SCHOOL OF LAW

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EXAM ID _____

Law 510-003 Torts
Fall 2013

UNM School of Law
Final Examination

Professor C. Carey
Wed. December 4, 2013
Time: 180 minutes (3 hours)

Professor's Instructions

Examination Format: Essay

You have **three hours** to complete this final examination. There are **three questions**, and each question is worth one-third of your final examination grade.

This is an **open book** examination.

If there are any ambiguities as to law or facts, please state what you would need to know and proceed with your analysis.

You will be evaluated on the strength of your analysis and the thoroughness of your answers.

If you write in a blue book, please write on only one side of each page.

Good luck!

The UNM School of Law Student Code of Conduct (Honor Code) applies to this exam.

If needed, Bluebooks will be provided by the proctor. For Bluebook use, see the essay technical instructions below.

Essay Technical Instructions

Bluebooks: Use black or blue ink only. Write on every-other line and only on the front side of the page. On the front cover of each bluebook record the class name, professor, date of exam, and your examination ID number. Make sure to number each bluebook in order (i.e. 1 of 3, 2 of 3...). **DO NOT WRITE YOUR NAME ON BLUEBOOKS.**

Exam4

1. Log off all programs that you are currently running or have opened!
2. Start the Exam4 program.
3. Make sure "Prepare to start new exam" is marked and click, "Next."
4. Enter your "Exam ID" number and confirm it.
5. Click the drop box next to "Course" and select your course and professor and confirm. Click, "Next".
6. Optional choices screen: you can change these options please do so. If not, click "Next".
7. Notice: If you have a problem you should not turn off or restart your computer before contacting a proctor. Check the box "Got it" and click, "Next".
8. Type "Closed" for exam mode, check the box to confirm and click, "Next".
9. at this point Exam4 will indicate "Wait!" in the lower right side of the screen. WAIT!
10. The proctor will tell you when to click "Begin Exam."
11. A "Security Check" to scan your computer will run. Please be patient. It should disappear within a short period of time. If not, please exit the room and see a proctor (take your computer).
12. Reminder: Use the Tools menu and select "Insert Answer Separation" for a page break.

ALL EXAM TAKERS

If you have any questions or feel the need to explain/clarify your interpretation/understanding of the question being posed by the professor, please write them on the exam (do not sign your name). If you have an emergency, procedural question, or issue that occurs during this exam period, **do not contact the professor,** please contact the Proctor (during exam) or the Registrar's Office (after exam) at 277-2146/2147 or jackson@law.unm.edu or mcfarling@law.unm.edu

You may not make or keep a copy of this exam!

You are required to return it at the end of the exam.

A **five-minute warning** will be given prior to the conclusion of the examination. When time is called, **STOP immediately**. When time is called, immediately stop typing and proceed to save the exam. Select "End Exam", End Exam Now from the menu bar. Confirm that you want to end the exam. Select Submit Electronically and follow either the Mac or Windows user directions below:

MAC Users

- Wait for the airport icon to indicate you have reconnected to the wireless network.
- If the "Check Network Connection" displays, select OK.
- Use your Airport to connect to Lobo-Guest, Lobo-Wi-Fi, or Lobo-Sec.
- Authenticate using your browser (as appropriate).
- Return to Exam4 and select Exam4 Save Options, then Submit Electronically.

- You will receive a confirmation that your exam has been saved successfully. Click I understand and OK.
- Exit the exam by selecting Exam4 Save Options, then Exit.
- If the exam did not submit electronically, reconnect to either Lobo-Guest, Lobo-Wi-Fi, or Lobo-Sec network, making sure you authenticate as appropriate (open a browser and put in your NetID).
- Start Exam4 again. Choose Select existing exam, highlight the exam name, and click Submit Electronically. Click OK to accept the default Start Code.
- Click Quit exiting Exam4.If the exam still did not submit electronically, contact an IT proctor.

WINDOWS Users

- If the Status" window indicates a problem with submitting electronically (usually Error 12: No response), close the window using the Red X and select File and Save Options. Select Exit (don't worry...the completed exam is saved to your hard drive).
- The Check Network Connection" screen displays, select OK.
- Exit the exam by selecting File and Save Options, Exit.
- Connect to either Lobo-Guest, Lobo-Wi-Fi, or Lobo-Sec network, making sure you authenticate as appropriate (open a browser and put in your NetID).
- Start Exam4 again. Choose Select existing exam, highlight the exam name, and click Submit Electronically. Click OK to accept the default Start Code.
- Click Quit and exit Exam4.
- Click the verification options and/or OK until you return to Exam4. Select File and Save Options, Exit.
- If the exam still did not submit electronically, contact an IT proctor. Do not turn your computer off.

If you have not already done so, **complete the Exam Receipt** then Go to the Exam Check-in table.

