

Part II: Essay (40 points)

Dawn and Dane, a married couple, own and operate the Olde Tyme Chicken Shack in Fictional City, CA. Patsy became violently ill after eating the Olde Tyme Chicken Special Dinner. Dawn called an ambulance which took Patsy to the emergency room. Patsy died the next day.

Patsy's estate sues Dawn and Dane for negligence in the preparation of the chicken dinner and for wrongful death. The Defendants deny causation and claim that there was nothing wrong with the food served that evening.

The following evidence is offered at jury trial.

By Plaintiff:

1. Testimony of Nurse that in the hour before she died, Patsy said: "I'm not going to make it, am I? They're not going to get away with this! While I was running to the bathroom after dinner to be sick, I heard Cook tell Dawn that she should have followed his advice and pulled that bad chicken from the menu."

By Plaintiff:

2. Testimony of Ambulance Driver that while the medical team was preparing to transport Patsy to the hospital, she saw Dawn and Dane talking and overheard the following:
 - a. Dane said: "I told you we should have listened to Cook! We could lose the business over this!"
 - b. Dawn responded by putting one hand over her eyes, looking at the ground, and silently shaking her head back and forth.

By Plaintiff:

3. Testimony of Dr. Mona Lisa Vito, Chief Medical Examiner of the City and County of Fictional City, that she personally conducted Patsy's autopsy. Based on her observations from the autopsy, as well as her extensive medical training, and in consultation with her personal astrologer, her opinion of the cause of Patsy's acute gastro-intestinal distress and eventual death was Bad Chicken.

By Plaintiff:

4. Testimony of Dawn as to all conversations she and Dane have had about this incident since it happened.

By Defense:

5. Testimony of Norman Irongut, a regular customer that he has eaten dinner at the Old Tyme Chicken Shack and eaten the Old Tyme Chicken Special Dinner every night for the last two years, except for the night that Patsy became ill, and he has never suffered any ill effects.

By Plaintiff:

6. On cross-examination of Norman:
 - a. “Isn’t it true that you are a silent partner and part-owner of the Old Tyme Chicken Shack?”
 - b. “Isn’t it true you were convicted of bank robbery 11 years ago?”

Discuss all objections that might be made to each piece of evidence proffered, and the Court’s probable ruling as to the admissibility of each.

END OF EXAM