

Questions 1-3 are based on the following fact situation.

Delta was the manufacturer of a product known as Delta's Follicle, which was sold over the counter for the treatment of dandruff and dry scalp conditions. Jonathan purchased a bottle of Delta's Follicle at Watson's drugstore. A statement on the label read, "This product will not harm normal scalp or hair." Jonathan used the product as directed. Because of a scalp condition making him allergic to one of the ingredients, the product irritated his scalp, causing him much pain and discomfort.

1. In an action for negligence by Jonathan against Delta, which of the following additional facts or inferences, if it was the only one true, would be most effective in Delta's defense?
 - A. Jonathan did not read the statement on the label.
 - B. The reasonable person in Delta's position would not have foreseen that the product would injure persons with Jonathan's allergy.
 - C. The product was manufactured for Delta by another company.
 - D. Delta was unaware that an allergy existed like that suffered by Jonathan.

2. In an action by Jonathan against Delta on the theory of strict liability in tort, which of the following additional facts or inferences, if it was the only one true, would be most helpful to Jonathan's case?
 - A. Injuries of the kind sustained by Jonathan do not ordinarily result from the use of a product like Delta's Follicle unless the manufacturer was negligent.
 - B. Prior to Jonathan's purchase of the product, an article regarding the allergy from which he suffered had appeared in a widely-read journal of the hair-care industry
 - C. The reasonable person would not have expected the use of Delta's Follicle to result in an irritation of the scalp of someone with Jonathan's allergy.
 - D. At the time it manufactured the product purchased by Jonathan, Delta was aware that its ingredients could irritate the scalp of persons with allergies like Jonathan's.

3. In an action by Jonathan against Watson, which of the following would be Jonathan's most effective argument?
 - A. Any negligence by Delta is imputed to Watson.
 - B. The product was defective as labeled.
 - C. Watson breached an express warranty.
 - D. A drugstore is under a special duty to be aware of possible allergic reactions to products, which it sells.

4. Eddie lived in a neighborhood in which the incidence of violent crime had been increasing. Susan and Eddie were having tea together in Eddie's kitchen, when there was a knock at the door of Eddie's home. Although the door was equipped with a peephole, which would have enabled Eddie to see who was outside before opening, Eddie opened the door without looking. As soon as the door was opened, Biff, an armed robber, entered with a gun. Biff struck Susan several times with the barrel of his pistol before

robbing her of her money and leaving. Susan subsequently asserted a negligence claim against Eddie for injuries resulting from the attack, alleging that it was negligent for Eddie to open the door without looking to see who was there.

Which of the following additional facts if it was the only one true would be most helpful to Susan's claim against Eddie?

- A. Eddie was aware of the high incidence of crime in the neighborhood.
 - B. Susan was aware of the high incidence of crime in the neighborhood.
 - C. Eddie had invited Susan for tea because she hoped to sell Susan her used living room furniture.
 - D. One of Eddie's neighbors had been robbed and attacked by Biff in a similar manner the previous day.
5. Wilson had been living on the family farm most of his life. Because he was ready to retire, he advertised his farm for sale. Courtney, a real estate investor and Courtneyoper, had been secretly advised by a friend in the state highway department that a major highway would soon be built adjacent to Wilson's land. Knowing that this would increase the value of the property, Courtney contacted Wilson and offered to purchase the farm. Courtney said that she would be willing to pay the fair market value as determined by any licensed real estate appraiser selected by Wilson. Wilson hired Ryan, a licensed real estate appraiser, who determined the fair market value to be \$400,000. Courtney purchased the land, paying that price.

