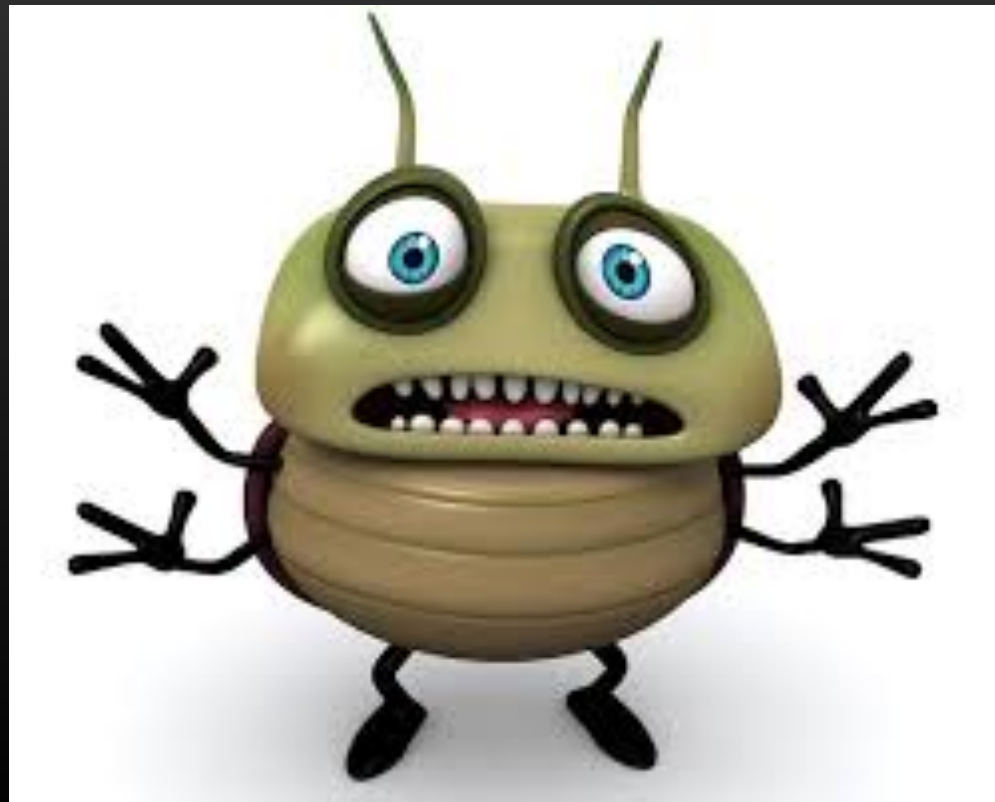
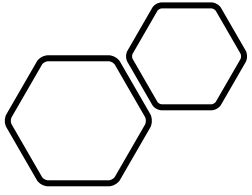


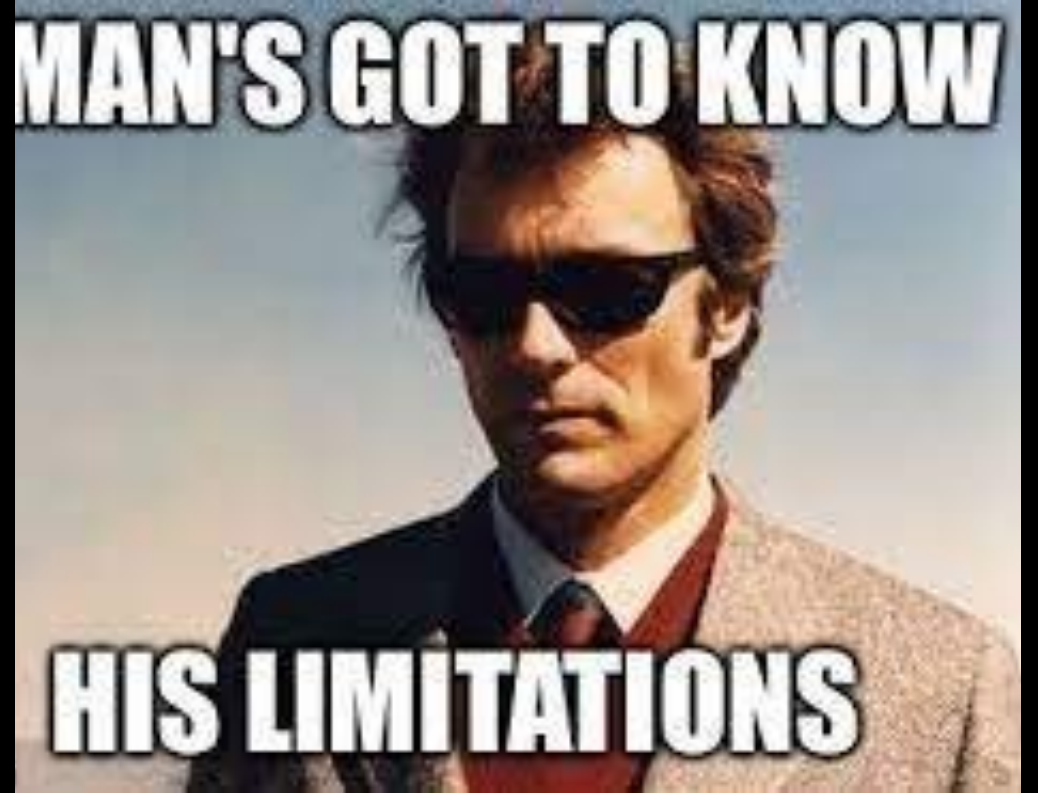
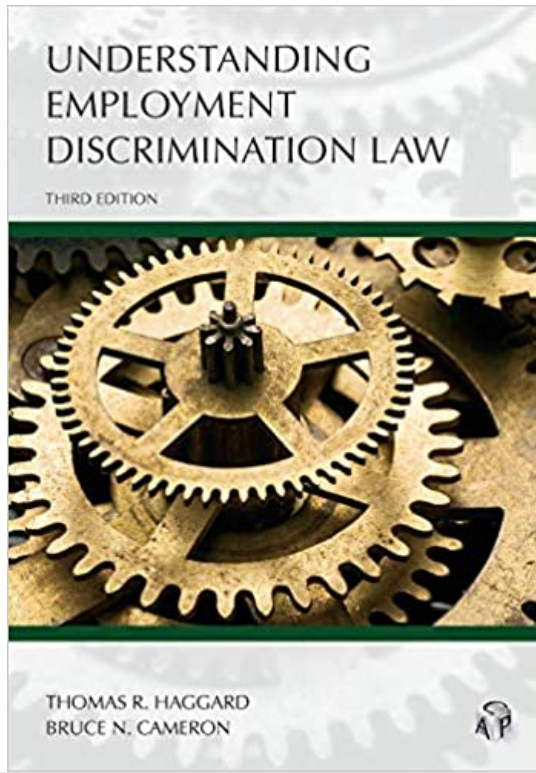
# What Shall We Do?

