

### QUESTION 1

It looked like the entire population of Center City had gathered at the lakefront to witness Jane's attempt to set a new women's world record for free diving. Using no breathing device, wearing just a bathing suit and goggles, Jane would descend to the bottom of Shadow Lake, the deepest body of water in North America, and hopefully return to the surface. A steel cable was affixed from the dive platform to the lake bottom, 300 feet below. Jane would descend along the cable to the bottom where she would find a brass ring attached by a breakable tether; Jane's return with the ring would prove the full descent.

Tom, Jane's coach, conducted last minute equipment checks with his team. Andy, one of the team members, assured Tom that he had checked that the brass ring was properly held only by the breakable tether; in fact, Andy had forgotten to remove the stronger plastic tie used to secure the brass ring to the cable for the trip to the lake, but he was unwilling to admit his error.

County paramedic Sue had donned scuba gear; she would be in the water as an emergency rescuer. The compressed air in the tank on Sue's back would inflate human lungs compressed by water pressure, but only to a depth of 200 feet. Sue, an experienced diver, knew she could not safely go deeper.

Sports commentator Rick was decrying Jane's attempt to his nation-wide television audience: "Women are meant to have babies; they aren't designed by nature to compete with men in events like this. I have seen genetic test results that show Jane is actually a man; this whole event is a fraud by 'Mister Jane!'" There had been no such genetic test. Spectator Pam jumped in front of the camera and shoved Rick, shouting "Someone should do a genetic test to see if you're even human, jerk!" Rick's assistant Matt pepper-sprayed Pam, who fell to the ground choking, her lungs—damaged by years of work in a coal mine—unable to pull air through her now-inflamed throat. All the city and county emergency medical personnel assigned to the event had gathered in the artisan doughnut tent at the other end of the beach. Despite efforts by some bystanders, Pam died in moments.

With a last wave to the crowd, Jane launched herself into the depths. Overcome by shame, Andy confessed to Tom that he forgot to free the brass ring at the bottom of the cable. Tom hit the emergency alarm switch, which sent a signal to paramedic Sue. Though Sue knew she was already at her maximum safe depth, she shed her buoyant air tank and began swimming rapidly down the cable in pursuit of Jane. On the dive platform, Tom engaged the large winch motor which would pull the cable and Jane to the surface. The motor had been certified to be in good order by the electrician employed by the City, who had been drinking heavily that day and hadn't actually inspected it. The motor stopped.

Jane reached the bottom of the lake and tugged at the brass ring, which didn't release. Jane immediately began her ascent without the ring. She didn't see Sue's lifeless body as she rose quickly. She reached the surface just as the speedboat carrying more paramedics raced up. The boat's spinning propellers severed both her arms; she survived but never swam again.

A photo of Tom, his face contorted by grief, ran in a national paper the next day, with the caption: "Jane's coach seen laughing after tragic accident."

Discuss the applicable doctrines of tort law presented in this situation.

**QUESTION 2**

Tim's dream of owning a classic British sports car had come true. Just minutes after giving his life savings to the prior owner, Tim was motoring along the freeway for home in his red 1963 Fitzhugh Antelope. The glares and curses from other drivers at the cloud of blue smoke emanating from the Fitzhugh's tailpipe seemed to Tim to be looks of envy and words of congratulations. Thinking some music would drown out the honking of those envious peasants, Tim flipped the switch on the dashboard radio. The car's engine instantly died; Tim pulled to the shoulder of the highway.

Returning from her week-long yoga and meditation retreat, Lynn saw the chance put her love for all humanity into action when she saw Tim standing forlornly next to his deceased car. She hit her brakes hard and slewed to the right, nearly taking out a family in a minivan, but succeeded in parking on the shoulder just behind Tim.

"Having some trouble in this world of change?" asked Lynn. "My new car...my new old car...won't start again. I guess I should call a tow truck," Tim replied. Lynn shook her head. "That will be expensive, Let me tow your car to the next exit; we'll find a mechanic there, I'm sure." Tim looked dubiously at Lynn's tiny car, covered with bumper stickers and mandalas. "Well, OK. Do you have a rope or something?" he asked. "I'll get one and be right back!" Lynn declared. Jumping into her car, Lynn drove to the supermarket at the next exit.

The market had two coiled lengths of rope for sale. Lynn chose the much thicker, heavier rope, persuaded by the brightly colored, 3 inch high lettering on the label that proclaimed it to be "SUPER CABLE! SECURES ANYTHING! NO JOB TO TOUGH FOR SUPER CABLE!" She didn't see the tiny print just above "Acme Rope Co.", which stated "Rated test strength 40 lbs", roughly the same capacity as household twine.

Minutes later, she and Tim had tied a mass of knots connecting her rear bumper and Tim's front bumper with 6 feet of rope. Tim got behind the wheel of his car and nervously waved at Lynn, who hit the accelerator, sending both cars forward along the shoulder at the pace of an elderly snail. When they got to 10 miles an hour, Lynn pulled suddenly into the traffic lane, ignoring Tim's shrieks of terror and the blaring horns of the enraged drivers around them.

Tim changed his mind about towing his car and hit the brakes. The Acme brand Super Cable instantly snapped, catapulting Lynn's car into the back of the car ahead. Lynn and other driver Deb both pulled off the road and immediately began exchanging blows. Deb's right uppercut sent Lynn reeling backward into traffic, where she was struck by Gene on his motorcycle going 115 mph between lines of cars stopped to watch the fight. Lynn and Gene were both badly injured. Tim, mindful of Lynn's kindness in trying to help him, ran forward and began kicking Gene's inert body. Bystanders physically subdued Tim, but it was too much for his heart, weakened by years of video game and methamphetamine addiction; Tim died at the scene. Paramedics rushed Lynn and Gene to the hospital. Lynn survived but Gene did not.

At this time, valid state Roads and Vehicles Statute 101 provided: “Only those persons licensed as tow truck drivers, in approved vehicles, may tow another vehicle on the highway.”

Discuss the applicable doctrines of tort law presented in this situation.