

SAMPLE EXAM QUESTIONS FROM PROFESSOR SKIBINE'S TORTS EXAMS.**QUESTION NUMBER I: 20 POINTS**

The parents of the victims of the Columbine high school shooting are asking you to represent them in a civil action against the parents of the young gunmen, the gun dealer who sold the killers their guns, and the manufacturer of the guns used in the shooting spree. Apparently, the gun dealer failed to properly check the police records of the gunmen before selling the guns as required by law. A background check would not, however, have revealed anything suspicious enough to prevent the sale.

Do you take the case? What do you advise them? Discuss the merits and the problems likely to arise should you proceed with litigation.

QUESTION NUMBER 2: 25 POINTS

The relatives of a fireman killed in a recent warehouse fire have come to you asking you to represent them in a lawsuit against the owner of the warehouse who caught fire after some homeless people using the premises, negligently started the fire by dropping a lighted candle on an open can of 200 proof grain alcohol which the homeless had been drinking to keep warm. The plaintiffs also want you to sue the manufacturer of the grain alcohol on the grounds that it did not contain an adequate warning that it was a flammable product. The plaintiffs are alleging that the owner of the warehouse was aware that homeless people lived in the warehouse. A local zoning regulations prohibits commercial warehouses from also being used as living quarters.

Give you clients a memo outlining the defenses likely to be raised by the defendants and their chances of success.

QUESTION NUMBER 3: 20 POINTS

A number of people became recently ill as a result of eating chickens which had been routinely fed antibiotics on some farms across the Midwest. These people want to sue some of the farmers who fed the antibiotics as well as most of the major manufacturers of the antibiotic. The farmers answered, among other things, that they had no idea that feeding too much antibiotic to chickens was dangerous to the eventual human consumer and that there was no warning labels to that effect. The antibiotic firms being sued denied liability because, among other things, even though the antibiotic were originally designed for humans, these antibiotics did perform adequately in preventing sickness in chickens.

Do you take this case? Why? Why not? What are the issues likely to arise in the course of this litigation?

QUESTION NUMBER 4: 35 POINTS.

Driving North on 1300 East, Mr. D feared that he was having a heart attack. He sped up and headed for the emergency room of the University hospital. As he approached the intersection with 200 South, he noticed a red light. He slowed down, looked in both directions, but decided not to stop. As he crossed the intersection he was hit by a car driven by Julie Andrews (the actress/singing star of the Sound of Music) who was traveling on 200 S. in a East West direction. Ms. Andrews was thrown from her car, became unconscious and, among other things, suffered a severe concussion.

An ambulance picked up Ms. Andrews but on the way up to the hospital, the ambulance was struck by a pick up truck driven by an individual who had run a stop sign and was driving at a high rate of speed. That individual was able to speed away in his truck and was never found. The ambulance crash severely injured Andrews' neck and throat.

Once in the emergency room, the doctor advised Andrews that she should have an operation on her throat and neck if she wanted to recover the full range of motions in her neck. Being in a state of shock, Andrews did not respond and was rushed into the operating room. Before the operation, the anesthesiologist injected her with a serum which somehow caused a strong allergic reaction. The neck and throat operation was successful in preventing the loss of motion but although she can speak normally, Andrews has not been able to sing since the surgery.

Andrews is bringing an action against D, blaming him for all the injuries she received in the car and ambulance crashes and at the hospital. She also wants to sue the operating doctors for the loss of her voice and the manufacturer of the serum for the serious allergic reaction. The serum manufacturer claims that although it was known that in extremely rare instances, some people might be allergic to the serum, overall the serum was much less dangerous than any other similar general anesthetic on the market.

What are the legal issues likely to be raised in the upcoming trial by Andrews against driver D, the hospital and the serum manufacturer?

QUESTION NUMBER 5: 15 POINTS

A school principal as well as the local priest became aware that a seven year old was being sexually molested when she was alone with one her uncles but they never notified her parents. Three years later the parents finally discover the problem and find out that their little girl had talked about the problem with the school principal and her priest. Needless to say, they and their daughter are severely traumatized. They want to sue the principal and the priest on behalf of their daughter and themselves.

Any luck? What are the issues?

QUESTION NUMBER 6: 15 POINTS

Your client's hot tub was not heating properly. A service professional was called and came to repair the heating problem. After the repair, the heating system was working very well. As a matter of fact, it was working too well as the hot tub became way too hot and the temperature could not be brought down. The Service professional was again called and returned the next day. After acknowledging that he had initially re-connected some wiring the wrong way, he easily rewired the system and fixed the problem. A day later, the hot tub developed a serious leak in the heating element. Cost of repair: about \$1000. Your client believes that the service professional is responsible for the leak and wants you to sue him unless he agrees to repair the tub free of charges.

