

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. 130—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)

Bill, Tom, and George were high school classmates who enjoyed getting into the outdoors. After they graduated they continued their annual tradition of venturing into the nearby mountains to hunt deer. They scheduled their trip in 1991 for November 14, which was the second week of deer-hunting season. Unfortunately, on November 12 there was an unusually early and severe winter storm, which dumped 3 feet of snow on the area where they planned to go hunting. Undeterred, they set off in their four-wheel drive pickup for the site they had picked out. About a half-mile down the logging road, their pickup got stuck and they had to get out and walk. At first it was merely arduous, but after about a mile of trudging through waist-deep snow George said he was ready to give up. Tom and Bill, however, said they at least wanted some excuse to fire their new rifles, and so they suggested setting up a target, and seeing who could come closest to it. Tom hung a tin plate on a tree limb about 300 feet away, and each of them took turns shooting to see who could hit it. At the end of the session Tom went to retrieve the plate. While doing so he heard some moaning and when he went to investigate he found Paula Perry lying in the snow about 200 feet on the *other* side of the tree. She had been taking advantage of the early snow and was cross country skiing when she was hit in the leg by a stray bullet.

You represent Paula. You calculate that she could recover \$100,000 in damages if she could establish liability, but she wants to know from you whether or not she can recover. In your investigation you discover:

- (1) George didn't have a hunting license.
- (2) George was a poor shot, whereas Tom and Bill were pretty good shots.
- (3) Bill had been drinking from a pocket flask which contained whiskey.
- (4) The bullet can't be recovered and no one knows who fired the shot that struck Paula.
- (5) Tom claims that every single one of his shots hit the plate.

Please give Paula your advice on how her case will come out.