

October 2016

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 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

Al and Beth were sitting in Al's apartment, playing video games and drinking beer. After finishing the last beer, Al said to Beth, "I need another beer. Can you lend me some money and drive me to the store?"

Beth responded, "I can drive you to the store, but I don't have any money."

Al laughed and said, "I have an idea for how to get some beer without paying for it. Drive me to the store and park behind it near the emergency exit."

Beth drove Al to the Friendly Market and waited in the car near the emergency exit. Al entered the store, picked up a six-pack of beer, and began walking toward the emergency exit.

Carla, a security guard, was watching Al. As Al approached the exit, Carla shouted, "Stop, thief!" Al put the beer on the floor and ran out through the emergency exit.

For a few seconds, Carla considered what to do. Then she ran after Al. In the alley behind the store, she shouted, "Stop or I'll shoot!" When Al did not stop, Carla fired a warning shot. When Al kept running, Carla took careful aim, shot, and missed. As Al was about to run around a corner, Carla paused, took careful aim, shot again, and killed him.

1. Can it be reasonably argued that Beth is guilty of
 - a. Theft? Discuss.
 - b. Robbery? Discuss.
 - c. Murder? Discuss.
2. Can it be reasonably argued that Carla is guilty of murder and, if so, what defense(s) can she raise? Discuss.

QUESTION 2

Dealer operates an antique shop. While traveling, she buys a Union cavalry officer's handgun for \$1,500 from Seller. Dealer takes several photos of the handgun and Seller agrees to ship it to Dealer's shop. When Dealer arrives home, she immediately shows the photos of the handgun to Buyer. The parties shake hands on a deal to sell the handgun to Buyer for \$2,000, payment upon delivery.

The next day, Buyer regrets agreeing to the deal without first having an opportunity to actually examine the handgun. Buyer tells Dealer that he will not pay the \$2,000 unless she first allows him to have the handgun examined by an expert appraiser. Dealer becomes angry and tells Buyer, "A deal's a deal. I'll expect my money when the handgun is delivered to you."

When the handgun arrives at Dealer's shop, she does some internet research and discovers that the handgun was issued to a general who played a prominent role at the Battle of Gettysburg, which increases the value of the handgun by a factor of ten. The next day, Dealer receives a letter from Buyer stating, "Sorry. You're right. A deal's a deal." The envelope contains a check for \$2,000. Dealer sends the check back to Buyer with a note stating, "Buyer: Because you backed out of our deal, I will not sell you the handgun. //Signed// Dealer."

A few weeks later, Buyer learns that Dealer is offering the handgun for sale at her shop for \$20,000 because of its connection to the Civil War general. Buyer brings suit against Dealer for breach of contract, requesting specific performance.

1. Is Buyer likely to prevail against Dealer in his suit for breach of contract? Discuss.

2. If so, is the court likely to grant Buyer's request for specific performance? Discuss.

QUESTION 3

Barry is a licensed barber. Recently, he has considered changing from the straight razor that he has always used to a new type of electric razor. The primary advantage of the new razor is that it totally eliminates the possibility of the customer being cut in the process of getting a shave.

In general, barbers prefer the tradition of using the straight razor to the electric razor because it allows them to better show off their skills as a barber. Although not all agree, some believe that the straight razor gives a closer shave. The new razors have, however, been scientifically established to provide just as close a shave as the straight razor.

Barry continues to shave men as he always has because he enjoys the use of the blade, and because the electric razor is expensive. He is also concerned about the reliability of these new devices under the heavy use they would receive in a barbershop.

Moe comes into Barry's shop to get a shave. Halfway through the shave, Moe suddenly jumps up from the chair, cheering because he checked his smartphone and saw his favorite baseball team score a run. In the process, Barry's razor creates a fairly deep gash on Moe's throat. Moe punches Barry, giving him a black eye.

1. Is Moe likely to prevail on a negligence claim against Barry? Discuss.
2. Is Barry likely to prevail on an intentional tort claim against Moe? Discuss.

QUESTION 4

Owner wants to turn her warehouse into a restaurant. She decides to install an innovative solar heating system, which Contractor agrees to install at a cost of \$50,000. Contractor's son ("Son") wants to use two parking spaces in the warehouse parking lot for his (Son's) business. If Owner agrees to designate two parking spaces for Son's use for five years, Contractor will drop the price to \$35,000.

On November 13th, the parties agree to the latter arrangement in a valid written contract in which Contractor promises to start the job on November 17th and to complete it by January 1st. The contract includes a recital stating, "Timely performance by Contractor is important to avoid any delay in the opening of Owner's restaurant."

State law requires that all installations of the new solar systems be done by a certified solar technician. On November 15th, the only certified technician who works for Contractor, Tech, is injured in a car accident. Contractor immediately notifies Owner and advises her that the start of the work will be delayed because of Tech's accident. Owner replies, "You know that on-time performance is crucial. Yesterday, the city announced special tax breaks for businesses that open by the end of the year. Can you still finish by then?" Contractor says, "I don't know when we can start. It depends on how quickly Tech recovers." Owner tells Contractor that she is terminating the contract.

Owner finds an alternative supplier of a similar system at a cost of \$60,000, but he can't start work immediately and the restaurant opens in February of the following year. Owner misses the deadline for the city tax break.

Owner sues Contractor for breach of contract. Son sues Owner for breach of contract, seeking damages for Owner's failure to provide the two parking spaces.

1. Can Owner prevail in her lawsuit against Contractor? Discuss.
2. If so, can Owner recover
 - a. The \$10,000 in increased costs for the heating system? Discuss.
 - b. The lost profits for the delay in opening the restaurant? Discuss.
 - c. The value of the tax reduction? Discuss.
3. Can Son prevail in his lawsuit against Owner? Discuss.