TAFT LAW SCHOOL

BABY BAR MINI SERIES

10/27/20

PROFESSOR: Good evening everybody and welcome to tonight's Baby Bar mini series. We will go over the last Baby Bar exam in June. We have questions to get through. These sessions are recorded for your convenience. So if you want to go back and listen to the lectures, to the Taft website and student section and go to Baby Bar mini series. And if you have questions, post those to the chat and I will be more than happy to help you.

First essay question posted on the screen. Nothing is going to change, even though you are taking exams online, I'm always going to have you start off with call of the questions. That's important. One, on the Baby Bar you know your torts, contract, criminal law. The call of questions can narrow that down for you. And if you recognize something, anxiety levels go down.

In this exam, one, what claimer claims can penny raise against Mel. And what is the outcome discussed. So claimer claims. So maybe two or more. You got penny, civil. So we know this is a tort question based on the call of the question.

Call two says, what claimer claims can penny raise against auto. Can arguments can auto makes? If it's the same theory, such as let's say negligence, that means that there's got to be something different; right? So this is something you want you to understand and break apart.

Three. What arguments can they make and the likely outcome?

So after you read the call of the question, then obviously we are ready to read the facts. This call dictates to me that I'm in torts. If I'm taking exam by hand or online, I will type out the checklist on scratch paper. Go through the fact pattern. We will read through one time through on exam day and second time is when you can highlight key facts.

First paragraph. Mel was late for an important meeting with his supervisor one evening. The late is a good word. That's something I will highlight. And driving at least 35 miles per hour on a residential road. So residential speed is 25. But the posted speed was 35 miles per hour. So the first paragraph tell me that he is late and 5 miles over the speed limit. So it's reckless.

As Mel rounded a curve in the road, and gal backed out of the driveway. And they are telling you he is not falling below the standard of care. I have my headlights on, the visibility is there. Mel braked hard and turn to the center of the street crossing a yellow no passing line and into the lane of oncoming traffic. Even if he was slower, he would have taken these actions to avoid hitting gal.

So is he acting reasonable in the circumstances? Even if he was going slow, he had no chance. I feel they are playing with me in regards to breach. That's something I have to argue.

Next, auto drives towards Mel while adjusting car radio. And if he was attentive they could have avoided the accident. But gal's car was not touched. We are looking for our first claim in regards penny versus Mel. Based on the facts, thinking of this in outline format, the first theory I see is negligence.

Based on the fact pattern, hopefully you marked up by your highlight that you see they posted speed limit. That's negligence per se. Whenever you see special duty at issue, you need to start with it.

And negligence per se is special duty. So you will pull out facts to show the intent of the legislature. Are you member of the class and suffer the injury that you tried to prevent.

The key thing with negligence per se that you want you to look at is to make sure you focus on the elements. Because a lot of times it fails. And then when the special duty fails you fall back on the general duties. That's why we set up that way. Special duties first, then if it fails, fall back on the general duty and break it apart there.

So first, negligence. Going through negligence per se and arguing based on the facts and going through based on the rest of the elements.

Let's look at the answers. Penny versus Mel. I give you the theory negligence. See how I define the negligence? You don't need to do that. Time is of the essence.

With negligence per se, you need to pull up the facts to show what was the intent of the legislature of the post speed limit. Why do they have speed limit? Because they don't want you to drive too fast there. But is the speed limit there prevent you to cross the yellow double line? No. The type of injury is exactly what occurred here, running over penny. Car accident. And member of the class, she is a pedestrian using the road. So that is something I would argue that she is a member of the class. But I find the intent is questionable here.

Now, in regards to argument wise, it can go either way. This is the gray area. That means I will fall back on general duty. How you will know if I'm done? Negligence per se is solid. It's black. It's there. Facts support strongly. I can go to my causation. Here, who is the intent of the posted speed limit? To prevent car accident. What caused the car accident? The crossing of yellow double line to avoid hitting the car. And that's why they gave you the facts and argue negligence per se. Based on the examiner, how do you argue? Based on the facts. Pay attention to the language in the facts.

