

June 2017

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

Mary, a football fan, owns an old-looking football seemingly autographed by Bart Starr (the winning quarterback in the *first* Super Bowl in 1967), that she bought for \$100 at a flea market. Mary and her friend Dan both assumed that it was a genuine autographed game ball used in that 1967 Super Bowl. Dan offered Mary \$10,000 for the ball. In response, Mary wrote in pen on a napkin, "Dan agrees to buy Mary's Bart Starr football for \$10,000 on or before December 1, 2016." Dan signed the napkin in pen, and Mary kept the napkin without signing it.

As December approached, Dan was unable to come up with \$10,000. Dan's friend Ed, who also assumed the ball was a genuine autographed 1967 Super Bowl game ball, wanted the ball, so Dan typed a document which read, "Dan hereby assigns all of his rights to buy Mary's football to Ed; Ed hereby assumes all of Dan's obligations under Dan's contract with Mary to buy her football." Dan and Ed both signed three copies, each keeping one copy and sending one copy to Mary.

After some internet research, Ed discovered that while the Bart Starr autograph on the football was genuine, the football was not the type used in the 1967 game; it was instead a consumer product manufactured after 2005. The ball is worth about \$1,000. Dan and Ed no longer wanted the ball. On December 2, 2016, Mary sued Dan and Ed for breach of contract.

1. Can Mary prevail on her lawsuit? Discuss.
2. If so, what damages, if any, is Mary entitled to recover, and from whom? Discuss.
3. What defenses, if any, may Dan and Ed reasonably assert, and will they be successful? Discuss.

QUESTION 2

Donna was walking down an alley with her twelve-year-old daughter Alice. As they passed a parked car with its windows down, Alice said, "Look, Mom, there is a purse on the seat of that car." Donna stopped and said, "Alice, I want you to go to the corner and shout to me if you see a police officer coming." After Alice walked to the corner, Donna reached into the car and grabbed the purse. She opened the purse, removed the cash from the wallet, and threw the purse back into the car.

During these events, Alice kept looking for police. Because no police officer appeared, she did not shout.

Donna and Alice were not aware that the purse had been placed in the car by police officers as part of an undercover crime investigation. Officer Oscar observed everything that Donna and Alice said and did.

1. What crimes, if any, has Donna committed, and does she have any defenses? Discuss.
2. What crimes, if any, has Alice committed, and does she have any defenses? Discuss.

QUESTION 3

Tom lived next door to his girlfriend Heather, and often helped her tend her yard. To do so, Tom used the tools that were stored in Heather's wooden toolshed, which abutted Heather's house, such as a lawnmower and edger, both of which were filled with gasoline.

One day when Tom thought Heather was away at work, he went to Heather's house to mow the lawn. However, through the backyard window, Tom was surprised to see Heather kissing another man.

Tom felt queasy and left. He went to the drug store and bought Anxiety-Fix, an over-the-counter anti-anxiety medication that he had never used before, and headed home. Tom took three Anxiety-Fix pills, even though the instructions on the box stated that a person should take no more than two pills every eight hours. Two hours later, still feeling anxious, Tom took four more Anxiety-Fix pills, and fell asleep. Tom awoke in the middle of the night due to a nightmare he had about Heather.

Tom then lit several firecrackers in his yard, and threw them at Heather's house. He wanted to wake her up to discuss what he had seen. Two of the firecrackers landed in the toolshed, setting it afire. The sound of the firecrackers awakened Heather and, upon seeing flames, she grabbed a can of lighter fluid, opened some windows on the side of the house near the shed, and squirted the flammable fluid on the windowsills. Heather had been having a hard time selling her house and thought that, as long as the shed was going to burn down, the house could just as well burn with it since her insurance would cover the loss.

Meanwhile, Tom used a garden hose to extinguish the fire in the toolshed before it spread. The inside of the toolshed suffered smoke damage. All of the items inside of it were destroyed.

1. Can it be reasonably argued that Tom is guilty of arson? Discuss.
2. Does Tom have any valid defenses? Discuss.
3. Can it be reasonably argued that Heather is guilty of any crimes? Discuss.

QUESTION 4

While working in the produce section of a supermarket, Albert accidentally dropped a watermelon, which broke open, making the floor wet and slippery. Betty, the produce manager, immediately approached Albert and loudly criticized him for being “clumsy.” Albert, who was humiliated, told Betty, “I quit!” and pushed her in order to get past her and leave the store. As a result, Betty slipped on the spilled watermelon, fell and hit her head on the floor, and suffered a debilitating brain injury.

As Albert was leaving the store, he grabbed a shopping cart and pushed it violently at Carl, the store manager, who was standing nearby and who jumped out of the way.

The cart missed Carl but struck Duane, an elderly shopper, on his back side. Duane, who had an unstable heart condition, suffered a heart attack as a result.

In the parking lot, Albert walked around a car he believed was Betty’s, and used his car key to leave a deep gouge in the finish on all four sides of the car. As it turned out, the car belonged to Edna, not Betty.

Under what theories of intentional tort could Betty, Carl, Duane, and Edna bring claims against Albert, and what damages, if any, are likely to be awarded in a lawsuit brought by:

1. Betty against Albert? Discuss
2. Carl against Albert? Discuss
3. Duane against Albert? Discuss
4. Edna against Albert? Discuss