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**Defendants likely to be reasonably found liable for damages arising from Priya's car accident**

**Priya v. Amy**

A general partnership is formed when two or persons come together to form a business for profit. In a partnership, all partners are jointly and severally liable for the torts and the damages to third person incurred by the partnership.

Here, Amy, Bob and Carl have formed a general partnership law firm whereby they three are the partners of the partnership firm. Amy, one of the partners, was driving the car in heavy traffic to attend a baseball game where she received an urgent email from an ABC client. While ABC provides all firm attorneys with cell phones to facilitate prompt attorney-client communications to follow the policy, Amy attended the email and negligently caused car accident to Priya's car.

A general rule of a partnership is that a partner is liable for her own torts if the damages stem out of her own negligence. The facts suggest Amy attempted to answer her phone while driving to a baseball game and due to this distraction, she negligently caused the accident, suggesting the tort she committed outside of the work and in her own personal time by her own self. Priya would find Amy personally liable following the rule of Amy's tort occurring out of her own doing. However, Amy can argue that the accident might not have occurred had she not be looking at her phone for work email. Thus, implying she was working as a partner of the partnership and thus unlikely to be found liable for the tort entirely and instead the partnership is liable.

However, Amy may be help liable for the accident due to her negligence. But, she can likely make an win-able argument that the accident was during work hour and thus, the damages will not be solely deducted from her personal account.

**Priya v. ABC**

Rule, see Supra.

Here, even though Amy was negligent to cause the accident during her own personal time, ABC as a general partnership will be held liable if Amy's argument that the accident would not have occurred but for the policy ABC provided for all firm attorneys to carry their work-provided cell with them at all times and that all client emails must be responded to immediately.

A vicarious relationship has formed here. Vicarious relationship (Respondent Superior) is when the employer has authority over the employee. Under this doctrine, when an employee commits a tort during the work hour, the employer is responsible for the torts committed by the employee. If Amy proves that she was still on the clock for her work hour, because technically, even though she was going for a baseball match (non-related work), she still was required to communicate with her clients through her work phone at any time, thus putting her on the work clock. Thus, ABC may be liable under this doctrine for Priya's damages.

**Priya V. Bob and Priya v. Carl**

As mentioned above, in a general partnership, all partners are held liable jointly and severally for

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other partners torts, unless, the tort is committed by the partner in her own capacity outside of work. Here, the argument is likely that since Amy's accident wouldnt have happened but for the work email, she will most likely not be solely liable and the other partners will be impugned by the tort Amy brought to the firm. Bob and Carl can argue that the Amy is an attorney, that too a partner at a law firm, who would appreciate that the policy to respond immedietly wasnt necessarily required while doing activities such as driving. It would be common sense expected out of a reputed attorney. Thus, when Amy went to check her urgent email, she was still working on her own and wasnt working on firm hours. Thus, cutting Bob and Carl's liability. However, if Amy's argument stands, Priya maybe able to find Bob and Carl liable jointly and severally.

### **Priya v. Sam**

Under Agency rules, a person may be an agent of the partnership when there is an agency formed between the agent and the partnership through apparent or implied authority. An implied agency is formed when the partnership implied evidently that the person is an agent of the partnership. An apparent authority of the agent occurs when the agent works on behalf of the partnership and the partnership is aware of the relationship of agency. The third party dealing with the agent is also aware that the agent is working on behalf of the agency. Moreover, if the partnership ratifies the agent's relationship as agent, there is a agency relationship between partnership and agent. When an agent is working for a partnership in an agency setting, the partnership is liable for the torts that the agent commits but the agent is not.

The facts suggest that Sam is not a party to the written ABC partnership agreement, however, he works closely with ABC and ABC believes that Sam's presence raises the profits and prestige of ABC. Moreover, Sam leases an office in the suit of offices of ABC for which ABC further charges him \$3,000. Sam can argue that he is merely an agent of the firm and not a partner of ABC. Since an agent is not liable for torts of a partnership, Sam will argue that he will not be liable to Priya for Amy's damages.

However, the facts point us to the relationship of Sam's with ABC. Sam receives 10% of the annual profit of ABC in recognition of his value to the firm. As mentioned above, a general partnership is formed when 2 or more persons come together to form a business for profit. There is no requirement that the official papers be filed with the state secretary for a partnership to take place. Thus, the fact that ABC's receptionist greets all clients of ABC and Sam, Sam uses ABC firms name and telephone number on his letterhead and receives 10% annual profits suggest he is a partner to the firm and thus likely liable for Priya's damages if Amy proves she was not liable personally for the tort.

### **Jointly and Severally**

All partners of a general partnership are held jointly and severally liable for torts stemming out of one partner for tort committed during the work hours. Parters may limit their laibility in their agreement, however, the facts do not suggest there was an limitations to any partners liability. If Amy's argument that she was still on work hour despite of driving the baseball game post work time is valid, all partners, including Sam and ABC will be liable to Priya's damages.

If Bob and Carl's argument that Amy was not working and any reasonable person would have known working while driving was not what the policy encouraged, she would have not gotten in an accident and thus it was her own personal liability, then Bob and Carl will not be liable.

If Sam can show he was acting more in an agency relationship than a partner relationship, he may not be liable. However, the facts suggest otherwise and Sam will likely be liable.

**Indemnification**

Each partner can seek indemnification from the other if the damages are ultimately attributed to one partner's fault. Here, if Amy is held personally liable, Carl, Bob, Sam and ABC will be indemnified by Amy from her personal shares.

Question #1 Final Word Count = 1234

**END OF EXAM**