

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 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 in the blue-book(s).

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

At about 3:40 p.m. on August 14, 1996, Gregory Hinds was driving a tractor-trailer at about forty miles per hour eastbound on Highway 22. As he approached the intersection of Grant Ave. and Highway 22, the light in his direction changed from green to yellow. Because of the heavy load that he was carrying, Hinds believed that if he slammed on his brakes he might lose control of the cargo, resulting in a spill, and so he continued on through the intersection. At the same moment Donald Pequignot was on his way home from his job as a high school guidance counselor, traveling north on Grant Ave. on his motorcycle. Since the lights were timed and he was familiar with the route, he was expecting that the light would be green in his direction when he crossed Highway 22. Indeed, Pequignot recalls that the light had turned green when he was about 50 feet from the intersection. Unfortunately, by the time Pequignot entered the intersection Hinds' truck was still in it, and Pequignot's motorcycle struck the rear underside of the trailer. As a result of the injuries he received Pequignot is now a paraplegic.

The tractor-trailer was owned by Interstate Transport Systems, Inc. Hinds had leased the tractor-trailer from Interstate for a two-year period for \$2,400 per month. Hinds had a contract with Zirconium Specialties to haul approximately 70,000 pounds of tailings (waste material) from Zirconium Specialties' ore processing plant in Springfield to a waste disposal site in Farmington, 145 miles distant. The contract specified that Hinds would receive \$.01 per pound and required him to make a pick-up of tailings from the plant within three days of being notified by the plant manager's office that a quantity of 50,000 pounds of tailings had accumulated. This worked out to about three trips per week. The tailings were a byproduct of a refining process which produced nuclear grade zirconium metals. Although the tailings are considered low-level radioactive waste, state and federal law only required that Hinds place warning signs on the back and sides of his cargo, which he did.

Following the accident Zirconium terminated its contract with Hinds for hauling the tailings, and the tractor-trailer has since been repossessed by Interstate. Hinds is now unemployed. At the scene of the accident Hinds claimed that the light was yellow when he entered the intersection, but he was ticketed by the investigating police officer for running a red light.

You have been hired by Pequignot to analyze whether or not he would be able to recover tort compensation for his injuries. What would you tell him?