

**FINAL EXAMINATION
EVIDENCE
PROFESSOR JUDGE JAMES
SUMMER 2005**

1. You have **three (3) hours** to complete this exam. Time limits are suggested for each section of the exam.
2. This is a **closed** book exam. Students may not use any outside materials or confer with each other during the exam.
3. The exam consists of two parts.

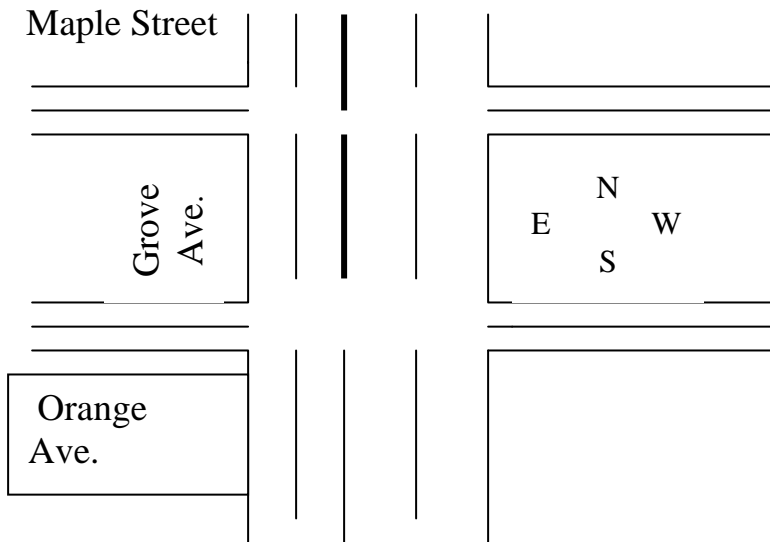
Parts I and II consist of two (2) essay questions. Please write your responses in the blue books provided and write clearly. Write on every other line and every other page to permit instructor comments. If you are using exam software, complete the required information on the diskette and **Save** it when you are done.

Part III consists of twenty (20) multiple-choice questions. Mark your responses 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 then 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 student exam number at the top of this page, each page of questions and each blue book. **Do not** use your name, student ID number or Social Security number on any exam materials.
5. At the conclusion of the exam, turn in **all** exam materials including blue books, computer disks, scratch paper and the exam in the envelope provided and submit them to the exam proctor. **Do not seal** the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

Paula v. Ed and Popular Dry Goods

Paula was driving her car, a 2004 blue Jaguar, to work on a June day, two years ago. As she approached the intersection of Orange and Grove Avenues, she had a collision with Ed. Ed was driving a truck owned by his employer, Popular Dry Goods (PDG). Paula claims that she had the green light. Ed claims he had the green light. The accident was witnessed by two bystanders, Walter and Wanda. Paula sues Ed and Popular Dry Goods for damages arising out of the collision.



PART I
30 POINTS
1 HOUR, 10 MINUTES

During the civil action of *Paula v. Ed and Popular Dry Goods*, Walter testifies, on direct examination by Ed's attorney, that Ed had the green light.

Assume that on cross-examination of Walter by Paula's Attorney, the following takes place:

- Q: Just before the accident, you were in the Triangle Tavern, weren't you?
- A: Yes.
- Q: You were there for an hour?
- A: About that.
- Q: You had four double vodkas, isn't that right?
- A: I wasn't counting.
- Q: You wouldn't deny that you had that many, would you?
- A: No, that sounds about right.
- Q: Do you know Paula?
- A: Kind of, she lives in my neighborhood. She went out with my brother a few times. He dumped her because she cheated on him with his best friend and has a bad reputation for sleeping around.
- Q: You testified you saw the accident. Where were you at that time?
- A: I was standing beside the road and I heard this car zoom behind me on Orange Ave., the cross street. It had to be going at least 60 miles per hour down the road.
- Q: What time was it?
- A: I thought the time might be important, so as soon as I saw the accident, I stopped my watch. Later that day, I looked at it and it was stopped at 1:00p.m.
- Q: Did you see the collision?
- A: Well, I heard this lady named Wanda scream, "Oh my God, that car just ran the red light and hit that truck!" And then I saw that the two vehicles had collided.
- Q: What happened next?
- A: Paula was crying and Ed came up to her and said, "Don't worry, the company's insurance will cover this."
- Q: Isn't it true that immediately after the accident you told the police officer the light was red for the defendant?
- A: I don't remember saying that.
- Q: PDG paid \$1500 to repair damage to its truck caused by the accident and fired Ed two days after the accident, didn't they?
- A: I don't understand the question.

Discuss all issues surrounding each item of testimony.

PART I
30 POINTS
1 HOUR, 10 MINUTES

Assume that after the collision with Paula, Ed's vehicle ran up a sidewalk, striking Harriet. Harriet died, and Ed is being tried for negligent homicide.

1. Before dying, Harriet made the following statement to a police officer on the scene:
"That drunk ran the red light and tried to kill me!"
2. Ed has a conviction for grand theft auto in 1998 when he was 17 years old. Additionally, after the incident, but prior to the trial, Ed was convicted of driving under the influence of alcohol. He was sentenced to a 6-month suspended sentence and a weekend in jail.
3. A photograph of the intersection where the accident occurred. The police took the photograph the day after the accident. The police photographer is not available.
4. Testimony by an automotive engineering professor from a University. The professor will offer to show a computer-generated simulation of the accident. The professor will testify that he developed the computer program as part of his research into automotive safety and although he has never testified at trial, he has been using the program and various improvements in the program in consulting with auto manufacturers for the past five years. The professor, if allowed to testify, will state an opinion that as seen by his computer-generated simulation, Ed must have been drunk just prior to the accident.
5. Testimony from a nurse in the hospital where Ed was taken after the accident that Ed was throwing up and had glassy eyes.

Discuss all issues surrounding the following testimony and evidence.