

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

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David Oughton, Barbara Harvey

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

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