

Exam # \_\_\_\_\_

TORTS  
FALL 2010

PROFESSOR DEWOLF  
December 15, 2010

FINAL EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS. THIS IS A CLOSED BOOK EXAM! Follow all of the directions of the proctor.

IMPORTANT: This exam will last THREE HOURS. You should plan on spending AT LEAST 20 minutes reading the questions carefully and outlining your answers on a separate sheet of paper. Before writing your answers, REREAD each question to be sure you haven't missed anything.

POINTS are assigned to each section of the exam based on the rough number of minutes it is expected you will need to complete each portion.

(1) *Multiple Choice* (20 points). Please select the best answer. Some answers may give a wrong reason for an otherwise correct result. Make sure that you read all the answers thoroughly and select the one that comes closest to a correct statement of the law. Circle the correct answer on the exam. Write your answers to the multiple choice questions at the beginning of your answer to Essay #1.

(2) *Essays*: You will have two essay questions. The division is as follows:

Question 1: **50** points

Question 2: **65** points

PLEASE IGNORE issues relating to legal causation; assume that any but-for cause of an injury is also a proximate cause of that injury. DO NOT cross-refer from one essay answer to the other; make sure that each essay answer stands on its own.

Plan on spending at least 15 minutes at the end PROOFREADING your answers. You may not write ANOTHER WORD after time is called.

A STATUTORY APPENDIX is provided that gives the law of this jurisdiction, the State of Linden, on some issues. If no law is specified on the point you are interested in, please comment on the possible alternatives.

REMEMBER THE HONOR CODE! Don't identify yourself.

MERRY CHRISTMAS! / HAPPY HOLIDAYS!

## MULTIPLE CHOICE QUESTIONS

1. Joe Jessup was a professional football player. He enjoyed going to nightclubs and drinking alcohol. On one evening he was coming out of a bar when Freddie Fan grabbed him by the arm and said, "Aren't you the guy who dropped the pass in last Sunday's game?" Joe responded by taking a swing at Freddie, but he was so drunk that he missed him by a foot. Which of the following is true?

- (a) Joe could recover from Freddie for battery, but only if he could show that he suffered actual harm;
- (b) Joe could recover from Freddie for assault, even if he could not establish actual harm;
- (c) Freddie could recover for assault from Joe, even if he knew that Joe was unable to land the punch;
- (d) Freddie could recover for assault from Joe, if Joe intended to punch him in the face.

2. Mike was jealous of Barbara because of her superior academic performance. When she wasn't looking, Mike put a plastic replica of a snake in her backpack. Barbara was getting ready for class when she pulled out her books and the plastic snake fell out, brushing her hands before it fell to the floor. She screamed in terror. Mike laughed. Which of the following is true?

- (a) Barbara could recover damages from Mike for battery but only if a person of normal sensibility would be offended by the contact.
- (b) Barbara could recover damages from Mike for assault, if she was put in fear of imminent harm;
- (c) Barbara could not recover for the intentional infliction of emotional distress if she did not suffer severe emotional damages.
- (d) All of the above.

3. Geraldine Gipp was a security guard at a large suburban mall. She saw Sam Sophomore, who was wearing a "letterman's" jacket displaying the symbols of a high school that had been her nemesis as a young woman. As Sam was walking toward the door leading to the parking lot, Geraldine called out to Sam, saying in a loud voice, "And just where do you think you're going?" Sam froze in fear. Could Sam recover damages from Geraldine for false imprisonment?

- (a) Yes, because Sam could reasonably believe that Geraldine would use force if he continued.
- (b) Yes, if Sam reasonably believed that Geraldine was armed;
- (c) No, unless Geraldine intended to confine Sam;
- (d) No, if Sam did not suffer actual damage from the confinement.

