutional, is relatively easy to resolve. Since the executive branch has the constitutional power to enforce the law, it would seem to be within the province of the executive branch to delay enforcement. The more substantive issue, whether the Obama administration acted unconstitutionally in endorsing cost-sharing payments made by the government to insurance companies as subsidies for low-income Americans, will be more difficult to resolve. Resolution of this issue may depend on whether the U.S. Congress, in enacting the Affordable Care Act, expressly or implicitly approved of the subsidies. The U.S. Congress does control the "purse strings" of the federal government—It is the branch of the federal government that has the constitutional spending power.

Article 3: "2 Boys Sue Govt, Malaysia Airlines over Flight 370"

<http://www.usnews.com/news/world/articles/2014/10/31/malaysia-airlines-sued-by-2-boys-over-flight-370>

According to the article, two Malaysian children sued Malaysia Airlines and the government recently over the loss of their father on Flight 370, the first lawsuit filed in the country by relatives of those aboard the jetliner that mysteriously disappeared eight months ago.

Jee Kinson, 13, and Jee Kinland, 11, accused the civil aviation department of negligence for failing to try and contact the plane within a reasonable time after it disappeared from radar while flying from Kuala Lumpur to Beijing on March 8 with 239 people on board.

The suit filed at the Kuala Lumpur High Court alleges the airline was negligent and failed to take all due measures to ensure a safe flight. It also named the directors-general of civil aviation and immigration, the country's air force chief and the government as respondents and alleged they committed gross neglect and breach of duty.

"We have waited for eight months. After speaking to various experts, we believe we have sufficient evidence for a strong case. A big plane missing in this age of technology is really unacceptable," their lawyer Arunan Selvaraj said.

The boys are seeking damages for mental distress, emotional pain and the loss of support following the disappearance of their father, Jee Jing Hang. He operated an Internet business earning monthly income of nearly 17,000 ringgit (\$5,200).

Selvaraj said the court would determine the amount of any damages to award.



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Nearly two-thirds of the passengers on Flight 370 were from China.

Steve Wang, a Chinese man whose mother was on the plane, said many Chinese families had retained lawyers but he didn't think any of them had filed a lawsuit yet.

"We are examining the laws to figure out how to best bring our cases — for example, if we should file the suits in Malaysia. But without knowing where the plane is, evidence is lacking, and there are still possibilities that things may change," Wang said. "For now, it looks very difficult for us to bring a suit against the Malaysian government and its military."

Aviation lawyer Jeremy Joseph said the boys certainly have a case for the authorities to answer in court but it will not be easy.

"It's going to be quite challenging as the plane has not been recovered. Without knowing the cause of the incident, it's all very speculative," he said.

Joseph said Malaysian civil courts are not likely to give big payouts. In the case of the airline, he said the court could likely follow the compensation amount of \$175,000 set under the Montreal Convention. For the other respondents, he said it is an unprecedented case and would depend on the evidence given in court and culpability of the parties.

The plane is believed to have crashed in a remote patch of the southern Indian Ocean. The Australian coordinators of the search have said the current phase could take another year and there is still no guarantee of success. No debris has ever been found.

Discussion Questions

1. As the article indicates, the lawsuit in this case is based on the legal theory of negligence. Define and describe negligence.

Negligence is defined as the failure to do what a reasonable person would do under the same or similar circumstances. In order to prevail in a negligence lawsuit, the plaintiff must prove by the preponderance of the evidence that:

- a. the defendant owed the plaintiff a duty of care;
 - b. the defendant breached the duty of care;
 - c. the defendant caused the plaintiff harm; and
 - d. the plaintiff experienced damages (economic and/or physical) as a result.
2. As the article indicates, the plaintiffs' attorney in this case, Arunan Selvaraj, was quoted as saying that "(a) big plane missing in this age of technology is really unacceptable." Describe how this statement relates to the negligence theory of *res ipsa loquitur*.



