

**LOUISIANA STATE BAR EXAMINATION  
FEBRUARY 2025  
TORTS**

**QUESTION 1 (40 POINTS)**

Bold Brew Coffee Co. (“Bold Brew”) decided to hold a fair on the grounds of its roasting facilities to promote its newest coffee and contracted Amusement Rides, an amusement park company, to furnish and operate the fair rides at the event. Bold Brew and Amusement Rides signed a revenue-sharing agreement, splitting ticket sales evenly. The agreement stipulated that Amusement Rides would be responsible for setting up and operating the rides, while Bold Brew would oversee safety protocols and approve the final lineup of attractions. Amusement Rides informed Bold Brew of recurring, minor mechanical issues with its Ferris wheel but advised that these issues had never caused any injuries. Bold Brew approved use of the Ferris wheel without requiring repairs and conducted no independent investigation to confirm the ride's safety.

Fred, age 21 and a college junior, decided to pledge with AZ Fraternity. He attended the Bold Brew fair with several members of the fraternity. Fred was a football player on full scholarship at the University. As part of his initiation, Fred was instructed by AZ Fraternity chapter leaders to climb out of the Ferris wheel basket and hang off the side for one minute. AZ Fraternity had a well-documented history of hazing incidents, including physical endurance tasks and stunts, which had previously resulted in injuries. Complaints had been filed with the University, but AZ Fraternity leadership continued these activities, claiming they were “tradition.” The University was aware of AZ Fraternity’s practices and had implemented a strict anti-hazing policy for all its fraternities and sororities, including assigning a pledge supervisor to monitor each fraternity and sorority. However, during the year Fred pledged, no pledge supervisor was assigned to AZ Fraternity, though the University was actively seeking a candidate.

At the fair, Fred purchased a ticket and got into a Ferris wheel basket. As directed by fraternity leaders, Fred then climbed out of the moving Ferris wheel basket. After hanging off the side for 40 seconds, the Ferris wheel abruptly stopped due to the known mechanical defect. Fred fell 18 feet to the ground below, breaking his arm and leg. He required emergency surgery, and his leg was permanently impaired. As a result, Fred had to quit playing football. Fred lost his scholarship and had to drop out of college due to financial difficulties. Fred had been a top running back with expert predictions of being the number one NFL draft pick. Fred was devastated to realize his professional football aspirations were dashed by the injury, especially since he and his mother were the only people left in his family. Fred had dreams of one day telling his mother she could quit working and he would buy her a house.

*Please answer the following two subquestions. Explain your answers; answers without explanation will receive no credit.*

- 1.1 What theory or theories of liability may Fred reasonably assert against Bold Brew; what defenses(s) may Bold Brew reasonably raise; what damages are recoverable; and is Fred likely to prevail? Explain fully. (20 points)**
- 1.2 *For this subquestion 1.2 only, assume that when Fred fell from the Ferris wheel, he also hit his head and died a week later.* What theory or theories of liability may Fred’s heir reasonably assert against the University; what defense(s) may the University reasonably raise; what damages are recoverable; and is Fred’s heir likely to prevail? Explain fully. (20 points)**

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

Paulette decided to start vaping in an attempt to quit smoking cigarettes. Paulette discovered LaSmoke, a local Louisiana company that created and distributed vape pens. LaSmoke had been in business for only three years but had become very popular throughout the region.

Over the three years of its operation, LaSmoke had received several reports of fires that resulted when consumers used a non-LaSmoke charging cable with LaSmoke vape pens. LaSmoke considered changing its vape pen's charging port to a standard USB-C port, which would have prevented its vape pens from overheating regardless of what charging cable was used, but decided against it because it would increase manufacturing costs by \$0.20 per vape pen. Instead, on all charging cables that plug into an electrical outlet, LaSmoke added a very small warning against using charging cables made by companies other than LaSmoke. There was no such warning on LaSmoke's website, on the vape pen's packaging, or on the vape pen itself.

When Paulette returned home from purchasing her new LaSmoke vape pen, she immediately began charging the vape pen with the charging cable that was included in the package.

