

# [Applied learning agency and employment](https://assignbuster.com/applied-learning-agency-and-employment/)

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Agency and Employment L203 – Business Law Applied Learning Assignment #5 ASSIGNMENT SHEET \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Entering my name certifies that this assignment has been completed in compliance with the Honor Code of the Kelley School of Business - Indianapolis   
\* For purposes of this section of the assignment, assume that the questions refer to potential civil claims arising out of this accident.   
1. Given the facts in the article and what you have learned in this class, which kind of case is most probable as a result of the accident?   
a. tort   
2. Name five potential individual plaintiff(s) who could bring a civil lawsuit resulting from the accident:   
a. Parents of the Seven children who died in the slammed car   
b. Parents of the Seven children who died in the hit school bus   
c. The Driver of the hit school bus   
d. The school owner of the hit bus   
e. The insurance companies for both the hit car and bus   
3. Name the two potential defendants with obvious liability for this accident:   
a. Defendant 1: The truck driver- Alvin Wilkerson   
b. Defendant 2: Crete Carrier Corp   
4. Assume the civil case was filed in Florida state court. Describe how the court would have jurisdiction over the parties in the case.   
Personal jurisdiction over each of the plaintiffs named above:   
Parents of the Seven children who died in the slammed car- The court would have personal jurisdiction because they are residents of the state of Florida.   
Parents of the Seven children who died in the hit school bus- The court would have personal jurisdiction because they are residents of the state of Florida.   
The Driver of the hit school bus- The court would have personal jurisdiction because he operates in Florida.   
The school owner of the hit bus- The court would have personal jurisdiction because the school is situated in Florida.   
The insurance companies for both the hit car and bus- The court would have personal jurisdiction because company has its operations in the state of Florida   
Personal jurisdiction over Defendant 1 named above:   
The court would have personal jurisdiction because Defendant 1 was operating within the state of Florida at the time of the accident   
Personal jurisdiction over Defendant 2 named above:   
The court would have personal jurisdiction because Defendant 2 has its operations conducting within the State of Florida, and its truck was involved in an accident within the jurisdiction of the state of Florida.   
5. Assume the driver of the truck is an employee of the trucking company.   
Under agency law, who is primarily liable for the damages caused by this accident?   
The trucking company is primarily liable, since the driver just acts as the agent of the trucking company, which is the principal in this case.   
Name the legal term for this type of liability.   
Agency liability   
Would the trucking company have to indemnify the employee driver? Explain.   
The trucking company may be required to indemnify the employee driver, after the investigations are completed, and prove that the driver was not in the long. Considering that the driver is alleged to have been operating for 34 hours, when the law requires such drivers to operate for a maximum of 11 hours, the trucking company is liable for violating the law, and thus may be required to indemnify the employee driver.   
6. Assume the driver of the truck is an independent contractor with the trucking company.   
Under agency law, who is primarily liable for damages caused by this accident?   
The truck driver would be the primarily liable party.   
(1 point) Explain how both parties might be liable.   
Both parties might be found through the principle of vicarious liability, which holds the employer as secondarily responsible for the torts of the employees. Therefore, the driver will become liable for primary liability while the trucking company will become liable for the vicarious/secondary liability.   
Would the trucking company have to indemnify the employee driver? Explain.   
The trucking company would not have to indemnify the employee driver, since under independent contract relationship; the employer is not primarily responsible for the actions of the independent contractor.   
7. Is Alvin Wilkerson entitled to Workers’ Compensation benefits as a result of this accident? Explain.   
Alvin Wilkerson is entitled to workers’ compensation benefits following the accident, because he incurred the injuries while in the course of duty authorized by the employer.   
8. Assume that all of the plaintiffs listed in Question 2 above sue both of the defendants in Question 3 above. Also assume the jury finds that both parties are responsible and awards a large judgment to the plaintiffs. If the court does not specify how much each defendant will pay, which of the following is true?   
a. The plaintiffs can collect the entire judgment from either defendant.   
9. In class, we have learned there are two circumstances under which a court will allow a jury to consider whether punitive damages are in order. Identify the circumstances and state whether each would apply to each of the defendants in this case.   
a. Defendant 1: Was the defendant working for excess hours out of being authorized by the employer or was he doing it 0onw his own volition and for his own benefit?   
Defendant 2:   
b. Was the defendant aware and had the defendant authorized or been responsible for overworking the driver?   
Defendant 1:   
If the Defendant 1 was working under the authorization of the employer, then he should not be subjected to punitive damages.   
Defendant 2:   
If the defendant was aware, had authorized or was responsible for the driver working for the excess hours, then the defendant is liable for punitive damages.   
10. Assume the state where this accident occurred has a law similar to the one in Indiana regarding punitive damages. If punitive damages were awarded to the plaintiffs in this case, which of the following is true?   
a. Some of the punitive damages would be paid to the plaintiffs and the remainder would be paid over to the state.   
\* For purposes of this section of the assignment, assume that the questions refer to potential criminal matters arising out of this accident.   
11. For each of the defendants you named in Question 3 above, are criminal charges possible?   
a. Defendant 1: yes   
Explain why   
If the driver was acting on own volition, and thus exceeded the required maximum hours of work as provided under the law, the driver is liable for criminal charges.   
b. Defendant 2: yes   
Explain why   
If the trucking company had authorized or was responsible for causing the driver t work excess hours that are in excess of the provision of the law, the trucking company would be criminally liable for violating the law, and thus liable for criminal charges.   
Quality of Submission:   
No answer required here.   
(5 points) Appearance of submission is appropriate for professional business use.