

Write all of your answers to all parts of this exam in a single bluebook. Better answers will receive better grades. This is beneficial.

PART ONE--FILL IN THE BLANKS (2 POINTS EACH)

1. _____ damages are fully taxable in the year in which they are received.
2. Consent which is not expressly stated may still be valid if it is _____.
3. The doctrine which makes the defendant liable for all damages, including those exacerbated by a peculiar susceptibility of the plaintiff is called _____.
4. _____ has been described as a foxhole in the battlefield of the law, providing some, but not complete, protection.
5. The system of imposing liability without fault is called _____.
6. The full name (no abbreviations) of the statute under which railroads can be held liable for the injuries of their employees is _____.
7. Moliter manus imposuit speaks to the right of protection of _____.
8. Things which cannot be proved directly may sometimes be proved by _____ evidence.
9. When someone intends to commit a battery and misses his intended victim, hitting someone else instead, he may be liable under the doctrine of _____.
10. Depending on the jurisdiction, a defendant may be liable for damages incurred in availing himself of _____ necessity.

PART TWO--SHORT ESSAY (25 POINTS)

Answer part A or B (one only).

- A. Write a short essay about some ways in which the current use of res ipsa loquitur is different from its earlier uses.

B. Write a short essay on the use of mistake as a defense in intentional torts.

PART THREE--LONGER ESSAY (55 POINTS)

Ken Istry is an amateur chemist who loves to create unusual experiments. One day in his laboratory he compounded garbagium oxide, a chemical which he hoped would provide a cheap source of energy made from garbage. Unfortunately, garbagium oxide causes serious burns to the skin of anyone who touches it. He kept it in a 5-gallon gasoline can and had it with him when he went to visit his sister.

Driving to his sister's house, his car was struck broadside at an intersection by a pickup truck driven by Bernie Skin. Bernie, who is color blind, drove through a red light, thinking it was green.

The garbagium oxide splashed onto Bernie, causing him burns all over the upper part of his body. The chemical then spilled into the street. Bernie was maddened by the pain and struck at Sam Maritan, who had stopped to offer help. Maritan was not hit very hard, but was, unfortunately, a hemophiliac. He died of internal bleeding that night.

After the accident, no rain fell for 18 months. As a result of this extraordinary drought, the garbagium oxide remained undiluted in the street where it spread. Thus it was still there and still dangerously placed in the street in front of the home of Anne Apathetic. Apathetic was aware that it was there and that it was dangerous but she did absolutely nothing to prevent any harm to anyone. She was walking by one day when she noticed A. Wanda Woman, her 15-year-old neighbor, and told her all about the danger.

The next day Wanda saw Sam Southpaw, the famous pro-baseball pitcher, about to step in the puddle of garbagium oxide. She yelled a warning, grabbed Southpaw's arm and stopped him from burning himself. Unfortunately, Southpaw's pitching arm was sprained in the process. He was treated negligently by Dr. Walker Balkum. Two days later Southpaw's arm fell out of its socket. This really floored him (or portions thereof).

Who is likely to be held liable to whom in this series of unfortunate incidents? Why?