

*Scott Pearce's Master MBE Method*

*Torts*

***Torts - Official National Conference of Bar Examiners Outline of Testable Issues***

I. Intentional Torts

- A. Harms to the person: assault, battery, false imprisonment, infliction of emotional distress
- B. Harms to property interests: trespass to land and chattels, conversion
- C. Defenses to claims for physical harms
  - 1. Consent
  - 2. Privileges and immunities: protection of self or others; protection of property interests; parental discipline; protection of public interests; necessity; incomplete privilege

II. Negligence

- A. The duty question: including failure to act; unforeseeable plaintiffs; and obligations to control the conduct of third parties
- B. The standard of care
  - 1. The reasonably prudent person; including children, physically and mentally impaired individuals, professional people, and other special classes
  - 2. Rules of conduct derived from statutes and custom
- C. Problems relating to proof of fault, including *res ipsa loquitur*
- D. Problems relating to causation
  - 1. But for and substantial causes
  - 2. Harms traceable to substantial causes
  - 3. Questions of apportionment of responsibility among multiple tortfeasors, including joint and several liability
- E. Limitations on liability and special rules of liability
  - 1. Problems relating to “remote” or “unforeseeable” causes, “legal” or “proximate” cause, and “superseding” causes
  - 2. Claims against owners and occupiers of land
  - 3. Claims for mental distress not arising from physical harm; other intangible injuries
  - 4. Claims for pure economic loss

- F. Liability for acts of others
  - 1. Employees and other agents
  - 2. Independent contractors and nondelegable duties
  
- G. Defenses
  - 1. Contributory fault: including common law contributory negligence and last clear chance, and the various forms of comparative negligence
  - 2. Assumption of risk
  
- III. Strict liability: claims arising from abnormally dangerous activities; the rule of *Rylands v. Fletcher* and other common law strict liability claims; defenses
  
- IV. Products liability: claims against manufacturers and others based on defects in manufacture, design and warning; defenses
  
- V. Other torts
  - A. Claims based on nuisance, and defenses
  
  - B. Claims based on defamation and invasion of privacy, defenses and constitutional limitations
  
  - C. Claims based on misrepresentations, and defenses
  
  - D. Claims based on intentional interference with business relations, and defenses

Questions 1-2 are based on the following fact situation.

Dave is a six-year-old boy, who has a well-deserved reputation for bullying younger and smaller children. His parents have encouraged him to be aggressive and tough. Dave, for no reason, knocked down, kicked and severely injured Pete, a four-year-old. A claim for relief has been asserted by Pete's parents for their medical and hospital costs and for Pete's injuries.

Question 1

If the claim is asserted against Dave's parents, the most likely result is they will be

- A. liable, because parents are strictly liable for the torts of their children.
- B. liable, because Dave's parents encouraged him to be aggressive and tough.
- C. not liable, because a six-year-old cannot commit a tort.
- D. not liable, because parents cannot be held liable for the tort of a child.

Question 2

If the claim is asserted against Dave, the most likely result is Dave will be

- A. liable, because he intentionally harmed Pete.
- B. liable, because as a six-year-old, he should have known that his conduct was wrongful.
- C. not liable, because a child under seven is not liable in tort.
- D. not liable, because he is presumed to be under his parents' control and they have the sole responsibility.

Questions 3-5 are based on the following fact situation.

Poe ordered some merchandise from Store. When the merchandise was delivered, Poe decided that it was not what he had ordered, and he returned it for credit. Store refused to credit Poe's account, continued to bill him, and, after 90 days, turned the account over to Kane, a bill collector, for collection.

Kane called at Poe's house at 7 p.m. on a summer evening while many of Poe's neighbors were seated on their porches. When Poe opened the door, Kane, who was standing just outside the door, raised an electrically amplified bullhorn to his mouth. In a voice that could be heard a block away, Kane called Poe a "deadbeat" and asked him when he intended to pay his bill to Store.

Poe, greatly angered, slammed the door shut. The door struck the bullhorn and jammed it forcibly against Kane's face. As a consequence, Kane lost some of his front teeth.

Question 3

If Poe asserts a claim based on defamation against Kane, will Poe prevail?

- A. Yes, if Kane's remarks were heard by any of Poe's neighbors.
- B. Yes, because Kane's conduct was extreme and outrageous.
- C. No, unless Kane knew that Poe owed no money to Store.
- D. No, unless Poe suffered some special damage.

Question 4

If Poe asserts a claim based on intentional infliction of emotional distress against Kane, will Poe prevail?