4. Eleanor Eastwick was running to catch a bus when she saw two men carrying a couch backing out of a doorway. She could have stopped but tried to squeeze between them and the lamppost so that she wouldn't miss her bus. She almost made it, but her foot caught Tom Treach, who dropped the couch on his toe. Could Treach recover damages from Eastwick?

- (a) Yes, because her lack of reasonable care in assessing whether she could run past the men would constitute battery;
- (b) Yes, if she knew that she was going to collide with the men;
- (c) No, if she did not intend to cause any harm;
- (d) No, if the men could have easily avoided her.

## ESSAY QUESTIONS

### QUESTION 1 (50 points)

In conjunction with its School of Education, Linden State University ("LSU") operates an elementary school (Woodrow Wilson Elementary), a middle school (Jefferson Middle School), and a high school (Kennedy High School). The pupils who attend the school are children of employees (or students) of LSU, or else are residents of Springfield, the town in which LSU is located. Instead of being operated as part of a local school district, Wilson, Jefferson and Kennedy are funded through the Linden Department of Education.

George and Sarah Dornfried are both employed by LSU. In 2008 their son Jerry was 14 years old, just entering the freshman class at Kennedy, when he expressed an interest in trying out for the football team. Although somewhat slight of stature, Jerry had played soccer for many years and was told by his soccer coach that he might be successful as a placekicker. Jerry approached Vincent Capodice, the coach of the football team, and was told that for the first year he would be a backup, and might not play at any of the games (barring an injury to their primary kicker), but he should train with the team. Jerry began attending practices and almost immediately was subjected to what he alleges was "incessant bullying, harassment, intimidation, threats of violence, and actual violence." At first Jerry tried to get along and assumed that he would eventually be accepted as a team member. Eventually he sought out the school's guidance counselor, Doris Chiechetti, who spoke to the principal, Andrew Synott, who spoke to the athletic director, Terence Day, who spoke to Capodice. Capodice assured Jerry that he would speak to Jerry's teammates, but also told Jerry that football was a "tough" sport, and by enduring some of the normal teasing he would earn his teammates' respect. Approximately a week later Jerry was subjected to worse treatment by the other members of the team. In addition to the previous acts of bullying and harassment, several football players began referring to Jerry as a "sissy." Jerry again sought out Chiechetti, who again reported the situation to Synott, who in turn spoke to Day and again to Capodice. Capodice called George Dornfried to discuss the situation. Capodice told George that his players had denied treating Jerry any differently from other members of the team; that Capodice had never observed any bullying or harassment, and questioned whether or not Jerry was "serious" about football. After a tearful exchange between George and Sarah and their son Jerry, the decision was reached that Jerry would continue on the team for another two weeks, and

if things didn't improve he would quit. Before the two weeks were up, Jerry had a psychological breakdown. Formerly a good student with a normal social life, Jerry refused to return to Kennedy, and George and Sarah were forced to enroll him in a private school twenty miles away.

Jerry and his parents have now filed a claim against the State of Linden. You work as a lawyer in the Tort Claims Division of the Attorney General's office. Another lawyer in the office was assigned the task of assessing the value of the medical treatment, potential future wage loss claim, and the pain and suffering. Her estimate is \$500,000. You have been assigned the task of evaluating the potential liability that the State faces. Please prepare such a memo.

**QUESTION 2 (65 points)**

Herman Blankenship was employed, at times, by CRT Tree Service and Sun & Seed Landscaping. On July 12, 2010, Blankenship had just returned to the Sun & Seed Landscaping premises after having returned a stump grinding machine to a rental company. Simms Goodman, the owner of CRT Tree Service, had leased a Model 1568 telescopic hydraulic boom crane, manufactured by Manitex, Inc., approximately two weeks earlier. The crane was being stored on the premises of Sun & Seed as a favor by Sun & Seed's owner, Gregory Naploszek. The main boom on the crane has three telescoping sections. When fully deployed, the three sections on the main boom measure 68 feet long. The main boom may be extended up to forty additional feet using an optional jib extension. According to the manufacturer, the jib extension is mounted to the side of the main boom on a hinge.