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The legal theory “res ipsa loquitur” literally means “the thing speaks for itself.” As applied to negligence theory, res ipsa loquitur means that an event would not have occurred but for the negligence of the defendant. As applied to the subject case, the plaintiff’s argument would be that but for the negligence of Malaysia Airlines, Flight 370 would not have gone missing.

3. As the article indicates, the plane that crashed has not been located. Does that matter in terms of the plaintiffs’ prospects of prevailing on a negligence theory? Why or why not?

As the article indicates, the fact that the plane has not been located does matter in terms of the plaintiffs’ prospects of prevailing on a negligence theory. Without the recovery of plane debris, it could be very difficult for a jury to reach a verdict concluding that Malaysia Airlines was negligent. As aviation lawyer Jeremy Joseph noted (and as is mentioned in the article), without knowing the cause of the incident, the cause of the plane crash is speculative. A jury cannot and should not reach a verdict based on mere speculation.



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Video Suggestions

Video 1: “Brittany Maynard on Decision to Die: Now ‘Doesn’t Seem Like the Right Time’”

http://www.cnn.com/2014/10/29/health/oregon-brittany-maynard-video/index.html?hpt=hp_t4

Note: In addition to the video, please see the following article, also included at the above-referenced web address:

“Brittany Maynard on Decision to Die: Now ‘Doesn’t Seem Like the Right Time’”

According to the article, Brittany Maynard says she has not decided yet when she will end her life, but it is a decision she is still determined to make.

"I still feel good enough and I still have enough joy and I still laugh and smile with my family and friends enough that it doesn't seem like the right time right now," Maynard says. "But it will come, because I feel myself getting sicker. It's happening each week."

Maynard says she has stage IV glioblastoma multiforme, an aggressive form of terminal brain cancer. In April, she says, doctors gave her six months to live.

The 29-year-old Oregon woman's story spread rapidly on social media after she revealed her plans to take medication to end her life. A video explaining her choice has garnered more than 8.8 million views on YouTube. And she's become a prominent spokeswoman for the "death with dignity" movement, which advocates that terminally ill patients be allowed to receive medication that will let them die on their own terms. She has also become a lightning rod for criticism from people who oppose that approach.

In her latest statement, a nearly six-minute video produced and released by end-of-life choice advocacy group Compassion & Choices, Maynard acknowledges that some have been skeptical about her story.

"When people criticize me for not waiting longer, or, you know, whatever they've decided is best for me, it hurts," she says, "because really, I risk it every day, every day that I wake up."



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Compassion & Choices spokesman Sean Crowley declined the media's request to speak with Maynard's doctors, saying they "prefer to remain anonymous for now because opponents of death with dignity sometimes harass doctors who write aid-in-dying prescriptions."

Maynard says her health has been getting worse. She describes a recent "terrifying" day when she had two seizures and found herself unable to say her husband's name.

"I think sometimes people look at me and they think 'Well you don't look as sick as you say you are,' which hurts to hear, because when I'm having a seizure and I can't speak afterwards, I certainly feel as sick as I am," she says, her voice cracking as she tears up.

When she first started speaking out about her decision, Maynard said she planned to take the medication she'd been prescribed in early November. In her latest video, she says she is still waiting to see how her symptoms progress before deciding on a date.

But taking too long to make that choice is now one of her greatest fears, Maynard says.

"The worst thing that could happen to me is that I wait too long because I'm trying to seize each day," she says, "but I somehow have my autonomy taken away from me by my disease because of the nature of my cancer."

Compassion & Choices says the latest video, which was recorded on October 13 and 14, is part of a campaign "to expand access to death with dignity in California and other states nationwide." Maynard was living in California when doctors diagnosed her with brain cancer.

"We had to uproot from California to Oregon, because Oregon is one of only five states where death with dignity is authorized," she said earlier this month.

Oregon, Washington and Vermont have "death with dignity" laws that allow terminally ill, mentally competent residents to voluntarily request and receive prescription drugs to hasten their death.

