

Question One – 1 Hour

Pete joined Dudes Gym. He signed Dudes' standard release, which stated: "Member understands that working with weights in a gym can lead to serious injury. Member holds Dudes harmless and will not seek damages based upon a claim of Dudes' negligence in the gym."

Pete liked Dudes' new bench press machine manufactured by Ibex, Inc. The bench press machine's lifting bar was secured in vertical slots on both sides of the bench. The bar had metal hooks at its ends so that Pete could roll the bar slightly forward and secure the hooks onto pegs on the inside of the slots, suspending the bar above him safely, when he finished the last repetition on each set.

Don was an employee of Dudes gym. One day Don, who was working the front desk, saw Pete using the Ibex bench press machine on his own and yelled over, "hey Pete, I'll spot for you." "Great," Pete said, and decided to add extra weight to the bar. While Don spotted for him, Pete laid down on the bench under the weighted bar and started his repetitions. Just as Pete was bringing the weighted bar down toward his chest on the seventh repetition, Don's cell phone rang at the front desk. Don could see the Pete was starting to tire and lose his strength, but Don's girlfriend was about to break up with him. "Hold on one sec," Don said as Pete struggled with the weight, "I gotta take this call." As Don ran over to the front desk Pete tried to protect himself from the weighted bar by rolling the bar's hooks forward and hitching them to the pegs, but the pegs were a little too high on the slots on each side. If the pegs had been lower, Pete could have secured the bar just above his chest and protected himself. But the pegs were not low enough and Pete was too tired to push the weighted bar any higher. While Don talked teary-eyed to his girlfriend on the cell phone, facing away from the bench press machine, all of Pete's strength ebbed away and the weighted bar slowly crushed his chest. He was severely injured.

What are Pete's causes of action against Dudes Gym, if any, and what are Dudes' potential defenses? Analyze.

What are Pete's causes of action against Ibex, Inc., if any, Inc. and what are Ibex's potential defenses? Analyze.

Question Two – 1 Hour

Dottie lived in a rural neighborhood up in the foothills. For years she had been throwing food in her backyard for the local black bears, which would come from the nearby woods to feed on Dottie's table scraps. Next door neighbor Paul had warned Dottie that she was turning the bears into a neighborhood problem and that it could get dangerous, but she wouldn't listen. Paul would sit nervously on his back porch and listen to the bears' scary snorts and growls as they ate in Dottie's backyard, just beyond Paul's hedge.

Dottie loved the bears. One was like her own pet. She named him Harlan. He was so tame he would eat salmon out of her hand, right on the back deck. One weekend Dottie went on a trip to Oregon. On that Saturday night that Dottie was out of state, Harlan sat on Dottie's back deck for three hours waiting for salmon. Finally, Harlan, quite hungry, went next door, into Paul's backyard. Harlan broke Paul's sliding glass door and walked into his kitchen. Paul, who'd been standing in the kitchen when the glass door shattered, fled upstairs and locked himself in his bedroom. However, the experience so terrorized Paul that he lost most of his hair and received months of counseling for post traumatic stress.

Paul was so upset that he wrote a letter to the editor of the Foothills Gazette newspaper. In the published letter Paul claimed that Dottie had watched over the hedge as Harlan broke in, and that she was laughing and yelling "get some" at Harlan the whole time.

Dottie countered with her own letter to the editor of the Gazette. She knew that Paul owned a local meat market, so she falsely claimed in her letter published in the Gazette that Paul mixed domesticated cat meat into the hamburger sold at the meat market. Sales of Paul's hamburger began to decline not long thereafter.

What are Paul's causes of action against Dotty and what are her defenses, if any? Analyze.

What are Dottie's causes of action against Paul and what are his defenses, if any? Analyze.