Robert Doyle, an employee of CRT Tree Service, had already set up a boom crane with the jib extension by the time Blankenship arrived. Doyle was not trained on the operation of the crane, and was unaware of whether there were operating manuals with the crane or whether there was an aluminum load capacity chart warning sign on the crane. Goodman and Greg Naploszek were on the scene for a period of time with Doyle and Blankenship. Goodman had been summoned there by radio so as to watch Doyle and others engage in bungee bouncing.<sup>1</sup> In fact, while the crane was set up that afternoon, Goodman had hoisted Greg Naploszek and his son up into the air with the crane without bouncing so they could look around from the elevated vantage point. Following this, Goodman and Naploszek joked with Doyle about Doyle getting up in the air and bungee bouncing from the crane, but the two business owners decided to leave the area. Before Goodman and the Naploszeks left the scene, Goodman and Gregory Naploszek claim that they ordered Doyle and Blankenship to break down the equipment, pack up everything and go home. Doyle recalls things differently. He has stated that Goodman said "don't be all day with this stuff, you know, finish up. That was it.", and that Gregory Naploszek told him to "don't take all day." Doyle specifically stated that he was not told to "put this stuff away right now." According to Blankenship, before leaving the scene, Goodman told him to "take it easy." Blankenship interpreted this "take it easy" instruction to mean "not so much bouncing ... Just a little bit of bouncing I guess. He didn't want any bouncing too high."

With Doyle at the crane controls, the employers gone from the scene, and the crane still deployed to its maximum length of 108 feet using the optional jib extension, Blankenship climbed

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1. "Bungee bouncing is a variation of the activity of bungee jumping. Rather than jumping off of a high structure, the 'bouncer' wears a harness that is attached with a bungee cord to the wire cable of a crane and is hoisted off the ground. An operator then takes up and lets out the cable to create a bouncing motion for the participant."

into a harness. This harness was attached to a forty foot length of blue and white bungee cord, which in turn was secured to the crane's steel wire rope at the lower load block. The lower load block assembly consists of a steel hook, which is attached to a short length of wire cable, which is in turn attached to a heavy steel ball (a.k.a. the "overhaul" ball), which is further attached to the wire rope used by the crane. The distance from the tip of the crane to the ground measured 105 feet. Doyle then retracted the wire rope, thereby hoisting Blankenship into the air. While Blankenship was suspended in mid-air, Doyle spasmodically raised and lowered the wire rope so as to cause Blankenship to bounce up and down in the air. According to Blankenship, he bounced "above the jib."<sup>2</sup>

This bouncing caused the wire rope to derail from the deep groove in the pulley (a.k.a. jib sheave), which was mounted between the two steel side plates of the upper load block assembly at the extension jib point, and slide down to the end of the main boom, a.k.a. the boom point, where it caught hold. According to the police supplementary report, this derailment action caused approximately 25 feet of wire rope to now be immediately available to the acrobatic Blankenship. With this extra length of wire rope now in play, Blankenship plummeted to the ground where he struck a pile of logs.

Inspection of the crane subsequent to the accident revealed several anomalies in the mechanical operation of the machine that day. First, two steel wire rope retaining pins, which would normally be located running through the two steel side plates of the upper load block at the jib point and whose safety function is to prevent the lower load block from riding up and over the sheave and thereby cause the wire rope to derail, were missing. These retaining pins "must be removed in order to place wire rope inside" the groove of the sheave. These retaining pins were allegedly given to Goodman by Doyle after the accident: According to Goodman, Doyle had put the pins inside the flatbed truck. However, Doyle denies ever having these pins. Second, the anti-two block<sup>3</sup> safety device on the jib point was not activated by the operator at the time of the accident.