Judicial decisions in Montana and New Mexico authorize doctors to prescribe fatal drug doses in such circumstances, although the rulings haven't become state law.

Now, changing that has become part of Maynard's mission.

"My goal, of course, is to influence this policy for positive change. And I would like to see all Americans have access to the same health care rights," she says in her latest video.

But she says she's also focused on simpler goals.

"They mostly do boil down to my family and friends and making sure they all know how important they are to me and how much I love them," she says.



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The video also includes statements from Maynard's family. Her mother, Debbie Ziegler, says she supports her daughter.

"It's not my job to tell her how to live, and it's not my job to tell her how to die," she says. "It's my job to love her through it."

Her husband, Dan Diaz, says they're taking things day by day.

"That's the only way to get through this. You take away all of the material stuff, all the nonsense that we all seem to latch onto as a society," he says, "and you realize that those moments are really what matter."

Last week, Maynard visited the Grand Canyon -- a trip she described as the last item on her bucket list.

Photos on her website showed her and her husband standing on the edge of the canyon, hugging and kissing. In the video, Maynard says she's hoping her mother and husband will be able to bounce back after her death.

"I understand everyone needs to grieve, but I want him to be happy, so I want him to have a family," she says. "And I know that might sound weird, but there's no part of me that wants him to live out the rest of his life just missing his wife, so I hope he moves on and becomes a father."

The so-called "death with dignity" movement is opposed by many religious and right-to-life groups, which consider it assisted suicide.

And Maynard's decision has drawn criticism from some religious leaders.

"We believe she's made in the image of God, we believe that God determined when she would be born and God should determine when she's going to die," Dave Watson, pastor of Calvary Chapel of Staten Island, told CNN's Brooke Baldwin earlier this month. "I certainly sympathize. And when I read the story, I prayed for the woman and her family. I can't imagine the agony for a decision like this. But I don't think that necessarily we're saying the right things about death."

What if Maynard had showed a gun in her video, instead of a pill bottle, he asked.

Philip Johnson, a Catholic seminarian who says he was also diagnosed with incurable brain cancer, criticized Maynard's choice.

"A diagnosis of terminal cancer uproots one's whole life, and the decision to pursue physician-assisted suicide seeks to grasp at an ounce of control in the midst of turmoil," he wrote in a column



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posted on the Catholic Diocese of Raleigh's website. "It is an understandable temptation to take this course of action, but that is all that it is -- a temptation to avoid an important reality of life."

But polls have shown that most Americans support having a say in how they die, especially if the process is described not as doctors helping a patient "commit suicide" but as ending a patient's life "by some painless means."

"I think there is something of a movement here," Arthur Caplan, professor of bioethics at NYU's Langone Medical Center, said. "When you push Americans to say, 'Do you want choice on this matter?' I think a lot of them are going to say yes."

Caplan said Maynard's first video speaking out about her decision raised some concerns.

"I wouldn't want her to feel pressure that she had to do it because she just told us all she was going to," he said.

Maynard has stressed that she is not suicidal.

"If all my dreams came true, I would somehow survive this," she says in her latest video, "but most likely, I won't."

Postscript: Shortly after this article was published, Brittany Maynard elected to end her life pursuant to Oregon's Death with Dignity Act

Discussion Questions

1. Describe Oregon's Death with Dignity Act.

According to <http://euthanasia.procon.org>, the Death with Dignity Act allows terminally ill Oregon residents to obtain and use prescriptions from their physicians for self-administered, lethal medications. Under the Act, ending one's life in accordance with the law does not constitute suicide. However, the term 'physician-assisted suicide' (PAS) is used because that terminology is used in medical literature to describe ending life through the voluntary self-administration of lethal medications prescribed by a physician for that purpose. The Death with Dignity Act legalizes PAS, but specifically prohibits euthanasia, where a physician or other person directly administers a medication to end another's life.

To request a prescription for lethal medications, the Death with Dignity Act requires that a patient must be:

- a. an adult (18 years of age or older);*
- b. a resident of Oregon;*
- c. capable (defined as able to make and communicate health care decisions); and*



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d. diagnosed with a terminal illness that will lead to death within six months.

