

Memorandum to Students

Exam Prospectus Torts II

Spring 2018

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1. OVERALL POINTS

Purpose: I am writing this document to give you specific information that will help you prepare for and know what to expect on the Spring 2018 Torts II final exam.

Fairness: My paramount value in designing and grading the exam is fairness. Over the years, I have thought long and hard about how to make exams and grading more fair, and you will see the product of that reflection in this memo. As a whole, this memo is intended to eliminate the potential for surprise on the exam by disclosing as much as I can about the exam in advance.

My goal and your goal: Your goal in taking the exam is to show your mastery of the material presented in the course and your skills in analyzing legal problems involving the course's subject matter. My goal in designing the exam is to provide you with a full and fair opportunity to do so and to avoid arbitrariness in the results.

Now for some details.

2. PARAMETERS (SECTION 10 OF THE SYLLABUS)

Section 10 of the syllabus describes the exam in considerable detail, including how it will be structured and administered. You should review it carefully. For your convenience, I reprint § 10 in its entirety here:

10. EXAMINATION:

10-1. Communications and Anonymity:

(a) **Ex Parte Communications:** I will not discuss the exam on an *ex parte* basis. (See §7-2, *supra*.)

(b) **Anonymity:** Each exam will be "blind graded," so that I will not know the identity of the student as I am grading her or his exam. You may not waive anonymity. Do not include your name in your exam response, and do not write your name on any exam materials, including the scantron answer sheet. Self-identification on the exam or otherwise compromising anonymity will presumptively result in a deduction from your exam grade and a referral for disciplinary action.

10-2. The examination will be administered in two parts.

(a) **Part I: Multiple Choice Questions**

(1) Part I of the exam, worth approximately two-thirds of the total exam grade, will consist of multiple-choice questions. The questions will include, but may not be limited to, bar-exam-style hypotheticals testing the application of law to facts, as well as questions that test literacy of pure law (e.g., legal doctrines and statutes) and understanding of relevant concepts of legal theory and scholarship.

(2) Part I of the exam will embrace subject matter across the entire course.

(3) Part I will be administered on a “closed-book” basis. That is, for Part I, you may not use or reference any materials at all, other than pencils, the answer sheet, and the examination booklet.

(4) Part I will be two hours and fifteen minutes (2¼ hours) in duration.

(5) Part I will consist of approximately 50 or so questions, and not more than 55 questions. A few of the questions in Part I may be “pre-test” questions, for which I will gather data, but which will not count in grading for this semester. Such pre-test questions will not be marked and you will not be able to distinguish them from the non-pre-test questions.

(6) All multiple-choice questions are written by me. None of the questions used on the exam will be questions that have been previously released.

(7) At least some of the multiple-choice questions may be questions that have been used by me in a previous semester, but which have remained unreleased.

(8) A word about the re-use of multiple-choice questions: Re-use of multiple-choice questions is standard in higher education, and the practice permits better exam quality and better calibration of the results. This is not trivial: The statistical data that results from a multiple-choice test administration is quite rich, suggesting which questions are good, which should be revised or thrown out, and which might serve as models for building new questions in the future. Using this data in a careful way helps me improve multiple-choice tests from year to year. That makes exams more fair – and fairness is my ultimate aim in designing examinations. There is, of course, a downside to reusing questions, which is the possibility that some questions may be leaked to some students. I take appropriate steps to prevent the dissemination of unreleased questions. But bear in mind that the security of multiple-choice questions is not just a matter of faculty and staff responsibility; it is a matter of student responsibility as well. If you are aware that detailed information about or copies of unreleased questions are circulating, please let me know. Informing me will allow me to (1) refrain from using the compromised questions on the exam, and (2) release those questions to the public exam archive so that everyone can study from them.

