

May 20, 2014 ▪ Clearwater, Florida



**EMPLOYMENT
JEOPARDY!**

Celebrity Contestants

William E. Grob – Potpourri



Kathleen A. Liever – FMLA



Gretchen M. Lehman – Wage & Hour



J. Robert McCormack – Non-Compete
Issues



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Deakins

WAGE & HOUR



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It is possible for employers to “pick off” named plaintiffs in FLSA collective actions with early offers of judgment that would satisfy only the named plaintiff’s claims.

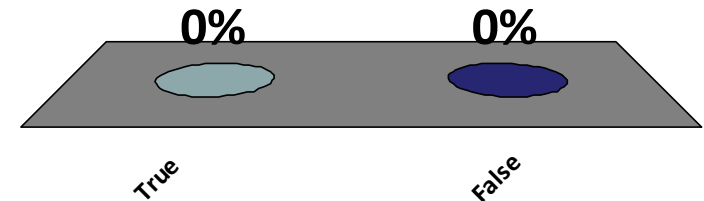


A. True

B. False

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FMLA



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FMLA

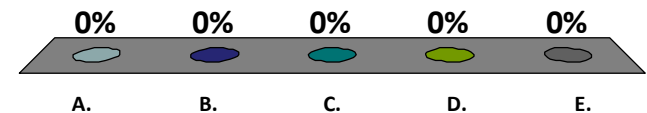
Absent extenuating circumstances, how soon after an employee provides notice of the need for leave must an employer determine whether the employee is eligible for FMLA leave?

ANSWER

- A. Five business days.
- B. Five calendar days.
- C. Fifteen business days.
- D. Fifteen calendar days.
- E. As soon as practicable.

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NON-COMPETES



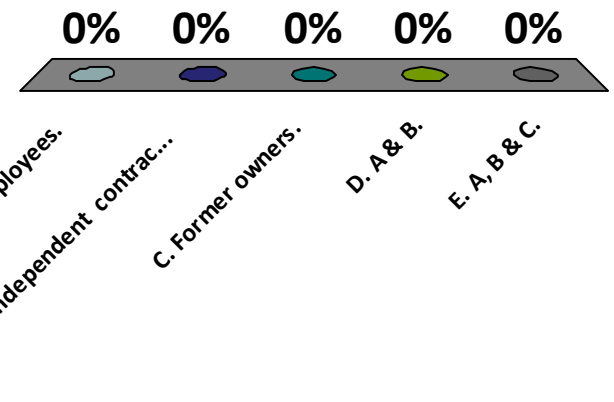
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Non-competes are enforceable against:



- A. Former employees.
- B. Former independent contractors.
- C. Former owners.
- D. A & B.
- E. A, B & C.**

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POTPOURRI



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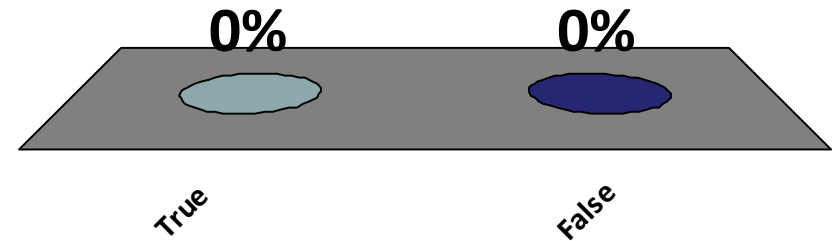
The White House has thrown its full support behind the Working Families Flexibility Act because it believes it will help working parents find extra time to spend with their families.

- A. True
- B. False

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WAGE & HOUR



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To invoke the anti-retaliation provisions of the FLSA, an employee must submit a complaint in writing.

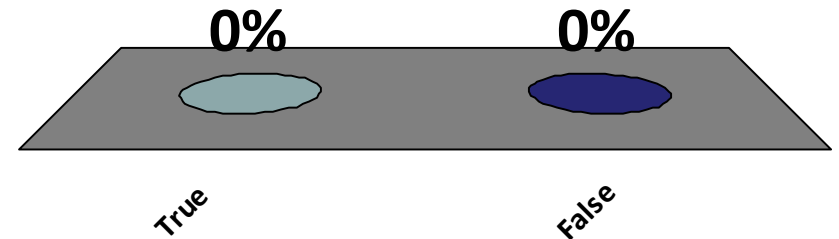
A. True

B. False

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FMLA



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FMLA

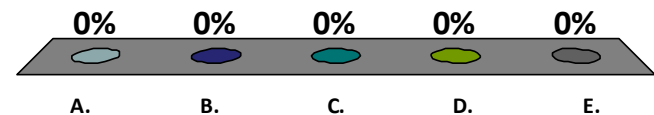
Your employee's medical condition limits her to a 40 hour workweek, but she is assigned eight hours of overtime in a week. Can she take FMLA leave for the overtime?

