

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 the end of Chapter 1, "Breach of Duty." Please **OMIT** from your analysis any discussion of issues that are covered beyond that point, including proximate cause and contributory fault. In other words, address whether or not the plaintiff could establish that any prospective defendant breached a duty such as would give rise to legal liability.

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)

Mike Milbey was employed at Walgreens as an assistant store manager. He worked Thursday through Monday, 3:30 p.m. through 10 p.m. (closing time). To provide additional financial support to his family, he carried on a modest computer installation and repair business. For his computer clients he would purchase and install hardware and software. He also was a "troubleshooter" who responded to customer emergencies by trying to solve freeze-ups and other types of problems that customers encountered. He liked the computer business, but unfortunately, he couldn't put in a full day except on Tuesdays and Wednesdays, and he tried to make some time for his family. Mike handed out business cards that gave his number at home, but sometimes when customers would call at home Mike's wife would direct them to Walgreens, where he made appointments for his days off or else in the morning before he had to go to work at Walgreens.

Another aspect of Mike's work as a computer technician was that he cleaned people's computers as a form of preventive maintenance. To do so, he used compressed CO₂ which he cleaned the electronic insides of computers; after he took the cover off the computer he "sprayed" the insides to blow dust off. The CO₂ came in canisters and were sold with a kind of trigger apparatus that released the gas and pointed it toward the thing being sprayed. When the canisters ran out Mike replaced them with a new one, so he usually kept a couple of cans inside his car. Thursday, June 24, 1993, was a very hot day; Mike arrived at work about 3 p.m. and parked his car in the parking lot. About 6 p.m. there was a loud explosion; one of the CO₂ canisters had been placed on the ledge above the back window, and the heat caused it to explode. Metal fragments blew out the rear window and a shower of broken auto glass and perhaps metal fragments caused lacerations to Tom and Nancy, who were walking from their own car toward the entrance to Walgreens.

You have recently joined a law firm that has done some contract negotiations for Tom and Nancy's business. Tom recently phoned your office, leaving a detailed message with a paralegal containing the above information. Your senior attorney has asked you to prepare a brief analysis of the potential causes of action that they might pursue and a recommendation for further action. Please prepare an analysis accordingly.