

ASSESSMENT 3-MGL1112-

Due Sunday 20th. February 2022 -Sum. Sem 3-2021

Assessment 3 involves a Case Study with 5 questions

Word Limit - 2000 Words (excluding 'Referencing')

Total Value – 40 Marks

Case Scenario- EMPLOYMENT LAW

Stan owns ..." Kangaroo Bus Lines" ... which has 20 drivers – which provides Holiday Bus Tours for Tourists.

Mick owns his own Bus and works for Stan as a 'Bus Driver'.

Mick has permitted Stan to place Stan's Brand Name..." Kangaroo Bus Lines" on the rear of Mick's Bus.

On one of the trips, Mick crashed into the rear of a Taxi (driven and owned by John) – when Mick failed to stop at 'red lights.

Mick caused John significant physical injuries and extensive damages to Johns' Taxi.

When John saw the Sign, on the rear of Mick's Bus advertising ..." Kangaroo Bus Lines" he decided to sue Stan-as owner of the Bus Company' for Negligence.

Stan refuses liability saying Mick is not his Employee - but is an 'Independent Contractor' -and therefore liable for his own damages.

The damages are as follows -

- a. \$6,000 for '**Car Repair Costs**';
- b. \$7,000 for '**Hospital Expenses**';
- c. \$8,000 for '**Income loss**';
- d. \$1,000 for "**Motel Booking Deposit**" - cancelled due to the accident.

Background Circumstances of Stan and Mick's Work Relationship are -

1. *Mick permits Stan to display the name "Kangaroo Bus Lines" – on the Rear of the Bus, for Stan's Advertising purposes.*
2. *Mick works for Stan, and, as a part-time 'employee' for another Bus Tour Company.*
3. *Stan and Mick have signed a 'Written Contract' stating Mick is engaged as an 'Independent Contractor'.*
4. *Stan pays to Mick \$2,500 a 'Weekly Salary' into Mick's Bank account.*
5. *Stan deducts \$500 PAYG (Pay as you go Tax) from Mick's Salary and pays this amount to the Tax Office.*
6. *Stan pays Superannuation Contributions to Mick's Superannuation Fund.*

7. Mick can delegate his 'driving work' to another driver - if he is sick.
8. Mick pays for his own 'Bus maintenance and repairs' and his own 'bus insurance'.
9. Stan gives instructions to Mick-as to 'pick-up and destination' times and places).
10. Mick wears a T-Shirt, bearing the words "Kangaroo Bus Lines".

Assignment Questions: Topic: 'Employment Law'

1. "It is important to analyse the circumstances of a work relationship to determine whether a person is an employee or independent contractor under Employment Law". Do you agree with this statement? Explain and discuss your reasons. **(9 Marks)**
2. Summarise and explain how the 'Multi Factor Test' is applied to help determine the nature of a work relationship -with reference to High Court Case '*Hollis v Vabu Pty Ltd* (2001) **(9 Marks)**
3. In the case scenario list and analyse the background circumstances (with the use of a 'Multi-Factor Balance Sheet' table, to determine whether Mick is more likely to be an 'Employee' or an 'Independent Contractor'? **(9 Marks)**
4.
 - a. Should John sue Mick or Stan. Who is the proper Defendant? Give reasons for your answer. Explain the concept of '*Vicarious Liability*' in relation to Stan, if Mick is determined to be Stans' Employee. (5 marks)
 - b. Explain the **Two Criteria** (*causation and foreseeability*) under which Damages are usually able to be claimed in Negligence actions. List the four specific damages being claimed by John and explain – for each one of those damages - whether John would be successful in claiming them – taking into account the abovesaid 'Two Criteria'. (4 marks)**(Total 9 Marks)**
5. Please answer 'Yes' or 'No' - to each of the following questions. **You are NOT required to give any explanation.** In this Assignment -
 - i. Have you used 'In-Text' Referencing? - (**Yes** or **No**?) - (2 Marks)
 - ii. Have you included a 'Reference List'? - (**Yes** or **No**?) - (2 Marks) **(Total 4 Marks)**

Total (40 Marks)

Other Assignment Requirements

NOTE:

- A.** If there is **NO REFERENCING** whatsoever - the Assignment will NOT be marked – and will be cited for Suspected Plagiarism.; and
- B.** The Degree of “**Similarity**” should not be more than **30%**.
-

REFERENCING REQUIREMENTS –

- You are required to use Legal Principles, Statutes and Case Precedents, to justify your answers.
 - You are required to use at least 6 Sources – and a variety of Sources- (*including Websites, Textbooks Online Text-Books, Journal Articles, and Case Precedents.* Please note that up to 4 marks will be deducted if these requirements are not met.
 - The answers to Questions 1 to 4 should be around 500 words each.
-