

TORTS FINAL - SPRING 2012 (GOULD)
QUESTION NO. 1 - ISSUE OUTLINE

Jerry v. Down Under

Products liability

- 10 Negligence (no privity, but need abrogated)
- 10 Express warranty (no privity, but need abrogated)
 - Advertised to “cause drowsiness and sleep”
- 10 Implied warranty (no privity, but need abrogated)
 - General merchantability
 - Fitness for a particular purpose
 - Advertised to “cause drowsiness and sleep”
- 10 Strict liability in tort
- 10 Causation – actual and proximate
- Damages
 - 5 Compensatory for medical bills and lost wages
 - 5 Collateral source rule for lost wages

Jerry v. Moon Drugs

- 15 Products liability
 - Negligence (privity)
 - Express warranty (privity)
 - Implied warranty (privity)
 - General merchantability and fitness for a particular purpose
 - Strict liability in tort
 - Causation (same)
 - Damages (same)

Fran v. Down Under and Moon Drugs

- 5 Loss of consortium for John's inability to help with driving and grocery shopping for three weeks
- bonus Loss of consortium claim subject to defenses against John, if derivative jurisdiction
- Defense(s)
- 10 Contributory negligence / comparative fault of Jerry, Daly v. GMC for SLIT
- Jerry failed to read insert before taking medication, but relevant info absent
- 5 Joint and several liability
- 5 Contribution and indemnity

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QUESTION NO. 2 - ISSUE OUTLINE

Horace v. Conrad

- 5 Misrepresentation
- 5 Intentional
Damages
- 5 'Benefit of the bargain' rule
- 5 Punitive damages

Horace v. Minnerva Gallery

- 5 Respondeat Superior
 - Within 'course and scope' of employment, or 'lark of one's own'?
- 5 Compensatory damages
- 5 Punitive damages

Minnerva Gallery v. Jericho

- 10 Libel per se
- 5 False light in the public eye
Damages
 - 5 compensatory
 - 5 punitive
- 5 Assault
- 5 Battery
- 5 Trespass/conversion of vase
- 5 Transferred intent

- 5 Libel per se
 - Invasion of privacy
- 5 False light in the public eye
- 5 Joint and several liability of Conrad and Minnerva Gallery, under doctrine of respondeat superior
- 5 Contribution and indemnity