- A. Yes, because Kane's conduct was extreme and outrageous.
- B. Yes, because Kane was intruding on Poe's property.
- C. No, unless Poe suffered physical harm.
- D. No, if Poe still owed Store for the merchandise.

Question 5

If Kane asserts a claim of battery against Poe, will Kane prevail?

- A. Yes, because Poe had not first asked Kane to leave the property.
- B. Yes, if Poe knew that the door was substantially certain to strike the bullhorn
- C. No, if Kane's conduct triggered Poe's response.
- D. No, because Kane was an intruder on Poe's property

Question 6

A group of children, ranging in age from 8 to 15, regularly played football on the common area of an apartment complex owned by O'Neill. Most of the children lived in the complex, but some lived elsewhere. O'Neil knew that the children played on the common area and had not objected.

Peter, a 13-year-old who did not live in the apartment complex, fell over a sprinkler head while running for a pass and broke his leg. Although Peter had played football on the common area before he had never noticed the sprinkler heads, which protruded one inch above the ground and were part of a permanently installed underground sprinkler system.

If a claim is asserted on Peter's behalf, Peter will

- A. prevail if the sprinkler head was a hazard that Peter probably would not discover.
- B. prevail, because O'Neill had not objected to children playing on the common area.
- C. not prevail, because Peter did not live in the apartment complex.
- D. not prevail unless the sprinkler heads were abnormally dangerous to users of the common area.

Questions 7-8 are based on the following fact situation.

Gasco owns a storage facility where flammable gases are stored in liquified form under high pressure in large spherical tanks. The facility was constructed for Gasco by Acme Company, a firm that specializes in the construction of such facilities. After the facility had been in use for five years, an explosion in the facility started a large fire that blanketed the surrounding countryside with a high concentration of oily smoke and soot.

Farber owns a large truck farm near the facility. His entire lettuce crop was destroyed by oil deposits left by the smoke.

Johnson, who lives near the facility, inhaled a large amount of the smoke and thereafter became obsessed by a fear that the inhalation would destroy his health and ultimately cause his death.

Question 7

If Farber asserts a claim against Gasco for the loss of his lettuce crop and is unable to show any negligence on the part of Gasco, will Farber prevail?

- A. Yes, because the operation of the storage facility was an abnormally dangerous activity.
- B. Yes, because the intrusion of the smoke onto Farber's farm amounted to a trespass.
- C. No, if the explosion was caused by internal corrosion that reasonable inspection procedures would not have disclosed.
- D. No, if the explosion was caused by negligent construction on Acme's part.

Question 8

If Farber asserts a claim against Acme Company for the loss of his lettuce crop will Farber prevail?

- A. No, if Acme did not design the storage facility.
- B. No, because Acme was an independent contractor.
- C. Yes, because the operation of the storage facility was an abnormally dangerous activity.
- D. Yes, if the explosion resulted from a defect of which Acme was aware.

Questions 9-10 are based on the following fact situation.

Cycle Company manufactured a bicycle that it sold to Bike Shop, a retail bicycle dealer, which in turn sold it to Roth. Shortly thereafter, while Roth was riding the bicycle along a city street, he saw a traffic light facing him turn from green to amber. He sped up, hoping to cross the intersection before the light turned red. However, Roth quickly realized that he could not do so and applied the brake, which failed. To avoid the traffic that was then crossing in front of him, Roth turned sharply to his right and onto the sidewalk, where he struck Perez, a pedestrian. Both Perez and Roth sustained injuries.

Question 9

If Roth asserts a claim against Bike Shop based on strict liability in tort, will Roth prevail?

- A. Yes, if the brake failed because a defect present when the bicycle left the factory of Cycle Company.
- B. Yes, because the brake failed while Roth was riding the bicycle.
- C. No, if Roth contributed to his own injury by speeding up.
- D. No, if Bike Shop carefully inspected the bicycle before selling it.

Question 10

If Perez asserts a claim based on negligence against Cycle Company and it is found that the brake failure resulted from a manufacturing defect in the bicycle, will Perez prevail?

- A. Yes, because Cycle Company placed a defective bicycle into the stream of commerce.
- B. Yes, if the defect could have been discovered through the exercise of reasonable care by Cycle Company.
- C. No, because Perez was not a purchaser of the bicycle.
- D. No, if Roth was negligent in turning onto the sidewalk.