After using the vape pen for several weeks, Paulette misplaced the charging cord that came with it. However, the next time she needed to charge the vape pen she used a similar cord found in her junk drawer that fit her vape pen. Paulette arrived at her job as cashier at Mighty Mike's Convenience Store and plugged her vape pen in with the off-brand charging cable. Paulette left the vape pen charging on the counter behind the register. That same day, Greg, a new trainee, arrived for work at Mighty Mike's to complete his required safety training to begin taking regular shifts. Greg saw Paulette's vape pen charging and incorrectly believed this was against store policy. Greg, thinking he was helping his new co-worker out, placed his backpack on top of Paulette's charging vape pen so that it could not be seen. A few hours later, the charging vape pen overheated and set fire to the backpack, causing a fire that completely destroyed the store. Paulette was injured while escaping from the fire. Paulette was in a hospital burn unit for two months. After a detailed investigation, the Fire Marshall determined that the cause of fire came from the charging vape pen.

*Please answer the following two subquestions. Explain your answers; answers without explanation will receive no credit.*

- 2.1 What theory or theories of liability may Paulette reasonably assert against LaSmoke; what defense(s) may LaSmoke reasonably raise; what damages are recoverable; and is Paulette likely to prevail? Explain fully. (20 points)**
- 2.2 What theory or theories of liability may Paulette reasonably assert against Mighty Mike's; what defense(s) may Mighty Mike's reasonably raise; what damages are recoverable; and is Paulette likely to prevail? Explain fully. (20 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*For each of the following multiple choice items, select the letter that corresponds to the correct answer.*

- 3.1 Psychologist and psychiatrist; limitation of liability
- 3.2 Negligence; duty
- 3.3 Merchant liability
- 3.4 Liability and defenses for providers of alcohol
- 3.5 Self-defense
- 3.6 Tortious interference with a contract
- 3.7 Survival action; rank of designated beneficiaries
- 3.8 Premises liability
- 3.9 Strict liability for dogs
- 3.10 Absolute liability

[End of Question 3]

END OF TORTS TEST

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**QUESTION 1 (40 POINTS)**

At approximately 9:00 p.m., David joined his friends to celebrate his birthday at Ray's Lounge. The bartenders at Ray's Lounge all knew that he was going to turn 21 at midnight that night so every bartender bought David a shot of whiskey. After taking over six shots at the bar, David was so intoxicated he fell asleep in a chair near the front door. A Ray's Lounge employee woke him and told him he had to leave the premises. At that point, all of his friends had gone, and David decided to drive himself home. After leaving Ray's Lounge, David stopped off at a party where the clock struck midnight and he finally turned 21. At the party, he met up with a college friend, Adam. Adam hadn't been drinking but his ride had left him, so he asked David to drive him home. Blasting their favorite song, David drove at full speed down the roadway. As David neared an intersection, the traffic light was yellow. Adam yelled "gun it" and David accelerated to ten miles over the speed limit and ran the light, which had turned red. David then lost control of the car and was headed to a ditch, so Adam grabbed the wheel and veered the vehicle away from the ditch but into oncoming traffic, hitting a car driven by Pam. Pam never saw David's car coming. Pam was new to the city and had gotten lost on her way home. So, she video-called her new roommate for directions and was looking down at her phone immediately before the impact. The impact pushed Pam into a utility pole where she died on impact. David was forced to take a breathalyzer test on the scene, which read that he was well over the Louisiana State legal limit for blood alcohol content. Pam was predeceased by her mother and father, but was survived by a sister, Carol, and a grandmother, Kathleen. However, neither Kathleen nor Carol showed up to Pam's funeral as they had been estranged for many years.

*Answer the following two subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 1.1 What theory or theories of liability may Pam's heir(s) reasonably assert against David; what defense(s) may David reasonably raise; what damages are recoverable; and are Pam's heir(s) likely to prevail? Explain fully, including the specific identification of who among Pam's heirs may file the lawsuit. (30 points)**
- 1.2 What theory or theories of liability may Pam's heir(s) reasonably assert against Ray's Lounge; what defense(s) may Ray's Lounge reasonably raise; what damages are recoverable; and are Pam's heir(s) likely to prevail? Explain fully. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 2 (40 POINTS)**

After years of remodeling homes as a general contractor, Janet was able to afford to buy her own property. The house she purchased was old, and Janet planned to tear it down and build a new home from the ground up. She also knew that she needed to remove all the trees from the property because the previous owner had warned her that the trees may have been rotten because they had noticed several limbs mysteriously fall. After comparing estimates, Janet determined it would be cheaper to use her own employees to implode the building, using explosives. Janet instructed one of her employees, Logan, to perform the implosion. Logan properly secured the area and detonated the explosives. The implosion was successful, and the building collapsed. During the implosion, a large splinter of wood was projected into the air and fell into the neighbor Meagan's yard where her dog, Banjo, was laying in the grass. The projectile hit Banjo and pierced him near the shoulder area, hitting Banjo's lungs, causing him to asphyxiate. Meagan heard Banjo howling in pain and arrived at the scene to see him gasping for air. Meagan rushed Banjo to the Emergency Veterinarian hospital where he died the next day. Meagan cried for days.

