**SLIPPERY SLOPE - QUESTIONS**

In preparing for the meeting with Carter and Ms. Spring, your team has been asked by Ms. Spring to write a complete and thorough report, addressing at a minimum the following questions:

Q. 1. Carter’s attorney, Ms. Julia Spring, decided that it might be helpful to introduce data that would show that accident rates among drivers wearing flip-flops are higher than the accident rates among drivers wearing other types of footwear. Ms. Spring obtained results of a federal government survey that produced data relating to non-fatal motor vehicle accidents and the nature of footwear that was worn by drivers at the time of the accidents. The data represented the difference between non-fatal accident rates of drivers wearing flip-flops and that of drivers wearing other types of footwear. The survey data is presented in Table 1 below. Ms. Spring is not sure the results of the survey support the position that the accident rate among drivers wearing flip-flops is higher than the accident rate among drivers not wearing flip-flops. She is uneasy with the survey results, fearing that the survey might reveal the worst-case outcome, namely, that drivers who wear flip-flops have lower accident rates than drivers who do not wear flip-flops. In addition, she is unsure how to analyze the data before making a final decision whether or not to use the survey results in settlement negotiations or, if needed, at trial. Ms. Spring needs help in making sense of the data. Does the data support her position? In addition, Ms. Spring is concerned about the limitations that might exist regarding the methods being used to analyze the data. Are there any recommendations that might overcome the limitations?

Table 1: Government Survey Data

Year

Difference in Accident Rates = Flip

Flops - Other Footwear

1

4%

2

5%

3

3%

4

4%

5

6%

6

5%

7

7%

8

8%

9

7%

10

9%

Q. 2. Is Bailey liable to Carter for negligence in operating an automobile while wearing flip-flops?

Q. 3. Assume that neither Bianca Claudio Footwear nor the outlet shoe store provided any instructions or warnings as to wearing flip-flops. Is Bianca Claudio Footwear strictly liable to Carter for failure to warn of the danger involved in driving while wearing flip-flops?

Q. 4. Assume that Carter prevails in his negligence and/or strict liability lawsuits. In determining the amount of damages he may recover for loss of earnings consider the following: Carter’s medical condition is such that he is unable to ever work again; he was 53 years of age at the time of the injury and would have been expected to retire at the age of 65; his life expectancy at the time of the injury was 77 years of age; he is an employee of the United States Postal Service covered by a union contract projecting his wages to rise by 3% per year in real terms plus an annual Cost of Living Adjustment (COLA) equal to the rate of inflation; and his current annual gross salary is $48,000.

a. Table 2 below contains the Consumer Price Index (CPI) for each of the past 10 years. Determine the average annual percentage change in the CPI over the past 10 years. Explain the meaning of this statistic. What assumptions would have to be made about monetary policy in the next 12 years to assume the average annual percentage change in the CPI over the past 10 years can be used to predict future inflation rates?

b. Assume that 25% of Carter’s income is paid in state and federal income taxes and that he will not receive any state or federal assistance due to his medical condition. Using the information provided above and your results in 4.a., project the likely amount of an award to Carter for lost future income based on a present value rate of 8%.

Table 2: Year End Consumer Price Index (CPI) for the Years 1999 to 2008

|  |  |
| --- | --- |
| Year | Year End  CPI Value |
| 1999 | 148.2 |
| 2000 | 152.4 |
| 2001 | 156.6 |
| 2002 | 162.5 |
| 2003 | 166.2 |
| 2004 | 169.8 |
| 2005 | 176.0 |
| 2006 | 183.1 |
| 2007 | 192.6 |
| 2008 | 199.0 |

Q. 5. Regardless of whether Bianca Claudio is strictly liable to Carter, does Bianca Claudio have an ethical responsibility to warn consumers of the potential dangers of wearing flip-flops while operating a motor vehicle?