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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 3 PAGES (INCLUDING THIS PAGE)
PLEASE ENSURE YOU HAVE A COMPLETE PAPER**

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

FALL TERM EXAMINATION- DECEMBER 2019

**LAW 241.001
Torts
Professor Caunt**

TOTAL MARKS: 100

**TIME ALLOWED: 15 MINUTES READING AND 60 MINUTES WRITING
75 MINUTES TOTAL**

NOTE:

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 Exemplify/Examsoft.
2. For students writing by hand, please ensure you write legibly, and on every second line of your exam paper. Write only your exam code for identifying your exams, not your student number.
3. Communication devices such as mobile phones, tablets, etc. are not permitted. Candidates are asked to ensure that their phones are turned off and out of sight.
4. Full case citations are not needed. You may refer to cases in short form (e.g.: "Bettel").
5. This examination is designed to test material covered in this course only. Do not concern yourself with material covered in other courses, or with sources not covered in the course materials, class discussions, or lectures for this course.
6. This exam consists of one (1) question.

Question One (100 marks)

The Brighton public transit union declares on Tuesday the 3rd of December that there will be an immediate week long strike. Following from this announcement, Brighton Creative University emails all faculty, students, and staff to note that exams will *not* be cancelled and that attendance by all at BCU is mandatory. BCU had previously cancelled classes during extreme weather events, but this had never occurred during the examination period. Transit strikes have been threatened many times, but have always been averted at the last minute, with this being the first ever strike carried out.

In order to facilitate attendance during the strike, BCU creates an open-access online spreadsheet to allow drivers to connect with passengers to carpool. BCU sends out emails to all faculty, students and staff, as well as posting public signs throughout the campus, asking “*any licenced BCU driver to please assist in driving students to and from class during the strike*”. BCU monitored the online spreadsheet with a view to ensuring that all individuals using the spreadsheet were faculty, students or staff at BCU, which could be most readily verified by requiring users to use a .bcu email address, and checking each user’s email address as listed on the spreadsheet. BCU admitted to prioritizing the spreadsheet’s functionality over ensuring users had the correct email address, and never ended up making .bcu a required address. This was against the advice of the Chief of IT, who told the university that “*without the proper emails, anyone can sign up—who knows who will be driving!*”. The President stated that “*anyone can fake a .bcu email address for free if they just sign up for a free class with BCU, so that requirement is a meaningless barrier*”. BCU did not screen drivers in any way.

On the 6th, BCU faculty member Yan Wang (Wang) is injured in a single vehicle crash, in a carpool car driven by Li Na (Na). Na is not a student, faculty or staff member at BCU. Na signed up on the online spreadsheet to drive others home after the graduation party she was attending at BCU. Alcohol was served by BCU staff at the graduation party Na attended. Guests were given tickets for two drinks only, with no option to purchase more. Na used her underage son’s tickets, as well as a friend’s tickets, and consumed six alcoholic drinks from the three different bartenders that day. She was not visibly intoxicated, but did wink at a bartender before ordering her last drink, which led the bartenders to agree to stop serving her because she had evidently been using more tickets than were allocated to her.

Na’s driver’s license was revoked last year. As a result, she is uninsured, so it was decided amongst the parties to this action to not join her as a party. As a result of the vehicle crash, Wang incurs \$25,000 in hospital bills, and expects to be out of work at her \$60,000 per year job for at least 3 months. Wang wants as much in damages as she is entitled to.

Yan Wang’s partner, Zhang Wei (Wei) is at Wang’s hospital bedside after the crash, and objects to how one of Wang’s doctors, Xi Jun (Jun) is treating her. After some yelling, Wei pushes Jun, who pushes back. They then punch each other. Jun responds by whipping Wei with his stethoscope, which cuts Wei’s chin. Wei throws a scalpel at Jun, who responds by lunging at him with that scalpel. Wei is cut across the leg and suffers a deep cut. The fight is then broken up. Wei states that he cannot work in his job as a security consultant for seven months, losing him \$35,000 in wages. Wei has medical bills of \$15,000, and expects the same amount again will be required by the time he is healed. He also seeks pain and suffering based compensation of \$425,000 because of the humiliation he feels about being publicly defeated in a fight in front of his significant other, as he feels he is lowered in her eyes.

You are acting for Wang and her partner Wei. Write an advice memo that addresses:

- The duty of care owed to Wang by BCU as well as the standard of care, including damages. Assume the duty of care is a novel one.
- Wei's claim of battery in *Wei v Jun*, including damages and defences.

Discuss the adequacy of the legal solution in Wang's negligence case against BCU in a note of approximately half a page in length. Refer explicitly to the critical perspectives classes and materials to aid you in understanding the legal adequacy—or inadequacy—of this legal solution.

END OF EXAMINATION