Three weeks after the closing of title, the state announced plans to build a highway adjacent to the land. This announcement increased the value of the land to \$4,000,000. If Wilson institutes an action for misrepresentation against Courtney, the court should find for

- A. Courtney, if Wilson knew she was a real estate investor.
 - B. Courtney, because she allowed Wilson's appraiser to determine the fair market value of the land.
 - C. Wilson, because Courtney's failure to disclose the coming of the highway was a breach of a fiduciary obligation
 - D. Wilson, if Courtney had an obligation to disclose that the state would be building a highway adjacent to the land.
6. Barbie was injured when a robber shot her with a pistol manufactured by Gunz Inc. She asserted a claim against Gunz Inc, alleging that the pistol with which she had been shot was meant to be sold for a price under \$50. Which of the following arguments is most likely to lead to a judgment for Barbie?
- A. Gunz Inc is vicariously liable for battery, since it was foreseeable that a purchaser of the pistol would shoot another person with it.
 - B. Gunz Inc breached an implied warranty that the gun was merchantable, since a pistol, which is meant to be sold for under \$50, is unfit for ordinary use.
 - C. Gunz Inc is liable for negligence, since the criminal law is designed to protect persons like Barbie from becoming the victim of robbers.

- D. Gunz Inc is liable for negligence, since the low selling price of the pistol made it foreseeable that it would be used in connection with a crime.

Questions 7-8 are based on the following fact situation.

Skippy was already intoxicated when he entered Hank's Tavern. At first, Hank refused to serve him any more alcohol. Skippy insisted, however, and at his insistence, Hank served him three more drinks. When Skippy left the bar he was unable to start his car. He asked Helen, who was driving by, to assist him. Helen, who realized that Skippy was drunk, determined that Skippy's battery was weak, and started Skippy's car by connecting a cable to her own battery. Later, while driving, Skippy struck Walker, who was walking across the street.

7. Assume for the purpose of this question only that Walker asserted a claim for his personal injuries against Helen. Which one of the following facts or inferences, if it was the only one true, would provide Helen with the most effective defense?
- A. The state had a statute making a barkeeper liable for damage done by a person who purchased alcohol from the barkeeper after already being intoxicated.
 - B. Helen was in the business of rendering road service to motorists having trouble with their cars.
 - C. Skippy drove 200 miles before striking Walker.
 - D. Skippy would not have struck Walker if he had not been intoxicated.
8. Assume for the purpose of this question only that Walker asserted a claim for his personal injuries against Hank. Which of the following would be Hank's most effective argument in defense?
- A. Skippy was already intoxicated when he came into the bar.
 - B. The accident would not have occurred if Helen did not help Skippy get his car started.
 - C. The reasonable person would not have expected Skippy to drive when he left the bar.
 - D. Persons outside Hank's tavern were not in privity with Hank.
9. Dawson was driving down Main Street at an unreasonable fast rate of speed when, as a result, he collided with Schmidt's car which was standing unattended against the curb. The impact caused a loaded rifle, which Schmidt had left in the back seat of the car to fire. The bullet went through the car window and traveled four blocks before striking Brown, who was leaving the Rainbow paint factory after work. Although Brown had lost the sight in his left eye in an accident, which occurred when he was a child, he was employed by the Rainbow Paint Company as a color coordinator. As a result of his being struck by the bullet from Schmidt's rifle, Brown lost the sight in his right eye. This rendered him totally blind, causing him to lose his job. Brown subsequently asserted a negligence claim against Dawson, alleging permanent loss of earning capacity in addition to other items of damage.
- Which of the following is Dawson's most effective argument in defense against Brown's claim for permanent loss of earning capacity?

- A. Brown was a super-sensitive plaintiff, since he was already blind in one eye.
- B. Schmidt acted unreasonably by leaving a loaded rifle in the back seat of his car.
- C. Brown was outside the foreseeable zone of danger.
- D. The reasonable person would not have expected that Dawson's conduct would cause any person to be rendered blind.

10. Brenda broke into Fresh's grocery store in the middle of the night. After stealing all the money that was in the cash register, she blew open the door of the safe with nitroglycerin and stole its contents as well. Then, as she was leaving, she stole a six-pack of Aces Beer. Because of poor quality control at the Aces brewery where it was made, the beer contained a toxic ingredient. Later that night, Brenda drank three cans of the beer and was made seriously ill by the toxic ingredient, which it contained. In an action by Brenda against Aces, the court will most likely find for

- A. Brenda, if her injury was proximately caused by the negligence of Aces.
- B. Brenda, since Aces breached an express warranty.
- C. Aces, since Brenda does not come into court with "clean hands".
- D. Aces, if Brenda's theft of the beer is regarded as unforeseeable.

