

LAW 7103-03, TORTS I

MID-TERM EXAMINATION, FALL 2009

Prof. Tom W. Bell

Wednesday, October 14, 2009, 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)

[redacted]

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Essay Question

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

The state of California owns a park in and around San Mateo creek, in San Diego county. Interstate highway 5 passes through the park, crossing the creek on a bridge that California also owns. The state maintains a network of trails through the creek's watershed, most of which remains undeveloped scrub and wetlands. One such trail passes under the northern end of the bridge. Signs marked, "Do not enter—delicate habitat," warn those using that portion of the trail to stay on it, and to not wander into the wetlands under the bridge.

Despite seeing those signs, Painter, a fifteen-year-old minor, walked from the trail into the wetlands underneath the bridge. Painter had earlier that day shoplifted several cans of spraypaint from a local hardware store. He proceeded through the wetlands to the concrete pylons supporting the bridge and began painting graffiti on them.

Green was hiking through the park at the same time, approaching the south end of the bridge from the opposite direction, on a little-used deer trail. Green passed no signs, such as those that Painter had walked past, warning of delicate habitat. As Green passed under the bridge, he saw empty cans of paint, evidently left behind by graffiti "artists," floating in pools of water. He angrily reflected on the harm their contents would wreak on the wilderness he so loved. Then he heard someone shaking a can of spraypaint.

Green traced the source of the noise to Painter, whom he saw applying graffiti to a bridge pylon. Empty spray paint cans littered the ground at Painter's feet. Green snuck up and seized the can of paint from Painter's hand, yelling, "You lousy punk! I oughta' spray this down your throat so you can see what it's like to swim in toxic waste!"

Frightened by Green's sudden appearance and furious rant, Painter backed away. "Geez, dude, relax! I'm just putting up some tags. Everybody does it."

"Not everybody. Not you. Not anymore," growled Green. He seized Painter's shirt collar with one hand and pulled out his cellphone with the other. "Stay put. I'm calling the park ranger." Alarmed at Green's plan, Painter twisted free and fled. Green began to give chase, but slipped on the empty spraypaint cans that Painter had left strewn on the ground. Green fell, twisting his ankle and breaking his wrist.

Discuss the tort claims by or against Painter and Green.