CLASS: TAFT

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(Captioner on standby).

>> Good evening everybody welcome to tonight’s E class and I you hope everybody can hear loud and clear. This is a sound check. Tonight, we are going over the tort and multiple-choice question that were sent out to you and I want to point out a couple of things that the session is recorded and for your convenience you can go to the web site of Taft and go to the student section. And then obviously log into the student section and go to E class and everything is there posted for you and if there are any handouts so to speak everything is up there to help you. And let's get started.

With multiple choice questions seems like an easy task but they are not. Multiple choice questions you have four answer choices and the general use is you should read the call of the question. The stem first this can narrow down to specifics that has been test and had key thing with multiple choice questions too is make sure you answer the call of the question. Let's go through the first question.

Now says here of the following which arguments provides the strongest defense to Robert’s imprisonment claim. False imprisonment it is a what? It is an intentional tort. Question number one.

[Reading]. So, we gave you the time line. Prior to the 72‑hour hold and now the issue is can he be or prevail in false imprisonment remember with false imprisonment you need intent and you need to show you are physically or psychology confined has to be of another and look to the viable defenses.

So, the first thing element wise what you think is be being tested here and I feel the issue is whether or not he has been restrained. All right? So was there actual confinement and let's look at answer choices A says [Reading]. That looks like it would go to no confinement. B says [Reading]. We know that is not true because they did have the intent to detain him so they could restrain him in order to get into the 72‑hour hold. C says [Reading]. Remember you doesn't have to be physical it can be psychological. And D says [Reading]. Well again if you can move freely within your room, you still can be falsely imprisoned and the best answer choice for question number one would be A.

All right. Let's look at ‑‑ A is correct answers and again the issue is actual confinement itself. So, when you take multi‑states you will see how it will hone you into what is the underlining issue. If you look at a whole and here, we are dealing with false imprisonment and that is too broad and you need to narrow down to what is being tested and that is important. And question number two. Can you hear me loud and clear you can let me know and I want to place in the chat? And I want to make sure I am coming across and obviously not speaking to myself. All right. Question number two.

[Reading]. So in regards to false imprisonment what are we looking at? False imprisonment you need to show intent. You need to show it is physical or psychological confinement. And then you need to show off another.

Now in regards to answer choice for false imprisonment what do you think is being tested here? Again, she is what? Well, he was trying to go kill her if I had to pick an intentional tort that is an issue of battery and narrowed to false imprisonment and did, he has the intent and did he physically confine her and is it of another. She is confined because her car won't work and now the issue is intent. And did he have the intent and let look at answer choices. A says [Reading]. B says [Reading]. That looks good because we have the transfer and intent doctrine. C [Reading]. Well again. Remember under it had transfer and intent doctrine if I intend to cause bodily harm, I can transfer the intent from the intended battery to the actual committed tort. And that is how the transfer intent doctrine works. D says [Reading]. Well assumption of the risk is what? Not defense for an intentional tort and you want to be careful of that, that is trickery that we try to trick you and B for false imprisonment. Transfer intent doctrine supports it and therefore there is liability for that tort. Everyone see that?

All right. Let's go to question number three. [Reading]. You see they gave you the viable cause of action negligence. Which of the following statements is most accurately correct? And the you want to take a step back and say Peter built the pond and had been he negligent. He has a duty and how does he owe a duty. You have a duty to act as reasonable and prudent person and we is having a six‑year‑old and that is the attractive nuisance doctrine and you know children are possible to trespass you have to take steps to prevent the trespass and now I have a p understanding of what is happening I can try to pick the best answer choice. A says [Reading]. Well, was a trespasser remember we have the attractive nuisance doctrine that relieves of the trespasser status. B says [Reading]. So, it is not an absolute probably satisfied. As long as the act of reason there is no liability and B looks good. C says [Reading]. That is not true. Again, it is visible and you have to take reasonable steps and D says [Reading]. What language does that make you think of? Assumption of the risk. Right? But I haven't gotten past the duty and the breach. B would be the best answer choice. Again, B is correct because it would be an attractive nuisance and as long as you act reasonable and try to prevent and showing likely to tress pass no accountability. For question number three D is best answer choice. Let's look at question number four.

[Reading]. Now you see the Doctor is innocent and the driver was negligent and now the doctor is negligent and we are having two wrongdoers here. [Reading].