11. Four Star Studios was filming part of a motion picture at a large residential apartment building with the permission of the building owner. To avoid interference by curious onlookers, Four Star's security agents set up a command post in the lobby of the building. No persons were allowed to enter the building without identifying themselves and explaining their reasons for being there. Reginald, who lived in an apartment in the building, was returning from a fishing trip late one night.

Unaware of Four Star's activities, he was stopped by Four Star employees as he attempted to enter. Because he was not carrying identification, Reginald was unable to establish his identity. For this reason, the employees refused to allow him to enter. After trying unsuccessfully to convince them that he lived there, Reginald stayed with his sister who lived a block away. The following morning, he contacted the building owner who spoke to Four Star officials and arranged to have them allow Reginald to enter.

If Reginald asserts a claim against Four Star for false imprisonment, which of the following would be Four Star's most effective argument in defense?

- A. Four Star employees did not know that Reginald was entitled to enter the building.
- B. The conduct of Four Star employees was not unreasonable.
- C. Reginald was not imprisoned.
- D. Reginald sustained no damage as a result of the conduct of Four Star employees.

12. Perry, who owned an appliance repair shop, was at a cocktail party when he saw Douglas, one of his competitors. Approaching Douglas, Perry said, "I'm glad to run into you. I was hoping that we could discuss the possibility of going into partnership instead of competing with each other." Douglas responded, "I wouldn't go into business with you because you're the most incompetent person I've ever known." Aaron, a customer of Perry's, overheard the conversation. As a result, the following day, Aaron cancelled a contract, which he had with Perry.

If Perry asserts a claim against Douglas for defamation, Perry will be successful if

- A. Douglas knew or should have known that the statement was defamatory when he made it.
- B. Douglas knew or should have known that the statement was false when he made it.
- C. Douglas knew or should have known that the statement would be overheard when he made it.
- D. Douglas knew or should have known that harm would result from the statement.

Questions 13-14 are based on the following fact situation.

Fanny owned 500 acres of land on which she grew wheat. By a valid written contract, she agreed to deliver all her wheat to PanCo to be used by that company in the production of bread for sale to the general public. While harvesting the crop, she realized that a blade on her harvesting machine was broken, and that fine slivers of metal were becoming mixed with the wheat. She said nothing about this when she delivered the wheat to PanCo, since she knew that PanCo ordinarily cleaned its wheat before using it. The harvesting machine had been manufactured and sold by Tonka.

PanCo used the wheat, which it purchased from Fanny to manufacture a loaf of bread, which it sold to Daphnie, who operated a sandwich shop. Daphnie used the bread to make a sandwich. Because the bread contained slivers of the blade from Fanny's harvesting machine, Peter lacerated the lining of his throat when he swallowed a bite of the sandwich.

13. Which of the following additional facts or inferences, if it was the only one true, would be most helpful to Fanny in defense against an action brought by Peter on a theory of strict liability in tort?
- A. If PanCo acted reasonably, the slivers of metal would have been removed from the wheat before it was baked into bread.
 - B. The sandwich, which contained the slivers of metal, had been purchased by one of Peter's co-workers who gave it to Peter after changing his mind about eating it.
 - C. PanCo made substantial changes in the wheat before it reached Peter.
 - D. The blade on Fanny's harvesting machine was defective when she purchased it from Tonka.
14. In an action by Peter against PanCo, can Peter successfully rely on the doctrine of *res ipsa loquitur*?
- A. Yes, if the exercise of reasonable care in the baking process would ordinarily have eliminated all metal slivers from the wheat.
 - B. Yes, if the presence of metal slivers made the bread defective.
 - C. No, if the presence of the metal slivers in the wheat resulted from Fanny's failure to use reasonable care.
 - D. No, if it was unforeseeable that a broken blade on Fanny's harvesting machine would result in the presence of metal slivers in the wheat.