The next day, Janet's friend Frank went to view Janet's new property. A thunderstorm began, so Frank got in his car to leave. As he began to back down the driveway, one of Janet's trees fell on Frank's car. Frank suffered severe injury to his back that required continued pain management for the foreseeable future. He also had to quit his high paying job as a welder and take a desk job that paid significantly less. Frank's wife, Ella, was very sad about Frank's injuries. She hated to see her husband in pain. Ella also had to get a second job to help with some of the bills that had previously been paid by Frank before his injury.

*Answer the following three subquestions. The subquestions in Question 2 are not weighed equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 What theory or theories of liability may Meagan reasonably assert against Janet; what defense(s) may Janet reasonably raise; what damages are recoverable; and is Meagan likely to prevail? Explain fully. (20 points)**
- 2.2 What theory or theories of liability may Frank reasonably assert against Janet; what defense(s) may Janet reasonably raise; what damages are recoverable; and is Frank likely to prevail? Explain fully. (15 points)**
- 2.3 *For Question 2.3 only, assume that Janet is held liable to Frank for his injuries.* What claim(s) may Ella reasonably assert against Janet; what damages are recoverable; and is Ella likely to prevail? Explain fully. (5 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*For each of the following multiple choice items, select the letter that corresponds to the correct answer.*

- 3.1 Self-defense
- 3.2 Acts of others and things in custody
- 3.3 Government immunity
- 3.4 Battery
- 3.5 Conflict of laws; products liability
- 3.6 Damage caused by animals
- 3.7 Invasion of privacy
- 3.8 Medical malpractice
- 3.9 Defamation
- 3.10 Assault

[End of Question 3]

END OF TORTS TEST

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 (40 POINTS)**

Pam and Dana are both 16-year-old 10<sup>th</sup> graders at a private high school. They have never liked each other. Dana's dislike for Pam intensified when Pam attended the school dance with Dana's crush, John. Dana began to threaten to beat up Pam almost daily. Because of Dana's consistent threats, Pam knew Dana planned to hurt her, so Pam told her teacher, Ms. Taylor, who was a school employee. Ms. Taylor assured her that she would be safe at school. Ms. Taylor even stated that Pam and Dana would be placed in separate classes per the school's anti-bullying policy. But this was never done. The next week, while Ms. Taylor walked out of the classroom to speak to another student, Dana walked up to Pam's desk and asked, "You want to fight?" Pam stood up and pushed Dana. Dana then pushed Pam into the darkened classroom closet. Pam fell onto her back, and Dana closed and locked the closet door. The bell then rang, and when the class left, Pam was stuck in the locked closet. Pam banged and screamed but no one came to help her for at least 30 minutes. By the time Pam was rescued, she was hysterical, and her back was throbbing with pain. Pam cried all night. For months after the incident, Pam had nightmares and a fear of small dark spaces. She obtained treatment with a psychiatrist for anxiety and post-traumatic stress as a result of the incident. Pam's back continued to hurt for several months.

Both Dana and Pam were expelled. Pam appealed the expulsion alleging she only fought Dana to protect herself. Both of Dana's parents were out of the country for work during this time. Dana was living with her grandmother until her parents planned to return the next year. Even though Dana did not appeal her expulsion, the Board reviewed the entire incident and the expulsions of both Dana and Pam were upheld based on the school's zero-tolerance policy for violence. Pam had to enroll in another school in a distant neighborhood and she has become less social and her grades have been declining.

*Please answer the following two subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 1.1 What theory or theories of liability may Pam's parents reasonably assert against Dana's parents; what defense(s) may Dana's parents reasonably raise; what damages are recoverable; and are Pam's parents likely to prevail? Explain fully. (25 points)**
- 1.2 What theory or theories of liability may Pam's parents reasonably assert against the school; what defense(s) may the school reasonably raise; what damages are recoverable; and are Pam's parents likely to prevail? Explain fully. (15 points)**

