

TORTS I
Summer 1999
July 9, 1999

PROFESSOR DEWOLF

MID-TERM EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS. THIS IS A CLOSED BOOK EXAM!

While you are waiting for the exam to begin, be sure that you have written the YOUR EXAM NUMBER and "TORTS—SUMMER '99—MIDTERM EXAM" on EACH bluebook, that you have read these instructions, and that you are otherwise ready to begin.

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.

DOUBLE-SPACE your answers in the bluebook.

Use SEPARATE BLUEBOOKS for EACH QUESTION. Label each bluebook according to each question and, if necessary, book number, *e.g.*, "Question 1, Book 1"; "Question 1, Book 2"; "Question 2"; etc. When you are finished, turn to the back cover of the first bluebook, and place the second, third, fourth, etc. bluebook in order inside the end of the first bluebook, so the whole makes a single package. Then put it in the box at the front.

You are welcome to use abbreviations, but indicate what they are, *e.g.*, `Andropov ("A") would be sued by Brezhnev ("B"), alleging that A would be liable to B ... !

In answering the questions, you are responsible for Chapters 1 and 2 of the casebook. Please DO NOT DISCUSS ANY of the following ISSUES:

- Contributory negligence on the part of any plaintiff;
- Comparative fault as between defendants;
- Claims against governmental bodies;
- Any affirmative claims or defenses that would be raised by any defendant.

In other words, you should concentrate on the evaluation of the prima facie case that would be presented by your client(s) (if you represent plaintiff(s)) or against your client(s) (if you represent the defendant(s)).

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

Each question has been assigned a point total, and the exam as a whole has a point total of **135**. Spend the amount of time on each question reflecting its relative worth.

You may KEEP your copy of the exam questions if you wish.

REMEMBER THE HONOR CODE! Don't identify yourself.

DOUBLE SPACE!

DOUBLE SPACE!

DOUBLE SPACE!

GOOD LUCK!!!

QUESTION 1 (55 points)

On October 11, 1998, Louis Crovetto was injured at the Sunset Hills Driving Range when he was struck in the head by a golf club that flew out of the hands of Arthur Tucker. Tucker at the time was 12 years old. On the day he was injured, Crovetto accompanied Wade Beaumont to the driving range to offer advice as Crovetto could be considered a golfing expert. At the driving range, golfers practice by hitting balls off of a golf tee. Each tee is in a booth. Two booths over from where Crovetto and Beaumont were practicing, Arthur Tucker was receiving a golf lesson from Mr. James Self. While Arthur was executing a swing, a golf club apparently slipped out of his hands, ricocheted off the roof of the driving stall, and struck Crovetto in the head.

Please analyze Crovetto's prospects for recovery. For purposes of your analysis, assume that Crovetto suffered \$200,000 in compensable damages.

QUESTION 2 (80 points)

On April 4, 1998, a fire broke out in an unoccupied rental house located at 1501 E. Third St. in Centerville, West Carolina. The fire quickly spread from the roof of the house to engulf the entire house in flames. When a neighbor smelled smoke, she called the city fire department, which responded within minutes with a fire truck and several firefighters. Several neighborhood residents, including Dianne Burman, gathered on the sidewalk outside the house to observe the effort to rescue the house.

Before the fire could be extinguished the intense heat caused a propane cylinder in the house to explode, sending metal fragments in all directions. One fragment struck Ms. Burman, resulting in seriously injury. Mrs. Burman has come to your office to inquire about prospects for being compensated for her injuries.

After investigating the fire, the fire department came up with the following conclusions:

- (1) The fire was caused by an electrical short in wiring installed by Carolina Electric Company (CARELEC). A lineman employed by CARELEC had replaced the "house drop" which runs from the local distribution pole to the junctionbox located on the roof of the house. Apparently the connection was not tight enough, and when one of the wires came loose, the contact between the wire and a portion of the roof caused enough heat to generate a fire.
- (2) The propane cylinder exploded in part because of a "multivalve" assembly attached to the propane cylinder. Because of the destruction caused by the fire and the explosion, the manufacturer of the multivalve cannot be identified, but two companies, Sherwood and RegO, manufacture 85% of the valves in use in the United States. Although not identical, the two multivalves share a common characteristic, namely that they do not contain a "pressure relief" feature that would make it less likely to explode when heated. You have interviewed an expert, Charles Drake, a former employee of Sherwood, who was "let go" from the company after he

repeatedly insisted that Sherwood modify the design of the multivalve assembly to include a "pressure relief" feature.

Mrs. Burman has asked for an analysis and assessment of her prospects for the recovery of compensation for her injuries. Assume for purposes of your analysis that her damages would be assessed at \$500,000.