

**Torts**  
**Prof. Eric E. Johnson**  
**Fall 2023**

**IN-CLASS EXAM WRITING EXERCISE**  
***Damian's Drunk Drive and the Red Light at Red Dirt Road***

**FACTS:** On a dusty autumn afternoon in central Texlahoma, Damien downed half of a fifth of whiskey, waited a good 30 minutes for it to hit his system, and then got behind the wheel of his vintage 1984 Chevy Camaro IROC. A fifth of whisky is a lot of alcohol. Half of the bottle is the equivalent of about eight shots, which, based on Damien's body weight and metabolism, would leave him with a blood alcohol content of 0.24% after a half hour. (The legal limit for driving in Texlahoma, by the way, is 0.08%, meaning Damien is at triple the limit.) According to expert sources, this concentration of alcohol is predicted to cause nausea, impaired sensations, partial loss of understanding, possibility of stupor, and very substantially reduced reaction times. Because of Damien's intoxication while driving, he failed to see a red light at the intersection of Route 8 and Red Dirt Road. A red light, of course, indicates "stop" and obligates the driver to halt and not proceed through the intersection. Not seeing the red light, Damien drove into the intersection, where his car collided with that of Piper, who was driving her mom's car legally through the intersection pursuant to a green light. As a result of the force of the collision, Piper's arm was broken.

**QUESTION:** Evaluate whether Piper can recover from Damien in tort.