

LAW 7103-03, TORTS I

MID-TERM EXAMINATION, FALL 2008

Prof. Tom W. Bell

Wednesday, October 15, 2008, 1:15 p.m. to 2:30 p.m.

Please write your exam number here: _____ and turn in this exam with your answers. If you fail to turn in your exam you may forfeit some or all of your grade.

This exam consists of 10 multiple-choice questions and one essay question. The multiple-choice section is closed book and counts for 3/8ths of your grade for this exam. You have 18 minutes to complete the multiple-choice section, or an average of 1.8 minutes per question. Indicate the one best answer to each multiple-choice question by filling in your Scantron sheet as directed.

The essay section is partial open book. You may use your casebook, any material that I handed out for class, and any notes that you or your study group prepared. You may not use other materials, such as nutshells or commercial outlines. The essay section counts for 5/8ths of your grade for this exam. You have 30 minutes to complete it. Before you begin writing any essay answer I suggest that you: 1) read the question carefully; 2) think about exactly which issues you need to address; and 3) outline your answer. Good organization and good analysis almost always go hand-in-hand.

Write on only one side of each page, on every other line. If you use more than one bluebook, please number the booklets so that I can easily follow their intended sequence. Please write as clearly as possible. I cannot grade what I cannot understand.

Unless otherwise indicated, all events described below take place in a generic common law jurisdiction.

If you have any procedural questions about taking this exam, please contact the Registrar. If you think it necessary to assume an unstated fact in order to answer a question you may do so, but you should clearly indicate that you are making an assumption and briefly explain why you consider it reasonable to do so.

Do not turn the page until told to begin the exam.

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Multiple Choice Questions

3/8ths of exam's total grade
(maximum time: 18 minutes, or 1.8 minutes/question)

[material redacted]

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Essay Question

5/8th of exam's total grade
(maximum time: 30 minutes)

Pearl had a window seat in the economy class of a domestic flight. Nobody sat in the center seat. Dustin had the aisle seat. Dustin began to drink alcohol copiously at the soonest opportunity. He soon fell asleep. That is also, unfortunately, when Pearl began to feel the need to visit the toilet. Noting that the seatbelt sign was not on, and that she was thus authorized to move about the cabin, she quietly asked Dustin if she might pass by him. He kept sleeping. She raised her voice, but he remained unresponsive. She tapped him on the shoulder. He stirred, looked at her, and grunted.

"Excuse me, could I please get past you to use the bathroom?" she asked.

Dustin stared at her blankly for some time before replying, "I'm tired. Cross your damned legs." He then laid down his head and went back to sleep. Pearl, taken aback by Dustin's rudeness, collected her wits. Then she again tried to rouse Dustin verbally, in vain, before resorting to prodding him repeatedly, with increasing force.

"Ow!" he said, finally jolting awake. "Who are you?"

"I need to go to the bathroom," growled Pearl. "Move. Now."

"Good luck with that, witch," mumbled Dustin before falling back asleep.

Fuming, Pearl devised a new plan. First, reasoning that Dustin had already had too much to drink, she took the unopened bottles of liquor that remained scattered about his head. Next, she climbed onto the empty seat, where Dustin had piled his coat, newspaper, and other sundry items. She heard a crunch and, correctly guessing that she had stepped on his Blackberry, ground it under her heel. Then she climbed on and over Dustin. She repeated the process on her return, though with more gusto, confident that he would not wake up despite her bruising treatment.

Finally, Pearl rummaged through Dustin's coat to find his business card and propped it up next to his face. He was turned towards her, eyes closed, drooling on a pile of empty liquor bottles. She took a photo using her cellphone.

As soon as the plane landed, and phone service resumed, she uploaded the photo to her blog with the caption, "Idiot Drunk in Economy." Dustin remained unresponsive, so to exit she roughly climbed over him, again, greatly amusing her fellow passengers.

It later turned out that Dustin had died sometime during the flight. Failing to read the warnings accompanying a medication he was taking, he had not realized that it could interact with alcohol to deadly effect. Pearl's photo attracted a great deal of attention—first amused and then, once the details of the story become public, morbid.

Analyze the tort claims of and against Pearl, Dustin, and Dustin's immediate family. Assume that Dustin's tort claims and liabilities survive him.