INTERNAL MEMORANDUM
Attorney Work Product
Privileged & Confidential

TO: Junior Associate

FROM: Senior Partner

DATE: August 14, 2020

RE: Jose Corddry; File No. 20-113; Potential Action for Negligent Infliction of Emotional Distress

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Our office represents Jose Corddry, a childcare provider for two children, who lives in New York City. Mr. Corddry reached out to us after witnessing a traumatic event involving one of the children in his care. On February 15, 2020, one of the children fell off an airboat in Collier County, Florida, and was seriously injured when he fell and made contact with the boat's propeller engine. Mr. Corddry was not injured in the accident, but shortly afterward, he began to exhibit physical injuries brought on by extreme stress and emotional trauma.

You will find the relevant facts in the attached case file, which includes the following documents: an email exchange between our Florida and New York offices; a transcript of our meeting with Mr. Corddry; a letter and report from Mr. Corddry's doctor; a news story about the accident; and the incorporation documents for the airboat company.

We are considering filing a lawsuit against the airboat operator for negligent infliction of emotional distress. Because the accident occurred in Florida, the action is governed by Florida state law. Also, because the parties are citizens of different states—Mr. Corddry lives in New York City and the airboat company is based in Florida—we would file the lawsuit in federal court, in the Middle District of Florida, based on diversity jurisdiction. The Middle District of Florida has jurisdiction over Collier County, Florida, where the accident occurred and the airboat company is incorporated.

In Florida, if a plaintiff has not suffered an impact, a negligent infliction of emotional distress claim requires four elements: "(1) the plaintiff must suffer a physical injury; (2) the plaintiff's physical injury must be caused by the psychological trauma; (3) the plaintiff must be involved in some way in the event causing the negligent injury to another; and (4) the plaintiff must have a close personal relationship to the directly injured person." *Zell v. Meek*, 665 So. 2d 1048, 1054 (Fla. 1995).

Based on preliminary research, I have found and attached the above-referenced case and three others. While we continue to gather the relevant facts, please prepare a legal memorandum analyzing whether Mr. Corddry can establish the first element—that he suffered a physical injury. Focus your analysis of the physical injury element on the following: whether the injury is demonstrable and objectively discernible, and whether the injury is more than a common ailment or psychological harm. Please incorporate all four cases, rely on the facts in the case file, and follow the instructions below.

Partial and Complete Memoranda
LComm I—Professor Torres

Heading and Question Presented Due Week 3
Partial Memo Due Week 4
Complete Memo Due Week 7

For the first major LComm I assignment, you will write a legal memorandum. You will begin by writing a heading and question presented. Next, you will write a partial memorandum with a heading, question presented, and the first three parts of the CREAC analysis: Conclusion, Rule, and Explanation. After I provide feedback on the partial memorandum, you will write a complete memorandum with a heading, question presented, brief answer, statement of facts, and discussion section with a complete CREAC analysis.

The final graded assignments for this course will build on these ungraded assignments. Thus, the work you complete in these first few weeks—in analyzing the legal authorities and writing your partial and complete memos—can influence your final LComm I grade.

Instructions

Format
The partial memo assignment has a strictly enforced limit of **four** pages. The complete memo assignment has a strictly enforced limit of **eight** pages. The integrity certification is the only section excluded from the page limit. The memos should be in 14-point Times New Roman font with one-inch margins, page numbers at the bottom center of each page after page one, full-justified margins, and double spacing.

Integrity Certification
Add the following certification at the bottom of the assignments, if you can do so honestly:

I certify that I have complied with the academic integrity requirements of the School of Law Honor Code and the instructions and policies set forth by my professor. I have neither given nor received any unauthorized assistance in preparing this assignment. [Your Name]

Submission

Save your assignments in .doc or .docx with a filename that includes your last name (e.g., SmithPartialMemo). Bring your heading and question presented to class in Week 3. Submit your partial memo to the Blackboard Assignment Box for "Partial Memo" before the start of class Week 4. Submit your complete memo to the Blackboard Assignment Box for "Complete Memo" before the start of class Week 7.

