

ASSIGNMENT FOR JUNE 21, 2019

TO: Junior Associate
FROM: Cappy Nunlist, Senior Partner
RE: Potential New Client
DATE: June 7, 2019

I have interviewed a potential client, Cynthia Mullen, and would like your assistance in deciding whether to take her case.

Cynthia alleges that she suffered a concussion, neck injuries, and broken right arm when she was thrown from a horse while on a trail ride at the Best Western Stables in Barnard, Vermont. Cynthia lives in Montpelier. She was a full-time chef at the Runaround Restaurant in Montpelier and was unable to work for three months. She used all of her sick and vacation time and still lost 8 weeks of wages. She did not originally intend to sue because she assumed her injuries would completely heal. However, she still experiences bad headaches and neck pain. Furthermore, her arm did not heal properly. It begins to ache after a few hours of work and she has been unable to return to her favorite activity, tennis. Her physician says that in all likelihood, her recovery has reached an end point.

Cynthia had taken weekly riding lessons at the BW Stables for about 6 months beginning in the spring of 2016. She had also gone on at least four trail rides prior to her accident. When she arrived at the stables on the afternoon of October 12, 2016, for a scheduled a two-hour ride, neither of the two horses she had ridden previously was available. Sarah Long, who had been both her instructor and her guide on previous rides, asked Cynthia if she felt ready to canter on the trail, something she had not yet done although she had cantered in the ring. Cynthia said yes, that she felt ready and excited about doing so. Sarah told Cynthia that her new mount, Dancer, would be easier to encourage into a canter than the “plodders” she had previously ridden. She reminded Cynthia how to stop the horse by pulling back evenly on the reins and they practiced for about 15 minutes in the ring. Cynthia was wearing riding boots and a helmet.

There were five participants on the trail ride, including Sarah. Sarah led and the riders were instructed not to pass her at any point during the trip. They cantered successfully once or twice in the first hour which Cynthia loved. On the return trip, the instructor said there was a nice stretch to canter on the way back to the stables, but reminded the riders that the horses would be returning home and might be more difficult to stop. All of the participants said they would like to canter anyway. As they reached the spot, Sarah turned

around and yelled, “Is everyone ready?” Everyone yelled back, “Yes.” They started with Sarah in the lead. Dancer broke easily into a canter, but did not slow down with the rest of the horses. While attempting to slow him, Cynthia’s right foot slipped out of the stirrup and she lost her balance. She inadvertently pulled back hard on the left rein and Dancer responded by turning very quickly to the left. Cynthia fell off and landed hard.

Please research the treatment of negligence under Vermont case law and statutes as applicable to these facts and draft a memo answering the following questions:

1. In your judgment, does Cynthia have a viable case and, if so, what is the likelihood of success (more or less)? Please provide a brief analysis with reference to relevant law.
2. Do you need additional information to refine your answer? If so, what questions need to be asked and/or documents provided?
3. What is the statute of limitations for negligence in Vermont?

You may use any resources you feel would be helpful – legal search engines, Google, books – all are acceptable. Please keep in mind that the amount of time spend on a project – for this assignment and the rest of your career – requires good judgment. Obviously, the research for the preliminary assessment of a case is far less than that required for a legal brief, but must be enough to be able to make a reasonably accurate assessment. Furthermore, a memo does not require as much editing or tactical thinking as a brief, but must still be clear and concise. As you are new associates, I want to be able to access your current level of judgment regarding these time management skills so that I am better able to provide guidance in how to improve. **Therefore, note on your memo the following: 1) time spent on research; (2) time spent on writing (and thinking); and (3) the research resources used in order of their usefulness.**

Finally, the Model Rules of Professional Conduct may be relevant to our inquiry. Therefore, **skim the Model Rules 1.1 and 3.1, together with their comments**, and highlight any portion that you think might be relevant. These two rules are posted under Course Materials on TWEN.

Please post your memo on TWEN under Assignments **no later than noon on Friday, June 21st**. This deadline is important as I want to be able to review your papers before class.

I look forward to seeing you – and your computer - promptly at 3:30 pm on June 21st.