15. David and Gerry were drinking at the same bar when David began insulting Gerry by calling him names, which were ethnically offensive. When they started to argue with each other, the bartender asked them both to leave. David got into his car and drove away. Angry, Gerry began chasing him in his own car. When he caught up with David, Gerry began passing David's car on the left. As he did so, he swerved his car towards David's for the purpose of frightening David.

David did not know that the car swerving toward him was Gerry's but he became frightened that it would hit him and steered away from it, striking a fire hydrant and sustaining injury.

If David institutes an action against Gerry, a court should hold Gerry liable for

- A. battery only.
- B. Assault only.
- C. Both battery and assault.
- D. Neither battery nor assault.

16. Barry was interested in purchasing Samuel's house. Because Barry knew that some of the houses in the area were infested with termites, he asked Samuel whether there were any termites in his house. Samuel said that there were none, believing this statement to be true. Barry purchased the house from Samuel and moved into it. Three months later, Barry discovered that the framework of the house had been damaged by termites, and that the termites had been damaging the framework for several years. He subsequently asserted a claim against Samuel on a theory of negligent misrepresentation.

Which of the following is Samuel's most effective argument in defense against Barry's claim?

- A. Samuel did not know that there were termites in the house.
- B. Samuel had no duty to tell Barry whether there were termites in the house.
- C. Samuel's statement that there were no termites in the house was an expression of opinion.
- D. Samuel's belief that there were no termites in the house was reasonable.

17. Perry purchased a box labeled "Generic Breakfast Cereal" from Saver Supermarket. While he was eating it, he broke a tooth on a stone, which the product contained. The product sold by Saver and labeled "Generic Breakfast Cereal" is furnished by three different companies: YumYum, ABC, and Sunshine. Each sells an approximately equal quantity to Saver. In addition, all package their product in identical wrappers, so that it is impossible to tell which of them furnished any given box of breakfast cereal. Although the companies compete with each other, at Saver's request they worked together to design the product wrapper.

If Perry is successful in an action for damages against Saver, it will probably be because

- A. Saver, YumYum, ABC, and Sunshine were involved in a concerted action in the manufacture and marketing of the product.
- B. Saver, YumYum, ABC, and Sunshine established standards on an industry-wide basis, which standards made identification of the product's manufacturer impossible.
- C. The negligence of either YumYum, ABC, or Sunshine resulted in harm to Perry under circumstances such that it was impossible to tell which of them caused the harm; and Saver is vicariously liable for that negligence.
- D. Either YumYum, ABC, or Sunshine manufactured a defective product, and Saver sold that product while it was in a defective condition.

Questions 18-19 are based on the following fact situation.

Ally, a thirteen-year-old girl, was a member of Fireside Scouts, a national young people's organization. As part of a Fireside Scout project, she planned to spend an entire weekend camping alone in the woods. Mike, who knew about the project, phoned Ally's mother Janice the day after Ally left home. Mike said, "We have your daughter. We've already beaten her up once, just to hear her scream. Next time, we might kill her." Mike instructed Janice to deliver a cash ransom to a specified location within one hour. Since there was no way to locate Ally's campsite in the woods, Janice could not find out whether Mike was telling the truth. Horrified that her daughter might be beaten and injured or killed, she delivered the ransom as instructed. She remained in a hysterical state until Ally returned from her camping trip, and Janice realized that the ransom demand had been a hoax. Janice, who already suffered from a heart ailment, had a heart attack the day after Ally's return.

18. If Janice asserts a claim against Mike for assault, the court should find for

- (A) Janice, because Mike was aware that his conduct would frighten her.
- (B) Janice, because the court will transfer Mike's intent.
- (C) Mike, because Janice did not perceive injury being inflicted upon Ally.
- (D) Mike, because Janice had no reason to expect to be touched by Mike.

