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Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

**THIS EXAM CONSISTS OF THREE (3) PAGES (INCLUDING THIS PAGE)
PLEASE ENSURE YOU HAVE A COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA
PETER A ALLARD SCHOOL OF LAW**

**WINTER EXAMINATION
APRIL 2019**

**LAW 241.002 Torts
Professor Hastie**

TOTAL MARKS: 100

**YOU HAVE TWO (2) HOURS AND FIFTEEN (15) MINUTES TO COMPLETE THIS
EXAM**

NOTES:

1. This is an open book examination. Candidates may have with them any written material they wish. Laptops are only permitted for the use of ExamSoft.
2. If you are handwriting this exam, please write legibly on alternate lines and on only one side of each page.
3. Communication devices such as mobile phones, tablets, etc. are not permitted. Candidates are asked to ensure that their phones are turned off.
4. This examination is designed to test material covered in this course only. Do not concern yourself with sources not covered in the course materials, class discussions, or lectures.
5. Read the question carefully. Be sure you understand what you are being asked to do before you begin your answer.
6. State clearly any facts you assume in answering the question.
7. Full citation of cases is not necessary. You may refer to cases in short form (e.g.: "Childs").
8. This exam will count as 50% of your final grade in this course.

THIS EXAM CONSISTS OF ONE (1) QUESTION

Question 1

June, who is a 20 year old student at UBC, decided to hold an end-of-term party on April 30th 2018 at her parents' house in Kitsilano, while her parents were away on holiday. June promised her parents that she would not have any parties in the house. She decided she would have plenty of time to clean up after the party and her parents would never find out. June got her house ready. She bought a large quantity of alcohol. She invited 50 friends, and at one point in the evening had 75 guests in their home.

June invited guests to turn over their car keys and stay the night if they planned on consuming alcohol. This offer was communicated to guests via text message in advance of the party. A bucket for keys was set out in the living room near the front door, with a sign that read "drop your keys here". Guests who chose to do so put their keys into the bucket, which was not monitored.

The alcohol June purchased was set out on the kitchen counter. Guests helped themselves and mixed their own drinks. June did not monitor the alcohol, though around 8:30pm, she set out additional bottles to replace ones that were empty.

June's close friend, May, attended the party around 8pm. She had received an invitation from June via text message, which included the offer to turn over her keys and stay the night. May did not intend to do this, as she did not drink alcohol very often and did not plan to consume many drinks that evening. June greeted May at the front door, but they did not remain together throughout the whole evening.

May helped herself to an alcoholic drink in the kitchen shortly after her arrival. May bumped into a friend, Ben around 9:30pm, and he encouraged her to drink 'shots' of vodka. She consumed three vodka shots at Ben's encouragement between 9:30pm-10:00pm. Throughout the night, it is estimated that May consumed approximately five alcoholic drinks, which put her blood-alcohol level over the legal limit.

May found June at the party around 10pm to advise her that she was leaving. June noticed that May was slightly slurring her speech and had appeared "wobbly" on her feet while approaching her. June asked if she was OK. May stated that she was tired. June smelled alcohol on May's breath. June offered for May to stay overnight. May declined. May had not placed her keys in the bucket, nor did June ask her to. June knew that May rarely drank much alcohol. June did not press the issue. May took out her car keys and told June she would call her tomorrow. May then left the party.

May lived only eight blocks from June's house. She drove on a quiet side street that had little car traffic. Approximately 3 blocks from June's house, May collided with a cyclist on the road. The cyclist, Alex, did not have any reflective gear nor a bike light, and, given his dark clothing, was not highly visible. The road on which Alex and May were travelling did not have street lights. May

had neglected to turn on her car lights. Alex was riding lawfully in the same direction as May was driving. May crashed into the rear of Alex's bike. As a result of the collision with May, Alex suffered a broken left leg, ligament damage in his left knee, and nerve damage to his spine.

Alex had been in a car accident the previous year. As a result of the previous accident, Alex had suffered post-traumatic stress disorder. He had taken time off of work, and had returned to his job just two months before his accident with May. Over the past year, Alex had been working on his recovery and had been showing significant progress in treating his PTSD.

Following his accident with May, the full symptoms of Alex's PTSD returned. He could not ride his bicycle, had difficulty concentrating, high anxiety levels, and found it stressful to leave his home. Alex previously worked as a bicycle courier and has been unable to return to work since the accident with May.

Your law firm represents Alex. May has agreed to settle the action that your firm has brought against her. Your firm also plans to file a claim in negligence against June.

- A. Assess the strength of Alex's claim against June in negligence.
Do not assess any other legal claims Alex could bring against June or any other party arising from the *Motor Vehicle Act* or any area of law outside of negligence.**

- B. Explain what damages Alex may claim. Do not assess quantum of damages.**

END OF EXAMINATION