Questions 11-12 are based on the following fact situation:

Morris was driving north on an interstate highway at about 50 miles per hour when a tractor-trailer rig, owned and driven by Dixon, passed her. The tractor was pulling a refrigerated meat trailer fully loaded with beef carcasses hanging freely from the trailer ceiling. When Dixon cut back in front of Morris, the shifting weight of the beef caused the trailer to overturn. Morris was unable to avoid a collision with the overturned trailer and was injured.

The trailer had been manufactured by Trailco. A number of truckers had complained to Trailco that the design of the trailer, which allowed the load to swing freely, was dangerous. Dixon knew of the dangerous propensity of the trailer. A restraining device that could be installed in the trailer would prevent the load from shifting and was available at nominal cost. Dixon knew of the restraining device but had not installed it.

Question 11

If Morris asserts a claim based on strict liability in tort against Trailco, she will

- A. recover, unless Morris was negligently driving when the truck overturned.
- B. recover, because Dixon's knowledge of the dangerous propensity of the trailer does not relieve Trailco of liability.
- C. not recover, because there was no privity of contract between Morris and Trailco.
- D. not recover if Dixon was negligent in failing to install the restraining device in the trailer.

Question 12

If Morris asserts a claim for her injuries against Dixon, she will

- A. prevail, if the use of a restraining device would have prevented the trailer from overturning.
- B. prevail, because Dixon is strictly liable to Morris for injuries resulting from defects in the trailer.
- C. not prevail unless Dixon was driving in a negligent manner at the time Morris was injured.
- D. not prevail, because Dixon was not the manufacturer or seller of the trailer.

Question 13

Philip was a 10-year old boy. Macco was a company that sold new and used machinery. Macco stored discarded machinery, pending sale for scrap, on a large vacant area it owned. This area was unfenced and was one-quarter mile from the housing development where Philip lived. Macco knew that children frequently played in the area and on the machinery. Philip's parents had directed him not to play on the machinery because it was dangerous.

One day Philip was playing on a press in Macco's storage area. The press had several wheels, each geared to the other. Philip climbed on the largest wheel, which was about five feet in diameter. Philip's weight caused the wheel to rotate, his foot caught between two wheels that were set into motion, and he was severely injured.

A claim for relief was asserted by Philip through a duly appointed guardian. Macco denied liability and pleaded Philip's contributory fault as a defense.



In determining whether Macco breached a duty to Philip, which of the following is the most significant?

- A. Whether the press on which Philip was injured was visible from a public way.
- B. Whether the maintenance of the area for the storage of discarded machinery was a private nuisance.
- C. Whether the maintenance of the area for the storage of discarded machinery was a public nuisance.
- D. Whether Macco could have eliminated the risk of harm without unduly interfering with Macco's normal operations.

#### Question 14

Hank owned a secondhand goods store. He often placed merchandise on the sidewalk, sometimes for short intervals, sometimes from 7:00 a.m. until 6:00 p.m. Pedestrians from time to time stopped and gathered to look at the merchandise. Fred had moved into an apartment which was situated immediately above Hank's store; a street-level stairway entrance was located about twenty feet to the east. On several occasions, Fred had complained to Hank about the situation because not only were his view and peace of mind affected, but his travel on the sidewalk was made more difficult. Fred owned and managed a restaurant two blocks to the west of his apartment and made frequent trips back and forth. There was a back entrance to his apartment through a parking lot; this entrance was about two hundred feet farther in walking distance from his restaurant. Once Fred complained to the police, whereupon Hank was arrested under a local ordinance which prohibited the placing of goods or merchandise on public sidewalks and imposed, as its sole sanction, a fine for its violation.

One day, the sidewalk in front of Hank's store was unusually cluttered because he was cleaning and mopping the floor of his shop. Fred and his fifteen-year-old son, Steve, saw a bus they wished to take, and they raced down the stairs and onto the cluttered sidewalk in front of Hank's store, Fred in the lead. While dodging merchandise and people, Fred fell. Steve tripped over him and suffered a broken arm. Fred also suffered broken bones and was unable to attend to his duties for six weeks.

If, prior to the day of his personal injuries, Fred had asserted a claim based on public nuisance for injunctive relief against Hank for his obstruction of the sidewalk in violation of the ordinance, the defense on which Hank would have most likely prevailed is that

- A. Fred consented to the obstruction by continuing to rent his apartment.
- B. the violation of the ordinance was not unreasonable.
- C. remedy of abatement by self-help was adequate.
- D. there was no claim for special damage.

