

PART II

Sarah Senior is driving home to New York City after completing her final fall exams. She is an inexperienced driver who had grown up in NYC where she had little reason or inclination to drive a car. After some time in Atlanta with the frustration of commuting without a car her parents bought her one and after two attempts to pass the road test she was advised to go to a remote Department of Driver Services (DDS) office where she might find a “more cooperative” examiner. Attempting and succeeding, to charm the examiner Peter Pitt she passed the driving test despite an erratic performance. At one point she told Peter, much to his delight, that he reminded her of Brad Pitt. “Are you his younger brother?” she said.

Sarah was driving in Georgia on I85 north towards Charlotte NC in the left lane at 35 miles per hour. The speed limit is 70 miles per hour. A state statute requires all slow-moving vehicles to drive as far to the right on a highway as possible.

Ozzie Oslington was driving on I 85 south toward Atlanta in a car he had rented from Renta-Prize Autos when he fell asleep as a result of ingesting some pills prescribed by his doctor to help him overcome symptoms of the flu. The car crosses the medium strip and collides with Sarah’s car. Evidence shows that the car’s steering mechanism had failed some indeterminate time before but Ozzie had not recognized the problem since he had been driving in a straight line before the curve at which he crossed the medium strip. Evidence shows that Renta-Prize’s mechanic had not used a correct wrench in tightening the screws holding the steering column in place; the tension had caused a distortion of the column’s gears.

At the time that Ozzie’s car crossed the medium strip, Deanne Demonte driving her convertible Porsche 911 at high speed swerved in the right lane to get around the slow-moving Sarah. She hit her brakes when, just around the curve, she confronted a slow moving large truck that was making a turn into a weigh station. A patch of oil had been deposited on the road and her braking caused the Porsche to skid off the road into a large ditch, that remained from the construction of the weigh station built by an authority formed between the State of Georgia, the United States and a private firm Rump Enterprises. It can be established that Rump Enterprises has in many “joint ventures” with state entities failed to make sites and surrounding areas safe after completion of construction projects.

Unfortunately, while the Porsche was in the ditch, a heavy thunder storm hit with torrential rain. The ditch filled rapidly with water. Deanne attempted to release her seat belt to escape the rising water but could not figure out Porsche’s advanced seat belt locking mechanism designed to provide extra protection in the event of a high speed crash. With the top down nothing impeded the flow of the water into the car and soon it was underwater with the trapped Deanne inside.

Ernest Eager driving behind, stopped his car, turned on his car’s hazard lights and attempted to render some aid. Ernest had departed some 10 minutes before a holiday party at his employer’s home where in order to impress him he had proposed vodka toasts. He had consumed a dozen vodka shots. Sarah was trapped in her car and Ernest went directly to her and despite her cries not to touch her he grabbed her and dragged her toward the median strip. “Help that guy first”,

she called pointing at Ozzie. Ozzie was pleading for help and visibly bleeding heavily from a head wound. While dragging Sarah, a vehicle came speeding through the accident scene running over Ernest and Sarah causing severe injuries before departing the scene. That driver has never been identified.

All the victims were taken to a nearby hospital; Deanne having been revived through the efforts of the first responders. She however remained unconscious and was in the Intensive Care Unit (ICU) when 3 hours later her fiancé Mac Lknife was ushered in to see her on a respirator. He broke down. Mac a scion of a wealthy Atlanta family had Deanne taken to the family estate where he invested large sums in setting up an ICU and devoted himself to Deanne's nursing needs. "I alone can help her!", he declared. After 6 months of care around the clock Mac becomes depressed and seeks the care of a psychiatrist.

Assume that the jurisdiction has adopted the rule of comparative fault set forth in *McIntye v. Balentine*, page 626 Case Book. Assume also that the common law rule relating to joint and several liability has been abrogated and replaced by the rule stated in *Bartlett v. New Mexico Welding*, page 390 Case Book.

Advise the aggrieved parties.

1. What principles of law will apply to liability?
2. What principles of damages will apply to the extent that you have facts that bear on that matter? If an offer of settlement is made by a tortfeasor what considerations would you employ?