(9) Be aware that the use of unreleased exam materials – whether photocopied, roughly transcribed, or otherwise – as part of your preparation for the exam constitutes academic dishonesty. Moreover (not to put too fine a point

on it) reproducing or trafficking in unreleased questions is civilly actionable. If you find, receive, or are offered unreleased questions, be responsible and act promptly to ameliorate academic unfairness by letting me know; I will pursue no action against you in this regard if you make timely notice to me, which may be made anonymously, specifically identifying the materials, preferably by submission of a copy. The notice is timely if (i) it is near the beginning of the semester, (ii) it is reasonably soon after you come into possession of the materials and there is enough time to prevent such questions from being used on the exam and to release them to the class for their meaningful use in studying, or (iii) it is immediately upon coming into possession of the materials.

(10) Also be aware that a crucial part of exam security is the numbering of exam booklets and the marking of booklets with students' exam identification numbers. Booklets are clearly marked with a space for you to write your exam identification number. This is particularly crucial for Part I. Do not omit to do this, and do not omit to turn the exam booklet back in. An omission in this regard, even an innocent one, will be catastrophic for your grade, likely resulting in a failing grade.

(b) **Part II: Essay Response**

(1) Part II of the exam, worth approximately one-third of the total exam grade, will require a written response. This part of the exam will consist of one or more open-ended questions calling for a written essay response to a hypothetical fact pattern.

(2) Part II of the exam will be limited in subject-matter scope. That is, Part II will not be comprehensive in subject matter across the entire course.

(3) Part II will be administered on an open-book basis. You may bring with you any paper-based notes and books you like. But no electronic or interactive resources (such as a tablet computer, smart phone, etc.) may be used or referenced. You may, of course, use a laptop to write your exam in accordance with applicable policies, but you may not reference files stored thereon during the examination session.

(4) The total duration of Part II will be one hour and fifteen minutes (1¼ hours), divided up as follows: (1) a Reading-Outlining Period ("RO Period") of 30 minutes, and (2) an Exam-Writing Period ("EW Period") of 45 minutes.

(5) You may use the RO Period to read the exam booklet (that is, the facts and the question or questions), to take notes, to reference your outlines or books, and to outline your response on scratch paper. During the RO Period you may not begin recording the response upon which you will be graded. That is, if you are taking the exam on computer, you may not type any characters at all into the exam response file on your computer during the RO Period; and if you are taking the exam by handwriting, you may not make any mark in a blue book (that is, an exam-response booklet, which has sometimes been labeled as a "green book") during the RO Period.

(6) During the EW Period you are permitted to write your response. For the avoidance of doubt, it is acknowledged that during the EW Period you may also continue to do what is allowed during the RO Period (e.g., to refer back

to the exam booklet, reference your notes and books, etc.), including notes you created during the RO Period.

(7) Being able to write in a concise, focused, and organized manner is extremely important for the practice of lawyering, and it is important for the bar exam as well. Thus, a factor in grading Part II will be concision, focus, and organization in your written response.

(8) You will have the choice of typing or handwriting your response to Part II. The typing of exams will be in accordance with the School's policy for the use of computers to write exams.

(9) I do not re-use essay questions.

10-3. Toward the end of the semester, I may release an exam prospectus that provides additional information about the exam and how I recommend preparing.

10-4. My old exams should be quite useful to you in studying for and thinking about this semester's exam. You will find old exams in my Exam Archive, which is publicly accessible online. You will find a link on ericejohnson.com (or use the direct URL: http://ericejohnson.com/exam_archive/).

3. MAKE SURE YOU PUT YOUR EXAM ID NUMBER ON THE EXAM QUESTION BOOKLETS

It is crucial that you write your exam identification number in the space provided on cover page of the question booklet and that you turn the booklet back in at the end of the exam period. This goes for the multiple-choice-question booklet for Part I and the issue-spotter/essay-question booklet for Part II. And it is particularly crucial for Part I. See Syllabus § 10-2(a)(10). As I provided in the syllabus, "An omission in this regard, even an innocent one, will be catastrophic for your grade, likely resulting in a failing grade." Please don't forget.