So, what did the call just narrow you down to? Remember Dave was the driver and wants to assume he is responsible for everything and the question is he responsible for what the doctor did. If you put the chain in motion if it is foreseeable, you could be liable. What you are looking at is the negligent act of running into him direct act or indirect of the doctor. Indirect. Of strike him. And dependent or independent of Dave's acts. Dependent because you put the t chain in motion and is doctor innocent to the act or foreseeable and remember the negligence of a third party is always foreseeable and I know there is liability and I am looking for an answer choice in that direction.

A says [Reading]. Now is that true? We don't know because I went through it. We know A is wrong. [Reading]. That is dead set on. C says [Reading]. We know that is not true and D [Reading]. And we know that is not true because you can be responsible as the tort fees is for the third party’s negligence, can't you? For question number four B is your best answer choice. Right. Any questions. Question number five.

[Reading]. Again, they gave you the actual theory and that is important they give you what? The actual theory itself and it says if phone company claims there is no cause in fact relationship two on the conduct and Hannah's death which of the following statements is more correct. What is cause and fact? But for successive tortfeasor and actual tortfeasor and the but for test. That is what we are looking at here. So, A says [Reading]. So, what does he have the to show? He has to show that. But for the conduct she died but if I can show that the (Indistinct) was available she would survive there is liability. B says [Reading]. Unless the phone company they don't have the burden. C says [Reading]. Remember it goes to proximate cause. And D [Reading]. Remember you can fail to act. But for the failures. For question number five best answer choice here is going to be A. Because if I can show but for your failing to have the lines open, she wouldn't have died I will prevail in the actual cause element of the negligence.

Question number six. We don't have that many and you are pretty quiet. All right. [Reading]. This looks normal conduct. [Reading]. Now remember assumption of the risk you have to what? Know the risk and involuntary encounter the risking and jogger on the street and voluntary encounter a bike runs me over. In the middle of the street maybe car or bike but alongside the curb and I don't feel we are going to find he didn't assume the risk. Option A says [Reading]. Well again he didn't what? Assume the risk itself. Right? Let's look at option number B. B says [Reading]. Again, did he voluntary assume the risk? Did he know the risk and did he voluntary encounter it? C says [Reading]. It is. (Indistinct) degree to which earl assumed the risk and remember if you find assumption of the risk. There is no recovery and D says [Reading]. And that is the best option he did not assume the risk and again he wasn't voluntarily aware as the to the position and D is correct answer.

Again, a lot of time as you find when you are doing the multiple-choice questions that is people engage in sporting activities there is certain risks that you do inherit. In regards to jogging and being run over by a cyclist is not one of the inherent risks and let's look at question number seven. [Reading].

What are they trying to get you to focus on? If he is independent contractor I as homeowner am not responsible but there is an exception to the rule. What do we know about independent contractor certain duties are nondelegable and this is blasting and this is considered a nondelegable duty owner is liable if you can show strict liability and blasting would meet that? And answer choices A [Reading]. We know that is not true and B says [Reading]. That is not language for what? That is not language I like for strict liability. C says [Reading]. Well, again, strict liability. And then owner is liable. And owner would be liable because of strict liability. Remember? Liability regardless. So, you are conducting a dangerous activity you are going to be liable no matter what. All right. That is question number seven. Any questions so far? Let's look at question number eight.

[Reading]. Let's look at that she is suing for negligence and you need to show that the employee had a duty and you have a duty to act in reasonable circumstances in moving the toxic waste but duty breach she is suing under the wrong theory because I p can be show he failed the standard of care. Because the hydraulic broke and there is no reason, they should have been aware of the circumstances and she is not going to recover under the theory of negligence and it is important to always understand what is the actual theory. What are we looking at and break it apart and I see there is an actual duty here and now the issue is did they breach the duty? Based on the facts what do we have? Again, they told you the forklift unexpectedly broke. Right? The hydraulic lift and no reason they should have known about it.

A says [Reading]. The first portion of this answer choice is correct and second portion is not and you want to make sure you look at the full answer choice and break it apart. Sometimes part of it is correct and the other part no.

B says [Reading]. Well again what is the higher duty and look at the checklist and I don't know of higher duty. Common carriers have a higher duty and for hauling chemicals and C says [Reading]. Oh. Wait a minute let's go back and look at the answer choice. They had a duty and because it is procedures and even if I have procedures that shows I exceed the standards doesn't mean I didn't violate the standards and fail it had started of care and D says because C had no reason to anticipate the break down for the hydraulic lift it is not liable even though it is conduct and significant harm. That looks like the best answer verses C if you look at it and I knew the hydraulic lift was faulty and did this and C is allowing me you still did it and have procedures and not liable that is not how it works I had no knowledge and acting as a reasonable and prudent person D is best answer choice and you are looking at negligence it is not their fault and accidents happen and they from not liable. The best theory what should she have sued under? I think the best theory she would have had is negligent trespass. Because with negligent tress pass remember if I find in this case you have to have damage and based upon the standard their stuff did get on my land and that is the better option choice to show foreseeable entry and foreseeable result when you have an accident and I think that is better theory and nuisance doesn't work here. When you see nuisance, you have to see repetition occurring and I could argue that and see it is a onetime issue and happens the we go on from there.