So on negligence per se, the intent is the biggest argument here. Again, in regards ‑‑ it can be argue way. You have a duty to drive as a reasonable person. And again, duty as motorist to drive and not hitting pedestrian including penny.

Breach is good argument here. They told me good facts. He's late. And going 5 miles over speed limit. And it also told you that he has headlights on and that you can visibly see him and in order to avoid the accident he went and crossed the yellow double line. The answer didn't play with breach.

He is driving in a residential area. Comes around the curve and somebody is backing out in front of him. And the only way to get out of the way is to cross the double line otherwise he was going to hit the guy.

So you want to bring the actual facts and look to it. But he still crossed the line and went on the wrong side. And therefore he breached his duty. But you will argue both sides. It's worth points based on the facts.

Your actual cause, we have two wrong doers. You want to do a good job here. Number 2, against auto, you want to steal it.

With successive tort feasible, you have two independent negligent act that caused the result. For Mel crossing the double line, as well as auto not paying attention, they wouldn't have collided and as a result running into penny. That's tortfeasors.

One theory they do like is successive tortfeasor with causation.

Proximate cause. Auto if he wasn't adjusting the radio, he would have seen and none of this would have occurred. It's foreseeable if you don't drive on the wrong side of the road. And support your argument for proximate cause. And last element here in this case would be damages.

General damages will be your pain and suffering.

And special damages will be medical expenses.

First lawsuit, obviously, I see that we have point value wise. Negligence per se. My breach, my causation. So I feel confident that I'm ready for call number two. Penny versus auto. Same theory. When I see the same theory, there got to be something different. It can't be mirrored exactly.

So I will start with general duty, to drive in safe manner. And bring up that he has a duty to take reasonable steps to act as a reasonable prudent driver and put risk of harm. Did he breach? He was distracted. He was adjusting his car radio. So he is going to argue, obviously ‑‑ breach of duty by not paying attention.

He can agree that Mel was the one that crossed the road. If he wouldn't have done this, he would not ‑‑ the accident would not occur. But you were not paying attention. So therefore you were the breach. Your actual cause. We did a good job above, so we will supra back.

Someone was crossing the line and driving on the opposite side. Again, if you were paying attention, things do happen in life. Foreseeing someone arriving on the opposite side of the road, that is foreseeable.

And since we have the same plaintiff, that means we have the same damages, define, discuss, supra. I can get away with it by saving myself some time.

The last lawsuit is penny versus Nigel. He was the one put this in motion. He doesn't see Mel and ends up running together with auto. How is penny even know Nigel? He owes duty to drive in a safe manner. When he pulled out into traffic, he didn't do anything wrong. So how is he owing duty to penny? That raises a Cardozo/Andrew issue. That's how ‑‑ penny is what we call a remote plaintiff. There's no direct contact between Nigel and penny that's how Cardozo/Andrew were raised. Cardozo is the majority rule and Andrew is the minority.

Now the reason I emphasize this is a lot of times if you look at the Baby Bar answers, students bring this up every time. They don't understand the concept but it could be there. It kills you time to do both Cardozo/Andrew. That's going to kill your time unless it's there. Look for remote plaintiff. That means no direct contact between us. I'm suing you but you don't touch me. That brings up Cardozo.

So your whole argument is, is penny in the residential neighborhood within that foreseeable danger? She is on the sidewalk and Mel plowed into her. So she is in foreseeable danger. And Nigel said, you were no near where I was driving and not within my foreseeable danger. You can always fall back on Andrew. And Andrew says you own any duty ‑‑ everybody. And under Andrews you will find that his conduct created a foreseeable risk of harm that a duty to care is owed and make your argument. And then conclude.

You want to bring up Cardozo/Andrew and in this exam, I argue Cardozo first and then Andrew. If you want to head note them separately, that's fine. That's up to you.

If you want to ‑‑ time safer ‑‑ if you find Cardozo is absolute, absolutely. You can get in and out. If you find that Cardozo works and based on the facts.