Patients meeting these requirements are eligible to request a prescription for lethal medication from a licensed Oregon physician. To receive a prescription for lethal medication, the following steps must be fulfilled:

- a. The patient must make two oral requests to his or her physician, separated by at least 15 days;*
- b. The patient must provide a written request to his or her physician, signed in the presence of two witnesses;*
- c. The prescribing physician and a consulting physician must confirm the diagnosis and prognosis;*
- d. The prescribing physician and a consulting physician must determine whether the patient is capable;*
- e. If either physician believes the patient's judgment is impaired by a psychiatric or psychological disorder, the patient must be referred for a psychological examination;*
- f. The prescribing physician must inform the patient of feasible alternatives to assisted suicide, including comfort care, hospice care, and pain control; and*
- g. The prescribing physician must request, but may not require, the patient to notify his or her next-of-kin of the prescription request."*

2. Is Oregon's Death with Dignity Act ethical? Should it be legal?

These are opinion questions, so student responses will likely vary.

3. In your reasoned opinion, should the federal government intervene on the issue of whether such a law is legal? Why or why not?

This is an opinion question, so student responses may vary. States' rights advocates would likely disfavor such an intervention. Federal intervention, however, would create greater uniformity in the law across the United States.

Video 2: "Life Goes on for Nurse in Standoff over Ebola"

<http://newsinfo.inquirer.net/648093/life-goes-on-for-nurse-in-standoff-over-ebola>

Note: In addition to the video, please see the following article, also included at the above-referenced web address:

"Life Goes on for Nurse in Standoff over Ebola"

According to the article, in between going on a bike ride and taking delivery of a pizza, nurse Kaci Hickox and her boyfriend did chores and watched a movie while state officials struggled to reach a compromise in a standoff that has become the nation's most closely watched clash between personal freedom and fear of Ebola.



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The nurse who treated Ebola patients in Sierra Leone and her boyfriend, Ted Wilbur, purposefully rode their bikes away from town on a dirt path to avoid coming into contact with people.

"We're not trying to push any limits here. We're members of this community, too, and we want to make people comfortable," he told reporter.

Hickox, who returned to the United States last week, has been under what Maine is calling a voluntary quarantine at her home in this town of 4,300 people.

She has rebelled against the restrictions, saying that her rights are being violated and that she is no threat to others because she has no symptoms. She tested negative last weekend for Ebola, though it can take days for the virus to reach detectable levels.

State officials said that they were seeking a court order to require a quarantine through November 10, the end of the 21-day incubation period for the Ebola virus.

But it was unclear whether the state had gone to court or whether there had been any progress in negotiations aimed at a compromise.

Recently, Fort Kent Police Chief Tom Pelletier went inside the home briefly and said afterward, "We just had a good conversation." He said he was not there to arrest or detain Hickox.

Governor Paul LePage said state attorneys and Hickox's lawyers had discussed a scaled-down quarantine that would have allowed her to go for walks, runs and bicycle rides while preventing her from venturing into populated public places or coming within 3 feet of others.

"I was ready and willing — and remain ready and willing — to reasonably address the needs of health care workers meeting guidelines to assure the public health is protected," he said.

Hickox stepped into the media glare when she returned from West Africa to become subject to a mandatory quarantine in New Jersey. After an uproar, she was released and traveled more than 600 miles to the small town on the Canadian border where she lives with her boyfriend. Reporters have camped out at their home.

Wilbur said he and Hickox spent the day recently vacuuming, cleaning, doing laundry and watching a movie, "The Avengers." He said he also spent four hours attending class via phone. He has agreed to stay away from the University of Maine at Fort Kent for the time being.

During their hour-long bike ride, they were followed by an unmarked state police cruiser. Later, they took delivery of a pizza.



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States have broad authority under long-established law to quarantine people to prevent the spread of disease. In Maine, state law allows a judge to confine someone if health officials demonstrate "a clear and immediate public health threat."