4. TOPICS ON THE EXAM / HOW I WILL DESIGN THE EXAM

The best way for me to tell you what to expect is for me to tell you what I will draw from and what will constrain me when I write the exam.

The Correspondence Principle: The most important thing to me when I write an exam is what I call the Correspondence Principle. It is this: The emphasis on the exam will track the emphasis in class and in the readings. For example, if we spent little time on something in class and there was little or no reading on it, it would not be more than a trifling part of the exam, if even that.¹

Comprehensiveness: In keeping with the Correspondence Principle, I will strive to be very comprehensive in terms of the coverage of topics on the exam. I will use the syllabus and chart of assignments as a checklist. I expect to include, in some way, every topic that was substantially explored in class. Note, however, that I will not be trying to put every topic into Part II, the essay portion. The essay portion of the exam will most definitely not be comprehensive in itself. See Syllabus § 10-2(b)(2). When the multiple-choice portion and the essay portion are put together, however, they will provide a comprehensive exam on the material of the course.

Breadth and depth of coverage: Any material presented in class or in the readings is potentially fair game for the exam. But, in keeping with the Correspondence Principle, the emphasis given to topics will correspond to how much attention they received in class and in the readings. So, if some doctrinal point came up only in one smallish note appended to a case, then you can be sure that such a doctrinal point will not loom large on the exam. In fact, it won't even loom medium.

The multiple-choice portion will be purposefully designed to avoid testing you on obscure points. I design multiple-choice questions to be answerable through application of big, important concepts.

The essay exam will also be purposefully designed to avoid testing you on obscure points. That being said, I cannot guarantee that no obscure point will find its way onto the essay exam. Why not? There is always the possibility that some clever student will make a brilliant point regarding some tiny point of law, even if I never intentionally meant to include it. Such a possibility is a natural consequence of having an open-ended essay response. Obviously, I can't hold it against the clever student who sees something I didn't, and in such a situation I will happily award an extra point or two, although not a windfall.

So, the bottom line is, the more you know, the better, but do not obsess about trying to learn all the finer points. Prioritize your studying based on what I explain next.

¹ Keep the Correspondence Principle in mind when using old exams to study: Old exams correspond to old semesters. So you might see an old exam and think, gee, this old exam seems to be heavy on topic X, and that seems out of whack with this semester, since we barely spent any time on topic X. That's what happens as I adjust the course from semester to semester: Old exams will be, to varying degrees, out of whack with the current semester. Rest assured, however, that your exam will correspond to this semester.

The Focus List – what I will draw from in writing the exam: When I sit down to write the exam, in order to obey the Correspondence Principle, I will look for areas that were emphasized during our semester. To accomplish that, I will make particular reference to the following, which we can call the “Focus List.” This is where you should concentrate your studies:

- doctrine emphasized in the casebook’s explanatory text²
- doctrine that was the subject of extended discussion in a case we read
- problems from the casebook that we went over in class
- material and hypotheticals from slideshows posted to the class website
- the mindmap, particularly where it overlaps with the casebook

The main message is to not worry about small details. Instead, work on having a thorough understanding of the major concepts.

Note that I plan to use the problems from the book that we went over in class and the examples and problems from posted slides as inspiration in designing the hypothetical facts for the exam, but I will not re-use them. This means that some fictional events appearing in the exam may be loosely similar to, but not the same as, the facts from problems and examples. To put it another way, the problems and examples will give you a good idea of kinds of things you might find on the exam, but they would not represent an opportunity to draft portions of your essay exam answer ahead of time.

Jurisdictional coverage: You will not be tested on the law of any particular state, municipality, or circuit. Thus, you will not need jurisdiction-specific answers.

Kinds of questions (legal analysis, theory/policy, etc.): The exam is mostly about applying law to facts.

