

Duty Hypo

Agnes and Belinda met as schoolgirls in 1960 and quickly became inseparable. They worked together, spent holidays together, and eventually bought a house together. Agnes's brief dalliance with an Army sergeant ended with his death in 1963, and thereafter both Agnes and Belinda politely but firmly refused other suitors. To their neighbors they were friendly but fiercely private, and people in their small town came to call them simply "the sisters." There was always some speculation, and even later some assumption, that Agnes and Belinda were lovers, but no one ever put the question to them. Their community had long been socially conservative, and their state did not recognize same-sex marriage until a federal court ordered it to do so in early 2015.

On August 11th, 2019, Agnes and Belinda went out to Sunday brunch at Drexels to celebrate the sixty years they had known each other. They spent this time reflecting on the quiet life they had lived together. After their meal, Agnes went to retrieve their car from the restaurant's parking lot. Belinda, who could only move with great difficulty, sat outside Drexels and watched Agnes, who was only slightly more mobile than Belinda, walk toward the car.

Suddenly, Belinda heard the roar of an engine, the squealing of tires, and the clang of metal against metal. Although she could not see this from her vantage point, a pickup truck had sped into Erdoil, an adjacent gas station, and hit a trash can that had been lying in the station's driving lane. The impact launched the trash can into the restaurant's parking lot, where it struck Agnes in the head as Belinda looked on in horror. Struggling to grip her canes, Belinda stumbled the thirty feet toward Agnes, collapsing on the ground to cradle Agnes's bleeding body in her trembling hands. The paramedics who arrived twenty minutes later found Belinda and Agnes in that same spot. Belinda was whispering, "I love you, I love you, I love you." Agnes was unconscious and, at 11:34am, died in the ambulance on the way to the hospital.

The police officers who also responded arrested Casper, the driver of the truck, for reckless driving and for operating under the influence; his blood alcohol level was nearly twice the legal limit. On the front seat of Casper's truck was a bag with a nearly full bottle of whiskey that a receipt indicated he had purchased twenty minutes earlier from Front-n-Center, a nearby grocery store. State law prohibits the sale of liquor on Sundays.

Drexels and Erdoil are wholly separate businesses that own and maintain their own buildings and parking lots. Six hours after Agnes's death, Erdoil fired the employee who had ignored the warnings of several customers by letting the trash can lie in the driving lane all morning.

Two months after Agnes's death, Belinda remains inconsolable. She is constantly reliving the scene from the parking lot and has not slept for more than an hour at a time. A social worker who visits Belinda believes that, due to the trauma of Agnes's death, Belinda needs constant care.

Belinda does contact a partner at your firm for legal advice. In advance of an initial meeting with Belinda, the partner instructs your team to prepare a memorandum identifying and analyzing potential tort claims.