President Barack Obama and humanitarian groups have warned that such measures could cripple the fight against the disease at its source by discouraging volunteers like Hickox from going to West Africa, where the outbreak has sickened more than 13,000 people and killed nearly 5,000 of them.

"The volunteers are heroes to the people they help, and they are heroes to our own countries. They should be treated like heroes when they return," Samantha Power, U.S. ambassador to the United Nations, said in Brussels.

Discussion Questions

1. What is a quarantine?

A quarantine is used to separate and restrict the movement of persons. It is a state of enforced isolation. A quarantine is often used in connection with disease and illness, such as those who may possibly have been exposed to a communicable disease.

2. What is the justification for a quarantine?

A quarantine is justified based on a utilitarian argument; namely, that it is better to deprive the rights of one or a few with illness in order to preserve the health of many.

3. In electing to venture outside her home, did Kacy Hickox act unethically? Did she act illegally?

In terms of whether Kacy Hickox acted unethically, this is an opinion question, so student responses may vary. In terms of whether she acted illegally, if her quarantine was merely voluntary, then no, Ms. Hickox did not act illegally. Based on the article, it does not appear that the state of Maine had actually secured a court order prohibiting her from venturing outside her home.



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Of Special Interest

This section of the newsletter addresses the right to terminate an employee based on sexual orientation.

Ethical Dilemma

“The 29 States Where You Can Still Be Fired for Being Gay”

http://www.huffingtonpost.com/2014/10/30/fired-for-being-gay_n_6076492.html

According to the article, Tim Cook came out as gay in an essay in Businessweek recently. He said that the unequal treatment LGBT employees face all over the country was a critical factor in his decision.

"I've had the good fortune to work at a company that loves creativity and innovation and knows it can only flourish when you embrace people's differences," Cook wrote. "Not everyone is so lucky."

Indeed, there is no federal law protecting LGBT workers against discrimination based on their sexual orientation. And while some states and cities have passed their own protections, there are still 29 states where you can actually be fired for being gay, leaving more than half of all total workers vulnerable to employment discrimination.

Most Americans incorrectly think that this problem has already been solved. A 2013 HuffPost/YouGov poll found that 69 percent of Americans think that firing people for being gay is illegal.

A proposed federal law called the Employment Non-Discrimination Act would provide protections for all LGBT Americans working for employers with at least 15 employees. It's been introduced in nearly every Congress since 1994, but has never passed.

Apple's home state of California has some of the most robust anti-discrimination laws in the country, and the company itself is an outspoken advocate for LGBT rights.

"If hearing that the CEO of Apple is gay can help someone struggling to come to terms with who he or she is, or bring comfort to anyone who feels alone, or inspire people to insist on their equality, then it's worth the trade-off with my own privacy," Cook wrote in his essay.



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Discussion Questions

1. Describe the employment-at-will doctrine.

The employment-at-will doctrine allows an employer to terminate an employee for any reason or for no reason at all, provided that the employer does not violate federal and/or state anti-discrimination law.

2. Are there any legal limitations on the employment-at-will doctrine?

As mentioned in response to Ethical Dilemma Discussion Question Number 1 above, even in a jurisdiction that recognizes the employment-at-will doctrine, an employer is not allowed to violate federal and/or state anti-discrimination law. For example, in making a termination decision, an employer is not allowed to violate the Civil Rights Act of 1964, the landmark federal legislation that prohibits discrimination on the basis of race, gender, national origin, culture, or religion.

3. In your opinion, will sexual orientation discrimination be prohibited by federal law in the foreseeable future? Why or why not?

This is an opinion question, so student responses will likely vary. In your author's opinion, such a development will not occur in the foreseeable future, as it would be difficult to secure enough votes to enact such legislation with the current makeup of the U.S. Congress. If such legislation is not enacted at the federal level, it can nevertheless be prohibited by the U.S. Supreme Court, and/or by state law.



