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NUISANCES TORTS QUIZ

Prof. Bell

NOTE: Choose the one best answer to each question, applying the Restatement of Torts (2d) and relevant case law. As on the MBE, you have 1.8 minutes/answer.

Question 1

Boomer builds and operates a gunpowder factory in a city's industrial district, adjacent to a pre-existing cement factory owned by Rubble. Although Boomer take extreme precautions to operate his plant to prevent explosions, here remains a constant danger of an explosion that might cause serious harm to Rubble's employees and property. Rubble's insurance costs substantially increase as a result. Rubble sues Boomer for causing a nuisance.

- (a) Assuming that Boomer has complied with all applicable zoning and public safety laws, Boomer wins.
- (b) Because manufacturing gunpowder is an inherently dangerous activity, Rubble wins.
- (c) Because no sound or substance has crossed from Boomer's property onto Rubble's, Boomer wins.
- (d) Because Boomer's use is not well suited to the locality, while Rubble's is, Rubble wins.

Question 2

Prudish and Outlandish own large farms on opposite sides of a rural road. Outlandish makes a practice of breeding his livestock in his front yard, in full view of the front rooms of Prudish's house, only 75 yards away. This causes considerable annoyance and embarrassment to Prudish, her family, and their guests. Prudish sues Outlandish for causing a nuisance.

- (a) Prudish wins because Outlandish's behavior violates common standards of decency.
- (b) Outlandish wins unless Prudish can show that he acted with the sole purpose of causing her harm.
- (c) Prudish wins if she has a particular sensitivity to displays of animal breeding.
- (d) Outlandish wins because Prudish has the self-help remedy of closing her shades.

NUISANCE TORTS QUIZ--ANSWER KEY

1. This comes from illustration 3 of R. (2d) § 831, a rule we did not discuss in class but which should be obvious from the cases.
 - (a) is not the best answer because obeying zoning and public safety rules does not necessarily rule out causing a nuisance.
 - (b) wrongly invokes a principle of strict liability, which does not apply here, where no explosion has happened.
 - (c) is wrong because, while sounds or substances are frequently involved in nuisance cases, they are not necessary. See, e.g., the example of mortuary in a residential area, which § 831 also cites.
 - (d) is right, as it basically reflects the rule of § 831.

2. This comes from illustration 2 of R. (2d) § 829, a rule that the casebook does not discuss but that will hopefully sound reasonable.
 - (a) is the best answer, as it basically quotes the language of § 829(b).
 - (b) is not the best answer because while § 829(a) does allow such proof of malice to support a finding of nuisance, it does not require it.
 - (c) is not right because, in fact, it misstates the rule regarding sensitivity.
 - (d) is not the best answer because, however sensible a solution, it is not one the law requires Prudish to implement.