

NEW WAVE CIRCUITS

Gordon Kim, Service Department Manager for the Hometown, Gould store of New Wave Circuits (NWC), sat at his desk contemplating his next move. New Wave Circuits is a subsidiary of Logan Enterprises, Inc., a large media conglomerate. NWC owns more than 250 stores throughout the world. Kim has been assigned to handle a negligence matter involving Mark Ross, a customer at the local store. Kim looked over several letters from Ross that told his story.

In January 2016, Ross purchased a Falcon Computer from NWC. The computer performed extremely well until October of 2018 when the hard drive “crashed.” Ross took the unit to the repair department at the NWC store in Hometown. Ross explained that he thought the hard drive in the computer was defective and sought to have it repaired. In addition, Ross asked the service technician if he could have his old hard drive back after the repairs were made to the computer. The technician assured Ross that the service department would return to Ross any computer parts that would be replaced.

The hard drive was defective and was replaced at no charge to Ross. When Ross picked up the repaired computer, he was also given what was presumed to be the original hard drive that was removed from the unit. Ross told the repair manager that he was interested in attempting to retrieve the contents of the old hard drive. Ross asked if NWC could provide this service. The manager indicated that NWC did not provide such a service. However, he provided Ross with the telephone number of William Baron. The manager indicated that Baron might be able to help Ross. Ross left the store with his repaired computer and the old hard drive and went directly home because he was anxious to contact Baron.

Ross contacted Baron and was told that it would cost \$1,250 to attempt to recover the contents of the hard drive and that there were no guarantees as to the extent of the recovery if any.

After several days of deliberation, Ross decided to spend the \$1,250 and hope for the best. Baron went to work on the hard drive and was very successful. Baron was able to recover about 95% of the contents of the hard drive. Baron phoned Ross with the good news. Ross immediately drove to Baron’s shop, reclaimed the hard drive and the recovered contents, and paid the \$1,250. Ross then rushed home and viewed the recovered materials. To Ross’s amazement, the recovered materials were not his.

What had happened? Ross concluded that NWC’s repair department had not returned to him his “crashed” hard drive. Instead, he surmised, he was given someone else’s hard drive. In reviewing the recovered materials, Ross was able to discover the name and telephone number of the true owner of the hard drive he had been mistakenly given. Ross called the owner, Ryan Garcia, and related what he thought had happened. As a result of the conversation, Ross discovered that he and Ryan Garcia both had the same computer, that each had experienced a crash of the hard drive, that both had purchased their computers from NWC and had, on the same day, returned the computers to NWC for repair. Ross also learned that Ryan Garcia had asked for and received from NWC what he, Ryan Garcia, thought was his original hard drive. Lastly, Ross, hoping that their respective hard drives had merely been switched between the two of them, asked Ryan Garcia if he still had the hard drive. Ryan Garcia indicated that he had discarded the hard drive.

What could Ross do? He had spent \$1,250 to retrieve materials from a hard drive that was not his. The owner did not need the materials and was not interested in paying Ross \$1,250 for the retrieved information. In addition, Ryan Garcia had discarded the “crashed” hard drive he had been given by the repair department at NWC. Thus, even if Ryan Garcia had received Ross’s hard drive, that hard drive was no longer available to Ross because it had been thrown out by Ryan Garcia. What a mess. Ross had been through a rollercoaster of emotions. Down when his hard drive had crashed, up when he learned that Baron had been successful in recovering information, and back down upon discovering the information was not his and that Ryan Garcia had discarded the hard drive that was, presumably, from Ross’s unit.

On December 1, 2018, Mark Ross wrote a letter to NWC describing his situation and requesting reimbursement of the \$1,250 that was wasted on the recovery of information from a hard drive that was not his. Kim, the service manager, wrote the reply shown in Exhibit 1.

After reading the letter from Kim, Ross responded by sending the letter shown in Exhibit 2.

After receiving the second letter from Ross, Kim contacted Olivia Lily, the director of the risk management department at corporate headquarters. Following their short conversation, she said that she would look into the matter. Olivia Lily was aware of the results of a recent survey of 1,400 past negligence cases in the State of Gould. In 67% of these cases, the plaintiff was awarded damages. On average the amount awarded was approximately 60% of the amount requested by the plaintiff, excluding punitive damages, which were not included in the study.

Olivia Lily, on behalf of NWC, is contemplating settling this case out of court and has asked your legal team to write a report. She is seeking your legal and statistical evaluation of the problems facing NWC.

EXHIBIT 1

December 21, 2018

Mr. Mark Ross
324 Moore Street
Silver Port, Gould 25253

Dear Mr. Ross:

Your letter of December 1, 2018 has been received. After careful consideration, it has been determined that New Wave Circuits has no responsibility for any expenses that you may have incurred as a result of this unfortunate situation.

Normally, every effort is made to keep track of parts that are replaced on computers that are being repaired. However, during the first two weeks of October 2018, our service department experienced a large volume of hard drive replacements for the Falcon Computer. Due to a large number of hard drive replacements, the service department was unable to maintain its procedure for keeping track of replaced computer parts.

It is also noted that computer owners are continually reminded of the necessity to "back up" a copy of the hard drive on their computers. Your failure to take this easy and painless precaution has been the primary contributor to your loss. However, New Wave Circuits is happy to offer you a \$150 gift certificate towards the purchase of any merchandise in the store.

Sincerely,

Gordon Kim

Gordon Kim
Manager, Service Department
NEW WAVE CIRCUITS

EXHIBIT 2

December 26, 2018

New Wave Circuits, Inc.
c/o Mr. Gordon Kim
Electronic Repair Department
22 Gold Blvd.
Silver Port, Gould 25253

Dear Mr. Kim:

I understand your position regarding backing up my computer hard drive. I had instructed my son numerous times to do this for me and he would tell me "sure Dad, no problem, I will do that first thing tomorrow." Unfortunately, first thing tomorrow never came for me or my son. Nevertheless, I am confident that, if you had returned my "crashed" hard drive to me, Mr. Baron would have been able to recover the materials from my hard drive.

Your offer of a \$150 gift certificate is appreciated but is wholly inadequate as a settlement in this case. I would make the following proposal to New Wave Circuits:

1. A payment of \$1,250 as reimbursement for the unnecessary expenditure to Mr. Baron.
2. A payment of \$6,000 to cover the cost of my time to reconstruct lost materials used in my consulting job.
3. A payment of \$8,000 in the form of punitive damages for your behavior in the handling of this matter.

Sincerely,

Mark Ross

Mark Ross

Required:

Write a report for this case.

Be sure to consider business law key concepts 2 and 9 and statistics key concepts 3, 5, and 6.