

QUESTION 2

(one hour)

Late one night Bob left home in the family car. As he was leaving Bob told his wife Ruth that he was going to the store to pick up a quart of milk. Neither Bob nor the car were ever seen again.

Shortly after Bob left, a plane from A Airlines crashed into a street that happened to be on the way Bob might go to the store. The force of the crash was so great that all occupants of the plane were killed, and any object hit by the plane was incinerated beyond recognition. Ruth sued A Airlines, alleging that its plane had negligently caused Bob's death.

At the trial, Ruth's attorney called Walt, a friend of Bob's, who had been driving near the crash. An hour after the crash, Walt had told the police that shortly before the plane went down, he had seen Bob driving toward the site of the crash. At the trial, when Ruth's attorney asked whether he had recognized anyone driving toward the crash location, Walt testified that he could not remember. Ruth's attorney then handed a copy of the police report containing his statement to Walt, and asked whether he would remember whether he had seen anyone after reading the report. Walt read the report aloud to the jury. Then Ruth's lawyer moved the report into evidence as a business record.

Later, Ruth's attorney offered into evidence a transcript of Tom's testimony from an earlier trial of a lawsuit brought by the family of one of the plane's passengers who had been killed against a mechanic who had fallen asleep instead of servicing the plane immediately before it took off. Tom had died after giving the testimony.

Finally, A Airlines' attorney called Sam, a passenger in Walt's car. Sam had been nearly asleep when the plane crashed. The attorney asked Sam whether, just before the plane crashed, Walt had said that he had better stop drinking so much late at night because getting drunk impaired his vision.

What objections should the attorney's make to the opposing party's question? What grounds should be stated for the objections? And, how should the judge rule? Ignore objections to the form of the questions and the best evidence rule.