Refer to your Syllabus for information regarding the consequences of missing a deadline or failing to follow instructions. If the Blackboard site is down when the assignment is due, you may email the document me. Do not email the document unless the Blackboard site—not your computer—is down. Personal computer problems are not a legitimate excuse for missing the deadline.

Good-Faith Effort Required

You must make a good-faith effort on ungraded assignments. Failing to do so can result in a deduction from your professionalism score and your final grade for the course. I may also ask you to do additional work or complete another assignment. Most important, a good-faith effort is required for you to fully benefit from these ungraded assignments and master the learning objectives for this course.

Collaboration & Academic Integrity Rules

You are expected to follow the Honor Code and Syllabus when completing these assignments. Refer to those documents for more information on the consequences of inappropriately using others' work and failing to properly attribute ideas.

If you have any questions or concerns about this assignment, you may talk to your LComm professor or her Dean's Fellow. You may also talk to other students in your LComm section about the legal authorities relevant to this assignment or the general approach to your analysis. You may not speak or consult with anyone else, including friends, partners, or family members.

You must write your own assignment. You must not read, copy, or review another student's work (whether digital or hardcopy), and you must not have another student (or anyone else) read, copy, or review your work. These rules cover not only the substance of your written work, but also the organizational structure, grammar, punctuation, style, citations, and other aspects of your writings. Because we will work on similar assignments throughout the semester, this prohibition includes both pending and completed written assignments.

Evaluation

The partial and complete memo assignments will be evaluated based on the following criteria:

Professionalism

1. Follows all instructions and formatting requirements for the assignment.
2. Submits assignment correctly and on time.

Heading and Document Organization

1. Includes the recipient's name, the author's name, the proper date, the client name, and a useful subject line.
2. Includes the assigned sections of a legal memorandum in the correct order with properly formatted section headings.

Question Presented

1. Identifies the correct jurisdiction, legal issue, and legally significant facts.
2. States question to allow for a yes-or-no answer.

Brief Answer

1. Provides a yes-or-no answer that is qualified appropriately.
2. Provides a brief explanation, including a concise summary of the relevant law and analysis.

Statement of Facts

1. Develops relevant background giving rise to dispute.
2. Develops well-organized and objective factual narrative.
3. Describes relevant facts, both favorable and unfavorable.
4. Omits irrelevant facts, argument, and legal discussion.
5. Ends with a transition to introduce the Discussion.

Discussion (Note: Only nos. 1-6 apply to the partial memo assignment.)

1. Organizes discussion logically using framework for legal analysis (CREAC).
2. Uses paragraphs, thesis statements, and transitions to tie analysis together.
3. Begins with a Conclusion that identifies the precise legal issue, states a prediction on the outcome, and provides a supporting reason.
4. Accurately identifies the controlling Rule(s).
5. Identifies and synthesizes the controlling law.
6. Explains and illustrates the controlling law using relevant cases and legal principles.

7. Analyzes the client's facts by applying the controlling law.
8. Draws relevant analogies and distinctions that are specific, substantive, and parallel to provide a fully developed Analysis.
9. Includes a fully developed counter-analysis with relevant analogies and distinctions.
10. Provides a resolution following the counter-analysis.
11. Ends with a Conclusion that identifies the precise legal issue, states a prediction on the outcome, and provides a supporting reason.

Writing Style

1. Uses headings, transitions, and thesis sentences.
2. Has no spelling, grammar, punctuation, or typographical errors.
3. Uses objective tone.
4. Uses plain language and active voice.

Citation

1. Cites authority for all legal propositions and case references, using appropriate form, placement, and frequency.
2. Follows *The Bluebook* or Florida Rule of Appellate Procedure 9.800, as appropriate.

MEMORANDUM[1]

TO: Professor Torres

FROM: Student name

DATE: Submission date

RE: Client name; file number; a phrase identifying the legal issue

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Question Presented

Under … [state the controlling law], … does … [state the legal issue] … when … [state key facts]?

Discussion

Conclusion: The first sentence(s) should state your conclusion on the legal issue in the Question Presented.