ANSWER



- A. Yes, if the employee has a proper medical certification and would normally be required to work overtime.
- B. Yes, if the employee agrees to use FMLA leave in lieu of working overtime hours.
- C. No, unless the employee is on a reduced schedule leave.
- D. No, unless the employee is on intermittent leave.
- E. Not under any circumstance.

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NON-COMPETES



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In order to protect confidential business information, a company must have a written agreement signed by the employee.

A. True

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B. False



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True

False

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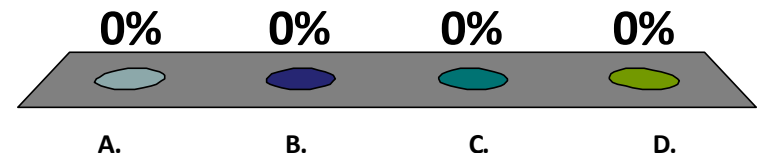
Additional leave, even beyond that which is available and/or taken under the FMLA, is appropriate under the ADA in which of the following circumstances:



- A. Any amount of time, so long as it is requested as an accommodation under the ADA.
- B. A reasonable amount of time, so long as it is definite in duration, as an accommodation under the ADA.
- C. No additional leave beyond that which is available under the FMLA is ever necessary as an accommodation, whether requested or not, under the ADA.
- D. Any amount of time, as long as a physician certifies that the absence is related to a disability under the ADA.

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As long as an employee is paid minimum wage, the FLSA does not provide recourse for unpaid hours below the 40-hour threshold.

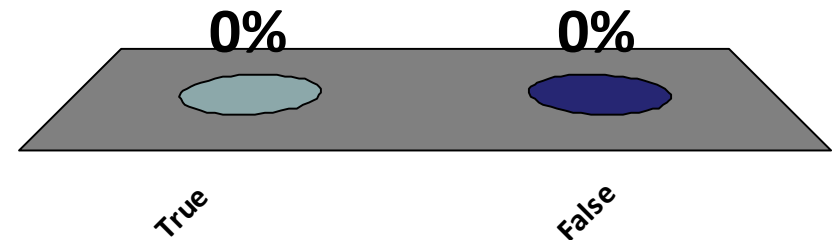
A. True

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B. False



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FMLA



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FMLA

Your employee wants to use PTO for a two-hour FMLA covered doctor visit. However, your PTO policy only permits time off in no less than one-day increments. How much time off must the employee take to get paid?

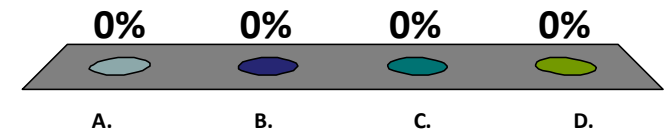
ANSWER



- A. Two hours
- B. One day
- C. Whatever time the employee actually needs to see the doctor
- D. None of the above

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NON-COMPETES



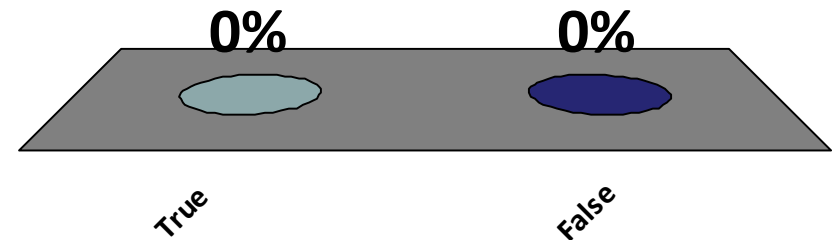
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An employee covered by a valid non-compete will be relieved of her obligation to honor that contract if the company fails to pay her according to the terms of the agreement.

A. True

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B. False



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Hip teen clothing store fails to hire Muslim individual who wears a hijab. Is there a First Amendment defense available?



