

3. On which of the following facts is it most likely that a court would not require the plaintiff to prove specific facts showing of breach of duty?
- (A) Andrew was riding his motorcycle when he was hit by a tanker truck operated by Hexetron Dental Amalgams LLC, whose driver was goofing off and not paying attention. Andrew suffered severe injuries. He sues Hexetron Dental Amalgams LLC for negligence.
 - (B) Bartholomew had an appendectomy at Nashlanta Regional Medical Center. It is the only surgery he has ever had. Three years later, an x-ray reveals a metal surgical instrument inside his abdomen. The instrument has caused minor injuries and will require surgery to remove. Bartholomew sues Nashlanta Regional Medical Center for the injuries.
 - (C) Carolyn was shopping at Cut'n'Run convenience store when a portion of the roof collapsed, causing Carolyn to be injured. Carolyn sues Cut'n'Run for the injuries.
 - (D) Daria took Voralex (vlithiarid voralide) as prescribed by her physician. The Voralex caused severe liver damage. Daria sues her physician for her injuries.
 - (E) Elwood was injured in a crash of an airliner operated by Oceanic Airlines, a major international airline. Elwood sues Oceanic for the injuries he sustained in the crash.
4. The HexSync 3000 is a sensitive hand-held instrument for calibrating still other sensitive hand-held instruments. Who owes the highest duty of care with regard to the HexSync 3000?
- (A) a bailee, who borrowed the HexSync 3000 for a purpose solely benefiting the bailor
 - (B) a bailee, who borrowed the HexSync 3000 for a purpose mutually benefiting the bailor and bailee
 - (C) a bailee, who borrowed the HexSync 3000 for a purpose solely benefiting himself (i.e., the bailee)
 - (D) a two-year-old boy, who is playing with the HexSync 3000
 - (E) a farmer, who lived 125 years ago and is the great-great-great grandfather of the inventor of the HexSync 3000.

NOTE THE FOLLOWING FACTS FOR QUESTIONS 5 AND 6:

Garth is smitten with Jill, and he invites her over to his house for dinner. To Garth's delight, Jill accepts. They have a pleasant dinner and then sit together on the couch enjoying a drink. Jill asks Garth if he would excuse her for a few moments, as she needs to make a private phone call. She suggests that she go into the backyard to make her call so that she can enjoy the crisp, early winter air and crystalline starry sky. Garth says that would be fine, but, he warns, "Watch out for the gigantic

naturally occurring quicksand pit. It's way back past the shed. As long as you stay between the house and the shed, you'll be fine." Jill thanks Garth and excuses herself.

While wandering around the backyard talking to her mother, Jill becomes absent-minded and walks past the shed. She soon comes upon the quicksand pit, and GLURP! Jill is sucked under.

Meanwhile, Wolfgang, who is looking for his lost cat in the town's nature preserve, wanders into Garth's backyard. Wolfgang has no reason to suspect that there is a quicksand pit, and, in fact, Wolfgang is not even aware that he has wandered out of the bounds of the nature preserve and on to Garth's private property. Wolfgang walks slowly, listening for faint meows, and GLURP! Wolfgang falls in.

Garth, waiting for Jill, is somewhat worried. Has he done something to offend Jill? Did she simply invent the phone call as a reason to leave without saying good-bye? Suffering a panic attack, Garth passes out.

At some point in the middle of the night, Rafaella, who is in her own backyard, hears Wolfgang's and Jill's cries for help. Rafaella has never heard of the quicksand pit either. She enters Garth's backyard to investigate. Rafaella calls out as she approaches, "Is someone in trouble?"

"Yes! Help us! Help us!" Wolfgang and Jill yell.

Rafaella picks up her pace as she steps through the dark and GLURP! Rafaella sinks into the pit.

Jill, Wolfgang, and Rafaella all end up spending several hours in the quicksand pit, during which they receive severe injuries from cold and exposure.

