

MINI-EXAM

Instructions

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

While you are waiting for the exam to begin, **choose a five-digit # that you will remember-- preferably the last five digits of your STUDENT ID number**, and write it on each bluebook (or enter it into the Examsoft software), read these instructions, and make sure that you are otherwise ready to begin. (If the number is other than the last five digits of your student ID number, email Sue Faraca (not me!) and let her know what number you used.

This exam will last 60 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 negligence, governmental immunity or liability, medical malpractice, product liability, or any other issue other than the theories of liability we have already covered in class.

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

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 at least 10 minutes 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

Kabir Halim was injured when he was struck by a vehicle that left the highway and turned over several times. The car was owned by Ken Thomas of Georgia, Inc. d/b/a Ken Thomas BMW Acura (Ken Thomas), which loaned the car to Koreem Campbell to use while Ken Thomas serviced Campbell's car. Ken Thomas gave Campbell a loaner car while Campbell's car was being serviced. Campbell drove the loaner car about 20 miles from the Ken Thomas dealership to Fort Arthur, where he was stationed as a member of the U.S. Army, then drove back to the dealership in response to a call about the service on his car. The accident occurred as Campbell was driving back to Fort Arthur from the dealership. Campbell was asked if he noticed any problems while driving the loaner car prior to the accident.

Q. Did you detect anything at all in the car while you were driving it that gave you reason for concern?

A. No.

Q. Were there any problems with the brakes?

A. Not to my recollection.

Q. Were there any problems with the rear end or the front end that you noticed?

A. No.

Q. Were there any problems with the car's steering?

A. No.

Q. Were there any unusual noises at all?

A. No.

In describing the accident Campbell further stated:

A. [I]t was going straight, and then all of a sudden it just--I didn't hear any--I don't know what happened. It just popped and went to the side of the road ... The steering wheel pulled to the left ... [e]nough that I couldn't control it ... [I]t just shot to the left where, I mean, I really couldn't control it ... [The steering wheel] jerked real vigorously to the left.

A traffic accident investigator arrived at the accident scene as Campbell and Halim were being taken away by ambulance. The investigator interviewed Campbell the day after the accident and stated that Campbell made no mention of a steering problem with the car. Based on his investigation, the investigator concluded that Campbell "lost control of his vehicle on a curve due to his failure to pay attention to the roadway and his excessive rate of speed."

Your law firm represents Halim. You have obtained records from the Ken Thomas dealership. Those records show that, about two years prior to the accident at issue, the loaner car was involved in an accident when it was a new car owned by Ken Thomas. The car incurred about \$3,500 in damages in the prior accident, almost all of which was paint and body work. Ken Thomas repaired the car after the accident and used it as a loaner car for over two years until the present accident. At one point, Ken Thomas sold the car to a customer without revealing it had been in an accident, but for unstated reasons the customer was "not happy" with it, and Ken Thomas took it back shortly after the sale and gave the customer another car. The repair records are unclear as to whether or not the car may have sustained damage to a left rear knuckle in the prior accident, and it is unclear whether or not this damage was repaired. However, Ken Thomas claims that the knuckle referred to was a part that attached to the rear wheel bearing allowing the wheel to turn and that, regardless of whether it was damaged or replaced, it had no impact on the car's steering.

Please evaluate Halim's chances for recovering tort compensation for his injuries.