(1) Northwestern Memorial Hospital (NMH) retained Air Heat Contractors (AHC) to rebuild its air ventilating system. The first step was to replace the large blowers on the roof of the hospital. The first new blower arrived on Monday morning at 9:00 am. It weighed 8,000 lbs. An AHC employee named Carl Smith (Smith) prepared a rig on a large crane to hoist the blower up to the roof with a single braided cable rated at 14,000 lbs. Industry contractors often use double-braided cables to add stability depending on weather conditions.

Erica Robinson (Robinson) a mechanical engineer, was on her way to visit her husband, who was recovering from surgery at NMH. Erica stopped and watched the AHC employee prepare the crane to hoist the blower. Robinson walked over to within 50 feet away from the crane to get a better look. There were several signs posted "Warning! Danger: Stay back 100 feet!"

Smith climbed into the crane's cab and began to raise the blower to the roof. As the blower reached the roof level, there was a strong gust of wind. The blower began to swing back and forth. Smith decided to swivel the crane away from the building, however, the hoist with the blower hit the edge of the roof and the cable snapped. The blower tumbled to the pavement below. The impact of blower hitting the ground was very powerful.

At the time of this AHC crane operation, Chemical Co. was delivering a large cylinder of explosive acid to the hospital. State law requires chemicals of this nature to be delivered outside of ordinary business hours. The Chemical Co. truck had engine problems the night before and was unable to deliver the cylinder Sunday night as had been scheduled. Chemical Co. received permission to deliver the cylinder on Monday morning from the Security Manager for NMH campus, Stanley Fox (Fox). Fox was not an employee of NMH, rather Fox worked for an independent company named Secure Campus.

NMH had recently hired Secure Campus to upgrade campus security. Because of the nature of the delivery, Fox had called the VP of Materials Management at NMH to obtain approval to allow the shipment. At first the VP of Materials Management was not sure what to do, but Fox recommended that they allow the shipment.

At the time the blower fell, the Chemical Co. truck was connected up to deliver the acid. The truck was approximately 50 feet from the crane area. When the blower hit the ground, the impact caused the cylinder to explode, and debris and acid flew everywhere. Debris from the cylinder hit temporary power lines, which had been installed by AHC for the project. Live power lines fell down within the 100 foot area around the crane. AHC employee Smith was not hurt, saw the live power lines on the ground, and radioed for fire and emergency help.

Erica Robinson had been standing about 50 feet from the crane when the hoist broke and the blower hit the ground. The impact of the blower hitting the ground knocked her off her feet. Robinson hit her head when she fell to the ground. Before help arrived, Robinson stood up and tried to walk away. In her dazed condition she stepped on the live power line and was electrocuted.

Question: Please outline and discuss the tort claims that the Estate of Erica Robinson may bring as a result of this unfortunate chain of events. To assist your analysis, include a discussion of the following:

a) The claims against AHC;
b) The claims against Chemical Co. relating to the delivery of the cylinder of acid;
c) The claims against Secure Campus and/or NMH for the delivery of the cylinder on Monday and
d) Any defenses against Erica Robinson's tort claims (Assume comparative fault applies and that there is no contributory bar).

(2) Tom Tech was on a business trip driving back to Chicago and decided to stay at the Best Hotel and Conference Center (Best Hotel) outside Indianapolis, Indiana. Tom phoned ahead to make sure that the Best Hotel had high-speed, secure wifi. On the phone, the hotel manager assured Tom that the hotel had high-speed, secure wifi.

Tom arrived at the Best Hotel and again asked if the hotel had high-speed secure wifi. The individual at the check-in desk told Tom: "Of course we do. We are a state of the art, high tech hotel, for sure!" Tom told the hotel clerk that he had an important business presentation to work on for tomorrow for a big customer. Tom asked the clerk, "What is the cost?" The hotel clerk responded: "Our high speed, secure wifi is $24.99 for a 24 hour period." Tom stated that he wanted that option.

Tom gave the clerk his credit card. The check-in form included a statement in **Bold Black Print** stating that the customer agreed to the Terms and Conditions to receive the high-speed, secure wifi. Tom signed the check-in form, but the Terms and Conditions were *not* disclosed on the check-in form. The clerk gave Tom a wifi card with an ID and a password to use.

Tom reached his room and took out his laptop. Tom entered his password in the Best Hotel website. Tom was then confronted with the following text on his computer screen:

WI-FI TERMS AND CONDITIONS

-Network Usage Terms: The Terms and Conditions set forth govern your use of this internet service. If you do not agree with these Terms and Conditions, do not use this network.

