

FINAL EXAMINATION
TORTS I
PROFESSOR MICHAEL ZAMPERINI
FALL 2006
DECEMBER 7, 2006

1. You have two (2) hours for this examination.
2. This is a **closed** book examination.
3. This examination contains two parts: an essay **and** objective questions.
 - a) **Part I** consists of one 60-minute essay question. You must begin with the essay section. This essay question is to be answered in the bluebooks provided, using every other line on one side of each page. **Please return this section of the exam, including the questions, your answer sheet and your notes to the envelope once you are done answering the essay.** Once you have placed the essay section in the envelope, you may not go back to it. **NOTE:** You will not have access to Part I during the final hour of the exam. Now you may remove the Multiple Choice section.
 - b) **Part II** consists of 30 multiple choice questions to be answered in the final hour of the exam period. Select the best answer. Multiple choice answers are to be marked 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 student 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. Unless the question indicates otherwise, answer using torts principles of general application.
6. Unless otherwise indicated, assume that the appropriate statute of limitations for all causes of action is three (3) years.

7. At the conclusion of the exam, all examination papers -- including the Part II ParScore Test Form, bluebooks for Part I, the examination questions, these Instructions, and all notes -- must be placed back in the exam envelope at the end of the examination. Failure to return all materials will result, among other sanctions, in a failing grade of F for the course. **Do not** seal the envelope.
8. Relax and have confidence in your abilities.

PART I (1 hour)

[THIS PART CONTAINS ONE ESSAY QUESTION]

It was a dark and stormy night. Penny looked out the window and silently cursed the rain. Penny had been working late at the Black & Blue law firm, preparing for a court hearing early tomorrow morning in Delta County, about 200 miles away. She planned to drive there tonight and stay over in a motel so she could make the early morning appearance. Since she had been absorbed with her project, she left her home this morning without checking the weather forecast. Consequently she had no umbrella, no raincoat, and no protection against the elements. She made a mental note to buy emergency rain gear to keep at the office with some of the mileage reimbursement she would get from Black & Blue for the court appearance. She left the office and ran through the rain next door to the self-service parking garage.

She entered the garage and quickly located her car. As she was about to open the door on the driver's side of the car, she looked at the parking lot wall and saw a sign she had not noticed previously. The sign read Be Careful. Watch out for fruits and vegetables on the floor. Penny thought this a rather strange sign to have in a garage. However, just as she opened the car door and started to get in, her left foot slipped on a fresh, yellow banana peel on the floor and she went tumbling down to the ground, breaking her left hand.

Driving as best she could with a broken left hand and, mindless of her own pain, Penny set off for Delta County.

She traveled on a very wet Oak Street. At the intersection of Oak and First Street, she wanted to turn left on to First Street. Because she could not use her left hand without excruciating pain, she turned the steering wheel without signaling. Penny had not checked her rear-view mirror and did not know that Alan was driving behind her. Alan was trying to get emergency weather information on his radio and so had averted his eyes from Penny's car in front of him. Consequently, he did not notice her turn to the left and crashed his car into the rear of her car, throwing him against his windshield and severely damaging his car.

The State Vehicle Code provides, in part, as follows:

No person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal by the vehicle's signal lamp or by the driver's use of a hand and arm signal.

Alan got out of his car, holding his head. He started to scream at Penny, blaming her for the collision in a voice loud enough for her to hear through the storm. Penny grabbed a pistol (that she had a license to carry) from her glove compartment, got out of her car and, waiving the gun in front of her, shouted: Shut up! I'm an attorney and I'm in a hurry! Unfortunately the rain was soaking Penny, and the water caused her to lose her grip on the pistol, sending it flying at Alan and hitting him in the forehead.

Alan then yelled at Penny: You stupid cow, and hit her in the jaw. She fell down at an awkward angle, breaking her right foot. Alan then got into his damaged car, and drove away into the night.

Penny knew she needed medical attention. She crawled into her car and started driving towards General Hospital. She knew that she could not easily move her broken foot from the accelerator pedal to the brake pedal.

Meanwhile, at an intersection three blocks ahead of Penny's speeding car, Cathy was trying to get from one side of First Street to the other. Although a stop sign controlled the intersection, Cathy knew that no driver would be able to see it in the rain and darkness. Nevertheless Cathy decided to cross the street. As she made her way across the intersection, Penny's car came at her. Penny desperately steered the car to the other side. She was able to avoid crashing into Cathy, but did not avoid side-swiping Cathy. Cathy fell unconscious to the road. Penny was in a panic as she drove on. She then slammed on her brakes. No, she thought, I must go back and help that person. However, during the time that Cathy was unconscious, Donald came upon her prone body. Instead of helping Cathy, Donald instead stole Cathy's purse and raincoat and ran off.

Scarcely a minute later, Penny arrived at the intersection and, with much difficulty, dragged Cathy into her car and then drove off to General Hospital. After she had checked Cathy and herself in at the emergency room, she called her office and left a message that some other attorney would have to cover the Delta County hearing.

Based on the foregoing series of unfortunate events, who is liable to whom for what torts, and what defenses, if any, can the potential tortfeasor raise?

END OF ESSAY QUESTION