Now, next, you got your breach. Nigel backing up and not paying attention. And he would have crossed the line which ‑‑ what causes Mel, he was not seeing the other driver, so he breached his duty to care, tortfeasors again.

Your proximate cause. He is going to argue, how is it foreseeable that I'm backing out of my driveway that he was going to cross the double line. He will argue that Mel's conduct is intervening act. However ‑‑ buzz word ‑‑ his act was what? Indirect, independent, but is it foreseeable if somebody is trying to prevent an accident that they would try to cross the double line? Argue. You can find he was or was not a proximate cause. Why? We can supra back to damages.

If you look at the call, recently raised argument. When I look to defenses but no defenses here. It was all counter arguments.

Penny didn't do anything. She's just walking down the street. So I didn't really see true defenses in that sense.

I don't feel this was a bad question. I feel people might have a harder time because it was lengthy. But I feel it's straightforward.

Any questions with questions number 1?

If anything comes up, let me know.

Question 2. People had a hard time with. Out of the four questions, the hardest was number 4 for people. And you will see bar answer post, wrong answers, I will point out to you.

Question 2, contracts. Read the call of the question. At first glance, it's breach of contracts.

What arguments?

What defenses?

And what is the likely outcome and remedies.

Remedies, you haven't been taught. With that, you have your general damages, special damages. Restitution, reformation, specific performance ‑‑ you haven't been taught that but they have tested that. When you read through the exam, none of that is at issues. But since it says remedies, I will look for two or more. Go back to the checklist and figure it out.

Let's go through the facts.

Seller is a merchant buying guitar and resell to catalog.

Buyer owns music stores. They are both merchants. I'm thinking UCC.

Buyer e‑mail seller that the guitar deliver at whole sell at $5,000 each as listed in the catalog. That's your offer. I can refer back to the quantity, time ‑‑ from the catalog.

Next day, seller mailed an invoice for $50,000. The i's? That means pay attention.

Delivery will be made within 14 days. That's a delivery term.

Second one says, any complaints about the condition or quality of the guitars and/or return request must be made within 10 days of delivery. So he added a complaint return policy.

Three, payments is due on delivery.

So this is not a mirror image. So this raises the issue ‑‑ when you have an additional terms in this case ‑‑ it's not different but additional ‑‑ will they become part of the contract? Under the UCC we are more sophisticated. So what happens with these terms. So you have 2‑07 to determine what's going to happen to these terms, part of contract or not.

Buyer e‑mail. And then seller e‑mail. Two separate e‑mails that form this contract. That brings up statute of fraud. That applies to the sell of goods of $500 or more and apply to oral contract and incomplete writings. They test it all the time in the Baby Bar. E‑mails, faxes, stuff like this, invoices, they are not embodied in one document. That will trigger the Statute of Frauds.

Buyer received the invoice but did not respond. You could argue invoice as written confirmation. Under UCC if you failed to object within 10 days you waive the statute as defense.

Guitars were delivered to buyer but no payment to seller. 10 days after having several customers buying the guitars, buyer send an e‑mail to seller saying that these don't satisfy my customers's needs. I'm not buying them and returning at my own expense. The first is does UCC apply?

UCC apply transaction of goods. Guitars, goods. UCC applies.

Merchant, they gave it to you.

Buyers is a retail seller, so qualifies for knowledge and skill and go from there.

Next you would go to complainant negotiation. Can everybody hear me out there? I have one that tells me that ‑‑ good. Sorry. As long as everybody is with me, thank you very much.

So in regards to the UCC in the merchant scheme in and out quickly. Claimant's negotiation, in and out. Why, it's not worth anything. It's a catalog. The offer is straightforward. E‑mails goes manifestation of intent. And go through ‑‑ it's communicated. My point value is going to be acceptance.

You need unequivocal send to the offer. In this case, when he send an invoice for $50,000, that's okay. Expect he added delivery term and return policy and when payments due. Those are added terms. That's not the mirror image so no acceptance.