You work at a personal injury firm that represents Blankenship. Your firm has hired a crane engineer, who is preparing a report on the crane. Another lawyer has estimated that

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2. Blankenship also admitted to one previous episode involving bungee jumping, approximately nine months prior to this accident, when, despite being scared by the idea of dropping off a bridge and being hurt, he was, at his own insistence, dropped by a friend from a bridge at Badger Mills Ski Resort.

3. "Two-blocking," according to the crane manufacturer, occurs when the crane "operator raises the lower load block so far that it crashes into the upper load block." The crane manufacturer further describes the use of this "anti-two block" safety device "Manitex equips all of its cranes with an 'anti-two block' safety to halt the upward travel of the lower load block in order to prevent two-blocking. A weighted chain holds a limit switch mounted on the upper load block in the ON position. The wire rope travels freely inside a hole in the weight. If the operator raises the lower load block too high, the overhaul ball will lift the weight, taking the tension off the chain, and causing the limit switch to spring into the OFF position. This actuates an interlock system to sound a loud warning horn and to prevent the winch from raising the lower load block any higher.

"The jib and main boom have their own limit switches for the anti-two block device. Thus, when switching between the jib and the main boom, the operator must move the weighted chain to the applicable limit switch. \* \* \* "

Blankenship's damages, including lost wages, medical expenses, and pain and suffering, would be assessed by a jury at \$2 million. The senior partner in the firm has asked for an analysis in preparation for making a settlement demand against Manitex. Please prepare an analysis of the strengths and weaknesses of the case against Manitex.

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## LINDEN REVISED STATUTES

### Title 52. Civil Actions

#### **§ 52-572h. Negligence actions. Doctrines applicable. Liability of multiple tortfeasors for damages**

(a) For the purposes of this section: (1) "Economic damages" means compensation determined by the trier of fact for pecuniary losses including, but not limited to, the cost of reasonable and necessary medical care, rehabilitative services, custodial care and loss of earnings or earning capacity excluding any noneconomic damages; (2) "noneconomic damages" means compensation determined by the trier of fact for all nonpecuniary losses including, but not limited to, physical pain and suffering and mental and emotional suffering; (3) "recoverable economic damages" means the economic damages reduced by any applicable findings including but not limited to set-offs, credits, comparative negligence, additur and remittitur, and any reduction provided by section 52-225a; (4) "recoverable noneconomic damages" means the noneconomic damages reduced by any applicable findings including but not limited to set-offs, credits, comparative negligence, additur and remittitur.

(b) In causes of action based on negligence, contributory negligence shall not bar recovery in an action by any person or the person's legal representative to recover damages resulting from personal injury, wrongful death or damage to property if the negligence was not greater than the combined negligence of the person or persons against whom recovery is sought including settled or released persons under subsection (n) of this section. The economic or noneconomic damages allowed shall be diminished in the proportion of the percentage of negligence attributable to the person recovering which percentage shall be determined pursuant to subsection (f) of this section.

(c) In a negligence action to recover damages resulting from personal injury, wrongful death or damage to property occurring on or after October 1, 1987, if the damages are determined to be proximately caused by the negligence of more than one party, each party against whom recovery is allowed shall be liable to the claimant only for such party's proportionate share of the recoverable economic damages and the recoverable noneconomic damages except as provided in subsection (g) of this section.

(d) The proportionate share of damages for which each party is liable is calculated by multiplying the recoverable economic damages and the recoverable noneconomic damages by a fraction in which the numerator is the party's percentage of negligence, which percentage shall be determined pursuant to subsection (f) of this section, and the denominator is the total of the percentages of negligence, which percentages shall be determined pursuant to subsection (f) of this section, to be attributable to all parties whose negligent actions were a proximate cause of the injury, death or damage to property including settled or released persons under subsection (n) of this section. Any percentage of negligence attributable to the claimant shall not be included in the denominator of the fraction.

