

# Plan for recognizing tort



Recognizing and Minimizing Tort and Regulatory Risk Denise Mayo LAW

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Regulatory Risk Plan Organizations are subject to dealing with regulatory risks such as tort liability in everyday business.

It is in the best interest of business to identify those risks and to implement and design a plan to deal with such a situation. It is imperative that if such a situation were to arise, that the company have action plans in place to deal with the risk involved in order minimizing risks and liability to the company. I have developed a plan for Alumina which will outline the action plan and forecast future company needs. The business simulation deals with a company called Alumina.

Alumina is a company that was cited five years ago for discharging effluents with higher than permitted concentrations of PAH. (Jennings, 2006) The company complied with regulations and cleaned up the source and has had no further incidents of discharge. Kelly Bates is the mother of a young child who has developed leukemia. The mother is convinced that the PAH released by Alumina into the water is the cause of her daughter's leukemia.

She has filed suit using the one citation five years ago as her basis for suit.

The following is a list of regulatory risks and a plan for prevention, detection, and the measures to be taken to minimize the risks. Risks of Tort Liability 1.

The risk of tort liability involving non-compliance of regulations: a. Five years ago, Alumina was cited for having higher than accepted rates of PAH. This was an environmental regulation that was broken by Alumina. b. Alumina

should be aware of the known risks that may affect the work place as well as the consumer and the environment.

c. Alumina should conduct testing of discharge from its manufacturing plants on a schedule that is to be set using the knowledge of company standards. This will help to negate the risk of tort liability by sticking or exceeding industry standards. d. There should be a manager who is in charge of reviewing industry standards and forecasting future needs to ensure compliance with EPA regulations.

The manager will review current company policies to insure that they are meeting or exceeding industry guidelines and will develop new standards as forecasted by future regulations. e. The corrective action plan will be put into place by the risk manager. If an issue were to arise, the manager will then put into place the corrective action plans already developed. This manager will be the one to correspond with the government over any issues that should develop and will answer to the board of directors and the COO. 2.

Risk of tort liability contained in the scenario: 1. Negligence: The company can be sued using the tort of negligence by Kathy Bates regarding her daughters leukemia. She can say the company neglected to monitor the levels of PAH in the water causing her daughter to develop leukemia. a. The company can point out the tests taken of the water and show documentation for the past five years that show acceptable levels of PAH.

The company should have testing measures in place. It can point out the new study and show the levels at an acceptable rate. It should show that the violation was swiftly corrected by Alumina five years ago. 2.

Under the tort of strict liability, the company of person's actions alone creates the liability, regardless of fault. (Jennings, 2006) By having the parts distributed to the company by car, increasing traffic, the company is aware of increased pollution to the area thus making the manufacturing process inherently dangerous. a. The company can point out the additional risks is minimal and work on a plan to lower the amount of transportation done to the site. 3. Tort of Invasion of Privacy and Coercion: The company had initially decided to investigate the Bates family.

This opens them up to tort because of the privacy issue. It also diminishes the company's public perception. It has to be done by a licensed investigator or risk liability through the criminal system. a. It is a risky move and one that opens the company to more liability. It is not recommended the company proceed in this direction unless fraud is suspected.

The most cost effective way to solve any legal situation is through the use of an arbitrator. Alumina should have a good working relationship with an arbitration organization that would provide insight into the mediation process. It should have developed a standard for which cases, if not all, cases that are to go to mediation. Recognizing and minimizing tort and regulatory risk is a concern for companies today. We live in a litigious environment.

The risks I have identified in this paper of strict liability, invasion of privacy, and regulatory compliance are all areas that most businesses have in common. By formulating corrective action plans and implementing them, the

risk is lowered. By forecasting future regulations, the risk is diminished even more.

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