-Disclaimer of Warranty: The materials on the Website are provided "AS IS". All Warranties Express or Implied Conditions are Disclaimed.

-Limitation of Liability: This Hotel shall not be liable for any Damages as a result of using, copying or downloading any materials. In no event shall this Hotel be liable for any indirect, punitive, special, incidental, or consequential damages (Including loss of business, revenue, or profits). You have sole responsibility for adequate protection and back up of data. You agree to hold this Hotel harmless from any claims based on using this internet service.

-General: The Hotel services and prices described herein are subject to change without notice at any time. These Terms and Conditions represent the entire understanding relating to the use of this internet service and prevail over any prior or contemporaneous, conflicting or additional communications. This Hotel can modify or revise these Terms and Conditions at any time.

-By clicking OK, YOU ACCEPT these Terms and Conditions.

Tom clicked OK.

The wifi internet connection seemed fine to Tom. Tom worked for many hours into the night and put the finishing touches on his presentation at about 3:15 am. However, when Tom clicked the "Shut Down" button, the following screen message was displayed to Tom:

-Thank you for using this service. Total charge is $534.17.
-Leave this on your registered credit card? YES NO

Tom was very upset by this notice. This was not the 24 hour charge of $24.99. Tom called the front desk. He was put on hold for 30 minutes. Tom finally hung up and clicked "NO". A new screen message appeared:

-Please contact the Cashier immediately to arrange payment of $534.17.
-In the interim your computer files are frozen.
-Enter release code provided by Cashier with your full payment: ________.

Tom discovered his laptop was frozen and that he could not access any of his files. Tom needed these business files. Tom called the Hotel clerk and authorized the $534.17 payment in order to obtain the release code.

Tom entered the release code, nothing happened. Tom shut off his computer and rebooted. Unfortunately, the business files and Tom's presentation could not be recovered. Tom lost the data, and this caused Tom to lose a large contract which would have paid him a $50,000 commission.

Question:

a) Discuss whether any contract exists between Tom Tech and the Best Hotel.
b) Discuss whether, or how misrepresentation, or duress impacts any contract.
c) What remedies and damages are available to Tom Tech?

(3) Frank Fan (Fan) owned a successful Sports Bar & Restaurant (Sports Bar LLC) in Chicago. Fan's big dream was to start a new minor league hockey team in the Chicago area. In order to develop the minor league team, Fan decided to sell his large Sports Bar & Restaurant and to transfer all but four of his Blackhawks season tickets in the sale.

Fan entered into negotiations with the Mike Hull Venture Capital Group LLC ("Hull VC") for the sale of the business. Fan explained to Hull VC that he was selling his business to start a minor hockey team. Hull VC offered $18 million for the business in cash payable at closing, but the sale was conditioned on Hull VC obtaining a five-year lease agreement for a nearby parking lots.

Sports Bar LLC entered into a written contract with Hull VC. The written contract provided that the purchase was conditioned on the buyer obtaining a five-year lease agreement on several nearby parking lots. Because time was of the essence to Fan, the written contract explicitly provided that Hull VC would use its "best efforts" to obtain the 5 year lease agreement for the parking lots within two weeks (14 days). Fan was not worried about the parking lot condition because he had leased the parking lots for many years on an "at will" basis.

Fan went forward to get some of the other pieces in place for his hockey team business plan. Fan had located a large tract of land in Chicago where he expected to build his new hockey arena. The property was owned by a friend of his, Nancy Foster (Foster). Fan prepared a written offer to purchase the property in the name of Chicago Rockets LLC. The written offer provided a purchase price of $10 million, and stated that the offer was subject to a condition that revised zoning could be obtained to build a sports arena.

Foster made a counter-offer to Fan: $10 million purchase price--Chicago Rockets LLC would pay an immediate $5 million down payment in cash at closing in 72 hours, and the balance of $5 million would be paid in 30 days. The zoning condition was eliminated from the deal, and there would be a personal guarantee from Fan if Chicago Rockets LLC defaulted.

Foster and Fan met to negotiate the terms of the deal. Fan rejected the request for a personal guarantee, but accepted Foster's other terms. Foster and Chicago Rockets LLC signed a written contract and had a closing on the deal.

After this closing, Foster and Fan decided to celebrate at the Sports Bar & Restaurant. Foster explained to Fan that she was using the $10 million to invest in a start-up, and that she needed the balance on the land sale to make the investment. Foster suggested to Fan that since he was selling his business with his Blackhawks season tickets, that Foster would split her season tickets right on the ice with Fan, but Foster stated that she expected Fan to make a personal guarantee on the $5 million still owed her by Chicago Rockets LLC.

