

Civil Law

Negligence Assessment

1. While jogging around the track with approximately 25 to 30 fellow members of the cross country team, Marco ran into a bench that had been placed on lane one of the track. When he fell, Marco suffered a broken arm. As a result of the injury suffered by her son, Marco's mom filed a negligence claim against the school and the cross country coach for failure to ensure a safe environment. In support of her claim, she pointed out that the *Handbook for Athletic Coaches* states that athletic coaches are to provide assistance and safeguards for each participant. The school denies liability.
2. Mr Jackson, a P.E. Teacher, took his class for a walk off campus. The school had policies requiring teachers to get parental or guardian permission before taking students off campus for any excursion or field trip. The teacher did not follow those policies, but Mr. Jackson thought that they were not applicable to the walk off campus. The teacher claimed the principal had approved him taking the class off campus, but there was conflicting information regarding exactly what the principal exactly knew. The teacher did not have any additional adult supervision. He walked with the students on the sidewalk beyond the school safety zone. The speed limit was up to 40 miles per hour. Some of the students were up to 200 meters away from the teacher at times. The students were "explicitly granted permission" to cross the street outside the designated crosswalks. On the way back to school, the students walked on the sidewalk with their backs to oncoming traffic. Several students, including Annabelle, were struck by Mrs. Wallace's SUV. She had fallen asleep and went off the roadway and onto the sidewalk. Two other students were killed and two others were "grievously injured." Annabelle's mom is suing the school. The school denies liability.
3. Jason, the school basketball coach, hosted Rory and her boyfriend, Paul, at his home where alcohol was consumed. The two left his home driving erratically and were traveling in excess of 90 mph when they were in a collision and were both ejected from the vehicle. Rory's **blood alcohol content** was approximately 0.15 and Paul's was 0.20 at the time. Jason's actions that day were contrary to

district policy and his contract was not renewed. The claim alleges that the school district demonstrated negligence in their hiring, supervision, and employee retention. The school denies liability.

4. Tammy was hurt in a fast pitch softball game. She was playing second base for the school's 7th and 8th grade team in a CYO league. In the bottom of the first inning, with no outs, the other team was already beating the home team badly. According to Tammy, Amanda hit the ball, rounded first, and headed for second base. Amanda slid into the base feet first, colliding with Tammy, who made the tag for the first out of the inning. Tammy's right foot had been positioned on the back corner of the base, which was anchored by a stake into the ground. She placed it along the side toward first base, but left most of the base open along the base path, so that she did not obstruct Amanda's path. In the collision, Tammy's ankle was severely fractured. Tammy's mother was watching the game. She had just arrived and was in the process of setting up her chair when she looked out on the field, just in time to see Amanda sliding into second. Although Tammy's ankle was not bleeding and the break was not a compound fracture, it was immediately identified as a serious injury. After just a "couple of minutes," she was carried from the field by her coach. Tammy's mom, in an effort to get her to the hospital as quickly as possible, brought her car up next to the field. Tammy was carried five or six more steps to the car, then driven by her mother to the emergency room at the hospital. After three surgeries, Tammy still has intermittent pain and some activity limitations as a result of the injury. Tammy's mom has filed a lawsuit against the school. The school denies liability.

ASSESSMENT: Using the elements of negligence as identified in Chapter 5 (duty, breach, etc), is there a cause of action by the plaintiffs? Who would be the appropriate party in the lawsuit? Are there any intervening acts that might limit liability? This should be analyzed in **EACH** scenario!

REMEMBER: in each situation, it is critical that you **work the facts!**