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Exam No. _____

Torts 510-001
Fall 2016

UNM School of Law
Final Examination
Three Credits

Professor Camille Carey
Thursday, December 14
1:00 - 4:00 p.m. (3 hours)

Professor's Instructions

Materials Allowed: This is an open-book exam. You can use your casebook, notes, outline, or other written materials you have prepared. You may not use commercial outlines.

General Instructions: You have **three hours** to complete this final examination. The exam consists of 40 multiple choice questions, worth one-half (1/2) of your final exam grade. You should spend 90 minutes on this portion of the exam (or approximately 2 minutes per question). **Do the multiple choice questions first.** There are two essay questions that constitute the other 50% of your final exam grade. You should spend 60 minutes on the first essay question and 30 minutes on the second essay question. The first essay question is worth 35% of your final exam grade, and the second essay question is worth 15% of your final exam grade. **Do the essay questions after you have finished the multiple choice questions.**

Essay Instructions: You should organize your answer in a logical manner. You will receive points for issue spotting, giving complete rules, and providing thorough and correct analysis. If there are different jurisdictional approaches, analyze the issue using all of the major jurisdictional approaches. If there are any ambiguities as to law or facts, please state what you would need to know and proceed with your analysis. Be sure to apply law to facts rather than just stating conclusions. If you write in a blue book, please write on only one side of each page.

Good luck!

Essay Question 1 (60 minutes)

StopShop is a small, neighborhood grocery store in a mid-sized city. StopShop is owned by Owen Dingle. Clark works full-time as the cashier at StopShop. Bubba lives in the neighborhood and comes into StopShop regularly. He's schizophrenic but lives on his own. Everyone in the neighborhood knows that something is up with Bubba. Children are told to stay away from him because he sometimes acts erratically. Last year, Bubba came into the store and threateningly waved his Swiss Army knife at Clark. One morning, Bubba made his usual stop into Stop Shop and started wandering up and down the aisles. Clark noticed that Bubba was especially agitated that morning. Pierre, a French tourist, came into StopShop looking for a baguette. As he was surveying the bread aisle, finding only Wonderbread, Bubba approached Pierre. Just as Pierre looked up, Bubba punched Pierre right in the nose. Pierre, knowing that Americans frequently have guns, took off running. As he was approaching the front door, he slipped on a puddle of water leaking from the ice machine that was near the cash register. Clark immediately calls an ambulance and the police.

Pierre suffers from a broken nose and a broken arm. The ambulance takes Pierre to the hospital where he treated and released. He incurs \$6,000 in medical expenses and an ambulance bill in the amount of \$1000. Pierre, a single childless aspiring author, does not miss any work because of his injuries. This experience has ruined Pierre's trip to the United States, which had been his lifelong dream.

Please address all tort claims that arise in the scenario above.

Essay Question 2 (30 minutes)

Yvonne read a restaurant review in the newspaper about Randy's, a casual American eatery. She decided to go for lunch one Sunday. When she arrived, she noticed several patrons in the outdoor seating area with their dogs on leashes. Being severely allergic to dogs, Yvonne chose to eat inside the restaurant. Wendy the waitress came to take Yvonne's order. Yvonne ordered a Veggie Supreme Salad. Wendy then went outside to wait on tables there. A customer had brought her extremely friendly and furry Saint Bernard Duddly who had just had a good roll in dog waste at the dog park. Wendy loves dogs, and despite Duddly's straggly appearance, happily gave Duddly a big belly rub. Wendy went back to the kitchen and gave her hands a quick squirt with hand sanitizer before grabbing Yvonne's order and utensils. She dropped these things off with Yvonne, and Yvonne greedily ate her lunch. The next day, Yvonne became violently ill with bloody diarrhea. She went to the hospital where she was diagnosed with E. coli infection. The incubation period for E. coli infection is as little as one day.

A statute in the jurisdiction reads as follows:

15. Pet dogs in outdoor dining areas; requirements.

A. food service establishment may allow pet dogs in designated outdoor dining areas of the establishment if the following requirements are met:

- (1) no pet dog shall be allowed in any area where food is prepared;
- (2) patrons shall keep their pet dogs on a leash at all times and keep their pet dogs under reasonable control; and
- (3) pet dogs shall not be allowed on chairs, tables or other furnishings.

B. employees shall:

- (1) wash their hands immediately after touching, petting or otherwise handling pet dogs; and
- (2) immediately clean up accidents involving pet waste and sanitize the area.

Please analyze Yvonne's potential negligence claim against the restaurant. This jurisdiction follows Negligence Per Se Light rules. Do not address scope of liability, damages, or defenses.