

TORTS FINAL

FALL 1998

2:00 – 5:00PM

This is a closed book exam; you may have no written materials anywhere near you. Do not write your name or otherwise identify yourself in any manner other than placing your exam number on each examination book. Number the books in sequence, (e.g., “one of three,” etc.).

Mary drives a beat up, old taxi in Washington, D.C. She is licensed by the District to drive only in the District. Her brakes are not in good working order. While they work well enough for ordinary stopping or slowing, they fail if pressed too hard. But if she doesn't work today, she won't have money to get the brakes fixed or to feed her family. So she works, driving very carefully. She picks up Joe who asks to be taken to his hotel and asks her to hurry because he needs medicine he left in his hotel room for a heart condition. Mary drives to his hotel. At the entrance, Joe grabs his chest and gasps to Mary that she should run and get the manager to bring him his pills from room 311. Mary runs in, leaving the taxi running, to get the manager. Joe steals the taxi and takes a ride 100 miles into the countryside of Virginia. Joe is looking at the mountains as he approaches a visible intersection which has no stop signs.

Boo, a normal eight year old who loves to ride her small bicycle, comes speedily into the intersection from Joe's left. She can't be seen from Joe's position before she enters because of her small size and a hedge lining the road. As she enters the intersection, Joe sees her and immediately jams on the brakes, which action would have avoided a collision had the brakes been in good working order. His vehicle hits Boo, injuring her slightly. Boo gets back on her bike and rides away despite Joe's protests that she is hurt and that it's dangerous to try to go home, that he can get medical treatment for her very fast. But she leaves anyway. Boo gets close to her home but becomes dizzy from the accident and falls off her bike, breaking her neck on a roadside rock. While lying unconscious, she receives a poisonous snake bite from a snake whose residence under the rock has been disturbed.

A statute requires taxi drivers in the District to have their vehicle's brakes in good working order. There are no other relevant statutory provisions.

- I. Boo sues Mary. Analyze Mary's potential negligence liability to Boo.
- II. Boo sues Joe. Analyze Joe's potential negligence liability to Boo.