

OCTOBER 27, 2009



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.

Question 1

Darby organized a political rally attended by approximately 1,000 people in support of a candidate challenging the incumbent in the upcoming mayoral election. Sheila, the wife of the challenging candidate, was the main speaker. When Darby introduced Sheila, he described her as a “. . . kind woman of the people.” In his introduction he also referred to Patty, the wife of the current mayor, as “. . . a snob, who is so cutthroat that she said very nasty things about her closest friend when that friend applied for membership to an exclusive private women’s club of which Patty is a member.” Darby’s statements were reported in the print and television media.

Darby had heard this information about Patty from a notorious local gossip and the information was largely false. In fact, when Patty’s friend was rejected for club membership, Patty was one of her staunchest supporters in the application process. Darby’s statement put a strain on Patty’s relationship with her friend who, upon hearing of Darby’s comments, cancelled an upcoming lunch she and Patty had scheduled several weeks before the rally.

At the time Darby spoke at the rally, Patty had not been involved publicly in her husband’s campaign or political activities. Two days before the rally, Patty appeared with her husband in public for the first time when she learned that Sheila was going to speak at the rally.

1. Under what theory, or theories, if any, might Patty bring an action against Darby? Discuss.
2. What defense or defenses, if any, might Darby assert, and what is the likely result? Discuss.

Question 2

Vladimir owed Donald a gambling debt. Knowing that Vladimir had a new laptop computer, Donald sent an e-mail to Brenda, who lived close to Vladimir. The e-mail informed Brenda that Donald had left his laptop at the home of Vladimir, who was away for the weekend, but that Vladimir had given Donald permission to retrieve his laptop while Vladimir was gone. In the e-mail Donald asked Brenda to go to Vladimir's house, locate the door key under the mat on the porch, and bring the laptop to Donald.

Corky, who was at Brenda's house when Donald sent the e-mail to her, read the e-mail and rushed over to Vladimir's house to steal the laptop. When Brenda later arrived at Vladimir's house to retrieve the laptop for Donald, she found the back door open and Corky ransacking the house. Corky was so startled that he fell backwards, hit his head on a table and lost consciousness as he fell to the floor. Brenda went upstairs where she searched for and found the laptop. Always wanting a laptop, she put Vladimir's laptop in her purse to keep for herself. Brenda then called 911. Before the police arrived, Corky regained consciousness and fled out the back door.

When the police arrived at Vladimir's house, Brenda told them that she believed Corky had taken a laptop from the house. When the police went to Corky's house, they found him dead from his head injury.

What crimes, if any, might Donald, Brenda and Corky reasonably be charged with, and what defenses, if any, might each assert? Discuss.

Question 3

Betsy contacted Sam, a salesman who works for Luxe, a company that sells luxury boats, and told him that she was interested in purchasing a luxury boat. Luxe provided Betsy with free airfare and lodging at a hotel resort near the Luxe boat showroom. After shopping at the showroom, Betsy became interested in the Wind Catcher model priced at \$200,000. Sam explained to Betsy the features of the Wind Catcher and told her that it was "state of the art." Sam gave Betsy a one-page purchase order form on which the words "Wind Catcher" were written in the blank space marked "Boat Model," and "\$200,000" was written in the blank space marked "Price." Just above the signature line in red italics were the words "This offer by Purchaser is irrevocable for thirty (30) days. All sales are final when approved by Luxe."

Before Betsy left the hotel the next day, Sam came by to tell her that he had just learned that Luxe was about to raise its prices, but that she could order the Wind Catcher at the current price if she quickly returned the purchase order form she had received the night before. When Betsy returned home, she checked prices on the internet for comparable boats and decided the price quoted by Luxe for the Wind Catcher was a good deal. She signed and faxed the purchase order form to Luxe.

After receiving the purchase order form from Betsy, Sam prepared the documents that Betsy would need to register the boat and went to the boat harbor where Betsy planned to keep the boat to make sure that the docking facilities were adequate for the Wind Catcher.

A few days later, Betsy learned that, despite what Sam had said, Luxe had no plans to raise its prices and that the Wind Catcher was an older model without the navigation and safety features available on newer models. She immediately faxed a letter to Luxe stating that she did not want to make the purchase. That same afternoon Betsy received in the mail from Luxe a photocopy of the purchase order form that was stamped "Accepted" and signed by Luxe.

Under what theory or theories may Luxe be successful in a breach of contract action against Betsy? Discuss.

Question 4

Billy, a minor, was suspended from school for throwing an eraser at his teacher. The school principal told Billy's parents that, in the opinion of the school psychologist, Billy should be admitted to a facility where he could be treated for his anger problem. The principal gave the parents a copy of the psychologist's report, which stated that there was a 90% certainty that Billy would hurt someone if he did not receive proper treatment. Billy's parents admitted they had known about his anger problem for about a year, but had done nothing about it.

Billy's parents ignored the principal's advice and instead sent him to stay with his uncle Dan during the suspension from school. On the first day at his uncle's house Billy began playing an electric guitar so loudly it could be heard a block away. Paul, a neighbor, worked as a therapist out of a home he rented near Dan. Paul called Dan and complained that the loud music was interfering with the therapy session of one of Paul's patients. Dan apologized and immediately had Billy lower the sound on his guitar amplifier.

Later that day, before Dan went out, he told Billy to continue to keep the volume of the music down because of Paul's complaint. After Dan left, however, Billy once again began to play the guitar very loudly. Paul immediately went to Dan's house to complain about the music. Paul told Billy that if he did not turn down the music volume, Paul would call the police. Billy told Paul to mind his own business.

As Paul began to walk back home, Billy yelled to Paul: "If you ever complain about my music again I will make you pay!" When Paul did not respond, Billy threw a large rock at Paul. The rock missed Paul but hit Penny, who was walking by. Penny suffered severe injuries as a result of being hit in the head by the rock Billy threw.

Billy did not play his guitar loudly again.

1. Under what theory or theories, if any, might Paul bring an action against Dan? Discuss.
2. Under what theory or theories, if any, might Paul bring an action against Billy? Discuss.
3. Under what theory or theories, if any, might Penny bring an action against Billy? Discuss.
4. Under what theory or theories, if any, might Penny bring an action against Billy's parents? Discuss.