## June 22, 2010



# California First-Year Law Students' Examination

### Answer all 4 questions.

Time allotted: 4 hours

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

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Adam accepted an invitation from his friend Dot to attend a baseball game. The seats Dot had purchased were very good, a few rows up from the field, and just past first base. Adam had recently immigrated to the United States and knew nothing about baseball.

During the game, a player, Brad, hit a ground ball toward third base. The third baseman fielded the ball and threw to the first baseman. Brad thought he was "safe," but the first base umpire called him "out." Brad began to argue with the umpire, and in frustration, Brad threw his batting helmet to the ground. The helmet, made of a strong, hard plastic material, bounced on the ground and flew into the stands, striking Adam on the side of the head, causing a serious injury. Adam never saw the helmet coming towards him because he was looking around the stadium at the time rather than at the play on the field. As he was unfamiliar with the game of baseball, he did not know that objects occasionally fly into the stands during a baseball game.

What arguments would Adam make in support of a claim of negligence, what defense(s) can reasonably be asserted, and who is likely to prevail in a lawsuit filed by:

- 1. Adam against Brad? Discuss.
- 2. Adam against Dot? Discuss.

Dawn lives in an apartment with her dog Fluffy and her boyfriend Bill. A year ago Bill began buying and selling illegal drugs.

One day Bill asked Dawn to deliver a plastic bag containing a white powder to a house on Main Street. Dawn believed the bag contained cocaine and refused, saying, "I wish you would stop dealing cocaine. I want nothing to do with your dirty business."

Bill flew into a rage. He said, "I am sick and tired of your superior attitude. If you don't deliver this bag, then I am going to kill Fluffy." He then grabbed the dog and held a knife against its side until Fluffy began to squeal.

Afraid for Fluffy's well-being, Dawn agreed to deliver the bag and its contents. She put the bag in her purse, got into her car, and drove towards Main Street. She drove very carefully and within the posted speed limit to avoid getting stopped by the police. As she approached Main Street, a two-year-old boy, Victor, darted out in front of Dawn's car. Her car struck Victor before she had a chance to apply her brakes. Victor was killed immediately by the impact.

While still at the accident scene, the police arrived and arrested Dawn. In searching her purse they discovered the white powder. Chemical analysis revealed that the white powder was cocaine.

With what crimes may Dawn be charged and what defenses could she raise? Discuss.

Ann wanted to purchase a gift for her boyfriend, Ben. Ann and Ben went to Ritz Jewelry to select the gift. Charles, the store manager, assisted them. Ann explained to Charles that she wanted to purchase a gift for Ben, and that Ben could select whatever he wanted. Ben chose a large gold chain costing \$2,400.

Ann and Ritz executed a written installment sales contract which identified the chain as "solid 18K gold," stated the purchase price of \$2,400 which was to be paid by Ann in twenty-four equal monthly payments, and stated that the contract was not assignable.

Ben wore the gold chain proudly, but the relationship with Ann ended a few months later. When the two parted, Ann made it clear that Ben could keep the gold chain. Ben subsequently took the chain to another jeweler for cleaning and then discovered that the chain was not solid gold after all, but rather was gold plated and the thin gold plating was wearing off the chain. Ben decided to make a claim directly against Ritz for misrepresenting the chain's quality, without involving Ann.

When Ben made the claim against Ritz, Ritz informed Ben that Ritz had assigned the contract and its right to receive payments from Ann to CreditCo, a finance company. Ritz had previously notified Ann of the assignment. Ann had paid six of the twenty-four payments due under the installment sales contract. However, when Ann learned that the gold chain was not solid 18K gold as represented, she stopped making any more payments to CreditCo.

- 1. Can Ben prevail in a breach of contract action against Ritz? Discuss.
- 2. Is the assignment by Ritz to CreditCo effective? Discuss.
- 3. Can CreditCo prevail in a breach of contract action against Ann? Discuss.

Employer hired Driver to operate a delivery van. Before allowing Driver to operate the van, Employer checked Driver's prior job references, required Driver to undergo a physical examination by a medical doctor, and provided Driver with extensive training in motor vehicle safety. Medic, the medical doctor who examined Driver, discovered that Driver had a sleep disorder that caused Driver to spontaneously fall asleep and that Driver had on several occasions fallen asleep while driving. Driver pleaded with Medic not to inform Employer of the sleep disorder. Medic agreed, and omitted this information from the physical examination form that he sent to Employer. Medic also sent a letter to Employer assuring Employer that Driver was "in all respects fit for employment as a delivery van operator." Employer then provided Driver with a daily delivery route and paid him a monthly salary.

While Driver was making deliveries for Employer, the van left the road and struck Pedestrian, who suffered severe injuries as a result.

Pedestrian filed a lawsuit for the damages as a result of the injuries sustained in the accident against Driver, Employer, and Medic.

- 1. Can Pedestrian prevail under the doctrine of *res ipsa loquitur* concerning Driver's alleged negligence? Discuss.
- 2. What arguments will Pedestrian make in support of his claims of negligence, what defenses can reasonably be asserted, and who is likely to prevail in a lawsuit filed by Pedestrian against:
  - a. Employer? Discuss.
  - b. Medic? Discuss.