

### Question 1 Issue Outline

**Tom v. Meg** Trespass to Chattel (define) No evident legal justification for Meg's meddling with Tom's tires. Possible subsequent liability for bicyclist Mike's death; see **Mike v. Meg**, below. 3 points

**Tom v. Ira** Negligence (define) No damages to Tom—he hadn't yet purchased the jar of cherries—so no negligence provable here. Related issues: Argument that this incident was an actual cause and the proximate cause of Sue's subsequent slip and fall unavailing, as no evident damages to Sue, either. The gun which then went flying to strike Norm probably too attenuated (unforeseeable) from this initial accident to satisfy proximate cause on that action. 3 points

**Ira v. Tom** Assault (define) No assault; Tom's was a qualified/conditional threat. 2 points

**Tom v. Ira** Battery (define) Ira's harmful touching of Tom may be justified as self defense if shown that 1) Ira reasonably believed Tom was an imminent threat and 2) Ira's actions were proportionate to the threat. That possible defense evaporated however, once Tom was disabled and lying on the floor after Ira's first kick. Ira's continued kicking failed on both tests given above, and constitute an actionable battery. Ira may be found jointly liable with Norm for Tom's ultimate and likely indivisible injury (his death). 5 points

**Norm v. Sue** Negligence Sue's duty to others generally—to avoid subjecting them to unreasonable risk of harm—may have been breached when she hurriedly pushed open the heavy door into Norm's nose. She will claim the defense of emergency as justifying her hurry.

Sue's lose of control of her pistol—which went flying and hit Norm—was not a conscious act, so no negligence there. Question of the reasonableness of her pulling weapon in the store, but arguably necessary to stop two assailants from kicking Tom, and not a precursor act of negligence, as not reasonably foreseeable that it would go flying and hit a bystander. 4 points

**Tom v. Norm** Battery Norm's belief that he was kicking the person who had opened the door into his nose was a mistake of fact, which is no defense. His battery, even had it been on Sue, would not have been legally justified in any event. Liable for this battery and likely a joint tortfeasor liable with Ira for Norm's death, if an indivisible injury. 3 points

**Trapped Customers v. Sue/Store** False Imprisonment (define) Sue was aware of the consequences of locking all the exit doors; possible defense of emergency, but facts suggest it was not a reasonable act under the circumstances. Sue's apparent employer not liable under respondeat superior for intentional torts by employees unless authorized; argument that giving her the lock-activation device was such authorization. 3 points

**Trapped Customers v. Sue/Store** Negligence Sue may have breached duty of care by locking all doors. Store may then be liable for Sue's neg under respondeat superior doctrine if Sue an employee. Possible also that Store liable for independent act of negligence in it's hiring/training/or supervision of Sue. 4 points

**Tom v. Norm** Trespass to Chattel/Conversion For Norm's taking of the car keys and car. If both returned within a reasonable time to Tom (his estate) then Trespass the C/A; if the car not returned timely or substantially damaged so as to justify Tom's estate obtaining full value, then Conversion. 2 points

**Store v. Norm** Trespass to Chattel and Conversion Conversion of at least the one bottle of brandy Norm opened—now unsellable. If the remainder of the case returned to the store, it would be trespass to the remaining bottles. If kept as “evidence” and given by the cops as holiday gifts, then Norm liable for the Conversion of all. 2 points

**Mike v. Norm** Negligence Norm failed to operate the car in a reasonably safe manner. Norm will argue that he could not have knowledge of the unsafe condition (the flat tires) and attribute Mike's injuries to Meg's meddling with the tires, but Norm had duty to know before operating the (stolen) car. Likely liable for Mike's death and damaged bicycle. 3 points

**Mike v. Meg** Negligence While foreseeable that injury to others could occur from the flattening of 2 tires, especially on the side away from the driver's view in approaching the car, Meg will likely be successful in arguing that her breach of the duty of care to others was superseded by Norm's intervening (criminal) act. 4 points

### Question 2 Issue Outline

**Jim & Hikers v. Ruth** Negligence (define) Question of Ruth's duty to disclose truth about her proposed alternate route. Special relationship existed with Hikers and Jim, as Ruth was the only certified guide present. Ruth's breach was a substantial factor in deaths of all, including helicopter crew. 7 points

**Hikers v. Jim** Negligence Did Jim's eagerness to keep to schedule result in his breach of the duty of care he owed his group. Facts suggest he was unaware of the risk of the alternate trail, which is why he asked Ruth and relied on the more experienced guide's recommendation. If Jim liable for the choice, he may be a joint tortfeasor with Ruth, though he would argue her intentional tort of conversion of the bridge constituted a superceding act that would sever the chain of causation to Jim. 6 points

**Al v. Jim** Battery (define) Jim's first intentional and possibly offensive touching of Al may have been justified by Jim's apprehension of the approaching storm and their danger. Jim's second touching of Al was clearly justified in Jim's attempt to save Al from the flood. 3 points

**Owner of wooden beam bridge v. Ruth** Conversion (define) No evident defense. 4 points.

**Jim & Hikers v. Ruth** False Imprisonment (define) At time of Ruth's removal of the bridge, she reasonably believed the hikers would have to simply retrace their steps back up the trail; no FI. 4 points

**7 dead hikers and helicopter crew v. Megan/Sheriff's Dept.** Negligence To successfully use Megan's violation of the statute to show negligence *per se*, plaintiffs would have to show: 1) that they were among the set of persons the legislature intended to protect when the statute enacted (seemingly) and 2) that the harm they suffered was the type of harm the legislature intended to prevent with the statute (yes, preventing helicopter crashes). Those elements satisfied, plaintiffs have shown duty and breach, but would still need to prove causation and damages. Damages shown, but no actual causation; Megan's overloading of the helicopter (the violation of statute) was not the cause of the crash—the lightening was the actual cause of the crash.

Megan (her estate) would also raise the defense of emergency/necessity. Expert testimony would establish whether, given the situation she faced, a reasonable pilot would have done the same.

If Megan not liable, Sheriff's office not liable under doctrine of *respondeat superior*.  
14 points