

Problem 12A

Jean Sperry has sued Doug Maki for personal injuries sustained on October 8, 2014, when Maki's Cessna 150 airplane collided with Sperry's car on a two-lane highway after Maki made an emergency landing because of a hydraulic leak. Sperry alleges that Maki was negligent for exceeding the speed limit in his plane after he was on the highway and failing to keep his plane under control.

As one witness, Sperry calls Samuel Garcia, a farm laborer who was assisting with an apple harvest in an orchard adjacent to the highway. Garcia establishes that he was present, that his attention was drawn to the sound of an airplane, that he saw the plane land on the highway and saw the collision with Sperry's car. Sperry then asks these questions:

- 1 Q: In your opinion, how fast was the car going at the time of the collision?
 A: Between 55 and 60 miles an hour.
- 2 Q: How fast was the plane going as it touched down?
 A: About 120-130 miles an hour
- 3 Q: What happened next?
 A: The pilot got out of the plane and was stumbling and wobbling. It looked like he was drunk.
- 5 Q: Did you notice anything else?
 A: Yes, the pilot smelled of alcohol of some sort.
- 6 Q: What else did you notice?
 A: He was an old guy -- maybe 75 or so. In my opinion, too old to be flying a plane.
7. Q: By the way, what is the speed limit on the highway?
 A: 60 miles per hour, I think.
8. Q: Anything else about him?
 A: Yeah. You could tell he had a big ego, probably some kind of CEO.

Think about the arguments for or against the admissibility of these items of evidence.