Question 15

Carver is a chemical engineer. She has no interest in or connection with Chemco. Carver noticed that Chemco's most recent publicly issued financial statement listed, as part of Chemco's assets, a large inventory of a certain special chemical compound. This asset was listed at a cost of \$100,000, but Carver knew that the ingredients of the compound were in short supply and that the current market value of the inventory was in excess of \$1,000,000. There was no current public quotation of the price of Chemco stock. The book value of Chemco stock, according to the statement, was \$5 a share; its actual value was \$30 a share.

Knowing these facts, Carver offered to purchase from Page at \$6 a share the 1,000 shares of Chemco stock owned by Page. Page and Carver had not previously met. Page sold the stock to Carver for \$6 a share.

If Page asserts a claim based on misrepresentation against Carver, will Page prevail?

- A. Yes, because Carver knew that the value of the stock was greater than the price she offered.
- B. Yes, if Carver did not inform Page of the true value of the inventory.
- C. No, unless Carver told Page that the stock was not worth more than \$6 a share.
- D. No, if Chemco's financial statement was available to Page.

Question 16

Miller applied to the state liquor board for transfer of the license of Miller's Bar and Grill to a new site. The board held a hearing on the application.

At that hearing, Hammond appeared without being subpoenaed and stated that Miller had underworld connections. Although Hammond did not know this information to be true, he had heard rumors about Miller's character and had noticed several underworld figures going in and out of Miller's Bar and Grill. In fact, Miller had no underworld connections.

In a claim against Hammond based on defamation, Miller will

- A. not recover, if Hammond reasonably believed his statement to be true.
- B. not recover if the board granted Miller's application.
- C. recover, because Hammond's statement was false.
- D. recover, because Hammond appeared before the board voluntarily.

Questions 17-19 are based on the following fact situation.

A water pipe burst in the basement of Supermart, a grocery store, flooding the basement and damaging cases of canned goods on the floor. The plumbing contractor's workmen, in repairing the leak, knocked over several stacks of canned goods in cases, denting the cans. After settling its claims against the landlord for the water leak and against the plumbing contractor for the damage done by his workmen, Supermart put the goods on special sale.

Four weeks later Dotty was shopping in Supermart. Several tables in the market were covered with assorted canned foods, all of which were dirty and dented. A sign on each of the tables read: "Damaged Cans - Half Price."

Dotty was having Guest for dinner that evening and purchased two dented cans of tuna, packed by Canco, from one of the tables displaying the damaged cans. Before Guest arrived, Dotty prepared a tuna casserole which she and Guest ate. Both became ill and the medical testimony established that the illness was caused by the tuna's being unfit for consumption. The tuna consumed by Dotty and Guest came from the case that was at the top of one of the stacks knocked over by the workmen. The tuna in undamaged cans from the same Canco shipment was fit for consumption.

Question 17

If Dotty asserts a claim against Canco based on negligence, the doctrine of *res ipsa loquitur* is

- A. applicable, because the tuna was packed in a sealed can.
- B. applicable, because Canco as the packer is strictly liable.
- C. not applicable, because the case of tuna had been knocked over by the workmen.
- D. not applicable, because of the sign on the table from which Dotty purchased the tuna.

Question 18

If Guest asserts a claim against Dotty, Dotty most likely will

- A. be held strictly liable in tort for serving spoiled tuna.
- B. be held liable only if she were negligent.
- C. not be held liable unless her conduct was in reckless disregard of the safety of Guest.
- D. not be held liable because Guest was a social visitor.

Question 19

If Guest asserts a claim against Supermart, the most likely result is that Guest will

- A. recover on the theory of *res ipsa loquitur*.
- B. recover on the theory of strict liability in tort.
- C. not recover, because Supermart gave proper warning.
- D. not recover, because Guest was not the purchaser of the cans.

Questions 20-22 are based on the following fact situation.

An ordinance of City makes it unlawful to park a motor vehicle on a City street within ten feet of a fire hydrant. At 1:55 p.m. Parker, realizing he must be in Bank before it closed at 2:00 p.m., and finding no other space available, parked his automobile in front of a fire hydrant, on a City street. Parker then hurried into the bank, leaving his aged neighbor, Ned, as a passenger in the rear seat of the car. About 5 minutes later, and while Parker was still in Bank, Driver was driving down the street. Driver swerved to avoid what he mistakenly thought was a hole in the street and sideswiped Parker's car. Parker's car was turned over on top of the hydrant, breaking the hydrant and causing a small flood of water. Parker's car was severely damaged and Ned was badly injured. There is no applicable guest statute.