You could address counter offer. Common law we had counter offer. In this case, it will be battle of the forms. And that's the issue that bar examiners do like. If they test contracts in time, UCC coming your way. One is common law and one is UCC contract.

With 2‑07. There are additional terms and different terms. If we look at these facts, he added terms. If there were different terms ‑‑ so let's say he said model B, different terms, you have different set of rules.

With additional terms, it's between merchants and part of the contract unless it's a material alteration. Material alteration is something you are given for remedy or rights or arbitration rights, I have a right to go to court for but you are making me not. So it has to be material.

Look at the provision, delivery date, that's not material date. Buyer did not object to it and seller didn't make condition exceptional. So it looks like the delivery date will become part of the contract. Now we have to deal with the guitar regarding complaint and return.

Well, would that be a material term? What they tell you in the fact pattern, it says customary. So argue that buyer is going to say material. Because you are limiting me in regards to my complaints and, of course, my return request. But since it's customary, he is in the music industry as well. He sells them. Since it's customary, I will argue it's not material. You did not object it based upon when seller mailed it to you. And the last term is payment is due on delivery. It's customary. It's not material. Not giving up a right. So it becomes part of the contract.

Those three terms, in which the seller added do become part of the contract. UCC checklist is the contract checklist? Shoot me an e‑mail. I just put it in there. In regards to just add to it itself. So not a specific where we just talk about UCC terms because on the Baby Bar or bar, guess what? Common law, if it fails you bring the UCC aspect. Shoot me an e‑mail and I can send you what I got.

Battle of form here. Big issue here.

Statute of Frauds is a good issue. Promise that people didn't see it. It's incomplete writing. It's sell of goods worth over $500. You will go through common law. Do we have a sufficient memo? Who is the party to be charged? Buyer is going to be the party. No facts to show he is signing anything. He didn't sign it, send it back. I would argue written confirmation. He will receive. He waive the statute.

Let's say you see things differently to me. You can argue par performance. And since the seller fully performed delivery his guitar. Par performance will satisfy. That will take it outside of the Statute of Frauds. Multiple ways to get there.

Two conditions. Delivery for and buyer has to pay. And what happened? Seller repudiated ‑‑ buyer repudiated after having several customers buy different guitar. He sent an e‑mail, he is not satisfied. You are in breach because you are not going to pay for guitars and then your damages.

With general damages, it's your expectation of the terms of the contract.

UCC ‑‑ when you look to UCC, what can I get as a seller. You can get your actual cost of the guitar. $5,000 per guitar so expectation is $50,000.

If you give the seller the $50,000 and buyer sends back the guitars, wait, seller unjustly enriched. That's the loss limestone. What that means is seller makes fine guitars. He has multiple supply of these guitars. He could have sold these to another retailer. It's not a limited number of inventory, he will be able to recover loss profit. Let's say profit is $25,000. That's what he will be able to recover and get the guitars back. We saw one of the Multistate where the barrel chairs. And they only had 500 and guy ordered for the hotel he was redecorating and his clients didn't like them so he cancelled. But they told you that's the only amount they had. So when the party sold to another party, no damages.

So she can't have general damages and loss volume. It's one or the other. Since buyer returning them but I still have to pay the profits. That goes back to unjust enrichment.

First, you will see ‑‑ how I see anticipatory repudiation ‑‑ it's not breach, why? Because seller fully performed. I want to make sure you understand that. Remember I told you with anticipatory act ‑‑ contract has to be executory stages, this contract is not. That's why I put in excuse for condition. Seller fully performed it's not executory. He has to wait and see. You need to understand because it will come up. That is something why you should know because it is tested.

The questions where people lost points. They didn't see the battle of forms at all. And that's because you haven't had UCC. You got to review it. They didn't see the Statute of Frauds and loss of volume. I don't feel it's that tough of an exam.

Next exam. This is criminal. What crime can Doug charged if it can be raised and the results?