5. Which of the following statements is most correct regarding Garth's liability?
 - (A) Garth is liable in negligence for Jill's injuries, but not Wolfgang's.
 - (B) Garth is liable in negligence for Wolfgang's injuries, but not Jill's.
 - (C) Garth is liable in negligence for Jill's injuries and Wolfgang's injuries.
 - (D) Garth is not liable in negligence for either Jill's injuries or Wolfgang's injuries.
 - (E) Garth's negligence liability is unclear, but it is clear that he is liable for the tort of implied consent.
6. Which of the following statements is most correct regarding the liability of Jill?
 - (A) Jill is liable for Rafaella's injuries.
 - (B) Jill is not liable for Rafaella's injuries because Wolfgang is liable.
 - (C) Jill is not liable for Rafaella's injuries because Garth is liable.
 - (D) Jill is not liable for Rafaella's injuries because Rafaella, herself, is liable.
 - (E) Jill is not liable for Rafaella's injuries because Rafaella had no affirmative duty to help.



7. It is 5:45 p.m. on Friday at the University of Arkassippi's biosafety-level-4 laboratory for the study of hemorrhagic fevers. Karen and Suzanne are each in separate atmospherically isolated research chambers where they have spent a long day in pressurized suits working with samples of the newly discovered H9 strain of the Ebola virus – a rare, extraordinarily contagious, and highly lethal virus that infects humans and causes death within days as a result of massive bleeding throughout the body. Communicating by intercom, the women hatch a plan to take a car trip to the big city of Nashlanta, five hours away, to check out a hot new night club, Sensations. Realizing they will have to hurry, the women each move hastily through the decontamination procedures, skipping certain steps that are prescribed by protocol and which are objectively reasonably necessary, but which Karen and Suzanne each consider needlessly redundant. They dart through their respective airlocks, change into their clubbing clothes, and hit the road. At Sensations, after several drinks, the women descend on Tim, a handsome investment banker and single dad. Grabbing him to the dance floor, they all engage in dancing with Tim that involves very close body contact. Seven days later Tim is found in his apartment having bled to death. Tests quickly determine Ebola-H9 to be the cause. Now, fast forward several months. Karen and Suzanne are sued by Tim's minor children. Expert testimony at trial establishes the following: The virus particles that transmitted the hemorrhagic fever to Tim escaped the laboratory because of steps skipped in the decontamination procedures. The virus particles that transmitted the hemorrhagic fever to Tim are equally likely to have come from Karen or Suzanne. It is also possible that such particles came from a combination of both women, but there is a 90-percent likelihood that only one of the women transmitted the virus to Tim.

Which of the following is most accurate?

- (A) Tim's minor children can recover against Karen and against Suzanne on the basis that each had a land-owner/occupier duty to warn of the concealed condition of the Ebola-H9.
- (B) Tim's minor children are entitled to a judgment against Karen and against Suzanne because each is a proximate cause, even though neither is an actual cause, of Tim's death.
- (C) Tim's minor children can make out a prima facie case establishing liability against Karen and against Suzanne for Tim's death, shifting the burden of proof to each woman to disprove, by a preponderance of the evidence, that her actions were not a but-for cause of the transmission of the virus to Tim.
- (D) Tim's minor children probably cannot recover against Karen or against Suzanne because neither woman's allegedly negligent actions are likely to be found to be the proximate cause of Tim's death.
- (E) Tim's minor children are not entitled to a judgment against Karen or against Suzanne because it cannot be established that it is more likely than not that any particular defendant's actions were an actual cause of Tim's death.