For question number eight D is correct answer. all right. Let's look at question number nine. [Reading]. We see obviously private nuisance and need to show unreasonable interference with use and enjoyment of the land and those are the elements that you are looking at and these are the elements that you want to keep in mind when you are looking at what? The answer choices. Based on the facts and let's go through A. [Reading]. I don't see it is affecting public. B says [Reading]. Remember for nuisance it doesn't have to be intentional could be intentional or negligent. C says [Reading]. So, does that look like a good answer choice? Seems again with the community the it is a public nuisance and D says [Reading]. There is an element. [Reading]. That seems to be dead set onto the issue in in regards to have supporting the public in regards to the nuisance or private nuisance. For question number nun D has to be the best answer choice and again we got the substantial and reasonable interference and has to be use and enjoyment of your land and had those elements are met based on option number D. See how I make you go back and here is theory and what within did theory it is we looking for and what do we need to show support based upon the facts and if I look at it as a whole, I will make mistakes and if I went into question nine and said nuisance is it public or private. Substantial interference unreasonable and breaking the elements apart that makes me choose the best answer choice.

All right. Question number ten. [Reading]. Now what is the issue? He is listening in. Right? So, it is intrusion upon conclusion false in the public eye? Is it um, argue basically it is what? Betraying falsely in the public eye or invasion of privacy because you are listening in regards to his conversation. Right? These are invasion of privacy torts and remember they break apart into what? Four. False luth in the public eye. Intrusion upon seclusion which looks like it is being tested. Private disclosure of public facts and I am forgetting the fourth.

Answer choices and A and B have conclusions of bus or because and I can probably eliminate those. A says [Reading]. Doesn't matter because what? Intrusion upon seclusion. (Indistinct) defense. B says [Reading]. Well, you (Indistinct) recording device not true. C says [Reading]. Not suing for defamation and don't care. D says yes [Reading]. Yes. So, you would have a p reasonable expectation of privacy and D is your best answer choice. And looks like we skipped the answer and not sure why.

In regards to question number ten yes because Jeff had a reasonable expectation of privacy would be the best option. That supports the invasion of privacy claim. All right. Let's look at question number 11.

[Reading]. Now remember with intentional infliction of emotional stress you need to show intent. Extreme and outrageous conduct and common law you need a manifestation of what? Fitz Cal injury. Today you can have I can't sleep insomnia. But you need a physical manifestation. So, let's look at the answer choices. A says [Reading]. I don't think so I don't see that he just has anxiety. B says [Reading]. Well, I think it was. C says [Reading]. Oh, that goes to physical injury and I like C. D says [Reading]. The one that is hitting the m elements on the nail head would be option number C because have you to have a physical right? Common law. And remember when you are taking multi‑states how do you answer? You answer pursuant to common law. So common law first and then of course how do I know when I go to modern law? We know that base upon the call of the question they can't trick you. Common law wins and again with intentional infliction of emotional stress you need a physical injury.

All right we are almost there. Question number 12. [Reading]. Remember this sounds like it is testing third party bystander rule. [Reading]. So, before we lack at the answer choices what do we need to show for the third-party bystander rule? Present at the scene. Aware it is causing injury. Closely relate and had suffer emotional stress and those are the elements for negligent. Infliction and emotional stress and will she prevail? Well, she is closely related she is mother. And aware of causing injury was present and did she suffer emotional stress. She fainted. And A says if the court applies most common the case will fail. Why would it fail? And let come back to that one in regard it is to number B. [Reading]. What is the impact rule? C says [Reading]. That goes to negligent infliction emotional stress when you have one on one. D says [Reading]. Again, was she present at the scene? Yes, was she aware what was causing the injury. She was closely relating and had done she suffer emotional stress? By process of elimination, you have to show what? You have to show physical or bodily harm the to her. Right? The facts appear in creating a risk of severe and bodily harm to Paul because she is behind the glass. Court finds (Indistinct) physical harm to you A is best answer choice. A most common test sometimes called the zone of danger test is incorporated in the statement. Which provides that one may should not recover from emotional stress resulting from the harm or pearl to a third person ‑‑ [Reading]. Again, it is an accident and he was innocent and could we foresee the risk to her behind the glass and answer is no.

