

**WASHINGTON AND LEE UNIVERSITY
SCHOOL OF LAW**

Examination in TORTS

Dean Partlett

Fall Semester 2003

Instructions:

This examination comprises two questions. Answer the questions on the basis of the facts given. You may need to assume some facts fully to answer the question, in which case, state what facts may have to be established in evidence.

If relevant, you may assume that the jurisdiction has adopted a pure comparative fault rule and retained the common law rule for joint and several liability.

Write legibly on every other line and use only one side of the page. If typing, double space. Answer questions in separate blue books.

GOOD LUCK!

Duration:	Three (3) hours
Additional Reading Time:	30 minutes

You may consult your books, notes, or other materials.

I.

Lakeland University Law School decided to join the Rugby Association of North American Universities (RANAU), an organization dedicated to promoting rugby games between colleges and universities. Under the aegis of RANAU, Lakeland was to play another member – the Moordoor School of Business (Moordoor). The Lakeland players asked Professor Peter Professor, an expatriate New Zealander, to act as coach and mentor of the team. Professor Professor, who is in his late 50s, loved rugby and readily agreed to be the coach.

During Lakeland's game against Moordoor, a Lakeland player, their hooker, was injured. (The hooker is the player in the middle of the rugby scrum who rakes the ball out of the scrum. It requires a player of strength and robustness, since the full force of the opposing front row forwards is directed to him and his fellow front row forwards, the two props.) Norm Noradorn, the referee assigned by RANAU to the game, asked the captain of Lakeland what his team would like to do, since no reserve players were available. Professor intervened and said, "I can do it; I know how to be a hooker." Professor, who had been bent over books for many decades, was in poor physical condition and suffered from scoliosis of the spine.

The opposing forwards on the Moordoor team decide to push especially hard in order to get the ball, recognizing that Professor did not appear to have much strength. At the first push, Professor went limp and fell to the ground. His spine had snapped. Norm

had allowed the scrum to proceed in the usual way. He could have invited the teams to share possession of the ball, avoiding the packing of the scrum. This was a rule, not widely known in North America, to avoid the dangers of unequal packs of forwards.

In the melee, the ball came to a Moordoor player, Quincy Quiver, who ran helter-skelter for the line to score a try. As he ran, he flattened Rita Professor, Professor's wife, who saw what had happened in the scrum and rushed onto the field. Quincy says he did not see the petite Rita as he charged for the line. Eventually, Norm blew his whistle to stop play.

RANAU had arranged for a voluntary first-aid worker, Sylvia Sylvan, to be in attendance. Once the play stopped, Sylvia ran to the aid of Professor, leaving Rita writhing in agony. Quincy, heeding Rita's cries for help, ran back and dragged her from the field, causing an even greater loss of blood from her aorta that had been ruptured as a result of his flattening her.

Professor is placed in Sylvan's car and transported to Community Hospital, where doctors take the usual measures to stabilize his spine. Sylvan did not take Professor to Nerve Hospital, which was equidistant. Nerve has developed innovative techniques that, if adopted quickly after nerve damage, have been successful in some cases in stimulating the regrowth of the damaged nerves.

Also in Community Hospital, Rita is transfused with Rh negative blood when she is Rh positive. As a result, any child born to her has a greater than even chance of

suffering from birth defects.

Lakeland refunds the price of the tickets to their fans when the game is abandoned.

Advise the aggrieved parties.

II.

Bernard Bezza is a member of an organization, “The American Defense League,” whose credo is hatred of all parts of “non-White” America. Their hatred is directed at Jews, amongst others. Bernard Bezza had a large collection of guns, all of them bought illegally, without a license as provided by state and federal law. Bernard used a “Glock” submachine gun, made by Glock Industries, to shoot at a crowd of worshipers exiting the Israel Temple. He shouted obscenities as he sprayed the worshipers with bullets. A guard employed by the Temple fired his submachine gun back at Bernard.

Bernard had bought the Glock as he had bought his other weaponry – illegally from a contact, Gary Gunner, in the gun show business. The Glock in question had been first sold to the City Police Department, but, finding that its weight was not suitable for police work, the Department arranged with Glock to supply the lighter weight Glock in exchange. Glock arranged for the gun to be sold to Gary Gunner, who sold weapons in gun shows. Glock knew that Gunner sold guns in gun shows and that the guns were often sold to unlicensed individuals. In fact, Glock knows that many weapons are sold on this secondary market.

One of the worshipers is Harvey Harvey, a ten-year-old boy who was shot in the right leg a number of times. All the bullets passed through his leg and were not found. Harvey, with others, had been trapped in the crossfire, and it is known that bullets from

both guns – the guard's and Bernard's – wounded those in the crossfire.

Harvey's father, Ian, was in the Temple at the time, heard the gunfire, and ran to the scene. He found Harvey in a pool of blood. Harvey's leg had to be amputated, and although, in the normal course, a prosthetic leg would have been fitted, Ian refused permission because of religious tenets that prohibited the necessary operation.

Profoundly depressed, Ian abandoned Harvey at a remote campsite. Harvey, unable to move far or quickly, was bitten by a rattlesnake that, with lack of early treatment and partial starvation, paralyzed the right side of his body.

Advise Ian and Harvey in these circumstances.