

QUESTION 1

Tenant rents space in a Cityville office building from Landlord. Six months ago, a fire broke out at night in the office building and Tenant, who was working late, was overcome by smoke in the building.

A responding firefighter found Tenant unconscious and, while carrying Tenant out of the building, dropped him, breaking Tenant's leg. The building and all its contents were destroyed.

Cityville fire marshal's investigative report stated: "Fire apparently originated in basement. Apparent cause: faulty wiring. Accumulation of old newspapers in basement was a principal source of fuel, and probably resulted in rapid spread of fire to remainder of building."

The old newspapers mentioned in the fire marshal's report had been left by a previous tenant three years ago. Some of the basement hallways were nearly impassable. Landlord was aware of this, but hadn't gotten around to cleaning them up.

One of Cityville's fire safety ordinances provides: "Any person who permits any article to remain in a stairway or hallway so as to impede entering or leaving the building, or any area within it, shall be punished by a fine of not more than five hundred dollars."

1. On what theory or theories might Tenant reasonably sue Landlord? Discuss.
2. What types of damages, if any, might Tenant recover from Landlord? Discuss.

QUESTION 2

Sara is a doctor who collects, buys, sells, and trades baseball cards for profit, averaging 15 transactions a week. She is a recognized expert in the 1939-50 era.

Bill operates a store that regularly sells baseball cards. Bill claims he phoned Sara and offered to buy a 1939 Denny Wilson card for \$550, and that Sara accepted.

Immediately after their phone conversation, Bill sent Sara an unsigned, typed letter confirming the contract, and identifying the parties, the Denny Wilson card and the price. Bill's letter had a letterhead identifying the name of his business, *Beyer's Baseball Cards and Collectibles*. The letter included the following term: "Seller shall provide a certificate of authenticity from the Baseball Trading Cards Association." Certificates of authenticity cost \$100 and significantly increase a card's value. Sara's card was not certified, and the parties had not discussed this before.

Sara received and read the letter but did not respond to it. When Bill called later, Sara said she had sold the card to another party for \$575. Bill sued Sara for breach of contract, seeking \$250 in damages (based on \$800 as the fair market value of a certified card).

Sara denies the existence of a contract, alleging that Bill only asked, "Would you consider taking \$550" for the card, and that she replied, "Okay, send me something in writing." Alternatively, she claims that the phone agreement was unenforceable and that the so-called letter of confirmation had no legal effect. She also contests Bill's calculation of damages.

1. Can Bill prevail in his lawsuit? Discuss.
2. If so, what damages, if any, is Bill entitled to recover? Discuss.

QUESTION 4

Cindy and Shelly Smith, 35-year-old identical twins, look exactly alike.

Cindy was a straight-A student in high school, went to college, and then to law school. She is presently campaigning for election to the State Senate.

Shelly got into the wrong crowd in high school, became addicted to cocaine, and moved to Europe without graduating from high school.

Cindy and Shelly have not spoken for years, and very few people know that Cindy has a twin.

Debbie, a high school classmate of Cindy and Shelly, dislikes Cindy and does not want Cindy to win her election. Debbie obtained an old photograph of Shelly snorting a line of cocaine and sent it to Newspaper the day before the election, with an anonymous note that read, "Ms. Smith is a cokehead." The photograph was very clear and looked exactly like Cindy.

Newspaper, unaware that Cindy had an identical twin sister, published the photograph of Shelly the same day, with a caption that read, "Cokehead for State Senate?" Newspaper reported that it had received the photograph of "Cindy Smith" anonymously earlier that day. Cindy was very distressed about Newspaper's publication and subsequently lost the election.

Thereafter, Cindy filed defamation claims against both Debbie and Newspaper.

1. What is the likely outcome of Cindy's defamation claim against Debbie? Discuss.
2. What is the likely outcome of Cindy's defamation claim against Newspaper? Discuss.