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The question is whether Amy, ABC, Bob, Carl and Sam could be found liable for Priya's car ("P") damages.

GENERAL PARTNERSHIP

A partnership is a venture for profit between different individuals for profit. Under law, general partners are agents of each other and owe each other, as well as the partnership a fiduciary duty not to put his or her pecuniary interest above those of other partners and that of the partnership. In contrast to a corporation (another type of business entity), a partnership does not require the submission of certain paper work (such as the article of incorporation) to the secretary of state.

Here, Amy, Bob and Carl are all partners in the ABC law firm since they operate under a general partnership agreement.

GENERAL LIABILITY OF A PARTNERSHIP.

Under law, all profits and liability in a partnership are equally shared and distributed. Under certain circumstances, another partner and the partnership itself could be liable for the conduct, the debt and the liabilities of a partner in the partnership.

Here, P will argue that Bob, Carl, ABC, Sam, as well as Amy would be liable for P's serious injuries. The reason is, presumably, the partnership would be able to afford P more monetary compensation, rather than Amy individually.

DERIVATIVE LIABILITY OF BOB, CARL, ABC AND SAM?

Under the facts, Amy was the one involved in the accident. As such, any potential liability of Bob, Carl, ABC and Sam would have to be based on a theory of derivative liability. Generally, a liability could be imputed to a partner or that of a partnership when the partner that is involved in the wrongdoing

As such, if there are no derivative liability imposed on Bob, Carl, ABC and Sam, Amy would be held personally liable for her negligence. To determine whether there would be any sort of derivative liability, Amy's authority and her scope of employment must be evaluated.

AMY'S AUTHORITY

Under law, there are: actual authority, Implied authority and apparent authority. In addition, ratification after a partner or agent's act by the corporation could satisfy the authority requirement.

Here, as a partner and as an agent of the partnership, P would argue that Amy has

authority to act under the partnership itself when Amy was distracted and caused the accident because Amy has plenty of authority to act on behalf of the law firm. The reason is, P will first contend that Amy has actual express authority to act on behalf of the law firm. P will further argue that there is implied authority and apparent authority.

ACTUAL EXPRESS AUTHORITY

Under law, actual express authority occurs when someone in Amy's position is given explicit directions to carry out her conduct. Here, P will first argue that Amy had actual authority to go to the baseball game because she tried to answer the company provided phone.

However, this argument will fail because the partnership ABC law firm did not authorize Amy to go to the ball game because Amy wanted to go to the game after work. thus, there is no actual express authority.

ACTUAL IMPLIED AUTHORITY

Under law, actual implied authority means that someone in Amy's position would reasonably believe that she was acting under the directive and orders of the partnership.

Here, when Amy answered the phone, not only did she have the authority to do so but she actually had to according to ABC's policy. As such, P will argue that Amy was acting under actual implied authority when she answered the phone or tried to.

Thus, there is actual implied authority.

APPARENT AUTHORITY

Under law, apparent authority means that someone in P's position would reasonably believe that Amy was acting under the directive and orders of the partnership due to the manifestations and acts of the partnership itself.

Here, there is no apparent authority because someone in P;s position would not have realized that Amy was even associated with the ABC law firm. The reason is, more likely than not, after work, Amy would have already changed into her street attire to go to a baseball game. As such, P would not have been able to guess that Amy was a partner in the Firm, let along that she was even a lawyer. After all, appearance wise, a lawyer does or at least have the apperance of a reasonable, sensible ordinary person.

NO RATIFICATION -

There is no ratification because, for sure, ABC would not have approved of how Amy negligently gotten into a car accident.

In all, there was at least implied authority for Amy to answer the phone when she negligently caused the car accident.

DEVIATION FROM SCOPE OF EMPLOYMENT?

Under law, a partnership will still be liable for an agent's slight deviation of the stipulated tour (a slight "detour" of the stipulated work or work routine).

Here, Amy's the act of answering the phone was not a slight deviation from her work routine since all attorneys in the law firm were expected to answer the emails right away, seemingly in all hours. Thus, although Amy was done with work that day, her work actually continues because she still had to answer the email.

Thus, Amy's going to the base ball game was not a deviation from work at all as she still, in effect had to answer the email in following ABC's policies!

In short, ABC, Bob, Carl as well as Amy are liable under partnership liability.

AMY'S LIABILITY

Generally, the partnership is not liable for a partner's tort liabilities. Here, no tort action was involved as Amy negligently caused an accident which was not intentional.. But as stated, since the liability will be imputed to the partnership, Amy will be personally liable and the partnership will be liable.

ABC'S LIABILITY

Generally, the partnership is not liable for a partner's tort liabilities. Here, no tort action was involved as Amy negligently caused an accident which was not intentional.. But as stated, since the liability will be imputed to the partnership, Amy will be personally liable and the partnership will be liable.

POLICY VIOLATING THE LAW

However, a law firm cannot operate against the law or the Rules. Here, ABC's policy seemingly violated a safety law as the partnership policy stipulates that the work-provided cell phone with them at all times and that all clients' emails must be responded immediately. The reason is, there is a traffic law regarding not answering or talking on the cell phone while one is driving. In addition, the facts do not indicate that Amy had a hands-free device to respond to the email. More likely than not, Amy had to use her hands to answer the email while driving in traffic - a clear violation of traffic rules.

BOB'S LIABILITY

Generally, the partnership is not liable for a partner's tort liabilities. Here, no tort action was involved as Amy negligently caused an accident which was not intentional.. But as stated, since the liability will be imputed to the partnership, Bob will be personally liable and the partnership will be liable.

CARL'S LIABILITY

Generally, the partnership is not liable for a partner's tort liabilities. Here, no tort action was involved as Amy negligently caused an accident which was not intentional.. But as stated, since the liability will be imputed to the partnership, Carl will be personally liable and the partnership will be liable.

SAM'S LIABILITY

IS SAM A PARTNER FOR THE PURPOSES OF LIABILITY?

Here, the facts do not indicate that Sam was a partner in the ABC law firm when the accident occurred. The reason is that, 1) there is no written agreement between ABC and Sam, in contrast to the other partners;

In addition, although Sam uses ABC law firm name and telephone number, he bills his clients directly for his services. Moreover, although Sam leases the same office space as ABC in the same office suites, the mere sharing of office space does not mean that Sam is a partner. This is because, different attorneys belonging to different entities often share the same office space or even use the same secretary for obvious economic reasons.

Finally, Sam is not a partner although he receives 10% of the annual profit because the facts do not indicate that Sam acutally does any work or work preparation f0or the law firm. More likely than not, Sam's name and recognition was used as a loyalty.

In conclusion, Sam cannot be held liable because he is not a partner.

Question #1 Final Word Count = 1410

END OF EXAM