

LAWS105 Contract Law – Assessment 2 – 2021 s1

Assessment Task 2: Assignment

Date Question released:	Week 3 Tuesday 16/3 at 9 am
Due date:	Assignment due Week 8 Tuesday 27/4 at 9 am
Weighting:	30%
Length and/or format:	1500 Words [excluding footnotes (use footnotes for citations, not discussions) and bibliography. Word limits will be enforced, however a 10% leeway is allowed, if needed, see <i>Word limits</i> below]
Purpose:	To enable students to develop their legal reading, research and writing skills while applying their knowledge and understanding of contract law and where applicable, apply comparative law.
Topics Examinable:	Pt I Formation of Contract, Pt II Terms
Learning Outcomes assessed:	LO1-LO4
How to submit:	Online submission using Turnitin on or before the due date. A Turnitin report will automatically be made available for the online submission.
Return of assignment:	Return of Assignment Tuesday 18/5 at 9 am In accordance with the Assessment Policy, assignments will be returned within three weeks of submission or at least five calendar days before the next related assessment task is due.
Assessment criteria:	See (updated) Appendix B - Rubric for Assignment below.

ELECTRONIC SUBMISSION, MARKING AND RETURN

The Assignment is required to be electronically submitted via 'Turnitin', and will be marked and returned via 'Turnitin' (see details on TURNITIN below)

ASSIGNMENT QUESTION

Dianne Richard is the eccentric matriarch of the Richard's family. Dianne is elderly, and although she is still a mentally capable, independent woman, she has decided she wants to give away most of her possessions now to avoid any fights after she passes away.

Dianne gathers her friends and family and makes a number of announcements, including:

- i. To my children, whichever of you is the first to return the Richard's "Family Honour" to my home, I give to you my \$2,000,000 Tiffany necklace.

- ii. To Adam, my dear friend and long suffering (but always well paid) personal assistant, I give my entire wine collection to you as a thank you for all your years working for me.

Overjoyed, Adam immediately accepts Dianne's generous offer. Dianne's lawyer is present for the whole affair, busily taking a file note to evidence what was said.

The "Family Honour"

At the time, most of the people gathered before Dianne scratch their heads at her reference to the Richard's "Family Honour". However, a few days later, one of the people present tells Shelley, Dianne's estranged daughter who was not invited to the gathering. Shelley immediately knows what Dianne was referring to. Last year, Dianne's favourite painting – the "Family Honour" by Da Vinci – was stolen from her home, something Dianne has never gotten over and constantly brings up during family dinners.

By huge coincidence, Shelley had found the missing painting in a pawn store a few weeks ago, bought it, and taken it home with her. Shelley is overjoyed by her luck at being able to claim the necklace, and triumphantly returns the painting to Dianne.

A few days after Shelley returns the painting, Dianne has a change of heart. Dianne realises she couldn't bear to be parted from her Tiffany jewellery, and so tells Shelley, "I've changed my mind dear, I'm going to hold onto the jewels".

The wine collection

Dianne says she will deliver the wine to Adam's house in a few weeks. In preparation for the delivery, Adam hires a builder, Jim, to build a state-of-the-art wine cellar in his house. This is no small project, requiring a cellar be dug and then fitted out with sensitive temperature control electronics and insulation – all costing Adam \$28,000.

When Jim met Adam, Jim said: "*I understand your needs – the cellar will work perfectly, come what may – flood, power outage, earthquake, you name it*". Jim handed Adam the building contract. Satisfied with the discussions and in a hurry to attend to another matter, Adam signed the contract without fully going through the document. The contract relevantly contains two clauses:

Cl 5.2 The builder shall not be liable for any loss caused by water damage or flooding or whatsoever causes.

Cl 5.3 As was discussed during earlier meetings, the builder shall only be liable for losses or damages suffered by the Owner up to the amount of \$1,500. This applies to any losses or damages, regardless of their cause. For the avoidance of doubt, this includes loss or damage caused by the builder, including through negligence.

