

TORTS

In-class practice quiz

Fall 2020

IN-CLASS
PRACTICE
QUIZ

Note: All questions in this quiz are previously released questions that are drawn from Released Multiple Choice Questions Set No. 2 (“Southern Slip-Ups”), available at ericejohnson.com/exam_archive.

Turn the page to begin ...

1. Elmer and Susan were both operating motor vehicles involved in a collision in the state of North Carolina. Elmer sustained physical injuries and sued Susan for negligence. The jury returned this special verdict form:

What percentage, if any, was Elmer's negligence responsible for his own injuries? 10%

What percentage, if any, was Susan's negligence responsible for Elmer's injuries? 90%

What dollar amount represents the total damages incurred by Elmer, regardless of responsibility?
\$100,000

North Carolina is a contributory negligence jurisdiction.

Which of the following statements is most correct?

- (A) Elmer will be awarded \$110,000 in damages, to be paid by Susan.
 - (B) Elmer will be awarded \$100,000 in damages, to be paid by Susan.
 - (C) Elmer will be awarded \$10,000 in damages, to be paid by Susan.
 - (D) Elmer will be awarded \$90,000 in damages, to be paid by Susan.
 - (E) Elmer will be awarded no damages.
2. On which of the following facts is it most likely that a court would not require the plaintiff to prove specific facts showing of breach of duty?
- (A) Andrew was riding his motorcycle when he was hit by a tanker truck operated by Hexetron Dental Amalgams LLC, whose driver was goofing off and not paying attention. Andrew suffered severe injuries. He sues Hexetron Dental Amalgams LLC for negligence.
 - (B) Bartholomew had an appendectomy at Nashlanta Regional Medical Center. It is the only surgery he has ever had. Three years later, an x-ray reveals a metal surgical instrument inside his abdomen. The instrument has caused minor injuries and will require surgery to remove. Bartholomew sues Nashlanta Regional Medical Center for the injuries.
 - (C) Carolyn was shopping at Cut'n'Run convenience store when a portion of the roof collapsed, causing Carolyn to be injured. Carolyn sues Cut'n'Run for the injuries.
 - (D) Daria took Voralex (vlithiarid voralide) as prescribed by her physician. The Voralex caused severe liver damage. Daria sues her physician for her injuries.
 - (E) Elwood was injured in a crash of an airliner operated by Oceanic Airlines, a major international airline. Elwood sues Oceanic for the injuries he sustained in the crash.

NOTE THE FOLLOWING FACTS FOR QUESTIONS 3 AND 4:

Garth is smitten with Jill, and he invites her over to his house for dinner. To Garth's delight, Jill accepts. They have a pleasant dinner and then sit together on the couch enjoying a drink. Jill asks Garth if he would excuse her for a few moments, as she needs to make a private phone call. She suggests that she go into the backyard to make her call so that she can enjoy the crisp, early winter air and crystalline starry sky. Garth says that would be fine, but, he warns, "Watch out for the gigantic naturally occurring quicksand pit. It's way back past the shed. As long as you stay between the house and the shed, you'll be fine." Jill thanks Garth and excuses herself.

While wandering around the backyard talking to her mother, Jill becomes absent-minded and walks past the shed. She soon comes upon the quicksand pit, and GLURP! Jill is sucked under.

Meanwhile, Wolfgang, who is looking for his lost cat in the town's nature preserve, wanders into Garth's backyard. Wolfgang has no reason to suspect that there is a quicksand pit, and, in fact, Wolfgang is not even aware that he has wandered out of the bounds of the nature preserve and on to Garth's private property. Wolfgang walks slowly, listening for faint meows, and GLURP! Wolfgang falls in.

Garth, waiting for Jill, is somewhat worried. Has he done something to offend Jill? Did she simply invent the phone call as a reason to leave without saying good-bye? Suffering a panic attack, Garth passes out.

At some point in the middle of the night, Rafaella, who is in her own backyard, hears Wolfgang's and Jill's cries for help. Rafaella has never heard of the quicksand pit either. She enters Garth's backyard to investigate. Rafaella calls out as she approaches, "Is someone in trouble?"

"Yes! Help us! Help us!" Wolfgang and Jill yell.

Rafaella picks up her pace as she steps through the dark and GLURP! Rafaella sinks into the pit.

Jill, Wolfgang, and Rafaella all end up spending several hours in the quicksand pit, during which they receive severe injuries from cold and exposure.

3. Which of the following statements is most correct regarding Garth's liability?
- (A) Garth is liable in negligence for Jill's injuries, but not Wolfgang's.
 - (B) Garth is liable in negligence for Wolfgang's injuries, but not Jill's.
 - (C) Garth is liable in negligence for Jill's injuries and Wolfgang's injuries.
 - (D) Garth is not liable in negligence for either Jill's injuries or Wolfgang's injuries.
 - (E) Garth's negligence liability is unclear, but it is clear that he is liable for the tort of implied consent.

4. Which of the following statements is most correct regarding the liability of Jill?
- (A) Jill is liable for Rafaella's injuries.
 - (B) Jill is not liable for Rafaella's injuries because Wolfgang is liable.
 - (C) Jill is not liable for Rafaella's injuries because Garth is liable.
 - (D) Jill is not liable for Rafaella's injuries because Rafaella, herself, is liable.
 - (E) Jill is not liable for Rafaella's injuries because Rafaella had no affirmative duty to help.



5. Which of the following is most likely not to occasion an action for strict liability in favor of Harold?
- (A) A horse, owned by Ned, walked on to Harold's property through a broken section of fence and ate apples right off Harold's apple tree. The apple tree was cultivated as part of a personal garden, not as part of a commercial orchard.
 - (B) An axle on a wheelbarrow snapped, causing Harold, who was pushing the wheelbarrow, to stumble, fall, and sprain his ankle. The axle was manufactured with small cracks - missed in the quality control process - that eventually enlarged to cause the break.
 - (C) Harold slipped on a puddle of silicone-based lubricant in the aisle of Depew's Home Improvement Store, causing him to break his wrist. The store was open to the public and operated for a profit.
 - (D) Harold returned from the state meeting of the Rose Gardening Association to find his yardbarn burned to the ground. His neighbor, Ned, saw the whole thing: The fire was started by a block of burning rocket propellant that fell from the sky. It was later established that the propellant block came from the failed test of a new intercontinental ballistic missile. The test was conducted by Hexetron Aerospace and Defense Systems, Inc.
 - (E) Visiting at Ned's house, Harold suffered internal injuries when he was kicked by Ned's zebra - part of Ned's exotic wild animal collection. The zebra had never previously exhibited any aggressive or harmful behavior and was, in fact, certified by a veterinarian prior to the incident as having "a docile, agreeable, and nonthreatening disposition."



**THIS IS THE END OF THE MULTIPLE-CHOICE QUESTIONS.
IF YOU FINISH BEFORE TIME IS CALLED, CHECK YOUR WORK.**

