

INSTRUCTIONS

This exam is in two parts. Part I consists of 20 fill-in questions worth 2 points each, and one bonus question. Part II is a single essay question worth 60 points. Write your answers to both parts in your bluebook only. You may use only one bluebook. Good luck!

PART ONE - FILL-INS (2 POINTS EACH)

1. If an automobile is alleged not to be "crash-worthy", what kind of defect is being argued?
2. In England, the right to a jury in civil cases has been abolished except for cases.
3. In what type of products liability case may the user's reliance upon the seller become an issue?
4. Under section 46 of the Restatement of Torts, the jury is supposed to find for the plaintiff if its (the jury's) reaction to the story is to exclaim
5. Is assumption of risk a valid defense to a claim of strict liability in an abnormally dangerous activity? (a simple yes or no?)
6. The doctrine which stated that, if more than one interpretation was possible, the non-defamatory one should be used, was called
7. The doctrine that imposes a duty on the owner or occupier of land in favor of some child trespassers is called
8. When all other tort theories fail, at least in some states, there is always
9. There are two general types of good samaritan statutes. One lowers the duty of any person who comes to the aid of another under certain circumstances. The other applies only to
10. The cause of action in which treble damages are available is
11. There are two well-recognized exceptions to the requirement of foreseeability in proximate cause. Name one:
12. Name one tort in which injunctive relief is possible:
13. The use of explosive devices is the classical example of an
14. The doctrine which used to prevent torts litigation between parents and children was called

15. Who wrote these words? : "If the nature of a thing is such that it is reasonably certain to place life and limb in peril when negligently made, it is then a thing of danger."

16. In a dispute between insured and insurer under a no-fault insurance system, litigation sometimes replaces tort litigation.

17. The legal responsibility of an acquiring company for the torts of the company it acquires is usually termed

18. Merchants' statutes are most closely related to what common law tort? :

19. One of the two rules that protect manufacturers of pharmaceutical products is

20. Legislative, judicial and privilege are the three governmental absolute privileges in defamation cases.

21. BONUS QUESTION (4 points). The number of times one is permitted to take the bar examination in Japan is

PART TWO -- ESSAY (60 POINTS)

"All Two Hundred Die in Latest Air-crash Disaster" read the headline of a story in the Flick-City Flicker. That small-town newspaper rarely gave much coverage to national or international news, but splashed all over the front page the story of the crash that was believed to have killed movie star, local hero and native Flick Citizen, Oscar Winner. Over the next week there was a story on the crash every day.

Many "facts" were given in the various news stories. According to the first story, Winner was returning to the U.S. from the small Asian country of Shangri-La, where he had just married his ninth wife, Tess Hardy. Tess, an experienced actress, was described as one of the all-time bad girls. She was reported to be pregnant with the child of another actor, and the story stated that it was well-known that she had often entertained a few good men at a time, since her teenage years. They boarded the Above The Rim Airways plane in Bangkok, Thailand, and were due to land in Philadelphia, from which city they were to depart for Gettysburg, where Tess's family home, the house of the spirits, was located. The plane made a crash landing over Ohio, after a fire started aboard the plane.

In the second story, published the next day, Al Thumbs, chief safety officer of Plane-Truth, the company that manufactured the plane, was quoted as saying "I doubt fire started in the cockpit, although you never know what's going to happen in the air up there." This was in response to a report that the Federal Aviation Administration had been investigating previous fires in the cockpits of Plane-Truth's aircraft. Maxie Jett, described as one of the grumpy old men in charge of the F.A.A., was quoted as saying "we have long suspected problems in the aircraft manufactured by this company, but the plain truth is that we received a lot of pressure from the

Senate Transportation Safety Committee not to ground these planes. I'll probably lose my job over this, but let's face it: reality bites. It'll be a crying game for me, hereafter."

In a story published about a week later, Tess's brother, Derby Ville, was quoted as saying "my sister never had any acting talent at all. Although I have seen every one of her movies, I have never seen my sister act." This was part of an article by the Flick City Flicker's movie critic, Art Theeter, in which Theeter blasts all of Tess Hardy's work and praises all of Oscar Winner's.

In fact, Tess and Oscar survived the crash, although they were the only ones to do so, and weren't found until the day after, whereupon they were immediately taken to the hospital for treatment. Oscar has recovered completely, but Tess remains in a coma. Although she may never regain consciousness, doctors believe she may live for years. Furthermore, she was not found to have been pregnant. Although she had been sexually promiscuous as a teenager, Tess had lived a life of celibacy for the past six years. Also, Tess was Oscar's fifth wife, not his ninth as reported.

Furthermore, the quote attributed to Maxie Jett, was actually made up by Chad O'Lands, a reporter for the paper, who never even spoke to Jett. Chad had tried to call Jett, but when he couldn't reach him the first time, he gave up, because he had to attend four weddings and a funeral that day.

Well, you have your work cut out for you. For the remains of the day, please describe all of the causes of action presented in these facts.