Fan stated that he loved those seats, and as a friend he would do that. Foster then gave Fan four of her tickets on the ice to the Red Wings/Blackhawks game that weekend, and Foster and Fan shook hands. After this meeting with Fan, Foster immediately went downtown and deposited the $5 million in the investment account for the new start-up and signed a personal note for the balance of $5 million within 40 days.

Fan had not heard from Mike Hull VC and realized that with all of his activities, the 14-day period had expired. Fan called Mike Hull to set a date for their closing. Mike Hull gave Fan some bad news. Hull told Fan that he was sorry, but the deal was off. Fan was beside himself and asked Hull what Hull had done to get the lease for the parking lots during the two week period. Hull admitted to Fan that he had not even called the owners of the parking lots. Fan told Hull he was in total breach and Fan had been substantially damaged.

Fan then called his friend Nancy Foster and told her the deal was off for now. Foster was very unhappy, and told Fan that she was still going to hold Chicago Rockets and him personally to the payment of the outstanding $5 million. Foster warned Fan that if she did not get the payment, she was not going to be able to invest in her start-up.

Question:

You are a business consultant to Frank Fan. Fan has asked you to give him your views of the following:

a) The claims against Mike Hull Venture Capital by Sports Bar LLC and potential damages or remedies.
b) The claims against Chicago Rockets LLC and/or Frank Fan by Nancy Foster and potential damages or remedies.

(4) Brink National Airways (BNA) is an airline headquartered in Chicago and operates numerous flights out of O'Hare and Midway Airports to national and regional destinations. The Senior Compliance Officer Pam Johnson (Johnson) at BNA received an anonymous tip on the BNA Compliance Hotline that there were a number of routes that have been opened by the airline to locations due to the personal influence of the Founder and CEO of BNA, Jim Brink (Brink).

According to the anonymous tip: Brink and Bob Murphy (Murphy), Chair of the Airport Authority, had discussions about one of these routes. (The Airport Authority oversees the operation at O'Hare and Midway Airports.) BNA needed help with some capital expenditures to build a new warehouse hangar at Midway. BNA needed the support of the Airport Authority. Murphy complained to Brink that he had a vacation home in South Carolina and that there was no convenient way to fly there. Murphy suggested it would be a good idea to have BNA fly into Columbia, South Carolina, noting that this was only 50 miles from his vacation home. BNA subsequently opened up a new route to Columbia, South Carolina.

Pam Johnson conducted an internal compliance inquiry based on this tip. She pulled Brink's expense account information and identified expenses submitted by Brink for meetings and meals with Murphy. There were two BNA Executives who were often listed on the expense records: Fred Fowler, VP of Operations, and Sally Smith, VP Flight Management. The dinners were within the company's expense guidelines, but they were always extravagant and at 5 Star restaurants.

Johnson pulled the file on the BNA route to Columbia, South Carolina. The route was initiated at the request of Brink several days after a dinner meeting between Brink and Murphy.

Johnson then pulled information on all routes at BNA that were initiated at the request of Brink. Johnson discovered that there were two additional routes. The second route initiated by Brink was to Palm Springs, California. Johnson confirmed that Brink had his own vacation home in Palm Springs. This BNA route was added one month after Brink bought his home in Palm Springs.

The third route initiated by Brink was to Billings, Montana. Brink had disclosed a business interest in a company located in Billings, Montana named Montana Ranch Resort LP (MRR LP) on his annual compliance form.

Public filings revealed that MRR LP operated a luxurious vacation resort located 30 miles from Billings. Brink was listed as the General Partner of the MRR LP and two other executives at BNA were also listed as the limited partners. The two BNA executives were Fred Fowler, VP of Operations, and Sally Smith, VP Flight Management. Neither Fowler nor Smith disclosed this Limited Partnership ownership as required on their annual BNA compliance forms.

The BNA financial records revealed that the Airport Authority provided BNA $5 million in capital expenditure support for a new warehouse at Midway. This subsidy occurred within three months after BNA opened a route to Columbia, South Carolina.

A review of BNA financial records disclosed that out of the 250 routes that BNA flies, the three routes initiated by Brink, namely Columbia, Palm Springs, and Billings, were consistently ranked at the very bottom of all flights for passenger usage. BNA had lost $750,000 on these three routes since they were opened. However, both Flight Management and Operations had always recommended that these routes should be continued.

The passenger manifest records for the last 12 months on the flights to Columbia, South Carolina revealed repeated entries for Bob and Sheila Murphy, and other entries with the last name Murphy. These fares were all complimentary.

