

FOUR HOURS – 2:00 P.M. – 6:00 P.M.

Instructions: This is a closed book exam. You may not have any written materials with or near you. Failure to comply with this requirement will be a sufficient basis for being failed in the course. **Do Not** identify yourself by name. If you use more than one exam book number each book with its own number and the overall number of books e.g., 1 of 4, 2 of 4, 3 of 4 etc. Double space your answer!! Be certain that you use the same exam number you used on your previous torts exam. If that number was not your assigned exam number put both on your bluebooks.

I

While driving 35 miles per hour on Connecticut Ave., where the speed limit has been set by statute at 25 mph, Maria hits Joe's car which is parked alongside a fire hydrant. The resulting collision and noise frightens a pedestrian walking on the sidewalk by Joe's parked car. The pedestrian runs in fear from the accident, accidentally knocking down Mel, a mail carrier, sixty feet further along the sidewalk. The mail carrier's mailbag spills letters onto the sidewalk as the carrier hits the ground. One of the letters contained a powder containing spores of anthrax, a deadly infectious bacterium. The spores are released from the envelope as a result of the spill onto the sidewalk. Mel's ankle is broken in being knocked down by pedestrian, and he inhales spores of anthrax released by the spilled letter. Mel suffers terribly from the anthrax but eventually recovers.

Maria tells police she has no idea how she came to hit the parked car. She thinks it might have been a defect in the steering wheel of her car. A statute forbids parking alongside a fire hydrant.

Mel sues Maria for negligence and Joe for negligence. Analyze their potential liability in such suits.

II

MULTIPLE CHOICE

Each of the questions or incomplete statements below is followed by out suggested answers or completions. You are to choose the best of the stated alternatives.

Question 1

Professor, concerned over cheating, decides to use her own resources. She types and prints and Xeroxes her Torts exam at home, bringing the copies to the office one hour before the exam. Student manages to steal a copy before the exam despite Professor's caution. Professor finds out what happened. Realizing that if she can win she will be able to punish the student by obtaining some punitive damages, professor sues the student for conversion.

1. Professor will probably

- A. Lose because information cannot be converted.
- B. Lose because student was going to return the exam later that morning if she had not been caught and had the exam taken back from her.
- C. Lose because there has been no physical damage.
- D. Prevail.

Question 2

Hugh cannot stand his neighbor Eve, who lives in the house next to his. Hugh wants to get Eve to move away, to have her leave the neighborhood. He knows she is mentally unstable and has really been seriously scared by recent anthrax discoveries and terrorist bombings in their city. He place talcum powder filled envelopes in her mailbox and calls her on the telephone and talks in Arabic to her, knowing she can't understand what he's saying. Hugh's plans backfire. The immediate effect on Eve is severe emotional distress and a fear to ever leave the house. She spends weeks inside until she finally learns it was all a hoax by Hugh. Angered over her long confinement, she sues Hugh for false imprisonment.

2. She will probably

- A. Prevail because Hugh intended harm.
- B. Not prevail because Hugh intended no harm.
- C. Prevail because of transferred intent.
- D. Not prevail.

Question 3

Vivian who speaks fluent Farsi invites a friend Cyrus who speaks only Farsi to come to dinner at Vivian's apartment in D.C., which Vivian shares with Ed. Vivian and Cyrus meet beforehand for cocktails at a bar. Just before leaving for the apartment Vivian gets a call on her cell phone and has to return to work for an hour or so. Vivian gives Cyrus the key to her apartment and tells him to wait in the apartment until Vivian returns. Cyrus does so. Vivian forgot to tell Ed about the dinner with Cyrus, and when Ed gets home he sees a stranger there taking a book off a shelf, which completely unknown to Cyrus, happens to be one of the books Ed keeps cash in. Cyrus was only going to look at the cover and put it back. Ed, thinking the man is a burglar, shouts at Cyrus, "What are you doing? Get the hell out of here!" Cyrus doesn't leave. He instead seeks to explain in Farsi, which further scares Ed. He starts pushing Cyrus out the open door causing Cyrus to trip and seriously injure his neck. Cyrus sues Ed for intentional tort.

3. Cyrus will probably

- A. Lose because Ed had no intent to injure Cyrus.
- B. Lose because Ed's force was reasonable under the circumstances.
- C. Win on a trespass to land theory.
- D. Win on a battery theory.

Question 4

Ed, a lawyer, decides to sell one of the paintings he and his wife have purchased for their home over the years. It is a very valuable one by Jawlensky. Usually such paintings take a long time to sell. He advertises in the newspaper, and Mosina, reading the ad the morning it comes out, calls. Ed's wife, who has come home early from work, answers and quickly arranges a cash transaction for an amount even more than Ed wanted to get. Mosina, who knows an original Jawlensky when she sees one, comes right over and gives the cash to Ed's wife who gives Mosina the painting. Ed was not yet home from work and thought his wife was working late as she said she would be. As Ed drives up to his house, he sees Mosina walking away with the painting. He suspects she may have just stolen it from their empty house. He runs up to Mosina and explains he owns a painting and it appears to be the one she's holding. He simply wants her to stop so he can find out what's going on. Mosina tells him to go suck eggs and keeps walking. Ed gently grabs her arm and won't let her go until finally she explains she just bought it from his wife. Ed apologizes and says he hopes she enjoys the painting. Mosina sues Ed for false imprisonment.

4. She will probably

- A. Not prevail because he was privileged if his detention was for investigation and was reasonable.
- B. Prevail because he was not privileged.
- C. Not prevail because of lack of intent.
- D. Prevail because of transferred intent.

Question 5

Kim, a very attractive and very famous actress whose attentions are usually very much welcomed by men, gets drunk at a cocktail lounge. She goes up to Sy, a young man standing at the bar whom she doesn't know, gives his crotch a quick squeeze and says. "Hi!" Sy, who personally doesn't like to be touched at all by women, backs away from her in surprise, and in turning around to look for help, knocks over a bar stool which causes Melanie to spill her drink on Tom. Tom sues Kim for battery.

5. Tom will probably

- A. Not prevail because she thought she had consent.
- B. Prevail because of transferred intent.
- C. Not prevail because of lack of intent.
- D. Not prevail because having a drink spilled on you is too minor to be considered harmful.

Question 6

Being a shepherd is a lonely job. Bill, hired by Ann to be a shepherd guarding Ann's sheep, has sexual intercourse with three of the sheep he considers to be more comely than the others. Ann discovers what Bill has secretly been doing. She fires Bill and sues him for trespass to chattel.

6. She will probably

- A. Prevail.
- B. Prevail only if the sheep experienced physical pain.
- C. Not prevail because of lack of intent.
- D. Not prevail.

[Remainder of exam missing from archive]