

JUNE 23, 2009



California First-Year Law Students' Examination

ESSAY EXAMINATION INSTRUCTIONS

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 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 which are not pertinent to the solution of the problem.

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

Question 1

Al, Bob, Carl, and Dolly were coworkers at Zco. Al, Bob, and Carl did not like Dolly and wanted her fired from Zco.

On Monday, all employees of Zco were required to attend a mandatory meeting. Prior to the meeting, Al entered Dolly's office and told her not to leave her office until the meeting was over. He then said to her, "If you leave this office before the meeting is over, some of my friends and I will come to your home and beat you up." Al then left for the meeting. Dolly, scared for her safety, remained in her office, missed the meeting, and was reprimanded by Carl, her supervisor.

On Tuesday, Bob placed a sleeping pill in Dolly's coffee when Dolly was not looking. Dolly drank the coffee and fell asleep at her desk twenty minutes later. She slept for four hours, and was again reprimanded by Carl for sleeping on the job.

On Wednesday, the Human Resources Manager for Zco asked Carl if he knew why Dolly had missed the meeting on Monday and fell asleep at her desk on Tuesday. Carl responded that Dolly had a serious drinking problem that interfered with her job performance. Carl was aware of the actual reasons why Dolly had missed the meeting on Monday and fell asleep on Tuesday, and he had no reason to believe that she had a drinking problem. On Thursday, Dolly was fired from Zco.

Under what intentional tort theories might an action for damages be brought by Dolly against Al, Bob, and Carl, and what defenses, if any, might Al, Bob, or Carl assert, and what are the likely results? Discuss.

Question 2

Delta Print Co. ("Delta") ordered three identical Model 100 printing presses from Press Manufacturer Co. ("Press"). Delta's written order form described the items ordered by model number. Delta agreed to pay Press \$25,000 for each Model 100 press. A few days later, Press sent Delta its own form confirming the order. Press's form repeated all of the items on Delta's form, but added the clause, "Delta must make any complaints concerning defects in, or nonconformity of, the goods delivered within a reasonable period after delivery."

One week later, Press delivered the Model 100 printing presses to Delta's place of business. Delta immediately removed its old printing presses and placed two of the new presses into operation. Delta stored the third new press in its original unopened carton. One week after delivery, Delta's Vice President for Operations, Vanessa, notified Press's Sales Manager, Sally, that it wanted to return the third press. Sally asked why it wanted to return the press, and Vanessa responded, "Delta doesn't need a third press at this time." Sally replied that all sales were final and that Delta was obligated to pay for all three presses. Vanessa said that Delta did not want the third press and expected Press to pick it up immediately. Sally responded that she would have a truck pick up the third press the next day, but that Delta was expected to pay for all three presses.

The next day, Press picked up the third press. Press sold the third press to Offset Printing Co. ("Offset") a week later for \$22,000 — a discount off the contract price of \$25,000. It cost Press \$18,000 to build the Model 100 press. Offset is one of the largest printing companies in State X and regularly purchases multiple Model 100 printing presses from Press. Press maintains a large inventory of the Model 100 printing press because of its popularity.

Delta has not yet paid for any of the three Model 100 presses despite repeated demands by Press.

Is Press likely to prevail in an action against Delta for breach of contract and, if so, what is the likely measure of damages? Discuss.

Question 3

At 3 a.m. the City Police Department received a call that there was an unauthorized entry into Walt's Gun Emporium ("Walt's"), a store that sells firearms.

As the police officers drove around a corner behind Walt's to investigate the incident, they observed a man placing something into the trunk of a red car parked across the street from Walt's. The red car's engine was running. When the officers turned the police car's siren and lights on, the red car immediately sped away. One officer exited the police car and arrested Albert, the person who had been standing behind the red car, while the other officer followed the fleeing red car.

The police officer who arrested Albert then saw Burt slide a sealed box labeled "Walt's Gun Emporium" and crawl out of a store window. The officer then arrested Burt. It was later determined that the box contained six rifles.

While being chased by the police, the red car crashed into another car, killing its driver Vic. Chuck, the driver of the red car, was arrested. A sealed box stamped with the words "Walt's Gun Emporium" containing twelve pistols was found in the trunk of the red car.

Albert, Burt, and Chuck were each charged with larceny and murder.

At trial, Walt, the owner of Walt's, testified for the prosecution that Burt was employed by Walt's as a salesperson. Walt also testified that he was the only person working at Walt's authorized to open sealed boxes containing firearms or to remove the boxes from the gun vault where they were stored.

Albert testified that he was given \$10 by Chuck to help carry boxes to the red car, and that he had never seen Chuck or Burt before.

Burt testified that he was authorized by Walt's to possess the firearms located at the store in order to fulfill his duties as a salesperson.

Chuck testified that Burt convinced him that Burt owned the guns and that Burt had agreed to sell them to Chuck for \$400.

Do the facts support each of the charges against Albert, Burt, and Chuck and what defenses, if any, might they each reasonably assert? Discuss.

Question 4

During the late summer, State College of Law held its annual student versus faculty softball game and picnic. The game was hotly contested and, as a result of poor sportsmanship on both sides, tempers flared.

Following the game, the students' team was presented with the winner's trophy, which Abel, the captain of the student team, held aloft. Thinking it would be funny, Charlie, a member of the faculty team, threw a ball at the trophy, striking it and knocking it from Abel's hands. Angrily, Abel picked up the trophy, approached Charlie and said, "If you weren't a professor here, I would take that trophy and stick it in your ear." Charlie, who was physically much bigger than Abel and a former professional boxer, did not feel threatened by Abel's reaction.

Edward, another professor and member of the faculty team, believing that Abel was about to attack Charlie, struck Abel with a baseball bat, resulting in a large bruise to Abel's arm.

1. Under what theory or theories might Charlie bring an action for damages against Abel, what defenses, if any, might Abel assert, and what is the likely result? Discuss.
2. Under what theory or theories might Abel bring an action for damages against Edward, what defenses, if any, might Edward assert, and what is the likely result? Discuss.