- The essay portion of the exam will call only for you to provide legal analysis (e.g., to analyze the parties’ legal positions, including possibly explaining how you would advise a client). There will not be a “theory” or “policy” type question that, for example, calls for you to provide arguments for a change in the law or analyze the law’s desirability. Nor will there be any history question.
- On the multiple-choice portion, the vast majority of questions will be of the standard type requiring you to apply facts to law. Beyond that, there might be a few questions of different types. You might see a question or so on theory in proportion to the time we spent on theory in the course. And you

² By “explanatory text,” I mean the part of the casebook that explains the law – the part I wrote myself. That is as opposed to the “readings” – the cases and other portions written by other authors.

might see a question or so that is simply about recall – for instance, about legal doctrine or a reading. As an example, sometimes in the past, I have included a question where I had a quote from a reading and students were asked to recall something about it, such as where the reading came from. It's possible I might do that again. But such recall questions, if they are included at all, will be very infrequent. And often when I have included such questions, I have designed them so that a conceptual understanding – one that goes beyond pure recall – will aid in guiding a student to the right answer. So, bottom line, you should concentrate your preparations on cementing your conceptual understanding that will allow you to apply law to provided facts.

5. NEGLIGENCE AND OTHER TORTS I TOPICS

Your Torts II exam will be written and designed to test material taught in Torts II in Spring 2018. It will not be designed to test negligence, strict liability, or products liability doctrine that was taught in Torts I.

That being said, Torts II is built on the foundation of Torts I. As you will have observed, all semester we have conducted class with the expectation that you learned the subject matter of Torts I. And on the Torts II exam, it is expected that you will have retained the basics of Torts I. Note, for instance, that negligence will have to be implicated in the Torts II exam, because that is the basis of recovery for plaintiffs under the Federal Tort Claims Act, which was subject matter for us in Torts II.

So, will re-testing Torts I material be an object of mine in designing the test? Absolutely not. But will negligence and other Torts I topics come up on the Torts II exam? Yes. So does that mean you should go back and study Torts I material? No – *unless* you find while studying for the Torts II exam that you are unable to understand something about the Torts II material because of a lack of understanding of foundational Torts I material. In that case, you might go back for a quick refresher.

6. MULTIPLE-CHOICE: ABOUT THE NUMBER OF QUESTIONS

I am designing the multiple-choice portion of the exam with the intent of giving you adequate time to read and analyze each question. I do not want time pressure to be a dominant factor. In this regard, I am informed by feedback I have gotten on past multiple-choice exams, and I endeavor to have things calibrated so that students will have the time they need to get through everything in a careful, thoughtful way.

For Spring 2018, you will have 2¼ hours (135 minutes) for a maximum of 55 questions, which means at least 2.45 minutes per question. Note that this is considerably more time per question than the multiple-choice portion of the bar exam, which provides an average of 1.8 minutes per question.

In further pursuit of alleviating time pressure, I intend to additionally reduce the amount of material you will deal with per unit of time by keeping in check question length and/or question size. So, if I include the maximum of 55 questions, I'll work to make them shorter on average. If I feel that they tend toward the longer side, I'll include fewer of them.

All that being said, the time you will have to answer multiple-choice questions is not unlimited, and you should pace yourself.

I may include a chart to help you with pacing, such as this:

Pacing chart: To finish all questions and have 10 minutes left over, then:					
At this time since starting:	0.5 hours	1 hour	1.5 hours	2 hours	2 hrs 5 min.
Be done with question no.:	12	24	36	48	50

It is my strong wish that no one does poorly on the exam because of time-management problems. So please stay aware of the time, and keep yourself on track.

7. MULTIPLE-CHOICE: FORMAT, SCORING, AND STUDY MATERIALS

The multiple-choice portion of the exam will be similar in format to my past multiple-choice exams and to the midterm quiz you took. It will look very familiar.

Each multiple-choice question will be worth one point. The exception would be if I include one or more "pre-test" questions (Syllabus § 10-2(a)(5)) or throw out a question because of error or irregularity. In such a case, the affected question would be worth no points.

There will be no penalty for incorrect answers. So if you don't know the answer to a question or run out of time, you should guess.