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Of Special Interest

This section of the newsletter will assist you in addressing Video 1 ("Brittany Maynard on Decision to Die: Now 'Doesn't Seem Like the Right Time'") and the Ethical Dilemma ("The 29 States Where You Can Still Be Fired for Being Gay") of the newsletter.

Teaching Tips

Teaching Tip 1 (Related to Video 1: "Brittany Maynard on Decision to Die: Now 'Doesn't Seem Like the Right Time'")

<http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/index.aspx>

For comprehensive information regarding Oregon's Death with Dignity Act, please see the above-referenced web address.

Teaching Tip 2 (Related to the Ethical Dilemma: "The 29 States Where You Can Still Be Fired for Being Gay")

http://www.huffingtonpost.com/2014/10/30/fired-for-being-gay_n_6076492.html

For a map referencing those states with: 1) state-wide employment non-discrimination law covering sexual orientation and gender identity; 2) state-wide employment non-discrimination law covering only sexual orientation (not gender identity); and 3) state-wide employment non-discrimination law not covering sexual orientation or gender identity, please see the above-referenced web address.



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Chapter Key for McGraw-Hill/Irwin Business Law Texts:

	Hot Topics	Video Suggestions	Ethical Dilemma	Teaching Tips
Kubasek et al., Dynamic Business Law	Chapters 5, 9 and 45	Chapters 2 and 5	Chapters 2 and 43	Chapters 2 and 43
Kubasek et al., Dynamic Business Law: Summarized Cases	Chapters 5, 9 and 45	Chapters 2 and 5	Chapters 2 and 43	Chapters 2 and 43
Kubasek et al., Dynamic Business Law: The Essentials	Chapters 4, 6 and 25	Chapters 1 and 4	Chapters 1 and 24	Chapters 1 and 24
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment	Chapters 3, 7 and 48	Chapters 3 and 4	Chapters 4 and 51	Chapters 4 and 51
Barnes et al., Law for Business	Chapters 4, 7 and 46	Chapters 3 and 4	Chapters 3 and 25	Chapters 3 and 25
Brown et al., Business Law with UCC Applications	Chapters 2, 6 and 15	Chapters 1 and 2	Chapters 1 and 23	Chapters 1 and 23
Reed et al., The Legal and Regulatory Environment of Business	Chapters 6, 10 and 18	Chapters 2 and 6	Chapters 2 and 20	Chapters 2 and 20
McAdams et al., Law, Business & Society	Chapters 5, 7 and 15	Chapters 2 and 5	Chapters 2 and 13	Chapters 2 and 13
Melvin, The Legal Environment of Business: A Managerial Approach	Chapters 2, 10 and 22	Chapters 2 and 5	Chapters 5 and 13	Chapters 5 and 13
Bennett-Alexander & Harrison, The Legal, Ethical, and Regulatory Environment of Business in a Diverse Society	Chapters 1 and 6	Chapter 1	Chapters 1 and 11	Chapters 1 and 11



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This Newsletter Supports the Following Business Law Texts:

- Barnes et al., Law for Business, 12th Edition 2015© (0078023815)
Bennett-Alexander et al., The Legal Environment of Business in A Diverse Society, 1st Edition 2012© (0073524921)
Brown et al., Business Law with UCC Applications Student Edition, 13th Edition 2013© (0073524956)
Kubasek et al., Dynamic Business Law, 3rd Edition 2015© (0078023785)
Kubasek et al., Dynamic Business Law: The Essentials, 2nd Edition 2013© (0073524972)
Kubasek et al., Dynamic Business Law: Summarized Cases, 1st Edition 2013© (0078023777)
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment, 15th Edition 2013© (0073377643)
Melvin, The Legal Environment of Business: A Managerial Approach, 2nd edition 2015© (0078023807)
McAdams et al., Law, Business & Society, 10th Edition 2012© (0073525006)
Reed et al., The Legal and Regulatory Environment of Business, 16th Edition 2013© (0073524999)