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

After swimming in a local spring, Victoria noticed that her hand was red and swollen and some puss-filled wounds had appeared. She sought treatment at a local hospital, where she was diagnosed with a flesh-eating amoeba. Because the amoeba had already started to cause some open wounds, the hospital referred her to infectious disease physician, Dr. Dan. Dr. Dan had most recently become famous for his experimental skin graft and aggressive course of antibiotic treatment that he claimed would cure this condition and heal the skin in a few days, without the need for additional treatment. Dr. Dan's skin graft procedure initially seemed successful, but a few weeks later, Victoria became very ill. The amoebas began to spread throughout her body, including her lungs. However, Dr. Dan refused to order any further treatment, as he was confident his graft and medication course would work, eventually. Soon, Victoria began coughing up chunks of flesh. Her mom, Paige, took care of Victoria the whole time and witnessed Victoria's slow decline. After weeks of extreme suffering, Victoria became unresponsive and fell into a coma. Paige hasn't been able to speak to Victoria for months and has had to obtain legal guardianship over Victoria. Paige could not sleep for weeks after witnessing Victoria's horrifying decline. Paige eventually sought psychological treatment to help with her severe trauma.

After consulting with other infectious disease specialists, Paige later learned that Dr. Dan had never properly tested this skin graft and medication combination before using it in human beings. Dr. Dan knew his treatment course was the cause of two previous patients' deaths but continued to administer this course and advocated for the success of the graft and medication, citing fraudulent studies.

Victoria was never married, nor did she have children. Paige was furious with Dr. Dan for his actions. Paige posted on the internet that Dr. Dan was a "Liar, Fraud, and Murderer!" As a direct result of Paige's internet posts, Dr. Dan lost his job. He was financially ruined.

*Please answer the following three subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 What theory or theories of liability may Victoria (through Paige as her guardian) reasonably assert against Dr. Dan; what defense(s) may Dr. Dan reasonably raise; what damages are recoverable; and is Victoria likely to prevail? Explain fully. (16 points)**
- 2.2 What theory or theories of liability may Paige reasonably assert against Dr. Dan; what defense(s) may Dr. Dan reasonably raise; what damages are recoverable; and is Paige likely to prevail? Explain fully. (12 points)**
- 2.3 What theory or theories of liability may Dr. Dan reasonably assert against Paige; what defense(s) may Paige reasonably raise; what damages are recoverable; and is Dr. Dan likely to prevail? Explain fully. (12 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.*

- 3.1 Tortious interference with a contract
- 3.2 Wrongful death claim
- 3.3 Recovery under La. Workers' Compensation Act
- 3.4 Strict liability for dogs
- 3.5 Premises liability
- 3.6 Negligent entrustment
- 3.7 Comparative fault
- 3.8 Merchant liability
- 3.9 Duty risk
- 3.10 Providers of alcohol

[End of Question 3]

END OF TORTS TEST

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**QUESTION 1 (40 POINTS)**

ABC Refinery (“ABC”) decided to expand operations at its location in Baton Rouge, Louisiana. ABC contracted with a construction team, Conner Construction (“CC”), to build a new warehouse. In an effort to cut down on some of the construction costs, ABC offered to allow CC to use ABC scaffold equipment that was already at the refinery. ABC instructed CC that CC’s employees would be required to wear a safety lanyard and harness, which would also be provided by ABC, at all times while on the scaffold. The scaffold was taken from the old refinery area and rebuilt at the new warehouse construction site by ABC employees. At the start of construction, CC provided all of its employees with instructions on when and how to wear and use the safety equipment on the scaffold.

One morning, CC’s Foreman Fred provided job assignments for the day and told Paul, an employee of CC, to assist with the installation of plumbing on the upper floor of the new warehouse building. As directed, Paul began climbing the scaffold to assist with the installation of plumbing. But before Paul reached the landing, a rung of the scaffold gave way, causing him to fall 50 feet to the ground below. Paul was not wearing the ABC-required safety lanyard and harness, but he used extreme caution in climbing the scaffold, ensuring he always maintained three points of contact with the ladder.

On the day prior to Paul’s fall, CC safety inspectors had been on site for several hours conducting their biweekly safety inspections of the premises and equipment. During the construction project, ABC inspectors continued to inspect the older areas of the refinery but did not conduct regular inspections of the construction site or its equipment on the construction site. After Paul’s fall, ABC performed an investigation to determine the cause of the fall and discovered that the scaffold rung that broke was rusted and decayed. The ABC investigator also discovered that a CC inspector had actually seen the rust during her inspection the day before but did not believe it was a structural problem and therefore did not report it to ABC.