Question 20

If Ned asserts a claim against Parker, the most likely result is that Ned will

- A. Recover because Parker's action was negligence per se.
- B. Recover because Parker's action was a continuing wrong which contributed to Ned's injuries.
- C. Not recover because a reasonably prudent person could not foresee injury to Ned as a result of Parker's action.
- D. Not recover because a violation of a city ordinance does not give rise to a civil cause of action.

Question 21

If Parker asserts a claim against Driver for damage to Parker's automobile, the most likely result is that Parker will

- A. recover because the purpose of the ordinance is to provide access to the fire hydrant.
- B. recover because Driver's negligence was later in time than Parker's act of parking.
- C. not recover because Parker was contributorily negligent as a matter of law.
- D. not recover because Parker's action in parking unlawfully was a continuing wrong.

Question 22

If City asserts a claim against Driver for the damage to the fire hydrant and Driver was negligent in swerving his car, his negligence is

- A. a cause in fact and a legal cause of City's harm.
- B. a cause in fact, but not a legal cause, of City's harm because Parker parked illegally.
- C. a legal cause, but not a cause in fact, of City's harm because Parker's car struck the hydrant.
- D. neither a legal cause nor a cause in fact of City's harm.

Questions 23-24 are based on the following fact situation.

Si was in the act of siphoning gasoline from Neighbor's car in Neighbor's garage and without his consent when the gasoline exploded and a fire followed. Rescuer, seeing the fire, grabbed a fire extinguisher from his car and put out the fire, saving Si's life and Neighbor's car and garage. In doing so, Rescuer was badly burned.

Question 23

If Rescuer asserts a claim against Si for personal injuries, Rescuer will

- A. prevail, because he saved Si's life.
- B. prevail, because Si was at fault in causing the fire.
- C. not prevail, because Rescuer knowingly assumed the risk.
- D. not prevail, because Rescuer's action was not a foreseeable consequence of Si's conduct.

Question 24

If Rescuer asserts a claim against Neighbor for personal injuries, Rescuer will

- A. prevail, because he saved Neighbor's property.
- B. prevail, because he acted reasonably in an emergency.
- C. not prevail, because Neighbor was not at fault.
- D. not prevail, because Rescuer knowingly assumed the risk.

Question 25

Construction Company contracted to build a laundry for Wash Company on the latter's vacant lot in a residential area. As a part of its work Construction Company dug a trench from the partially completed laundry to the edge of a public sidewalk; water lines were to be installed in the trench. Because of the contour of this land, the trench was dug to a depth ranging from 7 to 9 feet. Construction Company did not place any barriers around the trench and permitted it to lie open for almost a week while waiting for the delivery of water pipes. This was known to Wash Company, but it raised no objection.

During the time the trench was open, a series of heavy rains fell, causing 5 feet of surface water to gather in the bottom of the trench. While this condition existed, 5-year-old Tommy, who was playing on the vacant lot with friends, stumbled and fell into the trench. Robert, an adult passerby, saw this and immediately lowered himself into the trench to rescue Tommy. However, his doing so caused the rain soaked walls of the trench to collapse, killing both him and Tommy.

In a claim for wrongful death by Tommy's administrator against Construction Company, the most likely result is that Plaintiff will

- A. recover, because the defendant left the open trench unprotected.
- B. recover, because construction companies are strictly liable for inherently dangerous conditions.
- C. not recover, because Tommy was a trespasser.
- D. not recover, because Tommy's death was a result of the collapse of the trench, an independent intervening cause.

Question 26

Mrs. Dennis' 12-year-old daughter, Gala, had some difficulty getting along with other children in the neighborhood, especially with the younger ones. Thinking the experience would be good for her, Mrs. Dennis recommended Gala to Mr. Parrent as a baby-sitter for his five-year-old boy, Robby, but did not mention Gala's difficulties or her lack of prior experience as a baby-sitter. The Dennises and the Parrents were long standing social acquaintances. On the evening Gala was to sit, the Parrents told Gala that she should treat Robby firmly but that it would be preferable not to spank him since he did not take kindly to it. They did not tell Gala they had experienced trouble retaining baby-sitters because of Robby's temper tantrums.

Later in the evening, when Robby became angry upon being told to go to his room for being naughty, Gala spanked him, but only moderately hard. Robby then throw a hardbacked book at Gala, hitting her in the eye. As Gala tried to catch Robby to take him to his room, Robby fled around the house and out the back door, knocking over and breaking an expensive lamp.

