



TORTS EXAMS AND PROBLEMS

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PROBLEM

Anna and Bob were both second-year law students. For their first date, they decided to go to a movie and then to a motel. At the motel, they took a shower together. Bob left the shower first. When Anna stepped from the shower, she slipped and fell, breaking her leg. She was bleeding and unable to move. Bob refused her requests to call for help. Two hours after the fall, Anna was able to crawl to the phone and call 911. Consider whether Bob had a duty to Anna to call for assistance.

PROBLEM

John (age nine), a little league baseball player, was shifted from second base to right field during a regular baseball game. (Second base is his usual position.) A fly ball was hit, and in John's attempt to catch the ball, he was hit in the eye by the ball and seriously injured. (John said the sun was in his eyes.)

John, by means of his parents, wants to sue the coach on the basis that the coach failed to instruct the boy how to shield his eyes from the sun when he caught a fly ball. Assume that the coach is a father of one of the players, a volunteer. John's parents have consulted you for advice. Discuss.

PROBLEM

Tiwana was robbed and shot at 10:00 p.m. while obtaining money from an automated teller machine (ATM). Is there evidence of the bank's negligence to give to the jury? What other facts do you need?

PROBLEM

Will broke his nose in a football game. He went to Dr. Callier to have it set. Will showed the doctor a picture of his face and said, "That is what my nose should look like."

Dr. Callier straightened the nose and took a little off the tip. He also removed an unsightly mole from Will's chin. There are dark marks where the skin was cut and stitched.

Will is furious because of the marks and because the nose on his face does not resemble his nose. To most observers, however, it looks very good. Discuss.

PROBLEM

Duane has an open-air market located beside a two-lane highway in Texas. About half the produce is displayed outside in boxes or on the ground. While "Bootsie" was picking up a pumpkin located outside, she was bitten by a rattlesnake. Discuss.

PROBLEM

For several years, a United States military organization has held a week-long convention at the defendant's seaside hotel. Each year there have been loud parties, nudity, and verbal and physical harassment of female guests. All of this has been reported to the hotel management each year. This year, Sally, a female guest in the hotel, was stripped, pressed against the wall, and fondled by several members of the military organization.

Is there an inference of negligence against the hotel in Sally's case?

PROBLEM

While adjusting his CD player, A crashes into B's car. B's car trunk explodes into flames, injuring B and destroying the car. C, standing beside the car, is injured by flying debris, and D, two blocks away, is hit on the head by a shingle that was dislodged by the blast.

E, an attorney located four blocks from the explosion, is frightened by the sound of the blast and therefore drops his infant, F. The child suffers brain damage, and E becomes depressed, can no longer work, loses his law practice, and then is divorced by his wife. Where would the proximate cause line be drawn, and why?

PROBLEM

Casey rents an apartment in an urban area from GHI, which has advertised night security. However, one night, an employee caretaker of the apartment complex walks into Casey's apartment with a key and murders one of Casey's guests, Jim. Casey and Jim's heirs sue the management of GHI and the security agency, claiming the negligent hiring of the employee and negligent security were the proximate cause of Jim's murder. What result?

PROBLEM

Ann is the fourteen-year-old daughter of Jack. Jack went out of town for the weekend and left Ann with neighbors. Ann went home, allegedly to feed her cat. While there, she had a party for ten friends, which soon exploded to 100 teenagers. Everyone brought alcohol and consumed it. While driving home from the party, Bob (age seventeen) crashed into the plaintiff's car and seriously injured him. Bob was drunk. You represent the plaintiff. Discuss.

What if Jack had left a large amount of alcohol in the house and Ann had appropriated it for the party?

PROBLEM

In the crash of an economy car, the gas tank exploded; the driver was killed, and the passenger suffered severe burns. It was shown that the manufacturer was aware that the gas tank would explode in thirty mile per hour rear-end collisions.

The jury returned a verdict in favor of the plaintiff for \$3.5 million compensatory damages and \$125 million punitive damages. If you were the trial court judge, what, if anything, would you do with this verdict? As the appellate court judge, what would you do with the verdict, if the trial judge did nothing?

