

June 26, 2012



California First-Year Law Students' Examination

Answer all four (4) questions

Time allotted: 4 hours

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

Chip, Inc. (“Chip”) manufactures computers. It uses a certain part—Part X—that can be manufactured by several companies, including Company A and Company B. It currently needs 1,000 units of the part. Company A, which had previously supplied the part, informed Chip that it was unable to do so.

On July 1, Chip sent a letter to the other manufacturers, including Company B, stating:

We are sending this order to several manufacturers. We will buy from the first manufacturer to commit itself to provide 1,000 units of Part X at \$20 each by July 31 on the terms specified in this order, provided the commitment is made to us by July 8. We are aware that, because of the nature of the part, we cannot expect you to warrant it against manufacturing defects.

On July 3, Company A told Chip that it might be able to supply 1,000 units of Part X after all. Since Company A was Chip’s preferred manufacturer, Chip sent a letter on July 4 to the other manufacturers stating: “We may be in a position to obtain 1,000 units of Part X elsewhere. Please disregard the letter we sent on July 1.”

On July 7, Company B delivered a letter to Chip stating: “We accept your offer and will supply you with 1,000 units of Part X by July 31 on the terms specified herein. We warrant the part against manufacturing defects.”

1. Does Company B have a contract with Chip to supply 1,000 units of Part X? Discuss.
2. Assuming that Company B does have a contract with Chip to supply 1,000 units of Part X, does the contract contain a warranty against manufacturing defects? Discuss.

Question 2

Van is short and small. One day, as he was walking down a street near his office, he was suddenly grabbed by Abe and Bob, who were each much taller and larger than he, and was dragged into an alley. Abe and Bob beat Van severely with brass knuckles and took several items from him, including a ring. Charles had been standing nearby watching the attack. After the attack, Abe and Bob gave Charles the ring they had taken from Van.

Van was traumatized by the attack, and decided to carry a knife for protection.

Not long after the attack, Van was walking down the street near his office when he saw Abe walking toward him. He suddenly felt fear and rage. He quickly pulled out his knife and held it behind his back. Not noticing Van, Abe put his hands into his pocket. Van believed Abe was reaching for his brass knuckles. Van immediately stabbed Abe, killing him instantly. In fact, Abe had been reaching for a bus pass, not brass knuckles.

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

Question 3

Superstore is a 24-hour grocery store. For safety reasons, Superstore has installed bright lights in its parking lot that turn on in response to loud noises. The lights turn on several times a week, especially during the night, and have caused neighboring homeowners to complain of loss of sleep and various adverse health consequences.

One night, Ned and Carl exited Superstore, each carrying a heavy bag. Ned is the publisher of a local newspaper and Carl is a business consultant. As they exited, they accidentally bumped into each other, each causing the other to drop his bag and spill its contents. A loud argument ensued. Ned took several steps toward Carl; Carl threw an orange at Ned and grazed his pant leg without injuring him; and Ned punched Carl in the stomach. The loudness of the argument caused the lights in the parking lot to turn on. Soon, a Superstore security guard arrived and restored order.

The next day, Ned published an account of the incident, calling Carl a “coward and a liar.” Carl experienced a substantial decrease in business consulting thereafter.

1. What tort claim or claims can Ned reasonably bring against Carl, and what defense or defenses can Carl reasonably raise? Discuss.
2. What tort claim or claims can Carl reasonably bring against Ned, and what defense or defenses can Ned reasonably raise? Discuss.
3. What tort claim or claims can the neighboring homeowners reasonably bring against Superstore? Discuss.

Question 4

After dinner, Alvin felt ill. Although he thought he might have indigestion, he was short of breath and was experiencing chest pains, well-known symptoms of a heart attack. He drove himself to the emergency room at a local hospital.

At the emergency room, Alvin described his symptoms to Nick, an experienced screening nurse. Donna was the physician on duty. She had already worked a fourteen-hour shift and was eager to go home. Without examining Alvin, Donna concluded that he had indigestion, relying on Nick's statement of his symptoms. She sent him home, recommending that he take some bicarbonate of soda.

On the drive home, Alvin collapsed behind the wheel of his car. He veered into oncoming traffic, struck a truck, and died instantly. If Alvin had been examined by Donna, he would not have collapsed behind the wheel of his car.

With what crimes, if any, can Donna reasonably be charged? Discuss.