

TORTS

Released Multiple Choice Questions

Multiple
Choice
Question
Set



Urban Uh-Ohs

13 QUESTIONS

30 MINUTES (*suggested*)

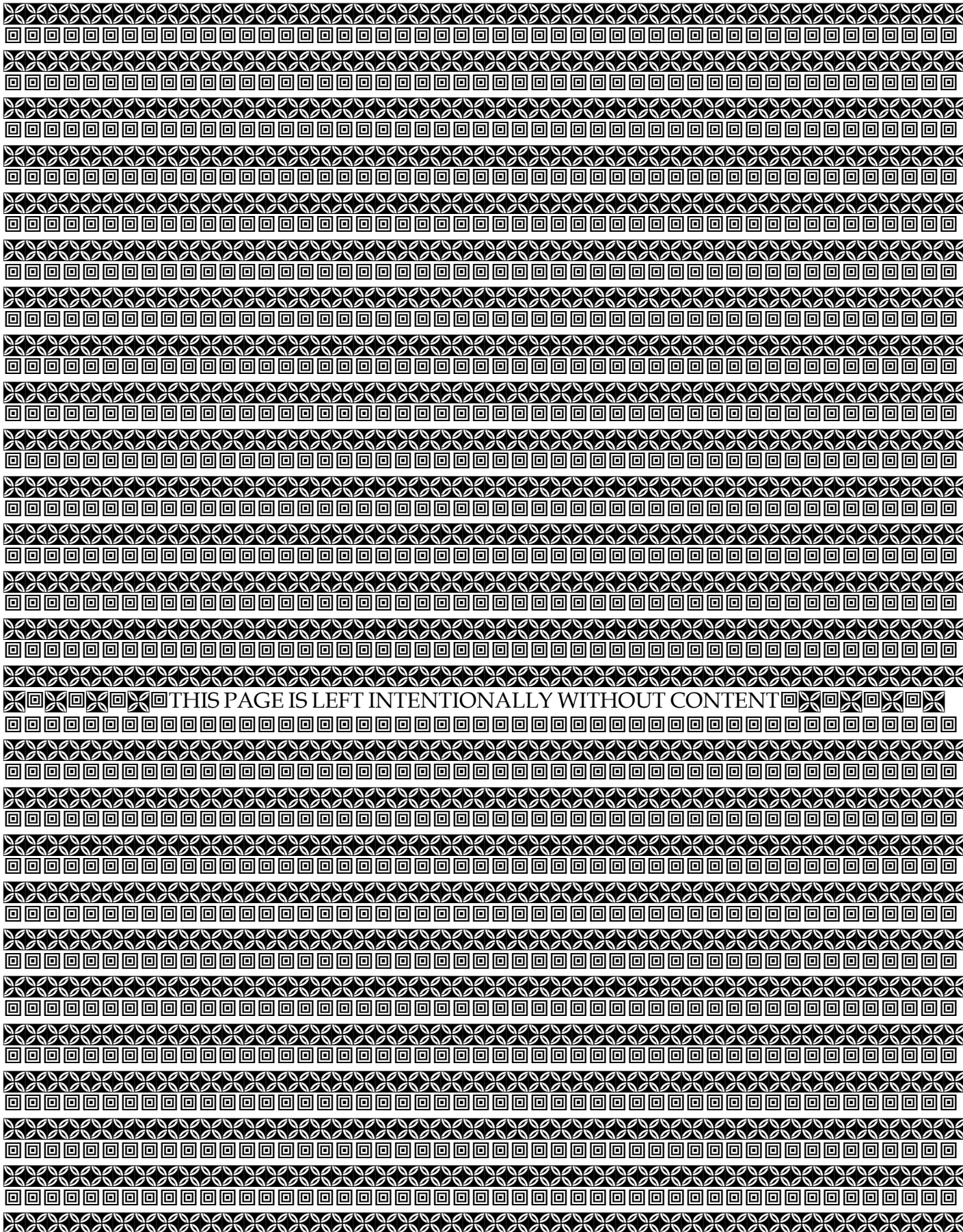
SUBJECTS:

negligence, intentional torts, products liability, privacy torts,
damages, workers compensation

from the Exam Archive of
Professor Eric E. Johnson
ericejohnson.com/exam_archive

These are publicly released multiple choice questions for use in practicing and studying. Answers can be found in the Exam Archive.