When you see innocent infliction and emotional stress and key thing int you to remember is one on one injury. You hurt me and I am suing directly or third-party bystander I saw or observed a third party being injure and had there is different tests that come up. And I hint on multiple choice questions a lot of time not giving the theory that is being sued under they are seeing emotional stress it is your job to determine whether it is intentional or negligent and there is a difference in regards to the test isn't there? That is important to understand and I want to get it correct.

Question number 13. [Reading]. Now what are we trying to sue for? First thing is taking a step back and see what is the underlining theory? The water became what? Very contaminate and had probably sue for negligence, right? And in regards to negligence what do we need to show? Had a duty. Breached it had duty and breach was actual proximate cause of one's damage and base on the facts they told you what? The drinking water is contaminated and had shown they have a duty. The contaminate drinking water they breach and had everybody became ill and people with immune system problems became what? More seriously ill sounding like a thin skull plaintiff issue to me. Right? But they tell you about him? Well, they told you that he was what? One such person an aids patient and trying to get you to focus he has aids is he going to die today or ten years from now. A says [Reading]. No because it is not going to fail the thin skull plaintiff doctrine it wouldn't you are on the hook. B says [Reading]. Well, he got sick from it and that is not true and C says [Reading]. Well, that is true except he did have damage and when do we know with certainty he would have died from aids and D says [Reading]. And that is true. If we can anticipate his life span would be ten years and you took five of the ten years damage would be proportion according to that time period and in this case, D is your best answer choice. And remember when people do obviously get in lawsuits with negligence and stuff like that. If you are 80 years old and in a car accident and suffer a broken leg you are going to get the pain and suffering and they are going to look at how it will affect you from 80 to your span of life expectancy verses somebody that is 14 and has the same injury most likely they are going to recover more because they have a longer period of life that can affect them. Last question. Question number 14. [Reading].

Well that is don’t sound right. So, let's go back. If Preston proves fuzz Cal injury. Do we need physical injury for negligent emotional stress? We do. And says as a result of the collision. Causal relationship. (Indistinct). For the jurisdiction. Concerning the tort of innocent inflection emotional stress and looks like the elements of negligent infliction emotional stress are met and notice how they told you sue for negligence’s and figure out it is negligent infliction emotional stress and not duty breach and causation damages and B says [Reading]. Again, for one on one you need foreseeable risk of injury and remember common law you needed actual injury verses on the (Indistinct) one you need threat of actual impact. Why is B wrong? If emotional stress is not a reasonably foreseeable consequence of causing the collision and need foreseeable risk of injury. And C says [Reading]. That is a third-party standard rule. [Reading]. Against this is one on one and D says [Reading]. We know that is not true because have you the thin skull plaintiff doctrine that falls under proximate cause and you take the victim as you find them and that is what you call the thin skull doctrine and, in this case, A would be the best answer choice. Mets the elements in regards to negligent infliction emotional distress and main point to take away from the lecture tonight is number one make sure you are paying attention to the call of the question and following the call of the question that is important if you don't answer the call you won't get the right answer choice and other thing I want you to work object and practice and make sure don't be brought on me negligence break apart pursuant to the theory and it is negligence’s and what in negligence in and of itself is being tested if you look at it as a whole I guarantee you are going to miss it because they are setting you up if you can hone down to what the particulars that is being tested and had you are going to be fine and get to the two abs choices left. Two best answer choices and you will narrow down to best answer choice and more I can get you to focus on the elements and break the elements apart to make sure they are sported by the facts that is going to help you as well. Okay?

All right anybody have any questions for me at this time? Anything does come up shoot an e‑mail at jol hi dot Taft U dot EDU and I will help in any way I can. For those getting close to midterm time. I know the January group. I recommend that you look at the other E‑classes and everything is posted for you and I know some are getting ready for the up-and-coming baby bar and I wish you the best on that and more diligent you are on practicing and understand how the concepts are test and had break apart and that will breed success in terms of multiple-choice questions multiple choice questions are frustrating for most students put because it is not pure memorization. You need to remember the rule and the way they break it apart and that is what make it difficult or sometimes if you notice they write the call terrible as to which is the best likely that you will prevail in this case and you are looking at the facts and you shouldn't assume in the first place and you are asking which is the best one and you would prevail and that is a terrible multiple choice question and they ask that way all of the time and I call that a negative and we test that way unfortunately.

You guys have been good and I hope it is informative for you and if anything comes up reach out to me and if nobody has questions, I will wish you a good night.