

October 2017

ESSAY QUESTIONS



California First-Year Law Students' Examination

Answer all 4 questions.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little or no credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

You should answer according to legal theories and principles of general application.

QUESTION 1

Spacetrip is a new venture created to send paying clients on a trip of a lifetime to the moon aboard its spaceship, the Escapade. This spaceship is equipped with a vehicle escape system using parachutes to allow passengers to return safely to the ground should a malfunction occur during the spaceship's ascent. This system is widely used and listed in the Rocket Industry Standards Manual as being "sufficient to provide adequate safeguards."

Recently, a new system has become available that uses rockets to navigate the escape capsule back to the ground much more safely. However, this new system is also much more expensive than the parachute system and has not been tested in real-life situations. Spacetrip decided to stick with its tried-and-true parachute system.

Paula, who wanted an adventure, decided to purchase this trip from Spacetrip. She signed a contract containing this statement: "Although Spacetrip has taken all reasonable measures to provide a safe voyage, I understand that space exploration is dangerous."

On the day of the liftoff, the weather was beautiful and all systems were working as designed. But shortly after takeoff, a totally unpredictable violent storm arose, blowing the Escapade off course. There was no way to correct for the deviation, so Spacetrip activated the escape system, which deployed as designed. Unfortunately, the storm caused the escape capsule to crash to the ground. Paula was critically injured, but survived. Investigations after the accident indicated that the new rocket escape system might have led to a better outcome.

1. What tort cause(s) of action may Paula reasonably bring against Spacetrip? Discuss.
2. What defense(s), if any, does Spacetrip have? Discuss.

QUESTION 2

One night, Andy went to a local bar in town. He had a large number of drinks and became intoxicated. When the bartender refused to serve him any more drinks, Andy flew into a rage and went to his car to get his handgun.

With the gun in his hand, Andy intended to return to the bar. Instead, he got confused and stumbled into the convenience store next door, pointed the gun at Charles, the cashier, and said: "Give me a drink or I'll shoot." When Charles hesitated, Andy pointed the gun at the ceiling and fired.

At the sound of the gunshot, several store customers rushed outside. One of the fleeing customers bumped into Walter, who was standing on the sidewalk outside the store. The impact caused Walter to fall into the street. Before he was able to recover, Walter was struck and killed by an oncoming car.

When Andy fired the gun, the bullet struck a metal pipe, bounced off the pipe, and hit another store customer, Vickie, in the arm. She was rushed to the hospital to receive emergency medical treatment. Unfortunately, Vickie contracted an infection while at the hospital and later died.

Andy claims he was so drunk he did not know what he was doing. He insists he never wanted to hurt anybody.

1. With what crimes, if any, can Andy reasonably be charged? Discuss.
2. What defenses, if any, can Andy reasonably raise? Discuss.

QUESTION 3

Owner entered into a valid written contract with FloorCo to purchase beige colored Acme brand vinyl floor tiles for her new restaurant, for \$10,000, to be delivered in three weeks. The day after the contract was signed, FloorCo called Owner and orally offered to install the tiles during the week following delivery, for \$5,000, which offer was immediately accepted by Owner.

Two weeks later, FloorCo called Owner again and told her that it was buying a new, superior floor cleaning machine and that it would like to use this new machine to clean the vinyl floors once a week for one year, in return for \$5,000. Eager to have a professional company take care of the cleaning, Owner again immediately accepted the cleaning offer. Owner paid \$20,000 for the tiles, the installation, and the year of cleaning.

FloorCo delivered all the tiles on the scheduled delivery date. Although the tiles were visually identical to the Acme brand beige tiles, they were actually Bravo brand, a more expensive and higher quality vinyl tile than Acme's. That evening, FloorCo sent Owner an email that stated: "We assume you are delighted by our substituting the much better Bravo tiles for your order. We have arranged for and paid Irving, who is an independent contractor flooring installer, to install your vinyl tiles this week. The manufacturer of the new Vinyl-Clean machine has just today permanently ceased all production and canceled our machine order due to a design defect, so we will not be cleaning your floors this year and will refund your \$5,000 immediately."

1. What are Owner's rights and remedies, if any, with regard to getting the wrong brand of tiles from FloorCo? Discuss.
2. What are Owner's rights and remedies, if any, with regard to FloorCo's delegation of its duties to a new installer? Discuss.
3. What are Owner's rights and remedies, if any, with regard to FloorCo's cancellation of the floor cleaning contract? Discuss.

QUESTION 4

On a sunny winter day, Dan went for a hike in the mountains. While walking on a trail far from civilization, a sudden storm arose. Thick snow accompanied by horrific winds created blizzard conditions. Dan was an experienced outdoorsman and knew that, without shelter, he was likely to succumb to hypothermia and die.

Fortunately, Dan remembered that his friend Jill owned a cabin in the vicinity. Jill had told him that he could use the cabin should the need arise. In the blizzard conditions, Dan struggled to find Jill's cabin, but soon saw a red-roofed log cabin that looked exactly like Jill's. As promised, the key was under the mat, and Dan entered to wait out the storm. In order to stay warm, Dan removed some built-in wooden bookshelves from the wall and used them to build a fire in the fireplace. He also threw in some books that were on the shelves to keep the fire going. He slept in front of the fire, and the storm was over the following morning.

Before leaving the cabin, Dan wrote Jill a note thanking her for the use of the cabin and apologizing for the missing shelves. He forgot to mention the books. He left his phone number and told her to give him a call.

As it turns out, the cabin where Dan stayed was owned by Polly and not Jill. When Polly went to the cabin to open it for the summer, she noticed that her bookshelves and books were missing and found a note on the table from some fellow named Dan.

Polly was outraged that a stranger would use her cabin without her permission, destroy the bookshelves, and take her books. She decided to sue Dan.

1. What tort cause(s) of action can Polly reasonably raise against Dan? Discuss.
2. What defense(s), if any, can Dan reasonably assert? Discuss.
3. What types of damages, if any, might Polly recover from Dan? Discuss.