

FINAL EXAMINATION: EVIDENCE

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December 20, 1988

You represent John Johnston, a black man who is suing the Global Corporation on a claim of racial harassment. Under the applicable substantive law, Global Corporation is liable for damages caused by racial harassment by its employees if its management knew or should have known of the harassment. Johnston alleges harassment both by supervisors A and B and by Dispatchers D and E. Global Corporation denies that the harassment took place or, if it did take place, that it knew or should have known of it. Global Corporation is the only defendant.

In addition to his own testimony about incidents of racial harassment, Johnston offers the following items into evidence:

1. A report in Dispatcher E's personnel file written by a superior one month prior to the hiring of Johnston. The report describes Dispatcher E as a "racist."

2. Written complaints by five other black employees of Global Corporation to the Global Corporation general counsel alleging racial harassment by Dispatcher D during the same period that Johnston alleges harassment. The complaints were leaked to Johnston by an unknown employee of the general counsel's office.

Discuss the admissibility of this evidence. If you need additional facts to answer the question, state what those facts are and what their effect would be.

*****END OF PART I*****

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