

TORTS MID-TERM EXAMINATION
PROFESSOR GILLES
September 2004

1. *This examination consists of one fact pattern followed by an essay question – use no more than 7 pages.*
2. *You may **ONLY** use the specified number of pages, writing on every line, but on only one side. (You may double the page limit if you write on every other line). **You must obey the page limit.** I will not read beyond the assigned page limit. Only write on the lines. Do not write in the margin. Of course if you cross out several lines, you may use an equivalent amount of space. **You have limited space and limited time, so think before you write. You do not need to use the entire space to write a good answer.***
3. *Make sure that you put your midterm examination number **on your bluebook**. Also **write your examination number** in the space below **on this copy of this examination, and turn it in inside your bluebook.***
4. *This is a closed book examination. You may not use any materials during the exam.*
5. *A good answer will use the IRAC method we studied in class.*
6. *You will have 1 hour to complete the exam.*

EXAM NO. _____

Good luck.

Essay Question (7 page limit)

FACT PATTERN:

Homer Simpson was driving home from work when he spotted Ned Flanders, his next door neighbor, standing at the bus stop in the pouring rain. “You want a ride Flanders?” asked Homer. Flanders nodded and climbed in. As they drove, Flanders became increasingly terrified by Homer’s erratic driving – Homer was weaving from lane to lane, going 100 miles per hour on the freeway. The car doors were not locked, as Flanders could see.

Finally, Flanders screamed, “Homer, let me out. Stop right now, I want out.” Homer responded, “I’m really late. I’ll miss the Itchy and Scratchy show. I can’t let you out now. We’ll be home soon, and you can get out then.” Despite Flanders’ continued assertion that, “I want out now,” Homer drove for 2 more minutes, exited the freeway (never slowing down to less than 25 miles per hour), then pulled up into his driveway. Homer got out of the car and went to check his mailbox.

Flanders also got out of the car, angry but unharmed, and walked towards his own home. Flanders had a rare, but medically recognized, mental illness called “anger-induced temporary hallucination.” When angered, Flanders suffered vivid hallucinations: he believed that those around him were “foreign agents” sent by “the Devil.” As Flanders walked up his driveway and saw Homer on the sidewalk, he suffered such a hallucination. Flanders grabbed an axe from his yard and crept up behind Homer quietly muttering, “Die, diddley-die, minion of Satan!”

Luckily, Homer turned and saw Flanders a few steps away with his axe raised. Terrified, Homer jumped over a fence. Homer was untouched, but he landed in the garden of Pattie. Homer had erroneously believed he was jumping into his own yard, but, realizing his error, Homer quickly left Pattie’s property doing no damage. Indeed, Pattie never realized that Homer was on the property until her neighbor Selma reported the incident to her, angering Pattie greatly.

When Homer looked back he saw that Flanders had tripped over his feet and had fallen to the ground unconscious four steps short of where Homer had been standing. Overcome by trauma from Flanders’ attack, Homer himself suffered a debilitating stroke and as a result he lost his job at the power plant, and a \$5 million contract as spokesperson for D’oh Doughnuts that he had just signed (indeed, the contract had not been announced, and no one besides his wife Marge had known that he was in the running for it).

Question: Discuss each intentional tort claim (with any applicable defenses) that could be brought against or by Homer based on these facts. You should apply the MAJORITY approach whenever there is a split in authority.

THE END