I'm looking at this. We know it's crimes. We are looking for two or more. Then what? Defenses. And then, of course, what are your results?

This exam I felt it was tricky for students. This is what I want you to know. Because I have seen the Baby Bar test some of these issues multiple times in a row. So be prepared.

Doug decided to kill Bob. The owner of a small grocery store because Bob accused of Doug of stealing. When he went inside the store to kill him, what is that crime? That's a burglary. If I shoot a bullet outside your house and through the window to get you, that's a burglary. You go through modern law. They test this all the time and we don't see it. That's a modern law burg. By shooting him twice with a handgun. He had an intent to commit a crime. That's important.

After the shooting Doug noticed the cash register. Went over and took all the money out of it. He notice the guy is dead, and it's larceny at this point.

And customer hiding. He points the gun at the customer, that's a batter. Took her purse and tied her hands behind the back. So that's robbery. Doug ordered Sally at gunpoint to the car. Kidnapping. Into his car, what's that? False imprisonment? Officer frank who was responding to reported gunshots saw Doug speed out of the parking lot in his car. Officer frank chased him until Doug pulled into an empty parking lot. When he got out of the car, Doug filed several shots at officer frank. The officer shot back. Missed Doug but hit Sally. Who did the killing? Officer frank. That's the issue I want you to know, special felony rule.

Doug tries to run away and officer frank tackled him and Doug punched officer with the fist. And officer arrested Doug.

What's the first thing I see? And you see I read the facts. Doug decided to kill Bob. So I'm thinking there's deciding, intent. The owner of the grocery store because he falsely accused him of shoplifting. Doug went into the store for the purpose to kill him, that's burglary. That's the first issue.

So break apart the facts and how to read them. You will not miss issues. If we lump things together, you are in trouble.

Start with common law burglary.

At this point, we don't know what time of day it is. We can assume. He went entered the store, it's not a dwelling house with intent to kill a guy. There's no common law burg because we are lacking the dwelling house of another and also lacking the breaking.

Modern law. That's going to change. When you enter a store today, with the intent to commit a crime, that's tresory entry. It's a store and structure and he had an intent to kill so we have modern law burg. Yes, you always do common law first then bring up your modern law. Common law succeeds, we are done. If it falters, fail, you bring modern law. The theory I look at it is two jurisdictions out there. There are few that still follow common law.

A lot of times it will not indicate the time of day. Let's assume it's night. A lot of times you will find that they are not going to tell you that. And sometimes they do that too so you don't talk about the issue and you miss it.

So again, with the modern law, if you enter with the intent to do a crime inside, you vitiate the owner's intent. If I leave today and go to mall to steal a purse, once I across the threshold with intent. That's tresry.

One thing I want to show you here is malice, can be shown by intent to kill.

If you can argue all of them, argue them based on the facts. I have an intent to kill. You went and shot him. It's definitely reckless conduct to shoot somebody and you were committing a burglary. So all four ways to show malice does exist here. So you want to argue, I want to points. I can be quick like I was.

If I'm running out of time, is causation a big issue here? Absolutely not. If I have to cross out of outline and move forward, I will. I have a bigger ticket coming down.

Murder in first degree. He meditated plus the modern employer in felony burg rule. So if the jury doesn't buy one, they will buy the other. You decided to kill him because of accusation. And again if people don't buy it, then your felony murder rule for burglary.

And what happened next? He notice the cash register, so larceny. He took the money out. It's treachery taking.

Sally. And property of another. And he took it with the intention of permanently deprive. So we have larceny. And then robbery. He saw sal hiding and took her purse. And pointing the gun to her, that's force and intimidation. And bring up the battery. I'm worried about time.

The fact gave it to you. Kidnapping. After killing Bob. And then pointed the gun and forced her to go with him. She is a hostage. Movement of another. There's kidnapping. False imprisonment. I'm going to get in and get out. Because they gave it to me. I want you to know where your value is. Now the murder sal. Some points here.

