

FINAL EXAMINATION
REMEDIES
PROFESSOR LOIS SCHWARTZ
SUMMER 2005

1. You have **two (2) hours** to complete this exam. Time limits are suggested for each section.
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. Part I contains **22 multiple-choice questions**. Part II contains **one essay consisting of two (2) short-answer essays**. Time limits are suggested for each section.
4. Please write your responses on the ParSCORE test form and in the blue books provided. If you are using exam software, complete the required information on the disk and remember to save the exam to the disk. In the blue books please leave sufficient margins, and write on every other page and every other line.
5. 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.
6. At the conclusion of the exam, turn in **all** exam materials including the ParSCORE form, 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.

PART II

TWO (2) SHORT-ANSWER ESSAYS

RECOMMENDED TIME: 1 HOUR

The year is 2005. Paul and Penny Piper purchased a large home from Developer in Golden Gate Community Estates in Ames County, State of Columbia, for \$200,000 in 1995. They knew the deal was too good to be true. Developer told them to move quickly; he was able to offer such a large home for such a low price for a very limited time because the County building inspectors were on strike, enabling him to substantially cut construction costs.

The Pipers soon learned another reason why they were able to buy the home for such a reasonable price; as of 1996, the Dynamo Rifle Range moved onto the property directly behind the Pipers. Developer did not reveal that the Rifle Range was under construction at the time of the sale to the Pipers. Rifle Range erected a tall sound wall that limited visibility of its property and provided protection. Unfortunately, the wall extended ten feet into the lots of the ten homeowners, including the Pipers, whose property is adjacent to the Rifle Range.

As soon as the Rifle Range opened, the noise from shooting activities began to interfere with the quiet enjoyment of the Pipers' property. Paul Piper states that on weekdays the noise from the gunfire prevents him from going to sleep until after 10 p.m., and that on weekends he cannot sleep late in the morning. He also states that he is unable to use his yard or the deck on his home because of the noise. Further, the noise can be heard within his house even when the windows and doors were closed. The sound is substantially in excess of the decibel level permitted under the local noise ordinance.

Other neighboring landowners confirm that the incessant gunfire interferes with their use and enjoyment of their homes. Neighbors do not allow children to play outside, wear orange vests when outdoors, and are showered with shotgun pellets in their own yards and on the neighborhood walking path. Many leave home or shut windows when shooting begins and are reluctant to use all of their property. A desperate few have attempted to soundproof their homes at a cost of \$75,000 per residence, but of course this provides no relief outdoors.

Homeowners are unable to sell their homes for the market rate in other areas. An appraiser told the Pipers that today their home would sell for \$150,000 maximum at this point, whereas the same home in a location out of earshot of the rifle range would sell for \$450,000.

A provision in the sales agreements for all houses in the Golden Gate community provides "In the event that Purchaser brings a claim against Developer for intentional or negligent conduct, damages are limited to \$100."

1. If the Pipers sue Developer, what rights can they assert and what remedies should they consider? Consider possible defenses by Developer.
2. If the Pipers sue the Rifle Range, what rights can they assert and what remedies should they consider? Consider possible defenses Rifle Range can assert.

END OF EXAM