[EXAM STARTS ON NEXT PAGE]

Question 1 (1 Hour)

Paula owned a large piece of property adjacent to a public park called Spruce Park. Both Paula's property and the park were heavily wooded. Paula, a curmudgeon and hunting enthusiast, hated it that members of the public sometimes would wander onto her land from the park. She had tried to obtain a building permit allowing her to construct a fence between the park and her property. The city denied her application for the building permit. Paula decided to take matters into her own hands. She set up a series of dangerous and effective spring guns on her property to catch intruders. Lucia, a lovely single woman in her early twenties, enjoyed nature. One day, while Lucia was happily strolling through Spruce Park, she wandered unknowingly out of the park and onto Paula's privately owned land. Tony, a friend of Paula's, was hunting on Paula's property with her permission. Tony hunted on Paula's property every Sunday during hunting season. At the same time, Archie, the six-year-old boy who lived on the property next to Paula's, was playing alone on Paula's property. Archie was carrying a loaded shotgun that his father Duncan had given him as a birthday present the day before. Lucia walked through some tall bushes toward an open field. Both Tony and little Archie saw the movement in the bushes, aimed their guns, and fired. By remarkable coincidence, one of Paula's spring guns was also set off at the same time and fired a bullet in Lucia's direction. Lucia was struck by a bullet. Archie, who was close to the bushes, ran over and saw Lucia lying there. Archie ran away. Then Tony walked over to the bushes to see whether he had shot a deer and was surprised to find Lucia lying on the ground. Lucia was conscious but had a wound in her right leg. Tony immediately called an ambulance using his cell phone. The ambulance took Lucia to the hospital where she was promptly and properly treated and released that same day. She did not miss any work and did not suffer anything more than minor inconveniences as a result of the incident. Available ballistics evidence is not determinative about the source of the bullet that struck Lucia. Discuss all possible tort claims presented in this scenario, including claims that you think would fail.

Question 2 **(1 Hour)**

Roger parked his car on a hilly street. He went into a nearby restaurant to meet his wife for dinner. While he was eating dinner, his car rolled down the hill. The car hit twelve-year-old Bobby who was carefully riding his bike down the hill toward his house. Bobby did not see the car coming and was hit in the street right outside his house. Bobby's parents Mary and Scott were inside watching TV when they heard Bobby scream. They rushed out of the house to find Bobby unconscious and bleeding in the middle of the street. Mary and Scott called an ambulance. Bobby died two hours later at the hospital. There was nothing that the doctors could have done to save Bobby's life. Meanwhile, Mary and Scott's neighbor George, unrelatedly, was moving out of his third-floor apartment. George had waited until the last minute to pack and move his belongings. George had rented a moving "pod," or a very large moving container that one packs oneself. He positioned the pod right below his window. Because he had so little time left to move, he threw items out of his window into the pod. Taking the items down the stairs and out to the pod would have taken much more time. He threw trash bags filled with clothes, household items, and some pieces of furniture out of the window and into the pod. When he threw a dining chair out of the window, it missed the pod and hit Frank on the head. Frank did not notice that George was throwing his possessions from the window and did not see the chair coming. Frank suffered a serious spinal cord injury that rendered him a paraplegic. Frank is still able to perform his job as an investment banker despite being in a wheelchair. He decided, however, that his injuries interfered with his ability to provide care to his twin five year-old girls, so he gave full custody of the girls to his ex-wife Sandy. Frank and the girls are very close. He misses taking them to the park and coaching their soccer team. Discuss all possible tort claims in the above scenario.

Question 3 (1 Hour)

Charles was incarcerated at the state prison. While incarcerated, he met regularly with Dr. Wilson, a psychiatrist employed at the prison. Charles revealed several times to Dr. Wilson his desire to kill his girlfriend "Patricia." Charles was released from prison two months early due to his good behavior during his incarceration. The night of his release, around midnight, Charles went to his girlfriend Patricia's house. The backdoor was unlocked. Charles went into Patricia's bedroom where he found Patricia and her three year-old daughter Amelia fast asleep in Patricia's bed. Charles began yelling loudly. Both Patricia and Amelia woke up. Patricia was shocked to see Charles because she thought he was still incarcerated. Charles was storming around the room with his face red and his hands made into fists. He screamed, "You didn't even come see me once while I was in the pen. I'm going to make you pay for that." He rushed over to the bed and began beating Patricia. Amelia, who had been hiding under the covers, screamed and ran out of the bedroom. The beating continued for several minutes. Patricia finally managed to get away from Charles. She grabbed Amelia and ran from the house. She called the police from a neighbor's house. The police came quickly and arrested Charles. He is currently in jail. Patricia and Amelia are staying in a shelter. Patricia was severely injured as a result of the incident. While the doctors expect that Patricia's injuries will heal, she has accumulated $35,000 in unpaid medical bills. She is currently unemployed so she didn't miss any work. Both Patricia and Amelia are seeing a therapist about the trauma from which they continue to suffer as a result of the incident. They are both having trouble sleeping, suffering from nightmares, and on constant alert. Patricia has developed ulcers, and Amelia has started to lose some hair. Discuss all possible tort claims in the above scenario, including claims you think would fail.

[END OF EXAMINATION]