What are some of the potential problems facing the plaintiff in this litigation and can they be overcome?

QUESTION NUMBER 7: 25 POINTS

While watching and celebrating what is now on the verge of becoming the U's annual annihilation of the "Y"'s football team at his friend Bud's home, Bubba consumed a bottle of Bud's best Rum. After the game, Bubba decided to drive down to Provo in order to ride up and down the streets in his heavily U clad red Ford Excursion. On his way, being full of Rum and out of gas, he made a pit stop at a gas station where one has to pre-pay before pumping. The owner of the station realized that Bubba was drunk but allowed him to get gas anyway.

On the way to BYU, Bubba's SUV engaged in a racing contest at speed reaching 100 miles per hour with a van full of gang insignias. Eventually the van collided with a blue car full

of obviously sober but very somber BYU supporters. The collision propelled the blue car off the road and it crashed into a ditch.

Nobody knows where the van went but he BYU supporters who got injured in the crash want to sue any one else who is remotely responsible for the accident. Evaluate all the possible lawsuits and their defenses

QUESTION NUMBER 8: 20 POINTS

Your client Trina Reckless injured herself while bungee jumping. During the trial, the defendant, Bungee-R-Us, who was in charge of the bungee jumping activity, introduced in evidence a document signed by Trina which read:

“Knowing that this activity is extremely dangerous, I nevertheless release Bungee-R-Us from any responsibility for injuries I may incur as a result of the jump.”

During the jump, the rubber-like material connecting Reckless to the tower ripped. As a result, Reckless took a 15 meter fall and got severely injured. As she laid on the ground screaming in agony, the owner of Bungee-R-Us refused to allow others to use his cell phone to call 911.

Reckless is suing both Bungee-R-Us and the manufacturer of the Bungee. At trial, the manufacturer showed that the Bungee was made with state-of-the-art material.

What are the issues likely to come up at trial?

QUESTION NUMBER 9: 30 MINUTES

Primates Inc., is a breeder of monkeys and other primates. When Hurricane Andrew hit Florida, some of the animals escaped when the wind tore a hole in the fence and destroyed some of their cages. The next day, Jill spotted a rare macaque monkey wandering along the highway. She captured it but upon returning home, her roommates notified her that she would have to get another apartment if she wanted to keep the monkey. Jill therefore sold the macaque to a neighbor, Bob. That night, the monkey took a serious bite out of Bob’s arm and escaped back to Jill’s apartment in the middle of the night. Upon being awakened by the rampaging monkey, Ron (one of Jill’s roommate) started chasing the monkey around but broke his leg when he slipped on the floor.

Ron is suing Bob for his broken leg.

Bob is suing Primates Inc. for allowing a vicious monkey to escape and Jill for selling him

an evil and defective monkey.

Please explain the grounds for liability, assess their validity, and discuss the defenses which are likely to be raised by defendants in the course of the litigation.

QUESTION NUMBER 10: 35 MINUTES

About two years ago, Jan started treatment with Nora, a psychiatrist. In the course of the treatment, Nora had a chance to meet Jill, Jan's lover and significant other. Eventually Nora developed an intimate relationship with Jill. About a month after Jan stopped being a patient of Nora, Jill left Jan and moved in with Nora. Needless to say, Jan was very distressed by the affair and became so seriously depressed that she attempted to commit suicide by shooting herself. Luckily, the gun jammed due to a manufacturing defect but as she was examining it, it suddenly discharged without warning and a bullet got lodged in Jan's right foot. Her next door neighbor heard the shot and brought her to the hospital.

As she arrived in the emergency room, she was told that she should have an operation as soon as possible in order to remove the bullet embedded in her foot. During the operation, the doctor noticed a cyst in her right ankle which he deduced must be causing her great pain and impair her ability to walk normally. He removed the cyst. The operation went fine but unfortunately, 2 of her toes which had been hit by the bullet could not be saved and had to be amputated. She also discovered a very small but new tattoo near her ankle with the letters "USA".

Although Jan eventually fully recovered from both the operation and her sadness over losing Jill, she wants to file law suits against Nora, the gun dealer who sold her the used gun she used in the failed suicide attempt, and anyone connected with the medical team which operated on her foot.

Discuss the merits of these law suits.