

ENGINEER ASSIGNMENT #1: CASE SCENARIO B- Environmental Audit Case
DUE at 7:00 p.m. on OCTOBER 31, 2022

Please answer the following questions as fully as possible and explain your answer completely.

An established manufacturing company, Gandalf Industries (GI), is contemplating selling some of its properties, and has decided to hire an environmental consulting firm, Shire Environmental Services (SES), to prepare an environmental compliance audit.

The Vice-President of SES, Bilbo Baggins, a professional engineer, is responsible for the performance of the environmental compliance audits. Bilbo decided to delegate the completion of the environmental audit to one of SES' employees, Thorin Oakenshield (Thorin), who had only recently become licensed as a professional engineer. Based on recent assignments Thorin had completed, Bilbo was very impressed by the young engineer's abilities. Bilbo was also aware that his extremely busy schedule would likely limit the amount of time he could spend on the environmental compliance audit. Bilbo decided to have Thorin conduct the environmental audit in the hopes Bilbo could reduce the time he would have to spend supervising the audit.

Thorin carried out an environmental compliance audit with respect to each of the properties identified and SES submitted its audit reports on each property. Included at the beginning of each of the audit reports was the following qualifying statement:

"This audit report was prepared by SES for GI. The material in it reflects SES' best judgment based on the information available to it at the time of preparation of the audit. Any use which a third party makes of this report, or any reliance on decisions to be made based on it, are the responsibility of such third parties. SES accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report."

Some time later, GI sold two of its properties to Orc Inc. (OI). In negotiating the sale with OI, SES' audit reports were shown to OI, but OI had no contractual dealings with SES. SES had no knowledge of the sale to OI until five years later when OI commenced a lawsuit against SES. OI claimed it had commenced the lawsuit in tort against SES because it had encountered hazardous substances on one of the properties and had subsequently obtained the opinion of another environmental consulting firm, Gondor Environmental Consultants (GEC), who confirmed that the audit report in question which SES had completed contained negligent misrepresentations which, in the opinion of GEC, resulted in SES' employees having spent too little time investigating the property for hazardous substances. OI claimed in its lawsuit that SES was aware that the audit report might be shown to prospective purchasers and, accordingly, SES should be responsible for damages arising from OI's reliance on the negligent misrepresentations in SES' audit report.

You need to consider the following:

1. What potential liabilities in tort law arise in this case?
2. In identifying the potential liabilities in tort law, explain the application of tort law principles to the facts as given.
3. Explain for each potential party or litigant to any potential lawsuit what principles of tort law are relevant, and how each applies to the case.
4. Please discuss the principles thoroughly.
5. Indicate a likely outcome.

INSTRUCTIONS FOR YOUR ASSIGNMENT:

When doing the assignment in answering the 5 questions and points outlined above, envision that you are a young lawyer and the fact scenario represents a case that has come to your office. A senior lawyer has asked you to write a memorandum of law. In that memorandum of law you are expected to be able to do the following:

- i) Identify the relevant parties or players in the fact scenario;
- ii) Identify the relevant legal areas, principles and concepts that apply to the fact scenario;
- iii) Explain why and how the relevant legal principles apply to the fact scenario;
- iv) Provide a likely outcome of how this fact scenario would be resolved by a Court or Judge;
- v) State your reasons why you have arrived at such a conclusion by applying the relevant legal principles. For example, which party should be successful, the plaintiff (the party suing), or the defendant (the party defending or responding to the plaintiff's lawsuit)?

A useful website that outlines how a junior lawyer may prepare a legal memorandum that has been assigned to them by a senior lawyer can be found at <https://www.clio.com/resources/legal-document-templates/legal-memo-template/>. The memorandum examples contained in this website are simply a useful guide to assist you in structuring your assignment. It is not the only set of examples of how to write a legal memorandum but, as stated, simply a useful guide.

LOGISTICS FOR THIS ASSIGNMENT:

You are required to submit a legal memorandum that is **NOT TO EXCEED 1500 words**, excluding citations, titles, subtitles, and references. The legal memorandum should be double-spaced, 12-pt font (Times New Roman or Arial preferred).

You are expected to include, at a minimum, three (3) references or sources which can include the following:

- a) course materials such as Power Point Slides and class lectures as one of your three (3) sources or references;
- b) relevant court decisions;
- c) applicable government legislation;

- d) law journals and law publications, whether they be scholarly articles or papers, or articles found in recognized Canadian News Sources such as The Globe & Mail, The National Post, The Toronto Star, MacLeans' Magazine, CBC News, CTV News, Global News, to name a few;
- e) An excellent resource where you can find relevant court decisions or case law, relevant legislation as well as scholarly legal papers and articles is the CanLII website, <https://www.canlii.org/en/> .
- f) You can also find relevant legislation for Ontario at <https://www.ontario.ca/laws> (e-laws Ontario), and for relevant Canadian Federal legislation at <https://laws.justice.gc.ca/eng/> (Justice Laws Website).

Only use Canadian legal sources, case law and legislation.

All references can either be in **MLA** or **APA** format. Please refer to the McMaster University Library website "How to Cite" found at <https://library.mcmaster.ca/research/citing> .

REMEMBER your assignment is your assignment and not someone else's assignment. Students are to submit an assignment that is their's and their's alone. Here is the link to McMaster's academic policy regarding plagiarism for you to read and refer to so that you understand what amounts to plagiarism and what are the possible academic penalties and sanctions if you did commit plagiarism.

<https://www.mcmaster.ca/academicintegrity/students/typeofad/plagiarism/>