

## MEMORANDUM

To: Torts II Students in Spring 2017  
From: Eric E. Johnson  
Date: April 23, 2017  
Re: **Some comments on the Special Study Set of Amalgamated Multiple Choice Questions for Torts II (Spring)**

**SPOILER ALERT: This memo divulges and explains answers to some of the multiple-choice questions.**

I have received a number of questions regarding the multiple-choice questions I set aside as the “Special Study Set” for Torts II. I’m writing this memo to provide information to answer the most common questions I received during office hours.

**Scope of the questions, in general:** Keep in mind the admonition on the cover page of the Special Study Set: “**some of these questions go beyond our Spring 2017 subject-matter coverage.** I have sought to err on the side of being over- rather than under-inclusive, and so there are many questions in this study set that I wouldn’t use for this semester’s exam. Bottom line, if you are thinking, ‘That’s not fair, because we really didn’t cover that,’ you’re probably right.”

**Workers compensation:** In particular, some of the amalgamated questions may be particularly confusing for many students because of our lack of coverage of workers compensation this semester.

**Question 39:** The answer is E because I, II, and III are inaccurate. I is inaccurate because, among other reasons, there was no intent to effect a touching. II is inaccurate because Shalini was not engaged in an ultrahazardous activity. III is inaccurate because the injury was not caused by a defective product commercially distributed by Shalini.

**Question 40:** The answer is E because I, II, and III are inaccurate. I is inaccurate because, among other reasons, there was no intent to effect a touching. II and III are inaccurate because workers compensation bars Olaf from recovering from his employer in tort for the accident arising in the course of his employment. III is also inaccurate because the injury was not caused by a defective product commercially distributed by Blastodyne.

**Question 41:** The answer is B because I and III are inaccurate and II is accurate. I is inaccurate because, among other reasons, there was no intent to effect a touching. II is accurate because mass manufacturing of chemical components of explosives in an area with a density of residences and a sparsity of industrial activity is an ultrahazardous or abnormally dangerous activity. III is inaccurate because the injury was not caused by a defective product commercially distributed by Blastodyne.

**Question 44:** The answer is B because I and II are not correct and III is correct. I is not correct because Jolene is barred by workers compensation from recovering from her employer in tort for the accident suffered in the course of her employment. II is not correct because there is not a design defect that has caused Jolene’s injury. III is correct because the problem with the plastic-injection molding that resulted in a faulty part constituted a manufacturing defect, and this manufacturing defect caused the injury.

**Question 59:** The answer is A, in part, because of constitutional due process issues. Plaintiff Lourdell’s punitive damages award will likely be limited to be substantially less than \$160,000 on appeal.

**Question 71:** This question was accidentally included as a duplicate of 57. You can just ignore 71.