19. If Janice asserts a claim against Mike for damages resulting from her heart attack on a theory of intentional infliction of mental distress, the court should find for

- (A) Mike, because the heart attack occurred the day after Ally's return.
- (B) Mike, if Janice's pre-existing condition made her especially susceptible to heart attack.
- (C) Janice, if the heart attack was caused by Mike's outrageous conduct.
- (D) Janice, because Mike should have foreseen that this conduct would result in harm

20. Jorge was a retired motion picture actor whose career had consisted primarily of a series of small roles in films about the jungle. Jorge owned a leopard named Hank, which Jorge had trained and which had appeared with him in motion pictures. Hank had always been tame and gentle, even when young. When Jorge retired, Hank was old, almost blind, somewhat slow moving, and the size of a large dog. Jorge brought the animal to live with him, keeping it in the fenced yard alongside his house. Jenny was a thirteen-year-old girl who delivered newspapers to Jorge. One day, she came to Jorge's home to collect for the past week's deliveries. Since she knew Hank, Jenny opened the gate and called the animal so that she could pet him. Hank bounded toward the place from which the sound had come, but because he was almost blind, he bumped into Jenny. Jenny fell to the ground, fracturing her ankle.

If Jenny asserts a claim against Jorge on a theory of strict liability, the court should find for

- (A) Jorge, because the injury did not result from a trait which made it dangerous to keep a leopard.
- (B) Jorge, because Hank was not a wild animal.
- (C) Jenny, because it was unreasonable for Jorge to keep Hank in his yard.
- (D) Jenny, because Jorge should have anticipated that a child would attempt to pet Hank.

Questions 21-22 are based on the following fact situation.

While Pauline was visiting her daughter, the two of them decided to go swimming at a nearby public pool. Since she had not brought a bathing suit along on her visit, Pauline went to Darla's store to purchase one. While looking at the suits on the bargain counter, she found one, which had been manufactured by Sunset. The package, which contained it, bore a label, which read, "Disposable Bathing Suit. This garment is made completely from recycled paper. Although it is strong enough to be worn several times and is even washable, it's inexpensive enough to be thrown away after one use. Buy several, and take them with you on trips to the beach." Pauline bought the bathing suit and wore it at the public swimming pool. After swimming for a few minutes, she climbed up to the diving board. She was preparing to dive into the pool when the wet paper bathing suit suddenly dissolved and fell from her in shreds, leaving her completely naked. Horrified, Pauline climbed down from the diving board as quickly as she could, calling to her daughter who ran over and wrapped her in a towel.

21. If Pauline asserts a claim against Sunset for damages resulting from her embarrassment, Sunset's best argument in defense is that

- A. Sunset made no representations to Pauline.
- B. Pauline sustained no physical injury or symptoms.
- C. Pauline purchased the suit from Darla.
- D. Sunset acted reasonably in manufacturing and labeling the bathing suit.

22. Which of the following additional facts or inferences, if it was the only one true, would be most helpful to Darla's defense in an action by Pauline against Darla?

- A. Darla had sold Sunset's products for several years, and had never heard of any problem like the one experienced by Pauline.
- B. A sign on the bargain counter where Pauline found the suit said, "Sale Merchandise. All sales final."
- C. Pauline knew that paper bathing suits like the one she had purchased sometimes dissolved when they became wet.
- D. Darla could not implead Sunset into the action because Sunset had gone out of business.

23. Marie needed butter for the cookies, which she was baking, so she asked her seven-year-old son Victor to go to the store on Main Street. Because traffic on Main Street was sometimes heavy, Victor was not usually permitted to ride his bicycle on the roadway there. Marie needed the butter right away, however, so she told him that he could ride in the roadway if he was sure to stay on the left side so that he could see cars coming towards him. Daniel was driving his car on Main Street when he was momentarily blinded by the sun. He did not see Victor, who was riding toward him in the roadway, and struck him, causing Victor to sustain serious injuries. Victor subsequently asserted a claim for negligence against Daniel. Daniel raised a defense based on contributory negligence. In a jurisdiction, which applies the "all or nothing" rule of contributory negligence, Daniel's defense will succeed only if

- A. Victor acted unreasonably.
- B. Marie acted unreasonably.
- C. Either Marie or Victor acted unreasonably.
- D. Both Marie and Victor acted unreasonably.

