

Exam Questions

STOP HERE.

DO NOT PROCEED UNTIL INSTRUCTED TO DO SO.

Total word limit = 4000 words

Question 1

1 minute recommended | 4 words recommended

Type "I will not cheat." (Type this yourself. Do not copy-and-paste it.)

Question 2

1 minute recommended | 1 word recommended

"You are responsible for your own _____."

Question 3

20 minutes recommended | 300 words recommended

For each of our six course objectives, identify a case that we read for this course and explain how it relates to that objective.

Question 4

4 minutes recommended | 300 words recommended

What was your affirmative theory of trustworthiness?

Question 5

10 minutes recommended | 100 words recommended

Imagine that the United States adopts a system of universal insurance that covers both pecuniary and nonpecuniary losses from injuries. How might tort law change? How should it?

Question 6

10 minutes recommended | 100 words recommended

How might a partial settlement affect a contribution claim by the nonsettling defendants against the settling defendants? How should it?

Question 7

30 minutes recommended | 600 words recommended

While jogging on a sidewalk in the rain, Nordin slips on wet leaves, hits her head on the concrete, falls unconscious, and continues to breathe. She is wearing a mask. Lindqvist, who is walking on the sidewalk without a mask in violation of a local ordinance enacted when masks were believed to principally protect people other than the wearer, removes Nordin's mask and unnecessarily performs CPR. Allinder, a surgeon who is wearing a mask, stops to assist by holding Nordin's head. Analyze potential tort claims for each of these six distinct scenarios:

- a) Only Nordin has and only Lindqvist contracts SARS-CoV-2.
- b) Both Nordin and Allinder have and Lindqvist contracts SARS-CoV-2.
- c) Only Lindqvist has and only Nordin contracts SARS-CoV-2.
- d) Only Allinder has and only Nordin contracts SARS-CoV-2.
- e) Both Lindqvist and Allinder have and Nordin contracts SARS-CoV-2.
- f) Both Nordin and Lindqvist have and Allinder contracts SARS-CoV-2.

Question 8

50 minutes recommended | 700 words recommended

Brief *Bernson v. Juhlin* (**Exhibit 1**) in the format required for case briefs in this course.

Question 9

5 minutes recommended | 100 words recommended

South Carolina law applies to this question. Hedlund is injured by their recklessness and by Sundberg's mere negligence. In a suit by Hedlund against Sundberg, how would you characterize the holding in *Bernson v. Juhlin* if (a) you are representing Hedlund and (b) you are representing Sundberg?

Question 10

25 minutes recommended | 500 words recommended

The facts of *Bernson v. Juhlin* are changed so that:

- Juhlin's home is located elsewhere, and South Carolina law does not apply.
- At some point on or before August 9, 2002, Juhlin fired Bernson.
- Ladco manufactured and sold Bernson's ladder with a label warning that "THIS IS NOT AN OUTDOOR LADDER. DO NOT USE THIS LADDER IN WET CONDITIONS." However, because the label was affixed with a water-soluble glue, it fell off decades before Bernson's fall.

The other facts remain unchanged. Discuss.

Question 11

25 minutes recommended | 500 words recommended

An employee at the US embassy in Beijing contacts the law firm for which you work, describes debilitating neurological symptoms, and seeks legal representation. Your boss asks you whether the firm should take the case. Read Amy Mackinnon and Robbie Gramer, *What's Behind the Mysterious Illness of U.S. Diplomats and Spies*, FOREIGN POLICY (October 21, 2020) (**Exhibit 2**) and then outline your response.

Question 12

15 minutes recommended | 100 words recommended

California voters recently adopted Proposition 22, which provides in part that:

Notwithstanding any other provision of law, including, but not limited to, the Labor Code, the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Industrial Relations or any board, division, or commission within the Department of Industrial Relations, an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver's relationship with a network company [such as Uber, Lyft, Instacart, or DoorDash] if the following conditions are met:

- (a) The network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the app-based driver must be logged into the network company's online-enabled application or platform.
- (b) The network company does not require the app-based driver to accept any specific rideshare service or delivery service request as a condition of maintaining access to the network company's online-enabled application or platform.
- (c) The network company does not restrict the app-based driver from performing rideshare services or delivery services through other network companies except during engaged time.
- (d) The network company does not restrict the app-based driver from working in any other lawful occupation or business.

Analyze the potential implications for California tort law.

Question 13

4 minutes recommended | 50 words recommended

Is the distinction between action and inaction more important for the element of duty or for the element of breach? Why?

Question 14

10 minutes recommended | 100 words recommended

Assume that the letter to Dr. King had achieved its intended result. Analyze potential tort claims by the Nobel Committee against the FBI and its officials.

Question 15

5 minutes recommended | 100 words recommended

You are clerking for a judge presiding over Blome's claim against Hurtig for injuries caused when their vehicles collided at an intersection. Blome is prepared to introduce a dashcam video showing that he carefully entered the intersection on a green traffic signal indication, layperson testimony from another driver corroborating this video, and expert testimony from a traffic signal engineer that it would be impossible for Hurtig's indication to have also been green. Hurtig is prepared to testify that she thought she had the green light. Blome moves for summary judgment, and the judge asks for your recommendation. What do you say?

Question 16

10 minutes recommended | 200 words recommended

Recall our duty hypo involving Agnes and Belinda. You are representing Belinda. What questions will you ask her to ascertain and quantify the damages for which she may be able to recover? Assume that the other elements of the claims are satisfied.

Question 17

15 minutes recommended | 200 words recommended

A turns left (from a stop sign); B (while drunk and speeding) swerves to avoid A; B (after crossing the center line) strikes C; C is ejected (as a result of not wearing a seatbelt). B's car is damaged (\$2,000); C's car is damaged (\$20,000); C is killed (\$1,980,000). South Carolina law applies. C's estate sues A and B. If the jury finds A to be 50% at fault, B to be 30% at fault, and C to be 20% at fault, what are the maximum possible damages that C's estate could choose to recover from A (and why)? From B (and why)? What might happen next?

END OF EXAMINATION.