

READING NOTES

Chapter 4 – Professional Liability

Primarily concerned with application of contract and fiduciary law to professionals

Professional Liability: The Legal Dilemma

- Professionals are those with specialized knowledge and skills that clients rely on
- Greater exposure to liability for professional negligence has led to extensive use of liability insurance which consequently raises price (as well as client expectations) in a vicious cycle

Duty of Professionals

- Contractual Duty:
 - Agreement to provide professional services to a client contains a promise to perform those services with due care (whether stated expressly or not)
 - A breach of that promise is a breach of contract
- Fiduciary Duty:
 - In addition to tort liability, a principle of equity imposes a fiduciary duty of care where a person is in a special relationship of trust
 - Professional must do everything they can for the client
 - Why? Professional has upper hand because client is dependent upon them for service
 - Eg. *TD vs. Hunt* involving a non-discretionary sale of assets
 - Hunt argues that he did not tell the manager to sell BCE
 - Hunt won originally because of his old age and fiduciary duty
 - Case was appealed where the court ruled that Mr. Hunt was not in a fiduciary relationship because he had good health and demonstrated previous financial / business intelligence
 - Testing for imposing a fiduciary duty
 - Fiduciary has scope for exercise of power – fall in your grasp?
 - Fiduciary can use that power to affect the beneficiary's legal or practical interests – able to affect them?
 - Beneficiary is peculiarly vulnerable to or at mercy of the fiduciary
 - Conflicts of interest
 - Situation where a duty is owed to two or more clients who may have competing interests
 - Requires complete fidelity and loyalty to the other party of the relationship
 - Why? A professional acting on behalf of two clients with competing interests may find it impossible to fulfill their duty to both

Chapter 4 reading Guide Answer

Guillaume Favre



Chapter 4 reading Guide Answer:

The Enigmatic Realm of **Chapter 4reading Guide Answer**: Unleashing the Language is Inner Magic

In a fast-paced digital era where connections and knowledge intertwine, the enigmatic realm of language reveals its inherent magic. Its capacity to stir emotions, ignite contemplation, and catalyze profound transformations is nothing lacking extraordinary. Within the captivating pages of **Chapter 4reading Guide Answer** a literary masterpiece penned with a renowned author, readers embark on a transformative journey, unlocking the secrets and untapped potential embedded within each word. In this evaluation, we shall explore the book's core themes, assess its distinct writing style, and delve into its lasting effect on the hearts and minds of people who partake in its reading experience.

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