Questions 24-25 are based on the following fact situation.

BowWow manufactured a device called the BowWow Trainer, for training dogs. The BowWow Trainer consisted of a leather strap fastened to a collar made of metal links. The links were connected to each other in such a way that a pull on the leather strap would cause the collar to tighten painfully around the neck of the dog wearing it. In this way, the dog being trained could be disciplined immediately upon performing improperly. Shannon, a professional dog trainer was working with a dog known as Ramses in her unfenced front yard and was using a brand new BowWow Trainer. Jason was walking past the yard when Ramses began to snarl and lunge at him. When Shannon yanked on the leather strap of the BowWow Trainer it suddenly broke, freeing Ramses. The dog sprang forward biting Jason.

24. If Jason asserts a claim against BowWow alleging that the BowWow Trainer used by Shannon was defective, the court should find for

- A. BowWow, because Jason was not a purchaser or consumer of the product.
- B. BowWow, if the BowWow Trainer had been submitted to all reasonable tests and inspections before being marketed.
- C. Jason, if Ramses was a dog of average size and strength.
- D. Jason, because it was foreseeable that a leather lead would eventually weaken and break when used as the BowWow Trainer was meant to be used.

25. If Jason asserts a claim against Shannon, Jason's most effective argument in support of his claim would be that

- A. Shannon is strictly liable for damage resulting from her use of a defective product.
- B. It was unreasonable for Shannon to work the dog in her front yard.
- C. Shannon's conduct was a concurring cause of harm.
- D. Shannon was a professional dog trainer.

26. On Shawn's first birthday, his aunt Betsy bought him a rag doll as a gift. The toy was made of plush material with buttons sewn on for eyes. While playing with the toy, Shawn pulled one of the buttons off, put it in his mouth, and choked to death on it.

Shawn's father Xavier commenced an action against Betsy under the state's wrongful death statute.

If Xavier is successful in his action against Betsy, it will probably be because

- A. Betsy was negligent in giving the rag doll to Shawn.
- B. The rag doll was unfit for ordinary use.
- C. The rag doll was defective when Betsy gave it to Shawn.
- D. The rag doll was unreasonably dangerous when Betsy gave it to Shawn.

Questions 27-28 are based on the following fact situation.

Because Steven had a headache, he took two headache tablets from a bottle, which had been purchased by his wife at the Johnson's grocery store. The tablets had been manufactured by Advol, which sold them to Johnson's in sealed bottles for resale. Because of a toxic ingredient, which the tablets contained, Steven became ill as a result of taking them.

27. If Steven asserts a claim based on negligence against Johnson's for his damages, the court should find for

- A. Steven, because Advol's negligence is imputed to Johnson's.
- B. Steven, because a retailer has an absolute duty to provide safe products.
- C. Johnson's, because the bottle containing the tablets was sealed when Johnson's received it.
- D. Johnson's, because the tablets had been purchased by Steven's wife.

28. If Steven asserts a claim against Advol based on a theory of strict liability in tort, the ruling should turn on the question of whether

- A. Advol knew that the tablets contained a toxic ingredient.
- B. Headache tablets, which contain a toxic ingredient, are inherently dangerous.
- C. It was reasonable for Advol to market the tablets.
- D. The reasonable consumer would expect headache tablets to contain a toxic ingredient.

Questions 29-30 are based on the following fact situation.

Will was looking for an address as he drove down the street, and was not watching the road in front of him. As a result, he did not see Paris crossing the street in front of him, and struck her with his car, knocking her down. Will immediately got out of his car to help Paris. When he saw that she was unconscious, he became afraid to move her, and left her in the roadway while he ran to a nearby phone. While Will was gone, Rerun drove down the same street. Because he was intoxicated by the drug PCP, Rerun did not see Paris in the roadway, and drove over her, fracturing her leg.