| Pacing chart: To finish all questions and have 2 minutes left over, then: | | | |
|--|------------|------------|------------|
| at this time since starting | 10 minutes | 15 minutes | 28 minutes |
| be done with question no. | 5 | 7 | 13 |



THIS PAGE IS LEFT INTENTIONALLY WITHOUT CONTENT

NOTE THE FOLLOWING FACTS FOR QUESTIONS 1, 2, AND 3:

It's just after sunset in the city. Looking at the skyline from afar, watching the lights come on, you could never guess at the human drama that is unfolding.

On a noisy, crowded, uptown-bound subway train, Greta intentionally taps an inattentive stranger on the shoulder. She's trying to get his attention to ask which station she should get off at. But the stranger is badly startled. He panics and needs several puffs of an inhaler to regain his breath.

At a law firm downtown, Willa is angry after hearing what Madge has been saying about her behind her back. Willa walks up to Madge and confronts her, saying, "I thought you were my best friend." Willa then slaps Madge across the face. Madge, chastened, immediately responds, "I deserved that."

In a bar on the waterfront, bartender Miyako has murder on her mind. She is determined to kill Cavan, a customer she dislikes, and so she poisons his martini. Yet before Cavan can drink it, his boyfriend Jarvis, who has had a bad day at work, grabs it and downs it. Jarvis is sickened, but after days of hospitalization, he will pull through.

1. Which best describes those defendants who have a prima facie case against them for assault?
 - (A) None
 - (B) Greta only
 - (C) Willa only
 - (D) Greta and Willa, but not Miyako
 - (E) Each of Greta, Willa, and Miyako

2. Which best describes those defendants who have a prima facie case against them for battery?
 - (A) Greta only
 - (B) Greta and Willa, but not Miyako
 - (C) Greta and Miyako, but not Willa
 - (D) Willa and Miyako, but not Greta
 - (E) Each of Greta, Willa, and Miyako

3. Which best describes those defendants who have a prima facie case against them for false imprisonment?
 - (A) None
 - (B) Greta only
 - (C) Willa only
 - (D) Greta and Willa, but not Miyako
 - (E) Greta and Miyako, but not Willa



4. Jolene is an employee of Landattle Grace Hospital, where she works in the billing department. One day, while operating the Hexetron Docuspew 5000 photocopier, Jolene encounters a paper jam. Following the instructions on the machine, Jolene opens a door and places her hand inside to remove the jammed piece of paper. Without warning, the Docuspew 5000 suddenly starts up and the fuser clamp-arm comes down on Jolene's hand, giving Jolene burns and lacerations. It turns out that this particular Docuspew 5000 was manufactured with a door-latch interlock that failed to function correctly because of a problem with the plastic-injection molding used to fabricate the door-latch. Ordinarily, the door-latch interlock would have prevented the fuser clamp-arm from operating when the door was open. Because of the faulty part, however, the interlock system failed to prevent the Docuspew 5000 from injuring Jolene. Sadly, Landattle Grace Hospital actually knew about this problem with the photocopier, since another office worker was hurt the same way earlier in the week. At that time, however, Landattle Grace Hospital management decided not to take the machine out of service, even temporarily, because doing so would have delayed end-of-the-month patient billing tasks.

Assume that Landattle Grace Hospital was negligent and that Landattle Grace Hospital has liability insurance that indemnifies it against all claims for negligence.

Note the following statements:

- I. Jolene can probably recover from Landattle Grace Hospital in tort for negligence.
- II. Jolene can probably recover from Hexetron in tort for strict products liability on the basis of a design defect.
- III. Jolene can probably recover from Hexetron in tort for strict products liability on the basis of a manufacturing defect.

Which answer below identifies each and every correct statement of the above-numbered list?

