

QUESTION 1

Starz v. LiteSpeed/Lucy Trade Libel/Injurious Falsehood LiteSpeed CEO Lucy's comments re the Chairiot likely held to be permissible puffing/unfavorable comparison; distinction to be drawn here with Lucy's simultaneous defamation of Ivan, see infra. 3 points

Ivan v. Lucy Defamation Lucy's claim that Ivan had designed torture instruments for the Russian secret police may have been intended to merely cast aspersions on the Chairiot, but the statement refers explicitly to Ivan's past conduct, conduct that many would find reprehensible. Facts silent as to whether the claim is true. Essential analysis of whether Ivan is a public or private figure and if the subject is a matter of public interest to determine what degree of First Amendment protection to be afforded Lucy's speech. 7 points

Ted v. Starz Neg/Defective Product Because Ted, an engineer, modified the sensors and control unit of the Chairiot, common law doctrine of defective product would not be provable, as the product had been materially altered in a way that caused or contributed to the harm. As to Ted's likely alternative cause of action for negligence, claiming that such consumer modification should have been foreseeable to Starz and either designed to prevent or adequate warnings thereof, Ted cannot show actual damages caused by the Chairiot, so that C/A fails also. 4 points

Pedestrian Lee v. City Fire Dept. Negligence Lee's estate could possibly bring both survival action and/or wrongful death claims, as all jurisdictions now have such statutes modifying the common law. Wrongful death addresses the losses incurred by Lee's beneficiaries; the survival cause of action continues the claims for Lee's personal injuries suffered until his death.

The fire engine's reasonable attempt to avoid Ted in the intersection may have made the subsequent accident that crushed Lee unavoidable, unless the truck was being driven in an unreasonable manner—e.g., too fast in the situation even for an emergency vehicle, and even then Ted's wrongful entry into the intersection would likely constitute a superseding cause to relieve the fire department of liability. 4 points

Pedestrian Lee v. Ted Negligence Same survival/wrongful death suits by Lee's estate, but more success against Ted, whose tampering with the Chairiot's control unit was the actual cause of the accident that killed Lee. Lee's death resulted from a natural and uninterrupted chain of events beginning with Ted's failure to heed the approaching siren by pulling over and then speeding on an uncontrolled Chairiot—the fire engine's broadcast of the signal to change all lights in its path to green was a preexisting and known possibility Ted failed to consider--so Ted was also the proximate cause of Lee's death. Ted owed a duty of reasonable care to others foreseeably at risk on the public street, so all elements of the Negligence C/A are satisfied. 6 points

Ted v. motorcyclist Julie Battery Julie's vigilante act of pulling Ted from his Chairiot clearly a harmful touching, but strong argument that she may have acted reasonably in defense of

others after seeing Ted's repeated speeding through intersections and the havoc—including Lee's death—that it produced. 4 points

Burning building's owner v. Lewistown Fire Dept. Negligence Issue of whether a sufficient special relationship between plaintiff and fire dept created a duty that otherwise does not exist at common law. If so, fire dept not liable for the delay cause by the first truck's accident, but would be liable for any additional damage caused by misdirection of second fire truck to wrong address. The fact that truck was enroute to the wrong address when it was hit by Gina's ambulance likely relieves Gina and her employer of liability to the property owner for additional delay. 2 points

Lewistown v. Gina/ambulance company Negligence Issue is question of whether Gina breached duty owed to other vehicles on the highway when her attention drawn to struggling Ted. If so, liability for damage to fire truck. This question answerable in part by determination of whether Ted should even have properly been in the ambulance: was Gina acting properly in a medical emergency by restraining and transporting the unwilling Ted or was she committing battery/false imprisonment (see next). 3 points

Ted v. Gina/ambulance company Negligence Gina owed her patient the same duty of care to operate the vehicle in a reasonably safe manner that Gina owed the other drivers on the street, so whether she is liable—and possibly the ambulance company by respondeat superior—to Ted determined by the same question of possible breach as above. For indivisible injury discussion, see section below. 3 points

Ted v. Gina/ambulance company Battery and False Imprisonment While Gina will claim Ted's medical condition constituted an emergency justifying her otherwise wrongful touching and restraint of Ted, unless expert proof that a person suffering such injuries cannot make a rational decision to decline medical care or that Ted would have died without immediate attention, Ted's lack of consent would make Gina liable for both torts. Under doctrine of respondeat superior Gina's employer liable for Gina's torts committed in the course of her employment. While that would certainly cover her possibly negligent driving, employer would claim Gina's intentional torts, if any, were not within the scope of employment. Question of proof regarding Gina's duties and training based determinable by facts not provided. Ted's injuries from the accident alone, if separable from the injuries she suffered from Julie's actions, would be compensable under either the negligence or intentional tort causes of action. 6 points

QUESTION 2

Anna v. MegaBrands/Al Nuisance/Trespass to Property While there was a physical intrusion to Anna's property caused by a conscious act (spraying chemical fertilizers) and therefore a trespass to property, it was a lawful act that the facts don't state could be done without some limited incursion on Anna's property of the chemicals, so more properly labeled a nuisance. Damages to Anna's organic property which might not have damaged other commercial farms, but provable damages regardless. 8 points

MegaBrand v. Nora/Anna Intentional interference with business relationship Clear intent by Anna's attorney to disrupt business between MegaBrands and NuCrop by misrepresentation; no privilege applies. Issue as to whether Nora, Anna's lawyer, was acting as Anna's agent so as to make Anna liable under respondeat superior; plaintiff would have to show Anna was aware of this intentional wrongful act and endorsed it. 7 points

Anna v. MegaBrand Malicious Prosecution MegaBrand knew false allegation likely to result in criminal prosecution, which was dismissed in Anna's favor. Anna likely to recover for this tort. 6 points

Anna v. District Attorney/Sheriff Violation of Civil Rights Anna likely has a 1983 action against these agents of the state for wrongful acts under color of law. District attorney likely covered by common law absolute immunity given prosecutors. Sheriff less protected but his or her complicity in the wrongful prosecution uncertain under facts given. 7 points

MegaBrand v. Jim Abuse of legal process By misusing the authority of the Farm Bureau to issue an improper "stop work" order Jim is liable for the damages of MegaBrand's month of lost production. 6 points

Jill v. Anna's estate Negligence Anna's intentional burning of her own shed to commit suicide showed no intent to trespass on Jill's adjoining property or damage her personal property, but it may have been a negligent act. Breach of a duty of care causing damages must be proved by the plaintiff. Jill may try to invoke the doctrine of negligence *per se* to show breach of a statutory duty, but here the statute refers to its intended objective as "maintaining air quality" not to protecting property from fire. 8 points