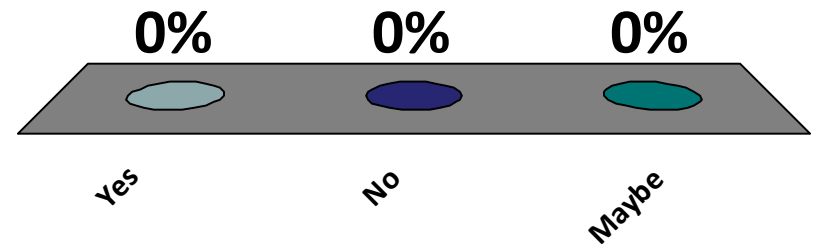
A. Yes

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B. No

C. Maybe

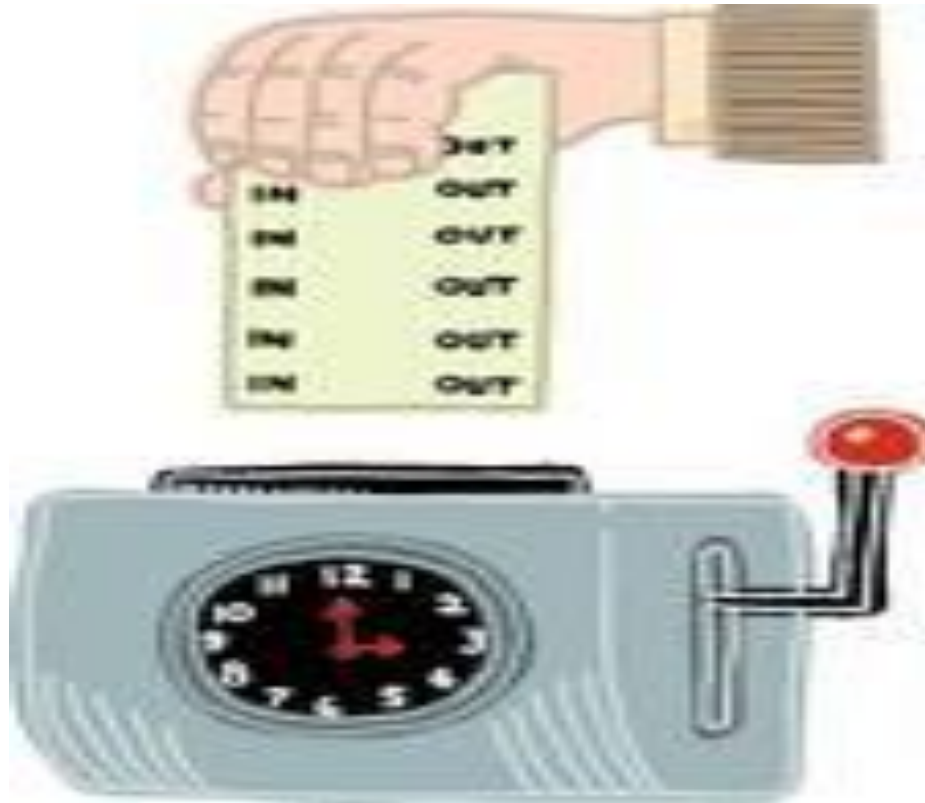
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Wage & Hour



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In a failed exemption or misclassification case involving a salaried employee, what rate is used to calculate overtime damages?



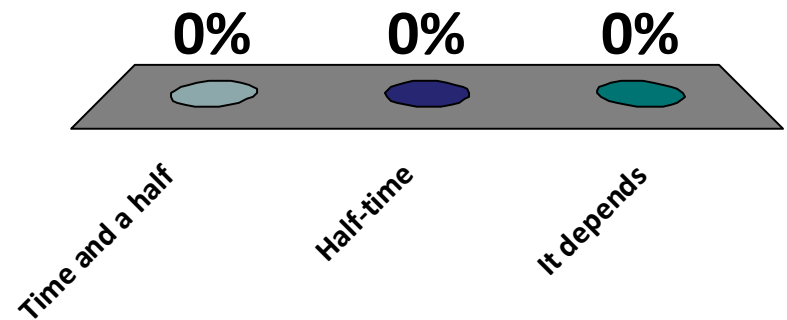
A. Time and a half

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B. Half-time

C. It depends

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FMLA



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FMLA

Can employees take military caregiver leave if they are the stepson or stepdaughter of a covered service member or if they are the stepparent of a covered service member?

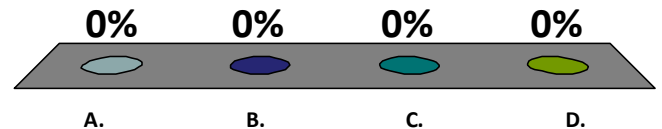
ANSWER



- A. Yes
- B. No
- C. Only if they stand in loco parentis (as a parent) to the covered service member.
- D. Only if the covered service member is not an adult.

