

Essay Question No. 2

Answer this question in booklet #2

Carl was employed as a construction foreman with Alaska Construction, Inc. ("ACI"). During the 2002 construction season, ACI's president, Pat, received several complaints from outside contractors working on sites where Carl worked with his crew. The contractors complained that Carl was often unreasonable and that he sometimes acted in an abusive and threatening manner to them. Pat also received complaints about Carl from other employees of ACI. They told Pat that Carl was contentious and combative and that they would quit if they had to continue working with Carl.

Pat also had been having a difficult time working with Carl. While Pat had not witnessed Carl acting in a threatening manner, he had observed that Carl's moods and behavior were unpredictable. Pat finally decided that Carl needed to go. However, Pat was concerned how Carl might react when told that he no longer had a job. Pat had heard stories on the news about disgruntled employees committing violent acts against former co-workers. Given the reports of Carl's conduct, Pat decided that it would be prudent to ask that officers from the local police department (the "LPD") be present—a "civil standby"--when giving the notice of termination of employment to Carl.

Pat called the LPD and explained that ACI needed police assistance because ACI was "discharging Carl from employment and Carl was a violent person who was likely to act in a manner that would cause damage to persons or property." Pat asked that the LPD arrive at ACI's shop before 9:00 a.m. on October 1, 2002, the time when Carl usually arrives for work. Pat then prepared a letter advising Carl that his employment with ACI was terminated.

When Carl arrived for work on October 1, 2002, he noticed a patrol car in the parking lot. When Carl entered the shop, he noticed two police officers standing near the entryway. Several ACI employees were working in the shop. Pat approached Carl near the entryway and asked Carl to come into his office. When Carl entered, Pat shut the door and handed Carl the termination letter. After Carl read the letter, he went into his office to gather a few personal items. Comfortable that Carl was acting in a rational manner, Pat asked the LPD officers to leave. A few minutes later Carl left, taking a few of his things but explaining that he would return later in the week to collect his personal files and the remainder of his personal belongings. As soon as Carl left, Pat called a meeting of ACI employees and told them that Carl had been fired. Also, Pat decided that he did not want Carl returning to the ACI shop. Thus, he went through Carl's office to pack Carl's personal property. Among other things, Pat found a fifty dollar bill in Carl's desk. Assuming this was from ACI's petty cash drawer, Pat returned the bill to the cash drawer. Pat also found Carl's medical evaluation from a physical exam paid for by ACI to comply with the

requirements of the company's insurer. Pat put this in ACI's files. Pat packed everything else in boxes and had them delivered to Carl's house the following day.

Carl tried for over a year to get a new job in the construction industry. Several prospective employers told Carl that they would not hire him because they had heard that he had a temper and was a difficult employee. With little else to do with his time, Carl decided to file suit.

1. Carl alleges that Pat defamed him: (a) when Pat told the LPD that Carl was a violent person who was likely to act in a manner that would cause damage to persons or property and; (b) when Pat announced to ACI employees that Carl had been fired. Discuss the merits of Carl's claims.

2. Carl also alleges that Pat wrongfully invaded his privacy by going through his personal files and belongings and that ACI wrongfully converted Carl's property when it failed to give back his fifty dollars and his medical evaluation. Discuss the merits of these claims.