The passenger manifest for Palm Springs, California for the past 12 months reflected numerous entries for Bob and Betty Brink, as well as others who appeared to be family and relatives. These fares were also complimentary. The passenger manifest lists for Billings, Montana disclosed entries for Brink, Fowler and Smith that were of a similar nature. There was also several entries in the Billings manifest for Bob Murphy.

Question:

You are a new MBA graduate assigned to BNA compliance. The Senior Compliance Officer Pam Johnson asks you to provide an evaluation of the theories of civil liability and potential damage claims that BNA may pursue against BNA Executives Brink, Fowler and Smith, involved in this situation. Johnson explains that you do not need to analyze whether any conduct is criminal. Please provide your analysis.

(5) In 2012, four individuals who recently graduated from State University were discussing the lack of good delivery, and take-out options around campus. They agreed that no restaurant offered healthy food options that incorporated organic ingredients in the kinds of meals everyone wanted such as gourmet sandwiches, salads, and dinner entrees, including pizzas. The four individuals who agreed to start this business were: Georgia Greene, Anne Avocado, Fred Farmer, and Oliver Oats. (herein collectively referred to as "Four Founders").

The Four Founders agreed to operate the business in a purely democratic manner. Each would have an equal vote, and all major business decisions were to be made jointly. Each would receive 25% of the profits or losses. All four would be in charge of developing the restaurant concept and menu items. Georgia Greene was going to be CEO; Anne Avocado was in charge of the finances and marketing; Fred Farmer would handle all purchasing matters; and Oliver Oats would be responsible for all operations including personnel. Each of the Four Founders made capital contributions of $200,000.

The Four Founders jointly prepared a written Declaration of Intention to develop a business to provide high quality organic healthy meals to go. Fred Farmer proposed that they add one sentence to their written Declaration of Intention to clarify that their business relationship was not a legal partnership so as to limit any liability issues to their investments. The Four Founders agreed and signed the Declaration of Intention and it became the foundation of their business.

By 2014, there were two stores operating around the campus. The name of the business was The Great Organic Deli and Pizza Place ("Great Organic"). The speed of delivery was critical to the success of the business and they adopted the slogan "Super-Swift Delivery". In order to accomplish "Super-Swift Delivery", the Four Founders hired an independent firm named Super Duber ("Duber") to handle the delivery operations.

Great Organic prepared very detailed procedures for Duber and its drivers. Duber's drivers certified their safe driving records. Duber was paid a monthly flat fee, and then additional hourly payments were also made as Duber drivers were used, or waited on-call. Great Organic reserved the right to ride with any Duber driver to assess their performance in delivery to customers. While Duber hired its own employees, Great Organic had the right to remove any driver from its account based upon its evaluations.

By 2015, Great Organic had grown to five locations in the surrounding metropolitan area. The Four Founders each received 25% of the profits and that equaled $125,000 per individual. The Duber drivers were consistently hitting new delivery speed records, even beating out Jimmy John's "freaky fast" delivery ratings. Oliver Oats and the other founders periodically rode with the Duber drivers to ensure "Super-Swift Delivery".

In late December 2015, a regular customer placed a very large catering size order for 30 sandwiches and 20 pizzas at one of the stores. The customer was emphatic that they needed the food as quickly as possible for a large business meeting that was running late through dinner. Oliver Oats insisted that Duber send a driver on call named Sam Speedy because of the customer and delivery requirements.

Sam Speedy promptly arrived at the store, picked up the food, and successfully delivered the order. Sam was still on call for the entire night, but Duber permitted its drivers to wait at their home between delivery runs. On his way home, Sam Speedy received a call that there was another large delivery to be made to a customer in 60 minutes.

Unfortunately, within minutes after that call, Sam ran into a car that had stopped in a lane on a street to let some passengers out. Sam was driving 55 mph in a 40 mph zone and did not fully brake before impact. As a result of this collision, the two people who were in the process of getting out of the stopped car were killed instantly. The driver of the stopped car and another passenger still inside the car were seriously injured. Sam Speedy survived the crash with minor injuries.

You are called into a meeting with the Four Founders the day after the accident to discuss these tragic events and to sort out the potential responsibility of Duber and Great Organic for the accident. The Four Founders of Great Organic ask you, as their business advisor, to provide your candid assessment of the following questions and to explain the reasons for your conclusions:

a) Discuss the business structure of the Great Organic start-up and whether the individual founders have personal liability relating to the Great Organic business operations.
b) Discuss the legal relationship between Duber and Great Organic and your view of whether Duber is an independent contractor, or agent.
c) What negligent tort claims can be asserted against Duber and/or Sam Speedy? Are Great Organic and/or its owners vicariously liable for the actions of Duber driver, Sam Speedy?