- (A) II only
- (B) III only
- (C) I and II only
- (D) I and III only
- (E) Neither I, II, nor III

5. Josiah is employed as a truck driver for Carellingdale's department stores. One day on the job, Josiah failed to yield as required at an intersection and hit a car carrying Nadine, causing her personal injuries. After a trial, a jury found Josiah and Carellingdale's each liable in negligence and assessed compensatory damages at \$1 million. The court entered judgment on this verdict. Which of the following is accurate?
- (A) Nadine can collect from Josiah, but she cannot collect from Carellingdale's. The reason for this is the doctrine of respondeat superior.
 - (B) Nadine can collect from Carellingdale's, but she cannot collect from Josiah. The reason for this is the doctrine of respondeat superior.
 - (C) Nadine can collect from Carellingdale's, but she cannot collect from Josiah. The reason for this is the doctrine of indemnification.
 - (D) Nadine can collect no more than half the judgment from Josiah and no more than half from Carellingdale's.
 - (E) Nadine can elect to collect the entire judgment from Josiah and none from Carellingdale's.
6. Kjell was walking along in the city. Nearby, Josephine was juggling knives for a crowd of astonished onlookers. Unfortunately for Kjell, just as he was walking by, Josephine lost control of the knives and they went flying at Kjell. Consider the following allegations:
- I. Kjell received a knife wound to his forearm.
 - II. Kjell's \$2,000 suit jacket was slashed and ruined by the knives.
 - III. Kjell was left upset and angry at seeing Josephine lose control of the knives.

Which allegations are sufficient by themselves to meet the injury or damages requirement of a negligence case?

- (A) I, but neither II nor III
- (B) II, but neither I nor III
- (C) I and II, but not III
- (D) I and III, but not II
- (E) Not any of I, II, or III

NOTE THE FOLLOWING FACTS FOR QUESTIONS 7, 8, AND 9:

Vayaphonic Industries manufactures the series-5 Touch-E smartphone. The Touch-E is the slimmest, most powerful smartphone yet. With its abnormally large power consumption and its diminutive design, Vayaphonic knew that overheating could be a problem. Some engineers at Vayaphonic argued that the Touch-E should come with an automatic power-off function, a feature that is standard in other smartphones with similar power-consumption/thermodynamic parameters. The engineers thought this was especially needed since, if it overheated, potentially dangerous chemicals used in the phone's next-generation battery could give off toxic fumes, thus causing serious injuries. Vayaphonic balked at the engineers' suggestions because re-engineering the phone to include an automatic power-off function would have delayed the product's launch by weeks. To cover all bases, Vayaphonic conducted a cost-benefit analysis. After consideration of the likelihood of being able to settle most lawsuits for pennies on the dollar, the bottom-line conclusion was that Vayaphonic's profit potential was best served by manufacturing the Touch-E without the automatic power-off function.

Roscoe purchased a Touch-E at the local Electro Harbor store the first day it was available and gave it to his girlfriend Thalia, a judicial clerk. Thalia excitedly left the courthouse and walked across the street to Grounds For A Peel, a local coffee house famous for its banana muffins. Sitting and sipping coffee, Thalia talked on the phone for nearly an hour straight. At that point, the phone overheated, causing the battery to partially melt and release toxic fumes. Thalia's lungs were severely damaged. Thalia was just one of hundreds of people similarly injured that day. The next day, sales of the phones were stopped.

7. Which one of the following is most correct?
- (A) Thalia has a good claim for a manufacturing defect under products-liability doctrine.
 - (B) Thalia has a good claim for a design defect under products-liability doctrine.
 - (C) Thalia has a good claim for a warning defect under products-liability doctrine.
 - (D) Thalia has a good claim for an ultrahazard under products-liability doctrine.
 - (E) Thalia has a good claim, but not in the manner described in any of (A) through (D).

