

## PROBLEM 16A.

In the continuation of the Big Red case, Big Red has a surprise defense. They claim it was not the Big Red delivery truck that struck Turner in the crosswalk, but a similar blue delivery truck from Kentucky. Big Red claims that Turner probably didn't see the truck that struck him and merely assumed it was the Big Red truck because when he regained consciousness, he saw the Big Red truck stopped at the scene because the driver Arden was trying to help.

To prove that it was the Big Red truck rather than the mysterious Big Blue truck, Turner calls Marisa Delmonico as a witness.

1. Q. What is your occupation?  
A. I am an EMT for the Bloomington Fire Department.
2. Q. Were you at the scene of Turner's injuries on September 25, 2015?  
A. Yes, I arrived approximately 10 minutes after the accident.
3. Q: What did you see when you first arrived?  
A. Turner was laying on the ground and a few people were standing near him
4. Q. Describe Turner.  
A. He appeared to be in pain. He was writhing around, yelling out obscenities, and looked like he was crying.
5. Q: Then what happened?  
A. I knwlt down to check his condition. I tried to comfort him, saying "You'll be OK, calm down." then I asked where it hurt.
6. Q: Did Turner respond?  
A. Yes. He said, "I hurt real bad, especially my legs and back. That Big Red truck hit me right after I entered the crosswalk."
7. Q: What happened next?  
A: Mt partner brought the gurney and we stabilized him, put him in the ambulance, and took him to the emergency room.
8. Q; You said there were other people nearby. Did anyone say anything?  
A. Yes. I heard one person ask what happened and another person say the guy got hit by a Big Red truck driven by a young woman.
9. Q. Do you know who said this?  
A. No.

Think through the arguments for and against admissibility of this evidence.

#### PROBLEM 16B.

Donald is charged with intimidation for sending a threatening email to author Reza Aslan reading, "Prepare to die, you goddam Muslim. I am watching you and know where you live." At trial, the prosecution calls his wife Jessica Jackley to testify that Reza was at his computer reading his email when the message arrived and said, "Oh God, not another threat from Donald."

Think through the arguments for and against admissibility of this evidence.

#### PROBLEM 16C.

Traffic accident case at a rural intersection, where both plaintiff and defendant accuse each other of speeding. Both deny speeding. Plaintiff calls her passenger, Sophia Mason, who testifies that moments before the accident, plaintiff told her:

1. "I've always been afraid of getting a ticket on this stretch of road. The traffic cops like to hide behind the billboards."
2. "Look at those cars zooming by. I'm afraid one of them will hit us."
3. Sophia also testifies that she saw the plaintiff a month after the accident and she said, "My back is really killing me. It's hurt every day since the accident, when that guy ran into me when speeding."

Think through the arguments for and against admissibility of this evidence.

PROBLEM 16D.

A continuation of the Credit Union robbery case, problem 4A. Recall that the definition of robbery is taking property by force or intimidation that puts the victim in fear.

The prosecutor calls a witness, Noah Thomas, who testifies to the following items of evidence:

1. I heard the teller say please don't shoot me.
2. Right after the robber ran out, I heard the teller say she was really terrified and thought he would shoot her.
3. Then another person standing beside me said, "I'll bet the teller was scared."
4. Oh I forgot. At the beginning of the robbery, the teller called out and said everybody stay away, he's got a gun.
5. I was watching the local news on TV next day to see if they had anything about the robbery. They had film showing the defendant being handcuffed and put into a police car. I heard him say that everyone in the bank was scared of him, especially the teller.

Think through the arguments for and against admissibility of this evidence.