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NON-COMPETES



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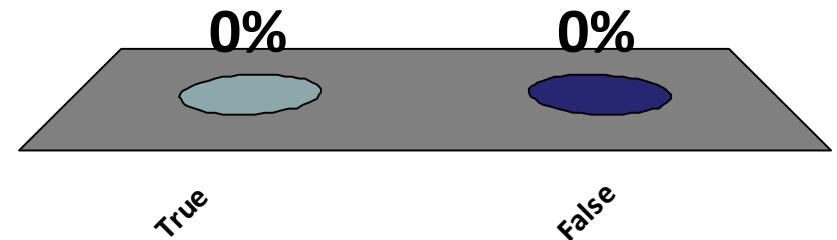
A company with a valid non-compete will not be able to obtain relief if that company has violated any laws, rules or regulations which pertain to its operations.



A. True

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B. False



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Which of the following situations is likely not protected under Title VII:



- A. LGBT employees subject to a hostile work environment because of their sexual orientation.
- B. Pregnant employee denied leave associated with her pregnancy.
- C. Co-employed sister of employee who is fired for complaining about discriminatory treatment of her sibling.
- D. None of the above.

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LGBT employees subject ..
Pregnant employee deni..
Co-employed sister of e..
None of the above.

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WAGE & HOUR



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It is possible for employers to avoid paying attorneys' fees in FLSA cases by paying the plaintiff full relief.

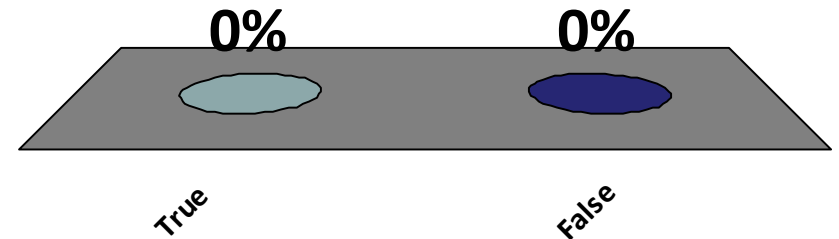


A. True

B. False

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FMLA



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FMLA



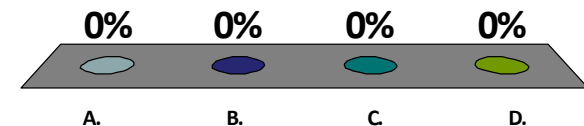
An employee adopts a baby and wants to take 1 full day a week (Monday) and one half-day a week (Friday) off to bond with the baby after the birth of the child until she exhausts her FMLA leave. Is the employee entitled to take leave in this manner?

ANSWER



- A. No, unless the employer agrees to the arrangement.
- B. No, unless the employee obtains a medical certification signed by her doctor stating that the bonding leave is medically necessary.
- C. Yes, even if the employer does not agree.
- D. Yes, if the employee can show that it would not disrupt business operations.

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NON-COMPETES



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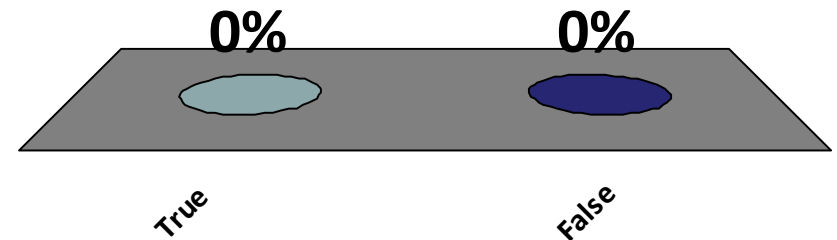
A company cannot prevent an employee from competing against it for more than 2 years.

- A. True
- B. False

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POTPOURRI



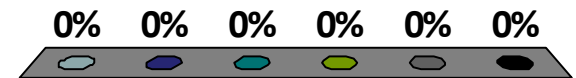
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Which of the following conduct likely would be held unlawful under the NLRA:



- A. Having a policy prohibiting discussing wage information among employees that is never enforced.
- B. Having no policy prohibiting wage discussions among employees, but where two administrative employees tell 3 co-workers they cannot discuss their compensation.
- C. Instructing an employee to keep the information related to an investigation confidential based on a business need for confidentiality.
- D. None of the above.
- E. A & B.
- F. All of the above.

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Having a policy prohibit...
Having no policy prohib...
Instructing an employee...
None of the above.
A & B.
All of the above.

Final
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COMPENSATION ISSUES

If my peacock lays an egg on your side of the fence, who is entitled to compensation for the sale of the egg if it turns out to be made of gold?



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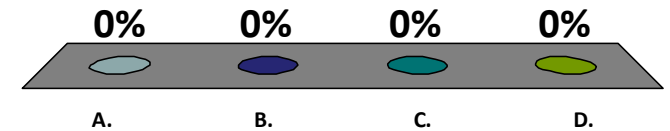
ANSWER

- A. Me
- B. You
- C. The Peacock, duh
- D. None of the above.

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Participant Leaders



Points **Participant**

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Contact Information



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