(e) In any action to which this section is applicable, the instructions to the jury given by the court shall include an explanation of the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

(f) The jury or, if there is no jury, the court shall specify: (1) The amount of economic damages; (2) the amount of noneconomic damages; (3) any findings of fact necessary for the court to specify recoverable economic damages and recoverable noneconomic damages; (4) the percentage of negligence that proximately caused the injury, death or damage to property in relation to one hundred per cent, that is attributable to each party whose negligent actions were a proximate cause of the injury, death or damage to property including settled or released persons under subsection (n) of this section; and (5) the percentage of such negligence attributable to the claimant.

(g) (1) Upon motion by the claimant to open the judgment filed, after good faith efforts by the claimant to collect from a liable defendant, not later than one year after judgment becomes final through lapse of time or through exhaustion of appeal, whichever occurs later, the court shall determine whether all or part of a defendant's proportionate share of the recoverable economic damages and recoverable noneconomic damages is uncollectible from that party, and shall reallocate such uncollectible amount among the other defendants in accordance with the provisions of this subsection. (2) The court shall order that the portion of such uncollectible amount which represents recoverable noneconomic damages be reallocated among the other defendants according to their percentages of negligence, provided that the court shall not reallocate to any such defendant an amount greater than that defendant's percentage of negligence multiplied by such uncollectible amount. (3) The court shall order that the portion of such uncollectible amount which represents recoverable economic damages be reallocated among the other defendants. The court shall reallocate to any such other defendant an amount equal to such uncollectible amount of recoverable economic damages multiplied by a fraction in which the numerator is such defendant's percentage of negligence and the denominator is the total of the percentages of negligence of all defendants, excluding any defendant whose liability is being reallocated. (4) The defendant whose liability is reallocated is nonetheless subject to contribution pursuant to subsection (h) of this section and to any continuing liability to the claimant on the judgment.

(h) (1) A right of contribution exists in parties who, pursuant to subsection (g) of this section are required to pay more than their proportionate share of such judgment. The total recovery by a party seeking contribution shall be limited to the amount paid by such party in excess of such party's proportionate share of such judgment.

(2) An action for contribution shall be brought within two years after the party seeking contribution has made the final payment in excess of such party's proportionate share of the claim.

(i) This section shall not limit or impair any right of subrogation arising from any other relationship.

(j) This section shall not impair any right to indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnitee is for indemnity and not contribution, and the indemnitor is not entitled to contribution from the indemnitee for any portion of such indemnity obligation.

(k) This section shall not apply to breaches of trust or of other fiduciary obligation.

(l) The legal doctrines of last clear chance and assumption of risk in actions to which this section is applicable are abolished.

(m) The family car doctrine shall not be applied to impute contributory or comparative negligence pursuant to this section to the owner of any motor vehicle or motor boat.

(n) A release, settlement or similar agreement entered into by a claimant and a person discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it so provides. However, the total award of damages is reduced by the amount of the released person's percentage of negligence determined in accordance with subsection (f) of this section.

(o) Except as provided in subsection (b) of this section, there shall be no apportionment of liability or damages between parties liable for negligence and parties liable on any basis other than negligence including, but not limited to, intentional, wanton or reckless misconduct, strict liability or liability pursuant to any cause of action created by statute, except that liability may be apportioned among parties liable for negligence in any cause of action created by statute based on negligence including, but not limited to, an action for wrongful death pursuant to section 52-555 or an action for injuries caused by a motor vehicle owned by the state pursuant to section 52-556.