In regards to the murder of Sally. Who did the killing? Officer Fran. So when he pull out in the empty parking lot and fires several shots at officer Fran. She returned fire. And one of the bullets hit Sally. It was a mistake. No intent to kill to create great bodily harm. Based on action it's reckless. But can we convict her for the murder? Special felony murder rule or red line rule? With this rule, if an innocent party does the killing can we impose the killing on the co felony? And based on the fact, he is fleeing. He is committed a robbery and larceny, he is not an innocent party. Officer Fran came on the scene and trying to arrest him. So now the issue is can we impute that to him? Based on the facts officer Fran responded by shooting back, missed and hit Sally. In common law, since the act was done by what? A third party, innocent party, in common law, he is guilty. We have imputed. Verse modernly, the killing has to be done by his hands.

Under common law, you are guilty.

Modernly, it has to be done by your own hands.

The examiners want to make sure you understand.

The other is attempted murder of Fran. Some talked about as battery. Battery is minor in the scheme of things but he did return fire. Did he have a specific intent? Apparently ability and intent in killing her, based on facts, definitely he did.

The trick with this exam was the red line view. I don't think it was that difficult. And I can't tell you many missed that second murder. Fran did the killing. Whenever you see someone else did the killing and call of question is Doug, how do impute that to somebody who didn't do it? Probably red line view. I ‑‑ conspiracy, accomplice liability, vicarious liability or probably the red line view. So look at the four and see what's triggered. So I'm arguing here is obviously the red line view.

Any questions on this criminal law question?

Last question. This is torts. This was a tricky exam for most students. I will tell you one thing. I want you to pay attention to is who is doing the acts. And this is what got people confused. First of all, look at the call. What tort claims can neighbor raise woody and chuck. What defenses can each or both of them reasonably make?

Two, if neighbors prevails woody and contractors, how and should the damages be apportioned?

Now it looks like these are Baby Bar exams. So it should be against woody and chuck. Not contractor. Who the heck is contractor. Somehow this went into PDF and changed. Odd. Obviously we are having neighbors sue woody and Chuck and neighbor suing woody and Chuck because the first call is telling you that. If you see a typo, use your common sense, above is woody and Chuck.

Regarding Pinkerton rules when you have an existence conspiracy, then you are imputing somebody else's act onto you because of the conspiracy. So you have to have a conspiracy in order to argue Pinkerton's.

Woody lived in a rural neighborhood. Woody has an out house that create a fence border. Who is causing the nuance, would be woody and how is neighbor suing him. With nuance is generally what? It's continuous. When you read the facts, the vacate lot is not even there. Woody decided to install underground septic system to have a bathroom. He will install of an indoor bathroom. It doesn't say to prevent the offensive odor. Woody discovered the septic system he plan on installing would not fit on his land and a portion will extend to neighbor's vacate lot which is next to the property. The septic system he planned, so that tell us me there are other systems he could use and it's going to be underneath neighbor's land, lateral support, subjacent. If you make on your vacate land, subside, it's strict liability. You don't need to show negligence.

Further states that the fence had once stood the property line but all that remains is broken fence post. Since woody knew the neighbors were overseas so he decided to install during the neighbor's absent. He hired Chuck, an independent contractor to do the installation. When you hire somebody it's vicarious liability.

Chuck's the one that's doing the actions. So how are you going to impute onto woody. It further says, during construction Chucks saw the broken fence post and suspect they marked woody's property line. And he told woody. Woody scalded Chuck for taking too much time and cut down the maple tree on the neighbor's lot to make room for the septic system. How are you imputing onto woody? Vicarious liability. General rule, I'm not responsible for contractor and intentional tort. But if you are scalding him, I hired you and you better do it changes the story.

Because Chuck needed the work, he cut down the tree, and dug up the ground and install the septic system. Woody burned the wood.

Neighbor returns from oversea and sees what's done to the vacate lot and maple lot and sues woody and Chuck for damages.