29. If Paris brings an action against Rerun for damages resulting from her fractured leg, Rerun's liability will most probably turn on whether it was foreseeable that

- A. Will would drive negligently and would leave Paris lying in the roadway after striking her.
- B. A person struck by an automobile would be involved in a Second accident within a short Period of time.
- C. A person would be in the roadway.
- D. Rerun would drive while intoxicated by the drug PCP.

30. In an action by Paris against Will for damages resulting from her fractured leg, a court is most likely to find for

- A. Paris, if Will's negligence was a factual and legal cause of Paris's fractured leg.
- B. Paris, since the negligence of Rerun is imputed to Will.
- C. Will, since his conduct was a legal cause but not a factual cause of Paris's fractured leg.
- D. Will, if Paris would not have been injured but for Rerun's striking her.

31. Lucas operated a nuclear power plant on the seashore just outside the city of Pleasanton and sold electricity generated by its operations to Pleasanton residents. To cool its equipment, Lucas drew water from the ocean and piped it through portions of its plant. Because this operation made the water highly radioactive, Lucas stored used water in a series of large concrete holding

ponds. The water stored in this fashion was subjected to a series of procedures designed to “neutralize” it by removing the radioactivity before it was returned to the ocean. Because of an earthquake, one of the concrete holding ponds cracked, permitting several million gallons of neutralized water to escape. Although the escaping water was not radioactive, it caused substantial damage to the fields of Billy Bob as it passed over them.

If Billy Bob asserts a claim against Lucas for damage to his realty, the court should find for

- A. Billy Bob, because operating a nuclear power plant is an abnormally dangerous activity.
- B. Billy Bob, because water is a substance which is likely to do great harm if it should escape from captivity.
- C. Billy Bob, because it was unreasonable to operate a nuclear power plant in an area where an earthquake could occur.
- D. Lucas, because the damage resulted from an act of God.

32. Bangco was a manufacturer of explosives used in mining for gold and silver. Its warehouse, which contained large quantities of explosives, was located a short distance from the town of Houndsville. A group of political extremists known as the Green Terrors were planning to set off a series of bombs in public places in Houndsville. Several members broke into the Bangco warehouse for the purpose of stealing explosives to use in making bombs. Their entry set off an alarm, which brought the police. Rather than surrender to the police, the terrorists committed suicide by detonating the explosives, which they had stolen. The blast caused the entire warehouse to explode. A house owned by Matt and located a half mile away was damaged by the explosion.

If Matt asserts a claim for damages against Bangco on the ground that storing explosives was an abnormally dangerous activity, which of the following would be Bangco’s most effective defense?

- A. The explosion did not result from unreasonable conduct by Bangco.
- B. The damage did not result from a physical invasion of Matt’s realty by any tangible object in the control of Bangco.
- C. The conduct of the terrorists was an intervening cause of harm.
- D. It was not foreseeable that terrorists would deliberately detonate explosives in the warehouse.

33. Denise kept an antique hay wagon in front of her house as a yard ornament. On several occasions, she offered to sell the hay wagon to her neighbor Brian for \$500. Although Brian admired it, he had always been unwilling to pay Denise’s price. After reading a magazine article about the increasing popularity of farm antiques, Brian concluded that the value of Denise’ hay wagon was likely to increase, and that it would therefore be a good investment. One day he approached her, saying, “If you’re still interested in selling that hay wagon, I’ll pay \$500.” Denise was surprised that he had changed his mind, but did not ask him why because she was afraid that he would change it back again. Instead, she said, “I’ll take your offer,” and sold him the wagon. Two months later, an antique dealer who saw the wagon in Brian’s yard bought it from him for \$2,000.

If Denise asserts a misrepresentation claim against Brian, the court should find for

- A. Denise, if Brian knew more about the value of antique hay wagons than Denise did.

- B. Denise, because Brian purchased the hay wagon for the undisclosed purpose of profiting from his investment.
- C. Brian, because he was not required to disclose his purpose in purchasing the hay wagon.
- D. Brian, if Denise was initially satisfied with the price which Brian paid her for the hay wagon.