

ST. MARY'S UNIVERSITY SCHOOL OF LAW

TORTS I, LW6231B
Professor Teeter

FINAL EXAMINATION
Fall, 1991

Instructions

1. This examination consists of four pages, including this page as the first, and three problems. BEFORE YOU BEGIN, MAKE SURE YOU ARE IN POSSESSION OF A COMPLETE AND LEGIBLE COPY.
2. You will have two hours and fifteen minutes in which to complete the examination. It is essential to budget your time carefully throughout the examination. You should follow the suggested time limits for each question because they reflect their relative weight in grading. Please think carefully about each question before you begin writing your answer.
3. You may not talk or consult any sources during the examination. Simply relax, take a deep breath, and then proceed as expeditiously as possible.
4. If you believe that relevant facts are not included in a question, make a reasonable assumption, explain the need for that assumption, and proceed with your answer. Under no circumstances, however, should you make an assumption simply to avoid confronting a difficult issue.
5. When you have completed the examination, turn in this copy and your blue books or typed pages. Please place your exam number, the name of this course, and the name of your professor on your blue books or typed pages.
6. In addition, place your exam number in the space below unless you are prevented by the oath from doing so. If you are prevented by the oath from placing your exam number in the space below, notify the student proctor of your reason when you turn in the examination.
7. Good luck!

BY HANDING IN THE EXAMINATION WITHOUT COMMENT, YOU ARE ASSUMED TO HAVE SWORN TO THE FOLLOWING:

I HAVE NEITHER GIVEN NOR RECEIVED UNAUTHORIZED AID IN TAKING THIS EXAMINATION, NOR HAVE I SEEN ANYONE ELSE DO SO.

3965

EXAM NUMBER

QUESTION ONE

(Suggested time: 30 minutes)

Professor Pluto teaches at the Alamo Law School, a private institution. One evening he sat down to grade the Torts examinations. He soon grew annoyed because the students seemed to know more about the subject than he did. "Flunk 'em all," he decided. "Let God sort 'em out." He then posted a notice on the student bulletin board stating that the entire Torts class had failed the examination.

All of the 86 Torts students read the notice at the same time and became wild with rage. With a rebel yell, they charged toward Professor Pluto's office. Pluto saw them coming, however, and quickly slammed and locked his office door. The students then began banging on the door and screaming "Open up or we'll kill you!" assault

For several minutes Pluto hid behind his desk and smirked. He then grabbed his shotgun and fired it through the door, injuring several students. The remaining students fled in terror and police were rushed to the scene.

Assume that this sordid episode results in civil litigation between Pluto and the students. Please discuss all claims and defenses the parties would assert and explain the probable outcome of the litigation.

Issues:

assault

Battery

Self Defense

Int Inflection? (Students v. Pluto)

I Intro, Pluto v. Students

A. Assault

1. define
2. discuss both sides

B. False Imp. D Self Def.

1. define
2. discuss both sides

C. Outcome

II Students v. Pluto

A. Battery

1. define
2. both sides

B. Int Inflection - poorly grade

1. define
2. discuss

C. outcome

QUESTION TWO

(Suggested time: 30 minutes)

After being terminated from the Alamo Law School, Professor Pluto agreed with his wife that they could not afford to have children. Pluto then had a vasectomy performed by Dr. Feelgood. Unbeknownst to Pluto, Dr. Feelgood was under the influence of illegal drugs while performing the vasectomy and failed to sterilize Pluto.

negligence
maybe
was

careful
with
law.

Pluto and his wife were shocked and dismayed when she later became pregnant. She gave birth to Sweet Pea, a normal, healthy girl. Assume that Pluto and his wife sue Dr. Feelgood and that he is found liable. What damages (if any) should Pluto and his wife recover? Do not feel obligated to follow the approach of any particular jurisdiction in answering this question. Instead, you should carefully explain how you would resolve this issue and defend your position against possible objections.

Damages

- I. Intro, Must stay + purpose.
- II. recover for pregnancy + birth but not for raising child.
A. + this family compensates
- III Punitive damages ← Mitigating damages
 - A. torts
 - B. gross negligence

QUESTION THREE
(Suggested time: 75 minutes)

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bit →

The Ozone Center is a half-way house for parolees from state prisons. It is located in a sparsely settled area and does not violate any zoning laws. *z. Fair market*
The Ozone Center is designed to help the parolees adjust to living in society. The parolees work at regular jobs during the day but must return to the Ozone Center every night. The Ozone Center strictly controls the number of parolees living in the house and does not admit sex offenders, drug addicts, or alcoholics. The Ozone Center carefully supervises the parolees and has been praised for its success in helping former prison inmates lead lawful and productive lives.

rans
a
nd

The Ozone Center opened in 1985 and its parolees never committed any crimes while living there. In 1991, however, the Simpson family bought one of the few houses in the vicinity. The Simpsons were not happy about living near a half-way house, but it was the only house they could afford and their son Bart urged them not to "have a cow" about it. *z. bought cheap.*

One day Bart was riding his skateboard past the Ozone Center when one of its parolees (a convicted murderer) leaped from the bushes and strangled him. The Simpsons are now suing the Ozone Center, alleging that it should be held strictly liable for Bart's death. The Simpsons also allege that the Ozone Center is a nuisance and should be enjoined from continuing its operations at that location.

You are the judge in this non-jury case and must decide these issues. Please write a carefully reasoned opinion.

END OF EXAMINATION

HAVE A NICE VACATION!

*abnormal danger
SL - nuisance*

- I. *abnormally dangerous*
- A. restatement
- B. analysis according to § 520 - (Real C)
- C. argue both sides
- D. SL a not

- 1. reciprocity of risk - prison loses
- 2. abnormally severe risk - prison loses
- 3. corrective justice -
- 4. util -
- 5. less spend - prison loses
- 6. cheaper cost avoid

II Nuisance

- A. history
- B. definition
- C. analysis (7)
- D. damages or injunction
 - 1. substantial & no prop. damage
 - 2. near pre. stand
 - 3. live & let live - util + com
 - 4. locality - zoning, sparsely
 - 5. coming + nuis
 - 6. car
 - 6. cause
 - 7. Borneo/ cost benefit