

Contract risk



Recognizing and Minimizing Tort and Regulatory Risk Businesses today try to run their day-to-day operation effectively enough to avoid tort liability.

Developing the proper management and training practices help to avoid these liabilities. With effective management, and education of managers/employees, business owners can believe their business is prospering. Negligent claims against a business can be detrimental, depending on the circumstance of the situation and the determination of the level of negligence. These claims against them can go through many options of litigation from mediation to a court deciding the outcome of a claim and each method of resolution can have a different outcome than the other. Businesses such as Alumina, can take measures to help them reduce or even eliminate negligent claims by implementing ways to detect them from happening. Alumina Incorporated, is a \$4 billion dollar aluminum manufacturing company; most of their sales are derive from the United States.

Alumina manufactures products for automobiles, bauxite, and alumina refining. In the manufacturing industry, there are risks involved with the type of chemicals used, and how these chemicals effect the surrounding environment. With these outlying issues there are tort and regulatory risks, which can be presented, but also prevented. In learning team B we have discussed our discoveries from the simulation.

The common tort risks we found are the following: Defamation, Duty of Care, and Freedom of Information. These are the current risks affecting Alumina. Five years ago, Alumina was found liable for polluting the local water supply.

They were in violation of environmental discharge norms, by the Environmental Protection Agency (EPA). Since then, Alumina made the necessary changes to remain in line with federal regulations.

The current accusations presented by Kelly Bates are believed to be defaming from Alumina. Mrs. Bates believes the company has repeatedly contaminated the lake waters with carcinogenic elements. Mrs. Bates loss her daughter to leukemia, which she thinks can date back to the prior five years and the pollution discovered could be the cause.

The liability of defamation could have been avoided by allowing the public to see the federal regulatory improvements. By running a press release showing the updates, the community could have been at ease. When the public believes a company has something to hide, they begin to investigate until they receive a resolution. This measure would have shown Alumina as being confident in their business model, and caring about their community.

Alumina has the responsibility to show they care about the surrounding community, wildlife, and environment. By operating efficiently, and adhering to all regulations set by the EPA; Alumina has shown they care. In the past, issues were recognized and handled. Alumina showed their duty of care by ??? cleaning up their act.??? Mrs. Bates suffered a loss beyond measure; Alumina must show they care as a company for her emotional distress.

A business does not want to be held liable for the death of anyone. As human beings we want to clear our conscience before continuing with our daily lives. Conducting an independent study to measure the PAH level in the

lake water proved that the levels were lower than prescribed (University of Phoenix, 2010).

This tort can be managed by Alumina providing Mrs. Bates and the community peace of mind that shows action taken. Another liability businesses should be aware of is the Freedom of Information Act (FOIA). This act was established to provide citizens an opportunity to request certain findings about a government agency or corporation and make them public. The FOIA does have limitations in what information can and cannot be made public and businesses should understand this act in the event a government agency is involved with the liability issue.

Knowing what information can and cannot be released could save the business money in case there were any damages presented. Because businesses are protected under the FOIA act, Alumina would benefit from knowing whether to release a full or partial press release after their investigation. If a business were to release the full report, it takes the chance of further lawsuits or loss of business, especially if sensitive information is released. Recognizing and minimizing tort and regulatory risk in a business is everyone's responsibility. Alumina will need to implement the plan and also have preventive measures in place to avoid potential lawsuits.

Having this in place will help to resolve the issues efficiently. Businesses should be aware that a violation can occur from any source whether it is an individual, the federal government, or even competition. When businesses can take a proactive approach towards the aspect of tort, they will have a greater chance of minimizing the risk.