

**Forell – Torts B**  
**Midterm Essay Question – Fall '03**  
(60 minutes)

Assume the following events occurred in the state of Lawland which has adopted the Restatement definitions covered in class for various tort actions and privileges. For issues not covered by the Restatement assume Lawland applies the majority rules.

Paula had worked since 2000 as a software engineer at Computertech. She was one of their stars. In early 2003 she and her supervisor Dameon became sexually attracted to each other. One evening when both were working late, Paula consented to unprotected sexual intercourse with Dameon in his office after he had assured her that he was sterile. Since then they have not had any other intimate contact nor has she had sexual relations with anyone else. As a result of this liaison, much to Paula's shock and dismay, she became pregnant. Because she was in denial, Paula waited until she was four months pregnant before confirming the pregnancy.

Paula was furious with Dameon but didn't tell him or anyone else at work about her pregnancy until recently when, six months pregnant, she visited Dameon's office to inform him both that he had made her pregnant and that she was leaving the company to start a new software company with some friends.

Dameon denied he was the cause of her pregnancy and accused Paula of lying about this in order to justify leaving. He called Paula "a bitch" and told her she was fired and ordered her to leave the company premises immediately. When Paula refused to comply, Dameon opened the drawer of his desk where he had a loaded revolver and placed his hand on the gun, stating: "If you weren't pregnant, I'd shoot you." Paula was terrified but stood her ground. Dameon closed the drawer and called Don, Computertech's security guard, and ordered Don to escort Paula off the premises. As Paula and Don departed, Dameon shouted: "I'd love to sic the dog on you – you lying turncoat – you traitor!"

Paula didn't want Don to touch her but didn't resist when he took her by the arm and led her off the worksite. At the exit he gave her a slight shove and said "Good riddance!"

As she was driving home, Paula realized that she had left her personal lap top computer in her former office at Computertech. At about 1 a.m. that night, she returned to the premises carrying a container of mace. She used her keys to get into the building and her former office to pick up her computer. While she was still in her old office she sent a message to all of Computertech employees over its e-mail system which informed them of why she was leaving and criticized Computertech's employment practices and Dameon in particular.

As Paula was leaving the building she passed by the Accounts Receivable Office. Still fuming over what had happened, she decided to really fix Dameon and

Computertech. She logged on to the company computer and erased Computertech's accounts receivable. As a result, it cost the company about \$5000 to reestablish who owed them what and in delayed collection.

Unknown to Paula, when she logged onto this computer she set off an alarm. Don arrived 20 minutes later to turn off the alarm and investigate. Paula spotted Don as he entered the building with the company guard dog, Duke. When they approached Paula, Don commanded Duke to attack her leg and in reaction she kicked Duke in the head causing him to yelp in pain. Paula then sprayed mace at Duke but missed and unintentionally sprayed Don instead who was temporarily blinded and in a lot of pain. She dropped the mace and tried to assist Don but Duke, by barking and growling as he approached her, forced Paula up against a wall. Before anything else could transpire Paula went into labor. Although unable to escape from Duke, she was able to get at her cell phone and dial 911. Two hours later at the hospital she delivered a still-born fetus. The delivery was very painful and the loss of the baby was extremely traumatic.

First, assume you represent Paula in tort actions against Dameon, Don and Computertech. Discuss and evaluate any claims Paula may have and any privileges the defendants may be able to raise. Recommend whether Paula should sue these defendants and why.

Second, assume you represent Computertech and Don in their crossclaims against Paula. Discuss and evaluate any claims they may have and any privileges that the Paula may be able to raise. Recommend whether Computertech and/or Don should crossclaim against Paula and why.

Do not discuss any negligence claims by any parties.

Assume the following statute was in effect at the time these events occurred.

25.000 Liability of Dog Owner. Any person to whom damage may be occasioned by a dog not owned by him shall be entitled to recover such damages of the person who owns the dog unless the damage was occasioned to him during the commission of an intentional tort.