Rule: The rule section follows the conclusion sentence(s) so that both of these sections make up the first paragraph of your Discussion. In the rule section, you should set forth the relevant broad rule(s) relating to the legal issue, with citations to statutes and/or cases. Remember to define key terms.

Explanation: The rule explanation section includes several paragraphs and shows how courts have applied the rule of law in other cases. Each paragraph should begin with a thesis sentence that states a narrow rule from the case(s) you are explaining in that paragraph. Use case descriptions that illustrate and support the

[1] This is the template for the partial memorandum.

thesis sentence. Include key facts, the court's holding, and the court's reasoning. Remember to include appropriate citations. Consider the appropriate depth of treatment for each case. For example, if you are using two cases for the same narrow rule, the same paragraph can include a case description for the best case and a citation with an explanatory parenthetical for the other case. Do not discuss your client's case in the rule explanation section.

[Add Integrity Certification and your name here.]

MEMORANDUM[2]

TO: Professor Torres

FROM: Student name

DATE: Submission date

RE: Client's name; file number; and a phrase identifying the legal issue

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Question Presented

Under … [state the controlling law], … does … [state the legal issue] … when … [state key facts]?

Brief Answer

State the direct answer to Question Presented immediately: yes, no, probably yes, or probably not. Then summarize the rule(s) of law governing the issue. Then summarize the reasoning that supports your answer. Include specific references to facts. Do not include citations to legal authority.

Statement of Facts

The Statement of Facts should include several paragraphs. The first paragraph should identify your client and briefly describe your client's goal. Remember to identify key facts that determine the outcome of your Question Presented. Include background facts as necessary to provide context to those legally significant facts.

[2] This is the template for the complete memorandum.

Remember to include all facts that you will analyze in your application section. Do not refer to legal authorities or make arguments. Organize your statement of facts in a logical order (chronological, topical, or combination). The last paragraph should describe the current procedural posture, summarize any relevant procedural history, and provide a smooth transition to the Discussion.

Discussion

Conclusion: The first sentence(s) should state your conclusion on the legal issue in the Question Presented.

Rule: The rule section follows the conclusion sentence(s) so that both of these sections make up the first paragraph of your Discussion. In the rule section, you should set forth the relevant broad rule(s) relating to the legal issue, with citations to statutes and/or cases. Remember to define key terms.

Explanation: The rule explanation section includes several paragraphs and shows how courts have applied the rule of law in other cases. Each paragraph should begin with a thesis sentence that states a narrow rule from the case(s) you are explaining. Use case descriptions that illustrate and support the thesis sentence. Include key facts, the court's holding, and the court's reasoning. Remember to include appropriate citations. Consider the appropriate depth of treatment for each case. For example, if you are using two cases for the same narrow rule, the same

paragraph can include a case description for the best case and a citation with an explanatory parenthetical for the other case. Do not discuss your client's case in the rule explanation section.

Application: The application section includes several paragraphs and shows how a court will likely apply the rule of law explained above to the facts of your client's case. Each paragraph should begin with a thesis sentence that supports your legal analysis and conclusion. Discuss the facts of your case that illustrate and support the thesis sentence. Remember to make fact-to-fact comparisons between your client's case and the cases cited in your rule explanation section. Using analogy and distinction, demonstrate why your client's case is similar to or different from the cases cited in your rule explanation. Remember to include legal citations where appropriate.

Then provide a counter-analysis. The counter-analysis should also make fact-to-fact comparisons between your client's case and the cases cited in your rule explanation section. Use case analogies and distinctions. After you explain the counter-analysis, provide a clear resolution stating why your position/conclusion is more likely to prevail. Do not introduce any new law in the application section. You should have thoroughly discussed the applicable law in the rule statement and explanation sections above.

[insert page number here]

Conclusion: Include one or more sentences briefly restating your conclusion, but do not copy-and-paste the first conclusion. Remember to avoid one-sentence paragraphs.

Conclusion

This Conclusion section should tie together and summarize the legal issue(s) in your Discussion section.

[Add Integrity Certification and your name here.]