8. In which of these situations is Randall most clearly liable in negligence?
- (A) At half past midnight, hoping to impress his girlfriend who is waiting in a parked car, Jared hops a 10-foot chain-link fence onto Randall's property to pick some roses out of Randall's garden. Feeling his way through the darkness, Jared trips over a tangled clump of thick electrical cord and falls into a koi pond. The cord is more than 75 years old and has visibly broken insulation. When it contacts the water, the cord shoots 240 volts of alternating current into the pond and through Jared's body. Jared is unable to escape the pond as the electrical current locks his muscles in a continuous state of contraction. The electricity does not cut out, since Randall previously circumvented the circuit breakers to the garden outlets. Jared suffers severe, lasting, and permanent damage to multiple internal organs.
 - (B) Lord Marbury has accepted Randall's invitation for a game of croquet in the garden on a Sunday afternoon. While walking to the fourth wicket, Lord Marbury suddenly disappears through the ground in a spray of dust and mulched grass clippings. Peering through the resulting hole, Randall sees Lord Marbury 20 feet below, writhing in agony from two broken tibias, surrounded by rotting wooden wine barrels. "I'm so sorry!" Randall calls down to Marbury, "I had no idea!" Then Randall whispers to himself under his breath, "I should have inspected this property for abandoned underground wine cellars before inviting people to play on the lawn."
 - (C) Down below Randall's house and gardens, next to an elementary school, is an unimproved tract of land with a glen of trees in a steep ravine. As Randall knows, the creek at the bottom of the ravine is prone to flash flooding in winter. This is where Randall decides to stow his collection of 15-foot-tall statues of the Care Bears. Able to see a glimpse of Funshine Bear from the four-square courts, more than a dozen kindergartners climb on to Randall's property and down into the ravine, where a sudden deluge drowns three children and injures nine more.
 - (D) Following the injuries to Jared, Lord Marbury, and the kindergartners, Randall hires the very reputable Slayton Engineering Group to thoroughly investigate his entire estate for any hazards that might injure anyone. The firm gives Randall's property a clean bill of health. The next week, at the bed-and-breakfast that Randall operates on the far corner of his property, a just-married couple staying in the honeymoon suite is killed when carbon-dioxide from volcanic activity under the property (never previously known in the area) seeps out and smothers the newlyweds overnight.
 - (E) Extremely upset about the undiscovered volcanic-gas condition, Randall calls up Slayton Engineering Group and leaves a voice mail: "Could you please come out to the bed-and-breakfast and re-inspect that portion of the property as soon as possible? Thanks." While on site hours later, two SEG engineers are overcome by the gas and die.

9. Which of the following is most likely not to occasion an action for strict liability in favor of Harold?
- (A) A horse, owned by Ned, walked on to Harold's property through a broken section of fence and ate apples right off Harold's apple tree. The apple tree was cultivated as part of a personal garden, not as part of a commercial orchard.
 - (B) An axle on a wheelbarrow snapped, causing Harold, who was pushing the wheelbarrow, to stumble, fall, and sprain his ankle. The axle was manufactured with small cracks – missed in the quality control process – that eventually enlarged to cause the break.
 - (C) Harold slipped on a puddle of silicone-based lubricant in the aisle of Depew's Home Improvement Store, causing him to break his wrist. The store was open to the public and operated for a profit.
 - (D) Harold returned from the state meeting of the Rose Gardening Association to find his yardbarn burned to the ground. His neighbor, Ned, saw the whole thing: The fire was started by a block of burning rocket propellant that fell from the sky. It was later established that the propellant block came from the failed test of a new intercontinental ballistic missile. The test was conducted by Hexetron Aerospace and Defense Systems, Inc.
 - (E) Visiting at Ned's house, Harold suffered internal injuries when he was kicked by Ned's zebra – part of Ned's exotic wild animal collection. The zebra had never previously exhibited any aggressive or harmful behavior and was, in fact, certified by a veterinarian prior to the incident as having "a docile, agreeable, and nonthreatening disposition."

NOTE THE FOLLOWING FACTS FOR QUESTIONS 10, 11 AND 12:

Keisha, Monica, and Santiago are medical doctors and post-doc research fellows at the University of Arkissippi's School of Medicine and Health Sciences. While the three were working hard in the laboratory one day, Santiago suggested they should all take a break and head to the local soda fountain for refreshments. Monica and Keisha didn't want to go, but after Santiago kept talking about it and pushing the issue, Monica and Keisha gave in.

Monica and Santiago hopped in Monica's Mazda Miata, a two-seater car, and Keisha hopped on her Kawasaki scooter. Each party took a different route to the soda fountain, but they crossed paths at the intersection of Harmon Street and Adeline Lane. Monica was approaching on Harmon, and there was no stop sign or yield sign on Harmon where it crosses Adeline. Keisha, traveling on Adeline, failed to come to a complete stop, despite a stop sign on Adeline crossing Harmon. Keisha proceeded through the stop sign because she thought she could beat Monica's Miata through the intersection. Unfortunately, Keisha was mistaken in her assumption, since Monica was going faster than Keisha anticipated. In fact, Monica was driving 57 miles per hour – despite a speed limit of 25.

