



Instructions:

This examination comprises two questions. Answer the questions on the basis of the facts given. You may need to assume some facts to answer fully 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 the comparative negligence rule articulated by the Supreme Court of Tennessee in *McIntyre v. Balentine* (casebook p. 592). Assume also that the common law rule for joint and several liability has been modified along the lines of *Bartlett v. New Mexico Welding Supply, Inc.* (casebook p. 366).

If writing, write legibly on every other line and use only one side of the page, and answer questions in separate blue books.

GOOD LUCK!

Duration:	Three (3) hours [for the 2 questions]
Additional Reading Time:	30 minutes

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

II.

Dimples is undergoing psychiatric care with Dr. Donald Juan. Dr. Juan invites Dimples out to dinner and thereafter they engage in sexual intercourse. His sexual relations with Dimples are part of a pattern of behavior wherein, over his twenty years of practice as a psychiatrist, he has had sexual relations with young, attractive women patients.

Dimples discloses that she is having an affair with Dr. Juan to her parents, Edgar and Edith. They are worried about Dimples's psychiatric problems and plan to confront Dr. Juan one evening when they expect that he will be taking Dimples to his apartment. They intended to take photographs for the purpose of using these in evidence in professional disciplinary hearings. Edgar, emerging from the shadows, comes up behind the couple, touching both on their shoulders in order to prompt them to turn, allowing Edith to take flash photographs. Alas, the woman in Dr. Juan's company is another patient, Gigi Gonzales. Edgar and Edith show the digital photographs of the couple to Dimples.

Deeply depressed, Dimples retains the services of Dr. Zimmerman, who prescribes Prozac to relieve her depression. After two months of taking Prozac, Dimples attempts to commit suicide. Tests show that Prozac, when used in the prescribed concentration, causes suicidal ideation in twenty-five percent of female patients fifteen to eighteen years of age. Prozac, having now lost initial patent protection, is manufactured by five companies worldwide, three of whom distribute the drug in the state in which Dimples is a resident.

Dimples is unable to identify whose Prozac she ingested.

The attempted suicide causes Dimples's right arm to become permanently paralyzed. After her discharge from hospital, she moved back to her parents' home. While riding on their Toro lawn mower, she fell. The mower blades, revolving at maximum revolutions, sever her right arm at the shoulder. She had failed to attach a safety wristlet tethered to the throttle designed to stop the mower if the operator falls from it. It is discovered in testing similar Toro mowers (this one having been destroyed) that the safety switch did not operate to stall the engine on six times out of ten occasions.

Advise all aggrieved parties.