Jim built the cellar and completed the job within a week. However, two days later, heavy rainfall causes water to seep through some poorly sealed wall panels into the cellar, completely destroying the sensitive electronics and staining the wall panels, essentially destroying the entire cellar.

Answer BOTH Part A and Part B.

Part A

Advise Shelley whether she is able to enforce Dianne's announcement regarding the Tiffany necklace. **(15 marks)**

Part B

Advise Adam whether he is able to make any claim against Jim, and the arguments that may be raised by Jim. **(15 marks)**

In answering Parts A and B, please limit your answers to the law of contract.

APPENDIX B: RUBRICS for ASSESSMENT Task 2 Assignment (30 %)

This rubric has 2 parts: for Part A and Part B of the Question

For Question: Part A

Learning Outcomes	Criteria	Below Expectations	Meets Expectations	Exceeds Expectation	Exceeds Expectation	Exceeds Expectation
		Level 1 (Fail)	Level 2 (Pass)	Level 3 (Credit)	Level 4 (Distinction)	Level 5 (High Distinction)
1, 2, 3 & 4	Identification of the legal issues arising from the facts and statement of law on the issues raised. 7.5 Marks	Inadequate/insufficient understanding. Superficial and general. Does not identify and discuss relevant issues and instead provides a historical or chronological account.	Demonstrates adequate but limited understanding. Does not include sufficient detail. Satisfactory identification and discussion of issues	Demonstrates accurate and clear understanding in sufficient detail. Identifies and discusses key issues.	Demonstrates a well-developed understanding of the topic. Identifies and discusses key issues and explains their relevance to the question.	Demonstrates a sophisticated understanding of the topic. Provides an innovative and comprehensive view and discussion of the issues raised by the question
1, 2, 3 & 4	Application and analysis of the law applied to the facts of the problem and the legal solution proffered. 7.5 Marks	Inadequate or insufficient analysis. Provides few or no identifiable arguments.	Adequate but limited assessment. Attempts to develop argument but may be poorly expressed and structured, which hampers its clear articulation.	Clear analysis. Evidences a reasonable flow of argument.	Well developed and objective critical analysis. Follows a coherent flow of argument (including addressing of counter arguments)	Sophisticated & insightful critical analysis. Coherent flow of argument (integrates counter arguments in a sophisticated way) following structure set out in introduction & proving stated thesis.

For Question: Part B

Learning Outcomes	Criteria	Below Expectations	Meets Expectations	Exceeds Expectation	Exceeds Expectation	Exceeds Expectation
		Level 1 (Fail)	Level 2 (Pass)	Level 3 (Credit)	Level 4 (Distinction)	Level 5 (High Distinction)
1, 2, 3 & 4	Identification of the legal issues arising from the facts and statement of law on the issues raised. 7.5 Marks	Inadequate/insufficient understanding. Superficial and general. Does not identify and discuss relevant issues and instead provides a historical or chronological account.	Demonstrates adequate but limited understanding. Does not include sufficient detail. Satisfactory identification and discussion of issues	Demonstrates accurate and clear understanding in sufficient detail. Identifies and discusses key issues.	Demonstrates a well-developed understanding of the topic. Identifies and discusses key issues and explains their relevance to the question.	Demonstrates a sophisticated understanding of the topic. Provides an innovative and comprehensive view and discussion of the issues raised by the question
1, 2, 3 & 4	Application and analysis of the law applied to the facts of the problem and the legal solution proffered. 7.5 Marks	Inadequate or insufficient analysis. Provides few or no identifiable arguments.	Adequate but limited assessment. Attempts to develop argument but may be poorly expressed and structured, which hampers its clear articulation.	Clear analysis. Evidences a reasonable flow of argument.	Well developed and objective critical analysis. Follows a coherent flow of argument (including addressing of counter arguments)	Sophisticated & insightful critical analysis. Coherent flow of argument (integrates counter arguments in a sophisticated way) following structure set out in introduction & proving stated thesis.