

# October 2013

## 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

Olivia is a florist who specializes in roses. She has a five-year written contract with Juan to sell him as many roses as he needs for his wedding chapel. Over the past three years, Olivia sold Juan between 300 and 1,500 dozen roses annually. Although two years remain on the contract, Juan has just notified Olivia that he cannot continue to buy roses from her because of serious budget concerns.

Last month, Ann emailed Olivia an order for “1,000 white stems” to decorate an event hall, specifying no particular price or flower. Ann assumed that Olivia would send roses, her specialty, but Olivia instead sent orchids, the only “white stems” available at the time. When Ann received the white orchids, she was surprised, but had no time to inquire about substitutes. As a result, she used the orchids for the event. When Olivia subsequently billed Ann \$5 per stem for the orchids, a price twice that of roses, Ann refused to pay the higher amount.

1. What contract rights and remedies, if any, does Olivia have against Juan? Discuss.
2. What contract rights and remedies, if any, does Olivia have against Ann? Discuss.

## QUESTION 2

Alma believed that Ed, her employer, had cheated her out of overtime pay. She asked her friend, Bob, a locksmith, to open a locked drawer in Ed's desk so that she could obtain confidential documents for use in embarrassing Ed into paying her what she thought he owed her. Bob said he would help her.

Alma took Bob to Ed's office, where he opened the locked desk drawer. Just after Alma and Bob had removed the confidential documents from the drawer, Ed came into the office. Startled, he chased Bob onto a balcony and pushed him. Bob fell over the balcony railing and landed on Diane, who was walking on the sidewalk below. Bob was unharmed but Diane died instantly.

1. With what crimes, if any, can Alma reasonably be charged, and what defenses, if any, can she reasonably raise? Discuss.
2. With what crimes, if any, can Bob reasonably be charged, and what defenses, if any, can he reasonably raise? Discuss.
3. With what crimes, if any, can Ed reasonably be charged, and what defenses, if any, can he reasonably raise? Discuss.

### QUESTION 3

County planned to make improvements on one of its roads. To that end, on May 1, County entered into a contract with Installco containing the following terms: County agreed to repave the road by June 1; Installco agreed to install new guardrails, which was expected to take three weeks, after County had completed repaving; and County agreed to pay Installco \$200,000.

On June 15, Installco learned that County was far from completing the repaving of the road. It sent County an email stating: "The June 1 start date for the installation has passed. You knew when we signed the contract that we have another large guardrail installation job starting on August 1 and do not have enough equipment to do both jobs simultaneously. Please advise immediately as to your schedule for completion of the repaving."

On June 18, County responded with an email stating: "We are doing our best."

On July 1, County had not yet completed the repaving of the road. Installco received an offer to do a two-week guardrail installation job beginning immediately. Installco sent County an email stating that it no longer intended to perform the contract because of County's failure to complete repaving.

On August 10, County finally completed repaving the road. It located another company to install the guardrails, but had to pay \$300,000.

1. What arguments can County reasonably make that Installco breached the contract? Discuss.
2. What arguments can Installco reasonably make that it did not breach the contract? Discuss.
3. Who is likely to prevail? Discuss.

## QUESTION 4

Rick and Walt are next-door neighbors. Rick hosted nightly rehearsals in his backyard for his band, which featured several electric guitars and amplifiers that he owned. Because the rehearsals were so loud, Walt could not conduct telephone conversations in his house even with the windows closed. He repeatedly asked Rick to lower the volume of his rehearsals, but Rick refused.

One night, while Walt was standing in his own yard, he attempted to disrupt a rehearsal by trying to spray Rick with water from his garden hose. He missed Rick with the water, but hit Cal, another band member, and the amplifiers. The water caused Cal to suffer a severe electric shock when it contacted an electric guitar he was holding. The water also destroyed the amplifiers.

Rick picked up another electric guitar, ran into Walt's yard, and charged at Walt, swinging at his head. Walt ducked and ran into his house.

1. What tort claims, not based on negligence, can Walt reasonably bring against Rick? Discuss.
2. What tort claims, not based on negligence, can Rick reasonably bring against Walt? Discuss.
3. What tort claims, not based on negligence, can Cal reasonably bring against Walt? Discuss.