The first is vicarious liability. We see neighbor going after woody. I'm going to impute what Chuck does onto woody. The employer is not liable for intentional torts. Two arguments. You hired him, employer/employee relationship but he is an independent contractor. So usually when you fired independent contractor, that means you are not vicarious liable for their conduct. But what about today? Well, under certain circumstances like you demand they do specific acts, something within your direction that you are asking them to do, you can be vicarious label for the acts. Scalded Chuck and he felt he needed the word, they gave you that. He felt he didn't have a choice. So in this case, woody will be vicarious liable.

He entered the neighbor's land to cut the tree. He saw the broken if he was post and suspected marked the property line and across them after scalded and cut down the tree. He intentionally went to the land of another. So we will find trespass.

I will go right to defense. You saw on the first sentence, it's offensive odor. Most people brought up nuance. I'm arguing necessity debate nuance. I'm arguing this is defense for woody. Because they asked for that.

I'm privileged to enter another's land to protect another person. In this case, he argue offensive odor and it wouldn't fit in my land. So I had to. But again, you could have gotten a different system or place it another place on the land.

I feel like they gave you the odor to argue as defense. And defense what I'm arguing here is his right to abate the nuance.

Next is conversion. Chuck cut down the tree. And his actions were intentional. He is making room for the septic tank. And he is going to be liable too. He committed a conversion and we will imputed onto woody through vicarious liability. And woody burned the wood. He exercised control by burning it so he is liable by his own act.

And separate out neighbor versus Chuck and trespass the land, supra. And same thing with conversion.

In this case, woody only did one act, which was burning the firewood, but I imputed onto woody of Chuck's act of entering the land, cutting the tree. So vicarious liability to me was a big issue which most people didn't see. And hard time setting this up.

Call two. Damages. General damages. Which would be damages that naturally flow. The general damages for the wood which would be a fair market value. Special damages, complete proven. I don't see it's here.

And punitive damages. Intentional act. I want punitive. So we will get punitive damages.

And I also want punitive damages for your trespass. So I broke it apart and talked about each trespass versus conversion.

In special damages is the same. Punitive was the trespass onto the land itself.

So I felt this exam was probably the hardest for most people because they did not it and understand it and didn't know what to do with it.

When you do see intentional torts, I want you to really work it through it. If you want exams for intentional acts, shoot me an e‑mail. And I will send you some.

Use your checklist and break apart the facts. There already multiple of these. You need to break it apart.

Yes, in regards to the vicarious liability, imputed onto woody and defense of trespass necessity, yes, I otherwise I didn't answer the ‑‑ two defenses. One is counter argument, vicarious liability. And next is necessity to abate nuance. When it has that S, I'm looking for two or more.

And defenses can be true defenses or counter arguments.

Septic tank ‑‑ I didn't see enough to talk about it. Lateral subjacent support. You have the land and causing it to sink. But they didn't give me facts. But this is a vacate land, it's strict liability. So you have to pay in regards to the removal. But I didn't find enough acts to argue it. That is one question I had on mind. I had it on my outline. And after going back and forth and going through enough exams, no one brought it up, I guess I'm wrong. But under the pressure I would have brought up. I would have liked more facts.

If they wanted me to go steal the dirt, they would give me more.

In regards to dirt, is that conversion? Where did the dirt go? I don't know. Hard to argue.

Can you see how this is corky? That's why many didn't do well. Out of the four, this one was a hard one.

You have four coming your way as well. But the more I can get you to practice, break it apart, and understand how the issues come up will help you.

If you want ‑‑ intentional tort exams. Somebody asked UCC, I believe, type checklist. Jolly @ Taft edu. But again, keep them together.

If I give you an independent one, merge it with your contracts. That's how you have to write the exam if you want the most points.

They must have anything in there to do well versus I want more points because I'm all about points and I want you to succeed.

Any questions?

If anything does come up, shoot me an e‑mail.

I do want you focusing on contracts. And work on UCC and I do want you working on special felony red line view. Next week you will be sent out a Multistate lecture two. So make sure we are getting those up. It's getting close to crunch time. Okay. Wish everybody a good night.

(End lecture)