

**THERE MUST BE FIFTY WAYS TO
LOSE A LAWSUIT**

**STETSON COLLEGE OF LAW
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TO LOSE A LAWSUIT”**

Paul, Simon, and Loophole

FAMILY AND MEDICAL LEAVE ACT

LITIGATION LOSERS

- 1. Understanding Reasons for Leave and “Serious Health Conditions”**
- 2. Notice of FMLA Rights**
- 3. Right to Reinstatement**

FAIR LABOR STANDARDS ACT

LITIGATION LOSERS

- 1. Calculations of Work Time**
- 2. Misdesignation of Employees as Exempt**
- 3. Improper Deductions from Exempt Employees**

IMMIGRATION LIABILITY

LITIGATION LOSERS

- 1. Inaccurate/Incomplete I-9 Forms**
- 2. Pre-Employment Citizenship Inquiries**
- 3. Inaccurate Reporting to Government Regarding Status of Foreign Students (Post September 11th Focus)**

AMERICANS WITH DISABILITY ACT

LITIGATION LOSERS

- 1. Understanding Coverage under ADA**
- 2. Failure to Engage in the Interactive Process**
- 3. Failure to Make Reasonable Accommodations**

AGE DISCRIMINATION IN EMPLOYMENT ACT

LITIGATION LOSERS

- 1. Inaccurate Performance Appraisals**
- 2. Absence of Job-Related Criteria for Reduction-in-Force**
- 3. Waiver Language and Waiting Periods**

TITLE VII: RACE DISCRIMINATION

LITIGATION LOSERS

- 1. Hiring To Create Favorable Numbers**
- 2. Avoid Confrontation By Providing Enhanced Performance Appraisals**
- 3. Racial Harassment**

TITLE VII: GENDER DISCRIMINATION

LITIGATION LOSERS

- 1. Failure to Train and Document Training**
- 2. Gender Harassment/Sexual Harassment**
- 3. Benefits/Prescription Drug Issues**

TITLE VII: RELIGIOUS DISCRIMINATION

LITIGATION LOSERS

- 1. Inconsistent Provision of Leaves of Absence**
- 2. Second-Guessing Appropriateness of Religion or Religious Beliefs**
- 3. Denial of Accommodation**

RETALIATION

LITIGATION LOSERS

- 1. Focus on the Spurious Nature of Employee Demand/Complaint**
- 2. React Emotionally to Employee Conduct/Statement**
- 3. Inadequately Document Employee Conduct**

HIRING

LITIGATION LOSERS

- 1. Solicitation of Inappropriate Information**
- 2. Failure to Complete and Document Pre-Employment History**
- 3. Hiring to Achieve Quotas**

PERFORMANCE EVALUATION

LITIGATION LOSERS

- 1. Limit Evaluator's Rating Choices**
- 2. Fail to Hold Evaluators Responsible for Quality of Evaluations**
- 3. Dramatic Changes in Individual's Performance Evaluations**

EMPLOYEE TERMINATION

LITIGATION LOSERS

- 1. Absence of Mandatory Pre-Termination Review**
- 2. Inconsistent Application of Work Rules**
- 3. Absence of Last Chance Provision**