

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 LAST FOUR digits of your SOCIAL SECURITY NUMBER on each bluebook, that you have read these instructions, and that you are otherwise ready to begin.

This exam will last 1 HOUR. 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 3, p. 145—issues of but-for cause. Please **OMIT** from your analysis any discussion of issues that are covered beyond that point, including legal cause and contributory fault. In other words, assume that all but-for causes are proximate causes, and assume that none of the potential plaintiffs can be charged with any contributory fault.

DOUBLE-SPACE your answers in the blue-book.

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 1 (60 points)

Berlin Bells and his wife Bonnie lived in the town of LeRoy, Columbia. To the south of the Bells' home was the home of a neighbor. To the east of the neighbor's property was vacant land known as the Trimble property, which consisted of four vacant lots. The Trimble property was purchased by David Delbert in late June 1987.

After Delbert purchased the property, he hired Lenny Lee (William G. Lee, Jr.) and his crew to clean up the property. When Lenny and his crew could not clear the lots of the trash, bottles, fence posts, and fencing wire or mow because of the tall weeds and other growth, Delbert contacted Ollie E. Ohmie to clear the vacant lots with his brush hog.

A "brush hog" is a mowing machine sometimes also referred to as a "bush hog," "field cutter," "field mower," and a "rotary mower." It is a large mowing machine designed to cut brush, small trees, or high weeds and grass and is pulled and powered by a tractor.

On July 6, 1987, Ohmie began mowing the vacant property for Delbert. While Bells was walking in his back yard, he was struck in the face and eyes by a piece of wire thrown over 80 feet from the vacant land by Ohmie's "brush hog" mowing machine. He suffered loss of an eye and other serious permanent and disfiguring injuries.

Bells came to the law firm where you are employed to seek advice as to whether or not he could recover damages for his injuries. After learning the above facts, your office obtained additional information:

- (1) Ohmie is not insured and has very limited assets.
- (2) Prior to commencing mowing, Ohmie warned Delbert he was standing too close to the brush hog, because it would throw material out from under it. After observing objects being thrown out by the blade of the brush hog, Delbert said, "Well, enough of this," and went back to his house.

You have been assigned to prepare an assessment of Bells' legal prospects. Please prepare an appropriate report.