#### Title 4. Management of State Agencies Claims Against the State

#### **§ 4-141. Definitions**

As used in this chapter: \_Claim\_ means a petition for the payment or refund of money by the state or for permission to sue the state; \_just claim\_ means a claim which in equity and justice the state should pay, provided the state has caused damage or injury or has received a benefit; \_person\_ means any individual, firm, partnership, corporation, limited liability company, association or other group, including political subdivisions of the state; \_state agency\_ includes every department, division, board, office, commission, arm, agency and institution of the state government, whatever its title or function; and \_state officers and employees\_ includes every person elected or appointed to or employed in any office, position or post in the state government, whatever such person's title, classification or function and whether such person serves with or without remuneration or compensation, including judges of probate courts, employees of such courts and special limited conservators appointed by such courts pursuant to § 17a-543a. In addition to the foregoing, \_state officers and employees\_ includes attorneys appointed as victim compensation commissioners, attorneys appointed by the Public Defender Services Commission as public defenders, assistant public defenders or deputy assistant public defenders and attorneys appointed by the court as special assistant public defenders, the Attorney General, the Deputy Attorney General and any associate attorney general or assistant attorney general, any other attorneys employed by any state agency, any commissioner of the Superior Court hearing small claims matters or acting as a fact-finder, arbitrator or magistrate or acting in any other quasi-judicial position, any person appointed to a committee established by law for the purpose of rendering services to the Judicial Department, including, but not limited to, the Legal Specialization Screening Committee, the State-Wide Grievance Committee, the Client Security Fund Committee, the advisory committee appointed pursuant to § 51-81d and the State Bar Examining Committee, any member of a multidisciplinary team established by the Commissioner of Children and Families pursuant to § 17a-106a, and any physicians or psychologists employed by any state agency. \_State officers and employees\_ shall not include any medical or dental intern,



resident or fellow of The University of Linden when (1) the intern, resident or fellow is assigned to a hospital affiliated with the university through an integrated residency program, and (2) such hospital provides protection against professional liability claims in an amount and manner equivalent to that provided by the hospital to its full-time physician employees.

**§ 4-142. Claims Commissioner. Excepted claims**

There shall be a Claims Commissioner who shall hear and determine all claims against the state except: (1) Claims for the periodic payment of disability, pension, retirement or other employment benefits; (2) claims upon which suit otherwise is authorized by law including suits to recover similar relief arising from the same set of facts; (3) claims for which an administrative hearing procedure otherwise is established by law; (4) requests by political subdivisions of the state for the payment of grants in lieu of taxes; and (5) claims for the refund of taxes.

**§ 4-142a. Appointment. Term. Qualifications. Compensation. Contractual agreements. Receipt of money, revenue or services**

(a) The Claims Commissioner shall be appointed by the Governor with the advice and consent of the General Assembly to serve for a term of four years from the first day in July in the year of his appointment and until his successor has been appointed and has qualified. The commissioner shall be an attorney-at-law and shall have been admitted to practice before the courts of the state of Linden for at least five years prior to his appointment. The commissioner shall receive such compensation as is fixed under the provisions of § 4-40. The commissioner may enter into such contractual agreements, in accordance with established procedures, as may be necessary for the discharge of his duties. Subject to the provisions of § 4-32, and unless otherwise provided by law, the commissioner is authorized to receive any money, revenue or services from the federal government, corporations, associations or individuals, including payments from the sale of printed matter or any other materials or services.

**§ 4-158. Decision by Claims Commissioner. Request for legislative review. Payment of smaller claims**

(a) The Claims Commissioner may (1) order that a claim be denied or dismissed, (2) order immediate payment of a just claim in an amount not exceeding seven thousand five hundred dollars, (3) recommend to the General Assembly payment of a just claim in an amount exceeding seven thousand five hundred dollars, or (4) authorize a claimant to sue the state, as provided in § 4-160.

(b) Any person who has filed a claim for more than seven thousand five hundred dollars may request the General Assembly to review a decision of the Claims Commissioner (1) ordering the denial or dismissal of the claim pursuant to subdivision (1) of subsection (a) of this section, including denying or dismissing a claim that requests permission to sue the state, or (2) ordering immediate payment of a just claim in an amount not exceeding seven thousand five hundred dollars pursuant to subdivision (2) of subsection (a) of this section. A request for review shall be in writing and filed with the Office of the Claims Commissioner not later than twenty days after the date the person requesting such review receives a copy of the decision. The filing of a request for review shall automatically stay the decision of the Claims Commissioner.

