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Torts 510-001
Fall 2019

UNM School of Law
Final Examination
Three Credits

Professor Camille Carey
Wednesday, December 4
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 41 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 is one essay question that constitutes the other one half (1/2) of your final exam grade. You should spend 90 minutes on this portion of the exam. **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 (1.5 hours)

Ed works part-time at Holiday Bowl, a bowling alley. He is a 16 year-old junior in high school and works on nights and weekends. He has a wide range of responsibilities, including cleaning and maintaining the interior of the bowling alley. One Saturday morning, Ed's shift at the bowling alley was from 6 a.m. to 10 a.m. His tasks for the morning included cleaning and waxing the floors. Whenever employees did this kind of work during business hours, they would do so in parts of the property that were not occupied by patrons and section off the areas with orange cones. Ed did numerous chores and then swept the floors. As he was preparing to wax the floors, he looked out the glass double doors into the parking lot. He saw Denise, a high school senior on whom he had a serious crush. Denise was hanging out in the parking lot with two of her friends. Eager to leave work as soon as possible, Ed decided to wax the floors with bowling lane wax instead of regular floor wax. It would only have taken Ed two minutes to walk back and forth to the cleaning supply closet to get the regular floor wax. Instead he waxed the floors with super slippery bowling alley wax and rushed outside to flirt with Denise.

Kim participated in a bowling league every Saturday morning at Holiday Bowl. She and her teammates arrived at Holiday Bowl excited to bowl. She noticed that Ed was waxing the floor nearby. About 20 minutes into her game, Kim started to feel very lightheaded. Unbeknownst to Kim, she has a severe allergy to an ingredient used in bowling alley wax. As Kim was about to roll her ball down the alley toward the pins, she passed out, dropping the bowling ball on her right foot. Her right foot was shattered by the ball. Bowling alley wax is notoriously toxic, and most bowling alleys only use it while the bowling alley is closed and with excellent ventilation. A staff member at the Holiday Bowl promptly calls an ambulance for Kim. Kim has surgery to repair her foot. She is on crutches and has to wear a surgical boot for six weeks. She is a waitress at a diner and has to miss four weeks of work because of her injury.

The next day (Sunday), Hal and Wanda, a married couple, go to Holiday Bowl to eat lunch and play a couple of games. Hal is very particular about bowling balls and goes up and down the rows looking for the ideal ball to use. Meanwhile, Wanda is inputting their names into the bowling auto scoring machine. Hal picks up a bowling ball and slips on the floor where Ed waxed it with bowling alley wax. Hal falls hard, cracking his head open on the concrete floor. Wanda hears Hal scream and hears the "thunk" of Hal's head and Hal's ball hitting the floor. She rushes over to find Hal passed out in a pool of blood. Wanda immediately calls an ambulance. Hal is in a coma in the hospital for six months. After he comes out of the coma, he is released from the hospital and returns home where Wanda cares for him. Hal suffers a traumatic brain injury and is a paraplegic as a result of the fall. He is unable to return to his job as a plastic surgeon.

Rupert is the owner of Holiday Bowl. Several employees of Holiday Bowl had put notes on Rupert's desk telling him that patrons had been slipping and sliding on the improperly waxed floors. Rupert hasn't read the notes.

Discuss all viable tort claims and defenses in the above scenario.