

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

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

McMaster University (Mac) hired an architect, Saul Goodman (Saul), to design a new library. Saul entered into a contract with an engineering firm, Fring Engineering Services (FES), to perform structural design services for the project. In performing soils investigations, Fring's employee engineer, Kim Wexler (Kim), who was assigned to the project, examined two shallow test pits and recommended to Saul that proper deep soils tests be taken. Saul did not follow Kim's recommendation. Saul told Kim that expensive soils tests were not part of Mac's budget for the project.

Kim submitted a "soils report" to Mac on the basis of the examination of the shallow test pits. Neither Saul nor Kim informed Mac that Kim had recommended to Saul that deep soils tests be taken. The design of the new library was completed and the building was constructed in accordance with the project drawings and specifications.

Within a year of the new library being constructed it "settled" extensively to one side. Extensive remedial foundation work was necessary to correct the settlement problems.

Upon investigating the reason for the settlement problems, another engineering consulting firm, Hamlin, Hamlin & McGill Engineering Consultants (HHMEC) concluded that the design should never have proceeded without deep soils tests that would have provided a thorough and detailed subsurface investigation before the new library was constructed. This conclusion was consistent with the recommendation Kim had made to Saul.

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/>