

June 2014

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

Twenty years ago, Flowers, Inc. (Flowers) built a large greenhouse facility in a rural area twenty miles outside of the city of Urbania at a cost of \$20 million. Flowers employs 20 workers. Because many of the plants grown in the greenhouse require more light than is naturally available, Flowers installed a system to provide needed light during normally dark periods. The light was extremely bright, casting a glow far beyond Flowers' property.

Flowers was successful in its business, but became concerned as the suburban area around Urbania expanded and as houses were built closer and closer to its greenhouse. Flowers decided to put up signs all around its property warning prospective residents of the light created by the business.

Harry saw Flowers' signs when he was thinking about buying one of the nearby residences, but figured that the light could not be that bad. He subsequently purchased and moved into an expensive new home, much like all the others in the area, on the street directly facing Flowers' greenhouse. After having lived there three months, Harry decided that he could not tolerate the light coming in his windows 24 hours a day. He has asked Flowers to turn off the lights, and Flowers has refused, arguing that its facility is completely up to industry standards, that there is no way to continue the business without the light, and that Harry knew about the issue when he bought the house.

1. What tort claims can Harry reasonably bring against Flowers? Discuss.
2. What remedies can Harry reasonably seek? Discuss.

QUESTION 2

Will asked Steve, a professional assassin, to kill Adam, a business rival, and Steve accepted. Before Steve was scheduled to kill Adam, Will heard that Adam's business was failing. Will told Steve that he had changed his mind and no longer wanted him to kill Adam, but Steve responded that he was going to kill Adam anyway.

Steve assaulted Adam late at night on a dark, deserted street. Adam resisted so vigorously as to put Steve's life at risk. Steve finally overcame Adam's resistance and succeeded in killing him.

1. What charges can reasonably be brought against Steve? Discuss.
2. What charges can reasonably be brought against Will? Discuss.

QUESTION 3

Jane, a babysitter, took three 6-year-old children—Abe, Betty, and Carl—to the playground.

Abe ran through flower beds bordering the playground. Gary, a groundskeeper, yelled at Abe, “Hey, get out of the flower beds!,” and threw a rock at him. Abe ducked, and the rock missed him.

Betty climbed the ladder at the back of a metal slide manufactured and sold by Slideco. The surface of the slide became very hot on typical summer days. That day was a typical summer day and the slide’s surface reached a temperature of 140 degrees. As she went down the slide, Betty sustained burns on her legs.

Carl began to kick a soccer ball. Jane was too occupied texting on her cell phone to notice that Carl had kicked the ball into the street and was running to retrieve it. A motorist, who was driving 40 miles per hour despite a posted limit of 25 miles per hour, struck Carl and injured him.

1. Under what theory or theories, if any, might Abe bring an action for damages against Gary? Discuss.
2. Under what theory or theories, if any, might Betty bring an action for damages against Slideco? Discuss.
3. Under what theory or theories, if any, might Carl bring an action for damages against Jane? Discuss.

QUESTION 4

On February 1, Wholesaler called Manufacturer and ordered 100,000 widgets at \$5 apiece for delivery on February 8. Manufacturer, who knew that Wholesaler was buying the widgets in order to resell them to retailers, said, "It's a deal." Wholesaler immediately entered into contracts to resell them for \$15 apiece.

On February 2, Wholesaler sent Manufacturer a signed formal memorandum confirming the agreement and setting forth all its terms. In listing the terms, Wholesaler misstated the price as \$6 apiece and added an additional term—that any dispute was subject to binding arbitration.

On February 3, Manufacturer received and read the memorandum. Manufacturer was surprised by the arbitration term, which was rare in the industry. Manufacturer did not respond to the memorandum.

On February 8, Manufacturer discovered that the market price of widgets had climbed to \$25 apiece and refused to deliver them to Wholesaler. Although substitute widgets were available for \$25 apiece, Wholesaler did not have the cash or credit to buy them.

On February 28, Wholesaler sued Manufacturer for breach of contract.

1. Is Wholesaler likely to prevail in its suit? Discuss.
2. What remedies, if any, may Wholesaler reasonably seek? Discuss.