8. Which best describes from whom Thalia can recover under a theory of products liability?
- (A) Vayaphonic
 - (B) Either Vayaphonic or Electro Harbor, or both
 - (C) Either Vayaphonic or Electro Harbor, but not both
 - (D) Any one (and only one) of Vayaphonic, Electro Harbor, or Grounds For A Peel
 - (E) Either Vayaphonic, Electro Harbor, or Grounds For A Peel, or all of them, or any combination of them
9. Which one of the following is most correct?
- (A) Thalia may receive compensatory damages in the amount of her pain and suffering, lost wages, and medical expenses. Thalia may also be awarded punitive damages.
 - (B) Thalia may receive compensatory damages in the amount of her pain and suffering, lost wages, and medical expenses. Thalia will not be permitted to seek punitive damages.
 - (C) Thalia may receive compensatory damages in the amount of her lost wages and medical expenses, but she may not receive compensatory damages for pain and suffering. Punitive damages, however, may be recoverable.
 - (D) Thalia may receive compensatory damages in the amount of her lost wages and medical expenses, but she may not receive compensatory damages for pain and suffering. Punitive damages will not be recoverable.
 - (E) Thalia may receive compensatory damages in the amount of her medical expenses, but she may not receive compensatory damages for pain and suffering or lost wages.



10. Wanting to spy on some unsuspecting people, Leonard waited in the bushes late at night behind a bench in a secluded section of the park. Walter and Judith, who are married, came to the park bench, sat down, made out, and whispered a simple conversation to each other about the weather. That night, Leonard wrote about the conversation on his blog, identifying Walter and Judith and publishing the substance of what they said. On these facts, which of the following is most accurate?
- (A) Walter and Judith have claims for false light, intrusion, and disclosure.
 - (B) Walter and Judith have claims for false light and intrusion, but not disclosure.
 - (C) Walter and Judith have claims for intrusion and disclosure, but not false light.
 - (D) Walter and Judith have a claim for intrusion, but not for false light or for disclosure.
 - (E) Walter and Judith have no claim for false light, intrusion, or disclosure.

11. Davida and Philip got into a car accident on the Capital Beltway in the state of Maryland. Maryland is a contributory negligence jurisdiction. Davida recently received a summons and a complaint. It turns out that Philip is suing her in negligence for the damage to his car. Davida will be hiring an attorney to defend her in the suit. She has initial interviews with several, bringing you along to help her figure out who is most competent. As she explains to the lawyers, she believes that Philip is also responsible for the accident, since he was being careless while driving by changing lanes at the same time as he was trying to stick a pacifier in the mouth of his three-month-old baby in the back seat.

Which of the following comments, made by a lawyer Davida interviewed, seems most correct?

- (A) "Because Philip's negligence contributed to the accident, he will be unable to prove breach of the duty of care as part of his prima facie case."
 - (B) "Because Philip's negligence contributed to the accident, he will be unable to prove actual causation as part of his prima facie case."
 - (C) "Because Philip's negligence contributed to the accident, he will be unable to prove proximate causation as part of his prima facie case."
 - (D) "We could raise an affirmative defense of contributory negligence. We'll need to prove each of the elements of the defense by clear and convincing evidence."
 - (E) "We could raise an affirmative defense of contributory negligence. We'll need to prove each of the elements of the defense by a preponderance of the evidence."
12. Drayden snuck up behind Pryor and pushed him so that he fell down. Which of the following is Pryor most likely to be able to successfully pursue against Drayden?
- (A) Trespass to land
 - (B) Battery
 - (C) Trespass to chattels
 - (D) False imprisonment
 - (E) Assault

13. Darla drove through a stop sign at an intersection without stopping. Not having the right-of-way, Darla's car collided with a taxicab in which Pauline was a passenger. Immediately after the accident, Pauline suffered a heart attack causing death of some myocardial tissue (heart muscle tissue). Doctors determined that even without the collision, Pauline would have had her heart attack at that time anyway because of existing cardiovascular disease. Which is most correct regarding an appraisal of a negligence action by Pauline against Darla?
- (A) Pauline likely will prevail in a negligence action because all the elements can be proven.
 - (B) Pauline likely will not prevail in a negligence action because this case falls within the domain of strict liability.
 - (C) Pauline likely will not prevail in a negligence action because Darla did not owe Pauline a duty of care.
 - (D) Pauline likely will not prevail in a negligence action because Darla did not breach her duty of care.
 - (E) Pauline likely will not prevail in a negligence action because of a lack of actual causation for her myocardial injury.



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

