

**QUESTION 3 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I**

Police were dispatched to the scene of a reported felonious assault. The report received was that a male had attacked a young woman in a parking lot and left on foot heading northbound on First Avenue. An officer and his canine partner arrived at the scene and witnessed a young man, later identified as Peter, running along a nearby sidewalk. The officer released his dog but also yelled at the man to stop. Peter immediately stopped and placed his hands in the air. Before the officer could command the dog to stop, the dog jumped up on Peter and bit him in the shoulder.

It was later determined by the officer that Peter had just been out jogging and was not the man involved in the attack on the young woman. Nonetheless, Peter suffered serious injuries to his shoulder, which required multiple surgeries, time off work, and exceptional pain and suffering.

In Michigan, the following statute applies to dog bites making it a strict liability tort:

"(1) If a dog bites a person, without provocation while the person is on public property, or lawfully on private property, including the property of the owner of the dog, the owner of the dog shall be liable for any damages suffered by the person bitten, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness. MCL 287.351."

**Peter is suing the police officer and his employer, the city, based on a strict liability theory for the damages he suffered as a result of the dog bite. Evaluate the likelihood of success of Peter's lawsuit. Explain your answer.**

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