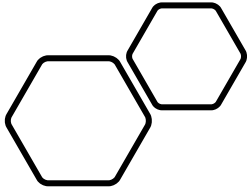
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I'll stick to the  
law!





# Coercion of Faith



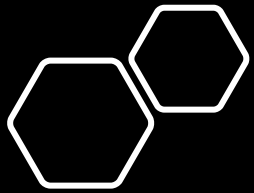
What we won!





Our Lady of  
Guadeloupe v.  
Agnes Morrissey-  
Beru (2020).

Broadened/clarified  
ministerial exception.



# Sharonell Fulton v. City of Philadelphia

Catholic Social Services not  
required to do adoption  
services for same sex couples.





# *Chike Uzuegbunam v. Preczewski*

(CHEE'-kay Oo-zah-BUN'-um)

Christian witness challenge  
survives mootness defense  
in nominal damages case.



What will wait for another day.

(Hardison challenges.)



# Derrell Patterson v. Walgreen

*Mitche  
Dalberiste v.  
GLE  
Associates*

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# Logic Tree: Employment Discrimination



# Employment at Will - Baseline rule for employment!



Mr. Ferrell not what we are talking about!

# Exceptions to Employment at Will

- Contract (including collective bargaining agreements, employee handbooks).
- Constitution (public employees only)
- Statutes
  - Civil Rights (Classic)
  - Civil Rights (New: age, disability, medical, military)
  - Civil Service (public employee only)
  - Tenure
  - Public Policy

# Contract

- Did you sign a contract?
- Collective bargaining agreements.  
(Note mandatory subject of bargaining.)
- Employee handbooks.
- Looking for “good cause” requirement.



# Constitution

- Public employees only!
- Constitutional rights for public employees are watered down compared to the typical citizen. (*Pickering/Connick/Skinner*)
- Rational relationship/experimental drug.



Statutes: Topic specific statute:



Five states have: AR, AZ, MT, ND, TN, UT.

- Michigan has three bills pending in the legislature. Find state information here:
- <https://www.nashp.org/state-lawmakers-submit-bills-to-ban-employer-vaccine-mandates/>

# Classic Civil Rights Statute



- Title VII of the Civil Rights Act of 1964 protects religious belief AND practice.
  - Prohibits discrimination.
  - Requires reasonable accommodation. (EEOC guidance suggests accommodations.)
  - Does not require your church (or anyone else) to agree with your religious beliefs).
  - Ministerial Exception applies.
  - Take questions here.





## 21 U.S.C. § 360bbb–3 - Authorization for medical products for use in emergencies.

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- 21 U.S.C. § 360bbb–3(e)(1)(A)(ii)(III):  
Sect. of HHS: “Shall ... as finds  
necessary” [inform recipient] “of the  
option to accept or refuse  
administration of the product, of the  
consequences, if any, of refusing  
administration of the product, and of  
the alternatives to the product that are  
available and of their benefits and  
risks.”
- Unresolved interpretation of this/ Dept. of Justice issued opinion.

# Newer Civil Rights Statutes (Disability, )

- ADA (Americans with Disabilities Act)
- The ADA protects employees with disabilities.
- If health prevents, accommodation requirement.
- Illegal to discriminate against someone perceived as having a disability even though they do not.
  - *Perhaps* argue employer must accommodate both having COVID and the perception that you might have COVID.
- This is a developing area of the law.

# HIPAA

- Question of vaccine disclosures: The official HIPAA journal says most employers are not covered by HIPAA. The exception is a covered entity - a health care provider. It specifically says that most employers can ask.



Pray for Wisdom!  
Be a great employee!  
Talk to a lawyer.

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