

**UNIVERSITY OF THE DISTRICT OF COLUMBIA  
DAVID A. CLARKE SCHOOL OF LAW**

**TORTS FINAL EXAMINATION**

**FALL, 2003**

**December 15**

**9:00-1:00 p.m.**

Professor Thomas Mack

Twelve-year old Mary complains of a stomach ache. Her mother and she take a taxi to go to their doctor's office. The taxi driver goes through a red light at a busy intersection. While driving through the intersection, a large piece of metal strikes the taxi breaking the windshield and causing the driver to lose control. The taxi hits a light post, seriously injuring the driver and mother and breaking Mary's arm. The metal piece was from a railing at the top of a building owned by Sears, which had fallen onto the taxi.

During the delay in getting all three out of the car, into ambulances, and to the hospital, Mary's stomach ache becomes agonizingly painful. Mary, while still in the car, goes through her unconscious mother's purse because she knows her mother carried pain relief pills. She takes some pills, hoping to alleviate her stomach pain. However, she has mistakenly taken her mother's powerful antidepressant pills which her mother had often referred to as her "pain pills." The powerful drug in the pills causes Mary to become paranoid and chronically depressed for a number of weeks.

After getting to the hospital, a doctor properly treats Mary's arm, misdiagnoses her stomach pain as appendicitis, and with properly informed consent concerning risks, removes her perfectly healthy appendix. After Mary comes out of surgery and from under anaesthesia, the doctor later discovers the pain was from a bowel obstruction, not her appendix. Mary is properly treated for the obstruction at that point.

1. Mary sues the taxi driver.
2. Mary sues Sears.
3. Mary sues the doctor.

Analyze the potential negligence liability of the defendants to Mary.