

P R O F E S S O R B E N A L B A
SAMPLE TORTS EXAM QUESTION AND ANSWER

QUESTION

Rana asked Bobbi if she could borrow her SUV in order to transport her used furniture to New Start, a local non-profit. Bobbi hesitated to say yes, because she knew of Rana's propensity for speeding and her numerous prior traffic violations. Despite her reservations, however, because she believed in the mission of New Start, Bobbi agreed to let Rana use her SUV and gave her the keys.

That night, Rana drove carefully and dropped off her furniture at the New Start resale store. Eager to get home, she sped as much as 25 miles over the speed limit on the return drive. While rounding a curve on I-55, she lost control of the SUV, which tumbled off a ramp and down a hill, crashing into a small tree.

Sean happened to witness the incident and ran down the hill to help, but in doing so, he stumbled in a hole and severely sprained his ankle. Rana emerged from the SUV dazed but without a scratch. The SUV, however, was crumpled.

An ambulance took Sean to the hospital, where the E.R. doctor taped up his ankle, gave him crutches, and prescribed 12 weeks of physical therapy. The sprain prevented Sean from opening his new home remodeling business for another three months.

1. Can Sean recover his medical and therapy costs? From whom? Explain.
2. Can Sean recover the income lost from the three-month delay in opening his business? From whom? Explain.
3. Discuss any issues of joint and several liability as applied to Sean's claims.

ANSWER

1. The first issue is whether Rana or Bobbi can be held liable to Sean for the injuries he suffered while attempting to rescue Rana. To prove a *prima facie* case of negligence, a plaintiff must show that (1) defendant had a duty of reasonable care to protect foreseeable plaintiffs in the zone of danger; (2) that defendant breached that duty; (3) causation (both causation in fact and proximate cause); and (4) resulting damages.
 - a. **Sean v. Bobbi (negligent entrustment).** Sean has a claim against Bobbi, the owner of the SUV driven by Rana, for negligent entrustment. A motor vehicle owner has a duty not to allow a known negligent or reckless driver to use the vehicle. Here, despite knowing that Rana was a habitual speeder with a record of numerous traffic violations, Bobbi breached this duty by entrusting (i.e., lending) Rana her SUV. Therefore, Bobbi is liable for any foreseeable damages caused by Rana's driving, which would reasonably

Sample Torts Exam Answer

Christian Drosten

A red circular graphic with a gradient, appearing as a stylized arrow or a decorative element, located to the right of the author's name.

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Table of Contents Sample Torts Exam Answer

1. Understanding the eBook Sample Torts Exam Answer
 - The Rise of Digital Reading Sample Torts Exam Answer
 - Advantages of eBooks Over Traditional Books
2. Identifying Sample Torts Exam Answer
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Sample Torts Exam Answer
 - User-Friendly Interface
4. Exploring eBook Recommendations from Sample Torts Exam Answer
 - Personalized Recommendations
 - Sample Torts Exam Answer User Reviews and Ratings
 - Sample Torts Exam Answer and Bestseller Lists
5. Accessing Sample Torts Exam Answer Free and Paid eBooks
 - Sample Torts Exam Answer Public Domain eBooks
 - Sample Torts Exam Answer eBook Subscription Services
 - Sample Torts Exam Answer Budget-Friendly Options
6. Navigating Sample Torts Exam Answer eBook Formats

- ePub, PDF, MOBI, and More
- Sample Torts Exam Answer Compatibility with Devices
- Sample Torts Exam Answer Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Sample Torts Exam Answer
 - Highlighting and Note-Taking Sample Torts Exam Answer
 - Interactive Elements Sample Torts Exam Answer
- 8. Staying Engaged with Sample Torts Exam Answer
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Sample Torts Exam Answer
- 9. Balancing eBooks and Physical Books Sample Torts Exam Answer
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Sample Torts Exam Answer
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Sample Torts Exam Answer
 - Setting Reading Goals Sample Torts Exam Answer
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Sample Torts Exam Answer
 - Fact-Checking eBook Content of Sample Torts Exam Answer
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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