My Exam Archive³ has all my publicly released multiple-choice questions. I have separated out the questions useful for studying for this semester and put them in separate documents, one titled "[Special Study Set of 'Most Useful' Questions for Torts II for Spring 2018,](#)" along with [answers](#), and one titled "[Special Study Set of 'Less Useful' Questions for Torts II for Spring 2018,](#)" along with [answers and selected explanations](#).

My reason for separating out questions into a "Most Useful" set and a "Less Useful" set mostly has to do with the fact that I have shifted topics around between Torts I and Torts II in the past. That means that past questions don't separate out cleanly into Torts I or Torts II questions for the 2017-2018 school year. As just one example, there are questions that combine intentional torts and strict liability – because in past years those topics were both covered together in Torts II. So while such questions are not ideal practice questions for Torts II

³ To get to my exam archive, there is a link from my home page. Or you can go directly to http://www.ericejohnson.com/exam_archive.html.

Spring 2018, they still have some usefulness; thus I put them in the “Less Useful” set. I also, for instance, included in the “Less Useful” set Question No. 37, which is squarely within the subject matter for the current semester, but which just isn’t a great question, for reasons I discuss in the explanations on the answer sheet.

Bottom line: I strongly recommend you do the “Most Useful” question set, but I also recommend you do the “Less Useful” set, just keeping in mind the context.

It is very important to note that neither of the special study sets of released multiple-choice questions are balanced in terms of subject matter so as to match the balance of subjects for any particular semester, much less this current semester. In other words, you should not take the frequency of questions on particular subjects in the sets of released questions to be a clue as to the frequency with which subjects will come up on the multiple-choice portion of your exam. Again, your exam will obey the Correspondence Principle.

8. MULTIPLE-CHOICE: HOW TO TACKLE MULTIPLE-CHOICE QUESTIONS

I have written an entire memo on how to tackle multiple-choice questions. It’s called [How to Take a Multiple-Choice Exam in Law School](#). There’s a link on the class webpage and in the Exam Archive. I strongly recommend that you read it as part of your studying. As I emphasize in that memo, I write multiple-choice questions with fairness as my chief goal. Thus, I seek to avoid tricky questions. Instead, I try to draft questions so that if you know the material I’m testing, finding the right answer should be straightforward.

9. ESSAY: FORMAT AND STUDY MATERIALS

Format basics: Your essay exam will be in the 30/45 format, with a 30-minute period for reading and outlining (RO Period) and a 45-minute period for writing your response (EW Period).

If you haven’t already done so, please carefully review Syllabus § 10-2(b), which describes the format in depth.

Comparison to Older Exams: Since I hope you will be exploring the Exam Archive to look at old essay questions, you should know that I started using the 30/45 format Spring 2017, for Torts II. Prior to 2017, Torts I essay exams were very long—in recent years three hours. And they were sprawling in terms of facts and very broad in terms of subject-matter coverage. Relative to these older exams, your exam will be shorter and noticeably narrower and more focused in terms of subject matter.

Yet barring those differences, which are important, Part II will be otherwise similar to essay exams I’ve given in the recent past. So I very much recommend doing my old torts exams as practice.

The kind of fact patterns I tend to write: I try to make my exams interesting and engaging. They almost always have pictures, and sometimes other things like diagrams, sidebars, and the like. In comparison to other law-school exams, you may find that my exams have more narrative, plot, character, and backstory. And even with the new, shorter 30/45 exam format, the essay facts will have a higher level of embellishment than what you would see most other places.

As a practicing lawyer, I found that real-life cases are heavy on drama and narrative detail. So I have strived to include the same in my exams. In my view, this gets the exam closer to the real-life practice of law. I also hope building exams this way makes them more engaging for their retirement years when they are used as study aids.

A consequence of my writing exams as I do is that the exams end up containing factual details that, while useful for holding the story together, are not fulcrums for the legal analysis. So, for instance, sometimes photos or graphics offer something useful to the legal analysis, but sometimes they are just decoration. A student once asked me, pointing to a sentence in one of my old exams, "I know that every single sentence in a law school exam is put in there for some reason, so why did you put this sentence in the exam? How does it change the analysis?" Well, my exams aren't like that. There will be various details that don't matter to the analysis. This is the way facts come to your desk in real life: Some are very significant, some are merely useful, others are irrelevant. I aim for my exams to be similar to real case-files in this sense.

