

Empire College School of Law  
Professor Gould  
Torts – Fall Midterm  
Thursday, December 15, 2011

**Essay Question 1 – One Hour**

Joe, a 16 year-old unlicensed driver, was driving with Harriet, his wife and passenger. At an intersection Joe carelessly rear-ender Sam's truck, shattering a taillight. Joe and Sam exited their vehicles and Sam, who was incensed, approached Joe with his fists raised. He was about to hit Joe, but hit Gertrude, Joe's dog, instead, whom Joe was carrying. Joe became very emotionally distressed at having his dog hurt, and later took a knife and slashed one of Sam's tires while parked in Sam's driveway at his home. In response, Sam locked Joe in his truck for 10 minutes.

Harriet watched everything that happened, but did nothing other than to cheer Joe on when he slashed Sam's tire.

Discuss the rights and liabilities of the parties.

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**Essay Question 2 – One Hour**

Fred and David were driving to see a movie when they pulled into Kelly's Service Station for fuel and to use the restroom. After fueling up, Fred asked Kelly if he could use the restroom and was told it was only for employees. Nevertheless, Fred entered the restroom and promptly slipped on some substance on the floor, breaking his left wrist. Inquiries disclosed that patrons of this service station frequently used the restroom despite being told of the 'employee only' policy.

Later that day, Fred went to Good Luck Hospital to have his wrist treated. They did not believe it was broken and did not take an X-ray. As a result, Fred's wrist was deformed. Soon thereafter, the hospital admitted liability. Fred's health insurance company reimbursed him for the medical expenses.

While Fred was in the restroom, David purchased some chips in the mini-market which was part of the station. While removing the bag from a display rack, he cut his right hand on a sharp edge.

Discuss the rights and liabilities of Fred, David, Kelly and Good Luck Hospital.