Paul was severely injured as a result of the fall. He fractured his leg and suffered cognitive delays from the impact to his head. He was never able to return to work again. He also incurred over \$100,000 in medical bills. Most disheartening, he was no longer able to participate in his favorite hobby, tap dancing.

*Please answer the following two subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 1.1 What theory or theories of liability may Paul reasonably assert against CC; what defense(s) may CC reasonably raise; what damages are recoverable; and is Paul likely to prevail? Explain. (15 points)**
- 1.2 What theory or theories of liability may Paul reasonably assert against ABC; what defense(s) may ABC reasonably raise; what damages are recoverable; and is Paul likely to prevail? Explain. (25 points)**

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

Tammy and her adult daughter, Ann, were going shopping. Tammy was driving them in her brand new 2023 Tierra Truck down Main Street, which has a speed limit of 35 mph. Tammy slowed down to avoid hitting a cat when Dan, who was traveling slightly above the speed limit, behind Tammy, rear-ended her vehicle. Upon impact, Tammy's bucket seat broke away from the truck's frame, launching her through the windshield. Tammy suffered severe lacerations to her face and arms. Ann watched in horror as her mother screamed in agony and bled profusely. Ann eventually composed herself long enough to call an ambulance. But Ann was extremely disturbed by the whole experience and had nightmares about the accident for months. Ann sought treatment with a mental health counselor for the increased anxiety she was experiencing.

Tammy was rushed by ambulance to a nearby hospital, and it was determined her injuries required immediate surgery. After being fully informed of the risks and possible complications of the surgery, she signed the necessary consent forms. The surgery schedule at the hospital was unusually busy, and Tammy was moved to three different operating rooms before her surgery was performed. In the shuffle, a doctor employed by the hospital accidentally administered a double dose of anesthesia causing Tammy to fall into a coma. A month later, Tammy woke from her coma. Tammy eventually returned to full duty at work; however, she suffers from intermittent headaches, for which she takes over-the-counter medicine, and also from a fear of hospitals.

Perplexed by the severity of her accident, Tammy started to research the 2023 Tierra Truck. Her research revealed that Tierra made and assembled all of the components of its trucks. Tierra had received numerous complaints in the last twelve months about defective welding that caused their seats to easily break when hit at a speed of over 30 mph. Since the complaints, Tierra has changed the design of its seats but, afraid of the bad publicity, has never issued a recall for the 2023 model Tammy had purchased.

*Please answer the following three subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 What theory or theories of liability may Tammy reasonably assert against Tierra; what defense(s) may Tierra reasonably raise; and is Tammy likely to prevail? Explain. (22 points)**
- 2.2 What theory or theories of liability may Ann reasonably assert against Tierra; what defense(s) may Tierra reasonably raise; what damages are recoverable; and is Ann likely to prevail? Explain. (8 points)**
- 2.3 What theory or theories of liability may Tammy reasonably assert against the hospital; what defense(s) may the hospital reasonably raise; what damages are recoverable; and is Tammy likely to prevail? Explain. (10 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.*

- 3.1 Self-defense
- 3.2 Acts of others and things in custody
- 3.3 Merchant liability
- 3.4 Absolute liability
- 3.5 Defamation
- 3.6 Survival action; rank of designated beneficiaries
- 3.7 Strict liability for animals
- 3.8 Liability and defenses for providers of alcohol
- 3.9 Conflict of laws; product liability
- 3.10 Government immunity

[End of Question 3]

END OF TORTS TEST

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 (40 POINTS)**

Pamela and her husband, Mark, celebrated their wedding anniversary at The Casino Resort and Spa ("The Casino"). In addition to the resort and spa, The Casino included shops, numerous restaurants and a large outdoor pool with poolside dining. After checking into their room, Pamela and Mark decided to visit the pool to go swimming and eat lunch. When they reached the pool area, Pamela admired the beautiful marble tile decking surrounding the pool. Mark found two lounge chairs and ordered lunch while Pamela got into the pool to swim. When lunch arrived, Pamela carefully got out of the pool, but nonetheless slipped on the tile surrounding the pool causing her to hit her head on the ground. She appeared to be dazed, confused, and in pain. Mark immediately took Pamela to a local hospital to be evaluated. A doctor at the hospital diagnosed Pamela with a concussion and a broken ankle.

Upon returning to The Casino, Mark spoke to the manager, who informed Mark that the incident had been reported to him. He apologized to Mark and informed him that Pamela was the third person to slip and fall on the marble tile within the past two months.