Be aware of the call of the question: In keeping with the shorter-format 30/45 essay exam, I will be narrowing the ground for your answer and channeling your analysis to answer particular questions. So make sure to read the call of the question carefully. For instance, I might instruct you to omit discussion of a certain claim, or omit discussion of one or all affirmative defenses. Similarly, I might instruct you to make sure you address some particular issue or aspect. If I provide such instructions in the call of the question, be sure to heed them. I won't take away points for your discussing something I said not to discuss. But I cannot and will not be providing credit for analysis I ask you to exclude. And going off into excluded subject matter will necessarily squander your time, lessening your capacity for doing the analysis I've asked you to do. In fact, a number of students in Fall 2017 Torts I would likely have done a bit better on the exam if they had just been more careful in heeding the call of the question. I know that exam-taking can cause anxiety and that students inevitably feel rushed. I understand that makes it hard to focus on things like the call of the question. But it would not be fair for me to give one student points for talking about something that other students didn't discuss because they were following my specific instructions. So force yourself to pay attention to the question and my specific instructions about how to answer it.

Organization, separated questions, etc.: Organization is important. To help on that front, I will likely prescribe that you organize your response in a

certain way. I may require a response broken up into distinct questions and/or distinct subparts. See *Pinnacle Peak* and *Fatal Death* in the Exam Archive⁴ for examples. By requiring all exam responses to adhere to the same format, I can grade all the exams in the same way, which helps me to be as fair as possible. And fairness is my paramount goal.

The different questions and/or subparts are not separately weighted. The entire essay response will be graded as one. So answer all portions completely, spending relative amounts of time on them as appropriate.

Old essay exams you can use for practice: There are multiple exams posted to the Exam Archive in the 30/45 format, including two for Torts II: *Fatal Death* and *Pinnacle Peak*. Just note that because of recent adjustments to the distribution of topics among Torts I and Torts II, both *Fatal Death* and *Pinnacle Peak* each are 50% material that is not part of Spring 2018 Torts II. (Your exam, of course, will just be on Torts II material.)

You should definitely use old essay exams in the longer format as practice for the Spring 2018 Torts II exam. Topic coverage will not be identical to past semesters, but all the posted Torts II essay exams in the Exam Archive offer you a great opportunity to practice applying Spring 2018 Torts II material. Old Torts II exams that are great for active studying include: *Mammoth Gardens*, *The Voyage of Captain A. Von Shure*, *Kung Fu Car Wash*, *Secret Agent Bride*, *Buckaroo Gulch*, and *Atomic Avalanche*. I also recommend that you try your hand at *Coulisse Canyon*, but note that it includes within it the facts of *Pinnacle Peak* and thus is partially duplicative. Note that both *Coulisse Canyon* and *The Voyage of Captain A. Von Shure* have model answers.

Also, because of the changing distribution of topics among Torts I and Torts II, it works out that there are some Torts I essay exams you can use as practice for current Torts II material. Notably, intentional torts issues are implicated in *It's On In Hong Kong* (Torts I 2016 Final), *Lucky Lagoon* (Torts I 2015 Final), *Drones* (Torts I 2014 Final), and *Ye Olde Sawmill* (Torts I 2007 Midterm). And note that there are posted model answers for *Lucky Lagoon* and *Drones*, as well as an evaluation memo for *Ye Olde Sawmill*.

10. ESSAY: THE 30-MINUTE READING/OUTLINING PERIOD

As already mentioned, the administration of the Part II essay portion will start with a 30 minute period for reading and outlining (the RO Period). During this period you will not be able to start typing on your computer or writing in your bluebook.