The back yard was completely dark. Gala heard Robby screaming and banging at the back door, which had closed and locked automatically, but she did nothing. After twenty minutes had passed, she heard a banging and crying at the front door, but still she did nothing. Then the noise stopped. In a few minutes Gala went outside and found Robby lying on the steps unconscious and injured.

If a claim is asserted on behalf of Robby against Mrs. Dennis for damages on Gala's conduct, Mrs. Dennis will probably be liable, because

- A. parents are vicariously liable for the intentional torts of their children.
- B. she has a nondelegable duty to control the actions of her child.
- C. *respondeat superior* applies.
- D. she was negligent.

#### Question 27

The most generally accepted basis on which a court will hold that X has a legal duty to aid another is the recognition by X that there is immediate danger of serious harm to

- A. another human being from a stranger's wrongful conduct.
- B. his neighbor from a stranger's wrongful conduct.
- C. his cousin from a stranger's wrongful conduct.
- D. another human being from X's own non-negligent conduct.

#### Question 28

Paulsen was eating in a restaurant when he began to choke on a piece of food that had lodged in his throat. Dow, a physician who was sitting at a nearby table, did not wish to become involved and did not render any assistance, although prompt medical attention would have been effective in removing the obstruction from Paulsen's throat. Because of the failure to obtain prompt medical attention, Paulsen suffered severe brain injury from lack of oxygen.

If Paulsen asserts a claim against Dow for his injuries, will Paulsen prevail?

- A. Yes, if the jurisdiction relieves physicians of malpractice liability for emergency first aid.
- B. Yes, if a reasonably prudent person with Dow's experience, training, and knowledge would have assisted Paulsen.
- C. No, because Dow was not responsible for Paulsen's condition.
- D. No, because Dow knew that Paulsen was substantially certain to sustain serious injury.

Question 29

Light Company is the sole distributor of electrical power in City. The Company owns and maintains all of the electric poles and equipment in City. Light Company has complied with the National Electrical Safety Code, which establishes minimum requirements for the installation and maintenance of power poles. The Code has been approved by the federal and state governments.

Light Company has had to replace insulators on its poles repeatedly because unknown persons repeatedly shoot at and destroy them. This causes the power lines to fall to the ground. On one of these occasions, Paul, Faber's 5-year-old son, wandered out of Faber's yard, intentionally touched a downed wire, and was seriously burned.

If a claim on Paul's behalf is asserted against Light Company, the probable result is that Paul will

- A. recover, if Light Company could have taken reasonable steps to prevent the lines from failing when the insulators were destroyed.
- B. recover, because a supplier of electricity is strictly liable in tort.
- C. not recover, unless Light Company failed to exercise reasonable care to stop the destruction of the insulators.
- D. not recover, because the destruction of the insulators was intentional.

Question 30

Astin left her car at Garrison's Garage to have repair work done. After completing the repairs, Garrison took the car out for a test drive and was involved in an accident that caused damages to Placek.

A statute imposes liability on the owner of an automobile for injuries to a third party that are caused by the negligence of any person driving the automobile with the owner's consent. The statute applies to situations of this kind, even if the owner did not specifically authorize the mechanic to test drive the car.

Placek sued Astin and Garrison jointly for damages arising from the accident. In that action, Astin cross-claims to recover from Garrison the amount of any payment Astin may be required to make to Placek. The trier of fact has determined that the accident was caused solely by negligent driving on Garrison's part, and that Placek's damages were \$100,000.

In this action, the proper outcome will be that



- A. Placek should have judgment for \$50,000 each against Astin and Garrison; Astin should recover nothing from Garrison.
- B. Placek should have judgment for \$100,000 against Garrison only.
- C. Placek should have judgment for \$100,000 against Astin and Garrison jointly, and Astin should have judgment against Garrison for 50 percent of any amount collected from Astin by Placek.
- D. Placek should have judgment for \$100,000 against Astin and Garrison jointly, and Astin should have judgment against Garrison for any amount collected from Astin by Placek.

Question 31

Dever drove his car into an intersection and collided with a fire engine that had entered the intersection from Dever's right.

The accident was caused by negligence on Dever's part. As a result of the accident, the fire engine was delayed in reaching Peters' house, which was entirely consumed by fire. Peters' house was located about ten blocks from the scene of the accident.

If Peters asserts a claim against Dever, Peters will recover

- A. the part of his loss that would have been prevented if the collision had not occurred.
- B. the value of his house before the fire.
- C. nothing, if Dever had nothing to do with causing the fire.
- D. nothing, because Dever's conduct did not create an apparent danger to Peters.