

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 properly recorded your EXAM NUMBER, that you have read these instructions, and that you are otherwise ready to begin.

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 fault, or any other affirmative defense.

DOUBLE-SPACE your answer

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 August 2, 2003, at approximately noon, a tractor-trailer unit transporting boron trifluoride (BF_3) gas¹ on Interstate Highway 12 (I-12) entered East Baton Rouge Parish from Livingston Parish. The BF_3 was manufactured by AlliedSignal, Inc., and was being transported by Quality Carriers, Inc. (Quality) as a compressed gas in a tube trailer with six separate, manifolded tubes. A leak noticeable to following traffic had developed from one of the trailer's tubes as the unit was traveling in the vicinity of Denham Springs in Livingston Parish. After the unit entered the corporate limits of Baton Rouge, the driver discovered the leak, and he stopped the unit on the westbound shoulder near I-12's overpass for Cedarcrest Avenue.

The leak originated from the bull plug of Tube No. 5. The first fire truck on the scene was dispatched at 12:23 p.m., and arrived at 12:34 p.m. Its crew was instructed to direct the water spray of 200 gallons per minute from its manual monitor into the visible vapor cloud originating from the trailer. Approximately two hours after its arrival, the first fire truck overheated, and was replaced with another truck using a fixed monitor applying water at a rate estimated variously to be from 750 to 1,000 gallons per minute. That first fixed monitor was later joined by a second, and by 4:14 p.m., a third fixed monitor was also in use.

Because the leak could not be stopped due to the location of the hole and the interior pressure of the tube at issue, it was decided to undertake a "scrubbing" operation, by which the remaining BF_3 in the tube would be vented through a tote tank containing water into which the gas would be dissolved. By 10:32 p.m., it was determined that the initial attempt to "scrub" the remaining BF_3 was unsuccessful, so a second tube trailer was sent by AlliedSignal, Inc., into which most of the remaining gas was offloaded through a step-down pressure equalization process. After the interior pressure of the leaking tube reached 150 pounds per square inch, the second tube trailer was moved at 2:45 a.m. on August 3, and the remaining gas "scrubbed" into the tote tank. The leaking cylinder was finally patched at 5:24 a.m. The "all clear" signal was issued at 6:15 a.m., and I-12 was completely re-opened for traffic at 7:05 a.m. AlliedSignal, Inc.'s records showed that the tube trailer contained 17,740 pounds of BF_3 prior to the release, and that the total amount released was 775 pounds.

A "shelter in place" plan was established during the incident for a ¼-mile radius from the intersection of I-12 and Cedarcrest Avenue, and the eleven homes nearest the leak were evacuated. Over 100 emergency response workers from various agencies were assigned to the incident scene.

You work for the Jones Law Firm, which represents AlliedSignal. The senior partner is working on assessing the damages, but she wants you to assess the likelihood that liability will be imposed. Please provide your analysis.

1. According to the toxicological profile of the Linden Department of Environmental Quality introduced into evidence, BF_3 is "a colorless gas with a pungent, suffocating odor that forms dense white fumes in moist air. In moist air or hot water, it hydrolyzes to form boric acid, hydrogen fluoride, and fluoroboric acid. It also reacts with water to form hydrofluoric acid. Upon inhalation, it is an irritant to the nasal passages and causes nosebleeds and burns." AlliedSignal, Inc.'s own Material Safety Data sheet similarly describes it as "[a] colorless high pressure compressed gas with a sharp pungent odor which forms a dense white vapor cloud upon release. Exposure to vapor is highly irritating to the respiratory tract. Exposure to liquid or vapor can produce severe irritation and possible burns to all parts of the body."