About three months before Pamela's accident, The Casino had remodeled its pool area, which included having the tile surrounding the pool replaced. The Casino hired Dave's Decking Company ("Decking") to install the decking around the pool and requested slip-resistant tile.

After Pamela's fall, The Casino hired an expert to inspect the tile to determine what corrective measures needed to be taken to make sure the tile was safe for its patrons. After inspecting the tile, the expert informed The Casino that the tile surrounding the pool was not slip-resistant and that the tile installed by Decking was strongly discouraged for surfaces where water is prevalent.

The Casino manager contacted the sales manager of Decking and informed her of the recent slip and falls that had occurred and provided a copy of an email from The Casino to Decking requesting slip-resistant tile for the remodeling. After investigating the matter, the sales manager at Decking informed The Casino's manager that the tile The Casino had requested was sold out at the time of the order; that Dave, the owner of Decking, had ordered a different tile, which was not slip-resistant; and that its workers had installed this other tile without informing The Casino. Dave was aware that the tile would be installed around the pool at The Casino.

Pamela is employed as an accountant. As a result of the concussion, Pamela became very sensitive to light and found it very difficult to accurately read text and numbers either on her computer screen or on paper. Pamela missed several weeks of work without pay while she recovered from the concussion. Due to the difficulty she has been having with reading, Pamela is unsure whether she will be able to continue to work as an accountant. Pamela also enjoyed hiking and daily runs. As a result of her broken ankle, she was unable to engage in those activities until her ankle was fully healed.

*Please answer the following two subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 1.1 What theory or theories of liability might Pamela reasonably assert against The Casino; and what damages are potentially recoverable? Explain fully. (No points will be given for a discussion of The Casino's defenses.) (24 points)**
- 1.2 What theory or theories of liability might Pamela reasonably assert against Dave's Decking? Explain fully. (No points will be given for a discussion of Dave's Decking's defenses.) (16 points)**

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

Years ago, Spring City planted trees along the edges of a city-owned parking lot for its Civic Center on Main Street. Over the years, the trees have grown so much that branches obscure the view of drivers leaving the parking lot as the drivers pull onto Main Street. Because these trees have grown significantly over the last five years, Spring City has received multiple calls each year about the blind spot created by the overgrown trees. At first, when Spring City received complaints, it would immediately send maintenance employees to trim the trees. However, over the last two years, due to budget cuts, tree maintenance was not considered a necessity. Thus, the trees have grown, unpruned for the last two years, even though Spring City has continued to receive numerous complaints about this blind spot.

One night a few months ago as Paul was leaving the Civic Center parking lot and pulling onto Main Street to drive home, he was hit broadside by a drunk driver, Drew. Drew had the right of way. Paul could not see Drew coming because of the overgrown trees in the parking lot. The police determined that Drew's blood alcohol level was over the legal limit. However, witnesses stated that Drew was driving under the speed limit at the time of impact and did not waver from his lane of travel. He told the police officer that he felt fine, but did not have time to react when Paul pulled into his lane of travel.

Paul was severely injured in the wreck. He suffered in agony for about 30 minutes before he died at the scene. He left behind his wife, Tracey; his son, Michael; and his aging father, Frank. Paul was very close with Michael and coached his son's sports teams. Tracey and Paul were high school sweethearts and had a very loving relationship. Paul also took care of Frank, who lived with Paul, Tracey and Michael. Paul was also the breadwinner of the family, so they have suffered a great financial loss as well. Tracey, Michael and Frank had to seek psychological treatment to cope with Paul's death.

*Please answer the following two subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 What theory or theories of liability might reasonably be asserted in an action by Paul's three surviving relatives against Spring City; what defense(s) might Spring City reasonably raise; and what is the likelihood of success of such defense(s)? Explain fully. (No points will be given for a discussion of what damages may or may not be recoverable by any or all of Paul's three surviving relatives.) (25 points)**
- 2.2 As to each of Paul's three surviving relatives (Tracey, Michael and Frank), what damages are potentially recoverable by such surviving relatives against Drew? Explain fully. (15 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*Each of the following ten multiple choice items counts for 2 points. Select the letter that corresponds with the correct answer.*

- 3.1 Vicarious liability; res ipsa loquitur
- 3.2 Negligence; duty
- 3.3 Damage caused by animals
- 3.4 Battery
- 3.5 Vicarious liability
- 3.6 Tortious interference with a contract
- 3.7 Comparative fault
- 3.8 Workers compensation
- 3.9 Assault
- 3.10 Premises liability

[End of Question 3]

END OF TORTS TEST