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**THIS EXAM CONSISTS OF THREE (3) PAGES
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**THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW**

**FINAL EXAMINATION
APRIL 2019**

**LAW 241.003 Torts
Professor Uteck**

TOTAL MARKS: 100

**YOU HAVE 15 MINUTES OF READING TIME
AND TWO (2) HOURS TO COMPLETE THIS EXAM**

NOTES:

1. This is an open book examination. Students may bring in and refer to their own written/typed notes and the course casebook. Accessing electronic materials or other resources through, e.g., mobile phones, laptops etc. is not permitted.
2. Record your Exam Number at the top of the Exam Cover page. Students who handwrite their examination answers should write their exam number on the front of each examination booklet used for their answers. All examination papers and all booklets must be turned in to the invigilator at the completion of the exam.
3. This exam will count toward 50% of your final grade in this course.

THIS EXAM CONSISTS OF ONE FACT PATTERN WITH 3 QUESTIONS

Fact Pattern and Questions

June and Ben, who are 20-year-old students at UBC, decided to hold an end-of-term party at their parents' house in Kitsilano, while their parents were away on holiday. June and Ben had promised their parents that they would not have any parties in the house. However, June and Ben decided they would have plenty of time to clean up after the party and their parents would never find out. June and Ben got their house ready. They bought a large quantity of alcohol, including both spirits (liquor) and beer. They invited 50 friends, ending up with approximately 75 guests at one point.

June and Ben invited their guests to turn over their car keys and to stay the night if they planned on consuming alcohol. This offer was communicated to guests via text message in advance of the party. Guests who chose to do so put their keys into a bucket at the front door, which was not monitored. The alcohol that June and Ben purchased was set out on the kitchen counter. Guests helped themselves and mixed their own drinks.

June's close friend, May, joined the party at around 8 PM. May did not drink alcohol very often. June greeted May but they did not remain together throughout the whole evening. May helped herself to a few alcoholic drinks in the kitchen. When May bumped into Ben around 9:30 PM, he encouraged her to drink 'shots' of vodka. She consumed 3 alcoholic shots at Ben's encouragement between 9:30 PM - 10:00 PM. Throughout the night, it is estimated that May consumed approximately 8 alcoholic drinks, which would put her blood-alcohol level at approximately twice the legal limit.

Sometime around 9:00 PM, because the party was quite crowded, Joe, Larry, Mike, Becky, and Sean went outside with two beers each. They sat in a group near the top of the sloped front lawn, joking around and finalizing plans they had for hiking the next day at St. Mark's Summit. As each bottle of beer was finished, Joe, Larry, Mike, Becky and Sean tossed the empty bottles on the grass. One of these bottles rolled onto the sidewalk, shattering and spreading broken glass along approximately 5 feet of the sidewalk. It was too dark and too noisy for any of them to realize what had happened. After about 45 minutes, Joe, Larry, Mike, Becky and Sean went back inside.

At around 11:30 PM, neighbor Harold, who was wearing only plastic flip flops on his feet, was walking his dog, Tonto, on the sidewalk in front of June and Ben's house. Harold stepped on a piece of broken beer bottle, which sliced through the flip flop and severely cut into his right foot's big toe. Screaming in pain, Harold looked down to see his toe dangling from his foot, blood gushing from the wound. At the hospital, despite medically appropriate efforts to save it, the emergency doctor was unable to reattach Harold's severed toe. Once the wound was healed, Harold underwent three months of physiotherapy. Harold continues to walk with a slight limp and no longer is able to run as fast and as far as he used to. Harold believes that his inability to run has caused him to gain weight. Moreover, it is not uncommon at the end of the work day for Harold, a Vancouver TransLink bus driver, to need to elevate and cushion his right foot to alleviate a throbbing pain at the wound site.

Meanwhile, back at the party, at around 10 PM, May found June to thank her for the invitation and to advise her that she was leaving. June noticed that May seemed “off” and asked if she was OK. June knew that May rarely drank much alcohol. May stated that she was just tired. June told May that she “seemed kind of drunk” and offered for May to stay overnight. May declined. May had not placed her keys in the bucket, nor did June ask her to do so.

June did not press the issue. May took out her car keys and told June that she would call her tomorrow. May then left the party.

May lived only 8 blocks from June and Ben’s house. She drove on a quiet side street that had little car traffic. Approximately 3 blocks from June and Ben’s house, May collided with a cyclist on the road. The cyclist, Alex, did not have any reflective gear or 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. 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, 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 nerve damage to his spine and 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, particularly 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, experienced high anxiety levels, and found it stressful to leave his home. Alex previously worked as a bicycle courier but he has been unable to return to work since the accident with May.

Assume that Alex’s claim against May for damages is going to be settled. You have been asked for advice on the following topics:

- A. Assess the strength of Alex’s claim against June in negligence.**
- B. Explain what types of damages Alex may claim. (Do not assess quantum of damages).**
- C. Provide an analysis of causation and remoteness with respect to Harold’s claim for damages against Joe, Larry, Mike, Becky, and Sean based on his injuries. Limit your analysis and conclusions to these issues only.**

END OF EXAMINATION