EXAM QUESTION

As Sally Goose was standing near the intersection of two downtown streets, Howard Hawk negligently ran over little three year old Gary Goose, who had wandered into the street. Howard was driving a Thunderbird. Sally, Gary's mother, hearing the screech of tires and a loud thud, turned to see Gary rolling in the street and the Thunderbird sliding to a stop. Sally fainted and Gary was pronounced dead on arrival at the hospital.

In the month since Gary's death, Sally has had numerous severe headaches, a continuously upset stomach and chest pains. One week ago she gave birth to a premature baby. Alice, the baby, had a serious heart problem and died two days after birth. The doctors were surprised that Alice was born alive because she was months premature.

Discuss Mother Goose's likelihood for success in her suit against Hawk. Also discuss Mr. Goose's suit, as representative for Alice, against Hawk. [Assume that Sally was not contributorily negligent in permitting Gary to wander into the intersection. Do not discuss wrongful death. If Alice has a cause of action, Mr. Goose can bring it.]

EXAM QUESTION

Todd Slip, while running after his sister Sally, knocked over a half-gallon glass bottle of cooking oil in the Quick Clip Market. Todd immediately told Nat Neat, the market manager, about the spill.

An hour and a half later, Inga Bohdie, while looking for some aspirin, slipped and fell on the oil. She seriously wrenched her neck and back.

Inga, who is 25, will testify that she saw the oil and recognized that it was slippery. She wanted the aspirin to stop the pain of her migraine headache.

Quick Clip will introduce evidence that she could have used other aisles to reach the aspirin.

Inga will further state that the aspirin and oil are located within a few feet of each other in the same aisle. She is sure that the oil was "all over the floor" and that she would have had to step in it to get the aspirin no matter which aisle she had used.

The State Code provides that "It is a misdemeanor for any food store to be unclean to such an extent that it endangers the health of the public."

Miss Bohdie is suing Quick Clip for \$1,000 damages. Quick Clip argues contributory negligence and assumption of risk. Discuss the application of these defenses here and Inga's likelihood for success. Assume damages and do not discuss them.

EXAM QUESTION

Billy, age 12, was brought by a Carrion police officer into Hairy Kerchner Hospital. Billy complained of severe stomach pains.

Dr. Gutz, who was on duty in the emergency room, called Billy's home. A baby sitter answered and said that Billy's mother and father were out playing cards, and she did not know how to get in touch with them. Billy told Dr. Gutz to operate and do what was necessary to make him well.

Because of Billy's pain, Dr. Gutz decided to operate. He found an infected appendix and removed it. He also found and removed a non-malignant two-inch diameter cyst. It was located ten inches from the appendix and part of it touched the spine.

Two months after the operation, Billy continued to have severe pain in his right ankle. He had no pain there prior to the operation. It began immediately after the operation. Billy also noticed a two-inch wide dark black and blue mark on his right thigh. He found this after the operation. It went almost completely around his leg.

You have searched diligently but no doctors will testify for Billy on the thigh or the ankle problem. Dr. Gutz and the two nurses who came into contact with Billy during the operation, say that everything went fine.

Dr. Gutz has worked as a doctor for 20 years, but has no license to practice medicine. It is a misdemeanor to practice medicine in Carrion without a license. Gutz states that he was taught at Ultra Poor Medical School to "remove anything that looks bad, once you have the carcass split."

Gutz also maintains that every doctor in town follows this procedure; it is widely accepted. One third of Carrion's doctors graduated from Ultra Poor.

You have one out-of-town doctor who will testify that Hale Medical School (one of the top two) instructs their students not to remove everything that looks bad, except in rare circumstances. He states that regardless of what is done in Carrion, removal of everything that looks bad is not good practice. He adds that no good doctor would follow such a procedure.

Discuss Billy's likelihood of recovery here.

