

MINI-EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS.

While you are waiting for the exam to begin, be sure that you have written the THREE DIGIT MINI-EXAM NUMBER on each bluebook, that you have read these instructions, and that you are otherwise ready to begin.

This exam will last **55** minutes. Plan on spending at least 10 MINUTES reading the question and outlining your answer. REREAD the question to be sure you haven't missed anything.

Please discuss only the kinds of issues that would be raised as a result of what you have learned through Chapter 1. Please **OMIT** from your analysis any discussion of issues that are covered beyond that point, including proximate cause, the assessment of the amount of recoverable damages, contributory fault, or any other affirmative defense.

DOUBLE-SPACE your answer in the blue-book(s).

Assume that this case arises in the state of Linden.

If you use more than one bluebook, label each bluebook, *e.g.*, "Book 1"; "Book 2"; etc.

You are welcome to use abbreviations, but indicate what they are, *e.g.*, "Andropov (A) would sue Brezhnev (B). B would be liable to A if ...".

Plan on spending 5 minutes or so at the end PROOFREADING your answers. You may not write ANOTHER WORD after time is called.

You may KEEP your copy of the exam questions if you wish.

REMEMBER THE HONOR CODE: DO NOT IDENTIFY YOURSELF

DOUBLE SPACE!

GOOD LUCK!

DOUBLE SPACE!

Question

On July 25, 2002, John and Bonnie Pahanish, along with their three children (Melanie, Gregory and Michael) went horseback riding at Western Trails, Inc. The children selected their own horses from the stable; Danielle, the stable manager for that day, brought John and Bonnie the horses they were to ride. Each of the horses was brought out from the stables already saddled. The horses' stirrups were adjusted for each rider. Only Melanie and Gregory were given any riding instructions, principally on the use of the reins to direct and control the horses. Danielle inquired into the prior riding experience of several members of the family, but did not ask John about his previous riding experience. All three children had ridden before, but neither John nor Bonnie had been on a horse in recent years.

Eric, the trail guide, led the Pahanish family through a field, down onto a rocky, muddy path, then out onto a small road. The family members disagree about whether the family was instructed by Eric to stay in a line. During this period Melanie became frightened because she thought her horse was going too fast. John, at the request of the trail guide, rode his horse up to where Melanie was riding in an effort to talk to her and calm her down. This apparently happened a second time. Eric then asked whether any of the family wished to run their horses in a nearby field. Gregory and Michael, accompanied by the trail guide, ran their horses for about ten minutes. John and the rest of the family waited, without dismounting, for the boys' return.

Soon after the boys' return the family started out to ride again; just as they began to ride, Gregory's horse started to jump around, tried to kick a couple of the horses, then pulled up next to or in front of John's horse and kicked it. John's horse reared and, although he grabbed on to the reins and saddlehorn, he and the saddle were thrown off. He noticed the saddle on the ground after he fell, but did not notice its condition.

John could not get up off the ground because of intense back pain. Melanie remained with him while Eric and the rest of the family went to get a car to transport John. When they returned, Danielle was with them. She hollered at Eric, "Did you get the saddle, Eric?" Eric then picked up the saddle, and then he picked up a strap or girth that was not connected to the saddle. "I'll have somebody stitch this thing on permanently," he said.

John was placed in a car and chose to remain there until the boys finished their ride. Later John was taken to the hospital by his wife. John was determined to have suffered an acute lumbosacral sprain, and has complained of persistent back problems since the accident.

Ms. Beverly Raymond of the Maryland Department of Agriculture reports that in 2002, Western Trails, Inc. failed to obtain a license for the riding stables, in violation of section 2-710 of the Linden Agriculture Code Annotated.

John has hired your law firm to represent him, and wants advice on whether he can recover from Western Trails. Please provide your analysis.