

Question #1

You have 60 minutes to respond to the following prompt. Allow yourself ten to fifteen minutes to read and annotate the passage and organize your ideas.

The following blog, titled “**Now It’s My Fault Your Dumbass Read My Text Before You Crashed?**” was written by Elie Mystal and posted May 5, 2016.

Read the piece carefully, *not* to see whether you agree, but to detect the methods used by the writer to sway readers and bring home points. Here are some questions you might consider as you **analyze** the writer’s use of tactics; do not cover them all. Rather, choose the points you cover to help illustrate your analysis:

- What is the author’s purpose?
- Who might be the intended audience?
- What specific rhetorical strategies (e.g., word choice, sentence structure, figurative use of language, tone, examples, statistics) does the author use? Why do you think the writer chooses these tactics?
- Do these choices work well? Does the blog persuade you? How? Why? Why not?

Use these observations to compose an organized and fully developed essay in which you present your findings. Focus your response on specific details from the essay; **do not** merely summarize it. Remember as well that all quotations need to be properly marked and acknowledged or you will commit plagiarism.

A Pennsylvania judge opened the door for people to be liable if they send a text to a person they know to be driving who reads it and gets into an accident.

Obviously, you shouldn’t text while driving and you shouldn’t read texts while driving. But assigning third party liability to the person who sends the text you were stupid enough to read feeds into the false narrative that the *technology* is to blame instead of the idiot users. It’s not the text’s fault that you rear-ended the minivan. It’s your fault. You are to blame. Hopefully, you and everybody else survived your accident so you could learn your lesson.

Pennsylvania thinks it is being cute by adding the “knowing” requirement. To be liable, you have to *know* that the person you are texting is driving. But this is what happens when old people who barely use the technology try to make laws about the use of the technology. Just because you text a person who you know to be driving, doesn’t mean that you expect them to read the text while they’re actively driving.

Maybe you are texting the grocery list as the person is driving to the store?

Maybe you’re texting “I love you” to a person who will look at their phone one last time between parking the car and heading into a big job interview?

Maybe you are texting to a person on a road trip. You know they are driving but you also know that eventually they will pull over to pee, but you *don't* know when precisely that will be.

Maybe you are my mom and you hilariously text “Don’t text while driving,” to me while I’m driving. My mom is liable now if I’m the idiot who ignores her sage yet ill-communicated advice?

Even if you think there’s a discernible point where “knowing” somebody is driving should make you liable for texting them, how are you going to prove that the texter “knew,” and how much money in legal fees will the texter have to spend to defend themselves? From the ABA Journal:

While the knowledge requirement—which was also imposed by Pennsylvania Common Pleas Judge John Hodge in the Lawrence County case of *Gallatin v. Gargiulo*—sets a high bar that will make it difficult for plaintiffs to prevail in suits against third parties, it also opens “a can of worms,” defense lawyer Gary Stewart of Rawle & Henderson told the legal publication.

That’s because anyone who sends text messages could potentially be named as a defendant in such litigation. That would likely require the person to appear, retain counsel and participate in discovery before a lack of knowledge can be established, he said.

Yeah, this is not going to end well. This is going to end with people being hauled into court who did nothing wrong. It’s going to end with stupid jury awards that have to be overturned in appellate courts.

And it’s not going to stop until Apple and Samsung puts their lobbyists on the case.