

Final Examination

Torts I

Professor William Gallagher

Fall 2007

1. You have **three (3) hours** to complete this exam.
2. This is a **closed** book exam.
3. This exam consists of three parts, for a total of **300 (three hundred)** possible points.
 - **Part I** consists of **one (1) essay** question. **Part I** is worth **100 (one hundred)** points. Please allocate your time accordingly. Please write your response in the blue books provided, or type your response. Please write clearly. Write on every other line and every other page to permit instructor comments, if you are handwriting your exam.
 - **Part II** consists of **one (1) essay** question. **Part II** is worth **100 (one hundred)** points. Please allocate your time accordingly. Please write your response in the blue books provided, or type your response. Please write clearly. Write on every other line and every other page to permit instructor comments, if you are handwriting your exam.
 - **Part III** consists of **twenty-five (25) multiple-choice questions**. **Part III** is worth **100 (one hundred)** points. Please allocate your time accordingly. Please mark your responses to the multiple choice questions on the separate "ParSCORE TEST FORM" using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer.
4. Write your exam number on your exam envelope. Put your correct class section and exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE TEST FORM." **Do not** use your name, student ID number or Social Security Number on any exam materials.
5. At the conclusion of the exam, return all test materials, including blue books, ParScore answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

GOOD LUCK!

Part I: Essay Question (100 total exam points)

Dependable, a rental car company, rented a car to Sam. Unlike most other car rental companies, Dependable does not ask its customers to provide proof on auto insurance in order to rent its cars, but it does require each customer to certify in writing in the rental car agreement that he/she has a valid auto insurance policy. Sam had no such insurance, but was able to rent his car by falsely certifying to Dependable that he did. Later that same day, Sam used the rental car as a “getaway” vehicle after robbing a bank. Sam sped from the scene of the robbery going over 90 miles per hour on city streets. While speeding away, Sam’s car hit Paxton, a bicyclist. Paxton was riding his bike on the left side of the road, facing the traffic, in violation of a criminal statute that required bicyclists to ride on the right side of city roads. Paxton lost control of his bike and veered into the street where Sam’s car hit him. Paxton suffered serious injuries, including two broken legs, as a result. Paxton’s injuries required him to be hospitalized at Central Hospital.

“Nurse” Jones, had been hired by Central Hospital the same day that Paxton was admitted and hospitalized there. Jones had been interviewed by Central Hospital, which did not check to see whether Jones was licensed to be a nurse simply because Jones represented that she was licensed. Actually, “Nurse” Jones had never attended nursing school, but had obtained an online “nursing” degree from a school that sold such degrees based on individuals’ “life experience”. In treating Paxton, Jones mistakenly injected Paxton with a drug that was intended for another patient. This drug typically was quite safe for almost all patients, but due to Paxton’s weakened condition from the trauma of his injuries from the car accident, Paxton suffered a severe reaction after Jones injected him with this drug and became partially paralyzed.

Analyze the tort claims and defenses that may be raised by the parties.

END OF PART I

Part II: Essay Question (100 total exam points)

Eddie, a night clerk at DrugStore, deliberately spilled small amounts of olive oil on various parts of the DrugStore floor one night. Eddie was paid on a commission basis and thought that if customers slipped and fell on the slippery floor they would be injured and thus more likely to need to purchase expensive medical supplies, thus enabling him to increase sales and his commission. Anna, a customer who had entered DrugStore intending to purchase only aspirin, slipped on one of the olive oil puddles that Eddie created and badly sprained her ankle. Eddie ran over to assist her. While assisting Anna, Eddie was able to convince her to buy not only aspirin but also an expensive ankle brace and bandage kit. Anna used the kit to bandage and brace her ankle and walked out of the store.

Anna began to limp back to her apartment, which was 6 blocks away. Because of her injury, Anna did not believe she would be able to walk all the way home. As luck would have it, however, Anna's friend Gail was driving by and offered Anna a ride home. Anna gratefully accepted the ride but as she opened the car door she smelled marijuana smoke coming from the car interior. Anna hesitated for a moment, but figured that it would be safe to ride with Gail the short distance to her apartment. Anna settled into her seat and Gail sped off, driving 50 miles per hour in a 25 mile per hour zone in order to get her friend home quickly.

Gail drove close to a truck in front of her on the road, which was driven by Hank. Hank was driving at the speed limit and was hauling concrete blocks in the back of his truck to bring to a construction site. Hank was startled to see in his rear-view mirror that Gail's car was tailgating his truck and hit his brakes. Suddenly, one of the concrete blocks from Hank's truck came loose and crashed into the windshield of Gail's car, causing her to crash the car into a bridge. Both Gail and Anna were injured badly in this crash. The crash also weakened the bridge, so that the weight of the next car on the bridge, driven by Dee, caused the weakened bridge to collapse. Dee's car fell off of the collapsing bridge, and Dee suffered a broken back as a result.

Analyze the tort claims and defenses that may be raised by the parties.

END OF PART II