

## ISSUE OUTLINE--QUESTION 1

### Poisoned juice-drinkers v. Norm Strict Liability/Keeping of Wild Animal (Define)

Norm's possession of the dangerous-by-law poisonous lizard in his apartment subjects him to strict liability for the harm caused—the poisoning of the drinkers of the tainted juice. This assumes the existence of a wrongful death statute in this jurisdiction.

Norm will claim his liability to those plaintiffs was severed by Jill's Juice's sale of the defective product/neg in the deficient inspection/manufacturing process, most especially the recent reduction in the number of inspectors to save money, as an intervening act (the deficient inspection on the day of the Jalla contamination) constituting a superseding cause. Given the inclusiveness of strict liability, very likely Norm will be found a joint tortfeasor with J's Juice, which has inescapable product liability for the harm caused. 7 points

Poisoned drinkers v. Jill's Juice Product Liability (Define) J's Juice will be liable for the harm caused by the tainted juice, resulting from a manufacturing defect (some of the product harmful) regardless of Norm's possible liability as well. J's was the manufacturer of a defective product that reached foreseeable consumers in unchanged condition. Whether the lizard's intrusion could have been prevented is immaterial to J's liability, though it could go to question of punitive damages if jury finds Paul's reduction in number of inspectors created additional hazard for consumers. As to Plaintiff Tess, J's possible claimed defense of assumption of the risk unavailing, as Tess's particular statement that she feared no bacteria indicates she was unaware of the risk of Jalla poison, so she cannot be found to have voluntarily incurred that risk. If Plaintiffs view Norm as unlikely source of money for damages, Jill's could seek contribution for partial payment if, as discussed above, Norm found to be a joint tortfeasor. 10 points

Tess v. Store Product Liability The retailers who sold the juice are liable in tort for the harm caused by the defective product they sold. If successfully sued, each would be able to seek and likely obtain indemnity from J's Juice for any judgment amount, if J's Juice has any assets remaining by then. 3 points

Store v. Tess Conversion (Define) Tess intentionally took the bottle of juice, which, once opened, was of no value to the store. Tess liable for cost of bottle—(though most juries would find she had more than paid for this indiscretion.) 4 points

Jill's Estate v. Jan's boyfriend Defamation (Define) As most jurisdictions now have survival statutes, Jill's estate would likely be able to maintain a defamation suit against Jan's BF, who published a false and defamatory statement to Jan about Jill. It likely qualifies as Slander Per Se, alleging Jill's commission of a crime. BF's possible defense of Jill's need to prove actual malice under *N.Y Times* standard unavailing, as 1<sup>st</sup> Amend protection less likely to be afforded this private defendant and "actual malice" could be proved in either event, as BF knew what he told Jan was false. Even if Jill found to be a public figure at the time (due to fame of her juice) BF likely liable for this defamation. Question of damages for Jill's death as well as the damage to her reputation (cut short by her death, which ended her "reputation"); Jill's conscious act to

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take her life likely to sever the chain of causation, particularly as the damage to her reputation was just one of several factors given as those pushing her to self-destruction. 5 points

Jill's Estate v. Jan/Employer Defamation Jan and her news publisher employer individually liable for the defamation/libel. Defendant's claim that Jill was public figure—possible, given the fame of her juice—and the clear public interest aspect of the tainted juice would require a showing of “actual malice.” Likely plaintiff could show that here as Jan knew the only source of the arrest story was her drunken boyfriend. If they are liable for defamation, damages likely would be only for the injury to her reputation (while she was still alive) and not for her death, as discussed above. 9 points

## ISSUE OUTLINE--QUESTION 2

Sir Designs v. Promoter Lou Intentional Interference with Contractual Relations (Define) Lou acted to cause Del to breach his contractual obligations with Sir, even naming Sir as an undesirable association for Del as a boxer and conditioning his support for Del's boxing career on severing that association. 5 points

Del's Estate v. Lou Intrusion into Private Matters (Define) Assuming the existence of a survival statute in this jurisdiction--Lou's hacking into Del's medical records was an intentional intrusion into very private information about Del, info generally closely held as confidential. Given the egregious nature of this intrusion, the regard for patient confidentiality commonly espoused in the law, and the fatal outcome of the use of that information, punitive damages possible for this intentional wrongdoing. 6 points

Rocko v. Boxing Commissioner Violation of Civil Rights—Section 1983 (define) Acting under authority conferred by his state office, the Boxing Commissioner deprived Rocko of his livelihood without due process and in violation of the 1<sup>st</sup> Amendment's Establishment Clause. Note that the §1983 suit would make the Commissioner himself the defendant, not the Boxing Commission. 7 points

Boxing Commission Inspector v. Slug Battery (Define) Slug intentionally battered the Inspector without evident excuse or defense. Rocko's request that he keep the inspector away, even if construed to be an instruction for physical harm, not a legitimate directive from an employer, as an illicit act/crime, so no respondeat superior liability for Rocko (criminal solicitation/conspiracy a separate class). Inspector cannot win a false imprisonment claim against Slug despite being locked in a closet, as he was unconscious for the entire duration and unaware of his confinement. 6 points

Del's Estate/WD Plaintiffs v. Lou & Rocko Negligence (Define) Del's estate and, if the jurisdiction has a wrongful death statute, his loved ones/dependents likely to prevail in a suit alleging negligence by Lou and Rocko for violation of separate but closely-related duties to Del. Rocko aware of the prior head injury and held to standard of a professional trainer. Promoter Lou culpable by application of Negligence Per Se in that he violated Boxing Commission Reg 164—the required “complete physical examination” impossible when Lou's hacking had deleted essential medical information from the record. The regulation was clearly adopted to protect boxers like Del from the very injury that killed him. Plaintiff's would still have to prove both actual (“but for” their suppression of the doctor's report Del would not have been allowed to fight) and proximate causation. On this latter point, Defendant's claim that the fatal blow was a superseding cause would fail as it was eminently foreseeable. However, Defendants may have a viable defense in claiming that Del assumed the risk of the harm that befell him, as he was likely aware of the doctor's report, but would have to prove that Del understood the likelihood and extent of the actual risk. 14 points