

Fill in each blank, based on general legal principles, and the stated authorities and facts.

Unless otherwise indicated, each blank is worth 2 points (total = 80 pts).

Write on your exam paper. **Use only blue or black ink.**

Scene: The Town of Collinsport, in the State of Newgarth.

Note 1: The Newgarth court system follows the naming conventions as California.

Note 2: The Newgarth courts have retained the historical forms of action handed down from the early English courts.

Note 3: Do not assume any fact or law not mentioned.

Facts

Angelique hates Nicholas for reasons unknown, although it might have something to do with Angelique's mistaken idea that Nicholas stole a paper clip from Angelique's father, about 20 years ago. To this day, Angelique -- who, at the age of seven, suffered great distress upon discovering the paper clip theft from her father's study -- has an extreme fear of paper clips. Finally, Angelique decides she has nursed her grudge long enough. She persuades her husband, Jonathan, to help her carry out her plot for revenge against Nicholas.

On a foggy Saturday evening, Nicholas leaves his house in his brand new red Corvette. Jonathan follows him in his Ford Mustang, with Angelique hiding under a blanket on the back seat. When Nicholas stops at a convenience store, he parks in the far corner of the lot, with the passenger's door (the right side) very close to a concrete wall. Jonathan pulls up close to the left side of the Corvette, "boxing" it into the parking space. Nicholas, trapped in his car, rolls down his window and leans out, yelling, "Get out of my way! Quit doing Angelique's dirty work! For the last time, I didn't steal the darn paper clip!" Jonathan jumps onto the hood of the Mustang and lunges at Nicholas, intending only to scare him. But Jonathan miscalculates the lunge and crashes into Nicholas, who falls back inside the Corvette, knocked unconscious.

When Nicholas wakes up some time later, the store is closed and no one is around. He has a bump on the head and a bruise on his left shoulder; he also discovers deep scratches in the paint finish of the Corvette's roof. Scrutinizing the scratches, he makes out the words "CLIP THIEF." Then he hears maniacal laughter, and turns just in time to see a Ford Mustang speeding away through the dense fog. He does not see who is in

the Mustang, and cannot tell if the car is Jonathan's, but he thinks he might recognize the laughter as Angelique's voice.

Angelique and Jonathan wake up Sunday morning to discover a gigantic pile of paper clips on their concrete doorstep. Angelique is terrified, and remains distraught and sleepless for weeks.

Part One: 8 points

Nicholas wants to sue Angelique. He decides to represent himself, because he is too cheap to hire a lawyer; also, he has recently taken a 10-hour correspondence course in civil litigation, and considers himself well educated in legal studies.

Nicholas thinks his case is worth a huge amount of money, so he does not want to file an action in the "petty" court, called the _____ Court. In that Court, the proceedings are relatively informal (like all those "Judge Judy" TV shows Nicholas has studied), and it is not a court of _____, that is, it does not make a detailed written account of the proceedings. Confident in his claim and his abilities, Nicholas wants to preserve his moment of glory on paper, so he files his action in the Newgarth trial court of general _____, called the _____ Court.

Part Two: 34 points

Angelique's lawyer, Fred, decides to delay the case for as long as possible. The first thing he does is file a motion, requesting that the case be _____ from state court to the local federal trial court of general jurisdiction, which is called the _____ Court. Nicholas opposes Fred's motion, arguing that the action properly belongs in _____ court, because the claim did not _____ federal law. The trial court agrees with Nicholas, and so denies the motion.

Next, Fred files a _____ to Nicholas' complaint, which is a challenge to the _____ sufficiency of the allegations. The court _____ Fred's challenge, and dismisses Nicholas's action without

_____, which means that Nicholas is allowed another chance to plead correctly.

Unfortunately for Nicholas, the case remains stalled at the pleadings stage for many months, because he keeps filing the wrong forms of action.

Nicholas wants to recover for the personal injury he suffered when Jonathan crashed into him and knocked him unconscious. But he mistakenly files a claim for _____, which is a claim for the recovery of a specific sum of _____. The court dismisses this claim, so Nicholas does some research, and finally realizes that because the injury was the result of an act of _____ against Nicholas himself, the correct form of action is one for _____. So he prepares such a claim -- and then remembers that he wanted to add a claim for the damage to the paint on his car.

Nicholas quickly adds a form of action for _____, which translated from the Latin means “as much as they are worth.” He thinks this is correct, because it seems to apply to a claim for injury to personal property, also known as _____. But the court dismisses this claim, which applies only where, in the absence of a specific agreement as to price, the plaintiff can recover the reasonable value of goods sold to the defendant. Nicholas tries again, filing a claim for _____, which allows recovery for unlawful intrusion upon plaintiff’s _____. The court dismisses this claim, warning Nicholas that he has only one more chance to get it right. So Nicholas consults a knowledgeable Empire Law School student, and files the correct form of action for injury to his car, for _____.

Part Three: 18 points

Not content with merely stalling Nicholas’ claims, Fred next files a cross-complaint against Nicholas, to recover for the emotional distress Angelique suffered upon discovering the pile of paper clips on her doorstep. Nicholas promptly seeks a dismissal of the cross-complaint, citing *Bennett v. Stiles*, a case decided by the high

court of Newgarth, which is called the _____ . During oral arguments, Nicholas states that the trial court must follow the doctrine of _____ , which means “to stand by _____ and not disturb settled points.” Fred counters that instead of citing the _____ of *Bennett*, Nicholas has cited mere _____ , that is, a part of the opinion unrelated to the resolution of that case; therefore, *Bennett* is not _____ authority for the trial court. Nicholas requests a short break, during which he runs to the bathroom and hurriedly consults Wikipedia on his mePhone. He comes back and, assuming a heroic posture, cites *Faye v. Pansy*, stating that the court must follow that case because it is “on _____ , that is, the _____ of *Faye* are not distinguishable from this case. Fred counters that because *Faye* was decided by the high court of the neighboring State of Fuller, the Newgarth trial court need not follow it, because it is from another _____ . The trial court denies Nicholas’ motion for dismissal.

Part Four: 20 points

Now that the pleadings have been settled, discovery proceeds and the parties prepare for trial. Nicholas admits in sworn deposition testimony that he was responsible for the pile of paper clips found on Angelique and Jonathan’s doorstep. Fred moves for summary judgment, arguing that Nicholas has no defense against Angelique’s claim for emotional distress, because under Newgarth Civil Code §233, piles of paper clips have been conclusively determined to have injurious effects on a person’s mental health. This statute, entitled “Paper Clips, Harmful Effects Of Piling Up Of,” states in full:

The Newgarth Legislature recognizes that paper clips, when piled up, may be hazardous to the condition of vehicular tires and may cause numerous types of injury. Therefore, any person who deliberately places two or more paper clips, in the form of a pile, on any roadway or other concrete or paved surface anywhere within the State of Newgarth, shall be subject to a fine of up to \$100, payable to the Newgarth Department of Transportation (NewTrans).