Monica's Miata collided with Keisha's Kawasaki, knocking Keisha into the air and sending the Kawasaki careening at a 45-degree angle to its previous direction of travel. Vince, a promising young lawyer working with underprivileged children, was walking on the sidewalk. Vince was hit full-force by the careening Kawasaki.

Expert testimony later established two facts: first, Keisha's Kawasaki would not have hit Vince without the force applied by Monica's Miata, and, second, if Monica had been driving the speed limit, the force applied by the Miata would not have been enough to propel the Kawasaki to where Vince was.

10. Note the following statements:

- I. Vince will likely not be able to recover against Keisha, since Keisha's Kawasaki would not have hit Vince but for Monica's negligence.
- II. Vince will likely not be able to recover against Monica, since Keisha's Kawasaki would not have hit Vince but for Keisha's negligence.
- III. Vince will likely not be able to recover against Keisha or Monica, since Vince's injuries were not proximately caused by the actions of either Keisha or Monica.

Which answer below identifies each accurate statement from the above?

- (A) I only
- (B) II only
- (C) I and II only
- (D) III only
- (E) None of I, II, or III

11. Which of the following is most accurate?
- (A) Vince likely will not be successful in a negligence suit against Santiago because none of Santiago's acts was a but-for cause of Vince's injuries.
 - (B) Vince will likely not be successful in a negligence suit against Santiago because none of Santiago's actions constituted a breach of the duty owed under a reasonably prudent person standard.
 - (C) Vince likely will not be successful in a negligence suit against Santiago because *res ipsa loquitur* establishes another party as being at comparatively greater fault.
 - (D) Vince likely will not be successful in a negligence suit against Santiago because of the "last clear chance" doctrine.
 - (E) Vince likely will be able to recover in a negligence suit against Santiago.

NOTE THESE ADDITIONAL FACTS FOR QUESTION NO. 12 ONLY:

At the scene of the accident, Monica and Santiago were completely unhurt. And amazingly, Keisha had only minor scrapes and bruises. After Keisha was thrown from her scooter, she stood up and dusted herself off. Within a minute of the collision, Keisha, Monica, and Santiago had all gathered on the corner opposite to where Vince was lying on the ground, gushing blood from a badly sliced arm. After Keisha dialed 911 on her cell phone, she asked Monica and Santiago, "Should we apply a tourniquet?" The friends discussed the prospect, but they ultimately decided to leave the work to the emergency responders, for whenever they would arrive.

12. In terms of negligence doctrine, which of the following best describes those who had a duty of care to provide first aid to Vince at the scene of the accident?
- (A) Keisha, but not Monica or Santiago
 - (B) Monica, but not Keisha or Santiago
 - (C) Keisha and Monica, but not Santiago
 - (D) Keisha, Monica and Santiago
 - (E) None of Keisha, Monica, or Santiago

13. Ulena owns a very large country estate in the mountains of Virtucky. Note the following:
- I. Jill is a hiker who is trespassing on Ulena's land. Ulena does not know about Jill in particular, but Ulena is aware that hikers sometimes trespass on her land.
 - II. Kelton is a tourist who is going horseback riding on Ulena's property. Kelton is a customer of the riding stables that Ulena operates for a profit.
 - III. Liam is Ulena's friend. He is at Ulena's house for a birthday party to which he was invited.

Which of the following correctly orders the above situations from most expansive to least expansive in terms of the standard of care owed by Ulena with regard to conditions of the land?

- (A) I, II, III
- (B) II, III, I
- (C) II, I, III
- (D) III, I, II
- (E) III, II, I



*FIG 1:
Ulena's
riding
stables
welcomed
adorable
baby
horses
this year.*



**THIS IS THE END OF THE MULTIPLE-CHOICE QUESTIONS.
IF YOU FINISH BEFORE TIME IS CALLED, CHECK YOUR WORK.**