**§ 4-160. Authorization of actions against the state**

(a) When the Claims Commissioner deems it just and equitable, the Claims Commissioner may authorize suit against the state on any claim which, in the opinion of the Claims Commissioner, presents an issue of law or fact under which the state, were it a private person, could be liable.

(b) In any claim alleging malpractice against the state, a state hospital or a sanatorium or against a physician, surgeon, dentist, podiatrist, chiropractor or other licensed health care provider employed by the state, the attorney or party filing the claim may submit a certificate of good faith to the Claims Commissioner in accordance with § 52-190a. If such a certificate is submitted, the Claims Commissioner shall authorize suit against the state on such claim.

(c) In each action authorized by the Claims Commissioner pursuant to subsection (a) or (b) of this section or by the General Assembly pursuant to § 4-159 or 4-159a, the claimant shall allege such authorization and the date on which it was granted, except that evidence of such authorization shall not be admissible in such action as evidence of the state's liability. The state waives its immunity from liability and from suit in each such action and waives all defenses which might arise from the eleemosynary or governmental nature of the activity complained of. The rights and liability of the state in each such action shall be coextensive with and shall equal the rights and liability of private persons in like circumstances.

(d) No such action shall be brought but within one year from the date such authorization to sue is granted. With respect to any claim pending before the Claims Commissioner on October 1, 1992, or presented to the Claims Commissioner on or after said date for which authorization to sue is granted, any statute of limitation applicable to such action shall be tolled until the date such authorization to sue is granted. Action shall be brought against the state as party defendant in the judicial district in which the claimant resides or, if the claimant is not a resident of this state, in the judicial district of Springfield or in the judicial district in which the claim arose.

(e) Civil process directed against the state shall be served as provided by § 52-64.

(f) Issues arising in such actions shall be tried to the court without a jury.

(g) The laws and rules of practice governing disclosures in civil actions shall apply against state agencies and state officers and employees possessing books, papers, records, documents or information pertinent to the issues involved in any such action.

(h) The Attorney General, with the consent of the court, may compromise or settle any such action. The terms of every such compromise or settlement shall be expressed in a judgment of the court.

(i) Costs may be allowed against the state as the court deems just, consistent with the provisions of chapter 901.

(j) The clerk of the court in which judgment is entered against the state shall forward a certified copy of such judgment to the Comptroller. The Attorney General shall certify to the Comptroller when the time allowed by law for proceeding subsequent to final judgment has expired and the Attorney General shall designate the state agency involved in the action. Upon receipt of such judgment and certification the Comptroller shall make payment as follows: Amounts directed by law to be paid from a special fund shall be paid from such special fund; amounts awarded upon contractual claims for goods or services furnished or for property leased shall be paid from the appropriation of the agency which received such goods or services or occupied such property; all other amounts shall be paid from such appropriation as the General Assembly may have made for the payment of claims.

(k) Not later than five days after the convening of each regular session, the Attorney

General shall report to the joint standing committee of the General Assembly on the judiciary on the status and disposition of all actions authorized pursuant to this section or § 4-159, or brought against the state under any other provision of law and in which the interests of the state are represented by the Attorney General. The report shall include: (1) The number of such actions pending in state and federal court, categorized by the alleged ground for the action, (2) the number of new actions brought in the preceding year in state and federal court, categorized by the alleged ground for the action, (3) the number of actions disposed of in the preceding year, categorized by the ground for the action that was disposed of and whether the action was disposed of by settlement or litigation to final judgment, and the amount paid for actions within the respective categories, and (4) such other information as may be requested, from time to time, by the joint standing committee of the General Assembly on the judiciary. The report shall identify each action disposed of by payment of an amount exceeding one hundred thousand dollars.