It is my hope that the RO Period will push you read the facts and think through the analysis carefully and deeply, and that it will encourage you to not race ahead to put down in your response everything you can think of as fast as

⁴ Again that's http://www.ericejohnson.com/exam_archive.html.

you can think of it. So, during the RO Period, you should read the facts carefully, scratch out an outline, and be alert for difficult bits that will require deft handling in the analysis.

Note that you would be within the rules to start writing your response on scratch paper during the RO period and then spend part of the EW period copying what you've written on scratch paper into the computer response file or into your bluebook – but this would be a terrible idea! Please take advantage of the RO Period to do careful and deep issue-spotting and analytical thinking. I am confident doing so will get you a much better result.

11. ESSAY: ABOUT THE LENGTH OF YOUR ESSAY RESPONSE

There will be no word limit. But concision will be valued. I urge you to use your time to think carefully and thoroughly rather than trying to throw as many words onto paper as possible.

For instance, note that the model response for Pinnacle Peak is only 729 words, and it is a top-flight response – yet even then it could probably be cut down without losing points.

Bottom line, I strongly believe you'll do better if you concentrate on quality rather than quantity.

12. ESSAY: ABOUT THE OPEN-BOOK NATURE OF THE ESSAY PORTION

I understand some instructors allow students to bring to the exam only the assigned textbook or only materials that the students, themselves, have authored. Let me be clear: There is no such requirement in this class. For Part II, you can bring in any material on paper that you wish.

Non-paper materials, however, are not permitted. That means no electronic or interactive resources (such as a tablet computer, smart phone, etc.) may be used or referenced. You may of course use a laptop running exam software to write your exam (and I recommend this), but you may not reference files stored thereon during the examination session.

13. ISSUES WITH TEXT: REPEATING, WRITING, TYPING, ETC.

Here are some specific pieces of advice for your writing.

Repetition: Be complete, but avoid redundancy. Specifically, do not repeat the exact same analysis with substituted parties. I will not give double the points for the same content that appears twice. (Along these lines, computer users should probably avoid the copy-and-paste function.) Instead, to the extent called for, you may incorporate analysis by reference to another portion of your answer. For example, it would be appropriate to say something like, "The analysis with regard to Party B is the same as that for Party A, except that _____."

Spelling, grammar, etc: There are no points to be won or lost for spelling, grammar, or stylistic aspects of writing, so long as I can understand what you are saying. If grammar or spelling issues render text ambiguous, then it's a problem. But not otherwise. Substantive content is what matters.

Abbreviations: I likely will include in the exam a table of pre-defined abbreviations for you to use in your response, if you like. Again, examples can be found among my more recent exams in the Exam Archive. Feel free to use other reasonable abbreviations as well; although if they are not completely obvious, you should define them the first time you use them.

Computer-typed exams: Don't worry unduly about typos. As long as I can understand what you are saying, you're fine. There's no premium on prettiness.

Handwritten exams: If you are handwriting, please write only on one side of the page in your bluebooks and use a blue or black pen. Skip lines. Finally, I cannot grade what I cannot read, so be sure that your handwriting is readily legible. (If you're on the fence about whether to type or handwrite, go with typing—it ensures that legibility won't be an issue.)

14. ESSAY: WHAT MAKES FOR A GOOD ESSAY RESPONSE

I have written an entire memo on what makes for a good essay response. It's called [Tip Sheet on How to Write a Law School Essay Exam](#). The class webpage and Exam Archive link to it. You should scrutinize it: It tells you exactly how to maximize your grade by providing solid legal analysis. Another document I've written to help you understand what makes for a good essay response is [Three Examples of Exam Writing](#). There is a link to this one, as well, on the class webpage and in the Exam Archive. I strongly recommend reading these documents as exam preparation.

Another resource you might take a look at is an exam writing exercise I did in class in Fall 2016: [Gerald v. Stephen, Exam Writing Exercise - In-Class](#). It contains multiple examples of exam writing for an intentional torts issue.

