

**THIS EXAMINATION CONSISTS OF 4 PAGES  
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**THE UNIVERSITY OF BRITISH COLUMBIA  
FACULTY OF LAW**

**FALL EXAMINATION – DECEMBER 2021**

**LAW 241.002  
Torts**

**Professor Thomasen**

**TOTAL MARKS: 100**

**TIME ALLOWED: 1 HOUR and 30 MINUTES**

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- NOTE:**
- 1. This is an open book examination, candidates may refer to their hardcopy notes, books, or dictionaries. Candidates are not permitted to use any electronic messaging or receiving devices.**

**THIS EXAMINATION CONSISTS OF 1 QUESTION**

**QUESTION 1****MEMORANDUM**

**TO:** Student Intern  
**FROM:** May Donoghue, Junior Partner, Boutique Law LLP

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I'm running short on time to prepare a memo for our senior partner. You just took Tort Law with Professor Kristen Thomasen, so I know you are well equipped to help me with some analysis of the situation affecting our new client.

I have attached my draft of the facts as conveyed by our client, below. Please identify any legal issues and provide your analysis on whether our client might have a viable claim, or a viable defence in the event you determine that there may be a claim against her. I am confident that your analysis will be clear, concise, and convincing.

Many thanks,  
**May**

We have a new client who has had a difficult experience online, which has resulted in a physical altercation. I am not up to speed on the latest tort law relating to online conduct and need your help.

Our new client Pea is a real estate agent and a budding reality TV star. She lives in Vancouver and is a cast member on a little-known reality TV show called "Selling Sunrise," on which she is filmed while attempting to sell expensive real estate throughout Vancouver.

Because of her role on this TV show, Pea is used to receiving some messages from fans. In the past she just received letters in the regular paper mail, but now she receives electronic messages across a range of online platforms too, such as through her email and various social media accounts. Recently one fan, Dimitri, has been repeatedly sending her angry messages to her email inbox and through private messages on her Twitter and Instagram accounts (direct messages sent just to her and not visible to the public). She knows who Dimitri is through her work - he is a competing real estate agent who also lives and works in Vancouver.

Pea has brought us printed paper copies of over 50 emails and messages sent to her by Dimitri over the past three weeks. He has sent messages saying: "You won't be a reality star for ever", "you should watch out because every Sun eventually Sets" [seemingly drawing on the name of her reality show], "there are many of us who want you out of business," and "once you're finally gone, I'm going to take all of your business, and steal your role on Selling Sunrise." All of the messages follow this tone. Pea told us that her distinct sense is that he is jealous of her growing celebrity status and that he is angry that she is in the spotlight. She is especially concerned because on one recently broadcast episode of Selling Sunrise, she appears in her home and her address is apparent. She has indicated that this probably means that anyone who has watched that episode would know where she lives. She has mentioned to us that for a long time she thought being a celebrity meant giving up any expectation of privacy, but she might change her mind about that in the future.

Just yesterday, Dimitri sent Pea an email saying: "I will see you at your next open house on Saturday, at 389 West Broadway in the Kitsilano neighbourhood of Vancouver. When the TV cameras aren't rolling, you'd better watch out!" This is the correct address for her next open house, which is advertised publicly and is readily accessible to anyone who wants to find this information. This message, combined with the earlier messages, caused Pea concern for her safety.

Earlier this morning, as Pea was out shopping to take her mind off of her worries about the latest message from Dimitri, she saw someone at the grocery store who looked just like Dimitri from behind. She was so distraught by all of the messages she received from Dimitri, that she picked up a large bag of potatoes and hit this person over the head with them. It was only after she hit this person that she realized this was not Dimitri. The person she hit was Rinaldo, a stranger to Pea. Rinaldo, reacting out of fear that he might face further

physical harm, pushed Pea onto a tomato display. Some tomatoes burst and ruined her expensive designer outfit. The conflict subsided at that point. Rinaldo experienced both a headache and a terrible neck ache following the potato sack attack. Pea apologized profusely and explained the misunderstanding. Rinaldo and Pea exchanged personal contact information, and Rinaldo implied that he might bring a legal action against Pea should he have to miss work for the injury. Pea is now further distraught.

I need your help to figure out what, if anything, Pea can do about the distressing communications that she is receiving from Dimitri. I also need your advice on whether Pea might be liable should Rinaldo decide to sue her. Please consider any relevant defences throughout your analysis.

END OF EXAMINATION