

Torts Exam
Spring 2007

Closed book. Three hours. Number each book in sequence, and on each book, put the total number of books submitted. If the exam number you use on this book is not also placed on your final exam books, five points will be taken off your final grade.

I

Five teenage friends go to the family house of one of them, John. They say hello to John's father, who is in the living room, and go upstairs to John's bedroom. One of them, Sean, whose birthday they are celebrating, shows the others a gun, a revolver pistol, he has brought. They each handle the gun and start talking about a boy they know who had played Russian Roulette, a "game" where a single bullet is put in one chamber of the revolver's six chamber cylinder, the cylinder is then spun so that the player does not know whether or not the single bullet is in a position to be fired, and the gun is then placed against the player's head and the trigger pulled. If the gun's hammer released by the trigger pull hits a chamber with the bullet in it, the gun will fire, killing the player, who has a one in six chance of being shot.

Sean says he wants to play that game and produces a bullet, which he places into a chamber of the gun's cylinder, which he spins. The others watch fascinated as he puts the gun to his head and three times pulls the trigger, without the gun going off. Sean puts the gun down with a triumphant grin. All are amazed.

He then picks the gun up again and places it against his head without spinning the cylinder. He pulls the trigger, again without a discharge. He looks at each of them and once again pulls the trigger, instantly killing himself when the gun discharges.

Sean's estate sues John's father and the teenagers for negligence. Analyze duty.

II

Dee's cat had always been gentle and playful even with strangers. The cat was never allowed inside but was trained to stay in Dee's yard, which it usually did. One day the cat wanders into Mo's yard and viciously bit Mo, a severe bite.

Mo was treated for the bite, and on his doctor's advice, asked Dee to keep the cat contained for fourteen days so that it could be observed, and they could confirm it was not rabid. If the cat had rabies the symptoms would become obvious within the fourteen days, and if rabid, Mo would then know he would have to undergo rabies treatment, which often causes severe and painful allergic reaction in humans.

Dee promises and intends to keep her cat indoors for the period requested. But she is not used to having the cat inside and forgets to do anything about it. The cat hangs around Dee's yard for three days but then disappears, which it has never done before.

Since Mo has no way of knowing whether he has rabies and cannot wait for symptoms to develop, which would be very dangerous, he undergoes the rabies treatment, which turns out to cause him great pain.

Mo sues Dee. Analyze Dee is strictly liable and/or owes any duty to Mo.

III

Ali, a law student, was electrocuted while leaning over a fire escape railing outside his apartment window, when he attempted to unscrew the light bulb from a streetlamp on a pole on the sidewalk outside his apartment building.

He and his two roommates discovered when they moved into the apartment that this light was so bright it interfered with their sleep even with curtains pulled. They complained to the landlord, but nothing happened. They then discovered their ability to stretch out from the fire escape, unhook the globe protecting the bulb, and unscrew the bulb just enough to leave the bulb still screwed in but with the light off.

While this result was satisfactory to them, it did not last for more than a month or so until the power company came out and got the light working again. After waiting a decent interval, the students again unscrewed the bulb. After the company again restored light, Ali leaned out to again unscrew the bulb, and his arm grazed one of two copper wires leading into the fixture into which the bulb was screwed. While the bulb looked like an ordinary light bulb, only slightly larger, the voltage was in fact very high, instantly killing Ali when his arm grazed the copper wire. Ali's estate sues the power company in strict liability and in negligence.

Analyze whether the company is strictly liable and/or owes any duty to Ali.