EXAM QUESTION

Sly Snake decided to take a drive on his new Hog motorcycle. While "grooving" through the State of Bliss, he saw a sign advertising the Jungle - animals. Sly paid the \$2.00 ticket fee and went to see the Jungle. Shortly after Sly entered, Brian Bear negligently left the door to the white mice cage open after feeding them. Brian is the sole owner of the Jungle. Three hundred mice escaped and ran in all directions. Many mice ran through the "Horse Barn." Because of this, two huge horses became frightened and broke through the fence which was rotten in several places. Thing, one of the horses, headed towards Sly at full speed. Sober Sloth, another visitor at the Jungle, saw this and rushed to pull Sly aside, as Sly had slipped. Unknown to Sober, Bippee, the other horse, was only a few feet behind him. Thing bumped over Sly and Bippee clomped over Sober. Robin Dove, a bystander, said that he would take Sly and Sober to the hospital. But Robin never returned and after two hours of waiting, Brian (at Sly's request) called an ambulance.

At the hospital, the doctors discovered that Sly had a broken leg. Sober had a concussion, a fractured arm and four broken ribs. [Thing and Bippee were O.K.] Dr. Blood failed to check the patient's chart. Instead of setting Sly's leg, he amputated it above the knee. Four doctors have agreed to testify that if Blood had checked the chart this would not have happened.

Sober left the hospital in two weeks. Six months later, he took his life by locking himself inside the freezer in the meat market where he worked. There are several witnesses who will state that after leaving the hospital, Sober seemed to grow more depressed and irritable, began to drink liquor, started to smoke marijuana and began to run around with teenage girls. Sober was 35 years old when he died and had none of these problems before the zoo incident. Sly and Sober's widow have sued the Jungle. In addition, Sly has sued Dove. Discuss. [The Jungle is a private zoo and receives no federal or state assistance. Do not discuss wrongful death. If Sober Sloth has a cause of action, his widow can bring it. Under the law of bliss, the Jungle is not strictly liable for the escape of the horses.]

Problem Four

30 minutes

Bellyup Airlines' Flight 13 took off as scheduled, with six passengers aboard a one-year old Poing 969 commuter jet. Seconds up from the runway, one of the two jet engines separated from the plane's fuselage. The engine fell through the roof of Rosalind Resident and destroyed her house.

The pilot maintained a semblance of control over the plane, which wobbled like a beginner's yo-yo, but responded to maneuvers designed to turn the plane back to the airport. Suddenly, however, the control tower lost contact with Flight 13, which crashed in deep water. All aboard were killed. The plane's "black box" recorder was never found, nor was any other explanation for the plane's behavior.

Rosalind Resident wants to sue for loss of her home, and the families of the passengers consult you about bringing a survival action (to recover for the decedents' losses). Discuss. (You need not address the measure of damages.)

PROBLEM

Four years ago, Al purchased a large aboveground swimming pool and put it in his back yard. On numerous occasions Al has invited his next-door neighbor, Bob, to use the pool. Bob has often accepted the invitation.

Al lives on a hill. Bob's house is below and behind Al's house.

One day, Al's nine-year-old son, Juan, started Al's Ferrari and drove into the pool. The pool burst, and the water poured out. The water ran down the hill and into Bob's yard. In fact, it flooded Bob's living room and dining room. Juan was not injured.

In order to pump the water out of his house, Bob tried to start his portable gasoline water pump. Due to the exertion involved in trying to start the pump, Bob suffered a heart attack. As a result of his heart attack, Bob has lost the use of his right arm.

Discuss. Assume that, in purchasing, installing, and maintaining the pool, Al was not negligent.

PROBLEM

Sarah, a medical student, was mugged, raped, and then murdered by Akee. The weapon used to kill Sarah was a Saturday Night Special manufactured by Alldead. Akee is serving a life sentence in prison. Sarah's mother has asked you for help. Discuss.

PROBLEM

F, who was raised in the country and still lives there, decides to spend a day at a car race. He takes his seat in the stands, and the race begins. Fairly shortly thereafter, he begins to wheeze. He has so much trouble breathing that the paramedics at the track need to rescue him, and he is forced to spend some time in the hospital. It turns out that he is allergic to automobile exhaust in the large quantities that racing cars produce.

F files suit against the race track. What will he argue? What defenses will the track raise?

PROBLEM

G visits a new zoo on its opening day to see the polar bears. She is particularly fond of polar bears and knows a good deal about them. The bear cage is made of an inner chain link fence and an outer iron fence. G climbs over the outer fence and reaches her arm into the cage under the chain link fence. One of the bears bites her arm severely. Who may G sue, and for what? What defenses will be raised?