15. OVERALL THOUGHTS ON STUDYING; YOUR STUDY PLAN

Documents on exam technique: The most important thing in studying is to prepare for what you need to do on exam day. That means first of all to know what you are doing in terms of exam-taking technique. For that, use the documents I've provided (which I've already referenced above): *Tip Sheet on How to Write a Law School Essay Exam*, *Three Examples of Exam Writing*, and *How to Take a Multiple-Choice Exam in Law School* (links on the class webpage, in the Exam Archive, and above). Then, when studying the content, concentrate on the Focus List (in §4, above). And throughout your preparations, you should bring exam-writing technique and substantive knowledge together by working through old exams from the Exam Archive. I particularly recommend trading your responses with classmates: That is an extremely effective way to find your weaknesses and

strengths, and reading various student responses can allow you to start to develop something of a graders' perspective.

And, of course, do old multiple-choice questions.

Wypadkis: Be aware that I have made available for you all the wypadkis – class-wide group outlines – from prior semesters. There are links on the class webpage. You should feel free to use them as you see fit. You can use them as is, use them as the basis for your own outline, use them to fill in holes in your outline, or you can just ignore them.

Torts Lightning Review Audio: Be aware that in Summer 2017, I made an audio recording and accompanying slideshow for rising 2Ls, rising 3Ls, and recent grads to help refresh their recollection about tort law and to help bridge their knowledge to the bar exam. The coverage is not a perfect match, and it may or may not be useful to you in studying. But I mention it in case you have a long car ride coming up and don't want to stop studying while you drive. You can find it here: <http://ericejohnson.com/audio/>.

The benefits of a mini-outline or “menu outline”: I strongly recommend that you prepare a mini-outline or “menu outline” for the course. This document should be a very simplified list of what we learned during the semester – your quick-reference sheet for issue spotting on the essay portion. I keenly encourage you to use one page only for this. I emphasize this because, for an open-book exam, many students work to accumulate a huge volume of materials they can reference as they work. You need to decide what's right for you, of course, but I sometimes think this kind of accumulation provides a false sense of security. At any rate, the larger the volume of materials you have, the more important it will be to have an ultra-concise one-page outline to use as a ready reference.

Don't wait to do old exams: As I have said a number of times, I believe the best use of study time is doing old exams. If you don't yet have a completed outline and you haven't yet reviewed all the course material, consider letting those wait just a bit and getting your feet wet with an old exam as an active learning exercise. You might spend just an hour or less looking over the topics from the semester and then dive into an old exam. If you want to save for later the more recent exams, that's fine; pick up one of the older exams. Try doing it without timing yourself, and just use it as a way to get your mind engaged in the task of analyzing facts using the law you've soaked up over the semester. I think that will help you stay focused on what matters once you turn to other modes of studying (reviewing, outlining, etc.). Then keep taking breaks to do more old exams. And also, of course, take breaks to just relax a little to maintain your sanity.

16. FEEDBACK ON PRACTICE EXAM ESSAY RESPONSES AND MULTIPLE-CHOICE QUESTIONS; TORTS I EXAM REVIEW

I am happy to do essay review or multiple-choice-question review in-person in the context of an office visit. But I do not do this over e-mail. By the same token, I remain happy to review your Torts I exam with you.

If you would like me to look over a practice exam essay response you have done, please bring a typed, printed copy of your exam response when visiting during office hours or during an appointment. I will look over it while meeting with you.

I am also happy to discuss, in the context of an office visit, your answers to released multiple-choice questions, including why the correct choice is the correct choice, etc.

If you have not yet done an exam review for your Torts I exam, I encourage you to come in. If you signed up to get a copy of your Torts I essay response, then bring that with you so I can look it over. If you don't have your Torts I essay response, I can still do a more limited exam review with you based on my notes.

17. FINAL THOUGHTS

Don't get too anxious. The fact is, you know far more than you think you do. Try to stay relaxed. Study the big concepts, pay attention to the Focus List (§ 4, above), remember the tips on exam-taking technique, and get a good night's rest. I wish you the best of luck!