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Business Law 1122
Homework: 5

I. A Native American tribe entered into a construction contract with C & L Enterprises (C & L) to install a roof on a tribe-owned commercial building in Oklahoma. The property lies outside the tribe's reservation. The contract contained three key positions: (1) all disputes arising from the contract would be settled by arbitration; (2) the award rendered by the arbitrator would be final; and (3) judgment must be entered in any federal or state court having jurisdiction. After the execution of the contract, but before C & L commenced performance, the tribe changed the roofing material in the contract and hired another company to install the roof. C & L, claiming breach of contract, requested arbitration. The tribe claimed sovereign immunity and declined to participate in any arbitration proceeding. The arbitrator received evidence and rendered an award in favor of C & L. The contractor then filed suit to enforce the award in the district court of Oklahoma County. Again the tribe claimed immunity. The district court denied the motion and affirmed the award set by the arbitrator. Is the tribe liable for breach of contract? (*C & L Enterprises, Inc v. Citizen Band Potawatomi Indian Tribe of Oklahoma* 532 U.S. 411)

The tribe is liable for breach of contract because they had agreed to work with C & L. Unless that contract was never signed and the book refused to tell us. That makes the tribe responsible for what happened.

II. Reynolds recently purchased the Strand Movie Theater in Chicago. He sued the United Picture Corporation contending that United and several Chicago movie theater owners illegally attempted to keep him from showing first-run movies in violation of federal antitrust law. Before the lawsuit was brought to trial, attorneys for United provided Reynolds with with a series of questions to which he was requested to respond under oath.

The questions focused on matters related to the trial. Must Reynolds answer these questions?

I don't believe Reynolds must answer those questions because the case isn't on trial yet. I don't see why he should be made to talk before the case starts.

III. Two competing companies that manufactured pool tables and swimming pools had a disagreement over whether one of them had engaged in false and deceptive advertising. They both agreed to bring the case to binding arbitration using only one arbitrator. Following the arbitration hearing, the losing party claimed that the award confirmed as a court judgment was not binding because there was no trial by jury. Is the losing party correct?

The losing party is not correct because the award is in fact binding even though there was no trial by jury.

IV. Shultz is a bus driver for the Total View Bus Company. While on her night run in a large city, she rear ended a car. Two passengers on the bus who were injured sued Shultz and the Total View Bus Company, alleging negligence for allowing Shultz to drive with very impaired vision. As part of the pretrial procedure, the attorney for the plaintiff (passengers) petitioned the court to require Shultz to undergo a complete eye examination by a specialist (ophthalmologist). The court complied with the request. Shultz objected to the examination. Can she be ordered to take the eye exam?

Shultz can be ordered to take the eye exam. I say this because the court complied with the request so she must do what the court orders her to do.

V. Compare petit jury with grand jury as mentioned in Chapter 3. How are they similar? How do they differ?

Both are groups of jurors who hear testimonies from both sides during a criminal trial, but most grand juries contain between sixteen and twenty-three jurors, while a petit jury consists of six-to-twelve jurors.

VI. Rearrange the following list in the order in which they occur in point of time: verdict, closing arguments, summons and complaint, voir dire, summary judgment, direct examination, judgement, cross-examination, charge to jury, answer.

Summons and complaints > answer > summary judgment > voir dire > direct examination > cross-examination > closing arguments > charge to jury > verdict > judgement

VII. a. A witness is willing to testify concerning certain facts in a case, but she lives in another state. How can her testimony be secured for evidence in the trial?

Her testimony can be secured for evidence in the trial if she uses Online Dispute Resolution (ODR).

b. How does discovery, a pretrial procedure, contribute to the efficiency of a court?

Discovery contributes to the efficiency of a court by letting the plaintiff's and defendant's know in detail the nature of each other's claims and defenses.

VIII. Gruhn was fraudulently induced to make a large stock purchase from a broker who was a member of the New York Stock Exchange. The stock was actually of little value. Claiming damages of \$75,000, Gruhn agreed to arbitrate her case under the New York Stock Exchange rules. Without explanation, the arbitrator awarded her \$500. Can Gruhn appeal her case to a court of law?

Gruhn can appeal her case to a court of law only if the parties agreed to nonbinding arbitration.

IX. Compare the burden of proof required in a civil case mentioned in this chapter with the burden of proof required in a criminal case as mentioned in Chapter 3. Why do you think a higher burden of proof is required in a criminal case?

In civil cases, the plaintiff has the burden of proving his case by a preponderance of the evidence, but in criminal cases, the burden of proving the defendant's guilt is on the prosecution, and they must establish that fact beyond a reasonable doubt. I think a higher burden of proof is required in a criminal case because the crime is much more severe.

X. This chapter describes a lawsuit involving Bill Allen, a thirty-five-year-old-advertising-executive, and the Laiden Trucking company. Allen sued Laiden for \$3 million. Based on the facts in this case, do you think a jury would consider this amount excessive? Why or why not?

I don't think a jury would consider the amount of \$3 million excessive. I say this because Bill was really hurt and nothing in his life will be the same and he might not even be able to work.

XI. In conducting the voir dire examination for the trial of *Bill Allen v. Laiden Trucking Company*, Allen's attorney, Jan Heisman, got the following response from a prospective juror:
Heisman: "Have you been reading the newspaper accounts or listened to any news reports about the accident in question?"
Juror: "Yes. After reading and listening to the reports, I felt that Allen should assume much of the responsibility for the accident."

What step should Heisman take at this time to protect Allen from this prospective juror?

The step Heisman should take at this time to protect Allen from this prospective juror would be to have him removed. By having him removed he could try and get another juror who would be in his favor.

XII. Can Heisman, as attorney for Bill Allen, request that a juror be dismissed simply because Heisman has the feeling that this juror will be detrimental to Allen's case?

Heisman does have the ability to have a juror to be dismissed because he doesn't like him, but he only has a few tries.